



**BASEL CONVENTION**

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**Open-ended Working Group of the Basel Convention  
on the Control of Transboundary Movements of  
Hazardous Wastes and Their Disposal  
Twelfth meeting**

Geneva (online), 1–3 September 2020\*

**Compilation of submissions made by Parties and observers during  
the online segment of the twelfth meeting of the Open-ended Working  
Group**

**Note by the Secretariat**

As is mentioned in the report of the twelfth meeting of the Open-ended Working Group (UNEP/CHW/OEWG.12/16), the annex to the present note sets out a compilation of the written submissions received from Parties and observers during the online segment of the meeting. The present note, including its annex, has not been formally edited.

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\* An additional face-to-face segment is tentatively scheduled to take place in March 2021.

## Annex

### Compilation of written submissions made by Parties and observers during the online segment of the twelfth meeting of the Open-ended Working Group

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## **I. Agenda item 1: Opening of the meeting**

### **Parties**

#### **1. African States Group**

### **OPENING STATEMENT BY THE AFRICAN GROUP**

#### **AT THE FIRST ONLINE SEGMENT OF THE TWELVE MEETING OF THE BASEL CONVENTION OPEN-ENDED WORKING GROUP, 1<sup>ST</sup> AND 3<sup>RD</sup> SEPTEMBER 2020**

The Bureau of the 15<sup>th</sup> Conference of the Parties, the Bureau of the 12<sup>th</sup> Meeting of the Basel Convention's Open-Ended Working Group, Parties to the Basel Convention, the Secretariat of the Basel, Rotterdam, Stockholm Conventions, Excellences, Observers, Ladies and Gentlemen; the African Group would like to thank the Bureau of the 12<sup>th</sup> Meeting of the Basel Convention's Open-Ended Working Group, and the Secretariat for the good work done in preparation for this meeting.

We would also wish to appreciate all the efforts made to make it possible to have simultaneous interpretation for this online meeting. We look forward to the subsequent face to face meeting of the OEWG-12 to complete the entire process.

The global COVID-19 pandemic and its associated restrictions imposed on us, have brought in its wake a dramatic shift in the manner in which we do things, in this regard, how to hold a meeting such as this one whilst faced with the pandemic.

Co-Chairs, having taken note of the working modalities of the proposed online meeting and the subsequent consultation and the challenges expressed by our region, it is gratifying to note that in the spirit of consultation and consensus building, we have all come to agree on some form of an arrangement, in order to make progress on intersessional work towards preparations for COP15, and ultimately the effective implementation of the Basel Convention.

Co-chairs, the African region takes critical note of the agenda items before us and would like to commend all the working groups whose efforts have brought us thus far. The new and emerging issues of waste containing nanomaterials; waste containing mercury; marine plastics litter and microplastics, bring about new challenges to the world and to Africa in particular, whilst legacy waste issues such as E-waste, and POPs, obsolete pesticides are still not effectively addressed and thus still remain a serious challenge for our region. In this regard Africa underscores the need for sufficient and equitable resources, transfer of relevant and efficient technology, and other relevant and innovative management instruments or tools such as the PIC Procedure, which would ultimately result in the sound management of these legacy hazardous wastes. The Africa region supports the work of the Expert Group on the Review of the annexes to the Convention; the review is expected to address some of the challenges faced by our region and other developing countries and not to create more challenges to practically and effectively implement the convention.

Finally, Co-chairs, the entry into force of the Ban Amendment imposes obligations on both developed and developing countries. As we grapple with new and additional challenges, the amendment presents a unique opportunity to further address risks associated with the transboundary movements of hazardous waste. We call for continuous support in creating the needed awareness and to intensify efforts to collectively tackle the waste problem through concerted global action. The Bamako Convention, adopted on January 30, 1991 in Bamako, Mali under the aegis of the Organization of African Unity, in response to article 11 of the Basel Convention, as commitment to address and prevent the illegal traffic of waste into our motherland Africa.

The Africa region commits to work with other parties and with you as the Co-chairs, towards a successful meeting. Furthermore, we look forward to the face to face OEWG 12 meeting in Nairobi in 2021.

I thank you all for your kind attention.

**2. European Union and its Member States***31 August 2020***Opening statement of the EU and its Member States  
for the OEWG12 online segment**

Distinguished Co-chairs, Executive Secretary, Delegates, Ladies and Gentlemen,

The European Union and its Member States would like to thank the Bureau and the Secretariat for all their work in organising this online segment. We are pleased that a solution could be found in spite of the very difficult circumstances caused by the COVID19 pandemic. We are hopeful that the online segment will help us progress the important inter-sessional work ahead. We also hope that the situation related to the pandemic will have developed positively in time for the envisaged face-to face meeting in Nairobi in March next year.

We will not provide comments for each agenda item due to time constraints. We will instead submit comments in writing in response to the foreseen requests. However, we would like to briefly address a few key issues that we believe are of particular importance for our further work in the run up to COP15.

At the last COP, far-reaching decisions were adopted, notably on plastic waste. We have now a common responsibility to implement these decisions, so that they deliver tangible results.

We would like to thank lead countries and the Secretariat for their work on several technical guidelines after the last COP. These efforts have allowed us to make good progress, and we look forward to finalising the technical guidelines on incineration, landfilling, POPs waste, plastic waste and mercury waste with a view to their adoption at COP15. Important work lies ahead and we look forward to making headway together. We will also be examining issues related to the e-waste guidelines. We are hopeful to making progress with the guidance documents from the ICC on transit as well as insurance, bond and guarantees as well as with the manual on ensuring that notifications of transboundary movements meet ESM requirements with a view to their adoption at COP15.

Good work has taken place to put the new Plastic Waste Partnership waste on the right track. We thank the co-chairs under the Partnership and the Secretariat for their work. We will actively contribute to its next steps, so that it provides concrete solutions on how plastic waste can be prevented, collected, properly managed, and its export controlled.

We are pleased with the significant progress on legal clarity and the review of the annexes to the Convention. We thank the co-chairs of the Expert Group and the Secretariat for their work. It is important that the Convention is amended to improve the descriptions of disposal operations listed in Annex IV to the Convention, to improve implementation, facilitate controls of transboundary movements and prevent illegal trade. We believe this work will also support the achievement of ESM at global level and contribute to the transition towards a circular economy. We have put forward a number of preliminary proposals during the work in the Expert Group and we will submit additional proposals.

Finally, the European Union and its Member States believe the discussions on the Strategic Framework of the Convention are important and we are grateful for the draft report on its final evaluation. We need an overall reflection on how the Convention is currently delivering on its objectives and how we would like to see it evolving in the future. We look forward to a productive discussion on how to improve the effectiveness, relevance, and added-value of the Convention, so that its contribution to the protection of human health and the environment and enabling a transition towards a circular economy can be maximised.

Thank you.

### 3. Latin America and the Caribbean States Group

#### **GRULAC Opening Statement for the Basel Convention 12<sup>th</sup> Open-Ended Working Group meeting**

Thank you, madam Chair,

The undersigned, President of the 15th Conference of the Parties to the Basel Convention has the honour to speak on behalf of the Group of Latin American and Caribbean Countries. First, we would like to express our appreciation to the Secretariat of the Basel Convention and the Bureau of the Open-Ended Working Group for the efforts made to organize this meeting in the midst of these challenging times;

Madam Chair, on behalf of the countries of the region, I take this opportunity to refer to the exceptional nature of holding this meeting by electronic means and to the importance of the face-to-face format, considering that it is the most appropriate to guarantee the full participation of the Parties and respect for the rules of procedure, particularly in relation to inclusive participation, transparency in the decision-making process and interpretation in the six official languages of the United Nations. Nevertheless, we hope that this virtual meeting will allow progress in the discussions that will take place next year and as preparations for the forthcoming Conference of the Parties to the Convention.

Our region reaffirms its commitment to the implementation of the provisions of the Convention. We welcome the entry into force, on 5 December 2019, of the Ban Amendment. It also welcomes the adoption at the Conference of the Parties at its fourteenth session of the “Amendment for the Application of the Procedure of Prior Informed Consent to Transboundary Movements of Plastic Waste and its Mixtures, with some exceptions of the Types of Plastics most Commonly Used for Activities of Recovery”, whose entry into force is on 1 January 2021. Regarding both amendments, we call on the Parties to continue making decisive progress in their effective implementation. Likewise, we call on the Secretariat and the countries to work together in the implementation of this latest amendment, which undoubtedly represents significant challenges and requires a strong commitment from governments for its effective implementation;

The unsound management of marine litter, including plastic or plastic waste, is a global environmental problem that negatively impacts biodiversity and the marine environment, tourism, fisheries, and maritime transport. The seriousness of the problem underscores the importance of driving coordinated efforts, understanding the environmental impacts of marine litter, and developing necessary management and prevention strategies to mitigate their impacts on the environment and sustainable economic growth. One such effort is the strategic partnership, whose participation is voluntary, adopted at the most recent Conference of the Parties to the Basel Convention;

Many of our countries are maritime, with a great dependence on the ocean to obtain resources necessary for our livelihoods and the economic development of our peoples. That is why marine litter is a matter of high concern, and as a result, GRULAC is an active participant in multilateral efforts to address the problem of plastic and marine litter, in relevant international bodies, considering their respective mandates so that there is no duplication of efforts;

It is GRULAC's intention to continue to cooperate in regional and certainly global efforts, which aim to improve the environmentally sound management and the prevention of marine litter, so

we hope to be able to contribute to the exchange of information, capacity-building and the control of this type of waste;

We wish to thank and congratulate the BRS Secretariat because even in times of a pandemic, the call for the Small Grants Program for the Regional and Coordination Centres of the Basel Convention and the Stockholm Convention was launched, funded by the Norwegian Agency Cooperation for Development (NORAD), with the aim of improving the environmentally sound management of plastic waste in partner countries and thus contribute to preventing and significantly reducing marine pollution;

On the other hand, we want to highlight the expectation of our region so that, based on the work of the Open-Ended Working Group, efforts will be strengthened to continue with cooperation with the World Customs Organization, taking into account the growing stream in the transboundary movement of e-waste and plastic waste, and to move decisively on concrete actions to prioritize work on electronic methods with respect to documents related to notifications of transboundary movements of waste, as it is an instrument that can help improve the effectiveness, reliability and timeliness of the notifications of those movements and their authorizations;

As a region, we reiterate the importance of mobilizing the necessary means for the implementation of the Basel Convention, including financial resources, technical assistance, technology transfer and capacity building. We are convinced that having sustainable, foreseeable, and accessible financing will allow us to achieve our objectives in the medium and long term. We invite the relevant cooperation agencies and financing entities to support national and regional priorities in the implementation of the Basel Convention;

Finally, madam Chair, our region wishes to express its interest in actively supporting the work of this online segment of the Open-Ended Working Group, as well as those of its face-to-face phase, in order to achieve significant progress that will allow us to join efforts for the effective implementation of this treaty;

Thank you very much and we wish you every success in this first part of the twelfth meeting of the Open-Ended Working Group.

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## **Intervención GRULAC en la duodécima reunión del Grupo de Composición Abierta del Convenio de Basilea**

Gracias, señora *Chair*,

El suscrito, presidente de la quincuagésima Conferencia de las Partes en el Convenio de Basilea tiene el honor de hacer uso de la palabra en nombre del Grupo de Países de América Latina y el Caribe. Antes que nada, deseamos expresar nuestro agradecimiento a la Secretaría del Convenio de Basilea y a la Mesa del Grupo de Trabajo de Composición Abierta por sus esfuerzos en la organización de esta reunión, en medio de estos tiempos difíciles;

Señora *Chair*, en nombre de los países del GRULAC, aprovecho esta oportunidad para hacer referencia al carácter excepcional de la realización de esta reunión por medios electrónicos y a la importancia que reviste el formato presencial por considerar que es el más adecuado para garantizar la plena participación de las Partes y el respeto de las reglas de procedimiento, en particular en lo relacionado con la participación inclusiva, la transparencia en el proceso de toma de decisiones y la interpretación en los seis idiomas oficiales de las Naciones Unidas. No obstante, esperamos que esta reunión virtual permita avanzar en los debates que se tendrán el próximo año y de cara a la próxima Conferencia de las Partes;

Nuestra región reafirma su compromiso y empeño en la implementación de las disposiciones del Convenio y en ese sentido recibimos con beneplácito la entrada en vigor, el 5 de diciembre de 2019 de la Enmienda de Prohibición. También reconocemos la adopción en la mas reciente Conferencia de las Partes de la “Enmienda para la Aplicación del Procedimiento de Consentimiento Fundamentado Previo a los Movimientos Transfronterizos de Residuos Plásticos y sus Mezclas, con algunas excepciones de los Tipos de Plásticos más Comúnmente Destinados a Actividades de Recuperación”, cuya entrada en vigor es el 1 de enero de 2021. Respecto de ambas enmiendas hacemos un llamado a todas las Partes para seguir avanzando de manera decidida en su implementación efectiva. Así mismo, hacemos un llamado a la secretaría y a los Estados miembros a trabajar de manera conjunta en la implementación de esta última enmienda que representa retos importantes y requiere de un compromiso por parte de los gobiernos para su efectiva puesta en marcha;

El manejo inadecuado de los residuos marinos, incluidos los residuos plásticos o con contenido de plástico, son un problema ambiental mundial que impacta negativamente la biodiversidad y el medio ambiente marino, el turismo, la pesca y el transporte marítimo. La gravedad del problema subraya la importancia de impulsar esfuerzos coordinados, para comprender los impactos ambientales de los residuos marinos, y desarrollar estrategias de gestión y prevención necesarias, a fin de mitigar sus impactos en el medio ambiente y en el crecimiento económico sostenible. Uno de esos esfuerzos es la alianza estratégica, aprobada en la más reciente Conferencia de las Partes en el Convenio de Basilea, a la cual todas las Partes y otras organizaciones interesadas pueden adherirse voluntariamente;

Muchos de nuestros países son marítimos, con una gran dependencia del océano para la obtención de recursos necesarios para nuestra subsistencia y el desarrollo económico de nuestros pueblos. Es por ello que los residuos marinos son un tema de alta preocupación, y en virtud de esto, GRULAC ha demostrado ser un activo participante de los esfuerzos multilaterales para enfrentar el problema de los residuos plásticos y marinos, en organismos internacionales relevantes, teniendo en cuenta sus respectivos mandatos, de manera de no duplicar esfuerzos;

Igualmente, es la intención del GRULAC seguir colaborando en los esfuerzos regionales y ciertamente internacionales, que tengan como propósito mejorar la prevención y el manejo ambientalmente adecuado de los residuos marinos, por lo que esperamos poder contribuir al intercambio de información, creación de capacidades y al control de este tipo de residuos;

Deseamos agradecer y felicitar a la secretaría BRS, porque aún en tiempo de pandemia, se realizó el lanzamiento de la convocatoria del Programa de Pequeñas Subvenciones para los Centros Regionales y de Coordinación de los convenios de Basilea y Estocolmo, financiada por la Agencia Noruega de Cooperación para el Desarrollo (NORAD), con el objetivo de mejorar la gestión ambientalmente adecuada de los residuos plásticos en los países socios y contribuir así a prevenir y reducir significativamente la contaminación marina;

Por otra parte, queremos resaltar la expectativa de nuestra región para que a partir del trabajo del Duodécimo Grupo de Trabajo de Composición Abierta, se fortalezcan los esfuerzos en continuar con el trabajo de cooperación con la Organización Mundial de Aduanas, teniendo en cuenta el auge en el movimiento transfronterizo de residuos eléctricos y electrónicos y residuos plásticos, y en avanzar decididamente en acciones concretas para priorizar el desarrollo y puesta en marcha de un método de notificación electrónica para los movimientos transfronterizos de residuos, considerando que se trata de un instrumento que puede ayudar a mejorar la efectividad, confiabilidad y oportunidad de las notificaciones de dichos movimientos y sus autorizaciones;

Como región reiteramos la importancia de la movilización de los medios necesarios para la implementación del Convenio, incluyendo recursos financieros, asistencia técnica, transferencia de tecnología y creación de capacidades. Tenemos la firme convicción de que contar con financiación sostenible, predecible y accesible permitirá alcanzar nuestros objetivos en el mediano y largo plazo. Invitamos a los Estados donantes, las agencias de cooperación y entidades de financiamiento pertinentes a apoyar las prioridades nacionales y regionales en la implementación del Convenio de Basilea;

Finalmente, señora *Chair*, nuestra región desea manifestar su interés en apoyar de forma activa los trabajos de este segmento en línea del Grupo de Trabajo de Composición Abierta, así como los de su fase presencial, en aras de lograr avances significativos que nos permitan aunar esfuerzos para la efectiva implementación de este tratado;

Muchas gracias y les deseamos todo el éxito en esta primera parte de la duodécima reunión del Grupo de Composición Abierta.

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**4. Uganda**

**Statement from Uganda: - OEWG-12 Online Segment**

The President- Conference of Parties to the Basel Convention, Co- Chairs of OEWG- 12, the Secretariat, fellow delegates/ parties to the BC, Observers, Ladies and Gentlemen;

Uganda joins the rest of the African Group to thank the secretariat to the BC for organizing this online segment meeting of OEWG-12 amidst the pandemic Covid19 challenges.

As a country, we take note of the need for further information on matters related to waste containing nanomaterials and further discussions on micro plastics, plastic waste on land and in fresh water bodies.

In responding to the escalating global challenges still related to waste (E-waste, waste containing POPs, covid19 related health care waste), Uganda has developed national legislations, guidelines to enforce the Convention, its related works, programs and those of development partners.

We therefore seek continued support for the implementation of the BC programs including the partnership programs with the ultimate goal of achieving environmentally sound management of waste.

We look forward to a fruitful deliberation and participation in other upcoming engagements with all of you.

Thank you for your kind attention



## II. Agenda item 3 (a) (i): Strategic framework

### Parties

#### 1. Brazil

##### ANNEX I

Brazil's Comments on Document UNEP/CHW/OEWG.12/INF/4, regarding the Draft Report on the final evaluation of the strategic framework for the implementation of the Basel Convention for 2012-2021

Brazil welcomes the draft report on the final evaluation of the Strategic Framework for the Implementation of the Basel Convention from 2012 to 2021. Based on the important findings provided by the report, we would like to express our concern about the decreasing or insufficient number of technical assistance and training activities conducted by the Secretariat in favor of developing countries over the period under analysis, such as in the areas of combating illegal traffic of hazardous wastes and other wastes, implementation of technical guidelines, reduction and minimization of wastes, as well as institutional and regulatory strengthening. The lack or insufficiency of such activities hampers the achievement of the strategic goals and objectives established in the current framework and ultimately hinders the implementation of the Basel Convention.

According to Appendix I of document UNEP / CHW / OEWG.12 / INF / 4, which describes the Strategic Framework for the Implementation of the Basel Convention from 2012 to 2021, the achievement of the Framework's goals and objectives demands appropriate capacities and resources in recognition of the needs of developing countries and countries with economies in transition, as well as the situation of small island developing States. In this sense, in the event of a new strategic framework or a permanent structure for the assessment of the Basel Convention's effectiveness, it is essential to establish proper indicators for a systemic evaluation regarding the provision of adequate means of implementation, including financial resources, technical assistance, and technology transfer to developing countries. The promotion of domestic public policies and international cooperation to provide developing countries with means of implementation shall constitute relevant and interdependent dimensions for the global compliance with the Basel Convention provisions, taking into account both its pillars: the control of transboundary movements and the environmentally sound management of hazardous wastes and other wastes.

Should a new strategic framework be established, Brazil would like to make a suggestion to improve the implementation of a possible new multilaterally agreed document and the convention itself. In this regard, we think it would be advisable to create tools to centralize relevant information published on the website of the convention. Based on the positive experience within the International Maritime Organization, a virtual knowledge centre could be created as a centralized system aimed at providing Parties, observers and other actors with documents, information resources, services and subjects relevant to the work done under the Basel Convention. For Brazil, another important step to improve the implementation of the treaty would be the establishment of an electronic process for notifications and Prior Informed Consent procedures.

Finally, we would like to highlight that the very lack of a specific financial mechanism to support the implementation of the Basel Convention in developing countries makes the debate about the importance of international cooperation and the need for systemic and periodic assessment of the provision of means of implementation even more pressing for developing countries.

**Brazil's Comments on Documents UNEP/CHW/OEWG.12/5, UNEP/CHW/OEWG.12/INF/15, UNEP/CHW/OEWG.12/INF/16 and UNEP/CHW/OEWG.12/INF/17, regarding guidelines for national reports and practical guidance in the development of inventory for plastic waste, obsolete pesticides and pesticide packaging, as well as batteries containing lithium**

For Brazil, it is desirable to provide improvements and expand the scope of information recorded in national reports. However, we would like to highlight that many developing countries have to cope with diverse constraints regarding the quantitative and qualitative analysis of a wide range of data. Thus, Brazil believes that it is essential to ensure that future innovations in national reports consider the challenges faced by developing countries in a way that possible improvements do not impair the ability of those countries to comply with the provisions of the Basel Convention. In this regard, it is also paramount to reiterate the importance of providing adequate means of implementation in order to improve the technical capacity of developing countries.

## 2. Colombia

Colombia's intervention on the topic of strategic framework

## INTERVENCIÓN DE COLOMBIA

\*\*\*English below\*\*\*

Gracias, señor presidente. Teniendo en cuenta que mi delegación toma la palabra por primera vez aprovecho para agradecer a la Secretaría y a la Mesa del OEWG y para saludar a los participantes de esta reunión. Nuestra delegación quisiera llamar la atención del Grupo de Trabajo de Composición Abierta y de los miembros del Pequeño Grupo de Trabajo entre sesiones para el marco estratégico en relación con su recomendación incluida en el párrafo 44 de su informe y también reflejada en la recomendación 645 en la página 112, relativa a encomendarle al Comité de Aplicación y Cumplimiento (ICC) verificar la implementación de la legislación de cada uno de los países Partes. Consideramos que esta tarea va más allá del mandato del Comité y no tiene en cuenta el trabajo que el Comité ha realizado hasta ahora en relación con los marcos legislativos nacionales el cual comporta muchos retos, debido a que las Partes a veces se muestran reticentes a que la Comité analice el texto de su legislación nacional. En este caso, se prevé incluso un nivel más alto de reticencia ya que el Pequeño Grupo de Trabajo entre sesiones, en nuestro entendimiento, le pide al Comité que no solo examine las leyes en sí mismas, sino que evalúe el nivel de implementación de dicho marco legal en todas y cada una de las 187 Partes de la Convención. En ese sentido, nos gustaría pedirle al Pequeño Grupo de Trabajo entre sesiones a través de usted, que revise esta recomendación en su futuro informe para consideración de la COP con el fin de alinearla tanto con el mandato como con el trabajo del Comité.

Thank you Chair. Taking into account that my delegation is speaking for the first time, I take this opportunity to thank the Secretariat and the OEWG Bureau and to greet the participants of this meeting. Our delegation would like to draw the attention of the OEWG and the members of the Small Intersessional Working Group in relation with their recommendation included in paragraph 44 of their report and also reflected in recommendation 645 in page 112. It is our understanding that such a daunting task goes beyond the mandate of the ICC and does not take into account the work that the Committee has undertaken in relation with national legislative frameworks so far. As many here are aware, Parties are sometimes reluctant to have the ICC to analyze the text of their domestic legislation, in this case

probably even more since the SIWG is apparently asking the ICC to actually look not only at the laws themselves but to assess the level of implementation of such legal framework in each and every one of the 187 Parties to the Convention. In that regard, we would like to ask the SIWG through you, to revisit this recommendation in their future report for consideration of the COP in order to align it with both the mandate and the work of the ICC. Thank you Chair.

### 3. South Africa

South Africa aligns herself with the African statement made by Ghana on behalf of the African Group.

#### SA intervention/submission: Strategic Framework

South Africa commends the work of the SIWG on the draft report for the evaluation of the strategic framework for the implementation of BC for 2012-2021.

South Africa supports the recommendation to review and conduct the evaluation of effectiveness of the current strategic framework with the view of improving on the future strategic framework. The outcomes of the current report should be considered as a basis to inform the development of the next strategic framework.

South Africa further supports the recommendation to align the development of the indicators and the future strategic framework with the relevant chemicals and waste SDGs to enable ease reporting on performance, including the proposed applicable timelines thereof, i.e. strategic framework 2022-2030.

South Africa will provide comments and further requests the extension of the initial due date of submission of comments on the report to at least 30 September 2020.

Kind regards  
Zukie

Noluzuko (Zukie) Gwayi

**Senior Policy Advisor:** International Chemicals and Waste Cooperation

**Focal Point for the UN Environment's Chemicals and Waste MEAs:** BRS; ICCM & SAICM; Vienna & Montreal; Minamata; UNEA Sustainable Nitrogen Management TWG; Africa Institute (Basel and Stockholm Regional Centre) Deputy President: Stockholm Convention COP10

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**4. Switzerland****SEPTEMBER 3, 2020****OEWG 12****Interventions OF Switzerland****Written submission to be uploaded on the intranet****Agenda item 3(a) I Strategic framework**

Over the last decade Switzerland has been very supportive of the introduction of the Strategic Framework. It is an instrument that gives the Convention and the Parties the possibility to prioritize work and coordinate efforts to achieve a commonly agreed set of objectives. A Small Intersessional Working Group that is currently preparing an end-term evaluation of the Framework. We would like to thank them for doing a very good job. The evaluation shows that the Framework has not played the role that it could, or should, have played. The Framework has been in a very limited way instrumental in determining the priorities of work within the Convention. And due to the lack of information, it has been very difficult to assess if progress has been made in achieving the agreed objectives. Switzerland thinks that improving the Framework based on the lessons learned during the last period is probably the best way forward and we will provide our suggestions on how we think this could be achieved after the OEWG meeting. However, this only makes sense if Parties are convinced that such a Framework is needed and are committed to ensure it will be implemented. We therefore ask Parties to step up and indicate what their intentions are in relation to the update and improvement of the Framework prior to the COP. This will allow to have an informed discussion during the COP on the best way forward.

### **III. Agenda item 3 (b) (i) a.: Technical guidelines on environmentally sound management of wastes consisting of containing or contaminated with persistent organic pollutants**

#### **A. Parties**

##### **Indonesia**

#### **Written intervention by the Delegation of the Republic of Indonesia to the 12<sup>th</sup> Meeting of the Open-Ended Working Group of the Basel Convention, 1 – 3 September 2020**

Indonesia expresses sincere appreciation to OEWG-12 Bureau and the Secretariat for their work in preparing for this meeting despite enormous challenges caused by the COVID-19 pandemic.

This OEWG-12 is the first formal meeting under the Basel Convention since the entry into force of the Ban Amendment. Therefore, Indonesia would like to take this opportunity to congratulate all of us for the entry into force of the Ban Amendment of the Basel Convention. It is really a historical momentum. We finally achieve what we had agreed 24 years ago in COP 3 of the Basel Convention in 1995. As one of initiators of the Country Led Initiative (CLI) Indonesia is committed to continuously strengthening the Ban Amendment through the enhancement of institutional capacity, national legal framework, and international coordination.

Since the Ban Amendment has entered into force, Indonesia expects all technical guidelines to include Ban Amendment provisions. Furthermore, state parties should be encouraged to adjust their national legislation in accordance with the Ban Amendment.

Our comments on specific issues are as follows:

#### **2. Technical guidelines on POPs**

Indonesia expects that in this guideline parties are encouraged to enact specific national legislation that describes the types of containers and storage areas that are acceptable for particular POPs and their relevant waste streams.

Furthermore, Indonesia prefers the guidelines to set low-POPs contents, as it will prevent the export of wastes containing POPs to countries with no technical capacity for their ESM.

**B. Observers****International Pollutants Elimination Network (IPEN)**

OEWG 12 - IPEN intervention on General Technical Guidelines on POPs waste.

Thank you Chair

I speak on behalf of IPEN, a network of more than 600 civil society organizations in over 120 countries. We appreciate the work done by the Small Intersessional Working Group on the update of the Technical Guidelines addressing POPs wastes, although we believe that much more has to be done regarding the definition of Low POPs Content Levels which set the limits for proper POPs waste management. The current weak limits for POPs waste for several POPs groups has resulted in recycling of vast amounts of POPs. These groups include SCCPs, PBDEs, HBCD, dioxins and dioxin-like PCBs and should have much stricter limits in the technical guidelines.

Every year we lose control over approximately 10 kg TEQ of dioxins and furans in wastes such as incineration fly ash. This amount of dioxin is equal to the tolerable intake for the entire populations of 25 planet Earths. We are losing control over the most toxic chemicals that the Stockholm Convention aimed to eliminate. Another consequence of this weakness is the free movement of POPs in wastes across international borders because there are no regulatory barriers other than the Low POPs Content Levels.

There is strong evidence that weak controls of POPs such as brominated flame retardants are allowing them to enter new products made from recycled plastics. A recent study analyzing the effects on human cells of brominated dioxins in some recycled plastic children's toys, demonstrated they are toxic to humans and can significantly contribute to the dioxin daily intake level for children. Toys from countries of all UN regions had levels of toxic chemicals comparable to hazardous wastes.

Data available in each of the UN regions about contamination of chicken eggs by dioxins revealed many hot spots where the food chain was highly contaminated by this group of POPs, due to improper handling of wastes. Last year, IPEN in cooperation with experts from African countries, measured the highest ever levels of dioxins in free-range chicken eggs.

We recognized that in some countries, decisions to set Low POPs Content Levels which define POPs wastes, is a political decision driven only by the criteria of costs for additional treatment of waste. Most of the persistent organic pollutants are endocrine disrupting chemicals (EDCs), which were found to cause very significant damage to human health. EDC exposure costs up to € 163 billion or 1.28% of EU Gross Domestic Product per year according recent estimation by experts. These costs definitely outweigh the investment needed for proper destruction of POPs waste.

**Finally, we believe that the less visible costs of lost health and environmental values must be the priority criterion when setting the limits for POPs in wastes. We urge delegates to bear this in mind when deciding definitions of POPs waste through setting Low POPs Content levels.**



**By increasing thresholds for POPs in wastes and weakening the controls on waste, the convention would effectively be allowing hidden contamination of the environment and food chain.**

Thank you Chair

IPEN intervention on non-combustion technology for POPs waste destruction.

(Basel General Technical Guidelines on POPs Waste Management) 3/9/2020

Thank you Chair,

I speak on behalf of IPEN a network of more than 600 civil society organizations in over 120 countries. We appreciate the work done by the Small Intersessional Working Group on the update of the General Technical Guidelines addressing POPs wastes, however we believe there is a long overdue need to expand upon and elaborate the need to prioritize the use of non-combustion technologies to destroy POP waste, within the guidance.

Non-combustion technologies and techniques destroy POPs waste without generating highly toxic unintentional POPs such as dioxins and furans. The alternatives to non-combustion presented in the guidance is incineration, cement kilns and metallurgy plants which in the process of treating POPs waste creates new UPOPs including but not limited to dioxins and furans in emissions, effluents and residual fly ash and bottom ash. Incineration of POPs waste is therefore a source of UPOPs. The Stockholm Convention, to which this guidance contributes in terms of Low POPs Content Levels and environmentally sound management of POPs waste, seeks to minimize and where possible eliminate UPOPs creation. Yet the Basel Convention guidance is dominated by discussion of combustion technologies including municipal waste and hazardous waste incineration of POPs and can be viewed as promoting incineration of POPs waste which is at odds with the objectives of the Stockholm Convention.

In order to meet the objectives of the Stockholm Convention, the Basel Convention guidance should be more transparent about the creation of UPOPs by POPs waste incineration and should emphasize prioritization of non-combustion technologies and techniques to destroy POPs stockpiles. Many non-combustion technologies are highly commercialized, mature technologies, with high destruction efficiencies that have the advantage of being modular and transportable. This facilitates the destruction of POPs stockpiles, including PCBs and pesticides in more remote and inaccessible areas particularly in low income countries. They do not generate large volumes of POPs contaminated ash that must be managed in perpetuity and have much lower capital inputs than combustion technologies.

Incinerators for POPs waste are expensive, lack modularity and are mostly fixed units requiring large throughputs over decades to remain commercially viable. They are required high levels of technical capacity to operate, monitor and maintain to minimize UPOPs emissions. Such resources are rarely available in low income countries and the risk of UPOPs generation is high. Other combustion technologies such as cement kilns and metallurgical smelters are listed in the guidance as suitable for POPs waste destruction but suffer from the same capacity for UPOPs generation as incinerators.

Non-combustion technologies should be prioritized in the guidance for the treatment of POPs waste as they best meet the requirements for environmentally sound management of POPs waste, can be tailored for use in difficult locations and do not create 'legacy' issues of POPs contaminated residuals. POPs stockpiles are currently be destroyed in low income countries with the support of UN agencies who appreciate the benefits of technology transfer and capacity building potential using these innovative non-combustion technologies. The guidance, while describing some non-combustion technologies, currently lacks emphasis on prioritizing non-combustion technologies to avoid UPOPs generation.

A more coordinated approach to highlight the need for non-combustion technology promotion, uptake and technology transfer is required between UN agencies such as UNEP, UNIDO, UNDP and those responsible for guidance review and development. This would provide balance and transparency around guidance on non-combustion technologies and the impacts of combustion facilities such as incineration, cement kilns and metallurgical plants.

#### **IV. Agenda item 3 (b) (i) b.: Technical guidelines on incineration on land and on specially engineered landfill**

##### **A. Parties**

##### **1. Indonesia**

##### **Written intervention by the Delegation of the Republic of Indonesia to the 12<sup>th</sup> Meeting of the Open-Ended Working Group of the Basel Convention, 1 – 3 September 2020**

Indonesia expresses sincere appreciation to OEWG-12 Bureau and the Secretariat for their work in preparing for this meeting despite enormous challenges caused by the COVID-19 pandemic.

This OEWG-12 is the first formal meeting under the Basel Convention since the entry into force of the Ban Amendment. Therefore, Indonesia would like to take this opportunity to congratulate all of us for the entry into force of the Ban Amendment of the Basel Convention. It is really a historical momentum. We finally achieve what we had agreed 24 years ago in COP 3 of the Basel Convention in 1995. As one of initiators of the Country Led Initiative (CLI) Indonesia is committed to continuously strengthening the Ban Amendment through the enhancement of institutional capacity, national legal framework, and international coordination.

Since the Ban Amendment has entered into force, Indonesia expects all technical guidelines to include Ban Amendment provisions. Furthermore, state parties should be encouraged to adjust their national legislation in accordance with the Ban Amendment.

Our comments on specific issues are as follows:

##### **3. Technical guidelines on incineration on land**

Indonesia is aware that incineration is one of the most effective methods to deal with some waste streams, e.g. complex halogenated hydrocarbon, which do not suit some other methods, e.g. physico-chemical treatments. In addition, incineration serves a means to significantly reduce waste volume prior to land disposal or any other final treatment and disposal measures. However, all incineration facilities must undergo proper siting, design, construction, operation and post-closure management.

Based on own experience, Indonesia observed that a trial burn for each incinerator is an important and reliable part of incineration performance test to ensure that any problems – including the environmental ones – are well identified and corrected prior to full operation of the incineration facility. Therefore, pre-operation performance test measures such as trial burn should be an integral part of an incineration facility's permitting requirements/process. It would be wiser if the technical guidelines also cover the information on the abovementioned requirements for consideration of the target users/Parties.

**2. Switzerland**

**SEPTEMBER 3, 2020**

**OEWG 12**

**Interventions OF Switzerland**

**Written submission to be uploaded on the intranet**

**3 (b) (i) b Guidelines on incineration on land and on specially engineered landfill**

Switzerland would like to thank the lead countries Argentina and Canada as well as the participants in the Small Intersessional working group for the hard work done to prepare the two draft guidelines. We think that the work is advancing well and hope that it will be possible to prepare drafts that could be adopted by the next COP.

## **B. Observers**

### **1. Global Alliance for Incinerator Alternatives (GAIA)**

#### GAIA statement on Incineration guidelines

Esteemed delegates, good morning, good afternoon, good evening. Please allow me to share some remarks by the Global Alliance for Incinerator Alternatives, a network of over 800 organizations in over 90 countries working for a climate-protective, toxic-free, decentralized and just approach to waste.

- The guidelines should focus both on best available technology and best environmental practice but should not give the illusion that incinerating wastes is "environmentally sound", particularly when such wastes can be prevented in the first place, or recycled. Talking about "environmentally-sound" incineration undermines the waste hierarchy and circular economy and hides toxic emissions.
- Adequate protection of health and the environment requires long-term (AMESA) monitoring of incinerator emissions during start-up, shut-down, and more generally during Other Than Normal Operation Conditions (OTNOC). POPs content in slags, bottom ashes, flue-gas, and wastewater should also be monitored. To ensure transparency, monitoring data must be accessible by members of the public in real time. In practice, few incinerators adopt these monitoring protocols, leading to gross under-reporting of emissions, and toxic pollution with impunity.
- Emissions of persistent organic pollutants such as chlorinated and brominated dioxins and furans and PCB, as well as mercury emissions, may lead to breaches of obligation under Article 5 of the Stockholm Convention to eliminate uPOPs production, as well as with the Minamata Convention.
- The guidelines must ensure that R1 operations are defined not by an incinerator's ability to recover energy by virtue of its infrastructure but by efficiency in its energy recovery in practice to a sufficient threshold of 0.65. Efficiency calculations must not be based on theoretical projections but on real measurements that also take into account energy expended for pre and post-processing of wastes and incinerator by-products. Energy recovered must be used in practice.

Our detailed recommendations on the text are available in our written submission for the upcoming 15 September deadline. Thank you for your attention.

**2. International Pollutants Elimination Network (IPEN)****OEWG 12 - IPEN intervention on D10 Incineration guidelines**

I speak on behalf of IPEN. We appreciate the work done by the Small Intersessional Working Group on the update of the D10 Technical Guidelines addressing incineration but believe more information should be included in the guidance about the impacts of incineration on human health and the environment.

Currently the guidance provides minimal information about incinerators as a significant global source of dioxins and furans as well as other unintentionally formed persistent organic pollutants. While incinerators meeting BAT BEP requirements may minimize POPs emissions to air through filtration technology this is nearly always achieved at the expense of transferring POPs into the residual ash. For every 3 tonnes of waste burned around 1 tonne of UPOPs contaminated ash is generated. In this way millions of tonnes of POPs contaminated ash are generated every year and landfilled or used in construction which eventually results in the POPs content being released to the environment to build up in our food chains. Incineration of waste also releases large volumes of CO<sub>2</sub> and other greenhouse gases which contribute to the current climate emergency and this issue should be better addressed in the guidance.

When a party seeks to improve their waste management system, they should be able to look to technical guidance for both negative and positive long-term outcomes of adopting certain technologies. The current guidance needs to provide more balance to help parties address the very real issues of POPs contamination, ash management and carbon emissions.

Pyrolysis and gasification, both technologies widely recognized as a forms of incineration, are clearly absent from the guidance. Both of these technologies are now heavily promoted by the petrochemical industry as a solution to plastic waste pollution, yet there is no guidance available to parties to assess the impacts of these technologies and they should be included in revisions of the D10 guidance. IPEN would like to see a more balanced approach to the guidance that covers all the issues associated with incinerating waste rather than just a guide to the construction and operation of incineration technology.

Finally, IPEN would urge all parties to ensure that the guidance they need to move toward a circular economy includes clear information about all the impacts of techniques and technologies including negative impacts so that they can make judgements that are in the best interests of the health of their populations and the environment.

Thank you Chair

**V. Agenda item 3 (b) (i) c.: Technical guidelines for the identification and environmentally sound management of plastic wastes and for their disposal**

**A. Parties**

**1. Indonesia**

**Written intervention by the Delegation of the Republic of Indonesia to the 12<sup>th</sup> Meeting of the Open-Ended Working Group of the Basel Convention, 1 – 3 September 2020**

Indonesia expresses sincere appreciation to OEWG-12 Bureau and the Secretariat for their work in preparing for this meeting despite enormous challenges caused by the COVID-19 pandemic.

This OEWG-12 is the first formal meeting under the Basel Convention since the entry into force of the Ban Amendment. Therefore, Indonesia would like to take this opportunity to congratulate all of us for the entry into force of the Ban Amendment of the Basel Convention. It is really a historical momentum. We finally achieve what we had agreed 24 years ago in COP 3 of the Basel Convention in 1995. As one of initiators of the Country Led Initiative (CLI) Indonesia is committed to continuously strengthening the Ban Amendment through the enhancement of institutional capacity, national legal framework, and international coordination.

Since the Ban Amendment has entered into force, Indonesia expects all technical guidelines to include Ban Amendment provisions. Furthermore, state parties should be encouraged to adjust their national legislation in accordance with the Ban Amendment.

Our comments on specific issues are as follows:

**4. Technical guidelines on plastic wastes**

Indonesia appreciates the works of the small intersessional working group on plastic wastes. Having said that, given the limited time before the entry into force of Annexes II, VIII, and IX, which is 1 January 2021, we worry about the failure of the group to conclude key matters such as identification of hazardous and non-hazardous plastic wastes. Therefore, we would like to enquire about whether the possible delay of SIWG works has implication on the date of entry into force of amendments on plastic waste.

Moreover, Indonesia expects the guidelines to facilitate sharing experience on plastic waste legislation and regulation. While many, or even most parties, in general already have legislation on plastic waste, including on transboundary movement of plastic wastes, many of the existing legislation lacks detail. This could potentially prevent the plastic waste amendments from effective implementation. In that context, Indonesia expects the guidelines to mandate the Secretariat to offer legal assistance to parties.

In addition, standards of plastic waste treatment vary significantly among countries. Therefore, Indonesia suggests that there should be a globally standardized waste treatment and disposal facilities from which recycling facilities should obtain approval to operate.

To address the current and increasing volumes of illegally exported plastic wastes, Indonesia would welcome guidelines which set strict requirements and procedure on transboundary movement of plastic wastes. In addition to PIC procedure, Indonesia has required company sending wastes to Indonesia to be registered in exporting country and obtain certification from Indonesian embassies. This strict procedure will help tackle illegal trade of wastes.

2. Norway

**Intervention from Norway during OEWG-12 online meeting, 1 September 2020**

*Draft updated technical guidelines on the identification and environmentally sound management of plastic wastes and for their disposal*

*Item 3 (b)(i)(c) of the Agenda*

Thank you, Co-chair

The draft Technical Guidelines on plastic wastes have been much improved in relation to the first draft from December last year.

However, the focus of the draft is very much on waste management, or, in other words, *downstream* measures. Norway is of the opinion that the Technical Guidelines should further address *upstream* measures in the value chain of plastics.

In particular, Norway would like to stress the importance of further developing the section on waste prevention. Waste prevention is of the highest priority and merits a specifically dedicated and substantive part of the document.

We believe the guidelines should give guidance on the full range of preventive measures in the life-cycle of plastics, in line with COP decision 14/13 section II, which calls upon Parties and others "to make further efforts at the domestic level to prevent and minimize the generation of plastic waste, including through increasing the durability, reusability and recyclability of plastic products and furthering the repair, refurbishment and remanufacturing of plastic products, where technically and economically feasible."

Furthermore, in view of the global concerns about marine litter and microplastics, the Technical Guidelines should address these issues specifically, in particular under waste management.

It is also important to ensure that work on the guidelines and progress made by the Partnership on Plastic Waste are mutually supportive - so that both activities can strengthen and inspire each other.

Finally, Norway believes that the Technical Guideline is a very important work that may also serve as a reference point for other processes that aim to reduce the environmental impacts from plastic wastes.

Thank you.



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3. Switzerland

**3 (b) (i) c Guidelines on plastic waste ESM**

- Switzerland welcomes the draft guideline on the environmentally sound management of plastic waste. We would like to thank the small intersessional working group with the co-lead countries China, Japan and the United Kingdom of Great Britain and Northern Ireland for the excellent work achieved.
- To update the old guideline from 2002 became a sound revision and resulted in a comprehensive description of the environmentally sound management and disposal of plastic waste over the whole life span, including a helpful new structure.
- Switzerland will look into the document in more detail and send in comments.

**B. Observers**

**1. United States of America**

**Statement from the United States of America to the Basel Convention 12<sup>th</sup>  
Open-Ended Working Group (OEWG-12) on Agenda Item 3(b)(i)(c): Technical  
Guidelines for the Identification and Environmentally Sound Management of  
Plastic Wastes and for their Disposal**

September 1, 2020

The United States appreciates the work undertaken by the SIWG, its co-chairs and Secretariat developing the draft updated technical guidelines for the Identification and Environmentally Sound Management of Plastic Wastes and for their Disposal.

We urge Parties to ensure the technical guidelines clearly identify best practices to support the environmentally sound management (ESM) of plastic waste in different contexts, with an emphasis on addressing the needs identified by countries working to strengthen their waste management systems. The best practices identified should include a range of practical environmentally sound end-of-life options, including recycling and disposal, recognizing that approaches to ESM of plastic waste will vary between and within countries and that solutions that work in some jurisdictions may not make sense or be feasible elsewhere. This information should be the main focus of the guidelines. Other issues, such as policy options for addressing plastic products (e.g., product design), are outside the scope of the technical guidelines, and we suggest Parties limit the mention of such topics in the guidelines.

We suggest to Parties that the guidelines offer an opportunity to help facilitate implementation of the Convention's Plastic Waste Amendments by providing a common understanding of the plastic waste and scrap that is subject to the Convention, including defining terms that are ambiguous in the Amendments, such as "almost free from contamination," "almost exclusively single polymer", and "separate recycling". Given that the Amendments enter into force on January 1, 2021, we suggest Parties incorporate into the guidelines knowledge and experience Parties gained from implementing the amendments. To provide an opportunity to incorporate this information and further development the document, we think it may be premature to consider the guidelines for adoption at COP-15 at this time.

We support further work on the draft to strengthen these elements of the document and make them useful to all Parties, with a special focus on addressing the needs of Parties that do not have advanced waste management systems. We look forward to providing more technical comments on the revised draft once we have completed our review.

## 2. Global Alliance for Incinerator Alternatives (GAIA)

### **GAIA statement on Plastic waste guidelines**

Esteemed delegates, good morning, good afternoon, good evening. Please allow me to share some remarks by the Global Alliance for Incinerator Alternatives, a network of over 800 organizations in over 90 countries working for a climate-protective, toxic-free, decentralized and just approach to waste.

We believe that the Basel Convention has a crucial role to play in addressing the plastic pollution crisis, and that these updated guidelines could be an important contribution. We support the comments by Norway regarding the need to further emphasize prevention & upstream action. Other areas which we believe must be strengthened include the following:

- With regard to technologies: We strongly believe the guidelines should emphasize Best Available Technology and Best Environmental Practice in the management of plastic wastes instead - and not speculate on potential evolutions regarding pyrolysis, gasification, and forms of chemical recovery of plastic wastes in the absence of robust assessments of environmental and human health impacts.
- With regard to the waste hierarchy, lines must not be blurred between R3 recycling operations and R1 recovery operations. Mechanical recycling of plastics must be clearly separated from forms of non-incineration thermal recovery such as pyrolysis and gasification which yield oils and gases used as fuels. Plastic-to-fuel processing can under no circumstance be considered as recycling, and vague, unrigorous language such as "chemical recycling", or even "advanced recycling" must be avoided. This blurring of the waste hierarchy, and along with it, of environmental impacts of different waste-management processes, undermines environmentally-sound waste management and the circular economy.
- Regarding the role of these guidelines in ensuring adequate interpretation and compliance of the new Basel plastic amendments, we regret that the guidelines fail to recommend clear contamination limits for plastic waste shipments and instead refer to voluntary industry specifications which have failed to stem the global plastic waste crisis and associated toxic pollution, particularly in Asian countries.
- In addition, we regret the attempt to introduce end-of-waste criteria for plastics, which would effectively reduce the scope of the Basel convention and associated protections to ensure that wastes do not harm human health and the environment.

### 3. International Pollutants Elimination Network (IPEN)



#### IPEN Intervention on agenda item 3.b.i.c

#### Technical guidelines for the identification and environmentally sound management of plastic wastes and for their disposal

I speak on behalf of IPEN, a network of more than 600 civil society organizations in over 120 countries. Many of these countries see the devastating effects of the over-production of plastics and unmanageable amounts of plastic waste generated.

We appreciate the work done by the Small Intersessional Working Group on the update of the Technical Guidelines addressing plastic wastes and appreciate the guidance it provides about prevention and minimization of plastic wastes as the first and most important steps in the overall waste management hierarchy. We also welcome the included information about hazardous chemical additives to plastics.

However, we are very concerned about both some information included in the guidelines as well as some clear gaps where key pieces of information are missing. We would therefore like to highlight a few points at this meeting, in addition to our more detailed submissions in the working group.

First of all, we note the inclusion of incineration-based techniques such as so-called energy recovery, pyrolysis and refuse derived fuel without full descriptions of the toxic pollutants such as dioxins generated by these techniques, not to mention their carbon footprint. While some chemical additives are mentioned in the guidelines, there are still a range of hazardous additives missing such as UV-stabilizers with known endocrine disrupting properties. Also, the fact that these hazardous additives will carry over or even generate new toxic substances in the recycling process is not sufficiently clarified. These are all very important aspects to consider in the context of environmentally sound recycling and management of these wastes.

We are also very concerned about the lack of any guidance on cured resins or condensation products, and fluorinated polymers. While we believe they should be classified as hazardous waste and have submitted scientific evidence as to why, it is important to remember that they were listed in Annex IX *provided they are destined for recycling in an environmentally sound manner*. If no guidance is provided, anyone can claim ESM recycling and these highly hazardous wastes can be exported without any controls.

We look forward to discussing these and other issues related to the guidelines further.

IPEN

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[www.ipen.org](http://www.ipen.org)

#### 4. Institute of Scrap Recycling Industries (ISRI)



ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.

STATEMENT OF  
INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC. (ISRI)  
TO  
THE BASEL CONVENTION OPEN ENDED WORKING GROUP (OWEG-12)  
1 September 2020

*Technical guidelines for the identification and environmentally  
sound management of plastic wastes and for their disposal;*

ISRI supports and appreciates the opportunity to participate in the momentous work being undertaken by the small intersessional working group (SIWG) on plastic wastes to update the technical guidelines. We will be submitting detailed, technical comments to the SIWG shortly but wish to highlight a few key points:

- **Recycling** is the series of activities during which obsolete, previously used, off-specification, surplus, or incidentally produced materials are processed into specification-grade commodities and consumed as raw-material feedstock, in lieu of virgin materials, in the manufacture of new products. The series of activities that make up recycling include collection, processing of end-of-life products into raw-material, and/or brokering – including, but not limited to sorting, dismantling, crushing, shredding, pelletizing, melting, extruding, smelting – and shall result in subsequent consumption by a materials and product manufacturer. ***While recycling is only part of the solution to addressing the environmental concerns of plastic waste leakage and marine litter, nevertheless, every recycling activity – when conducted responsibly – contributes to diverting wastes from the environment.***
- The new Y48 listing for controlled plastic wastes includes the footnote reference, “International and national specifications may offer a point of reference” for interpreting the entry’s provision’s on whether controls are required for material that is not “almost free from contamination and other types of wastes” nor “almost exclusively” of one type of polymer group. We draw your attention to the century-old, globally recognized ISRI Scrap Specifications ([www.isri.org/specs](http://www.isri.org/specs)). The Specifications are developed by an open, public consultation process and take into account market conditions, including available recycling technologies and the supply and demand of recyclable materials. ***The Specifications are a useful point of reference to ensure the transboundary movement of clean, high quality plastics for purposes of responsible recovery and recycling.***
- ISRI is a staunch advocate for **responsible recycling** in which recycling operations incorporate necessary management and processes in full compliance with environmental, health and safety obligations as outlined in national and international laws, including the Basel Convention’s environmentally sound management principles. In conjunction with close adherence to the ISRI Specifications and effective enforcement of these laws will result in a vastly improved management of plastic wastes and will disincentivize the illegal trade of wastes. ***Enhancing trade in recyclable plastics and eradicating illegal waste trade is a shared responsibility – a global imperative.***

*ISRI is the Voice of the Recycling Industry™, with 1,300 member companies operating at more than 4,000 locations in the United States and across the globe. Our members represent the entire recycling chain, including companies that process, broker, and consume metals, paper, plastics, glass, textiles, rubber, and electronics, whether sourced from commercial, residential, or industrial operations. Our membership also includes those companies that manufacture and distribute the optical and infrared scanners, balers, shredders, conveyors and other highly advanced and technical equipment that are used in all parts of the recycling chain.*



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**VI. Agenda item 3 (b) (i) d.: Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention**

**A. Parties**

**1. Indonesia**

**Written intervention by the Delegation of the Republic of Indonesia to the 12<sup>th</sup> Meeting of the Open-Ended Working Group of the Basel Convention, 1 – 3 September 2020**

Indonesia expresses sincere appreciation to OEWG-12 Bureau and the Secretariat for their work in preparing for this meeting despite enormous challenges caused by the COVID-19 pandemic.

This OEWG-12 is the first formal meeting under the Basel Convention since the entry into force of the Ban Amendment. Therefore, Indonesia would like to take this opportunity to congratulate all of us for the entry into force of the Ban Amendment of the Basel Convention. It is really a historical momentum. We finally achieve what we had agreed 24 years ago in COP 3 of the Basel Convention in 1995. As one of initiators of the Country Led Initiative (CLI) Indonesia is committed to continuously strengthening the Ban Amendment through the enhancement of institutional capacity, national legal framework, and international coordination.

Since the Ban Amendment has entered into force, Indonesia expects all technical guidelines to include Ban Amendment provisions. Furthermore, state parties should be encouraged to adjust their national legislation in accordance with the Ban Amendment.

Our comments on specific issues are as follows:

**5. Electronic waste**

Indonesia underlines the importance of developing functionality test methods and procedures for electrical and electronic equipment that were acceptable to all parties, supported by accreditation of testing laboratories with the appropriate quality management systems. In addition, importing countries should provide details on failure analysis, repair, and refurbishment procedures to ensure that used equipment is disposed of in an environmentally sound manner. Furthermore, importing country should certify the technical capacity to repair the used equipment or used component and inform destination or use that will be given.

Moreover, most e-wastes are exported and declared to customs as used goods and not as waste when they are exported. The problem is that many countries do not have enough technical customs capacity to inspect the goods. Therefore, there should be a specific guideline for custom authorities to identify e-wastes.

Competent authorities in both the exporting and the importing countries also will need to identify ESM facilities before providing consent. The concept of pre-consented, or 'identified' companies is necessary for that purpose.

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2. Switzerland

**3 (b) (i) d Guidelines on e-waste**

- Switzerland would like to thank the working group on the e-waste technical guideline and the secretariat for their work
- We supported the ad interim adoption of the e-waste technical guideline and are encouraging parties to send in comments on experiences of testing and using the guideline.
- Switzerland is aware of the remaining challenges and difficulties concerning the distinction between waste and non-waste. We consider this as a very important issue and a key element to design effective measures to enhance the ESM of e-waste. We appreciate the ongoing activities to address this issue.
- We are open to further discussions and stand ready to continue the work that should lead to the final adoption of the guideline.

**B. Observers**

**1. Basel Action Network (BAN)**

**BAN Intervention on e-Waste Guideline / OEWG12**

**Good morning / Good afternoon distinguished delegates:**

The Basel Action Network wishes to remind the Parties that the Guideline on the Transboundary Movement of Electronic Waste now adopted on only an interim basis, continues to misinterpret the Convention to claim that non-functional electronic equipment is somehow not a waste so long as its traders claim that it will be repaired AFTER being exported.

And yet once something so toxic and non-functional is not considered a waste then it can be exported with no state control, transparency, scrutiny, and without assurances of environmentally sound management.

This "repairables loopholes" found in Paragraph 32(b) of the Guideline is contrary to the very intent and purpose of the Basel Convention itself. It is contrary to the Ban Amendment. It is contrary to the decisions taken by the EU, and by the Parties to the Bamako Convention.

It is clearly a mistake needing to be fixed if this convention wishes to continue to ensure the protection of the environment of developing countries and a true and responsible circular economy. It needs to be fixed before this document can be used and certainly before it can be fully adopted.

There are several ways forward here. 1) We can remove paragraph 32b. 2) we can adopt the proposal submitted by BAN at COP14 and available on our website as an alternate guideline, or, we can add non-functional hazardous equipment destined for repair to Annex II.

What we cannot do is retain this loophole in our Convention as permitted by the guideline.

BAN and IPEN will be holding a side event on the subject of e-waste tomorrow for more information and discussion. We hope you can join us.

I thank you for your consideration.



## 2. Institute of Scrap Recycling Industries (ISRI)



ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.

**STATEMENT OF  
INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC. (ISRI)  
TO  
THE BASEL CONVENTION OPEN ENDED WORKING GROUP (OWEG-12)  
1 September 2020**

**Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention;**

ISRI appreciates the multi-year, intensive work by the participants of the expert working group to complete the technical guidelines. ***We call on Parties to adopt the technical guidelines so as to ensure their full implementation, at the earliest opportunity, in support of the environmentally sound management of electronic waste.***

*ISRI is the Voice of the Recycling Industry™, with 1,300 member companies operating at more than 4,000 locations in the United States and across the globe. Our members represent the entire recycling chain, including companies that process, broker, and consume metals, paper, plastics, glass, textiles, rubber, and electronics, whether sourced from commercial, residential, or industrial operations. Our membership also includes those companies that manufacture and distribute the optical and infrared scanners, balers, shredders, conveyors and other highly advanced and technical equipment that are used in all parts of the recycling chain.*



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**VII. Agenda item 3 (b) (i) e.: Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with mercury or mercury compounds**

**A. Parties**

**1. China**

对《关于对由汞或汞化合物构成、含有此类物质或受其污染的废物实行无害环境管理的技术准则》（UNEP/CHW/OEWG. 12/INF/13）的意见

中国政府代表团欢迎并感谢秘书处和工作组的工作。建议在《关于对由汞或汞化合物构成、含有此类物质或受其污染的废物实行无害环境管理的技术准则》的修订过程中（UNEP/CHW/OEWG.12/INF/13），应区别巴塞尔公约与水俣公约对汞废物的管理范围和管理目标，特别是区分属于危险废物的汞废物和不属于危险废物的汞废物。技术准则的第三部分——环境无害化管理指南相关条款内容，需要在环境风险评估的基础上，针对不同类别、不同阈值的汞废物，考虑其污染特性和可能的暴露场景，分类制定具有指导性和可操作性的措施

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**2. Switzerland****Interventions by Switzerland – OEWG, 1.9.2020****3 (b) (i) e Guidelines mercury waste**

- Thank you Madam Co-chair.
- Switzerland is acting as co-chair of the expert group on mercury thresholds under the Minamata Convention. We would like to underline the importance of collaboration between experts under the Basel and the Minamata Convention and between the Conventions' Secretariats for the elaboration of this guideline.
- This is the case for example regarding the reference table in paragraph 33 and the part on sampling, analysis and monitoring in section D.
- We would like to encourage the convention secretariats to continue facilitating the collaboration and encourage the expert group on mercury thresholds under the Minamata Convention to contribute to the common work.
- Due to the interlinkages and because of the different timelines under the two conventions, we expect that the guideline will have to be updated again in case the Conference of the Parties to the Minamata Convention adopts the mercury thresholds in order to take them into consideration.

**B. Observers**

**International Pollutants Elimination Network (IPEN)**

OEWG 12 - IPEN intervention on Mercury waste technical guidelines

Thank you Chair

I speak on behalf of IPEN and would like to express our appreciation for the work done by the Small Intersessional Working Group on the update of the Technical Guidelines addressing mercury wastes.

The review of the guidance comes at a critical time as the implementation of the Minamata Convention on Mercury starts to accelerate. Specifically, it is important for parties to be able to access guidance that is synchronised between the Basel and Minamata conventions to ensure the efficient and environmentally sound management of mercury waste. Volumes of mercury waste will increase significantly in the next 12 months as parties implement the phase out of mercury added products by 2020. This will generate large stockpiles of mercury waste requiring safe storage and treatment.

A key issue for both parties to work together on, is the definition of mercury waste as it will determine what types of waste are subject to the guidance being developed or reviewed under both conventions. Currently the expert group of the Minamata convention is still deliberating over the threshold concentration of mercury that will be used to define what is to be deemed 'mercury waste' in terms of waste contaminated with mercury and therefore subject to treatment, recovery or other forms of environmentally sound management. IPEN would therefore urge the Basel Convention Small Intersessional Working Group and the Minamata Convention Mercury Waste threshold expert group to cooperate closely to ensure consistency between the two guidance documents.

Thank you Chair

**VIII. Agenda item 3 (b) (i) g.: Consideration of whether to update the technical guidelines for the environmentally sound management of waste lead-acid batteries**

**A. Parties**

**1. Micronesia (Federal States of)**

Greetings Madam Chair and Fellow Delegates:

Like its sister Pacific Island States, FSM exports Used Lead Batteries to countries that can recycle them. This places us in a position to encourage the update of technical guidelines so that we can comply and manage such wastes in an environmentally sound manner.

Thank you,

Sincerely,

Patricia Pedrus (Patti) -"With Respect and Guð blessi þig" --(God bless you)

Deputy Assistant Secretary  
Waste Management & Pollution Control Unit  
Division of ES&D  
Department of Environment, Climate Change, & Emergency Management  
National Government  
Federated States of Micronesia 96941

2. South Africa

Kindly find South Africa's submission for today's session for the OEWG12:

**SA Proposed intervention on technical guidelines for the environmentally sound management of waste lead-acid batteries:**

**South Africa has a well-established lead acid battery manufacturing sector which complies with very stringent national legislation for waste management, air quality management as well occupational health and safety. We support the revision and updating of the outdated current lead acid batteries technical guidelines and look forward to making a meaningful contribution to this process and will submit our written comments by the stipulated deadline.**

Kind regards  
Zukie

Noluzuko (Zukie) Gwayi

**Senior Policy Advisor:** International Chemicals and Waste Cooperation

**Focal Point for the UN Environment's Chemicals and Waste MEAs:** BRS; ICCM & SAICM; Vienna & Montreal; Minamata; UNEA Sustainable Nitrogen Management TWG; Africa Institute (Basel and Stockholm Regional Centre) Deputy President: Stockholm Convention COP10

**Chair:** Rotterdam Convention Chemical Review Committee

: The Africa Institute Regional Centre EXCO & Council Board

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## **B. Observers**

### **1. United Nations Environmental Programme (UNEP)**

#### **UNEP Chemicals and Health Branch intervention**

Basel Open Ended Working Group

1 September 2020, 14:00- 17:00

Agenda item **Item 3: Matters related to the work programme of the Open-ended Working Group for the biennium 2020–2021:**

(b) Scientific and technical matters:

(i) Technical guidelines

g. Consideration of whether to update the technical guidelines for the environmentally sound management of waste lead-acid batteries;

UNEP would like to recall that the UN Environment Assembly at its third session in December 2017 adopted resolution 3/9 “Eliminating Exposure to Lead Paint and Promoting Environmentally Sound Management of Waste Lead-Acid Batteries”. The resolution invited the Conference of the Parties of the Basel Convention to consider revising “Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries” regarding applying new technologies in different aspects of environmental sound management systems.

Drawing on this request and the 2019 latest report from the International Lead and Zinc Study Group showing that 86 % of lead consumption is in lead-acid batteries and its increasing use in solar and wind energy for efficiency, we would like to bring this topic to the attention of this plenary for its consideration.

**2. Center for Public Health and Environmental Development (CEPHED)**

**Intervention on Technical Guideline Update on ESM ULAB Waste Management, Ram Charitra Sah, CEPHED, IPEN PO from Nepal**

Thank you Co Chairs

Support the update of the Guideline. There are many ULAB related waste are there in Nepal piled up and /or lying in individual household due coping arrangement with a decade long high electricity black out hours up to 18 hours a day. Country is neither prepared nor having technical and financial capacity to deal with this increased ULAB waste issues. The informal sector engagement currently with this issues results varieties of OSH related implications. Therefore urge for the suitable technical and financial enabling country to cope with this problem along with the effective implementation of this updated guideline in developing countries like Nepal.

Thank you.

Ram Charitra Sah  
Executive Director  
CEPHED, Nepal  
Email: ramcharitra@gmail.com



3. Centre de Recherche et d'Education pour le developpement (CREPD)

**Written Comment to the online segment of Basel Convention OEWG-12 by CREPD, Cameroon**

**On agenda item 3(b)(i)g**

**Consideration of whether to update the technical guidelines for the environmentally sound management of waste lead-acid batteries**

Entre de Recherche et d'Education pour le Développement (CREPD) strongly support proposed action in front of the OEWG12 regarding the revision of outdate 2003 Basel “technical guidelines for the environmentally sound management of waste lead-acid batteries.”

This update should be conducted in a transparent and inclusive manner with appropriate participation of non-governmental organizations.

Although the 2003 Guidelines provide useful basic elements on ESM of ULAB, it is expected that the updated version should take into consideration the inclusion of the following elements:

1. Specific guidance for developing a comprehensive industry-specific regulatory framework,
2. Actualizing all the obsolete data,
3. Minimum list of elements of the national capacity in each country with ULAB recycling plant in place for the medical surveillance of workers and their families and environmental monitoring,
4. Stress on the importance of regional ULAB recycling plans instead of each individual country developing its own ULAB recycling facility. Criteria to select location of regional ULAB recycling countries could include low population density, skilled workforce, technical and financial capacities ...

Regards

Gilbert KUEPOUO  
Coordinator/Executive Director

#### 4. Global Alliance on Health and Pollution (GAHP)

On behalf of its 60+ members, the non-profit organization, the Global Alliance on Health and Pollution (GAHP), supports the revision of the Technical Guidelines for the Environmentally Sound Management of Waste Lead-Acid Batteries.

1. *This action is long overdue.*

- a. It has been three years since the UNEA3 in Dec 2017 adopted resolution 3/0 on Promoting Environmentally Sound Management of Waste Lead-Acid Batteries”
- b. The existing Technical Guidelines are out of date and do not reflect latest best practices or current scientific literature and findings related to lead exposures and health including that issued by the WHO.

2. *This action is critical to protecting public health, especially children.*

- a. As highlighted in a recent UNICEF and Pure Earth report “The Toxic Truth: Children’s Exposure to Lead Pollution Undermines a Generation of Future Potential,” **one third of all children globally are poisoned by lead**, and the **unsound recycling of used lead-acid batteries is a leading driver of exposures**.<sup>1</sup>
- b. According to WHO **there is no known safe level of lead exposure**.<sup>2</sup>
- c. According to IHME global Burden of Disease, **900,000 premature deaths per year are attributable to lead exposures**.<sup>3</sup>
- d. Lead is an overlooked risk factor for death in adults, particular cardiovascular disease deaths.<sup>4</sup>

3. *The need for lead acid batteries is growing.* They are still used in both traditional vehicle engines and all e-vehicles, and further are used in solar and mobile technology infrastructure.

- a. When properly handled, collected, recycled and manufactured, lead in batteries can be a true example of circular economy, where the product is continually reused, without causing harm to health or the environment.

4. To effectively address this issue, the global community needs Technical Guidelines that represent the best science and industrial practices available to date.

<sup>1</sup> UNICEF & Pure Earth. The Toxic Truth: Children’s Exposure to Lead Pollution Undermines a Generation of Future Potential (2020). <https://www.unicef.org/reports/toxic-truth-childrens-exposure-to-lead-pollution-2020>

<sup>2</sup> World Health Organization (WHO). (2019, August 22). Lead Poisoning and Health. Lead Poisoning and Health. <https://www.who.int/news-room/fact-sheets/detail/lead-poisoning-and-health>.

<sup>3</sup> Institute for Health Metrics and Evaluation (IHME). (201). GBD 2017 Results Tool | GHDx. <http://ghdx.healthdata.org/gbd-results-tool>

<sup>4</sup> Lanphear, B. P., Rauch, S., Auinger, P., Allen, R. W., & Hornung, R. W. (2018). Low-level lead exposure and mortality in US adults: a population-based cohort study. *The Lancet Public Health*, 3(4), e177–e184. [https://doi.org/10.1016/S2468-2667\(18\)30025-2](https://doi.org/10.1016/S2468-2667(18)30025-2)

## 5. International Lead Association (ILA)



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[www.ila-lead.org](http://www.ila-lead.org)

Submission to the OEWG-12 Chair  
Agenda item 3.b.i.g - Consideration of whether to update the technical guidelines for the environmentally sound management of waste lead-acid batteries.

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*In light of the UNEA 3 resolution to promote Environmentally Sound Management of Waste Lead-Acid Batteries and considering the points raised below the International Lead Association (ILA) urges the Parties to support the updating of the technical guidelines for the environmentally sound management of waste lead-acid batteries as a matter of urgency*

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IN 2001 the ILA, represented by Brian Wilson, was invited by the BRS Secretariat to work with the Government of Brazil to prepare the Technical Guidelines for the Environmentally Sound Management (ESM) of Waste Lead Acid Batteries, often referred to as Used Lead Acid Batteries (ULAB). The drafts were subjected to scrutiny and review by the Parties and in 2002 the current version of the Technical Guidelines was adopted unanimously by the Parties.

However, that was nearly 20 years ago and there have been many advances in the understanding of health impacts of lead exposure (including effects on children) that have been accompanied by improvements in Industry best practice that reduce occupational exposure and the control of fugitive emissions that can have positive implications for the health and wellbeing of local populations.

Furthermore, changes introduced by industry have also improved process efficiency and reduced waste generation. These have amongst other benefits reduced Green House Gas (GHG) emissions and energy consumption. Modern ULAB recycling plants are now designed so that there are no effluent discharges from the site. Instead, saleable non-hazardous products are now routinely produced from the battery electrolyte.

As recently highlighted by the UNICEF report “The Toxic Truth: Children’s exposure to lead pollution undermines a generation of potential” the vast majority of environmental lead contamination and occupational and population exposure is associated with the informal and unregulated recycling

of ULAB and predominately in countries in with emerging economies or in economic transition..

The Guidelines urgently need updating to include advice on how to either bring informal and polluting ULAB recycling operations into a regulated framework or if that is not possible, how to eliminate them from the sector. Moreover, additional guidance is necessary to explain the benefits of adopting Extended Producer Responsibility (EPR) principles for battery producers. Importantly, since the introduction of the Guidelines in 2002, domestic standards and internationally accepted norms for controlling atmospheric emissions, effluent discharges, and occupational exposure to lead at ULAB recycling plants are now much tighter than 18 years ago and the 2002 Guidelines urgently need to be revised to reflect this.

On a purely technical level, there are also some significant plant operating essentials that are not in the current edition of the Guidelines, including: Advances in the development of hydro-metallurgical ULAB recycling processes. This has the potential to reduce considerably the risk of lead contamination from plant emissions but is not adequately described in the current guidelines

Spark Arrestors to be located in the combustion ventilation flue between the furnace and the Baghouse or Filter plant to ensure that any organic material that could produce an ember is not sucked back to the filter bags with the prospect of either burning a hole in the bag or setting the baghouse on fire. Furnace Flues must be sufficiently long enough to allow fume to cool and agglomerate to form dust particles of a size that can be captured by the bags in the filter plant. If the flue is not long enough then any dust particles formed could be small enough to pass through the filter media and be released to atmosphere.

Whilst the current Guidelines do cover methods of desulfurization of the battery paste, in order to meet international norms for sulfur dioxide emissions, a scrubbing tower should always be included as the last sulfur removing process before the furnace off-gases are released to atmosphere. In 2002 Lithium ion batteries were limited to a few small portable devices, but since then Lithium ion battery applications are now found in a multitude of uses. Some Lithium Ion batteries are similar in size and appearance to Lead Acid batteries and this poses a serious health risk to workers at a ULAB recycling plant as they will explode if they are charged to battery breaker. It is therefore, absolutely vital that ULAB arriving at a recycling facility are inspected and any Lithium ion batteries removed. This must be included in a revised set of Guidelines.

For and on behalf of the ILA  
Brian Wilson, MRSC

## 6. International Pollutants Elimination Network (IPEN)



### Intervention on Agenda item 3.b.i.g:

#### Consideration of whether to update the technical guidelines for the environmentally sound management of waste lead-acid batteries

By International Pollutants Elimination Network (IPEN), AGENDA for Environment and Responsible Development, Centre de Recherche et d'Éducation pour le Développement (CREPD), Centre for Environment Justice and Development (CEJAD), and Toxics Link

We would like to note that the Basel Convention's current *Technical Guidelines for the Environmentally Sound Management of Waste Lead-Acid Batteries* were adopted in 2002 and published in 2003. Since that time, concerns about human health and environmental consequences related to the unsound management of used lead-acid batteries (ULABs) has been growing, especially under conditions that prevail in many low- and middle-income countries. Relevant information has also been evolving, including the medical understanding of the human health effects of lead exposure.

For these and other reasons, it would be appropriate for the OEWG to decide to formally review its existing *Technical Guidelines*, and to update them, as appropriate.

### Background

1. UNEA 3 (in 2017) adopted decision (3/9) that invited the Basel Convention COP to consider revising the Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries. The decision additionally encouraged member States to implement the environmentally sound management of waste lead-acid batteries, and it referenced the need for capacity building aimed at establishing national regulatory frameworks and programmes to address the recycling of waste lead acid batteries and to better track and trace their shipments.
2. The Basel Convention COP 14 (in 2019) responded to this invitation by requesting the OEWG, during its 2020-2021 biennium, give consideration to whether these technical guidelines need to be updated.
3. Growing international attention is being given to concerns about significant and pervasive lead poisoning that result from unsound ULAB recycling, especially under the conditions that prevail in many low- and middle-income countries. This includes occupational lead exposure, and it also includes lead poisoning in both children and adults living near ULAB recycling operations.

A recent World Health Organization Document<sup>1</sup> begins from the premise that ULAB recycling is an important public health concern because the ULAB recycling industry is

<sup>1</sup> *Recycling used lead-acid batteries: health considerations*, ISBN 978-92-4-151285-5, © World Health Organization, 2017 <https://www.who.int/ipcs/publications/ulab/en/>  
IPEN

## 7. Occupational Knowledge International (OK International)



### OCCUPATIONAL KNOWLEDGE INTERNATIONAL

4444 Geary Boulevard, Suite 208 • San Francisco, CA 94118 • tel 415-221-8900

Re: Comments on whether the technical guidelines for the environmentally sound management of waste lead-acid batteries (2003) should be updated

September 1, 2020

Secretariat of the Basel, Rotterdam and Stockholm Conventions  
International Environment House  
11-13 Chemin des Anémones  
1219 Chatelaine Geneva  
Switzerland

In regards to the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Twelfth meeting) we would like to provide the following comments on the need for revising the 2003 Basel "technical guidelines for the environmentally sound management of waste lead-acid batteries."

Although the 2003 Guidelines provide useful guidance on different models for setting up national collection systems for used lead batteries, they fall far short in providing specific guidance for developing a comprehensive industry-specific regulatory framework. In addition, they provide misleading, confusing and outdated guidance on recycling methods and regulatory standards.

Most countries lack the basic minimum environmental and occupational exposure regulations to adequately control emissions and protect employee health from this hazardous industry. Governments need assistance in prioritizing these legal frameworks to protect the environment and avoid costly remediation in the future. Any effort to revise the Guidelines should focus on this aspect to assist governments. On the other hand, there is no need to provide guidance to industry as there are sufficient resources available to allow them to obtain the necessary information to improve their operations.

The current guidelines must be updated or should be removed from the Basel Convention website due to the many deficiencies and reference to outdated standards. In particular, the 2003 guidelines contain much obsolete information including:

- The guidelines indicate the hazards of manual breaking of used lead batteries but instead of indicating that this should be prohibited the text suggests that "avoided at all costs."
- The guidelines fail to specify the minimum type of respiratory protection that could be used by workers;

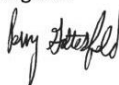


- The guidelines do not specify the frequency by which medical surveillance should be conducted to monitor employee blood lead levels and the need to build laboratory capacity to test blood lead levels in all countries;
- There is no statement indicating that prophylactic chelation should not be routinely administered to workers to reduce blood lead levels;
- The guidelines advocate for outdated ambient air standards for lead by falsely indicating that such levels are “in agreement with the concentrations found all over the world in which no adverse effects on the population health was found.” The World Health Organization has stated that there is no known safe level for lead exposure.
- Cited ambient air standards from the U.S. are out of date and is 13 times greater than the current regulatory limit enacted by the U.S. EPA;
- There is no information on suggested regulatory levels for stack air emissions and no indication that this should be monitored;
- Occupational permissible exposure limits suggested for airborne lead are four times greater than the current U.S. regulatory standards that are considered obsolete and not protective of employee health;
- Guidance on employee blood lead levels indicate that levels of 30 ug/dl are “normal” whereas even current industry international guidelines adopted in 2017 call for maintaining employee exposures below 20 ug/dl.

Finally, the guidance is not clear in calling for the “gradual insertion of the informal sector into a national lead recycling strategy” instead of calling for the legal prohibition of all informal lead battery recycling. If the intent is to encourage “informal” collection of used lead batteries that may be reasonable, but this is not stated in the document. These are just some examples of the many deficiencies in the 2003 guidance.

In conclusion, the guidance document should be updated as a matter of urgency with the involvement of a multi-stakeholder task force to develop a suitable guide for an industry-specific legal framework for lead battery recycling. If you have any questions, please contact me at [pgottesfeld@okinternational.org](mailto:pgottesfeld@okinternational.org).

Regards



Perry Gottesfeld  
Executive Director

## 8. Pure Earth



September 1, 2020

Dear Basel Convention Secretariat, Members, Observers, Esteemed Colleagues:

The non-profit organization, Pure Earth, supports the revision of the Technical Guidelines for the Environmentally Sound Management of Waste Lead-Acid Batteries. As highlighted in the recently released report by UNICEF and Pure Earth titled "The Toxic Truth: Children's Exposure to Lead Pollution Undermines a Generation of Future Potential," one third of all children globally are poisoned by lead, and the unsound recycling of used lead-acid batteries is a leading driver of exposures.

The existing Technical Guidelines were published in 2003 and no longer represent the latest best practices in the environmentally sound management of waste lead-acid batteries nor the current scientific literature around lead exposures and human health. Among many outdated sections, on page 60, the current guidelines incorrectly assert that "As yet, there is no unequivocal evidence showing whether continued low level but excessive lead intake has any effect on the mental state of the child." This is a dangerously incorrect statement that directly conflicts with findings from the World Health Organization (WHO), including the following statement in the 2010 WHO report "Childhood Lead Poisoning":

***There appears to be no threshold level below which lead causes no injury to the developing human brain...It is now quite clear that there are adverse neurodevelopmental effects at the lowest blood lead concentrations yet studied. On the basis of this evidence, it is possible today to affirm that low concentrations of lead are harmful to brain development and cognitive function...The neurobehavioural changes associated with early exposure to lead appear to be persistent and irreversible.***  
**-World Health Organization**

When conducted properly, in a well-regulated, formal sector facility with appropriate occupational safety and pollution controls, lead acid battery recycling is safe, and 99% of the materials are recycled. In this context, it is one of the best examples of a resource efficient, closed-loop, circular economy. However, when batteries are recycled improperly, in an outdoor camp with crude equipment, or in a derelict factory, it is an exceedingly dangerous activity that can result in the poisoning of thousands of local children. To effectively address this issue, the global community needs Technical Guidelines that represent the best science and industrial practices available today.

Richard Fuller

CEO, Pure Earth



## IX. Agenda item 3 (b) (ii): National reporting

### Parties

#### Brazil

#### ANNEX I

Brazil's Comments on Document UNEP/CHW/OEWG.12/INF/4, regarding the Draft Report on the final evaluation of the strategic framework for the implementation of the Basel Convention for 2012–2021

Brazil welcomes the draft report on the final evaluation of the Strategic Framework for the Implementation of the Basel Convention from 2012 to 2021. Based on the important findings provided by the report, we would like to express our concern about the decreasing or insufficient number of technical assistance and training activities conducted by the Secretariat in favor of developing countries over the period under analysis, such as in the areas of combating illegal traffic of hazardous wastes and other wastes, implementation of technical guidelines, reduction and minimization of wastes, as well as institutional and regulatory strengthening. The lack or insufficiency of such activities hampers the achievement of the strategic goals and objectives established in the current framework and ultimately hinders the implementation of the Basel Convention.

According to Appendix I of document UNEP / CHW / OEWG.12 / INF / 4, which describes the Strategic Framework for the Implementation of the Basel Convention from 2012 to 2021, the achievement of the Framework's goals and objectives demands appropriate capacities and resources in recognition of the needs of developing countries and countries with economies in transition, as well as the situation of small island developing States. In this sense, in the event of a new strategic framework or a permanent structure for the assessment of the Basel Convention's effectiveness, it is essential to establish proper indicators for a systemic evaluation regarding the provision of adequate means of implementation, including financial resources, technical assistance, and technology transfer to developing countries. The promotion of domestic public policies and international cooperation to provide developing countries with means of implementation shall constitute relevant and interdependent dimensions for the global compliance with the Basel Convention provisions, taking into account both its pillars: the control of transboundary movements and the environmentally sound management of hazardous wastes and other wastes.

Should a new strategic framework be established, Brazil would like to make a suggestion to improve the implementation of a possible new multilaterally agreed document and the convention itself. In this regard, we think it would be advisable to create tools to centralize relevant information published on the website of the convention. Based on the positive experience within the International Maritime Organization, a virtual knowledge centre could be created as a centralized system aimed at providing Parties, observers and other actors with documents, information resources, services and subjects relevant to the work done under the Basel Convention. For Brazil, another important step to improve the implementation of the treaty would be the establishment of an electronic process for notifications and Prior Informed Consent procedures.

Finally, we would like to highlight that the very lack of a specific financial mechanism to support the implementation of the Basel Convention in developing countries makes the debate about the importance of international cooperation and the need for systemic and periodic assessment of the provision of means of implementation even more pressing for developing countries.

**Brazil's Comments on Documents UNEP/CHW/OEWG.12/5, UNEP/CHW/OEWG.12/INF/15, UNEP/CHW/OEWG.12/INF/16 and UNEP/CHW/OEWG.12/INF/17, regarding guidelines for national reports and practical guidance in the development of inventory for plastic waste, obsolete pesticides and pesticide packaging, as well as batteries containing lithium**

For Brazil, it is desirable to provide improvements and expand the scope of information recorded in national reports. However, we would like to highlight that many developing countries have to cope with diverse constraints regarding the quantitative and qualitative analysis of a wide range of data. Thus, Brazil believes that it is essential to ensure that future innovations in national reports consider the challenges faced by developing countries in a way that possible improvements do not impair the ability of those countries to comply with the provisions of the Basel Convention. In this regard, it is also paramount to reiterate the importance of providing adequate means of implementation in order to improve the technical capacity of developing countries.

**X. Agenda item 3 (b) (iii): Electronic approaches to the notification and movement documents**

**Parties**

**1. Colombia**

**Colombia's intervention on electronic approaches to the notification and movement documents**

\*\*\*English below\*\*\*

Gracias señora presidenta. Colombia quiere hacer un reconocimiento al esfuerzo de la Secretaría por impulsar que las Partes adopten un sistema unificado de control de movimientos transfronterizos de desechos a nivel global y en ese sentido insta a que se siga trabajando en dicha dirección. Consideramos que a este esfuerzo puede sumarse un grupo de expertos que coordine las necesidades y el desarrollo de una iniciativa compartida entre las Partes en aras de garantizar que la implementación de la herramienta tecnológica no esté totalmente sujeta a las capacidades económicas, tecnológicas y administrativas de las partes, especialmente para aquellos países que, como Colombia, a la fecha no cuentan con ninguna herramienta de notificación electrónica para los movimientos transfronterizos. De haber un acuerdo sobre la creación de este grupo a mi delegación le gustaría poder participar. Gracias señora Presidenta.

Thank you Chair. Colombia recognizes the efforts of the Secretariat to encourage Parties to adopt a unified system for the control of transboundary movements of waste at the global level. In this regard urges that further work may be done in this direction. We consider that a group of experts could help to coordinate the needs of Parties in this matter and to assist them to develop a shared initiative in order to guarantee that the implementation of the technological tool for transboundary movements is not totally subject to the economic, technological

and administrative capacities of the Parties. Especially for those countries that like Colombia, to date do not have any electronic notification tool for that purpose. If there is an agreement on the creation of this group, my delegation would like to be able to participate. Thank you Chair.

## 2. Micronesia (Federal States of)

Madam Chair and Fellow Delegates:

The Federated States of Micronesia continues to comply with Basel procedures on notification and movement documents manually; however, there is a need to review and look into electronic processes as it would allow member countries to efficiently complete the notification and movement documents systematically. If the Secretariat can consider providing assistance to the FSM on improving its notification and movement documents procedures electronically, that would be appreciated.

What is being proposed is to have an online center based at the Secretariat where countries can log in and apply for transboundary movement applications between them and their processes can be assisted by the Secretariat as well as monitored by the Secretariat. Should you need further clarifications, please do not hesitate to let me know.

Sincerely,

Patricia Pedrus (Patti) --"With Respect and Guð blessi þig" --(God bless you)

Deputy Assistant Secretary  
Waste Management & Pollution Control Unit  
Division of ES&D  
Department of Environment, Climate Change, & Emergency Management  
National Government  
Federated States of Micronesia 96941

## **XI. Agenda item 3 (b) (iv): Plastic waste**

### **A. Parties**

#### **1. Brazil**

#### **ANNEX II**

**Brazil's Comments on Documents UNEP/CHW/OEWG.12/7, UNEP/CHW/OEWG.12/INF/20 and UNEP/CHW/OEWG.12/INF/21, regarding additional actions to deal with plastic waste under the Basel Convention**

Brazil is highly committed to the fight against marine litter, which is a crucial axis of the national agenda on urban environmental quality of Brazil's Ministry of the Environment. On March 22, 2019, Brazil launched the "National Plan to Combat Marine Litter", an essential regulatory framework aimed at the management and proper disposal of solid waste in order to minimize the impacts it may cause on coastal and marine ecosystems, as well as on human health.

However, Brazil understands that the proposals conveyed by document UNEP/CHW/OEWG.12/INF/20 may cause duplication of efforts and disrespect the normative scope of the convention, hence creating potential institutional burdens and diversion of budgetary resources.

When it comes to the debate about further actions to deal with plastic waste under the Basel Convention, from Brazil's perspective, it is of the utmost importance that such initiatives respect the normative scope of the convention and avoid duplicating efforts, considering, for example, the tasks that are already performed by UNEP on the issue. Furthermore, we believe those activities shall not create institutional burdens nor should they cause a potential diversion of budgetary resources at the expense of the provision of means of implementation, for example.

Regarding a possible future assessment of the effectiveness of the measures taken under the Basel Convention to address plastic waste, embodied in **document UNEP / CHW / OEWG.12 / INF / 20**, Brazil expresses its concern about the risk of duplication of efforts and the creation of institutional burdens, which could result in a diversion of budgetary resources. Moreover, Brazil would like to call attention to the risk of singularization of topics under a possible future effectiveness evaluation. In line with Article 15 of the Basel Convention, Parties shall reinforce a holistic view about the effectiveness of the convention, considering both its pillars: the control over transboundary movements and the promotion of the environmentally sound management of hazardous wastes and other wastes. In this regard, Brazil considers that, in respect of the normative scope of the

a broader evaluation of the implementation of the convention or in a whole assessment about the achievement of future strategic goals and objectives in the event of a new multilaterally agreed strategic framework.

**2. Chile****CHILE'S STATEMENT ON PLASTIC WASTE**

\*\*\* ENGLISH BELOW\*\*\*

Los residuos plásticos en el medio marino son un problema ambiental global que impacta negativamente la biodiversidad y el medio ambiente marino, el turismo, la pesca y el transporte marítimo. La gravedad del problema subraya la importancia de impulsar esfuerzos coordinados para comprender los impactos ambientales de los residuos marinos, y desarrollar estrategias de gestión y prevención necesarias, a fin de mitigar sus impactos en el medio ambiente y en el crecimiento económico sostenible.

Chile participa en diversos esfuerzos multilaterales para enfrentar el problema de los residuos plásticos y marino, y desea seguir colaborando en las iniciativas regionales e internacionales que tengan como propósito controlar y prevenir los residuos marinos, por lo que esperamos poder contribuir al intercambio de información, creación de capacidades y al control de este tipo de residuos.

\*\*\*\*\*

Marine plastic waste is a global environmental issue that negatively impacts marine ecosystems and their biodiversity, tourism, fishing and marine transportation. It is a serious problem that underlines the importance of enhancing coordinated efforts to better understand the environmental impact of marine plastic waste, as well as to develop management and prevention strategies with the goal of mitigating its effects on the environment and on sustainable economic growth.

Chile participates in various multilateral efforts to address the plastic and marine waste issue, and wishes to continue its collaboration with different regional and international initiatives with the objective of controlling and preventing marine plastic waste through the exchange of information, capacity building and management of this type of waste.



3. **Indonesia**

**6. Plastic waste**

Indonesia welcomes notes prepared by the Secretariat on further actions to address plastic waste under the Basel Convention.

In recent years, Indonesia has been dealing with enormous volumes of wastes, including plastic waste, illegally imported to the country. We condemned the practice of illegal sending of wastes to developing countries, including Indonesia.

Indonesia rejects plastic wastes that entered the country illegally and always attempts to reexport them. However, we often find difficulty to reexport them because countries of origin do not acknowledge the exports. In some cases, even exporters who export waste illegally to Indonesia are not registered in exporting countries. As a result, countries of origin do not want to either take the wastes back for ESM or ensure such management in an alternate country. That makes sending the wastes back to the source difficult.

Considering this challenge, Indonesia expects documents related to plastic waste under the Basel Convention to clearly state that exporter must only export wastes originated from country where that exporter is officially registered. That provision will make re-exporting of illegally imported wastes much easier.

**4. Norway**

**Norway**

**Basel Convention OEWG 2020 online meeting – agenda item 3 b) (iv)**

**Further work**

Thank you, Chair

The Basel Convention has a great potential to deliver on the international plastics agenda, and we should make the most of it.

*Norway will therefore encourage and welcome a continuous ambitious approach on this issue, focusing on 4 items:*

- 1) First, an effective implementation of the COP 14 plastic waste Amendments, as we understand that some Parties have called for.
- 2) Second, stronger emphasis on preventive measures upstream that address the whole life-cycle of plastics should be a priority in the technical guidelines for plastic waste and the Partnership for plastic waste.
- 3) Third, The guidelines should be dynamic in order to capture relevant progress under the Partnership and other relevant experience.
- 4) Fourth, Combating illegal trade in all plastic waste, including e-waste consisting of plastics.

Furthermore, Norway welcomes the activities listed in document INF20 to this meeting.

With respect to the proposal for an effectiveness evaluation, Norway is of the opinion that it is premature at this stage. Instead, we propose to conduct an analysis of how we may make more effective use of activities and initiatives conducted under the Convention, relevant to plastic waste. Several guidelines and workstreams under the Convention are relevant to consider. We see the need to overcome fragmentation and lay the foundation for more concerted action on plastic waste under the Convention, making use of the full range of its mandate and resources.

Thank you.

## 5. Switzerland

### 3 (b) (iv) Plastic waste

- Switzerland thanks the Secretariat for the compilation of information on possible further actions to address plastic waste under the Basel Convention
- The information provided in the INF document lists work planned, done or initiated by a broad spectrum of stakeholders. Unfortunately presented in a way which makes it difficult to become a practical overview, what would be important in order to avoid duplication or even contradictions on the individual activities. However, we conclude: *A lot of work, activities are undertaken by a large number of organizations and other stakeholders.*
- Switzerland suggests that the work of the Basel Convention should be focused on areas where a) the Basel Convention is strong and designed for (namely ESM of waste including prevention and reduction) and b) on concrete results which can be practically implemented in the individual countries and regions.
- Switzerland therefore strongly supports the Working Group of the Plastic Waste Partnership which has developed a workplan with envisaged concrete and practical results.
- Switzerland advocates to focus on work already planned and started and not to overload the possibilities of the Working Group. Some of the mentioned possible new activities are already picked up by the WG PWP, respectively by the four individual project Groups of the Working Group.
- Moreover, comments and additional information should be incorporated and presented in a way as to be easily recognized. This will help to avoid duplication of work.
- An assessment of the effectiveness of the current and potential measures taken under the Basel Convention to address plastic waste could be conducted. We suggest that the Initial work should be carried out by the WG PWP (Working Group Plastic Waste Partnership).

**B. Observers****1. United States of America****Statement from the United States of America to the Basel Convention Twelfth Open-Ended Working Group (OEWG-12) on Agenda Item 3(b)(iv): Plastic Waste**

September 3, 2020

The United States appreciates the work undertaken in preparation for the Basel Convention Twelfth Open-Ended Working Group and supports the proposed action that invites Parties and observers to submit comments on to possible further activities to address plastic waste that could be conducted under the Convention.

The United States strongly supports actions to address mismanaged plastic waste and plastic pollution. We recognize mismanaged plastic waste is a global problem, and a number of further actions outlined in UNEP/CHW/OEWG.12/7 may be beneficial to countries in their efforts to address this problem. However, we recognize that it may be quite difficult to evaluate the effectiveness of these actions, and agree it is premature to consider such an action at this time. There are a number of factors beyond the scope of the Basel Convention that contribute to a country's ability to manage plastic waste in an environmentally sound manner, and we urge Parties to take this into consideration.

The United States raised these concerns in negotiations during the fourteenth meeting of the Conference of the Parties to the Basel Convention. We recognize it is important to understand the effectiveness of the Plastic Waste Amendments, but it is equally important to understand the impacts of these Amendments on countries. We have heard from a number of Parties, such as Nepal and the Maldives, about the internal difficulties they face in addressing mismanaged plastic waste. These challenges should be heard and addressed, and we strongly suggest the plastic waste technical guidelines offer clear guidance to countries, in particular countries with fewer resources, on the best practices to improve the management of their plastic waste.

The Plastic Waste Partnership offers a number of opportunities and pilot projects to address these issues. Additionally, other forums, including UNEP's Ad Hoc Open-Ended Expert Group on Marine Litter and Microplastics, exist which assist effort to address marine plastic litter and marine debris globally outside the Basel Convention. The United States encourages information sharing to comprehensively address mismanaged plastic waste and pollution, and we look forward to working with countries on these efforts.

## 2. United Nations Environment Programme (UNEP)

### UNEP intervention

Basel Open Ended Working Group

3 September 2020, 14:00- 17:00

### Agenda item **Item 3: Matters related to the work programme of the Open-ended Working Group for the biennium 2020–2021:**

(b) Scientific and technical matters:

(i) Technical guidelines

#### **Agenda item 3.b.iv –Plastic waste**

Thank you, UNEP would like to refer to the INF doc 21 Rev 1 available to you and highlight that: UNEP through the Global Partnership on Marine Litter is supporting the further development and implementation of action plans on marine litter prevention through a national source inventory approach, capacity building through the Massive Open Online Course on marine litter which run again in October 2020 and awareness raising through the Clean Seas Campaign. Collaboration is ongoing with the BRS Secretariat for the development of a Vital graphics on marine litter and plastic waste as well as for synergies between the two stocktaking exercises undertaken by the BRS Secretariat as well as the ad hoc open ended expert group on marine litter and microplastics.

Please note that the next meeting of the ad hoc open-ended expert group on marine litter and microplastics established by its UNEA resolution 3/7, and extended by resolution 4/6 will be held in a virtual setting 9 to 13 November 2020 with some preparatory meetings envisaged before.

(UNEP/CHW/OEWG.12/INF/21/Rev.1 Information on the meetings of the ad hoc open-ended expert group on marine litter and microplastics and resolutions of the United Nations Environment Assembly related to marine plastic litter and microplastics)

**3. CEPHED**

**Intervention on Plastic Waste, Ram Charitra Sah, CEPHED, IPEN PO from Nepal**

Thank you Co Chairs

Nepal is famous destination for Himalayas Expedition by having world highest peak Mt. Everest and many other high mountains. Despite of having laws on several city level of plastic bag ban, laws on bring back all the items including plastic materials waste by all trekker while returning from their Himalayan expedition. Every year thousands of tourist comes to Nepal for Himalaya expedition from all over the world and left over thousands of tons of waste into the high Himalayas with perpetual snow cover. This environmental condition also prevent natural degradation of waste including plastic litters in high Himalayas.

Plastic items used in the Himalayan expedition are of varied in nature and toxicity needs specific classification and/or grouping into the proper annexes.

Additional question to this forum is **how we can address the Plastic Items the expedition team bring with them as products but becomes waste on their expedition completion?**

Thank you for BRS OEWG have taken serious consideration on Plastic Waste, Marine litters, Micro Plastic and Micro Beads etc., I sincerely request, this meeting to take into consideration of Plastic waste problems in upstream High Himalayas. Until and unless upstream plastic waste can be cleaned, downstream (marine litter) plastic waste cannot cleaned and managed.

Thank you

Ram Charitra Sah  
Executive Director  
CEPHED, Nepal  
Email: ramcharitra@gmail.com

#### 4. Environment and Social Development Organization (ESDO)

*Intervention on Further actions to address plastic waste under the Basel Convention*

**Open-ended Working Group of the Basel  
Convention on the Control of Transboundary  
Movements of Hazardous Wastes and Their  
Disposal**

Geneva (online), 1–3 September 2020

Thank You Madam Co-Chair.

We Environment and Social Development Organization-ESDO believe recent Ban Amendments and entry into force has to be significant steps of the convention to prevent toxic and unregulated waste trade as well as criminal activities. However, all toxic and hazardous plastic are not properly address in Annex IX, many toxic chemicals (such as cured resins and fluorinated groupings) are hazardous in their own right and do not belong to a non-hazardous list. PET is known to leach antimony trioxide and phthalates, LDPE, known as comparatively safer, however, it is still known to leach endocrine disruptor nonylphenol, particularly under sunlight.

Although the current national and international law hasn't adequately coherent to prevent toxic plastic waste tread and offshore dumping. Most of the developing countries lack of capacity and financial mechanisms, so at this point proper information exchange, regional and international cooperation between the government and NGOs/civil society as well as Europol and Interpol are very important to implement Basel Ban Amendments. Hope we will achieve our common goal to "Stop Toxic Plastic Waste Trade" together.

Thank you, madam co-chair.

Shahriar Hossain  
ESDO, Bangladesh  
[shahriar@esdo.org](mailto:shahriar@esdo.org)  
[www.esdo.org](http://www.esdo.org)

## **XII. Agenda item 3 (b) (v): Waste containing nanomaterials**

### **A. Parties**

Switzerland

#### **Agenda item 3(b)v Waste containing nano materials**

We would like to thank those who submitted information on nano materials and the Secretariat compiling the information. This should allow the COP to define further steps to be taken. Some of the wastes consisting of or containing nanomaterials may be hazardous wastes. It would be important to ask the Expert Working Group on the revision of the Annexes to assess if there is a need to add constituents to Annex I in order to allow all these hazardous wastes to be covered by the scope of the Convention. If needed, we suggest that the mandate of the group would be extended to cover this work.



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**B. Observers**

**United Nations Institute for Training and Research (UNITAR)**

**OEWG12 3 Sept 2020**

**Agenda item 3b (v) Waste containing nanomaterials**

**Speaking note of UNITAR**

“Madam Chair, Ladies and Gentleman, dear colleagues,

UNITAR would like to thank the Secretariat of the Basel Convention for their work on waste containing nanomaterials as outlined in Document UNEP/CHW/OEWG.12/8. UNITAR, with the kind support of the Swiss Government, has been working on nanomaterials for the last years and has contributed to the compilation of information particularly case studies and best practices as included in document UNEP/CHW/OEWG.12/INF/22. Therefore we fully support the “Decision OEWG-12/[13] Waste containing nanomaterials” in Document UNEP/CHW/OEWG 12/15 - Compilation of proposed actions to be considered by OEWG12.

Thank you, Madam Chair.

### **XIII. Agenda item 3 (c) (i): Consultation with the Committee Administering the Mechanism for Promoting Implementation and Compliance**

#### **A. Parties**

##### **United Kingdom of Great Britain and Northern Ireland**

###### **Written statement on behalf of the United Kingdom of Great Britain and Northern Ireland**

OEWG Agenda Item 3: (c) Legal, governance and enforcement matters - Legal, governance and enforcement matters

Dear BRS Secretariat,

The UK government thanks the Basel Secretariat for circulating the draft guidance (INF/23) relating to the definition of transit transboundary movements of waste and we welcome the Secretariat's work to clarify the requirements of the Convention.

We do, however, have concerns about the practicalities around the process suggested at paragraph 19 of the draft guidance as we believe any approach adopted should avoid being administratively burdensome.

We also wish to make clear that in our view, the legal obligations arising from the Basel Convention must be understood in light of the provisions under Article 4, point 12 and the navigational rights and freedoms which are preserved by that article.

For these reasons, we think that the next step in this work should be to focus on getting a clear understanding of the definitions of transit adopted by Parties; and compiling a list of those definitions, (this is work which we are aware the OEWG has already begun), rather than taking an approach which gives precedence to one Party's understanding of the concept of transit, over another.

We will provide more detailed written comments on the draft guidance by the 15 September.

Regards

Patrick McKell

**Patrick McKell**

Head of International Waste Shipments, Hazardous Waste and Mercury Policy,  
Chemicals, Pesticide and Hazardous Waste Division, Environmental Quality Directorate |  
**Department for Environment, Food and Rural Affairs** | 2 Marsham Street | London SW1P 4DF

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**B. Observers****UMICORE****Written intervention from Umicore on the agenda point 3 c i on Consultation with the Committee Administering the Mechanism for Promoting Implementation and Compliance (Guidance on the implementation of paragraph 4 of Article 6 on transit).**

My name is Jan Robbroeckx and I am working for the Belgian company Umicore. We are a global materials technology and recycling group. We reduce harmful emissions, power the vehicles of the future and give new life to used metals.

I am also active in Eurometaux, the decisive EU voice of non-ferrous metals producers and recyclers. Therefore, I am not only representing Umicore but also quite a number of other EU companies.

We regularly see problems with respect to transit when shipping waste for recycling – such as e-scrap – to state of the art recycling facilities. Sometimes transit countries do not react, even after the consent of the countries of departure and destination. Or transit countries refuse the transit, despite the consent of the countries of departure and destination.

We respect of course the position of the transit countries in PIC procedures. However we should look a little bit more into detail to possible risks for these countries.

In case of maritime shipments with container vessels, containers are not unloaded in the transit countries. Shipping companies use complex software to minimize the number of container movements, to avoid unloading and reloading and make sure they are discharged in the country of destination.

In reality we see – in case of transit refusal – that very valuable waste for recycling (such as e-scrap) will not be recycled or will be incinerated under substandard recycling conditions.

A possible solution for these sometimes Kafkaesque situations, could be the tacit consent by transit countries for maritime shipments only. This could be a general tacit consent communicated to the Basel Convention or an automatic tacit consent after consent of the countries of departure and destination.

By applying the tacit consent, transit states would strongly support and immediately contribute to the circular economy.

Many thanks for your attention.

☐ ☐ **Please consider the environment before printing this mail note**

Jan Robbroeckx - Customs Expert & Conflict Minerals Manager

Umicore Purchasing & Transportation

phone +32 38216955 – mobile +32 475800507

## **XIV. Agenda item 3 (c) (ii): Providing further legal clarity**

### **A. Parties**

#### **1. China**

对于“提高法律明确性：审查附件问题（UNEP/CHW/OEWG.12/INF/25，26，28）”的意见

中国政府代表团欢迎并感谢附件修订专家工作组的努力，附件审查可有效保障相关技术内容的时效性，并有利于对特定附件形成更为一致的认识。有关意见如下：

##### **（一）附件四**

鉴于“临时处置作业”（Interim Operations）通常是处置作业的必要环节，作为单独的处置作业可能导致无法追踪越境转移的危险废物的最终利用处置情况。对此，中国政府代表团建议尽量减少附件四修订草案中“临时处置作业”的数量。

##### **（二）附件八（A1180）和附件九（B1110）**

附件八和九对废物类别和代码进行细化，便利了公约实施，也有利于海关部门在进出口过程的监管。中国政府代表团建议细化附件八中A1180条目中按照危险废物管理的电子废物（含组件、零部件），如荧光灯、背光灯管等，并对附件九中B1110条目进行对应调整。

**2. Ghana**

Dear Co-chairs, Secretariat,

Due to poor connectivity I'm unable to participate in the meeting effectively.

However, I would like to, on behalf of Ghana's delegation, support the intervention of Switzerland on our common proposal and urge all parties and observers to study our joint proposal in detail and support it with their inputs to ensure the effectiveness implementation of the Basel Convention.

Many thanks for the kind attention.

Sam Adu-Kumi  
Ghana.

**3. Norway**

E-waste ghana swiss

Thank you, Chair.

The transboundary movements of increasing volumes of e-waste continue to be of great concern as it far too often causes environmental damage when not managed in a safe and responsible manner.

Norway therefore welcomes the proposal of Switzerland and Ghana for an amendment to the Basel Convention on the classification of e-waste. We recognise a need for further legal clarity, a level playing field for stakeholders where waste is not dumped to avoid cost, and improved management of e-waste.

We will consider the proposal closely and look forward to an opportunity to discuss it further.

Thank you. (1:03)

#### 4. Switzerland

##### 3 (c) (ii) Legal clarity

##### E-waste Proposal Switzerland and Ghana

- Switzerland welcomes the work done by the EWG on the annexes and concerning the e-Waste entries A1180 for hazardous e-waste and B1110 for e-waste not classified as hazardous. The EWG has made recommendations and proposals for a rewording of both e-waste entries.
- In this context Switzerland has forwarded comments proposing going one step further namely putting all e-waste its components and constituents under the PIC (Prior Informed Consent) procedure. Switzerland and Ghana have put forward a draft proposal for a corresponding amendment of the Basel Convention. The proposal can be found in document UNEP/CHW/OEWG.12/INF/27/Rev1 (page 62).
- The draft proposal of Switzerland and Ghana for an amendment suggests a new entry Y49 on ANNEX II "Categories of waste requiring special consideration" of the Convention for WEEE (Waste Electrical and Electronic Equipment) not classified as hazardous e-waste.
- With such an amendment transboundary movements of all waste – be they classified as hazardous or not – will be subject to the Prior Informed Consent procedure. As a result transboundary movements will be controlled, the availability of information and transparency will be secured. Goal is to direct all e-waste to environmentally sound management with state of the art technology and thus contribute to the protection of the environment, the human health and a maximum of resource recovery.
- Switzerland and Ghana would be happy having first reactions and discussions about this proposal already at this OEWG meeting.
- The proposal was presented and explained in detail at a side event taking place, yesterday. The presentation can be found on the intranet.
- Switzerland and Ghana invites Parties, signatories and observers to submit to the Secretariat comments by 15<sup>th</sup> October on the draft proposal for an amendment of the Basel Convention and request the Secretariat to make the draft proposal of Switzerland and Ghana for an amendment and the comments received available on the website of the Basel Convention.
- Switzerland would like to announce the intention to submit together with Ghana an official proposal for an amendment of the Basel Convention concerning the listing of e-waste in the Annexes for consideration and possible adoption by the Conference of the Parties at its fifteenth meeting.
- We are very much looking forward to start or continue the discussion on this important matter with all of you.

##### Revision of the Annexes

- Switzerland welcomes the work done by the Expert Working Group and thanks Poland and Chili for their leadership in this work. Regarding the revision of Annexes IV, VIII and IX Switzerland would want the work to progress to allow the coming COP to decide on amending these annexes. In that context, we would like to stress that the discussion on a possible amendment of Annex II to include non-hazardous e-waste may have implications on the relating entries in Annex VIII and IX.
- Regarding the revision of Annexes I and III Switzerland is looking forward to the work in the EWG to prepare the ground for a revision in 2023.

**B. Observers****1. United States of America**

**Statement from the United States of America to the Basel Convention  
Twelfth Open-Ended Working Group (OEWG-12) on Agenda Item  
3(c)(ii): Providing further legal clarity**

**September 3, 2020**

The United States appreciates the ongoing effort to clarify Convention terminology and thanks the co-chairs, the expert working group, and the Secretariat for their work in facilitating the review of Annex IV. We also appreciate the opportunity to participate in the EWG as an observer.

The United States urges Parties to target the review of the Basel Annexes to address specific problems and clarify ambiguities to improve implementation of the Convention. In particular, the United States supports the EWG recommendation to remove “direct reuse” from the caption texts in Annex IV consistent with the definition of “direct reuse” adopted by Parties in the Convention’s glossary of terms. We think these are the most important changes to undertake in the Annex review process and should be the key focus of the review.

Additionally, we are concerned that the proposal to add “preparation for reuse” as an Annex IV recovery operation could result in the misclassification of used equipment sent for repair and reuse as waste, resulting in a broadened scope of the Convention. Since the definition of waste is linked to the disposal operations listed in Annex IV, an operation such as “preparation for reuse” which would include cleaning, checking, repair and refurbishment would imply that all transboundary movements of materials sent for these purposes, would be newly defined as waste under the Convention. Such a change would create ambiguity as to what materials are considered waste and subject to Convention controls, thereby undermining Parties’ efforts to gain legal clarity. Furthermore, treating reusable goods as waste would shorten their lifespan and generate more waste. This could undermine progress made under the Convention’s e-waste technical guidelines and runs counter to the Convention’s goal of waste minimization and prevention.

We also have concerns about the proposal to merge several technically distinct operations into “catch-all” operations. The United States encourages Parties not to support this approach as it would reduce the information received during the prior informed consent process, undermining the ability of competent authorities in importing countries to determine whether a transboundary movement will be managed in an environmentally sound manner. Catch-all operations would also increase confusion about what materials are considered waste under the Convention since the definition of waste under the Basel Convention is linked to the disposal operations listed in Annex IV.

We look forward to the opportunity to continue discussing these issues in advance of COP-15.



## **U.S. Comments on Swiss-Ghanaian draft proposal to amend the Basel Convention to address electrical and electronic waste**

The United States supports efforts to ensure electrical and electronic waste, e-waste, is managed in an environmentally sound manner. We recognize that at a fundamental level improving the capacity of environmentally sound recycling globally will help ensure that e-waste and the residual waste generated from e-waste recycling is managed in an environmentally sound manner. The United States has appreciated the opportunity to participate as an observer in the robust discussion related to e-waste in both the Expert Working Group on Review of the Annexes and the Small Intersessional Working Group on the “*Technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention*” (E-Waste Technical Guidelines). We offer the following comments to Switzerland and Ghana for consideration in the development of their proposal to address these issues.

While we support subjecting hazardous e-waste to Basel Convention prior informed consent (PIC) procedures, we urge Switzerland and Ghana to take into consideration the environmental impacts and possible unintended consequences of expanding the scope of Annex II to include non-hazardous e-waste. We are concerned that requiring PIC procedures for the transboundary movement of non-hazardous e-waste will not ensure that such waste, especially domestically generated e-waste, is managed in an environmentally sound manner. The adverse impacts to human health and environment associated with e-waste often result from unsafe recycling practices and improper disposal, therefore we believe that the most effective way to improve the situation is to address these problems more directly – by strengthening the environmentally sound recycling and waste management capacity in countries where improper management of e-waste is a problem. We do not think that requiring PIC will change the ability of countries to invest in environmentally sound management of e-waste. The United States is concerned that the proposal could cause confusion and inadvertently result in the treatment of reusable used electrical and electronic goods as waste, which would impede legitimate shipments of used equipment sent for repair, refurbishment and reuse. The associated costs, including the potential reduction in value of such products awaiting weeks or months or longer for approvals, would likely discourage these environmentally responsible and cost-effective practices, thus shortening the lifespans of electrical and electronic products and unnecessarily generating more waste. This unintended outcome would be counter to Convention efforts to reduce and minimize waste and could also undermine the work undertaken by Parties to develop and finalize the e-waste technical guidelines.

As a practical matter, we think that subjecting non-hazardous e-waste to prior informed consent procedures will reduce responsible trade in non-hazardous e-waste sent for environmentally sound recycling. Recycling needs economies of scale to be economically and commercially viable and in many locations, this can be best achieved through cross-border trade. Recycling, as well as repair or refurbishment, of highly complex electrical and electronic products typically requires specialized, high-capital facilities, equipment and expertise, which makes facilitating the transboundary movement of these electronics even more important when considering environmental and sustainability goals. We suggest Switzerland and Ghana consider that adding a PIC procedure would make it difficult for countries seeking to undertake transboundary movements to ensure proper management of electrical and

electronic waste, potentially resulting in improper disposal and a lost opportunity to recover valuable material in state of the art recycling facilities. Additionally, subjecting large volumes of non-hazardous electrical and electronic waste to PIC procedures would increase the burden on competent authorities in countries without robust recycling and waste management systems to process export notifications for other wastes controlled as hazardous under the Convention, resulting in longer storage times and increased risks for mismanagement. Overall, this could lead to such waste increasingly disposed improperly in countries lacking environmentally sound landfills, rather than managed in countries with robust recycling and waste management infrastructure.

The United States recognizes that there may be a need to revise the Convention's electrical and electronic waste listings to improve implementation of the Convention, and we encourage Switzerland and Ghana to take an approach that examines the full range of potential impacts of amendment proposals to ensure that the proposal effectively addresses the problem Parties are trying to solve – ensuring that e-waste is managed in an environmentally sound manner – while avoiding unnecessary barriers to legitimate trade for reuse activities for used electronic equipment and for recycling of non-hazardous e-waste.

Again, we appreciate the opportunity to provide early input on the proposal and may have additional comments after further review and once we better understand its potential impacts.

## 2. Basel Action Network (BAN)



turn back the toxic tide

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### **BAN Comments on the Proposal by Switzerland and Ghana to Amend the Basel Convention to Place Non-Hazardous e-Waste on Annex II of the Basel Convention**

Basel Action Network

June 2020

#### **I. Summary**

BAN has read with interest the proposal by Switzerland and Ghana to add a new entry to Annex II to cover all e-waste no matter whether it is hazardous or not. While BAN finds this a useful idea from a procedural standpoint, from the standpoint of substance, it fails to address the real problem. This idea fails to close the real loophole causing so much of the exploitive abuse of developing countries -- *the export of non-functional electronic equipment, hazardous or not, as "non-waste."*

It is this latter problem which is of greatest concern -- not the export of non-hazardous e-wastes. Indeed, it is this problem which has made it impossible to finally adopt the Guidelines on the Transboundary Movement of e-Wastes, and which has in fact been identified by Africa in no less than 3 different Bamako Convention decisions as being the most dangerous regulatory loophole utilized by unscrupulous traders, seeking to move e-scrap to Africa and other continents.

The traders have been allowed to do this in the name of repair and re-use and the false claim that such materials can help the poorer countries and therefore cannot be "wastes." Too often these claims prove to be false and the material is simply dumped or found to be unrepairable. And, even legitimate repair operations involve, at least in part, disposal (Annex IV) of the unrepairable fractions. It is from a legal and scientific standpoint, a grave mistake therefore to not also include these exports for repair within the control procedures of the Basel Convention.

If these exports are not included within Basel, all Basel legal tools become unavailable to the Parties. This includes the right to transparency (notification) to know what might be entering their territories, the right to assert environmentally sound management (ESM), or if such ESM is

not guaranteed, the right to deny entry of the material and to prosecute illegal traffic. All of these rights guaranteed under the Convention are thrown away if one can simply claim something as being a non-waste because it might be repaired.

In our experience and that of border agents all over the world, almost all e-waste that is traded too liberally to the detriment of the receiving country is *not* due to people identifying it as non-hazardous, but rather because they are identifying it as *not* being waste. It is difficult indeed to characterize most electronic waste as non-hazardous currently due to the prolific use of BFRs, leaded solders, phosphors, flammable lithium-ion batteries etc. No, that is rarely the claim made by the unscrupulous traders. T

The claim that is made is that they are *non-wastes* -- simply because of a stated intention to repair the equipment. Once this broken scrap is claimed to be a non-waste they can then move the material (hazardous or not) to any location in the world outside of the legal constraints of the Basel Convention.

It is for this reason that BAN strongly suggests that an amendment to the proposal by Switzerland, and Ghana is necessary. We propose that the e-waste listings must include these non-functional (claimed as repairable) e-wastes as well as those deemed non-hazardous as Annex II wastes.

This will finally accomplish what the MPPI and PACE agreed earlier, what the EU WEEE directive does in most part today, and what has been called for by the Parties to the Bamako Convention on three separate occasions -- *to define all used electronics that are not functional, as wastes subject to strict international control.*

## **II. Discussion**

### **Hazardous v. non-Hazardous e-Waste**

The question -- which e-wastes are hazardous and which are not-- has never been decisive as most agree that electronics, even in the post ROHS directive days, are hazardous. This may change in due time, but currently due to the additives placed into computer plastics (e.g. BFRs and lead), remaining lead found in circuitry solders, hazardous constituents of batteries including flammable solvents in lithium ion batteries, mercury laden backlights, largely inclusive data on liquid crystal displays and rare earth metals, all lead to the general thinking that e-waste is for the most part hazardous and certainly the burden of proof is upon the exporter to prove that it is not.

Indeed, paragraph 49 of the Interim e-Waste Guidelines states:

"49. E-waste should therefore be presumed to be hazardous waste unless it can be shown either that it does not exhibit hazardous characteristics or that it does not contain hazardous components or substances, in particular:"

In all of the research BAN has done over time, we have not ever seen exporters make claims that their waste is not hazardous and therefore should be exempt from Basel controls.

### **Wastes / non-Wastes**

In recent years it has been the question of waste v. non-waste and not the question of

hazardous waste v. non-hazardous that has been at the crux of e-waste export abuse and controversy.

This is the loophole that is exploited to the great harm of developing countries and is the reason for the lack of control on e-waste globally. By using the word "waste" at the beginning of the newly proposed Y49 listing, Switzerland and Ghana do not solve this matter and in fact leave us with the controversy of what is electronic waste and what is not. As currently written, the Swiss/Ghanaian proposal adds very little to the amount of exported material that is not already controlled, to that which will be controlled.

Even with the Swiss/Ghanaian proposal, traders can simply claim that the material they wish to export can move, no matter whether it is hazardous or not, is a non-waste. And why is it non-waste? Simply, they have claimed, because it shall be repaired. This is the problem that has been created by the infamous paragraph found in the TBM of e-waste guidelines -- now numbered as 32(b). It is this paragraph in fact that has made it impossible to conclude and finally adopt the e-Waste Guidelines as many Parties know this loophole is where the problem lies. At COP14 this problem was highlighted by India and other Parties and resulted in the following paragraph of the Decision 14/5:

"4. Acknowledges the need to look further into subparagraphs 32 (a) and 32 (b) of the revised technical guidelines referred to in paragraph 3 of the present decision, in particular the concerns of Parties on the distinction between waste and non-waste, to advance the work towards the finalization of the guidelines;"

### III. The Need to Close the "Repairables" Loophole

#### MPPI and PACE

In the initial days of the Basel Convention's work on the e-waste crisis, when the Mobile Phone Partnership Initiative (MPPI) and the Partnership for Action on Computing Equipment (PACE) were concluded, the vast majority of Parties agreed that if electronic equipment is not functional then it is a waste subject to control by the Basel Convention. This was the logical conclusion due to the fact that even export for repair operations involve the recycling and disposal of unrepairable residual materials.

For example, when a flat screen monitor is exported from Germany to Thailand to repair and replace the Cold Cathode Fluorescent Lamps (CCFLs) with LED lamps to be remarketed, the highly toxic mercury containing CCFLs are discarded, resulting in the same amount of contamination to the Thai territory as if it had been exported for landfilling. This example and many others, makes the need to consider repair as a waste operation quite clear.

#### European Union

Indeed, this is already the overarching conclusion of the European Union. In the WEEE directive on Wastes from Electronic and Electrical Equipment, the EU adopted Annex 6 which makes it clear -- except for a few exceptions (found in paragraph 2 of the Annex) -- that the electronic equipment in question is Waste Electronic and Electrical Equipment (WEEE) and not simply Electronic and Electrical Equipment (EEE):

[emphasis added]

"In order to distinguish between EEE and WEEE, where the holder of the object claims that he

intends to ship or is shipping used EEE and not WEEE, Member States shall require the holder to have available the following to substantiate this claim:

- (a) a copy of the invoice and contract relating to the sale and/or transfer of ownership of the EEE which states that the equipment is destined for direct re-use and that it is fully functional;
- (b) evidence of evaluation or testing in the form of a copy of the records (certificate of testing, proof of functionality) on every item within the consignment and a protocol containing all record information according to point 3;
- (c) a declaration made by the holder who arranges the transport of the EEE that none of the material or equipment within the consignment is waste as defined by Article 3(1) of Directive 2008/98/EC; and
- (d) appropriate protection against damage during transportation, loading and unloading in particular through sufficient packaging and appropriate stacking of the load."

As can be noted, the definition of waste for the EU hinges upon functionality where electronic equipment is concerned.

#### **Bamako Convention**

African Countries, acutely aware of the problem of unscrupulous traders using the reuse excuse, have sought to establish beyond any doubt that when electronic equipment is non-functional or untested then it is a hazardous waste and its entry into the continent of Africa is illegal if it contains a hazardous constituent or exhibits a hazardous characteristic.

The Bamako Convention's first conference of Parties adopted the following active paragraph in its decision I/15 on e-waste:

*"Calls upon, Parties and other African states that have not already done so to legally consider all non-functional or untested used electronic equipment as hazardous waste and prevent their importation into the African Continent."*

The Bamako Convention has at its second conference of Parties also adopted the following active paragraph in its decision 2/6 on e-waste:

*"Calls upon, Parties and other African states that have not already done so to legally consider all non-functional or untested used electronic equipment as hazardous waste and prevent their importation into the African Continent."*

And most recently, this year at COP3 the Parties went even further and singled out the need to amend the Bamako Convention to include in its Annex I all non-functional electronic equipment and to promote the removal of the "repairables" exception in the Basel Convention's Guidelines -- Paragraph 32:

*"Calls upon, parties and other African States that have not yet done so to legally consider all non-functional or untested used electronic equipment as hazardous waste and prevent the import into Africa of such equipment, and consider the addition to Annex I of all non-functional electronic equipment bearing in mind the procedures to be followed under Article 18, to ensure that traders do not make the African continent a target for foreign plastic waste;*

*Also calls upon, Parties and other African States that are Parties to the Basel Convention to promote the removal of the exception found in Paragraph 32, of the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment that will allow non-functional, hazardous e-wastes to be exported as non-waste and thus outside of the control procedures of the Basel Convention and in contradiction to the Bamako Convention;"*

Note that the Bamako Parties do not advocate for non-hazardous waste to be controlled but rather -- *non-functional electronic equipment to be controlled.*

#### **The Basel Ban Amendment**

The Ban Amendment -- the strongest legal expression of concern over harmful transboundary movements made at Basel level -- is now in force. Those who negotiated and ratified this important agreement never envisioned that it would not cover so-called "repairable" broken and hazardous electronic scrap. Yet, the current version of the TBM of e-Waste Guidelines allows for this to take place. It allows in Paragraph 32(b) for *broken hazardous electronics* to fall outside of the Basel Convention and the Ban Amendment, simply if one claims that the material might be repairable.

The TBM Guidelines is attempting to do what Guidelines are not supposed to do -- to legislate and remove existing obligations under the Convention and the Basel Ban Amendment at the same time. It is the right opportunity now for the Swiss/Ghanaian proposal to make it clear that controls over non-functional hazardous equipment are necessary and in keeping with the fact that repair destinations include disposal/recycling destinations.

Many countries have been calling for a clear distinction to be made between functional and non-functional in equipment when it comes to determining what e-waste is controlled. There has been no such call for making a distinction for non-hazardous waste. This is because unscrupulous traders have taken advantage of a simple claim that second hand electronic equipment should not be considered a waste. Thus, the expensive proposition of proving hazardousness via chemical analysis is not needed when its far easier to exercise the "repairables" loophole to skirt the obligations of the Basel Convention

#### **IV. Conclusion**

In summary, we believe that the idea of using Annex II to finally tackle the e-waste crisis as proposed by Switzerland and Ghana is a good one. However, in order to effectively address this crisis, we must target the real problem in the effort. The addition of controlled e-wastes must actually be those e-wastes identified by numerous studies and experiences around the world that have identified that the toxic tide of non-functional equipment claimed to be exported for repair presents a grave threat to global waste governance. The resulting exploitation does not help impoverished countries -- it poisons them. It does not improve the circular economy -- it exacerbates brute linearity.

This primary flaw in waste governance has already been identified by the EU, by African nations, and by most Parties earlier in the MPPI and PACE partnerships. This is the problem the revised Swiss-Ghanaian proposal, as suggested in this communication, should effectively address.

We therefore urge Switzerland and Ghana to amend their well-reasoned proposal to ensure



that all non-functional e-wastes are likewise effectively covered by the Basel Convention in Annex II as shown below in Appendix 1.

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## APPENDIX 1

### Proposed Annex II Texts

#### Swiss/Ghanaian Proposal

Y49 Waste electrical and electronic equipment not containing components included on list A and not containing or contaminated with ANNEX I constituents to an extent that the waste exhibits an ANNEX III characteristic; or waste electrical components not containing and not contaminated with ANNEX I constituents to an extent that the waste exhibits an ANNEX III characteristic (note the related entry on list A1180).

#### BAN's Amended Proposal

Y49 Non-functional or untested electrical and electronic equipment that is not destined for reuse, including repair, not containing components included on list A and not contaminated with ANNEX I constituents to an extent that the waste exhibits an ANNEX III characteristic; or waste electrical components not containing and not contaminated with ANNEX I constituents to an extent that the waste exhibits an ANNEX III characteristic (note the related entry on list A1180).

Y50 Non-functional or untested electrical and electronic equipment destined for reuse, including repair.

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## APPENDIX 2

### Graphic Summary of Proposals

Current Situation:

Trade in Used Electronic Equipment/ Current Situation Assuming Guideline Para. 32(b) is Accepted as Binding				
Fully Functional?	Claimed as Repairable in accordance with Interim Guideline?	Hazardous?	Likely to cause present or future harm	Basel Control Listing
yes	(Not applicable)	yes	medium	Free Trade
yes	(Not applicable)	no	low	Free Trade
no	no	yes	high	Annex VIII
no	no	no	medium	Free Trade
no	yes	no	medium	Free Trade
no	yes	yes	high	Free Trade

Change Proposed by Switzerland/Ghana:

Trade in Used Electronic Equipment Proposed by Switzerland/Ghana Assuming Para. 32(b) is accepted as Binding
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Fully Functional?	Claimed as Repairable in accordance with Interim Guideline?	Hazardous?	Likely to cause present or future harm	Basel Listing
yes	Not applicable	yes	medium	Free Trade
yes	Not applicable	no	low	Free Trade
no	no	yes	high	Annex VIII
no	no	no	medium	Annex II (Y49)
no	yes	no	medium	Free Trade
no	yes	yes	high	Free Trade

Change proposed by Switzerland/Ghana Amended as Proposed by BAN

Trade in Used Electronic Equipment Proposed by BAN Amending the Swiss/Ghanian Proposal, (alters 32(b) of Guideline)				
Fully Functional Electronic Equipment?	Claimed as Repairable in accordance with Interim Guideline?	Hazardous?	Likely to cause present or future harm	Proposed Basel Listing
yes	Not applicable	yes	medium	Free Trade
yes	Not applicable	no	low	Free Trade
no	no	yes	high	Annex VIII
no	no	no	medium	Annex II (Y49)
no	yes	no	medium	Annex II (Y50)
no	yes	yes	high	Annex II (Y50)

As can be seen by the above diagrams, the latter proposal which amends the Swiss/Ghanaian proposal is most effective in controlling potential harm of high and medium levels. This latter proposal only allows free trade in fully functional equipment (commodities).

### 3. Bureau of International Recycling (BIR)



#### Observation by the Bureau of International Recycling to OEWG-12 on Agenda Item 3.c.ii. Providing further legal clarity

##### **Re: the Review of Annex IV Section B and the need to recognize mechanical recycling operations for organic substances, metals and other inorganic substances**

Developing countries may recognize the Basel Convention's Annex IV as only affecting hazardous waste, in contrast Industrialized countries apply the Annex IV operations also to non-hazardous wastes. For instance, Industrialized countries use Annex IV Section B also for non-hazardous recyclables (See the [OECD Decision C\(2001\)107/FINAL](#) - Appendix 5.B: Recovery Operations and the [EU Waste Framework Directive](#) - Annex II Recovery Operations.)

Recycling Operations are those critical recovery operations that make the Circular Economy circular.

Whether organic or inorganic, the recyclable material infeed determines the technologies and techniques used to recycle them. The science of recycling includes Physical (mechanical), Chemical, and Biological operations. Proposals to declassify Physical (mechanical) operations, as not recycling, and instead classifying them as interim 'mechanical treatment' is a huge distortion that will disadvantage developing countries that do not have 'high tech' or 'advanced recycling'.

To achieve the Sustainable Development Goals 11\* and 12\*\* developing countries in particular, will need to maintain mechanical recycling operations amongst others for organic substances, metals, and other inorganic substances in the Basel Convention's Annex IV Section B.

Regarding the review of Annex IV Section B developing countries in particular should not agree to 'mechanical treatment' as an interim operation in the absence of explicit recognition of mechanical recycling operations for organic substances, metals and other inorganic substances.

\* Indicator 11.6.1: Proportion of municipal solid waste collected and managed in controlled facilities out of total municipal waste generated, by cities

\*\*Indicator 12.5.1: National recycling rate, tons of material recycled

*Founded in 1948, BIR was the first federation to support the interests of the recycling industry on an international scale. Today, BIR represents over 760 member companies from the private sector and 37 national associations, in more than 70 countries. Together, these members form the largest international recycling federation.*

*BIR comprises four Commodity Divisions : iron & steel, non-ferrous metals, paper and textiles, and has four Commodity Committees dealing with stainless steel & special alloys, plastics, tyres & rubber, and E-scrap.*

*BIR is a non-profit organisation under Belgian law.*

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#### **BIR – THE GLOBAL FEDERATION OF RECYCLING INDUSTRIES**

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#### 4. Institute of Scrap Recycling Industries (ISRI)



ISRI is the voice of the recycling industry, promoting safe, economically sustainable and environmentally responsible recycling through networking, advocacy and education.

**STATEMENT OF  
INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INC. (ISRI)  
TO THE BASEL CONVENTION OPEN ENDED WORKING GROUP (OWEG-12)  
3 September 2020**

***PROVIDING FURTHER LEGAL CLARITY: Expert Working Group on the Review of Annexes***

**Annex IV Section B Proposals**

*We align our comments with the Bureau of International Recycling (BIR) and offer additional details below.*

**Recycling** is the series of activities during which obsolete, previously used, off-specification, surplus, or incidentally produced materials are processed into specification-grade commodities and consumed as raw-material feedstock, in lieu of virgin materials, in the manufacture of new products. The series of activities that make up recycling include collection, processing of end-of-life products into raw-material, and/or brokering – including, but not limited to sorting, dismantling, crushing, shredding, pelletizing, melting, extruding, smelting – and shall result in subsequent consumption by a materials and product manufacturer.

Material processed into a specification-grade commodity through this system is valuable feedstock for manufacturing.

Every Party to the Basel Convention has some segment of this supply chain. Every step of recycling adds value to material, thus supporting jobs and economic opportunity. Transboundary movements of these end-of-life materials – for purposes of whatever stage of the recycling and manufacturing supply chain – occur for purposes of keeping these materials out of the environment. The result is a true Circular Economy.

It is for that reason that ISRI is concerned by proposals that seek to dilute the definition of recycling. Specifically, we oppose the proposals to redefine R3, R4 and R5 that replace mechanical recycling with other recycling operations while also reclassifying most recycling operations as “preliminary treatment” or an interim operation for the following reasons:

- A competitive advantage will be given to the very developed countries that have tabled these proposals: materials from outside their territories will be regulated much like solid waste, but materials inside their territories will be regulated as products. (See the [OECD Decision C\(2001\)107/FINAL](#) - Appendix 5.B: Recovery Operations and the [EU Waste Framework Directive](#) - Annex II Recovery Operations);
- Developing countries’ efforts to recycle through collection, sortation, dismantling, etc. (including with the use of manual processes) will not be considered recyclers by this proposal; and
- Expressly excluding mechanical recycling operations, which use state-of-the art techniques and represent the majority of recycling operations worldwide, will result in replacing them by substantially more energy-intensive and potentially polluting operations that use unproven technologies, thus endangering Parties’ efforts to meet Sustainable Development Goals.

***ISRI recommends Parties to oppose any and all R code proposals that reclassify the current R3 [organic substances which are not used as solvents], R4 [metals and metal compounds] and R5 [inorganic materials] recycling/reclamation operations so as to exclude mechanical recycling operations, and to oppose any and all proposals for interim operations that include mechanical treatment.***

[continued on next page]



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**Swiss-Ghana Proposal for an Annex II Entry on WEEE**

In support of the circular economy, ISRI's electronics recycling members collect and manage used electronics according to the highest standards of environmentally sound management as directed to them by third-party certification programs. In support of bridging the digital divide, our members are responsibly collecting, testing and as needed, refurbishing used electronics for reuse or direct reuse in markets where there is high demand for second-hand electronics. These markets exist in developed and developing countries, and our members are supporting the opportunity to get affordable technology into the hands of those that need the technology to help raise themselves out of poverty and, sometimes, oppression.

Second-hand electronics traded across borders for direct reuse, or for repair, refurbishment and remanufacturing for purposes of reuse, are products, not waste, and would thus fall outside the scope of the Basel Convention and its notification procedures. Furthermore, not all electronics processed for purposes of valuable material recovery are hazardous in national legislations around the world.

Without clarity on the waste / non-waste distinctions that are the cornerstone of the E-Waste Technical Guidelines, which have not been formally adopted, we are concerned that an Annex II categorization for all used electronics will be interpreted as an implicit hazardous categorization by many governments, thus doing more to harm the environment than help because of the disincentive to trade that would come from an over-burdened Prior Informed Consent infrastructure in much of the world.

*ISRI is the Voice of the Recycling Industry™, with 1,300 member companies operating at more than 4,000 locations in the United States and across the globe. Our members represent the entire recycling chain, including companies that process, broker, and consume metals, paper, plastics, glass, textiles, rubber, and electronics, whether sourced from commercial, residential, or industrial operations. Our membership also includes those companies that manufacture and distribute the optical and infrared scanners, balers, shredders, conveyors and other highly advanced and technical equipment that are used in all parts of the recycling chain.*



## 5. Information Technology Industry Council (ITI)

Dear BRS Secretariat –

Please find below the text of an intervention by ITI on Agenda Item 3.c.ii.

Thank you

Russ LaMotte (ITI representative)

### **Russ LaMotte**

Principal

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\*\*\*\*\*

These comments are submitted on behalf of the Information Technology Industry Council (“ITI”).

ITI appreciates the work of the EWG on the review of Annexes to date, and looks forward to continuing to participate in its work.

We support the progress that the EWG has made in clarifying that legitimate shipments for repair, refurbishment, failure analysis, or direct re-use are not waste shipments subject to Basel controls. Such an approach is consistent with the Convention, the provisionally adopted Technical Guidelines, and the Glossary of Terms.

Specifically, we support the changes to Annex IV that clarify that Annex IV operations do not include re-use and repair operations, as such operations are not waste management operations. Ensuring that shipments for re-use and repair are non-waste shipments is consistent with recent work under the Basel Convention and is key to facilitating a circular economy.

However, we do not support the proposal to add “R14: Preparing for re-use” as a disposal operation. We believe that proposal would significantly reduce legal clarity with regard to the classification of equipment destined for legitimate re-use and repair. The text as drafted would also undermine the recent progress parties have made in clarifying that shipments for repair and refurbishment are not wastes.

We encourage parties to explore alternative approaches for assessing this proposal at the national level in different regions or through guidance before expanding the Annex with a new R14 entry. That experience could then be shared and the parties could consider its relevance at the global level.

We have also reviewed with interest the alternative proposal presented by Switzerland and Ghana to subject all non-hazardous WEEE into Annex II. ITI fully supports the ESM of all WEEE regardless of whether it is hazardous or non-hazardous under the Basel Convention. We also agree that ESM and material efficiency are best achieved by ensuring both hazardous and non-hazardous WEEE is recovered at “state of the art treatment” facilities. In practice, however, that will often require transboundary movement of WEEE to high-performing recovery facilities. For this reason, we are concerned that the proposed amendment will, as drafted, have the unintended effect of *increasing* barriers to the efficient collection and movement of WEEE to facilities capable of ensuring ESM. That will as a result

increase the risk that non-hazardous WEEE will be mismanaged or simply disposed of in-country (instead of being responsibly recycled). It will also result in loss of the significant materials value present in the WEEE. The proposed Annex II listing could also impede the movement of used electrical and electronic equipment for repair and refurbishment if ongoing negotiations regarding revisions to Annex IV operations and related text in Annex IX do not reaffirm that used equipment and components managed for legitimate repair, refurbishment and reuse are non-wastes. For these reasons, we believe that proposals for significant amendments to Annex II should be supported with robust technical and policy details to avoid unintended consequences.

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**XV. Agenda item 3 (d) (i): Basel Convention Partnership Programme****A. Parties****1. Norway**

Thank you, Chair.

Norway welcomes the successful launch of the Partnership on Plastic Waste. The Partnership has been able to agree on a work program for 4 project groups where important topics of plastic waste can be addressed. The whole life cycle of plastic is covered, from eco design and prevention, to environmentally sound management of the waste. This is an important achievement especially in this year where Covid 19 challenges the international community.

Norway believes the partnership can be an important arena for further development of discourse on plastic wastes between stakeholders. Through its activities, the partnership can play an important role in the global efforts to tackle plastic waste.

Norway looks forward to working actively in the partnership also in the next biennium, and will support a decision to extend the mandate of the partnership after the next COP.

Thank you.

**2. Switzerland**

**3 (d) (i) Partnerships**

**Follow-up Partnership on Computing Equipment PACE II**

- Switzerland welcomes the follow-up of the Partnership on Computing Equipment and thanks the two co-chairs and the members for their work. The activities executed reflect the goal to implement the mission of PACE on the practical level in the different regions of the world.
- Switzerland supports the draft TORs and the draft working plan for the biennium 2020-2021 and its adoption at COP15. In the meantime we support the further implementation of activities, taking into account possible additional comments made at this meeting. The focus should continue to lie on practical implementation, further training and awareness raising.
- Switzerland is looking forward to the activities planned in the draft work plan for the biennium 2022 –2023 to be developed for consideration at COP 15.

**Partnership on Plastic Waste**

- Switzerland strongly supports the work of the Plastic Waste Partnership PWP and welcomes the work done so far.
- We are happy and will continue being member WG PWP - Working Group Plastic Waste Partnership itself, co-chairing Project Group 2 and being also member of Project Group 1 and co-chair and member of PG 2.
- We are looking forward to the first interim results that will be presented at the next COP.



## B. Observers

### Plastics Europe



PlasticsEurope

#### PlasticsEurope (2 min) intervention OEWG virtual meeting (1 & 3 Sep 2020)

We welcome the opportunity given to PlasticsEurope\* to make an intervention at the OEWG.

Plastics play an essential role in ensuring a sustainable future and are therefore too valuable a resource to end up as waste in the environment – which is unacceptable in any circumstance.

The recently adopted 'plastics waste amendments' will drastically change future trade flows.

There are already many reports providing figures about trade flows and these need to be assessed for example by the Basel Plastic Waste Partnership.

In the EU, PlasticsEurope is considering conducting a survey to assess existing and planned capacities for chemical recycling and trade flows- the results of which, we would hope to present at a future OEWG meeting.

At global level, we would like to understand how the countries and specifically the LDCs (least developed countries) that currently lack the infrastructure for the environmentally safe management (ESM) of plastic wastes are going to manage the transition period before they have the appropriate infrastructure in place. For example, it might be helpful if they were able to ship mixed plastic waste to countries with existing ESM infrastructure in the interim. We would welcome comments from these countries.

PlasticsEurope and its member companies are committed to advancing a circular economy for plastics including developing innovative solutions to improve the recyclability and resource efficiency of plastics, as well as building the capacity for their environmentally safe management and for their recyclability and recovery, of which chemical recycling (among others) is a key component.

*\*PlasticsEurope is one of the leading European trade associations with more than 100 member companies, producing over 90% of all polymers across the EU27 member states plus Norway, Switzerland, Turkey and the UK. The European plastics industry makes a significant contribution to the welfare in Europe by enabling innovation, creating quality of life to citizens and facilitating resource efficiency and climate protection.*

[www.plasticseurope.org](http://www.plasticseurope.org)

## **XVI. Agenda item 3 (d) (ii): Cooperation with the World Customs Organization on the Harmonized Commodity Description and Coding System**

### **Parties**

**Chile**

### **CHILE'S STATEMENT ON COOPERATION WITH THE WORLD CUSTOMS ORGANIZATION ON THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM**

\*\*\* ENGLISH BELOW \*\*\*

Respecto a las materias “Cooperación con la Organización Mundial de Aduanas sobre el Sistema Armonizado de Designación y Codificación de Mercancías”, y en relación al proceso de codificación, apertura de códigos arancelarios y la realización de reuniones anuales para la evaluación de estos temas, es de nuestro interés continuar cooperando con el Comité del Sistema Armonizado de la Organización Mundial de Aduanas (OMA), a fin de facilitar la inclusión de los residuos amparados por el Convenio de Basilea sobre el Sistema Armonizado de Designación y Codificación de Mercancías.

Además, frente a la incorporación de químicos en los Convenios de Estocolmo, Rotterdam y Minamata, surge la necesidad de contar con nuevos códigos arancelarios que permitan apoyar la implementación de controles necesarios para el cumplimiento de las obligaciones que esto implica.

Chile insta a las respectivas Secretarías de los Convenios a continuar acercándose a la OMA para coordinarse respecto a solicitudes en el marco del Sistema de Codificación de Mercancías.

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Regarding the issue of “Cooperation with the World Customs Organization on the Harmonized Commodity Description and Coding System”, which deals with the codification process, the opening of tariff codes and the holding of annual meetings for the evaluation of these issues, it is our interest to continue cooperating with the Harmonized System Committee of the World Customs Organization (WCO), in order to facilitate the inclusion of waste covered by the Basel Convention on the Harmonized Commodity Description and Coding System.

In addition, and taking into account the incorporation of chemicals in the Stockholm, Rotterdam and Minamata Conventions, there is a need to have new tariff codes that allow supporting the implementation of controls necessary for compliance with the obligations that this implies.

Chile encourages the respective Secretariats of the Conventions to continue approaching the WCO in order to coordinate regarding requests under the Merchandise Coding System.

## **XVII. Agenda item 4: Work programme of the Open-ended Working Group for the biennium 2022–2023**

### **Parties**

Colombia

**Colombia's intervention on item 4 about the work programme of the Open-ended Working Group for the biennium 2022–2023**

**\*\*\*English below\*\*\***

Gracias, señora presidenta. Acogemos con beneplácito el programa de trabajo propuesto para el 2022-2023. Sin embargo, nos parece importante que se puedan hacer mayores esfuerzos para trabajar en los siguientes temas: i) avanzar en la implementación de las enmiendas adoptadas en materia de desechos plásticos las cuales tendrán efecto a partir del 1 de enero de 2021; ii) continuar con el trabajo de cooperación con la Organización Mundial de Aduanas teniendo en cuenta el auge en el movimiento transfronterizo de desechos eléctricos y electrónicos y desechos plásticos; y iii) avanzar decididamente en acciones concretas para priorizar los trabajos en torno a los métodos electrónicos respecto de los documentos relativos a las notificaciones y los movimientos ya que se trata de un instrumento que puede ayudar a mejorar la efectividad, confiabilidad y oportunidad de las notificaciones de movimientos transfronterizos y sus autorizaciones. Además de que facilitaría el trabajo de las autoridades competentes involucradas en el PIC. Gracias señora Presidenta.

Thank you Chair. We welcome the proposed work program for 2022-2023. Nevertheless, we consider important that greater efforts be made to work on the following matters: i) advance in the implementation of the amendments adopted on plastic waste, which will take effect as of January 1, 2021; ii) continue cooperative work with the World Customs Organization, taking into account the growing stream in the transboundary movement of electrical and electronic waste and plastic waste; and iii) decisively advance in concrete actions to prioritize the work on electronic methods with respect to documents related to notifications and movements, since it is an instrument that can help improve the effectiveness, reliability and timeliness of notifications of transboundary movements and their authorizations. In addition to facilitating the work of the competent authorities involved in the PIC. Thank you Chair.