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**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 and 6–17 June 2022*

Agenda item 4 (c) (ii)

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

Review of Annexes I and III to the Convention

Note by the Secretariat

As is mentioned in the note by the Secretariat on providing further legal clarity (UNEP/CHW.15/13), the annex to the present note sets out information on the work of the expert working group in relation to the review of Annexes I and III, including with respect to constituents and characteristics of plastic wastes. The present note, including its annexes, has not been formally edited.

* In accordance with decisions BC-15/1, RC-10/2 and SC-10/2 of the conferences of the Parties to the Basel, Rotterdam and Stockholm conventions, the 2021/2022 meetings of the conferences of the Parties are being held in two segments: an online segment held from 26 to 30 July 2021 and a face-to-face segment to be held from 6 to 17 June 2022 in Geneva.

Annex

Information on the work of the expert working group in relation to the review of Annexes I and III, including with respect to constituents and characteristics of plastic wastes

I. Introduction

1. The expert working group on the review of Annexes (EWG) considered the review of Annexes I and III, including with respect to constituents and characteristics of plastic wastes, during all five sessions of its fourth meeting, building on the work conducted during its first, second and third meetings.¹ In advance of the first sessions of its fourth meeting, during informal consultations held on 13 March 2020, a 24 July 2020 deadline was set for EWG members and observers to provide comments on the general issues and the detailed proposals on the review of Annex I set out in the annex to document UNEP/CHW/RA_EWG.3/6; the six general issues and the detailed proposals on the review of Annex III set out in the annex to document UNEP/CHW/RA_EWG.3/7; and whether any additional constituents or characteristics in relation to plastic waste should be added to Annex I or III. It was also agreed that the deadline for receiving comments on the possible consequential implications of the review of Annexes I and III 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, would be set during the fourth meeting of the EWG. Also during the consultations, Canada presented its thought starter on the review of Annex III, and a 24 July 2020 was also set for EWG members and observers to provide comments thereon.

II. First part of the fourth meeting of the EWG

2. During the first part of the fourth meeting of the EWG, held online from 5 to 9 October 2020, co-chair Meijer noted that following the invitation to provide comments by 24 July 2020, only three additional sets of comments had been transmitted regarding the review of Annexes I and III, and five sets of comments had been transmitted on the thought starter by Canada on the review of Annex III.² The EWG entrusted the co-chairs to make a proposal for a further deadline to invite further comments from the EWG regarding the review of Annexes I and III.³

3. Through an email correspondence procedure subsequent to the suspension of the fourth meeting on 9 October 2020, the EWG agreed on 30 November 2020 that additional supplementary sessions of the fourth meeting of the EWG would take place prior to the fifteenth meeting of the Conference of the Parties, tentatively in April 2021, with a focus on the review of Annexes I and III, on dates to be decided during the 1–3 February 2021 sessions of its fourth meeting. The EWG also agreed that in order to assist with the discussions on the review of Annexes I and III, additional comments from the EWG were called by 26 February 2021 on: the general issues and the detailed proposals on the review of Annex I set out in the annex to document UNEP/CHW/RA_EWG.3/6; the six general issues and the detailed proposals on the review of Annex III set out in the annex to document UNEP/CHW/RA_EWG.3/7; whether any additional constituents or characteristics in relation to plastic waste should be added to Annex I or III; and the thought starter prepared by Canada on the review of Annex III.⁴

III. Second part of the fourth meeting of the EWG

4. During the second part of the fourth meeting of the EWG, held online from 1 to 3 February 2021, the EWG confirmed its previous agreement for the next sessions of its fourth meeting to focus on the review of Annexes I and III and entrusted the co-chairs with making a proposal for convening such sessions in light of the agreement to be reached by the bureaux of the conferences of the Parties

¹ Information and documents for the fourth meeting of the EWG is available at: www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/4rdRAEWG/tabid/8522/Default.aspx

² See paragraph 106 of the report of the 5–9 October 2020 sessions of the fourth meeting (document UNEP/CHW/RA_EWG.4/3).

³ *Idem*, paragraph 109.

⁴ See paragraph 3 of the report of the 1–3 February 2021 sessions of the fourth meeting (document UNEP/CHW/RA_EWG.4/3/Add.1).

to the Basel, Rotterdam and Stockholm conventions, during their 26 February 2021 joint meeting, on the organizations of the 2021 meetings of the conferences of the Parties.⁵ Through an email correspondence procedure, the EWG agreed on 26 March 2021 to meet online from 17 to 21 May 2021 for the third part of its fourth meeting.

IV. Third part of the fourth meeting of the EWG

5. During the third part of the fourth meeting of the EWG, held online from 17 to 21 May 2021, the EWG considered the set of slides on the review of Annex I prepared by the Secretariat under the guidance of the co-chairs on the basis of views on the review of Annex I by EWG members and observers transmitted by 28 September 2018, set out in document UNEP/CHW/RA_EWG.4/5.⁶ The EWG also had before it the views on the review of Annex I received from EWG members and observers by 28 September 2018, set out in document UNEP/CHW/RA_EWG.2/INF/7, comments received by 31 July 2019 on the general issues identified in the set of slides, set out in document UNEP/CHW/RA_EWG.3/INF/6, and further comments received by 5 March 2021 on the set of slides, set out in document UNEP/CHW/RA_EWG.4/INF/14. A synthesis of all comments received on the review of Annex I was set out in document UNEP/CHW/RA_EWG.4/INF/15.

6. The EWG also considered the set of slides on the review of Annex III prepared by the Secretariat under the guidance of the co-chairs on the basis of views on the review of Annex III by EWG members and observers transmitted by 28 September 2018, set out in document UNEP/CHW/RA_EWG.4/6.⁷ The EWG also had before it the views on the review of Annex III received from EWG members and observers by 28 September 2018, set out in document UNEP/CHW/RA_EWG.2/INF/8, comments received by 31 July 2019 on the general issues identified in the set of slides, set out in document UNEP/CHW/RA_EWG.3/INF/7, and further comments received by 5 March 2021 on the set of slides and the thought starter by Canada, set out in document UNEP/CHW/RA_EWG.4/INF/14. A synthesis of all comments received on the review of Annex III was set out in document UNEP/CHW/RA_EWG.4/INF/17. The thought starter by Canada on the review of Annex III was set out in document UNEP/CHW/RA_EWG.4/INF/18.

7. Comments received by 5 March 2021 on whether any additional constituents or characteristics in relation to plastic waste should be added to Annex I or III were set out in document UNEP/CHW/RA_EWG.4/INF/14. A synthesis of all comments received was set out in document UNEP/CHW/RA_EWG.4/INF/16.

8. The analysis by the Secretariat of the possible 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, previously set out in document UNEP/CHW/RA_EWG.3/INF/5, was set out in document UNEP/CHW/RA_EWG.4/INF/19.

9. The report of the fourth meeting of the Expert Working Group on the review of Annexes (supplementary sessions, 17–21 May 2021)⁸ sets out information on the discussions that took place and the progress achieved by the EWG during the third part of its fourth meeting.

10. In their discussions on the way forward with the review of Annex I, the members considered a shell of recommendations by the EWG for possible amendment proposals to Annex I, prepared by the co-chairs and agreed to request the Secretariat, under the guidance of the co-chairs, to complete the shell by reflecting therein the outcome of the discussions during the sessions on the review of Annex I, and to attach it to the meeting report. The EWG agreed to invite comments by EWG members and observers by a date to be proposed by the co-chairs on the above-mentioned draft recommendations by the EWG for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I. The EWG also agreed to invite comments by EWG members and observers by a date to be proposed by the co-chairs on the consequential implications of the review of Annex I. Finally, the EWG agreed to invite the co-chairs to make a proposal on when the draft recommendations would be further considered by the EWG.

⁵ *Idem* paragraph 59.

⁶ During previous meetings of the EWG, the set of slides was made available in documents UNEP/CHW/RA_EWG.2/6 and UNEP/CHW/RA_EWG.3/6.

⁷ During previous meetings of the EWG, the set of slides was made available in documents UNEP/CHW/RA_EWG.2/7 and UNEP/CHW/RA_EWG.3/7.

⁸ UNEP/CHW/RA_EWG.4/3/Add.2.

11. With respect to the way forward with the review of Annex III, the EWG agreed to request the co-chairs to prepare a revised set of slides or a document in word format incorporating elements of the thought starter prepared by Canada, namely the list of hazardous characteristics and the text below, and reflecting the discussions during the sessions on the four general issues (reference to UN class, alignment with the UN Globally Harmonized System of Classification and Labelling of Chemicals (GHS), structure of Annex III and test methods, and new introductory texts) and the caption. The EWG considered by when further comments could be invited, and agreed to invite comments by EWG members and observers by a date to be proposed by the co-chairs on the above mentioned revised set of the slides or document in word format, as well as the possible new hazardous characteristic for plastics and the consequential implications of the review of Annex III. Finally, the EWG agreed to invite the co-chairs to make a proposal on when the revised set of the slides or document in word format would be further considered by the EWG.⁹

12. Subsequent to the suspension of the meeting on Friday 21 May 2021, in a 11 July 2021 email, the Secretariat made available to the EWG the co-chairs' proposed revised basis for the further work on the review of Annex III, as set out in the annex to document UNEP/CHW/RA_EWG.4/6/Rev.1. As also invited to do so by the EWG, the co-chairs put forward their proposal on the way forward with the work of the EWG on the review of Annexes I and III, namely that the EWG would focus its next sessions on 11–15 October 2021 on continuing the review of Annexes I and III. Accordingly, the EWG members and observers were invited to provide comments by 15 September 2021 on:

(a) The draft recommendations by the EWG for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I (set out in the Annex to the report of the 17–21 May 2021 sessions of the EWG on RA-4);

(b) The consequential implications of the review of Annex I 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 (UNEP/CHW/RA_EWG.4/INF/19);

(c) The compilation of general issues and options for the review of Annex III to the Basel Convention (status 21 May 2021), to serve as the revised basis for the further work of the EWG on the review of Annex III;

(d) The possible new hazardous characteristic for plastics (UNEP/CHW/RA_EWG.4/INF/16);

(e) The consequential implications of the review of Annex III 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 (UNEP/CHW/RA_EWG.4/INF/19).

V. Fourth part of the fourth meeting of the EWG

13. During the fourth part of the fourth meeting of the EWG, held online from 11 to 15 October 2021, the EWG considered the information contained in a note by the Secretariat on the review of Annexes I and III to the Basel Convention (UNEP/CHW/RA_EWG.4/4/Rev.1). With respect more specifically to the review of Annex I, the EWG considered the information set out in document UNEP/CHW/RA_EWG.4/5/Rev.1, which set out the draft recommendations by the EWG for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I, with a view to developing updated recommendations for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I, and findings on the consequential implications of the review of Annex I to the Convention. With respect more specifically to the review of Annex III, the EWG considered document UNEP/CHW/RA_EWG.4/6/Rev.1, which set out a compilation of general issues and options for the review of Annex III to the Basel Convention with a view to developing draft recommendations for possible amendment proposals to Annex III, including whether any additional constituents in relation to plastic waste should be added to Annex III, and findings on the consequential implications of the review of Annex III to the Convention.

14. The outcomes of the sessions include the development of [Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex III, including whether any additional characteristics in relation to plastic waste should be added to Annex III, and findings of the expert working group on the consequential implications of the review of Annex III to the Convention (status 15 October 2021), as set out in the annex I to the report of the sessions,

⁹ See the report of report of the 17 to 21 May 2021 sessions of the fourth meeting (document UNEP/CHW/RA_EWG.4/3/Add.2).

and [Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I, and findings of the expert working group on the consequential implications of the review of Annex I to the Convention (status 15 October 2021), as set out in annex II to the report of the sessions.¹⁰

15. The EWG agreed to entrust the co-chairs with the preparation of a proposal on the way forward with the review of Annexes I and III and that in the event no agreement was reached through an email correspondence procedure, the EWG would reconvene to discuss the matter.

16. Subsequent to the suspension of the meeting on Friday 15 October 2021, the EWG agreed to the way forward with its work on the review of Annexes I and III, as circulated by the Secretariat in a 10 January 2022 email.

VI. Fifth part of the fourth meeting of the EWG

17. During the fifth part of the fourth meeting of the EWG, held online on 13 January 2022, the EWG agreed to reflect in the report of the session the agreed way forward with its work on the review of Annexes I and III, as follows:

(a) An invitation by 28 February 2022 for members and observers to provide comments on the supporting information, such as additional supporting information, for the [draft] recommended options for possible amendments to Annexes I and III, as set out in annexes I and II to the report of the 11–15 October 2021 sessions of the fourth meeting of the EWG on RA (document UNEP/CHW/RA_EWG.4/3/Add.3); and for members to provide comments on rationales and/or relevant scientific and technical considerations¹¹ for the [draft] recommended options for which they are proponents or have provided part of the text, and for members and observers to provide comments on rationales for why certain [draft] recommended options are appropriate or may not be appropriate;

(b) An invitation for members and observers to provide by 31 March 2022 comments on whether *de minimis* concentration values, concentration limit values and cut-off concentration values should be established in Annex III (see general issue G, set out in Appendix I to the “[draft] recommendations by the expert working group” to Annex I of document UNEP/CHW/RA_EWG.4/3/Add.3);

(c) A request to the co-chairs, with the assistance of the Secretariat, to integrate by 31 March 2022 the comments on the supporting information and on rationales and/or relevant scientific and technical considerations provided by members and observers in a revised version of the [draft] recommended options, to be circulated to the EWG with an invitation to provide comments by 29 April 2022:

(d) A request to the co-chairs, with the assistance of the Secretariat, to prepare a revised version of the [draft] recommended options, taking into account the comments received, to be circulated to the EWG by 27 May 2022 for endorsement by electronic means by 1 July 2022;

(e) A request to the Secretariat to compile by 29 April 2022 the comments on whether *de minimis* concentration values, concentration limit values and cut-off values should be established, for consideration by the EWG during a meeting (subject to a decision by the Conference of the Parties at its fifteenth meeting extending the mandate of the EWG);

(f) An invitation by the EWG, through the Secretariat, for comments by Parties and observers by 30 September 2022 (tentative date, to be confirmed) on the EWG-endorsed revised version of the [draft] recommended options for possible amendments to Annexes I and III as well as on whether *de minimis* concentration values, concentration limit values and cut-off values should be established, noting that the Secretariat would make available at that time to Parties and observers the comments from EWG members and observers on whether *de minimis* concentration values, concentration limit values and cut-off concentration values should be established in Annex III (subject to a decision by the Conference of the Parties at its fifteenth meeting extending the mandate of the EWG);

(g) The holding of a EWG meeting to further consider Annex I and Annex III at the end of 2022 or early 2023, while avoiding overlaps with other meetings under the Basel Convention (subject

¹⁰ See document UNEP/CHW/RA_EWG.4/3/Add.3.

¹¹ See Article 18 paragraph 3 of the Convention.

to a decision by the Conference of the Parties at its fifteenth meeting extending the mandate of the EWG);

(h) An encouragement to members and observers to invite the participation, as observers, of their own experts on UN Model Regulations on recommendations to the Transport of Dangerous Goods and the GHS, and request the Secretariat to invite UN experts from the UN Model Regulations on recommendations to the Transport of Dangerous Goods and the GHS, to the sessions of the next meeting of the EWG on RA dealing with the review of Annexes I and III;

(i) A request to the Secretariat to prepare an information document for consideration by the Conference of the Parties at its fifteenth meeting with narrative information on the work of the EWG on the review of Annexes I and III.¹²

¹² See paragraph 24 of the report of the 13 January 2022 session of the fourth meeting (document UNEP/CHW/RA_EWG.4/3/Add.4).