



**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Fifteenth meeting**

Geneva, 26–30 July 2021*

Item 4 (c) (ii) of the provisional agenda**

**Matters related to the implementation of the
Convention: legal, compliance and governance
matters: providing further legal clarity**

Providing further legal clarity

Note by the Secretariat

I. Introduction

1. By its decision BC-14/16, on providing further legal clarity, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, among other things, took note of the recommendations for revisions to Annex IV and Annex IX (B1110) prepared by the expert working group on the review of Annexes I, III and IV and related aspects of Annex IX to the Convention and invited Parties and others to submit to the Secretariat by 15 July 2019 further views on the recommendations for revisions to Annex IV; extended the mandate of the expert working group¹ to also review entry B1110 in Annex IX and the mirror entry A1180 in Annex VIII, based on the group's work on entry B1110 thus far; requested the expert working group to continue its work on the basis of the way forward set out in the annex to that decision which provided, among other things, that amendment proposals to Annex IV, Annex VIII (A1180) and Annex IX (B1110) would be presented and discussed by the Open-ended Working Group at its twelfth meeting and that any such proposals would be negotiated and possibly adopted by the Conference of the Parties at its fifteenth meeting; and extended the mandate of the expert working group to also review the consequential implications of the review of Annexes I, III and IV for other annexes to the Convention and for relevant decisions of the Conference of the Parties, inter alia, for the notification and movement documents and the reporting format, and to report on its findings on the possible consequential implications of the review of Annex IV following its own consideration of the matter to the Open-ended Working Group at its twelfth meeting.

2. In the decision, the Conference of the Parties also requested the regional groups that had not yet nominated 10 experts with relevant expertise to serve as members of the expert working group to nominate the remaining experts by 31 July 2019 through their Bureau representatives, and requested

* Face-to-face resumed meetings of the conferences of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants are tentatively scheduled to take place in 2022.

** UNEP/CHW.15/1.

¹ See section III of and annex II to decision BC-13/2 on the follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention.

the Secretariat to facilitate the nomination process. Finally, the Conference of the Parties requested the Secretariat to report on the implementation of the decision to the Open-ended Working Group at its twelfth meeting and to the Conference of the Parties at its fifteenth meeting.

3. By its decision BC-14/13, on further actions to address plastic waste under the Basel Convention, the Conference of the Parties, among other things, requested the expert working group to consider, as part of its mandate, whether any additional constituents or characteristics in relation to plastic waste should be added to Annex I or III, respectively, to the Convention.

4. By its decision BC-14/20, on the work programme of the Open-ended Working Group for the biennium 2020–2021, the Conference of the Parties, among other things, decided that the work of the Open-ended Working Group pursuant to decision BC-14/16 was of high priority, while that pursuant to decision BC-14/13 was of medium priority.

II. Implementation

A. From the fourteenth meeting of the Conference of the Parties to the twelfth meeting of the Open-ended Working Group (online segment, 1–3 September 2020)

5. Following the fourteenth meeting of the Conference of the Parties, the Secretariat received from regional groups through their Bureau representatives the nominations of three additional experts from China, El Salvador and Lebanon to serve as members of the expert working group. The list of members and observers of the expert working group is available on the website of the Convention.²

6. Further views from Parties and others on the recommendations for revisions to Annex IV and Annex IX (B1110) submitted by 15 July 2019 were transmitted by Canada, Colombia, the European Union and its member States, Qatar and Switzerland, as well as six observers, and are available on the website of the Convention.³

7. The expert working group held its third meeting in Bratislava from 5 to 8 November 2019. The meeting was organized in cooperation with the Basel Convention Regional Centre for Central and Eastern Europe in Slovakia and with generous financial support provided by the Governments of Germany, Norway and Switzerland. At the meeting, the expert working group focused its work on the development of recommendations for possible amendment proposals to Annex IV and to entries A1180 and B1110 in Annexes VIII and IX to the Basel Convention, and of its findings on the consequential implications of the review of Annex IV to the Convention for other annexes of the Convention and for relevant decisions of the Conference of the Parties, inter alia, for the notification and movement documents and the reporting format.

8. At its third meeting, the expert working group agreed to invite Parties and observers to submit by 15 April 2020 comments on its recommendations and findings, and requested the Secretariat to compile the comments received in an information document for the twelfth meeting of the Open-ended Working Group. There was also general agreement that the Open-ended Working Group should provide the expert working group with directions on how to move forward with respect to possible amendment proposals to Annex IV and to entries A1180 and B1110 in Annexes VIII and IX to the Convention.

9. At the meeting, members of the expert working group also exchanged views on the review of Annexes I and III to the Convention, including on whether any additional constituents or characteristics in relation to plastic waste should be added to Annex I or III, and agreed on further intersessional work.⁴

10. Finally, the expert working group noted that there was merit in further reducing the number of alternatives and resolving certain issues regarding possible amendment proposals to Annex IV and to entries A1180 and B1110 in Annexes VIII and IX to the Convention at a fourth meeting of the group in advance of the fifteenth meeting of the Conference of the Parties. All the documents for the third

² <http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesI,III,IVandrelatedaspectsofAnnexes/ExpertWorkingGroup/tabid/6105/Default.aspx>.

³ <http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesI,III,IVandrelatedaspectsofAnnexes/Activities20202021/tabid/8050/Default.aspx>.

⁴ See para. 86 of the report of the third meeting of the expert working group, available at <http://www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/3rdRAEWGmtg/tabid/8108/Default.aspx>.

meeting of the expert working group as well as the report of the meeting are available on the website of the Convention.⁵

11. In a letter dated 15 January 2020, the Secretariat invited Parties and observers to submit comments by 15 April 2020 on the recommendations and findings developed by the expert working group at its third meeting.

12. The recommendations for possible amendment proposals to Annex IV and to entries A1180 in Annex VIII and B1110 in Annex IX to the Basel Convention and the findings on the consequential implications of the review of Annex IV to the Convention developed by the expert working group at its third meeting were made available to the Open-ended Working Group at the online segment of its twelfth meeting (1–3 September 2020) in the annex to document UNEP/CHW/OEWG.12/INF/25. The comments thereon received from Parties and observers by 15 April 2020 were made available in document UNEP/CHW/OEWG.12/INF/27. Draft versions of the notification document, the movement document, the instructions for completing both documents, the national reporting format and the manual for completing the format for national reporting, showing where adjustments may need to be made as a consequence of possible amendments to Annex IV, were set out in the annexes to the note by the Secretariat on the consequential implications of the review of Annex IV to the Convention.⁶ A note by the co-chairs of the expert working group to support the Open-ended Working Group in providing the expert working group with directions on the way forward was set out in document UNEP/CHW/OEWG.12/INF/26.

13. Following its consideration of the matter, the Open-ended Working Group invited Parties and observers to provide, by 15 September 2020, comments on the recommendations and findings of the expert working group on the review of Annexes,⁷ the note by the co-chairs of the expert working group on the review of Annexes⁸ and the consequential implications of the review of Annex IV to the Convention,⁹ and invited the expert working group to take the comments received into account in revising those documents for submission to the Conference of the Parties at its fifteenth meeting.¹⁰

B. From the twelfth meeting of the Open-ended Working Group (online segment, 1–3 September 2020) to the fourth meeting of the expert working group on the review of Annexes

14. Because of the coronavirus disease (COVID-19) pandemic, the expert working group on the review of Annexes convened its fourth meeting online, with initial sessions held from 5 to 9 October 2020, followed by supplementary sessions from 1 to 3 February 2021. Additional sessions will take place as decided by the group, in particular with a view to making progress on the review of Annexes I and III.¹¹ On 9 November 2020, the group elected Ms. Mari-Liis Ummik (Estonia) co-chair of the group with Mr. Joost Meijer (Chile), in replacement of Ms. Magda Gosk (Poland).

15. During the 5–9 October 2020 sessions of its fourth meeting, the group focused its attention on revising its recommendations on proposals for possible amendments to Annex IV and to entries A1180 in Annex VIII and B1110 in Annex IX to the Basel Convention and its findings on the consequential implications of the review of Annex IV to the Convention.¹²

16. On 3 December 2020, the European Union transmitted to the Secretariat proposals to amend Annex IV and certain entries in Annexes II and IX to the Basel Convention for consideration by the Conference of the Parties at its fifteenth meeting, along with an explanatory note.¹³ In the event the proposals are not adopted during the meeting, section III of the present note suggests a way forward for their further consideration by the expert working group.

17. On 4 December 2020, Ghana and Switzerland transmitted to the Secretariat a proposal to amend Annexes II, VIII and IX of the Basel Convention in relation to the e-waste entries A1180 and

⁵ <http://www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/3rdRAEWGmtg/tabid/8108/Default.aspx>.

⁶ UNEP/CHW/OEWG.12/INF/28.

⁷ UNEP/CHW/OEWG.12/INF/25, annex.

⁸ UNEP/CHW/OEWG.12/INF/26, annex.

⁹ UNEP/CHW/OEWG.12/INF/28, annexes.

¹⁰ UNEP/CHW/OEWG.12/16, para. 87.

¹¹ Information on the meeting and access to meeting documents are available at www.basel.int/Implementation/tabid/8522.

¹² UNEP/CHW/RA_EWG.4/3.

¹³ See document UNEP/CHW.15/13/Add.1 and documents referred to therein.

B1110, for consideration by the Conference of the Parties at its fifteenth meeting. Accompanying the proposal were an explanatory note, three application forms for the placement or removal of wastes on Annexes VIII and IX and tracked changes to the current texts of Annexes II, VIII and IX reflecting the amendment proposal.¹⁴

18. During the 1–3 February 2021 sessions of its fourth meeting, the expert working group heard presentations on the amendment proposals by the European Union and by Ghana and Switzerland, and continued its consideration of its recommendations and findings in relation to the review of Annex IV.¹⁵

19. The expert working group's recommendations on proposals for possible amendments to Annex IV and to entries A1180 in Annex VIII and B1110 in Annex IX to the Convention and its findings on the consequential implications of the review of Annex IV to the Convention, reflecting the outcome of the 5–9 October 2020 and 1–3 February 2021 sessions of its fourth meeting, are set out in document UNEP/CHW.15/INF/18. Draft versions of the notification document, the movement document, the instructions for completing both documents, the national reporting format and the manual for completing the format for national reporting, showing where adjustments may be needed as a consequence of possible amendments to Annex IV, are set out in the annexes to the note by the Secretariat on the consequential implications of the review of Annex IV to the Convention (UNEP/CHW.15/INF/20). Information on the work of the group in relation to the review of Annexes I and III, including with respect to constituents and characteristics of plastic wastes, expected to take place during supplementary sessions of the fourth meeting of the group prior to the fifteenth meeting of the Conference of the Parties, will be set out in document UNEP/CHW.15/INF/21.

C. Strategic framework for the implementation of the Basel Convention for 2012–2021

20. Reference is made to document UNEP/CHW.15/3 on the strategic framework for the implementation of the Basel Convention for 2012–2021, the report on the final evaluation of the strategic framework for the implementation of the Basel Convention for 2012–2021 set out in document UNEP/CHW.15/INF/5 and the executive summary of the aforementioned report set out in document UNEP/CHW.15/3/Add.1. Paragraph 14 of the executive summary contains a recommendation to the effect that, upon completion of the review of the annexes, consideration should also be given to updating the glossary of terms and other relevant documents about the control system. This recommendation is given effect in paragraph 4 of the draft decision set out in section III of the present note.

III. Proposed action

21. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Welcomes* the work undertaken by the expert working group on the review of Annexes I, III and IV and entries A1180 in Annex VIII and B1110 in Annex IX to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal;

2. *Takes note* of the information on the work of the expert working group;¹⁶ the group's recommendations on proposals for possible amendments to Annex IV and to entries A1180 in Annex VIII and B1110 in Annex IX to the Basel Convention and its findings on the consequential implications of the review of Annex IV to the Convention, reflecting the outcome of its fourth meeting;¹⁷ the draft versions of the notification document, the movement document, the instructions for completing both documents, the national reporting format and the manual for completing the format for national reporting, showing where adjustments may need to be made as a consequence of possible amendments to Annex IV;¹⁸ and progress made in the review of Annexes I and III;¹⁹

¹⁴ See document UNEP/CHW.15/13/Add.2 and documents referred to therein.

¹⁵ UNEP/CHW/RA_EWG.4/3/Add.1.

¹⁶ UNEP/CHW.15/13.

¹⁷ UNEP/CHW.15/INF/18.

¹⁸ UNEP/CHW.15/INF/20.

¹⁹ UNEP/CHW.15/INF/21.

3. *Recalls* the mandate of the expert working group as set out in decisions BC-13/2, BC-14/13 and BC-14/16;

4. *Requests* the expert working group to consider the proposals by the European Union to amend Annex IV and certain entries in Annexes II and IX to the Basel Convention,²⁰ taking into account the discussions at the fifteenth meeting of the Conference of the Parties as well as the group's recommendations and findings,²¹ and to continue its work on the basis of the way forward set out in the annex to the present decision, which takes into account the relevant recommendation set out in the report on the final evaluation of the strategic framework for the implementation of the Basel Convention for 2012–2021;²²

5. *Requests* the regional groups that have not yet nominated 10 experts with relevant expertise to serve as members of the expert working group to nominate the remaining experts by 31 August 2021 through their Bureau representatives, and requests the Secretariat to facilitate the nomination process;

6. *Requests* the Secretariat to report on the implementation of the present decision to the Open-ended Working Group at its thirteenth meeting and to the Conference of the Parties at its sixteenth meeting.

Annex to decision BC-15/[--]

Way forward to the sixteenth meeting of the Conference of the Parties to the Basel Convention

<i>Thirteenth meeting of the Open-ended Working Group</i>	<i>Sixteenth meeting of the Conference of the Parties</i>
2022	2023
<p><u>Amendment proposals by the European Union:</u> Progress is reported and discussed, including on the possible consequential implications of the proposed amendments for other annexes to the Convention and for relevant decisions of the Conference of the Parties, inter alia, for the notification and movement documents, the reporting format, the glossary of terms and other relevant documents about the control system.</p> <p><u>Annex I:</u> Options for possible amendment proposals are presented and discussed, including: whether any additional constituent in relation to plastic waste should be added, and the possible consequential implications of the options for other annexes of the Convention and for relevant decisions of the Conference of the Parties, inter alia, for the notification and movement documents and the reporting format.</p> <p><u>Annex III:</u> Options for possible amendment proposals are presented and discussed, including: whether any additional characteristics in relation to plastic waste should be added, and the possible consequential implications of the options for other annexes of the Convention and for relevant decisions of the Conference of the Parties, inter alia, for the notification and movement documents and the reporting format.</p>	<p><u>Amendment proposals by the European Union:</u> Amendment proposals are negotiated and possibly adopted, along with other decisions addressing the consequential implications of the amendments.</p> <p><u>Annex I:</u> Amendment proposals are negotiated and possibly adopted, along with other decisions addressing the consequential implications of the amendments.</p> <p><u>Annex III:</u> Amendment proposals are negotiated and possibly adopted, along with other decisions addressing the consequential implications of the amendments.</p>

²⁰ UNEP/CHW.15/13/Add.1

²¹ UNEP/CHW.15/INF/18.

²² UNEP/CHW.15/3/Add.1, annex, para. 14.