

# Marine plastic litter and microplastics: The contribution of the Basel Convention

## I. Introduction

1. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal entered into force in 1992. It has three principal aims: minimizing the generation of hazardous wastes and other wastes, controlling their transboundary movements and promoting their environmentally sound management. There are 187 Parties to the Convention.

2. The thirteenth meeting of the Conference of the Parties (COP), held in 2017, included in the work programme of one of its subsidiary bodies – the Basel Convention Open-ended Working Group (OEWG) – a remit to consider relevant options available under the Convention to further address marine plastic litter and microplastics, taking into account, inter alia, the assessment requested by the United Nations Environment Assembly of the United Nations Environment Programme in its resolution 2/11, any relevant resolution adopted by the Environment Assembly at its third session and existing guidance documents and activities under the Basel Convention that addressed issues related to marine plastic litter and microplastics. The OEWG was further requested to develop a proposal for possible further action, within the scope of the Convention and avoiding duplication with activities relating to the matter in other forums, for consideration by the COP at its fourteenth meeting.

3. The OEWG met in September 2018. It agreed draft elements, set out in the annex to its decision OEWG-11/18, which should be a basis for decisions by the COP on further actions on marine plastic litter and microplastics. These elements include, for example, emphasizing that work under the Basel Convention can and will play an important role in addressing marine plastic litter and microplastics, the need to avoid duplication with work being undertaken in other international forums, and the need to update the technical guidelines on plastic wastes which were adopted in 2002. Specifically, the OEWG recommended that the COP should establish a Basel Convention Partnership on Plastic Wastes. The draft decisions for consideration by COP-14 are currently being finalised by the Secretariat in the light of further comments submitted by Parties and others by 17 December 2018.

4. The OEWG also recommended that the COP consider whether to amend an entry (entry B3010) on solid plastic waste in Annex IX to the Convention and, if so, in what form and noted the intention of the Government of Norway to submit a proposal to amend Annex II to the Convention.

5. The COP will consider these issues at its fourteenth meeting (29 April–10 May 2019). The COP will also have before it any relevant decisions of the fourth meeting of the United Nations Environment Assembly taking place in March 2019.

6. Decisions OEWG-11/8 and OEWG-11/7 are reproduced in the annex to the present paper. The report of the eleventh meeting of the OEWG is available on the website of the Basel Convention.<sup>1</sup>

## II. Basel Convention Partnership on Plastic Wastes

7. The Basel Convention has considerable experience of using partnership approaches to bring together a wide range of actors to promote environmentally sound management of wastes – for example on computing equipment, and most recently on household waste.

8. The OEWG recommended that the COP should establish a new partnership to address plastic wastes. The proposed goal would be “to improve and promote the environmentally sound management of plastic wastes and minimize their generation so as to reduce significantly, and in the long-term eliminate, the discharge of plastic and microplastics into the environment and in particular the marine environment”.

9. The Partnership would aim to promote dialogue amongst governments, regional and local authorities, Regional Seas Programmes, intergovernmental organizations, private sector, non-governmental organizations and academia; to foster best practice solutions, and make recommendations; and to coordinate and cooperate, as appropriate, with other bodies involved in activities concerning the management of plastic wastes, and to build on the body and knowledge currently existing on best practices, successes and challenges.

10. There was support for establishing a partnership on these lines at the OEWG meeting not only from Parties but also from others including trade associations and NGOs. Parties and others have been invited to comment on the terms of reference and the tasks which might be undertaken by the Partnership and on a work programme for the first biennium. The Secretariat was requested to revise the draft terms of reference of the partnership considered by the OEWG and to prepare a draft work

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<sup>1</sup> <http://www.basel.int/tabid/6258/Default.aspx>.

programme of the partnership for the biennium 2020–2021, taking into account the discussions at OEWG-11 and comments and suggestions received from Parties and others, for consideration and possible adoption at COP-14.

### III. Possible amendments to the Convention

11. The COP will consider proposals to amend the Annexes of the Convention, submitted by the Government of Norway. The aim of amendments, as described by Norway, is to clarify the distinction between:

- (a) Hazardous plastic waste already covered by the Basel Convention (Annex I - wastes),
- (b) Problematic streams of plastic waste that should fall under the Basel Convention, for instance due to a mixture of different plastics, mixed with other wastes or contaminated to an extent which prevents recycling in an environmentally sound manner (Annex II - wastes), and
- (c) Uncontaminated, pre-sorted plastic materials for recycling, prepared to a specification and suitable for immediate recycling (Annex IX - wastes).

12. The two first categories would fall under the Prior Informed Consent procedure of the Basel Convention (“the PIC procedure”); the third category would not. Norway has stated the rationale for the amendments is that currently too much plastic waste is exported to operators unable to manage it in an environmentally sound manner, substantially increasing the risk that the plastic waste will be discharged into the environment and ultimately becoming marine litter. The changes would also create an incentive to prepare plastic waste in so that it can be more readily recycled, contributing to a circular economy.

13. To achieve this Norway has formally proposed an amendment to each of Annexes II, VIII, and IX to the Convention. The amendments are currently open to comments by Parties and will be carefully considered by the COP; the final outcome of this consideration could therefore be different from the current text of the proposed amendments. Norway has provided the following informal, summary description of the effects of the proposed amendments.

14. The amendment to Annex II would bring certain plastic wastes subject to transboundary movement within the scope of the PIC procedure. The procedure already applies to plastic wastes which meet the criteria set out in the Annexes which determine whether wastes are considered hazardous. Annex II lists further categories of waste which, although not hazardous wastes according to the Convention, require special consideration. The effect of adding plastic wastes to Annex II would be that the basic obligations of the convention regarding “other wastes” would apply to them – for example, parties would be required to ensure that their generation is reduced to a minimum, that there are adequate disposal facilities for environmentally sound management located if possible within Parties’ territories, and that transboundary movements are minimised consistent with environmentally sound and efficient management of such wastes.

15. The second amendment concerns Annex VIII. This Annex lists specific wastes which are presumed to be ‘hazardous’ under the convention, unless it can be shown that they do not in fact have hazardous properties. The amendment would add plastic wastes to this list if they contain certain hazardous constituents as per Annex I. Norway has explained that this is a consequential amendment not intended to change what is considered hazardous plastic waste under the convention.

16. The third amendment concerns Annex IX. This Annex lists categories of waste which are *prime facie* not to be regarded as ‘hazardous wastes’, unless they arise from the waste streams or contain hazardous substances to the extent that they show hazardous properties. In effect, the Annex gives these plastic wastes a ‘green light’ so that they fall outside the PIC procedure. Currently Annex IX includes an entry covering a wide range of solid plastic waste<sup>2</sup>.

17. The proposed amendment would limit the scope of plastic waste covered by the Annex, to include only consignments of plastic waste not mixed or contaminated to an extent which prevents recovery in an environmentally sound manner. Clean, sorted batches of waste which are suitable for recycling would therefore continue to be outside the PIC procedure, because they would not be regarded as hazardous and they would also fall outside the new addition proposed for Annex II.

18. The amendment to Annex IX was considered by the OEWG, which recommended that the COP should consider whether that Annex should be amended and if so, in what form.

19. These amendments would potentially bring a wider range of plastic wastes with the scope of the Convention as “other wastes requiring special consideration” – so that the obligations of the convention would apply including those on prior informed consent. Uncontaminated and sorted plastic wastes for recycling, prepared to a specification and suitable for immediate recycling would

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<sup>2</sup> Entry B3010 of Annex IX to the Basel Convention.

remain outside the scope of the PIC procedure. The COP will need to consider whether these changes are desirable, and if so the precise definitions of the categories to be covered.

20. If adopted by the COP, any amendment to the Annexes would come into effect six months after the Depositary has communicated it to Parties, except for those Parties that, within the deadline, declare that they cannot accept it.

#### **IV. Technical guidelines on plastic wastes**

21. The COP adopted “Technical guidelines for the identification and environmentally sound management of plastic wastes and for their disposal” in 2002.<sup>3</sup> These guidelines focus mainly on the technical aspects of the management of plastics once they become waste, with particular emphasis on their recycling. The environmental and health impacts of plastic waste are not addressed, nor is the reduction of hazard potential of plastic products and waste.

22. The OEWG agreed that the COP consider updating these guidelines and that arrangements should be made for an expert group to undertake this work. It also agreed that the COP consider inviting Parties to provide information on their experiences in using the technical guidelines.

#### **V. Technical assistance and capacity-building**

23. The OEWG noted that the technical assistance plan for the implementation of the Basel Convention, the Rotterdam Convention<sup>4</sup> and the Stockholm Convention<sup>5</sup> provides opportunities for capacity-building by Parties including on marine plastic litter and microplastics.

24. In particular, the regional centres of the Basel and Stockholm Conventions have already done extensive work to address pollution by marine plastics and microplastics, and the OEWG agreed that the COP should consider inviting them to continue this work.<sup>6</sup>

25. The OEWG also agreed that the COP should consider asking the Secretariat to use the clearing house mechanism of the Basel, Rotterdam and Stockholm Conventions to gather information about regional and national initiatives on marine plastic litter and microplastics and to make such information readily available, taking into account and in cooperation with other initiatives.

#### **VI. Other issues**

26. Plastics may contain potentially hazardous substances, including additives such as plasticizers and flame retardants, or may be contaminated by hazardous substances. As a result, plastic wastes may pose a risk to human health and marine ecosystems as marine plastic litter and microplastics. The OEWG therefore agreed that the COP consider welcoming the work of the Stockholm Convention to eliminate or control the production or use of persistent organic pollutants, and the work of the Strategic Approach to International Chemicals Management, in particular in relation to nanomaterials and to chemicals in products.

27. The OEWG also agreed that the COP consider addressing public awareness, education and information exchange, and in particular how the Parties can most effectively make relevant technical, social and economic information and expertise available by building on existing work, taking into account the scope of the new partnership on plastic waste, and the work of the United Nations Environment Programme and other agencies in order to achieve maximum impact and avoid duplication.

28. It also agreed that the COP consider what data should be gathered, and by whom, related to the generation, disposal of, and transboundary movement of plastic wastes in different waste streams; the environmental, economic and social impact of plastic wastes; and national policies and progress towards the environmentally sound management of plastic wastes.

29. Finally, it agreed that the COP should consider whether, how and when the COP should assess the effectiveness of the measures taken under the Convention to address plastic waste contributing to marine plastic litter and microplastics.

#### **VII. Conclusion**

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<sup>3</sup> Decision VI/21 and document UNEP/CHW.6/21.

<sup>4</sup> The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

<sup>5</sup> The Stockholm Convention on Persistent Organic Pollutants.

<sup>6</sup> UNEP/CHW/OEWG.11/INF/23.

30. The OEWG invites the Basel Convention COP to consider adopting a comprehensive set of decisions addressing plastic wastes, with the aim of preventing pollution by marine plastic litter and microplastics. Many of the actions will fall within the existing programmes under the Convention – for example, the work on technical assistance – or development of existing technical guidelines. Other activities would be new, such as the creation of a new partnership to deal with plastic wastes. The recommendations also reflect the importance of working closely with other organisations and initiatives, in order to achieve maximum impact and to avoid duplication.

## Annex

### OEWG-11/8: Marine plastic litter and microplastics

#### *The Open-ended Working Group*

1. *Welcomes* the report on possible options available under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal to further address marine plastic litter and microplastics<sup>7</sup> and takes note of the information on activities related to marine plastic litter and microplastics undertaken by Basel Convention regional and coordinating centres;<sup>8</sup>
2. *Agrees* that the draft elements set out in the annex to the present decision should be a basis for a decision by the Conference of the Parties at its fourteenth meeting on further actions on marine plastic litter and microplastics;
3. *Invites* Parties and observers to submit comments on those draft elements to the Secretariat by 31 October 2018;
4. *Requests* the Secretariat to prepare a draft decision based on those draft elements, taking into account the comments received pursuant to paragraph 3 of the present decision, for consideration by the Conference of the Parties at its fourteenth meeting;
5. *Also requests* the Secretariat to reflect the elements set out in sections 7, 8 and 9 of the annex to the present decision in the draft decisions on relevant agenda items to be considered by the Conference of the Parties at its fourteenth meeting;
6. *Welcomes with appreciation* the proposal submitted by the Government of Norway on the establishment of a plastic waste partnership;
7. *Recommends* to the Conference of the Parties at its fourteenth meeting the establishment of a partnership under the Basel Convention on plastic wastes that also addresses marine plastic litter and microplastics;
8. *Invites* Parties and others to provide comments on the draft terms of reference of the partnership set out in the annex to document UNEP/CHW/OEWG.11/INF/39 and suggestions on elements of the work programme of the partnership for the biennium 2020–2021 by 17 December 2018;
9. *Requests* the Secretariat to revise the draft terms of reference of the partnership and prepare a draft work programme of the partnership for the biennium 2020–2021, taking into account the discussions at the eleventh meeting of the Open-ended Working Group and comments and suggestions received pursuant to paragraph 8 of the present decision, and to submit the revised draft terms of reference and the draft work programme to the Conference of the Parties at its fourteenth meeting for its consideration and possible adoption;
10. *Takes note* of decision OEWG-11/7 on amendments to Annex IX to the Convention and the intention of the Government of Norway, as expressed at the eleventh meeting of the Open-ended Working Group, to submit a proposal to amend Annex II to the Convention for consideration and possible adoption by the Conference of the Parties at its fourteenth meeting;
11. *Requests* the Secretariat to communicate the present decision to the open-ended ad hoc expert group referred to in paragraph 10 of resolution 3/7 of the United Nations Environment Assembly and to the United Nations Environment Assembly at its fourth session.

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<sup>7</sup> UNEP/CHW/OEWG.11/INF/22.

<sup>8</sup> UNEP/CHW/OEWG.11/INF/22/Add.1.

## **Annex to decision OEWG-11/8**

### **Draft elements as a basis for a decision on marine plastic litter, to be considered at the fourteenth meeting of the Conference of the Parties, on which Parties and others are invited to comment**

*Note: Some of the elements may be in preambular paragraphs.*

#### **1. General**

(a) Reconfirm that marine plastic litter and microplastics are an issue of serious global concern;

(b) Emphasize that work under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal can and will play an important role in addressing this problem;

#### **2. Preventing and minimizing the generation of plastic wastes**

(a) Recognize the relevance of the Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes (decision BC-12/2) and the importance of the activities identified in the road map for action on its implementation in addressing plastic wastes, including challenges related to marine plastic litter;

(b) Emphasize the need to adopt a lifecycle approach and the importance of the waste management hierarchy;

(c) Encourage Governments, industry and consumers to make efforts to prevent and minimize the generation of plastic wastes (e.g. relation to single-use plastics) and improve the environmentally sound management of plastic wastes, in particular in order to prevent plastics from entering the marine environment from land-based sources;

(d) Welcome the many initiatives that countries, industry, regional centres and civil society have taken in response to the challenge of marine plastic litter and microplastics, including regulatory action, financial and other incentives, extended producer responsibility, public awareness and voluntary action, and encourage further efforts;

#### **3. Removing hazardous constituents from plastic wastes**

(a) Note that plastics may contain potentially hazardous substances, including additives such as plasticizers and flame retardants, or may be contaminated by hazardous substances, and as such may pose a risk to human health and marine ecosystems as marine plastic litter and microplastics;

(b) Welcome the work of the Stockholm Convention on Persistent Organic Pollutants to eliminate or control the production or use of persistent organic pollutants that may reduce the risk associated with marine plastic litter and microplastics at the global level;

(c) Welcome the work of the Strategic Approach to International Chemicals Management, in particular in relation to nanomaterials and to chemicals in products that may reduce the risk associated with marine plastic litter and microplastics at the global level;

#### **4. Scope of the Basel Convention: definition of wastes covered**

Consider whether any additional constituents or characteristics should be added to Annex I or Annex III, respectively, to the Convention through the ongoing work by the expert working group on review of annexes;

#### **5. Technical and policy guidance**

(a) Decide to update the technical guidelines for the identification and environmentally sound management of plastic wastes and for their disposal adopted in 2002, inter alia to address the challenge of marine plastic litter and microplastics and establish a group for this purpose; invite Parties to indicate their interest in leading the group; and request the Secretariat to support the group;

(b) Invite Parties to provide information on their experiences in using the technical guidelines on plastic wastes;

**6. Household Waste Partnership**

Request the Household Waste Partnership to coordinate closely with the new partnership on plastic wastes to be established;

**7. Capacity-building, regional centres and the clearing house mechanism<sup>9</sup>**

(a) Note that the technical assistance plan for the implementation of the Basel Convention, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants provides opportunities for capacity-building by Parties;

(b) Welcome the extensive work that the regional centres of the Basel and Stockholm conventions have already done, and invite them to continue their activities;<sup>10</sup>

(d) Request the Secretariat to utilize the clearing house mechanism to gather information about regional and national initiatives, including those on marine plastic litter and microplastics, taking into account and in cooperation with other initiatives, and to make such information readily available;

**8. Financial support<sup>11</sup>**

(a) Welcome the voluntary contributions by Governments and the support that the Global Environment Facility and the United Nations Environment Programme special programme on institutional strengthening<sup>12</sup> have provided;

(b) Encourage them, according to their mandates and the priorities that have been established, to continue to support in particular projects that will help to address the problem of plastic wastes, including marine plastic litter and microplastics;

(c) Encourage further voluntary contributions to support work on those issues;

**9. Cooperation with other international organizations and initiatives<sup>13</sup>**

Welcome the engagement of the Secretariat with other international organizations and encourage the Secretariat to continue to work closely with such organizations;

**10. Public awareness, education and information exchange**

Consider how the Parties to the Convention can most effectively make relevant technical, social and economic information and expertise available by building on existing work, taking into account the scope of the new partnership on plastic wastes, and the work of the United Nations Environment Programme and other agencies in order to achieve maximum impact and avoid duplication;

**11. Data collection and progress assessment**

(a) Consider what data should be gathered, and by whom, related to the generation, disposal of, and transboundary movement of plastic wastes in different waste streams; the environmental, economic and social impact of plastic wastes; and national policies and progress towards the environmentally sound management of plastic wastes;

(b) Consider whether, how and when the Conference of the Parties should assess the effectiveness of the measures taken under the Convention to address plastic wastes contributing to marine plastic litter and microplastics.

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<sup>9</sup> To be considered under the agenda item on technical assistance of the fourteenth meeting of the Conference of the Parties to the Basel Convention.

<sup>10</sup> UNEP/CHW/OEWG.11/INF/23.

<sup>11</sup> To be considered under the agenda item on financial resources of the fourteenth meeting of the Conference of the Parties to the Basel Convention.

<sup>12</sup> Special programme to support institutional strengthening at the national level for implementation of the Basel, Rotterdam and Stockholm conventions, the Minamata Convention on Mercury and the Strategic Approach to International Chemicals Management.

<sup>13</sup> To be considered under the agenda item on international cooperation and coordination of the fourteenth meeting of the Conference of the Parties to the Basel Convention.

## **OEWG-11/7: Amendment to Annex IX to the Basel Convention**

### *The Open-ended Working Group*

1. *Takes note* of the proposed amendment to Annex IX to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal submitted by the Government of Norway for consideration by the Conference of the Parties at its fourteenth meeting;<sup>14</sup>
  2. *Recommends* that the Conference of the Parties consider at its fourteenth meeting whether to amend entry B3010 on solid plastic waste in Annex IX to the Convention and, if so, in what form;
  3. *Takes note* of the intention of the Government of Norway to submit a proposal to amend Annex II to the Convention for consideration by the Conference of the Parties at its fourteenth meeting.
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<sup>14</sup> UNEP/CHW/OEWG.11/INF/36.