

Distr.: General
28 May 2018

English only

Expert Working Group on the review of Annexes**First meeting**

Geneva, 20–23 March 2018

Report of the first meeting of the Expert Working Group on the review of Annexes (Geneva, 20-23 March 2018)¹**I. Opening of the meeting**

1. The first meeting of the Expert Working Group on the review of Annexes (hereinafter “EWG”) was held from 20 to 23 March 2018 in the International Environment House 2 (IEH-2), Geneva, Switzerland. The meeting was opened by the co-chairs of the EWG, Ms. Jacinthe Seguin (Canada) and Mr. Joost Meijer (Chile) at 9 a.m. In his welcoming remarks, Mr. Rolph Payet, Executive Secretary of the Basel Convention, expressed his appreciation to the Governments of Canada and Chile for their important in-kind contributions to the work of the Basel Convention, and to the Government of Japan whose generous financial support had enabled the meeting to be organized.

2. The meeting was attended by the following members of the EWG:

African States

Ms. Ghada Abdel Moneim EL-SAYED (Egypt)
Mr. Abderrazak MARZOUKI (Tunisia)
Ms. Sharon MOGOMOTSI (South Africa)
Mr. Jean Claude SALAMA (Madagascar)
Mr. Webby SIMWAYI (Zambia)

Asia and Pacific States

Mr. Ghulam ABBAS ASKARI (Afghanistan)
Ms. Roxana MALEKI (Iran, Islamic Republic of)
Mr. Mikihisa SHIRATORI (Japan)
Dr. Sonu SINGH (India)

Central and Eastern European States

Ms. Magda GOSK (Poland)
Ms. Irma GURGULIANI (Georgia)
Mr. Artak KHACHATRYAN (Armenia)
Ms. Aylin ISAKI MUHAREMI (Former Yugoslav Republic of Macedonia)
Ms. Lina PATARCHANOVA (Bulgaria)
Ms. Mari-Liis UMMIK (Estonia)

¹ This document has not been formally edited.

Latin American and Caribbean States

Ms. Alejandra ACOSTA (Argentina)
Ms. Andrea LOPEZ ARIAS (Colombia)
Mr. Joost MEIJER (co-chair) (Chile)
Ms. Florinella MUNOZ BISESTI (Ecuador)
Mr. Gilberto WERNECK DE CAPISTRANO FILHO (Brazil)

Western European and other States

Ms. Isabelle BAUDIN (Switzerland)
Ms. Julie CROTEAU (Canada)
Ms. Ylva LINDEN (SWEDEN)
Dr. Anja MEUTSCH (Germany)
Ms. Jacinthe SEGUIN (co-chair) (Canada)
Ms. Janine VAN AALST (Netherlands)
Mr. Peter WESSMAN (European Union)
Mr. Rick ZENTELIS (Australia), on behalf of Mr. Khokan BAGCHI

3. The following countries and organizations were represented at the meeting as observers: Argentina, Germany, Japan, United States of America, BCRC-Slovakia, Basel Action Network, Bureau of International Recycling, Digitaleurope, Information Technology Industry Council, Institute of Scrap Recycling Industries, and Sims Recycling Solutions. The list of participants to the first meeting of the EWG is set out in document UNEP/CHW/RA_EWG.1/ INF/6.

II. Organizational matters

A. Adoption of the agenda

4. The Committee adopted the following agenda as proposed in document UNEP/CHW/RA_EWG.1/1:

1. Opening of the meeting.
2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of work.
3. Review of Annex IV and related aspects of Annex IX to the Basel Convention:
 - (a) Annex IV A operations;
 - (b) Annex IV B operations;
 - (c) Annex IX (B1110);
 - (d) Annex IV caption and introductory texts;
 - (e) Other proposals to improve, update or clarify Annex IV;
 - (f) Preparations for the eleventh meeting of the Open-ended Working Group.
4. Review of Annexes I and III to the Basel Convention.
5. Other matters.
6. Closure of the meeting.

B. Organization of work

5. The EWG considered the tentative schedule of the meeting proposed in document UNEP/CHW/RA_EWG.1/ INF/1 and agreed to proceed along the lines proposed therein.

III. Review of Annex IV and related aspects of Annex IX to the Basel Convention

6. Introducing the agenda item, co-chair Seguin presented the co-chairs supporting document for the first meeting of the EWG on the review of Annex IV and related aspects of Annex IX to the Convention, as set out in the annex to document UNEP/CHW/RA_EWG.1/2. She said the document presented, among other things, the proposed objectives for the meeting as well as overarching and cross-cutting issues identified on the basis of the comments provided by members of and observers to the EWG on the three informal working documents prepared by the co-chairs on the review of Annex IV A operations, Annex IV B operations, and Annex IX (B1110).

6. Members agreed to the objectives proposed for the meeting, namely: to create a shared understanding of the wide range of issues related to the Annexes IV and IX (B1110) experienced by countries in the implementation of the Convention; to discuss overarching and cross-cutting issues and propose approaches or solutions to the Open-Ended Working Group of the Basel Convention (OEWG); to discuss the list of specific Annex issues and solutions and develop a path forward for presenting information and resolving issues; and to propose an outline for the report to the OEWG and path forward. They proceeded to consider the overarching and cross-cutting issues identified by the co-chairs. During a first session, participants considered the overarching and cross-cutting issues as identified in the annex to document UNEP/CHW/RA_EWG.1/2, including during a general discussion, the outcome of which is reflected under the relevant item below. During a subsequent session prior to the closing of the meeting, participants revisited these issues as well as considered other overarching and cross-cutting issues raised during the meeting.

A. Overarching and cross-cutting issues

1. Environmentally sound disposal operations

7. Co-chair Seguin summarized the four different proposals put forward, namely: only include operations which are considered environmentally sound; include all operations and provide necessary clarifications in a new introductory text; indicate which operations are not considered environmentally sound within Annex IV; and adjust the notification and movement documents to reflect the applicability of transboundary movements only to operations that are environmentally sound.

8. Exchanging views on the matter, several participants explained that the waste definition hinges on the disposal operations listed in Annex IV: if only environmentally sound disposal operations were listed in the annex, then all substances or objects subject to a non-environmentally sound disposal operation would fall outside the scope of the Convention. They argued for Annex IV to include all disposal operations as they occur in practice or might occur in the future to ensure broad coverage of the Convention. They also explained that the environmentally sound nature of the operation has to be assessed at the time a transboundary movement of wastes is proposed. Several participants expressed the view that Annex IV should provide guidance on which operations are environmentally sound, while others said that the environmentally sound nature of an operation depends on how the operation is undertaken and that such guidance would better fit in technical guidelines.

9. Concluding the discussions, co-chair Meijer said that members agreed that Annex IV should include all operations and that introductory text to the annex should clarify this to avoid any assumption that all listed operations are environmentally sound.

2. Interim operations

10. Co-chair Seguin summarized solutions proposed to provide greater clarity: interim operations that do not involve intrinsic transformation of wastes such as handling and treatment operations (e.g., storage, dismantling, sorting, blending, mixing) could be placed in a new section (e.g. Annex IV C); interim operations could be identified as such within Annex IV A and IV B; introductory text could be included in Annex IV to indicate the presence of interim operations.

11. Participants discussed what is meant by an “interim” operation and noted that these are identified in Annex IV by the addition to a listed operation of terms such as “prior to submission to any of the operations in Section” A or B. Members exchanged views on the benefits of listing interim operations in a new section of Annex IV and noted the challenges associated with this proposal, in particular in light of Article 4A of the Convention² which refers to Annex IV A and Annex IV B. Members noted that interim operations can occur prior to an operation listed in both sections A and B

² The Conference of the Parties adopted Decision III/1 at its third meeting to amend the Convention by adding, *inter alia*, a new Article 4A. The amendment is not yet in force.

of Annex IV, and agreed that interim operations listed in one section of Annex IV should be consistent with the ones listed in the other.

3. Structure of Annex IV

12. Co-chair Seguin summarized some of the views put forward: reverse Annex IV A and IV B, so that recovery operations (what would become A operations) come before disposal operations (B operations); not distinguish between the A and B sections as they are treated the same under the Convention; include a new section C with interim operations; and maintain the status quo.

13. The members that had proposed the reversal of the sections A and B of Annex IV withdrew their proposal in the light of Article 4A of the Convention, yet to enter into force, which contains obligations that are different depending on whether the wastes are destined for operations according to section A or to section B of Annex IV. One member supported that all disposal operations could be listed in one section and argued that the Convention did not provide for different rights or obligations depending on whether the operation is listed in Annex IV A or Annex IV B. She also proposed the introduction of a new section IV C with interim operations. Most participants expressed support for the status quo, with some noting that Article 4A of the Convention contains obligations that are different for sections A and B of Annex IV and that their implementing legislation reflected the two sections of the Annex. Some members suggested general introductory text between the heading of Annex IV and the beginning of section A. Concluding their discussion on this matter members agreed on conducting their further work on the basis of the existing two sections, and to consider the legal implications of joining them in one section at a later stage. They also noted that a clearer distinction between Annex IV A and IV B could be made through introductory text on final disposal and on recovery.

14. Participants exchanged views on the extent of the review of Annex IV, including the pros and cons of substantially revising it, of maintaining yet adjusting it, or of maintaining the status quo. Members agreed on the need to gain more clarity on and to take into account the legal, technical and practical implications associated with the different options for amending Annex IV.

4. Concepts of waste, non-waste and reference to direct reuse

16. Co-chair Seguin summarized the issues under consideration: reviewing the use of the term direct reuse; removing the term direct reuse because it is not a waste management operation; including terms or new operations leading to reuse, including repair and refurbishment; and using the glossary of terms as a guide in the review of Annex IV.

17. Several members made reference to the glossary of terms and expressed the view that direct reuse is not a disposal operation and that, accordingly, references to these terms should be deleted. Other members argued for retention of references to direct reuse, one stating that used tyres intended for direct reuse could be wastes, and two others expressing concern with respect to used electrical and electrical equipment, which might include near end-of-life products. One member raised the importance of considering when an item loses its waste status and how to consider near end-of-life products. Some members stated that the concerns raised on used tyres and electrical and electronic equipment could better be addressed through national laws. Some members expressed concerns on the idea of addressing the end-of waste condition in Annex IV.

18. Concluding the discussions, co-chair Meijer said that members generally agreed that something that is directly reused is not waste and that, accordingly the Basel Convention does not apply. Members also agreed on the need to explore the possible legal implications of the deletion of “direct re-use” on: the definition of “disposal” in Article 2 of the Convention; and the import of specific used products such as used tyres and used electrical and electronic equipment. Participants also agreed on the possible need to review the definition of “direct re-use” in the glossary of terms and in existing guidelines. Finally, they agreed on the need to explore the possible legal implications of addressing the end-of-waste condition in Annex IV. Co-chair Meijer invited the members from Egypt and India, who suggested keeping the reference to direct re-use, to provide in advance of the next consultations of the expert working group information on the implications for their countries of deleting this reference, so the group may understand their concerns.

5. Specificity in definitions, operations linked to specific waste streams and catch-all operations

19. Co-chair Seguin explained that Annex IV A operations do not include references to specific waste streams while some operations in Annex IV B do; and that specific wastes mentioned in Annex IV.B operations do not coincide with the wastes listed in Annex I or Annex VIII to the Convention. She said ways forward included developing a long list of specific operations in connection to specific waste streams or developing a shorter list of operations without references to specific waste streams.

Co-chair Seguin also explained that the definitions of disposal operations are inconsistent: some include examples of technologies in the definition and use “etc.” to suggest a non-exhaustive list while others do not. She said ways forward included the development of an Annex IV including all operations which occur in practice, as well as those which might be developed in the future; and not using the term “etc.” in order to ensure that lists of examples in the descriptions of an operation become closed and exhaustive.

20. One member explained the need to keep in mind the evolving nature of disposal operations and presented its proposed approach, as set out in annex I to the present report, which combines: including introductory text to the Annex IV to the Convention explaining its structure; define final disposal and recovery operations in the introduction to each section of the Annex; listing general operations with the addition of examples to explain some of the operations; including a catch-all operation in each section to ensure that operations not specifically-listed fall under the scope of the Convention; and listing specific interim operations, including catch-all interim operations.

21. Another member introduced its general approach, as set out in annex II to the present report, saying it was still a work in progress. She explained the proposal combined: one list bringing together final disposal and recovery operations; and general operations with the identification of sub-categories of operations to bring additional clarity, including a catch-all sub-category.

22. In their subsequent exchanges, participants discussed the benefits of not including waste-stream specific operations, of developing a list of general operations that could apply to new waste streams, of avoiding terms that were unclear (e.g., “etc”), and of describing some operations in more detail. With respect to catch-all operations, some participants expressed the concern that it may lead to lack of clarity in the scope of the Convention and a fragmented implementation of the Convention. Other participants, while seeing value in clarifying the operations, said that it would be difficult to identify and list all operations in Annex IV to the Convention, and that this approach ran the risk of excluding some operations from the scope of the Convention. One participant said that technical guidelines could provide the tool to describe operations in more detail.

23. Concluding the discussions, co-chair Meijer said that members agreed that: the operations would need to be applicable to new waste streams; the pros and cons of non-waste specific operations still needs to be considered; “etc.” should be avoided in the definitions of operations; future amendments should be minimized; and there should be some level of detail in the listing of the operations to ensure clarity. Regarding the clarity of the operations, he summarized that options under consideration included combining a list of general operations with examples in brackets or with sub-categories, and adding new catch-all operations together with introductory text covering the definitions of final disposal and recovery. He also said that guidelines or a glossary could be the place to provide additional clarity to the disposal operations.

6. Naming of Annex IV

24. Participants expressed different views with respect to the naming of Annex IV: some participants preferred less details in the caption and more details in an introduction, while others preferred the other way around. Concluding the discussions, co-chair Meijer said that members agreed that a general introduction could cover: the scope of the Annex, specifying that the annex includes both environmentally sound and non-environmentally sound operations; and specifying that the annex includes interim operations. He also said that members also discussed whether or not recovery includes all operations contained in section B (alternative use, recycling, reclamation, regeneration), which may or may not be reflected in the caption or in an introduction to Annex IV.

7. Proposals for new operations

25. Introducing the discussions, co-chair Seguin said that the co-chairs had received 19 proposals for final disposal operations, 24 proposals for recovery operations and 5 proposals for disposal operations specific to waste electrical and electronic equipment. She said the proposals would be considered later in the week and stressed the importance of having sufficient information to make an informed decision. She invited members to consider seeking the support from a consultancy to assemble necessary background information and rationale for the EWG to make decisions on adding new operations in a way that will avoid duplication and new ambiguities.

26. The summary and outcome of the discussions on the proposals for new operations are set out in section F below.

B. Annex IV A operations

27. Members based their review of Annex IV A on the compilation by the co-chairs of the EWG of slides on the review of Annex IV A to the Basel Convention set out in the annex to document UNEP/CHW/RA_EWG.1/3, taking into account the co-chairs' compilation of comments on Annex IV A set out in the annex to document UNEP/CHW/RA_EWG.1/INF/2.

28. With respect to D1: deposit into or onto land, (e.g., landfill, etc.), participants expressed different views about the proposal to limit the D1 operation to deposits onto land and to merge it with relevant parts of D4 for simplification. Participants discussed the relationship between this operation and D5 on specially engineered landfill (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.), including proposals for amending D5. Several participants expressed the view that both types of operations were distinct and, bearing in mind that their distinction could be further clarified, said they should not be merged. One participant proposed merging the D1 and D5 operations and adding that the deposit into or onto land had to be in a secure or specially engineered landfill. Another participant said that both D1 and D5 operations were mutually exclusive since D5 operations would be normally environmentally sound while D1 operations would not be. A further participant said that Annex IV was not meant to classify operations on the basis of whether they were environmentally sound or not, while another participant said that guidelines could clarify the environmental sound aspects of disposal operations. Concluding the discussion, co-chair Meijer reminded participants that any operation could be environmentally sound or not, and that members had agreed that Annex IV should cover all disposal operations.

29. Regarding D2: land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.), one participant proposed to specify that the land treatment was "in situ", while several participants queried the need for the addition. In the ensuing discussion, it was explained that the term "in situ" is proposed in order to clarify that the operation concerns the treatment of contaminated land/soil in the original place. The member that had proposed deletion of D2 withdrew her proposal. Several members supported retaining the current entry. One member queried the link between D2 and D8, while another said that including a reference to contaminated sites was confusing. Co-chair Meijer suggested that explanations on each disposal operations could be set out in a document, following a similar approach to the glossary of terms.

30. Regarding D3: deep injection, (e.g., injection of pumpable discards into wells, salt domes of naturally occurring repositories, etc.), some members proposed to enlarge the scope to cover deposit into land (except D12) or to delete D3 or merge it with D1 for deposit into land. Several members also reiterated their preference to not refer to the environmental sound aspects of the operations.

31. With respect to D4: surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.), one member presented its proposal to delete the operation and include its components partly in D1 (pits). One member said her country considered the operation as being an interim operation. Several members expressed the view that D4 operations could be both environmentally sound and non-environmentally sound.

32. In structuring the approach for the review of operations D1 to D5, co-chair Meijer proposed to distinguish between non-engineered operations, as in D1, and engineered operations, as in D5. Several members supported this approach.

33. No comments were made with respect to the review of D6: release into a water body except seas/oceans, and D7: release into seas/oceans including sea-bed insertion. Co-chair Meijer concluded that members supported the status quo.

34. Participants considered together the review of D8: biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, and D9: physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralization, precipitation, etc.). One member said that the terminology used made it unclear whether the two operations were interim or not. She proposed that this be made clear by using the terminology "prior to submission to any of the operations in Section A" and, supported by others, proposed to reflect both interim operations in Annex IV B as well. One participant questioned whether the D8 operations were interim and noted their link with D2 operations, and supported the proposal to clarify the interim nature of D9 operations. Participants exchanged views on adding immobilization, stabilization, vitrification and solidification as examples of chemical treatment, as distinct treatment operations, or as distinct disposal operations.

35. Participants considered together the review of D10: incineration on land, and D11: incineration at sea. Several participants supported the merging of D10 and D11 operations, while one participant supported keeping them separate. During the discussions, different views were expressed regarding: the need to specifically refer to incineration “on land” and “at sea”; whether to include references to environmentally sound aspects of the operations; whether open burning should be specifically listed as an operation; the relationship between incineration, thermal treatment and open burning; and whether to differentiate the operations which lead and which do not lead to energy recovery.
36. Regarding D12: permanent storage (e.g., emplacement of containers in a mine, etc.), participants expressed different views with respect to merging with D1 or to a better distinction with D3 and discussed adding the specification that storage be “underground”.
37. Participants considered together D13: blending or mixing prior to submission to any of the operations in Section A, and D14: repackaging prior to submission to any of the operations in Section A. One member proposed merging both entries under “mechanical treatment” and listing as examples the specific operations falling within its scope (eg. dismantling, sorting, crushing, compacting, pelletizing, shredding, conditioning, repackaging, separating, blending, mixing). One member said the interim operations currently listed in D13 and D14 were of a different nature, and should not be merged in one entry. With the support of another member, she proposed a careful review of each proposed example to assess if it enlarged the scope of the Convention, and see whether it consisted of a “mechanical treatment” or whether it would fit better in another entry, for instance D9 if it was of a chemical nature, or D14 if it did not lead to a change in the substance or object. Another member proposed instead that D13 include “preparatory operations” and list as examples blending, mixing washing or shredding. No participant supported the option to delete D13 or D14. Members agreed on the value of reflecting the D13 and D14 operations in Annex IV B.
38. Regarding D15: storage pending any of the operations in Section A, one participant, supported by several others, proposed to add the term “temporary” before “storage”. Participants expressed different views on the value of specifying in Annex IV a time limit to define “temporary” with one explaining that any time limit should be specified in the national legislation rather than in the Convention. Several participants queried the rationale behind the proposal made by some members to exclude from the scope of D15 “temporary storage, pending collection, on the site where the waste is generated”.
39. Members concluded their consideration of the review of existing Annex IV A operations by agreeing that all the slides on the review of Annex IV A to the Basel Convention set out in the annex to document UNEP/CHW/RA_EWG.1/3 should be understood as including the option “status quo”.

C. Annex IV B operations

40. Participants based their review of Annex IV B on the compilation by the co-chairs of the EWG of slides on the review of Annex IV B to the Basel Convention set out in the annex to document UNEP/CHW/RA_EWG.1/4, taking into account the co-chairs’ compilation of comments on Annex IV B set out in the annex to document UNEP/CHW/RA_EWG.1/INF/3. Introducing the sub-item, co-chair Seguin summarized the issues raised in the comments received on the co-chairs’ working document: differentiating recycling, reclamation, recovery and regeneration; listing operations for specific waste streams: solvents, acids or bases, metals, component from catalysts, used oil, inorganic materials; the need to clarify “exchange of wastes” and “accumulation” in operations R12: exchange of wastes for submission to any of the operations numbered R1-R11, and in R13: accumulation of material intended for any operation in Section B; and 24 new R operations.
41. One member explained a proposed approach to the R operations as set out in annex I to the present report, which, in addition to the elements outlined in paragraph 20 above combines: introductory text to the section on recovery operations based on the glossary of terms; and a simplified list of R operations. The proposed operations included limited references to specific waste categories as the subsequent adoption of Annexes VIII and IX to the Convention meant that the recovery operations listed in Annex IV no longer required as much specificity. In follow up discussions, one member expressed concerns with the proposed broadening of the operations falling under the scope of section B.
42. Regarding R1: use as a fuel (other than in direct incineration) or other means to generate energy, one member, supported by others, proposed to simplify the entry by deleting the reference to “other than direct incineration”. Several members also saw value in clarifying the distinction between R1 and D10, for example in the introduction to section B. Following discussions on the value of specifying whether a substance or object would be used as a “direct” or “alternative” fuel, one member clarified that R1 was comprehensive and included the use of any fuel to generate energy.

43. Regarding R2: solvent reclamation/regeneration, one member proposed deletion of the entry and merging its content with other recycling operations (R3/R5). She said the proposal was to use the term “recycling” as a generic term to refer to operations currently identified as “reclamation” and “regeneration”. Accordingly, the proposal included references to three types of recycling operations: recycling of organic substances, recycling of metals and metal compounds, and recycling of other inorganic materials. Answering a question, it was clarified that, under the proposal, treatment operations of metal leading to a reuse would fall under an interim operation. Another member supported the inclusion of a general entry for recycling, for instance for organic substances, which would be complemented by subcategories of operations. Another member raised that merging many disposal operations all together could lead to operationalization challenges, such as permitting processes, where the identification of the intended disposal operation could be difficult to assess.
44. Regarding R3: recycling/reclamation of organic substances which are not used as solvents, members concurred with the proposal to delete the reference to the term “reclamation”, while one member sought retention of the terms “which are not used as solvents”.
45. Regarding R4: recycling/reclamation of metals and metal compounds, participants discussed the value of deleting the reference to the term “reclamation”. One member queried whether the operation was intended to apply to waste metals or whether the reference to metals pertained to the outcome of the disposal operation. Another member clarified that the R4 operation covered both instances but that the operation, whether it was applied to waste metals or other types of metal-containing wastes, was to lead to obtaining metal intended for reuse.
46. No views were expressed with respect to R5: recycling/reclamation of other inorganic materials.
47. Regarding R6: regeneration of acids or bases, some members proposed the merging with R3/R5 for simplification.
48. Regarding R7: recovery of components used for pollution abatement, some members proposed the merging with R3 to R5 for simplification. Several members said they were unsure that the operation was used in their country. One member however clarified that the operation made sense given that components such as filters or fibers used in pollution abatement equipment could be expensive.
49. Regarding R8: recovery of components from catalysts, some members proposed the merging with R3 to R5 for simplification. No member supported the proposal to combine R7 and R8 put forward by an observer. Several members said they found entry R8 unclear, and one member said that its proposal was accordingly to delete R8 and merge it with R5.
50. Regarding R9: used oil re-refining or other reuses of previously used oil, some members proposed the merging with R3 for simplification. Several members said the proposals ‘re-refining of oil’ and ‘reusable oil re-refining and regeneration’ changed the meaning of the operation and supported their deletion. Several members also expressed the view that R9 could be listed either as an example or as a subcategory of R3 operations, while another member supported retaining the current entry.
51. Regarding R10: land treatment resulting in benefit to agriculture or ecological improvement, co-chair Seguin highlighted the link with D2: land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.). One member supported deletion of the entry and merging of its content with a catch-all element on material recovery in a new operation. One member proposed that the entry specify that wastes can be used as construction material, while another opposed the proposal, saying it looked like a final disposal operation.
52. Regarding R11: uses of residual materials obtained from any of the operations numbered R1-R10, one member supported deletion of the entry saying that the use of materials should not figure on a list of recovery operations. Other members supported retaining the current entry, with one observer explaining that the entry provided a place for “alternative uses” of wastes, for example using waste for construction. Participants expressed different views about the proposal to replace the term “uses” with “recovery”. One observer expressed the view that if ash resulting from an R1 activity was used for construction, this was recycling, not use. One member supported deletion of the words “from any of the operations numbered R1-R10”.
53. Regarding R12: exchange of wastes for submission to any of the operations numbered R1-R11, several participants sought clarification as to the meaning of the terms “exchange of wastes”, and one observer clarified that it was a term of art from the 1990s which meant using a waste from one industrial process as feedstock for another. Answering a question as to how the operation differed

from R11, he explained that the waste did not need to be the outcome of an R operation. One member introduced its proposal, which reflects its proposal for D13 and which aims at replacing “exchange of wastes” with “mechanical treatment” and to add in parentheses examples of the processes falling under this category, for instance dismantling, sorting, crushing, compacting, pelletizing, shredding, conditioning, repackaging, separating, blending and mixing. Several observers questioned the proposal, saying that most of the examples were part of the recycling process. One member raised translation issues with the Russian version of R11 and R12.

54. Regarding R13: accumulation of material intended for any operation in Section B, participants queried the terminology used in the entry, for instance the term “material” when the Basel Convention refers to “substance or objects”; and the term ‘accumulation’. One member presented a proposal which reflects a proposal for D15 and which seeks to replace the reference to “accumulation of material” with “temporary storage”. Several participants questioned the need to specify “temporary”.

55. Summarizing the discussions on the review of Annex IV A and B, co-chair Seguin said that discussions had evidenced the practical and operational impacts of the review of Annex IV on regulators and operators. She also said that the discussions had confirmed that the terminology used in Annex IV is unclear, and that two main approaches had been proposed to address this. The first approach was based on the understanding that the current structure of Annex IV could accommodate solutions for improving legal clarity. The second approach involved a more substantive overhaul of Annex IV, as proposed by the European Union and its member States, as reflected in annex I, and Argentina, as reflected in annex II. She said that having a general understanding of what the end product of the review would look like was necessary for progress to be made, and suggested that the EWG take time to reflect on these two approaches before revisiting the matter during its next face-to-face meeting.

D. Annex IX (B1110)

56. Participants based their review of Annex IX (B1110) to the Basel Convention on the compilation by the co-chairs of the EWG of slides on the review of Annex IX (B1110) set out in the annex to document UNEP/CHW/RA_EWG.1/5, taking into account the co-chairs’ compilation of comments on Annex IX (B1110) set out in the annex to document UNEP/CHW/RA_EWG.1/INF/4

57. Participants exchanged views on the scope of the mandate of the EWG. One observer explained that the views submitted by the European Union and its member States had been limited to the review of the terms “reuse” and “direct reuse” in entry B1110, since this is the matter that had been discussed in the context of the development of the glossary of terms. He noted however that several of the views put forward related to the entire entry and wondered whether the EWG was mandated to undertake this broader review of entry B1110 and a review of the mirror entry A1180 in Annex VIII.

58. Co-chair Meijer reminded participants that the OEWG was to consider, during its eleventh meeting (OEWG-11), whether to review Annexes VIII and IX. Members agreed that it would be useful to review the entire entry B1110 and to also review entry A1180, and that this should be discussed at OEWG-11.

59. Participants exchanged views on the proposals pertaining to entry B1110. With respect to the last bullet of the entry, which reads

“Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse,²⁰ and not for recycling or final disposal²¹”,

²⁰ Reuse can include repair, refurbishment or upgrading, but not major reassembly.

²¹ In some countries these materials destined for direct re-use are not considered wastes.”

some members supported the status quo and retaining references to “direct reuse”, while many others supported the deletion of the entry since direct reuse meant the object was not waste. Other participants supported keeping this last bullet but removing the word “direct” and amending footnote 20 to read: “including repair, refurbishment and upgrading, but not major reassembly”. In the subsequent discussions, it was explained that the entry should not be about the distinction between waste and non-waste, as this was addressed in Annex IV, but that it was about distinguishing hazardous wastes from non-hazardous wastes. Summarizing the discussions, co-chair Meijer said that two proposals remained on the table for the last bullet of entry B1110: status quo and deletion. The outcome of the discussions is reflected in the annex to document UNEP/CHW/RA_EWG.1/5/Rev.1.

E. Annex IV caption and introductory texts

60. Participants based their review of the Annex IV captions and introductory texts on documents UNEP/CHW/RA_EWG.1/3, UNEP/CHW/RA_EWG.1/4, taking into account documents UNEP/CHW/RA_EWG.1/INF/2 and UNEP/CHW/RA_EWG.1/INF/3.

61. One observer reminded the meeting that the proposal by some members, as set out in Annex I to the report, included an introduction to Annex IV that explained its two parts. A member said it was unclear whether Annex IV should have two parts. She suggested that introductory text for Annex IV clarify that the annex includes interim operations and that it lists both environmentally sound and non-environmentally sound operations. One observer suggested that the introduction include a reference to “alternative uses”, while a member, explaining that in his country the term “recovery” is not used, suggested retaining the references to “recycling, recovery and alternative uses”. Several Spanish-speaking members exchanged views on the terminology used to translate “disposal”, with one saying that the term “deposition” would be more accurate than “eliminación”.

62. Concluding the discussions, co-chair Seguin said that members agreed that it would be useful to have an introduction for Annex IV and that an introduction could serve a variety of purposes.

63. Regarding the caption for Annex IV A, one observer referred to a proposal by some members suggesting “final disposal” and said introductory text could clarify that it includes interim operations, while some members suggested that the caption include a reference to “operations leading to final disposal” to make it clear that it includes interim operations.

64. Regarding introductory text for Annex IV A, one member said that such text was not necessary if the caption was sufficiently clear, while another preferred an introduction so that the caption can be kept short.

65. Regarding the caption for Annex IV B, one observer referred to a proposal by some members that followed the same approach as for Annex IV A, with a caption “recovery operations”, while a member said that the caption should include both terms “recovery” and “recycling”. Another member said that the caption should not include a reference to “direct reuse”.

66. Regarding introductory text for Annex IV B, one observer referred to a proposal by some members to have an introduction so that the caption can be kept short, and co-chair Seguin concluded that the options remained on the table.

F. Other proposals to improve, update or clarify Annex IV

67. Participants considered the other proposals to improve, update or clarify Annex IV as set out in documents UNEP/CHW/RA_EWG.1/3, UNEP/CHW/RA_EWG.1/4, taking into account documents UNEP/CHW/RA_EWG.1/INF/2 and UNEP/CHW/RA_EWG.1/INF/3. They proceeded first with the 19 new proposals regarding Annex IV A, then with the 27 new proposals regarding Annex IV B including 3 new proposals relating to e-waste. Co-chair Meijer explained that he had identified in red on a revised version of the slides those proposals pertaining to Annex IV A that had already been the subject of discussions under other items and that therefore appeared to relate to existing operations. He said the purpose now was for the participants to try to consolidate the proposals. The outcome of the discussions would be a new set of slides showing progress achieved through this exercise, including the identification of whether a proposal was new or whether it was related to existing or newly proposed specific operations. He clarified that the intention at this time was not to negotiate the proposals.

68. In their consideration of the proposals regarding Annex IV A, an initial discussion took place as to whether individual proposals were of an interim nature or not and whether operations that were not environmentally sound should be retained. Participants concluded that some operations could and could not be interim and confirmed their understanding that Annex IV need include both environmentally sound and non-environmentally sound operations. Participants then reviewed the proposals one by one and identified for each of them if they might be related to any operation which already exists in the Annex, or if the operation is new. Members agreed that any proposal that implied the inclusion of a new waste stream in the Basel Convention, in this instance nanomaterials, should be deleted and the proposal brought to the attention of the OEWG in the context of its consideration of whether to review Annexes II, VIII and IX. The outcome of the discussions is reflected in the annex to document UNEP/CHW/RA_EWG.1/3/Rev.1.

69. In their consideration of the proposals regarding Annex IV B, participants reviewed the 24 proposals one by one. Members noted that proposals on “re-use of components in manufactured items” and “treating waste by waste” were from members not participating in the meeting, and agreed

to postpone their consideration. With respect to the proposal “recycling of vehicle waste”, views were exchanged on: whether to retain waste-stream specific operations; whether specific operations listed in Annex IV covered all the steps of the disposal process; how to ensure, more generally, that the disposal of post-consumer goods was covered by the Convention; and the link with entry B1250 on waste end-of-life motor vehicles. Members also noted that several of the proposals were intended to reflect in Annex IV B existing interim operations actually included in Annex IV A.

70. In their consideration of the 3 proposals regarding Annex IV B relating to e-waste, participants noted that the first proposal “prepare for reuse of e-waste including repair and refurbishment” could be merged with the generic new proposed entry for Annex IV B “preparing for reuse”. Regarding the second proposal “recycling of used electrical and electronic equipment”, participants exchanged views on the processes that fell under the scope of “recycling”, with the proponent clarifying that the intention was not to cover repair or refurbishment. The proponent of the third proposal withdrew his proposal.

71. Participants discussed the need for an e-waste specific entry with some expressing the view that this was not necessary as waste-generic operations could cover all the processes of disposal, while others questioned whether the depollution of goods, such as vehicles and electrical and electronic equipment, was covered. One member said the use of the terms “recycling or recovery of materials” would achieve this goal.

72. Summarizing the discussions, co-chair Meijer presented the following operations as not having any relation to an existing operation: (a) the need to reflect interim operations in both sections A and B (e.g. D9); (b) catch all operations; (c) preparing for re-use; (d) operations related to the release of liquefied gases to the atmosphere; (e) operations related to nanomaterials. During the discussions, some members asked to add (f) co-processing; (g) open burning; (h) infectious waste treatment; and (i) mechanical operations or mechanical treatment. The outcome of the discussions on the new proposals for Annex IV B is reflected in the annex to document UNEP/CHW/RA_EWG.1/4/Rev.1.

G. Preparations for the eleventh meeting of the Open-ended Working Group

73. Following exchanges of views, members requested the Secretariat to prepare revised versions of the compilations by the co-chairs of the EWG of slides on the review of Annex IV A and Annex IV B to the Basel Convention set out in the annex to documents UNEP/CHW/RA_EWG.1/3 and UNEP/CHW/RA_EWG.1/4 by adding the option “status quo” on each slide, by reversing the references to sections A and B in all the proposal submitted by the EU and its member States and by reflecting the outcomes of the discussions on the new proposals. The Secretariat was also requested to share with the EWG the slides “overarching and crosscutting issues” reflecting the outcomes of the discussion during the meeting. Members agreed that the report of the meeting would be prepared by the Secretariat under the authority of the co-chairs, that it would set out in its annexes the proposal by the European Union and its member States and the draft proposal from Argentina as examples of the restructuring of Annex IV, and that it would be circulated to members for endorsement.

74. Regarding the period leading up to OEWG-11, members agreed to invite the EWG to comment, by a date to be specified by the co-chairs, on the slides “overarching and cross cutting issues”, including on the rationale for retaining the terms “direct reuse”. Noting that a voluntary contribution from the European Union was available to that effect, members also agreed to request the Secretariat to retain a consultant to help with the preparation of documents for a second face-to-face meeting of the EWG, including to provide information on statistics pertaining to the D and R operations, based on national reports. Members further agreed to tentatively schedule their next information consultations on Thursday 14 June 2018 and to consider at that time the way forward to be proposed to OEWG-11 and to the Conference of the Parties at its fourteenth meeting.

75. Regarding the documents to be prepared for OEWG-11, members noted that the working document prepared by the Secretariat would focus on process and that the co-chairs would prepare a note on the way forward, for the consideration of OEWG-11, in an information document. Members expressed the view that there would not be a need to establish a contact group during OEWG-11 and, instead, to hold informal consultations prior to or during the meeting and to provide for an information sharing exercise with the OEWG in the context of a side-event.

76. Regarding the work of the EWG after OEWG-11, members saw merit in holding, subject to the availability of funding, a second meeting in December 2018 or January 2019. Argentina offered to host the meeting, while one member said his organization was considering funding it. Co-chair Meijer said the co-chairs would consult with the Secretariat and the possible host, and make a proposal to the EWG.

IV. Review of Annexes I and III to the Basel Convention.

77. Co-chair Meijer reminded participants that the members of the EWG had agreed, during informal consultations preceding the meeting, that they only have a general discussion on the matter of the review of Annexes I and III. He invited participants to exchange views on the matter, taking into account the compilation of comments set out in the annex to document UNEP/CHW/RA_EWG.1/INF/5.

78. Regarding Annex I, one observer referred to the views of a group of Parties and that this group was still collecting its thoughts. As reflected in comment 75 in document UNEP/CHW/RA_EWG.1/INF/5, he said that the general approach was to consider deleting entries Y1 to Y18 given that Annex VIII was now in place, and to reorganize entries Y19 to Y45 to follow the structure of Annex VIII. He also said consideration should also be given to adding new entries for substances considered to be hazardous, such as lithium. Several members and one observer said they had developed their own list of hazardous wastes at the national level; they were invited to share these with the participants.

79. Regarding Annex III, one member introduced its proposal, as reflected in comment 42 in document UNEP/CHW/RA_EWG.1/INF/5.

80. Concluding the discussions, members agreed that more time was needed to consider the matter especially since it had the potential to have a huge impact on the scope and implementation of the Convention. They also agreed that the review of Annexes I and III should take place alongside and that experts on hazardous characteristics should be present when the matter was considered. They accordingly agreed to defer further consideration to after OEWG-11 and, in the meantime, for the EWG to be invited to provide further comments on Annexes I and III by a date to be specified by the co-chairs.

V. Other matters

81. No other matters were considered.

VI. Closure of the meeting

82. Prior to closing the meeting, co-chair Meijer invited participants to turn their attention back to the objectives of the meeting, as introduced by co-chair Seguin at the beginning of the discussions on agenda item 3 (see paragraph 7 above). Members agreed that these objectives had been met.

83. The meeting was closed by co-chair Meijer at 1 p.m. on Friday, 23 March 2018.

Annex I

Proposal by the European Union and its Member States

Annex IV

Disposal operations

There are two categories of disposal operations, namely recovery operations and final disposal operations. Section A encompasses final disposal operations and section B recovery operations.

A. Final disposal operations

A final disposal operation is an operation which is not a recovery operation even where the operation has as a secondary consequence the reclamation of substances or energy.

- A1¹ Engineered landfills
- A2 Deposit onto land other than covered by A1 (e.g. landfill, placement of solids, liquids or sludges into pits)
- A3 Permanent underground storage (e.g. emplacement of containers in a mine)
- A4 Deposit into land other than covered by A3, including e.g. injection into wells, salt domes of naturally occurring repositories
- A5 Land treatment in situ (e.g. biodegradation in soils)
- A6 Release into a water body except seas/oceans
- A7 Release into seas/oceans including sea-bed insertion
- A8 Release to the atmosphere, including the venting of compressed or liquefied gases
- A9 Incineration
- A10 Final disposal operations other than covered by A1 to A9 above
- A11 Biological treatment prior to submission to any of the operations in section A
- A12 Physical/mechanical treatment (e.g. evaporation, drying), physical/chemical treatment (e.g. solvent extraction), chemical treatment (e.g. neutralization, precipitation) prior to submission to any of the operations in section A
- A13 Mechanical treatment (e.g. dismantling, sorting, crushing, compacting, pelletizing, shredding, conditioning, repackaging, separating, blending, mixing) prior to submission to any of the operations in section A
- A14 Other treatment than covered by A11 to A13 above prior to submission to any of the operations in section A
- A15 Temporary storage pending any of the operations in section A, excluding temporary storage, pending collection, on the site where the waste is generated

B. Recovery operations

A recovery operation is an operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.

- B1 Preparing for reuse (e.g. checking, cleaning, repair, refurbishment)
- B2 Recycling of organic substances
- B3 Recycling of metals and metal compounds
- B4 Recycling of other inorganic materials
- B5 Use as a fuel or other means to generate energy
- B6 Recovery other than covered by B1 to B5 above
- B7 Biological treatment prior to submission to any of the operations in section B
- B8 Physical/mechanical treatment (e.g. evaporation, drying), physical/chemical treatment (e.g. solvent extraction), chemical treatment (e.g. neutralization, precipitation) prior to submission to any of the operations in section B

¹ The codes A and B have been introduced for illustration only

- B9 Mechanical treatment (e.g. dismantling, sorting, crushing, compacting, pelletizing, shredding, conditioning, repackaging, separating, blending, mixing) prior to submission to any of the operations in section B
- B10 Other treatment than covered by B7 to B9 above prior to submission to any of the operations in section B
- B11 Temporary storage pending any of the operations in section B, excluding temporary storage, pending collection, on the site where the waste is generated

Annex II

Draft proposal by Argentina on a new approach to new Annex IV

D9 Physical and / or chemical treatment not specified elsewhere in this annex. The operations reached at this point are those carried out with the purpose of modifying physical and chemical characteristics of the hazardous waste, or reducing or eliminating their dangerous characteristics; in order to condition it for further treatment or for its final disposal.

- D9.01: evaporation, drying, dehydration
- D9.02: precipitation, flotation, flocculation, coagulation, decantation
- D9.03: phase separation, adsorption, desorption, absorption
- D9.04: neutralization
- D9.05: treatment by adsorption / desorption of activated carbon
- D9.06: dechlorination
- D9.07: decomposition by oxidation and / or reduction
- D9.08: confinement of waste constituents in vitreous matrix (vitrified)
- D9.09: encapsulation or immobilization
- D9.10: centrifugation, filtering and other selective separation media
- D9.11: steam air treatment, condensation
- D9.12: autoclave or other similar technology that uses pressure and temperature as process variables, for decontamination of contaminated solids
- D9.13: other unspecified physical and / or chemical treatment

D16 Treatment of sterilization or decontamination of biopathological waste

- D16.01: autoclave
- D16.02: microwave - radio waves.
- D16.03: physical sterilization
- D16.04: chemical sterilization
- D16.05: other method or technology not specified

D10 Thermal treatments

- D10.01: incineration, thermal oxidation or pyrolysis
- D10.02: co-incineration
- D10.03: gasification
- D10.04: thermal desorption
- D10.05: vitrification
- D10.06: another operation not mentioned

R2: Recovery or regeneration of solvents.

- R2.01: distillation / rectification
- R2.02: filtered
- R2.03: other physical and / or chemical treatment

R3: Recycling or recovery of organic substances (other than solvents):

R4: Recycling or recovery of metals and metal compounds: Recover by physical chemical treatments, metals or metal compounds with a specific specification that allows their subsequent use or recovery.

- R4.01: precipitation
 - R4.01: pyrometallurgical
 - R4.02: hydrometallurgical
 - R4.03: unspecified metallurgical processes
 - R4.04: distillation
 - R4.05: decontamination
 - R4.06: metal melting
-