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**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Eleventh meeting**

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Item 4 (a) (i) of the provisional agenda*

**Matters related to the implementation of the Convention:
strategic issues: follow-up to the Indonesian-Swiss country-led
initiative to improve the effectiveness of the Basel Convention**

Follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention

Providing further legal clarity: draft glossary of certain terms

Note by the Secretariat

1. As referred to in document UNEP/CHW.11/3, on follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention, the present addendum sets out in its annex a draft glossary of terms, dated 30 November 2012 and elaborated by the Secretariat, as requested by the Open-ended Working Group in its decision OEWG-8/7. Comments received from parties and others on the attached draft glossary are compiled in document UNEP/CHW.11/INF/4. Comments submitted by parties and others with regard to the possible options for the interpretation of terms, considering both voluntary and legally binding ones, are compiled in document UNEP/CHW.11/INF/5.
2. Attention is also drawn to the draft technical guidelines on transboundary movements of e-waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention, set out in document UNEP/CHW.11/7/Add.1 and the revised guidance document on the environmentally sound management of used and end-of-life computing equipment (UNEP/CHW.11/6/Add.1). Both sets of guidelines are to be submitted to the Conference of the Parties for consideration at its eleventh meeting and neither had been finalized at the time of the elaboration of the draft glossary of terms.

* UNEP/CHW.11/1.

Annex

Draft glossary of terms (as at 30 November 2012)

Explanatory note:

This draft glossary of terms was developed by the Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal pursuant to decision OEWG-8/7, paragraphs 3 and 4.

Insofar as appropriate, the definition of the terms has been aligned with terms used in other guidelines developed under the Basel Convention. The numbers in parentheses following the definitions denote the following references:

- (1) Draft technical guidelines on transboundary movements of electronic and electrical waste (e-waste), in particular regarding the distinction between waste and non-waste (version of 27 September 2012), set out in the annex to the note by the Secretariat (UNEP/CHW/OEWG.8/INF/9/Rev.1);
- (2) Basel Convention Partnership for Action on Computing Equipment (PACE) guidance document on the environmentally sound management of used and end-of-life computing equipment, set out in the annex to the note by the Secretariat on the Partnership for Action on Computing Equipment (PACE) (document UNEP/CHW.10/20), which includes the PACE glossary of terms in its appendix 1;
- (3) Basel Convention Mobile Phone Partnership Initiative (MPPI), guidance document on the environmentally sound management of used and end-of-life mobile phones, set out in the annex to the note by the Secretariat (UNEP/CHW.10/INF/27);
- (4) Report on the implementation of the Basel Convention as it relates to the interpretation of certain terms, set out in the annex to the note by the Secretariat on the interpretation of certain terminology (UNEP/CHW/OEWG.8/INF/13/Rev.1).

In many cases, the applicability of the definition was expanded from used electrical and electronic equipment to cover goods in general. Further changes to the original reference are explained in footnotes. In some cases, the footnotes also identify potential need for further guidance.

- Charitable donation:** Transfer of a good for charity to another owner without any monetary rewards, or benefits, or barter.¹ (2)
- Component:** In the case of electrical and electronic equipment, element with electrical or electronic functionality connected together with other components, usually by soldering to a printed circuit board, to create an electronic circuit with a particular function (for example an amplifier, radio receiver or oscillator). (1, 2)
- Direct reuse:** Continued use of a good or component by a person other than its previous owner,² without the necessity of [significant]³ repair, refurbishment, or (hardware) upgrading, provided that such continued use is for the intended purpose of such good or component. (1, 2)
- Discarding:** Letting go or throwing away something that has become useless or superfluous to its owner, though it may be of value to others. “Discarding” can include not only operations where a material is disposed of in a landfill or got rid of in some other way, but also operations where the material performs some useful function, either directly or indirectly. (4)
- Dismantling:** Taking apart [used] goods, including their components, or assemblies, for reasons such as to separate materials or explore options for their reuse, refurbishment or recycling, and to maximize recovery values. (2, 3)
- Disposal:** Any operation specified in Annex IV to the Basel Convention (paragraph 4 of article 2 of the Basel Convention). Some parties have interpreted the term to require an intent to “discard,” “abandon,” “eliminate,” or “get rid of” the material.⁴ (4)
- Electrical and electronic equipment (EEE):** Equipment which is dependent on electric currents or electromagnetic fields in order to work properly, including components that can be removed from equipment and tested for functionality and subsequently either directly reused or reused after repair or refurbishment. (2)
- End-of-life good:** An item or collection of items that is no longer suitable for use. End-of-life goods may be destined for disassembly and recovery of spare parts, material recovery, recycling, or final disposal. End-of-life goods also include off-specification products that are intended for material recovery and recycling or final disposal. (2, 3)
- Environmentally sound management (ESM):** Taking all practicable steps to ensure that used and end-of-life goods or hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such goods or wastes (paragraph 8 of article 2 of the Convention).⁵
- Essential key function:** The originally intended function of a used good or component that will satisfactorily enable the used good or component to be reused. (1, 2)
- E-waste:** [See “Waste electrical and electronic equipment”.]

¹ The PACE definition specified that the good must be “fully functioning for its intended use”, but this qualifying phrase was not included here, in recognition of differing national practices. **Further guidance:** The guidance might address whether and the extent to which charitable donations that require some repair or refurbishment can nevertheless be considered non-waste or otherwise exempt from Basel Convention requirements.

² The phrase “a person other than its previous owner” is thought to be more precise than the reference in the PACE definition to “another person”, which lacks a clear antecedent. The Basel guidelines use the phrase “original owner”, but that would appear to capture situations where a new good is simply sold to a purchaser, as well as situations where ownership changes prior to export. **Further guidance:** If the guidance is to recognize that used goods destined for direct reuse (perhaps subject to some limitations) may not be hazardous wastes, it might be desirable to elaborate upon the criteria for such direct reuse (for example, whether any repair or refurbishment is permissible.)

³ Most parties consider that direct reuse cannot involve repair, refurbishment or upgrading, although some consider that the term can accommodate a minor degree of these operations. **Further guidance:** The guidance could address the issue of whether and to what extent repair, refurbishment or upgrading is consistent with direct reuse, perhaps by elaborating on the term, “significant.”

⁴ In some cases, it might be argued that subjecting a material to an operation listed in section B of Annex IV does not necessarily mean that the material is a waste; section B of Annex IV applies only to materials “legally defined as or considered to be hazardous wastes”, even though listing in section B of Annex IV may be the factor determining whether the material is a waste. For this reason, the nature of the materials and provisions of national law can be particularly important.

⁵ **Further guidance:** The guidance might address whether and how ESM should be applied as a criterion for distinguishing between hazardous waste and non-hazardous waste, in the context of the transboundary movement of used goods.

Final disposal: Disposal operations specified in section A of Annex IV to the Basel Convention. (1, 2)

Fully functional: A [used] good or component is fully functional if it was tested and demonstrated to be capable of performing at least the essential key functions that it was designed to perform.
(1)

Generation:

Formulation 1: Any activity that produces hazardous wastes or other wastes. Without limitation, such activity can include:

- Disposing or arranging for the disposal of an object or material that, once disposed of, is classified as a hazardous or other waste;
- Using or otherwise altering an object or substance, such that it becomes a hazardous or other waste;
- Creating a hazardous or other waste by virtue of an industrial process that converts raw materials or other feedstocks into hazardous or other waste;
- Causing the contamination of an object or substance, such that the resulting object or material meets the definition of “hazardous waste”.

Formulation 2: The weight or volume of objects or substances that enter the waste stream before disposal takes place.

Good: A substance or object which can be valued in money and which is capable, as such, of forming the subject of commercial transactions.⁶

Hazardous waste: (a) Wastes that belong to any category contained in Annex I to the Basel Convention (as further elaborated by Annexes VIII and IX), unless they do not possess any of the characteristics contained in Annex III to the Basel Convention; and (b) wastes that are not covered under definition (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the party of export, import or transit.

Landfilling: The placement of waste in, or on top of, ground containments, which are then generally covered with soil. (2, 3)

Leachate: Contaminated water or liquids resulting from the contact of rain, surface and ground waters with waste in a landfill. (2, 3)

Life-cycle management: Holistic way to consider the health and environmental issues associated with a substance, product or process from resource utilization, through manufacture, transportation, distribution and use, to waste management and the disposal of residues from treatment or recycling operations. (3)

Major reassembly:⁷

Formulation 1: To fit or join an object together, after having taken it apart and replaced or refurbished multiple components or parts.⁸

Formulation 2: “The remanufacture of a single unit with multiple parts taken from other units”.⁹

Formulation 3: “Replacement of a hazardous part”.¹⁰

⁶ European Commission, Directorate-General for Enterprise and Industry, “Free movement of goods – Guide to the application of Treaty provisions governing the free movement of goods,” citing Case 7/68 Commission v. Italy [1968] ECR 423. http://ec.europa.eu/enterprise/policies/single-market-goods/files/goods/docs/art34-36/new_guide_en.pdf (accessed 12 November 2012). The actual European Commission definition does not use the term “substance” and uses the term “product,” not “object.” However, the latter term, while perhaps synonymous with “product” in this context, seems preferable, as there is no need for a further definition (as there might be for “product”).

⁷ **Further guidance:** The guidance could elaborate on the criteria for “major reassembly” drawing on one or more of these formulations.

⁸ Adapted from the definition of “reassembly” in *Collins English Dictionary*, 10th edition, London, 2011: see Dictionary.com at <http://dictionary.reference.com/browse/reassembly> (accessed 14 November 2012). The term “multiple” was added in order to capture the modifier “major.”

⁹ Mobile Phone Partnership Initiative, project 2.1, draft scenario note, 2005: <http://files.ctia.org/pdf/CommentProjectGroup212.pdf> (accessed 14 November 2012). This formulation was proposed in a draft MPPI paper, but does not appear to have been finalized.

Material: Any and all matter, substance or object. (4)

Mobile phone (sometimes called a **cellular phone** or **cell phone**): Portable terminal equipment used for communication and connecting to a fixed telecommunications network via a radio interface. (3)

Non-hazardous waste: A material that does not meet the definition of “hazardous waste” whether because, first, the material is not a waste; or, second, the material, although a waste, is not hazardous as defined in article 1, paragraph 1, of the Basel Convention, i.e., does not belong to any category contained in Annex I (as further elaborated in Annexes VIII and IX); belongs to a category contained in Annex I (as further elaborated in Annexes VIII and IX) but does not possess any of the characteristics contained in Annex III; and is not defined as, or considered to be, hazardous by the domestic legislation of the exporting, transit, or importing Party. For example, entry B1110 of Annex IX to the Convention provides that certain electrical and electronic assemblies are not hazardous wastes if destined for direct reuse. (4)

Non-waste:¹¹ Objects or other materials that do not meet the definition of “waste” (see below for the definition of “waste”). Many parties consider that certain used goods, even if discarded by their owner, are not waste if destined for certain modes of reuse, especially direct reuse. This is especially true for fully functioning, marketable used goods that meet prescribed functionality, packaging, and safety criteria, and require no repair, refurbishment, reassembly, or similar processing prior to reuse for the purpose for which the good was created. (4)

Potential for reuse (reusable): Used goods or components that possess or are likely to possess quality necessary to be directly reused or reused after they have been refurbished or repaired. (2)

Recovery operation: A process by which materials that are no longer fit for their original intended purpose are transformed into a usable state or by which materials or energy is reclaimed in usable form. The term does not include reuse or direct reuse. Some recovery operations are identified in Annex IVB to the Basel Convention. (1, 4)

Recycling: The processing or transformation of used [materials] [goods, components, or portions thereof] into new products. Some recycling operations are identified in section B of Annex IV to the Convention. The term does not include reuse or direct reuse. (4)

Refurbishable: A [used] good that can be refurbished or reconditioned (see below). (2)

Refurbished good: A [used] good that has undergone refurbishment or reconditioning, returning it to working condition that is fully functional for its originally conceived use with or without upgrades and meeting applicable technical performance standards and regulatory requirements. (2, 3)

Refurbishment [or reconditioning]: Process for creating refurbished or reconditioned equipment or other goods. In respect of used electrical and electronic equipment, refurbishment may include such activities as cleaning, data sanitization, and software upgrading. (1, 2, 3) Some Parties consider that refurbishment includes aesthetic restoration and may involve repair.¹²

Remanufacture: Any action necessary to build up as-new products using components taken from previously used equipment as well as new components, if applicable. The output product meets the original functionality and reliability specifications. To remanufacture a product may require the complete or partial disassembly of the unit, replacement or reprocessing of all components not meeting specifications, and testing to determine whether the new product is fully functional. Depending on the applied components, this process may significantly change the unit’s composition, purpose, and design. (2)

Repair: A process of fixing a specified fault or series of faults in a [used] good.¹³ (1, 2, 3)

¹⁰ Basel Action Network, Paper 10, http://ban.org/library/briefingp10_april2006.pdf (accessed 14 November 2012).

¹¹ **Further guidance:** The guidance could elaborate on the conditions under which an exported used good is considered to be a waste or non-waste. This could involve, among other things: first, indicia of intent on the part of the exporter; second, criteria for exempting reuse or direct reuse (including that associated with charitable donations); and, third, conditions necessary to transform a waste into non-waste prior to export.

¹² See, for example, “Lineamientos para la Gestión de los Residuos de Aparatos Eléctricos y Electrónicos (RAEE) en Latinoamérica: resultados de una mesa regional de trabajo público-privado.” **Further guidance:** If it is recognized that used goods destined for reuse may not be wastes under certain conditions, the guidance could address the degree to which refurbishment is consistent with such an approach.

¹³ **Further guidance:** The guidance could address the degree to which repair is consistent with non-waste status.

Repair under warranty: Repair by or on behalf of manufacturer and return of product to consumer, pursuant to written warranty, during a limited warranty period.

Re-use:

Formulation 1: Process of using again a good or functional component thereof for the same [or a similar] function as it was original used, possibly after refurbishment, repair or upgrading (1, 2, 3), but not “major reassembly.” Reuse does not include recycling or recovery operations. (4)

Formulation 2: A process of using again a good or a functional component thereof, possibly after refurbishment, repairing, or upgrading (1, 2, 3), but not “major reassembly.” Re-use does not include recycling or recovery operations. (4)

Second-hand goods: Used goods.

Take-back: A requirement under paragraph 2 of article 9 of the Convention for the State of export to ensure that, in case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the wastes in question are taken back by the exporter or the generator or, if necessary, by itself into the State of export. If the take-back is impracticable, the State of export is to ensure that the wastes in question are otherwise disposed of in accordance with the provisions of the Basel Convention.¹⁴

Treatment: Any activity after a used good has been handed over to a facility for disassembly, shredding, recovery, recycling or preparation for final disposal. (2, 3)

Upgrading: A process by which used electrical and electronic equipment and other used goods are modified by the addition of the latest software or hardware. (2, 3)

Use: Utilization of a good, whether by its original owner or otherwise. The term “use” includes reuse and direct reuse of the good, but does not include utilization of a good for recycling, reclamation, or resource recovery.

Used electrical and electronic equipment (UEEE):

Formulation 1: Equipment which its owner does not intend to use any longer. (1)

Formulation 2: Electrical and electronic equipment which its owner does not intend to use any longer, but is capable of being reused by another owner, recycled, refurbished, or upgraded by another owner. (2)

Used good: An item which its owner does not intend to use any longer. (1) A used good may or may not be a waste, depending upon its characteristics, intended destination, and fate.

Waste: 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 (paragraph 1 of article 2 of the Basel Convention).¹⁵

Waste electrical and electronic equipment (WEEE): Electrical or electronic equipment which is waste, including all components, assemblies, sub-assemblies, consumables and scrap which are part of the equipment at the time that the equipment becomes waste. (1)

¹⁴ **Further guidance:** The development of guidance on the take-back provision is included in the 2012–2013 work programme of the Committee for Administering the Mechanism for Promoting Implementation and Compliance of the Convention. As defined in this glossary, the term does not refer to “take-back programmes” in other contexts, such as extended producer responsibility (EPR).

¹⁵ **Further guidance:** The guidance could elaborate criteria for determining intent to dispose. See also the entry on “non-waste”.