



**Open-ended Working Group of the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Tenth meeting
Nairobi, 30 May–2 June 2016**

Draft report of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal on the work of its tenth meeting

I. Opening of the meeting

1. The tenth meeting of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal was opened at 10.20 a.m. on Monday, 30 May 2016, by Mr. Santiago Dávila Sena (Spain), Co-Chair of the Working Group. Together with his Co-Chair, Mr. Lloyd Pascal (Dominica), he welcomed participants to the meeting.
2. Ms. Kerstin Stendahl, Deputy Executive Secretary 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, then welcomed the meeting participants to Nairobi, thanking the Governments of Denmark, Finland, Germany, Japan and Sweden for supporting the participation of developing countries and countries with economies in transition in the current meeting and the Government of Japan for making it possible to hold three days of plenary sessions with interpretation in the six official languages of the United Nations.
3. The previous week, the second session of the United Nations Environment Assembly of the United Nations Environment Programme (UNEP) had been convened in Nairobi under the theme “delivering on the environmental dimension of the 2030 Agenda for Sustainable Development” and had recognized the work and importance of the Basel Convention and its two sister conventions. At the current meeting, the Working Group would help to deliver on the 2030 Agenda by developing the building blocks for the environmentally sound management of chemicals and wastes, which cut across many, if not all, of the Agenda’s 17 Sustainable Development Goals. The management of hazardous and other wastes was increasingly seen as an urgent area of work in which innovation, investment and cooperation were required, and as new challenges emerged and old challenges became more pressing the Working Group had a key role to play in meeting those challenges by continuing to develop solid guidance, partnerships, whose importance the 2030 Agenda emphasized, and legal and technical knowledge products. In fact, the Working Group could be seen as the only global legal body with the mandate, competence, universal character and expertise to respond to the challenge of ensuring the environmentally sound management of chemicals and wastes.
4. At the current meeting, the Working Group would discuss a new partnership on household wastes, which demonstrated the key role that the Basel Convention continued to play in the area of partnerships, as well as a suite of technical and legal materials that constituted specific responses to the challenges of the Sustainable Development Goals and, when shared by the parties, were cornerstones of the transition to a greener, more inclusive economy. In closing, she encouraged the Working Group to contribute, through its work, to delivering on the Sustainable Development Goals, the Paris

Agreement on climate change and the resolutions adopted by the United Nations Environment Assembly at its second session.

II. Organizational matters

A. Adoption of the agenda

5. The Working Group adopted the following agenda on the basis of the provisional agenda (UNEP/CHW/OEWG.10/1):

1. Opening of the meeting.
2. Organizational matters:
 - (a) Adoption of the agenda.
 - (b) Organization of work.
3. Matters related to the work programme of the Open-ended Working Group for 2016-2017:
 - (a) Strategic issues:
 - (i) Strategic framework;
 - (ii) Developing guidelines for environmentally sound management;
 - (iii) Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes;
 - (b) Scientific and technical matters:
 - (i) Technical guidelines:
 - a. Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants;
 - b. 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;
 - c. Consideration of whether to update the technical guidelines on incineration on land, on specially engineered landfill and on physico-chemical treatment and biological treatment;
 - (ii) National reporting;
 - (c) Legal, governance and enforcement matters:
 - (i) Consultation with the Committee Administering the Mechanism for Promoting Implementation and Compliance;
 - (ii) Providing further legal clarity;
 - (d) International cooperation and coordination:
 - (i) Basel Convention Partnership Programme;
 - (ii) Cooperation between the Basel Convention and the International Maritime Organization;
 - (iii) Cooperation with the World Customs Organization on the Harmonized Commodity Description and Coding System;
 - (e) Financial matters.
4. Work programme of the Open-ended Working Group for 2018–2019.
5. Other matters.
6. Adoption of the report.
7. Closure of the meeting.

6. The Working Group decided that under item 5 of the agenda, "Other matters", it would hear a report from the Secretariat on the collection of comments on experiences with regard to the arrangements for the current meeting in accordance with decision BC-12/19.

B. Attendance

7. *[To be completed]*

C. Officers

8. The following members of the Bureau of the Open-ended Working Group elected by the Conference of the Parties at its twelfth meeting served during the tenth meeting of the Open-ended Working Group:

Co-Chair: Mr. Santiago Dávila Sena (Spain) (legal)

Vice-Chair: Ms. Gordana Petkovic (Serbia) (legal)

Rapporteur: Ms. Petronella Rumbidzai Shoko (Zimbabwe)

9. Mr. Jahisiah Benoit (Dominica) and Mr. Bishwanath Sinha (India), elected Co-Chair (technical) and Vice-Chair (technical), respectively, at the twelfth meeting of the Conference of the Parties, were unable to complete their terms of office and were accordingly replaced by their compatriots, Mr. Lloyd Pascal and Ms. Shruti Rai Bharwaj, respectively, who served during the tenth meeting.

D. Organization of work

10. The representative of the Secretariat drew attention to the objectives and possible outcomes of the meeting described in the scenario note (UNEP/CHW/OEWG.10/INF/1) and tentative schedule (UNEP/CHW/OEWG.10/INF/2) for the meeting. The Working Group agreed to conduct the meeting in accordance with the latter, subject to revision as necessary. In considering the items on its agenda the Working Group had before it the documents pertaining to each item listed in the annotations to the agenda (UNEP/CHW/OEWG.10/1/Add.1) and in the list of documents for the meeting organized by agenda item (UNEP/CHW/OEWG.10/INF/24).

11. In accordance with the agreed schedule, the Working Group decided to meet in plenary sessions from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m. on 30 and 31 May and 2 June 2016, and to meet in contact groups, drafting groups and other groups as necessary throughout the meeting. Efforts would be made to limit the number of contact groups meeting simultaneously to two in order to facilitate the participation of small delegations. Interpretation in the six official languages of the United Nations would be provided during the plenary sessions, while the contact and other groups would conduct their meetings in English only.

12. Following agreement on the organization of the meeting, several representatives, speaking on behalf of groups of parties and individual parties, made statements highlighting their views on particular issues on the agenda for the meeting.

III. Matters related to the work programme of the Open-ended Working Group for 2016–2017

A. Strategic issues

1. Strategic framework

13. The representative of the Secretariat introduced the sub-item, outlining the information in the note by the Secretariat on the preparation of the mid-term evaluation of the strategic framework (UNEP/CHW/OEWG.10/2). She also recalled that, in March 2016, the Secretariat had transmitted to all parties a communication requesting the completion of a questionnaire, using data for the year 2015, in order to facilitate the preparation of a report on the mid-term evaluation for submission to the Conference of the Parties at its thirteenth meeting, adding that the deadline for receipt of the completed questionnaire was 30 September 2016.

14. The Co-Chair drew attention to a draft decision on the matter set out in paragraph 6 of the note by the Secretariat.

15. In the ensuing discussion, several representatives, including one speaking on behalf of a group of countries, underscored the significance of the strategic framework in terms of the evaluation of

work completed and linkage with all future work; the achievement of solid and steady progress in the implementation of the Basel Convention; and preparation of the programme of work for the next biennium, which a number of representatives said must include capacity-building to enable developing countries to implement relevant activities. One representative welcomed the work already completed in the context of the strategic framework and another said that his country intended to continue to support the work of the Convention, including the meetings of the Open-ended Working Group. Many representatives expressed support for the mid-term evaluation of the strategic framework, together with their intention to provide comprehensive and timely information to the Secretariat for that purpose, with one stressing that the evaluation must be conducted in an appropriate manner.

16. The representative of Canada presented a proposal, set out in a conference room paper, for building further on the preparation of the draft report on the mid-term evaluation of the strategic framework whereby the Bureau of the thirteenth meeting of the Conference of the Parties would be invited to guide the Secretariat in the preparation of the draft report; parties would be invited to submit comments on that draft report with a view to engaging them in the process; and the Secretariat would be requested to take into account those comments in preparing a revised draft report with the aim of improving the quality of the final report.

17. One representative endorsed the proposal, which the Open-ended Working Group agreed to discuss further during the current meeting.

18. *[To be completed]*

2. Developing guidelines for environmentally sound management

19. The representative of the Secretariat introduced the sub-item, drawing attention to the relevant documents and reporting on the activities of the expert working group on environmentally sound management (as outlined in document UNEP/CHW/OEWG.10/INF/7), which had held its fourth meeting in November 2015 with funding from the Government of Japan. The expert working group had made progress on the development of an environmentally sound management toolkit, had prepared a revised set of draft practical manuals (UNEP/CHW/OEWG.10/INF/3) and fact sheets on specific waste streams (UNEP/CHW/OEWG.10/INF/4), had developed an outline of planned guidance to assist parties in developing efficient strategies for achieving the prevention and minimization of the generation of hazardous and other wastes and their disposal (UNEP/CHW/OEWG.10/INF/5), and was preparing drafts of manuals on extended producer responsibility and financing systems for environmentally sound management for consideration by the Conference of the Parties at its thirteenth meeting. In accordance with paragraph 14 of decision BC-12/1, the Secretariat, under the guidance of the expert working group, had developed an inventory and categorization of existing Basel Convention documents related to environmentally sound management (UNEP/CHW/OEWG.10/INF/6), which the Government of Canada had offered to develop further, along with an analysis.

20. The Co-Chair drew attention to a draft decision on the subject set out in paragraph 11 of document UNEP/CHW/OEWG.10/3, and, recalling that the draft outline of guidance set out in document UNEP/CHW/OEWG.10/INF/5 had been developed for work relevant to the Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes, suggested that comments on that outline should be made under agenda item 3 (a) (iii) relating to the Declaration.

21. In the ensuing discussion, all who spoke praised the work of the expert working group on environmentally sound management, which they hoped would continue, with a number also applauding the opportunity for parties to provide input for that work during the intersessional period. One representative noted that the guidelines developed by the expert working group were not legally binding and said that they must therefore be regarded as articulating best practices that could be followed by parties without imposing any legal obligations. Another representative said that his delegation intended to provide comments, including on the revised draft practical manuals and revised draft fact sheets, which several representatives, including a number speaking on behalf of groups of parties, said would be particularly useful in supporting the achievement of environmentally sound management at the national and local levels. Another representative underlined capacity-building as an important factor for consideration in that context.

22. A number of representatives speaking on behalf of groups of countries for expressed support for the draft decision on developing guidelines for environmentally sound management. One of them said that he had some suggestions about the text that would be best discussed in a contact group and that he looked forward to first drafts of practical manuals on extended producer responsibility and on financing systems for environmentally sound management, suggesting that comments by parties and others on those drafts should be invited.

23. Various representatives, including a number speaking on behalf of groups of countries, welcomed the inventory, categorization and analysis of existing Basel Convention documents related to environmentally sound management developed by Canada, the representative of which thanked the Secretariat for the opportunity to collaborate with it in that task and expressed the hope that time would be set aside for discussion of the four questions set out in the relevant document (UNEP/CHW/OEWG.10/INF/6), an exercise that she suggested could be useful for orientation of the strategic framework in a future phase. A number of representatives, including one speaking on behalf of a group of countries, echoed that hope of a discussion in a contact group, with the one speaking on behalf of a group of countries saying that the present mid-way point in implementation of the 10-year strategic framework, coupled with the approaching thirteenth meeting of the Conference of the Parties, served as an opportune moment to reflect on what had already been achieved and what should be done in the next biennium, including by examining the practicality and effectiveness of the documents on the ground.

24. Following the discussion, the Open-ended Working Group established a contact group on strategic matters, co-chaired by Ms. Angela Patricia Rivera Galvis (Colombia) and Mr. Prakash Kowlessar (Mauritius), to consider the inventory further, addressing the questions set out in document UNEP/CHW/OEWG.10/INF/6, and to prepare a draft decision on the basis of the text set out in paragraph 11 of document UNEP/CHW/OEWG.10/3.

25. *[To be completed]*

3. Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes

26. The representative of the Secretariat introduced the sub-item, drawing attention to the relevant documents and recalling that by decision BC-12/2 the Conference of the Parties had adopted the road map for action on the implementation of the Cartagena Declaration set out in the annex to that decision, had invited parties and other stakeholders to undertake activities to implement the road map and to provide information on such activities to the Secretariat. It had also mandated the expert working group on environmentally sound management to develop guidance to assist parties in developing efficient strategies for achieving prevention and minimization of the generation of hazardous and other wastes. She then described the work of the expert working group in response to the decision, reporting that it had begun the development of the guidance, an outline of which was before the Working Group (UNEP/CHW/OEWG.10/INF/5). In addition, she noted, one party had provided information in response to decision BC-12/2, which was available on the Convention website.

27. In the ensuing discussion, many representatives, including three speaking on behalf of groups of countries, welcomed the work undertaken by the expert working group on environmentally sound management in developing the draft outline of the guidance, with one representative highlighting its direct contribution to implementation of the Cartagena Declaration and another, speaking on behalf of a group of countries, expressing appreciation for the financial support provided for that work and encouraging other donors to follow suit. One representative called for continuing financial and technical support for developing countries, as well as for the development of national strategies and best practices in the field of waste prevention and minimization and for regional centres to be equipped to facilitate implementation of the road map for action on the implementation of the Cartagena Declaration. Another said that the intention of the expert working group to consult with parties during the intersessional period on the development of the draft guidance should be reflected in any draft decision to be developed on the subject in order to give parties adequate time to prepare their comments.

28. A number of representatives speaking on behalf of groups of countries expressed support for the development of a draft decision on the matter, while another said that more emphasis should be placed on the dissemination of technologies and processes for reducing waste at source, particularly in countries with high populations and high consumption patterns, and another described an array of measures adopted in his country for the prevention, minimization and recovery of various wastes.

29. A representative speaking on behalf of a group of countries said that the guidance to be outlined on the subject should be focused on good examples and best practices, to which end his delegation had prepared suggestions on the basis of information available from member States, information published by the European Environment Agency and information on requirements and guidance documents relating to waste legislation in his region with a view to their discussion in a contact group. It was agreed that those suggestions would be submitted in a conference room paper. One representative called for discussion in a contact group to clarify the scope of the guidance for the benefit of the expert working group in seeking to produce a strong draft for consideration by the

Conference of the Parties at its thirteenth meeting. Another representative, noting that a technology facilitation mechanism had been established under the 2030 Agenda for Sustainable Development and the Addis Ababa Action Agenda and that the Cartagena Declaration stressed the need for the transfer of technologies for sound waste management, said that his country would like to discuss relevant provisions of a potential draft decision.

30. Following the discussion, the Open-ended Working Group decided that the contact group on strategic matters should be further mandated to prepare a revised version of the draft outline of guidance set out in document UNEP/CHW/OEWG.10/INF/5, on the basis of the conference room paper referred to above, as well as to prepare a draft decision on the basis of the discussion in plenary, including with regard to the intersessional process for party comment on the development of the guidance.

31. *[To be completed]*

B. Scientific and technical matters

1. Technical guidelines

(a) Technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants

32. The representative of the Secretariat introduced the sub-item, outlining the information in the relevant note by the Secretariat (UNEP/CHW/OEWG.10/5), which in paragraph 12 set out a draft decision for consideration by the Open-ended Working Group. He also drew attention to decision BC-12/3, by which the Conference of the Parties had adopted seven sets of technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants; called for a review of all provisional low persistent organic pollutant content values in the seven technical guidelines; and provided for the review, updating and preparation, as appropriate, of the technical guidelines regarding persistent organic pollutants.

33. He said that the Government of Japan had taken the lead in updating the technical guidelines on polychlorinated biphenyls to include polychlorinated naphthalenes and had made a generous financial contribution that had made possible the hiring of consultants to assist in drafting new and updated technical guidelines to include hexachlorobutadiene, pentachlorophenol and its salts and esters, polychlorinated naphthalenes, and unintentionally-produced polychlorinated naphthalenes, which were set out in documents UNEP/CHW/OEWG.10/INF/18-INF/21, respectively. With regard to the low-POP content values included in the seven technical guidelines on persistent organic pollutants, as at April 2016 the Secretariat had received three comments or related information, which were compiled in document UNEP/OEWG.10/INF/23.

34. In the ensuing discussion, many representatives, including one speaking on behalf of a group of countries, expressed appreciation to the Secretariat and to the Government of Japan for the work undertaken to update or revise the technical guidelines. One representative requested that the seven technical guidelines adopted through decision BC-12/3 be translated into the six official languages of the United Nations prior to the thirteenth meeting of the Conference of the Parties.

35. With regard to low persistent organic pollutant content values, one representative, supported by another, said that they should be as low as possible to ensure that the persistent organic pollutant content of waste was destroyed or irreversibly transformed, as required by Article 6 the Stockholm Convention, and that it no longer posed a risk to human health or the environment. He further suggested that persistent organic pollutant wastes should not be recycled; that the recycling of persistent organic pollutant-containing plastics entailed a risk that the persistent organic pollutants in them would be retained in new products, given that the recycling of plastics was seldom a closed-loop process; and that the recycling of persistent organic-pollutant-containing plastics invariably led to the contamination of new products if low-persistent organic pollutant content levels were set above what was found in new products.

36. One representative, speaking on behalf of a group of parties, said that those parties were satisfied with the low persistent organic pollutant content values specified in the seven technical guidelines adopted by the Conference of the Parties at its twelfth meeting, which he said coincided with the limit values contained in regional legislation.

37. One representative said that the adoption of low persistent organic pollutant content values at the international level could make it difficult for some countries to remediate contaminated sites because values applicable to developed countries might not be applicable to developing countries; countries should therefore be free to develop their own values. Another representative said that

technical guidelines were not legally binding and that it was important that low persistent organic pollutant content values be based on scientific evidence and research.

38. One representative expressed disappointment that very few parties had provided comments on low persistent organic pollutant content values and requested that the deadline to provide such comments be extended to the end of October 2016.

39. The representative of Japan said that his Government looked forward to collaborating with parties and the Secretariat to finalize the technical guidelines that incorporated polychlorinated naphthalenes. The representative of Canada offered to provide in-kind support for the updating of the general technical guidelines on persistent organic pollutant wastes once sufficient work had been undertaken on the various updated specific guidelines.

40. One representative expressed concern that the revised draft technical guidelines on unintentionally produced persistent organic pollutant wastes could lead to confusion among experts and regulators that were currently using the original guidelines on such wastes, suggesting that a clear distinction be made between the two versions.

41. The Open-ended Working Group established a contact group on technical matters, co-chaired by Ms. Magda Gosk (Poland) and Ms. Jane Stratford (United Kingdom of Great Britain and Northern Ireland), to review the draft technical guidelines on persistent organic pollutant wastes in documents UNEP/OEWG.10/INF/18 –21; to consider issues relating to low persistent organic pollutant content values, taking into account the comments compiled in document UNEP/OEWG.10/INF/23 and the discussion on the matter in plenary; and to prepare a revised draft decision on technical guidelines on persistent organic pollutant wastes based on the draft decision set out in paragraph 12 of document UNEP/OEWG.10/5.

42. *[To be completed]*

(b) 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

43. The representative of the Secretariat introduced the sub-item, drawing attention to the relevant note by the Secretariat (UNEP/CHW/OEWG.10/5) and recalling that by decision BC-12/5 the Conference of the Parties had agreed to adopt, on an interim basis, 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. Comments on the distinction between waste and non-waste submitted by eight parties and two observers in accordance with paragraph 6 of the decision were compiled in document UNEP/CHW/OEWG.10/INF/22.

44. In the ensuing discussion, a number of representatives, including some speaking on behalf of groups of countries, said that the adoption of the interim guidelines had been an important step towards the finalization of guidelines on e-waste under the Basel Convention. Several observed that it was important to implement the guidelines in order to gather knowledge from countries on experiences in applying the guidelines to specific country-level challenges in dealing with e-waste and to provide feedback to improve the guidelines in the future. There was consensus that the guidelines should be practical and implementable, and there was broad agreement that they needed further work before they were ready to be finalized.

45. Several representatives highlighted issues that needed to be addressed in the guidelines, including a need for further clarity and definition in certain areas, including how to determine the lifetimes of used equipment, the distinction between waste and non-waste, including with regard to used equipment and the definitions and criteria in paragraph 31 (a) and (b) of the interim guidelines, how to deal with residual waste and the classification of waste as hazardous or non-hazardous. One representative said that the classification of waste as non-hazardous if it could be recycled was not consistent with the text of the Convention and would give rise to the possibility that used products would no longer be under the control of the Convention. In accordance with the text of the Convention, environmentally sound management and disposal of hazardous wastes should take first priority.

46. A number of representatives said that there was an urgent need to deal with the issues for further work listed in appendix V of the interim guidelines. One representative, speaking on behalf of a group of countries, said that resolution of those issues was critical in making the guidelines useful to all parties, especially developing country parties. Several representatives, including one speaking on behalf of a group of countries, said that it was important to build on what had already been agreed and

that the focus of any discussion at the current meeting should be on the issues for further work contained in appendix V.

47. Several representatives stressed the responsibility of exporting countries to take back and dispose of illegally exported e-waste and the responsibility of producers to provide sufficient information on electrical and electronic equipment for importing countries to make informed decisions on how best to deal with that equipment. A number of representatives commented on the challenges faced by parties, particularly developing country parties, in implementing the guidelines, including a lack of strong regulatory frameworks, technical infrastructure, capacity and know-how necessary for the environmentally sound disposal of e-waste.

48. The Working Group decided to refer the matter to the contact group on technical matters, which was mandated to prepare a draft decision taking into account the comments compiled in document UNEP/CHW/OEWG.10/INF/22 and the discussion in plenary, which should include a possible approach on how to reach agreement on the issues listed in appendix V of the interim technical guidelines.

49. *[To be completed]*

(c) **Consideration of whether to update the technical guidelines on incineration on land, on specially engineered landfill and on physico-chemical treatment and biological treatment**

50. The representative of the Secretariat introduced the item, drawing attention to the relevant note by the Secretariat (UNEP/CHW/OEWG.10/5) and noting that no party had offered to take the lead in the possible revision or updating of the technical guidelines on incineration on land, on specially engineered landfill and on physico-chemical treatment and biological treatment and that no funds had been received by the Secretariat for that purpose.

51. In the ensuing discussion, many representatives said that the technical guidelines should be updated, given that they had been operative for some time. Several representatives said that efforts should be made to ensure that they were consistent with more recent guidance on relevant matters and with technological developments that had taken place since they were adopted. One representative, speaking on behalf of a group of countries, said that there was also a need to assess what priority should be given to updating other Basel Convention documents on environmentally sound management, as listed in document UNEP/CHW/OEWG.10/INF/6, within the context of the work programme of the Open-ended Working Group for the biennium 2018–2019.

52. One representative expressed concern that no resources were available to update the guidelines, given that they related to the core mandate of the Convention, and she urged that at least the funds needed to begin the work be found. Another representative said that developed country parties should provide more technical support for the updating of the guidelines.

53. The Working Group decided to refer the matter to the contact group on technical matters, which was mandated to consider the points raised in paragraph 23 of document UNEP/CHW/OEWG.10/5 and to prepare a draft decision on the matter.

54. *[To be completed]*

2. National reporting

55. The representative of the Secretariat introduced the sub-item, drawing attention to the relevant documents, highlighting a report including a proposal for a list of hazardous waste streams for which practical guidance on the development of inventories could be developed (UNEP/CHW/OEWG.10/INF/8), which the Secretariat had prepared in the follow-up to the twelfth meeting of the Conference of the Parties taking into account current guidance and guidelines on the development of inventories developed under the Basel Convention, including the methodological guide for the development of inventories of hazardous wastes and other wastes under the Basel Convention.

56. A number of representatives, including one speaking on behalf of a group of countries, expressed their support in principle for the proposed list of hazardous waste streams. While a number said that they were prepared to adopt the list as set out in the document, one said that other waste streams should be added, while another, speaking on behalf of a group of countries, suggested that certain streams be removed.

57. Another representative, while generally supportive of efforts to improve national reporting, said that it was too soon to develop additional guidance on inventories; it would be preferable to first investigate how parties were using the guidance and, in the spirit of synergies, see whether other bodies had developed similar guidance, particularly in a context of limited resources.

58. Following the discussion, the Working Group decided to refer the matter to the contact group on technical matters, which was mandated to discuss and amend, if necessary, the proposed list of waste streams in document UNEP/CHW/OEWG.10/INF/8 and to prepare a draft decision on the basis of the text in paragraph 4 of document UNEP/CHW/OEWG.10/6.

59. [To be completed]

C. Legal, governance and enforcement matters

1. Consultation with the Committee Administering the Mechanism for Promoting Implementation and Compliance

60. Introducing the sub-item, the representative of the Secretariat drew attention to the note by the Secretariat on consultation with the Committee Administering the Mechanism for Promoting Implementation and Compliance of the Convention (UNEP/CHW/OEWG.10/7), recalling that in accordance with its 2016–2017 work programme it was to continue to develop guidance on the take-back provision under paragraph 2 of Article 9 (illegal traffic) of the Basel Convention and to develop guidance on the implementation of the Convention provisions dealing with the consequences of illegal traffic (paragraphs 3 and 4 of Article 9), integrating them in a single document for consideration by the Conference of the Parties at its thirteenth meeting. The draft guidance developed by the Committee (UNEP/CHW/OEWG.10/INF/9) was before the Working Group for its consideration.

61. Mr. Juan Simonelli (Argentina), Chair of the Committee, then reported on the work of the Committee, saying that the draft guidance dealt with a complex issue with which experience was still limited and that it had been prepared with a view to providing more clarity regarding the environmentally sound management of hazardous or other wastes deemed to be illegal traffic, as required under the Convention with the aim of protecting human health and the environment. He suggested that comments on the current draft of the guidance should focus on the sections covering paragraphs 3 and 4 of Article 9 of the Convention, which had been newly incorporated into the text subsequent to the consultations held with the Open-ended Working Group at its ninth meeting. He expressed thanks to the Dominican Republic and Switzerland for taking the lead on the development of the guidance and to the European Union and Japan for their financial support.

62. In the ensuing discussion, many representatives said that the draft guidance was extremely important for promoting implementation of and compliance with the Convention, in particular paragraphs 2, 3 and 4 of Article 9, at the national and regional levels. One representative said that his Government had supported the process for that reason, adding that, even though instances of the cases provided for in paragraphs 3 and 4 of Article 9 might be rare, it was important to develop guidance on the basis of available information in order to foster the environmentally sound management of hazardous and other wastes. One representative, speaking on behalf of a group of countries, expressed confidence that the guidance would improve cooperation among parties in such cases.

63. The representative of the European Union and its member States said that his delegation had submitted a conference room paper containing suggested adjustments to the text of the guidance, primarily with a view to ensuring consistency with the Convention. One representative expressed support for the content of that paper, and several others said that they too had suggestions to make for improving the text, with one specifying that it should reflect the implication in Article 9, paragraph 3, of the Convention that costs related to disposal should also be borne by the exporter, based on its responsibility. Another said that it might be beneficial to draw on case studies and to clarify the implementation of paragraph 5 of Article 6. She added that it would be useful if the draft decision set out in document UNEP/CHW/OEWG.10/7 were to invite the Committee to produce a further revised version of the guidance, to invite comments on that further revised version and then to finalize the guidance, taking into account any comments submitted, for consideration and possible adoption by the Conference of the Parties at its next meeting. One representative said that the Secretariat must continue its efforts to combat illegal traffic and that, in pursuit of those efforts, Parties should actively seek funding and also make best use of regional centres for capacity-building and training in legal and other relevant spheres. A number of representatives, including one speaking on behalf of a group of parties, likewise underscored the important role of regional centres in assisting in the prevention and combating of illegal traffic, with another emphasizing capacity-building for countries with economies in transition and greater coordination of efforts overall.

64. Following the discussion, the Open-ended Working Group decided that the contact group on legal matters should consider further the provisions of the draft guidance on the implementation of paragraphs 2, 3 and 4 of Article 9 of the Convention, as well as the related draft decision set out in document UNEP/CHW/OEWG.10/7.

65. [To be completed]

2. Providing further legal clarity

66. The representative of the Secretariat introduced the sub-item, outlining the information in the relevant note by the Secretariat (UNEP/CHW/OEWG.10/8) and recalling that in decision BC-12/1 the Conference of the Parties had invited the small intersessional working group on legal clarity to prepare a revised version of the draft glossary, including explanations, for finalization at the current meeting, and had decided to initiate a process for the review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention, taking as a basis the legally binding options identified in section II of annex II to document UNEP/CHW.12/INF/52. In the absence of a party offering to take the lead, the Secretariat, with the support of a financial contribution from Japan, had assessed the views received from parties and others and had prepared recommendations thereon for the consideration of the Working Group at the current meeting. A revised glossary of terms prepared by the small intersessional working group (UNEP/CHW/OEWG.10/INF/10), a compilation of comments submitted by parties and others on the review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention (UNEP/CHW/OEWG.10/INF/11) and a report on the review of Annex IV and related aspects of Annex IX to the Basel Convention (UNEP/CHW/OEWG.10/INF/12) were before the Working Group for its consideration.

67. In the ensuing discussion, representatives expressed their views on the revised glossary of terms and the review of Annexes I, III and IV and related aspects of Annex IX to the Convention.

68. Several representatives, including one speaking on behalf of a group of countries, welcomed the work done by the small intersessional working group on legal clarity on the revised glossary of terms. A number of them, including one speaking on behalf of a group of countries, expressed particular appreciation for the legal clarity provided on the distinction between waste and non-waste and supported the recommendation that the glossary be submitted in its current state for adoption by the Conference of the Parties at its thirteenth meeting, while one representative said that an additional round of comments was needed.

69. Several representatives welcomed the process for the review of Annexes I, III and IV and related aspects of Annex IX to the Convention. One party said that it was important to maintain consistency with 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, and that careful deliberation was needed, as any revision of the annexes would directly affect the wastes controlled by the Convention and by parties' domestic legal frameworks. A number of representatives, including one speaking on behalf of a group of countries, said that additional information should be collected from parties as a first step. One representative also called for discussion on the scope of the review, expressing a preference for targeted work focusing only on sections of the annexes identified as requiring review.

70. The representative of Canada presented an offer by her Government to lead the work on the matter during the period preceding the thirteenth meeting of the Conference of the Parties.

71. Following the discussion the Working Group established a contact group on legal matters, to be co-chaired by Mr. Humphrey Kasiya Mwale (Zambia) and Mr. Simon Parker (United Kingdom of Great Britain and Northern Ireland), which was mandated to prepare a draft decision on the matter based on the draft text set out in paragraph 11 of document UNEP/CHW/OEWG.10/8.

72. [To be completed]

D. International cooperation and coordination

1. Basel Convention Partnership Programme

(a) Partnership for Action on Computing Equipment

73. The representative of the Secretariat introduced the sub-item, drawing attention to a note by the Secretariat on the Partnership for Action on Computing Equipment (UNEP/CHW/OEWG.10/9) and another containing documents developed by the Partnership (UNEP/CHW/OEWG.10/INF/13).

74. The Co-Chair then invited the co-chairs of the Partnership for Action on Computing Equipment, Mr. Marco Buletti (Switzerland) and Ms. Leila Devia (Argentina, on behalf of the Basel Convention Regional Centre for the South American Region), to report on the progress made by the Partnership and to introduce proposed actions for consideration by the Working Group.

75. Mr. Buletti and Ms. Devia provided a brief overview of the progress made by the Partnership since the twelfth meeting of the Conference of the Parties and the draft decision prepared for

consideration by the Working Group, as described in document UNEP/CHW/OEWG.10/9, as well as the documents prepared by the Partnership. In addition to the proposed actions set out in the draft decision, the Partnership was seeking guidance from the Working Group with regard to section 3 of the guidance document on the environmentally sound management of used and end-of-life computing equipment, which still needed further clarification and discussion by the Partnership, as well as the Working Group's comments on the draft concept for a follow-up partnership to the Partnership for Action on Computing Equipment.

76. A representative speaking on behalf of a group of countries thanked the co-chairs for their presentation, stressed the importance of partnerships and said that the concept note for the envisaged partnership merited further discussion. Saying that the proposed follow-up partnership to the Partnership for Action on Computing Equipment should avoid duplicating the work of the Strategic Approach to International Chemicals Management, he indicated that he would submit suggested changes to the draft decision in writing.

77. The Working Group agreed to request the contact group on strategic matters to prepare a revised draft decision on the basis of the text provided in paragraph 9 of document UNEP/CHW/OEWG.10/9, taking into account the suggestions to be submitted.

78. *[To be completed]*

(b) Household waste

79. The representative of the Secretariat introduced the sub-item, drawing attention to the relevant note by the Secretariat (UNEP/CHW/OEWG.10/10) and recalling that by decision BC-12/13 the Conference of the Parties had set up an informal group to develop a work plan on the environmentally sound management of household waste. Mauritius and Uruguay, as lead sponsors of the initiative, had prepared a draft concept note for a household waste partnership, which was before the Working Group for its consideration (UNEP/CHW/OEWG.10/INF/14).

80. Mr. Kowlessor, as one of the co-chairs of the informal group, at the invitation of the Co-Chair reported on the progress made by the group and introduced proposed actions for consideration by the Working Group. He gave an overview of the composition of the informal group, which consisted of parties, intergovernmental and non-governmental organizations, regional centres and industry associations, and the progress the group had achieved in developing the work plan and the draft decision, as described in more detail in document UNEP/CHW/OEWG.10/10. Most notably, he said, the informal group had decided to propose the establishment of a household waste partnership under the Basel Convention on the basis of the mission, scope, key objectives, working principles and structure, financial arrangements and work programme set out in the draft concept note. Subject to the outcome of the current meeting, the informal group planned to hold a meeting in August in Montevideo, Uruguay, to further develop the details of the proposed partnership.

81. During the ensuing discussion, several representatives, including a number speaking on behalf of groups of countries, welcomed the proposal for a partnership on household waste. All of them characterized household waste as a significant problem, with a number, including one speaking on behalf of a group of countries, noting that such waste was likely to contain some measure of hazardous waste. One representative speaking on behalf of a group of countries suggested that the proposed partnership should prioritize the separate collection of household waste, which was key to improving recycling, and another said that there was a need for adequate financial support to ensure the success of the informal group's activities, particularly early on.

82. One representative indicated that he would provide comments on the concept note. Another representative, speaking on behalf of a group of parties, said that he would submit written comments on the draft decision in document UNEP/CHW/OEWG.10/10.

83. *[To be completed]*

2. Cooperation between the Basel Convention and the International Maritime Organization

84. The representative of the Secretariat introduced the sub-item, drawing attention to the relevant note by the Secretariat (UNEP/CHW/OEWG.10/11) and recalling that in decision BC-12/16 the Conference of the Parties had requested the Secretariat to prepare a first draft of the guidance manual on how to improve the sea-land interface, taking into account the revised version of the IMO Comprehensive Manual on Port Reception Facilities. The Secretariat and others had prepared such a draft and subsequently revised it to take into account the comments of parties submitted in accordance with paragraph 4 (c) of decision BC-12/16, and the draft as so revised (UNEP/CHW/OEWG.10/INF/15) was before the Working Group for its consideration.

85. In the ensuing discussion several representatives, including one speaking on behalf of a group of parties, said that the draft guidance manual would be very useful to parties in their efforts to protect the marine environment and to manage ship-generated wastes and residues in an environmentally sound manner. Many representatives, including several who said that their Governments had submitted comments to the Secretariat that had been incorporated into the revised version of the draft manual, suggested that the proposed draft decision in the note by the Secretariat be amended to elicit a second round of comments on the draft manual by parties and others and to request the Secretariat to produce a further revised version of it for consideration by the Conference of the Parties at its thirteenth meeting.

86. One representative said that the draft manual adequately dealt with the management of wastes resulting from the normal operations of ships that were excluded from the scope of the Basel Convention under paragraph 12 of Article 4 of the Convention but which, once offloaded on land, were the responsibility of the recipient country.

87. A number of representatives requested that the revised draft manual be translated into French to enable French-speaking parties to provide detailed comments on it. The representative of the Secretariat said that translation of the draft guidance manual had not been budgeted for and that it would therefore not be possible to translate the document into French by the thirteenth meeting of the Conference of the Parties.

88. A number of representatives drew attention to two instruments that they said could improve the sea-land interface, namely, the IMO Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships and a resolution on marine litter and microplastics adopted by the Environment Assembly of UNEP at its second session.

89. Reacting to a comment from an observer about the draft guidance manual, one representative encouraged the parties, in particular those that had significant coastlines that could be affected by ship-related activities, to ratify the IMO 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter, 1972, which she said was more stringent than its predecessor, the IMO Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972.

90. Following the discussion, the Open-ended Working Group requested the secretariat to prepare a revised version of the draft decision set out in paragraph 5 of document UNEP/CHW/OEWG.10/11, taking into consideration the discussion held in plenary.

91. *[To be completed]*

3. Cooperation with the World Customs Organization on the Harmonized Commodity Description and Coding System

92. The representative of the Secretariat introduced the sub-item, drawing attention to the relevant note by the Secretariat (UNEP/CHW/OEWG.10/INF/16) and recalling that at its twelfth meeting, the Conference of the Parties had taken note of the Secretariat's report on the progress of its ongoing work with the secretariat of the World Customs Organization pursuant to decision BC-10/10. Since then, the Secretariat had participated in two additional sessions of the World Customs Organization Harmonized System Review Subcommittee held in May and November 2015, the outcomes of which were included in the annex to the note by the Secretariat. The Subcommittee had continued its consideration of the matter at another session held the previous week and would further consider it at its next meeting, to be held in November 2016.

93. In the ensuing discussion, several representatives, including one speaking on behalf of a group of countries, expressed their support for ongoing cooperation between the Secretariat and the World Customs Organization on incorporating hazardous waste definitions into the Harmonized Commodity Description and Coding System. One representative, speaking on behalf of a group of countries, said that it was very important to ensure that codes for e-waste, end-of-life vehicles and waste tires be identified in the harmonized system, and he asked the Secretariat to take steps to ensure that the Subcommittee include those waste streams in their discussions.

94. Noting that the Harmonized System Review Subcommittee had started work on revising the classification and codes related to e-waste and the determination of waste and non-waste, one representative expressed concern that two international organizations were working on the same question of legal clarity with regard to waste and non-waste, which was still a delicate issue under the Convention, and questioned whether such discussions should even be taking place in the Subcommittee, in particular with regard to e-waste. In addition, the extract of the Subcommittee's

negotiations found in the annex to the note by the Secretariat was difficult to follow. Finally, the content of the formal submission made by the Secretariat to the Subcommittee in 2013, on which the Subcommittee was in part basing its work, had never been shared with the parties. Under the circumstances, she suggested that parties would have difficulty providing the guidance being sought by the Secretariat, and she asked for additional explanations and documentation from the Secretariat and ideas from parties on how to better understand the work being done so that they could guide the Secretariat's participation in the process. Another representative echoed that call, underscoring the complexity of introducing hazardous wastes into the Harmonized System and asking for further updates from the Secretariat to enhance parties' understanding, including a status summary on the deliberations of the World Customs Organization and an analysis of its conclusions and the next steps for the Basel Convention.

95. In response to the concerns raised, the representative of the Secretariat explained that the work of the Review Subcommittee was ongoing and would likely continue for another two or three meetings. As the Review Subcommittee met twice a year, in May and November, the secretariat of the World Customs Organization was aiming to have an amendment to include in the 2022 version of the Harmonized System. He stressed that the Review Subcommittee was aware of the ongoing work and discussions on e-waste under the Convention, was very much aware of the interim nature of the discussions, and was considering the categorizations under the Convention closely and focusing on issues that had already been clarified. The Secretariat would continue to monitor the discussions of the Review Subcommittee and prepare input for the World Customs Organization secretariat as needed to facilitate those discussions.

96. In the light of the concerns raised, the representative of the Secretariat offered to contact interested parties with the aim of forming an informal group to provide guidance to the Secretariat on the ongoing work.

97. *[To be completed]*

E. Financial matters

98. Introducing the sub-item, the Deputy Executive Secretary drew attention to a report on financial matters covering the period from January 2014 to April 2016 (UNEP/CHW/OEWG.10/INF/17). Highlighting key figures for the Basel Convention general and technical cooperation trust funds, including arrears in contributions for that period totalling \$4,293,729, she expressed appreciation to Denmark, Finland, Germany, Japan and Sweden for providing \$148,000 in voluntary contributions to fund the participation of developing country representatives at the current meeting. Finally, she said that delays in reporting on financial matters had resulted from problems encountered during implementation of the United Nations' new enterprise resource planning system, Umoja, and expressed the hope that more timely delivery of information would be possible once those problems had been resolved.

99. In the ensuing discussion several representatives, including one speaking on behalf of a group of countries, said that there was a lack of detailed information compared to previous reports, while recognizing that the secretariat had faced challenges arising from the introduction of Umoja. One representative suggested that detailed information be provided to the Bureau of the Conference of the Parties when it became available, and the representative of the group of countries added that it should also be provided to the parties. Another representative expressed concern that only approximately one third of agreed contributions for 2015–2016 had been received, as a result of which the Secretariat might have difficulty undertaking preparatory activities for the next joint conferences of the parties to the Basel, Rotterdam and Stockholm conventions. Accordingly, she called upon parties to ensure that contributions were provided in a timely manner to enable the Secretariat to perform the tasks mandated by the Conference of the Parties. Another representative noted the progress that had been made by the Secretariat with regard to synergies and joint activities, with positive implications for the effective implementation of the Convention and efficient budgetary practices.

100. Responding to the issues raised, the Deputy Executive Secretary said that every effort would be made to provide additional budgetary information to the Bureau and to the parties as it became available. She acknowledged that implementation of Umoja had resulted in additional time required to implement activities and undertake work, but expressed confidence that eventually it would be an effective resource management tool. The issue of synergies was under review, and more information on synergies, and on the presentation of the budget, would be presented at the thirteenth meeting of the Conference of the Parties.

101. *[To be completed]*

IV. Work programme of the Open-ended Working Group for 2016–2017

102. *[To be completed]*

V. Other matters

103. *[To be completed]*

VI. Adoption of the report

104. *[To be completed]*

VII. Closure of the meeting

105. *[To be completed]*
