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

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Item 3 (c) (ii) of the provisional agenda*

**Matters related to the work programme of the
Open-ended Working Group for 2016–2017:
legal, governance and enforcement matters:
providing further legal clarity**

Revised glossary of terms

Note by the Secretariat

As referred to in the note by the Secretariat on providing further legal clarity (UNEP/CHW/OEWG.10/8), the annex to the present note contains the revised glossary of terms reflecting the outcome of the third meeting of the small intersessional working group on legal clarity. The present note, including its annex, has not been formally edited.

* UNEP/CHW/OEWG.10/1.

Annex

Revised glossary of terms

(22 September 2015)

I. Introduction

1. This glossary was prepared in furtherance of decisions BC-11/1 and BC-12/1 on the follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention and of decision OEWG-9/8 and OEWG-10/[...] on providing further legal clarity. Its general purpose is the clarification of certain terms in order to improve the implementation of the Convention and the application of technical guidelines and guidance documents developed under the Convention. This may also help parties identify further opportunities to improve implementation, including through the issuance of technical guidance. This document is provided as guidance under the Basel Convention. Such guidance, except where it reflects legally binding Convention terms, is without prejudice to legislation and guidance developed at the national level.
2. This glossary of terms is linked to the initiation under decision BC-12/1 of a process for the review of Annex IV and related aspects of Annex IX to the Basel Convention. This process may have impacts on the definitions and explanatory notes developed in this glossary of terms.
3. The Basel Convention applies to the transboundary movement of hazardous wastes² and other wastes.³ Thus, the term “wastes” is of fundamental importance in determining the scope of the Convention.
4. Within the general purpose mentioned above, the main focus of this glossary is to provide guidance for further legal clarity in relation to the distinction between wastes and non-wastes. This distinction has been a particular problem in relation to cross-border transports of used substances or objects intended for re-use.
5. This glossary includes definitions of terms and further explanations, including in order to explain how certain terms relate to each other. For the convenience of the reader, some explanations are included under more than one heading.

II. Definitions

Wastes (see Article 2 paragraph 1 of the Basel Convention)

Substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law.

Explanatory notes:

- (a) When does a substance or object become waste?
 - (i) The definition of “wastes” in the Convention gives three ways by which a substance or object is to be considered waste and each of these merits further explanation:
 - a. Substances and objects that are disposed of:

The disposal operations are listed in Annex IV to the Convention. A substance or object undergoing one of these operations is waste. However some of the operations describe activities that may also be applied to non-waste. For example, as regards “use as a fuel” referred to in operation R1, both waste - such as waste oil, and non-waste - such as coal, can be used as a fuel in a cement kiln.⁴ This shows that it is not always possible to determine whether something is waste by

¹ Note: To be completed at the closing of OEWG-10.

² Hazardous wastes are defined in article 1 paragraph 1 of the Basel Convention, are elaborated in Annexes VIII and IX of the Convention, and addressed in guidance developed under the Convention (<http://www.basel.int/TheConvention/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>). Most hazardous wastes result from production processes.

³ This glossary does not address “other waste” as described in Article 1 paragraph 2 and Annex II to the Convention.

⁴ See the Technical guidelines on the environmentally sound co-processing of hazardous wastes in cement kilns, adopted by decision BC-10/8, available at: <http://www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>

considering solely what happens to it. All the circumstances need to be considered.

- b. Substances and objects that are intended to be disposed of:
 - i. A substance or object will be waste from the point that it is intended to be disposed of. This is necessary so that waste is subject to control before it is actually disposed of.
 - ii. Intent to dispose can be inferred from surrounding facts and circumstances, including reasonably foreseeable results of conduct. Intention is not only the subjective belief of the exporter or generator of the waste. It is necessary therefore to also consider the circumstances in an objective manner, e.g. the existence of a contract to dispose of the substance or object. Therefore intent to dispose can be inferred from an act that could reasonably be expected to result in disposal.
 - iii. When assessing whether a substance or object is intended to be disposed of, all the circumstances need to be taken into account on a case by case basis. The origin and destination of the substance or object may be relevant. In addition, factors such as appearance, obsolescence,⁵ insufficient functionality and insufficient protection against damage during transport, loading and unloading may be relevant. These factors may suggest an intent to dispose of the object or substance, which would make it a waste.
- c. Substances and objects that are required to be disposed of by the provisions of national law:

This reflects the principle that substances or objects may be defined as “wastes” according to the national law of some, but not of other states.

- (ii) A product is a substance or object intentionally produced by or resulting from a process that meets defined characteristics. A product may become a waste if the waste definition applies.
 - (iii) In some countries, production residues are considered waste because they are not intentionally produced. However, in other countries, production residues may be non-waste or may be referred to as by-products if they meet specific conditions in accordance with national legislation and if they do not meet the waste definition. As the Manual on the implementation of the Basel Convention⁶ notes, having the conditions set down in national law, it is possible that a production residue may be regarded as a non-waste in one state, but as a waste in another.
 - (iv) A good may be a waste if the waste definition applies. A good is a substance or object that has economic value and which is capable, as such, of forming the subject of commercial transactions. “Good” is a wider term than “product”. A used good is one that is or has been used, either by its first or subsequent owner. A used good may or may not be a waste (see explanation under (i) above). “Use” means the utilization of a good, except in a recovery operation, whether by its first or a subsequent owner.
- (b) When does waste cease to be waste?

For some recovery operations, there may be a question of when waste may cease to be waste and reaches end of waste status. The Convention does not clarify when a waste ceases to be waste. Some countries have set stringent criteria in their national legislation for waste to gain an end-of-waste status in order to ensure that there is sufficient certainty of use and that the products, materials or substances are not subjected to a disposal operation.⁷

⁵ Obsolete means no longer produced or used, or out of date (see www.oxforddictionaries.com/us/definition/english/obsolete).

⁶ The Manual for the implementation of the Basel Convention, adopted by decision BC-12/7, is set out in the annex to document UNEP/CHW.12/9/Add.4/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventModID/8051/EventID/542/xmid/13027/Default.aspx>

⁷ As an example, the EU has adopted three specific regulations establishing end-of-waste criteria for priority waste streams. So far, the criteria have been laid down for: iron, steel and aluminium scrap (Council Regulation (EU) No 333/2011), glass cullet (Commission Regulation (EU) N° 1179/2012), and copper scrap (Commission Regulation (EU) N° 715/2013). See: http://ec.europa.eu/environment/waste/framework/end_of_waste.htm

Possibilities for waste to cease to be waste include:

- (i) It has been prepared for reuse:

A used good may meet the waste definition in some countries, e.g. if an owner intends to dispose of a used good. Reusing goods may promote resource efficiency. For a used good that has become waste there needs to be sufficient certainty that it will actually be reused. This might be done by establishing that a used good works properly through checking, repairing or cleaning it. Although such operations are not currently listed in Annex IV, national legislation may recognise them as recovery operations necessary to ensure that the waste is suitable for reuse.
- (ii) It has undergone a recycling operation and that operation is completed:

Recycling operations involve the reprocessing of waste into products, materials or substances, though not necessarily for the original purpose. An example is used lubricating oil re-refined which could result in high grade oil which is valuable for its chemical properties and hence that would be a recycling operation. Once the operation is complete, the substance or object is no longer waste. Some recycling operations are listed in Annex IV to the Convention.
- (iii) It has otherwise gained end-of-waste status as a result of a recovery operation:

In some countries, the result of certain recovery operations may be products, materials or substances that do not require further recovery operations to enable them to be used and are therefore no longer waste. An example might be waste catalysts that have undergone operation R8.
- (c) Economic value of wastes:

Wastes destined for recovery operations might have economic value and are capable, as such, of forming the subject of commercial transactions. Economic value by itself is not an appropriate criterion to distinguish waste from non-waste. Waste can be substances or objects which may or may not have a positive economic value. If a substance or object's value is significantly lower than that of new or used goods, this might give an indication that it is waste. If a substance or object has no value, this might give an indication that its owner wants to get rid of it and that it is therefore waste.

Non-waste

A substance or object that does not meet the definition of "waste".

Hazardous wastes (see Article 1 paragraph 1 of the Basel Convention)

- (a) Wastes that belong to any category contained in Annex I to the Convention, unless they do not possess any of the characteristics contained in Annex III; and
- (b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the party of export, import or transit.

Hazardous characteristics

Any of the characteristics contained in Annex III to the Basel Convention.

Explanatory notes

Wastes falling under Annex I to the Convention are presumed to exhibit a hazardous characteristic listed in Annex III to the Convention unless, through "national tests", they can be shown to not exhibit those characteristics. National testing may be useful for identifying a particular hazardous characteristic listed in Annex III until such time as the hazardous characteristic is fully documented. Interim Guidelines on Hazardous Characteristic H12 (Ecotoxic) were adopted by the sixth meeting of the Conference of the Parties.⁸ Three guidance papers on the hazard characteristics H6.2 (infectious substances), H11 (toxic (delayed or chronic)) and H13 (capable after disposal of yielding another

⁸ Decision VI/26, see document UNEP/CHW.6/26, annex, available at: <http://www.basel.int/TheConvention/ConferenceofthePartiesCOP/PreviousMeetings/PreviousMeetingsDocument/tabid/2409/Default.aspx?meetingId=1&sessionId=3>.

hazardous material) were adopted on an interim basis by the seventh meeting of the Conference of the Parties.⁹

Wastes contained in Annex VIII to the Convention are characterized as hazardous under Article 1, paragraph 1 (a) of the Convention and their designation on Annex VIII does not preclude the use of Annex III to demonstrate that a waste is not hazardous. Wastes contained in Annex IX to the Convention will not be wastes covered by Article 1, paragraph 1 (a), of the Convention unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic.

In addition to the hazardous characteristics listed in Annex III to the Convention, hazardous characteristics defined at the national level may be relevant in the context of Article 1, paragraph 1 (b) and Article 3 of the Convention.

Non-hazardous waste

A waste that does not meet the definition of “hazardous waste”.

Disposal (see Article 2 paragraph 4 of the Basel Convention)

Any operation specified in Annex IV to the Basel Convention.

Explanatory notes:

Annex IV includes two categories of disposal operations: (1) final disposal operations in Annex IVA; and (2) recovery operations in Annex IVB.

Disposal is considered to be the key element of the Basel Convention’s definition of waste. Since some of the listed operations describe activities that may also be relevant to non-waste, all circumstances need to be assessed in determining whether the substance or object is waste, see the explanatory note under (a)(i) a. for “wastes” above.

Disposal may be done in more than one stage, so it includes interim operations (see Annex IVA operations D13 to D15 and Annex IVB operations R 12 and R13).

Final disposal

Commonly used to refer to operations specified in Annex IV A to the Basel Convention.

Explanatory notes:

- (a) Pre-existing definition:
Revised guidance document on the environmentally sound management of used and end-of-life computing equipment:¹⁰ “Disposal operations specified in Annex IV A to the Basel Convention.”
- (b) Interim operations:
Final disposal may be done in more than one stage, so it includes interim operations such as storage (see Annex IVA operations D13 to D15).
- (c) Environmentally sound management:
Final disposal and recovery operations should be performed in an environmentally sound manner.
- (d) Final disposal operations are to be distinguished from recovery operations:
Recovery operations, unlike final disposal operations, make use of resources as they will obtain some useful benefit from the waste, either by bringing it back into productive use or recovering energy from it.

⁹ Decision VII/17, see documents UNEP/CHW.7/11/Add.1/Rev.1, Add.2/Rev.1 and Add.3/Rev.1, respectively, available at:
<http://www.basel.int/TheConvention/ConferenceofthePartiesCOP/PreviousMeetings/PreviousMeetingsDocuments/tabid/2409/Default.aspx?meetingId=1&sessionId=27&languageId=1>.

¹⁰ Sections 1, 2, 4 and 5 of the guidance document were adopted by Decision BC-11/15. The glossary of terms is set out in the appendix I to the guidance document, which is set out in the annex to document UNEP/CHW.11/6/Add.1/Rev.1, available at:
<http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP11/tabid/3256/Default.aspx>.

Recovery

Commonly used to refer to operations specified in Annex IV B to the Basel Convention.

Explanatory notes:

- (a) Pre-existing definitions:
- (i) 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:¹¹ “Relevant operations specified in Annex IV, part B, to the Basel Convention.”
 - (ii) Technical guidelines on the environmentally sound co-processing of hazardous wastes in cement kilns:¹² “Any operation where waste is serving a useful purpose by replacing other materials that would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy”.
 - (iii) Technical guidelines on the environmentally sound recycling/reclamation of metals and metal compounds (R4):¹³ “Recovery: Taking metallic or metal-containing items and metallic pieces before they reach the waste stream or taking them out of the waste stream.”
- (b) Generic term for Annex IVB operations:
- “Recovery” is commonly used to refer to operations specified in Annex IVB to the Basel Convention, although only two operations listed in Annex IVB refer explicitly to “recovery”. In addition, national legislation in some countries may use the term “recycling” to refer to the operations listed in Annex IVB. Furthermore, according to decision BC-12/1, there is currently a review process of Annex IV, for the consideration of the thirteenth meeting of the Conference of the Parties to the Basel Convention.
- (c) Interim operations:
- Recovery may be done in more than one stage, so it includes interim operations (see Annex IVB operations R12 and R13).
- (d) Environmentally sound management:
- Recovery and final disposal operations should be performed in an environmentally sound manner.
- (e) Useful benefit from recovery operations:
- Recovery operations make use of resources as they will obtain some useful benefit from the waste, either by bringing it back into productive use or recovering energy from it. A recovery operation can be understood as an operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy.
- (f) Distinguished from reuse and direct reuse:
- The term “recovery” does not include the actual reuse or direct reuse. The caption to Annex IV B refers to operations that may lead to direct reuse. However no operation listed may lead to direct reuse as that term itself requires that reuse will occur without repair or refurbishment. The recovery operations listed include operations that may lead to reuse (such as R9 – used oil re-refining). Once oil is re-refined, it is no longer waste and its reuse is therefore not a recovery operation as such operations only apply to waste.

¹¹ The technical guidelines, adopted by Decision BC-12/5, are set out in the annex to document UNEP/CHW.12/5/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventModID/8051/EventID/542/xmid/13027/Default.aspx>

¹² The technical guidelines, adopted by Decision BC-10/8 are set out in the annex to document UNEP/CHW.10/6/Add.3/Rev.1 available at: <http://www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx#>

¹³ The technical guidelines, adopted by Decision VII/14, are available at: www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx.

- (g) Relationship to “repair” and “refurbishment”:

No suitable operation is listed in Annex IV to the Convention that describes “repair” or “refurbishment”. In some countries, national legislation has recognized that where repair is necessary to prepare a waste for reuse, it is regarded as a recovery operation.

Recycling

Relevant operations specified in Annex IV B to the Basel Convention.

Explanatory notes:

- (a) Pre-existing definitions:
- (i) 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.¹⁴ “Relevant operations specified in Annex IV, part B, to the Basel Convention.”
 - (ii) Revised guidance document on the environmentally sound management of used and end-of-life computing equipment.¹⁵ “Relevant operations specified in Annex IV B to the Basel Convention.”
 - (iii) Revised technical guidelines for the environmentally sound management of used and waste pneumatic tyres.¹⁶ “Any process by which waste tyres are reprocessed into products, materials or substances for any purpose. It does not include energy recovery or reprocessing into materials for use as fuels or in backfilling operations.”
 - (iv) Technical guidelines on the environmentally sound recycling/reclamation of metals and metal compounds (R4):¹⁷ “(a) The preparation of recovered items and pieces so that they may be used directly (e.g., in direct remelt) or sent for reclamation; (b) The series of activities, including collection, separation, and processing, by which products or other materials are recovered from the solid waste stream for use in the form of raw materials in the manufacture of new products, other than fuel for producing heat or power by combustion.”
- (b) Distinguished from other recovery operations:

Recycling operations usually involves the reprocessing of waste into products, materials or substances, though not necessarily for the original purpose. Resources are saved by recovering material benefits from the waste. Recycling is to be distinguished from operations that recover energy from the waste. In some countries, where material is used once merely for its physical properties e.g. for backfilling, this does not amount to recycling. An example is used lubricating oil re-refined which could result in high grade oil which is valuable for its chemical properties and hence that would be a recycling operation. Used oil could also simply be used as a fuel so that the recovery operation would be energy recovery and not recycling.

¹⁴ The technical guidelines, adopted by Decision BC-12/5, are set out in the annex to document UNEP/CHW.12/5/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventModID/8051/EventID/542/xmid/13027/Default.aspx>

¹⁵ Sections 1, 2, 4 and 5 of the guidance document were adopted by Decision BC-11/15. The glossary of terms is set out in the appendix I to the guidance document, which is set out in the annex to document UNEP/CHW.11/6/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP11/tabid/3256/Default.aspx>.

¹⁶ The technical guidelines, adopted by Decision BC-10/6, are available at: <http://www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx>

¹⁷ The technical guidelines, adopted by Decision VII/14, are available at: www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx.

Repair

Fixing a specified fault in an object that is a waste or a product and/or replacing defective components, in order to make the waste or product a fully functional product to be used for its originally intended purpose.

Explanatory notes:

- (a) Pre-existing definitions:
- (i) 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:¹⁸ “Fixing a specified fault in used equipment that is a waste or a product and/or replacing defective components of equipment in order to make the equipment a fully functional product to be used for its originally intended purpose.”
 - (ii) Revised guidance document on the environmentally sound management of used and end-of-life computing equipment:¹⁹ “Fixing specified faults in computing equipment and/or replacing defective components of computing equipment to bring the computing equipment into a fully functional condition.”
- (b) Does not determine whether an object is waste/non-waste:

Repair is an operation that can be applied to both waste and non-waste. Therefore by itself, the need for repair is not a suitable criterion for distinguishing between waste and non-waste. Although repair is not listed as an operation in Annex IV, national legislation in some countries has recognised repair as a recovery operation where it is ensured that waste is made suitable for reuse.

Refurbishment

Modification of an object that is a waste or a product to increase or restore its performance and/or functionality or to meet applicable technical standards or regulatory requirements, with the result of making the waste or product a fully functional product to be used for a purpose that is at least the one that was originally intended.

Explanatory notes:

- (a) Pre-existing definitions:
- (i) 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.²⁰ “Modification of used equipment to increase or restore its performance and/or functionality or to meet applicable technical standards or regulatory requirements, with the result of making it a fully functional product to be used for a purpose that is at least the one for which it was originally intended, including through such activities as cleaning and data sanitization.”
 - (ii) Revised guidance document on the environmentally sound management of used and end-of-life computing equipment:²¹ “Modification of used computing equipment to increase its performance and functionality or to meet applicable technical standards or

¹⁸ The technical guidelines, adopted by Decision BC-12/5, are set out in the annex to document UNEP/CHW.12/5/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventModID/8051/EventID/542/xmid/13027/Default.aspx>

¹⁹ Sections 1, 2, 4 and 5 of the guidance document were adopted by Decision BC-11/15. The glossary of terms is set out in the appendix I to the guidance document, which is set out in the annex to document UNEP/CHW.11/6/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP11/tabid/3256/Default.aspx>.

²⁰ The technical guidelines, adopted by Decision BC-12/5, are set out in the annex to document UNEP/CHW.12/5/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventModID/8051/EventID/542/xmid/13027/Default.aspx>

²¹ Sections 1, 2, 4 and 5 of the guidance document were adopted by Decision BC-11/15. The glossary of terms is set out in the appendix I to the guidance document, which is set out in the annex to document UNEP/CHW.11/6/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP11/tabid/3256/Default.aspx>.

regulatory requirements, including through such activities as cleaning, data sanitization and software upgrading.”

- (b) Does not determine whether an object is waste/non-waste:

Refurbishment is an operation that can be applied to both waste and non-waste. Therefore by itself, the need for refurbishment is not a suitable criterion for distinguishing between waste and non-waste.

Reuse

The using again of a product, object or substance that is not waste for the same purpose for which it was conceived, possibly after repair or refurbishment.

Explanatory notes:

- (a) Pre-existing definitions:
- (i) 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:²² “The using again of fully functional equipment that is not waste for the same purpose for which it was conceived, possibly after repair or refurbishment.”
 - (ii) Revised guidance document on the environmentally sound management of used and end-of-life computing equipment:²³ “The using again, by a person other than its previous owner, of used computing equipment or a functional component from used computing equipment that is not waste for the same purpose for which it was conceived, possibly after refurbishment, repair or hardware upgrading.”
 - (iii) Technical guidelines for the environmentally sound management of the full and partial dismantling of ship:²⁴ “When a product is used again following normal use. Implies recovery and refurbishment before the product can be reused.”
- (b) Point of reuse:
- Reuse refers to the point at which the substance or object is being used for the purpose for which it was conceived, and does not refer to any operations to enable that to occur. Once a used substance or object is being reused, it is not waste.
- (c) Reuse encouraged:
- Reuse of used objects or substances is to be encouraged because it promotes resource efficiency, especially of non-renewable resources. Encouraging reuse will sometimes help prevent an object or substance from becoming waste, or in some cases bring waste back into use.
- (d) Alternative use encouraged:
- Reuse of a substance or object is limited to the same purpose for which it was conceived. There may be alternative uses, for a purpose other than for which it was conceived, that are beneficial because they promote resource efficiency. Encouraging alternative use will sometimes help prevent an object or substance from becoming waste, or in some cases bring waste back into use. For example, tyres can be used as fenders on quay sides in a port. Care should be taken that such alternative uses do not harm human health and the environment. For example, used pesticides containers should not be used for transporting drinking water.

²² The technical guidelines, adopted by Decision BC-12/5, are set out in the annex to document UNEP/CHW.12/5/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventModID/8051/EventID/542/xmid/13027/Default.aspx>

²³ Sections 1, 2, 4 and 5 of the guidance document were adopted by Decision BC-11/15. The glossary of terms is set out in the appendix I to the guidance document, which is set out in the annex to document UNEP/CHW.11/6/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP11/tabid/3256/Default.aspx>.

²⁴ The technical guidelines, adopted by Decision VI/24, are available at: www.basel.int/Implementation/Publications/TechnicalGuidelines/tabid/2362/Default.aspx.

(e) Charitable donation:

Reuse can apply to used substances or objects that are transferred for purposes of charity and without any monetary rewards or benefits, or for barter.

(f) Need for certainty of actual reuse:

Where a used substance or object is to be reused, in particular if it is exported for reuse, including for charitable donation, there needs to be sufficient certainty that it will actually be reused, because if it is not, its disposal may pose a threat to human health and the environment. In this context, it is necessary to consider factors such as functionality and the need for repair or refurbishment prior to reuse. In addition, factors such as appearance, obsolescence²⁵ and insufficient protection against damage during transport, loading and unloading may cast doubt on whether reuse will actually occur.²⁶ These factors may suggest instead an intent to dispose of the used substance or object, which would make it a waste.

Direct reuse

The using again of a product, object or substance that is not waste for the same purpose for which it was conceived without the necessity of repair or refurbishment.

Explanatory notes:

(a) Pre-existing definitions:

- (i) 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:²⁷ “The using again of fully functional equipment that is not waste, for the same purpose for which it was conceived, without the necessity of repair or refurbishment.”
- (ii) Revised guidance document on the environmentally sound management of used and end-of-life computing equipment:²⁸ “The using again, by a person other than its previous owner, of computing equipment and components that are not waste for the same purpose for which they were conceived without the necessity of repair, refurbishment or hardware upgrading.”

(b) “No repair or refurbishment”:

The term “direct reuse” excludes the need of repair or refurbishment of an object or substance in order for it to be suitable for reuse. Direct reuse generally applies to the reuse of a substance or fully functional object i.e. an object that was tested and demonstrated to be capable of performing the key function(s) that it was designed to perform. A fully functional used object that is destined for direct reuse is not considered to be a waste, unless so-classified by national law.

²⁵ Obsolete means no longer produced or used, or out of date (see <http://www.oxforddictionaries.com/us/definition/english/obsolete>).

²⁶ There are difficult distinctions which are amenable to being addressed through technical guidance.

²⁷ The technical guidelines, adopted by Decision BC-12/5, are set out in the annex to document UNEP/CHW.12/5/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP12/tabid/4248/mctl/ViewDetails/EventModID/8051/EventID/542/xmid/13027/Default.aspx>

²⁸ Sections 1, 2, 4 and 5 of the guidance document were adopted by Decision BC-11/15. The glossary of terms is set out in the appendix I to the guidance document, which is set out in the annex to document UNEP/CHW.11/6/Add.1/Rev.1, available at: <http://www.basel.int/TheConvention/ConferenceoftheParties/Meetings/COP11/tabid/3256/Default.aspx>.