



Distr.: General

25 May 2023

English only

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

Geneva, 1–12 May 2023

Agenda item 4 (c) (ii)

**Matters related to the implementation of the
Convention: legal, compliance and governance
matters: providing further legal clarity**

Review of Annexes I and III

Note by the Secretariat

During the sixteenth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, Parties and observers submitted written comments on the [Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I, and findings of the expert working group on the consequential implications of the review of Annex I to the Convention (status as at 7 December 2022), set out in annex I to document UNEP/CHW.16/INF/27, and on the [Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex III, including whether any additional characteristics in relation to plastic waste should be added to Annex III, and findings of the expert working group on the consequential implications of the review of Annex III to the Convention (status as at 7 December 2022), set out in annex II to document UNEP/CHW.16/INF/27. The present note sets out, in its annex III, the said written comments. The present note, including its annexes, has not been formally edited.

Annex I

[Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I, and findings of the expert working group on the consequential implications of the review of Annex I to the Convention (status 7 December 2022)

I. Possible amendment proposals to Annex I of the Basel Convention

1. The expert working group on the review of Annexes recommends that possible amendment proposals to Annex I should be based on one or more of the objectives of the review of the annex, as set out in the annex to decision BC-13/2, which are to:

- (a) Improve/update the description of categories of wastes in Annex I;
- (b) Improve environmental controls by including any additional categories of wastes in Annex I that occur in practice; and
- (c) Clarify the descriptions in Annex I to address conflicts or overlaps.

2. Members of the expert working group expressed different views as to whether Annex I should only list waste constituents or both waste streams and waste constituents, and as to whether the constituents in Annex I should be reorganized and listed according to subheadings. Members of the expert working group also expressed different views on the extent to which to balance the benefits of proposed changes to Annex I with the resources required and risks involved when giving effect to them (e.g. the need to amend national legislation/regulations and for Competent Authorities and other stakeholders involved in transboundary movements to adjust their operations).¹

3. The expert working group on the review of Annexes also recommends that further work on the review of Annex I be based on the general issues and the [draft] recommended options for possible amendment proposals to Annex I set out in appendix I to the present recommendations.

II. Whether any additional constituents in relation to plastic waste should be added to Annex I to the Convention

4. The expert working group on the review of Annexes also recommends that further work on whether any additional constituents in relation to plastic waste should be added to Annex I be based on the proposal set out in appendix II to the present [draft] recommendations.²

III. Findings of the expert working group on the consequential implications of the review of Annex I to the Convention

[...]³

¹ See the “General issues” listed in Appendix I to the [draft] recommendations by the expert working group, paragraphs 14–16 of the report of the 17–21 May 2021 sessions of the fourth meeting of the EWG, paragraphs 71–73 of the 11–15 October 2021 sessions of the fourth meeting of the EWG, and the report of the fifth meeting of the EWG.

² See paragraph 61 of the report of the 17–21 May 2021 sessions of the fourth meeting of the EWG and paragraph 96 of the 11–15 October 2021 sessions of the fourth meeting of the EWG. See also paragraphs 68 of the report of the fifth meeting of the EWG.

³ See paragraph 62 of the report of the 17–21 May sessions of the fourth meeting of the EWG and paragraph 97 of the 11–15 October sessions of the fourth meeting of the EWG.

Appendix I to the [draft] recommendations by the expert working group

1. The following are [draft] recommended options prepared by the expert working group on the review of the Annexes during its fourth meeting (online on 17–21 May 2021, and 11–15 October 2021) and fifth meeting (Geneva, 5–7 December 2022) for possible amendments to Annex I.
2. The expert working group discussed general issues and reviewed each entry set out in Annex I. The [draft] recommended options do not necessarily reflect the views of all the members.
3. Each option was supported by at least one member of the expert working group. For any option only supported by one member, the option is bracketed. The status quo, namely the current drafting of an entry, was supported by at least one member if it is reflected as an option. The options either set out modifications to existing entries, a proposed action (e.g. delete or merge entries) or the addition of new entries (Z1, A1 to D4) which are listed after entries currently listed in Annex I for ease of reference. The expert working group also agreed that the ordering of the entries could be further considered.
4. The present version of the recommendations sets out supporting information or rationales received from the expert working group by 7 December 2022. It should be noted that the present version of the recommendations does not include all supporting information and rationales provided in the past on Annex I (see documents UNEP/CHW/RA_EWG.2/INF/8, UNEP/CHW/RA_EWG.3/INF/7, and UNEP/CHW/RA_EWG.4/INF/14), as well as comments presented in the meetings, which can be found in reports of EWG meetings (see documents UNEP/CHW/RA_EWG.2/8/Rev.1, UNEP/CHW/RA_EWG.3/8, UNEP/CHW/RA_EWG.4/3/Add.2, UNEP/CHW/RA_EWG.4/3/Add.3 and UNEP/CHW/RA_EWG.5/3).
5. More information on the fourth and fifth meetings of the expert working group on the review of the Annexes, including meeting documents, is available at the Basel Convention website.⁴

I. General issues

A. Distinction between waste streams and waste constituents

0. Status quo

Supporting information, rationales and/or relevant scientific and technical considerations:

No environmental gain is obtained by removing these waste streams.

Some wastes originating from activities listed in Y1 to Y18 might not contain any individual Annex I [or Annex VIII] constituent in a sufficient concentration to trigger an Annex III characteristic, but the sum of their constituents might.

Retaining Y1-Y18 provides the regulator with complementary elements to ensure controls that take into account the synergistic effects of certain constituents.

1. Delete Y1-Y18

Supporting information, rationales and/or relevant scientific and technical considerations:

All waste streams in Annex I are covered by entries in Annex VIII.

Complementing the current constituents (Y19-Y45) with the suggested ones seems to be sufficient to safeguard coverage of all hazardous wastes under the Convention.

There are a number of entries in Annex VIII which are not related to Y1-Y18. If waste streams would be kept in Annex I, the question could arise whether additional waste streams should be added in Annex I which would lead to a sort of second Annex VIII.

2. Review Y1-Y18 entry by entry

B. Order of listing

0. Status quo

1. Introduce a new numbering system for the constituents

⁴ See

<http://www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/4rdRAEWGmtg/tabid/8522/Default.aspx> and www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/EWG5onRA/tabid/9288/Default.aspx

Note: Annex II contains the four codes Y46 to Y49, which should be taken into account when considering new entries in Annex I.

C. Subheadings for Y19-Y45 and any new constituents

- 0. Status quo
- 1. List the constituents according to the following subheadings:
 - (a) Metal constituents
 - (b) Other inorganic constituents
 - (c) Organic constituents
 - (d) Inorganic or organic constituents

II. [Draft] [R][r]ecommended options for possible amendments to Annex I

Caption text: CATEGORIES OF WASTES TO BE CONTROLLED

- 0. Status quo

Subheading for Y1-Y18: WASTE STREAMS

- 0. Status quo
- 1. *Delete*

Entries Y1-Y18

Y1: Clinical wastes from medical care in hospitals, medical centers and clinics

- 0. Status quo
- 1. [[Clinical] [biomedical] wastes from human and animal health care from activities in hospitals, medical centers, clinics and other establishments]
- 2. *Delete*

Y2: Wastes from the production and preparation of pharmaceutical products

- 0. Status quo
- 1. *Delete*

Y3: Waste pharmaceuticals, drugs and medicines

- 0. Status quo
- 1. *Delete*

Note: See also the suggestion to include a new Y-entry “Pharmaceutical, including phytopharmaceutical, or veterinary compounds, e.g. cytotoxic and cytostatic drugs”, identified as D1.

Y4: Wastes from the production, formulation and use of biocides and phytopharmaceuticals

- 0. Status quo
- 1. [Wastes from the production, formulation and use of biocides and phytosanitary products that cannot be classified from a constituent]
- 2. *Delete*

Note: See also the suggestion to include a new Y-entry “Biocides”, identified as D2.

Y5: Wastes from the manufacture, formulation and use of wood preserving chemicals

- 0. Status quo
- 1. Wastes from the manufacture, formulation and use of wood preserving chemicals including waste cork and wood treated with such chemicals

Supporting information, rationales and/or relevant scientific and technical considerations:

The OECD Decision on the Control of Transboundary Movements of Wastes Destined for Recovery Operations considers ‘Treated cork and wood wastes’ (AC170) a hazardous waste, see <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0266%20>.

2. *Delete*

Note: See also the suggestion to include a new Y-entry “Creosotes”, identified as C9.

Y6: Wastes from the production, formulation and use of organic solvents

0. Status quo

1. *Delete*

Y7: Wastes from heat treatment and tempering operations containing cyanides

0. Status quo

1. *Delete*

Y8: Waste mineral oils unfit for their originally intended use

0. Status quo

1. *Delete*

Note: See also the proposal to include two new Y-entries “Hydrocarbons” and “Mineral oils” [in the section on waste constituents to address the wastes covered by Y8], identified as C1 and C2.

Y9: Waste oils/water, hydrocarbons/water mixtures, emulsions

0. Status quo

1. *Delete*

Note: See also the proposal to include two new Y-entries “Hydrocarbons” and “Mineral oils” [in the section on waste constituents to address the wastes covered by Y9], identified as C1 and C2.

Y10: Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)

0. Status quo

1. *Delete*

Notes:

See also the suggestion to include a new Y-entry “Chemicals listed in Annexes A, B or C of the Stockholm Convention, e.g. PCDD/PCDF, PCB etc.”, identified as C10.

See also the suggestion to include a new Y-entry “Polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)” [in the section on waste constituents to address the wastes covered by Y10], identified as C13.

Y11: Waste tarry residues arising from refining, distillation and any pyrolytic treatment

0. Status quo

1. *Delete*

Y12: Waste from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish

0. Status quo

1. [Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish and laboratory contrast media, including those that have solvents, heavy metals or biocides]

2. *Delete*

Y13: Waste from production, formulation and use of resins, latex, plasticizers, glues/adhesives

0. Status quo

1. *Delete*

Y14: Waste chemical substances arising from research and development of teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known

0. Status quo

1. *Delete*

Y15: Wastes of an explosive nature not subject to other legislation

- 0. Status quo
- 1. Wastes of an explosive nature
- 2. *Delete*

Note: See also the suggestion to include a new Y-entry “Substances of an explosive character, e.g. azides, chlorates, perchlorates and peroxides”, identified as D4.

Y16: Wastes from production, formulation and use of photographic chemicals and processing materials

- 0. Status quo
- 1. *Delete*

Y17: Wastes resulting from surface treatment of metals and plastics

- 0. Status quo
- 1. *Delete*

Y18: Residues arising from industrial waste disposal operations

- 0. Status quo
- 1. [Waste [s other than those covered by Y47] arising from disposal operations]
- 2. *Delete*

Proposal for new waste stream categories

[Z1: Waste electrical and electronic equipment including scrap]

Supporting information, rationales and/or relevant scientific and technical considerations:

As was mentioned in General issues A option 1, the constituents of this waste stream are already included in the current constituents (Y19-Y45) or in the suggested new ones.

COP 15 decided to include a new entry Y49 in Annex II: electrical and electronic waste, to include a new entry A1181 in Annex VIII and to delete entry A1180 from Annex VIII, and to delete entries B1110 and B4030 from Annex IX.

Subheading for Y19-Y45: WASTES HAVING AS CONSTITUENTS:

- 0. Status quo
- 1. WASTES HAVING AS CONSTITUENTS OR CONTAMINATED WITH

Entries Y19-Y45**Y19: Metal carbonyls**

- 0. Status quo

Y20: Beryllium, beryllium compounds

- 0. Status quo

Y21: Hexavalent chromium compounds

- 0. Status quo

Y22: Copper compounds

- 0. Status quo
- 1. Granulated copper; copper compounds

Supporting information, rationales and/or relevant scientific and technical considerations:

Not only copper compounds, but also certain forms of metallic copper exhibit ecotoxic properties that could render the waste as hazardous under H12.

See entry in Annex VI to Regulation (EC) No 1272/2008 (CLP Regulation); see <http://data.europa.eu/eli/reg/2008/1272/2021-10-01>: “granulated copper; [particle length: from 0,9 mm to 6,0 mm; particle width: from 0,494 to 0,949 mm]” Aquatic Chronic 2. H411.

Relevant supporting assessments by the Risk Assessment Committee (RAC) of the European Chemicals Agency are:

“M-factors for long-term aquatic hazard for the copper substances listed in Commission Regulation (EU) 2016/1179”; see [951ec919-e038-e9e3-90bb-0ba50c536d87 \(europa.eu\)](https://eur-lex.europa.eu/eli/reg/2016/1179/20161117/0001/eng) (note that Annex VI to the CLP Regulation has been amended by Commission Regulation (EU) 2016/1179) and “Opinion proposing harmonised classification and labelling at EU level of Granulated copper”; see [04.01-ML-014.02] ([europa.eu](https://eur-lex.europa.eu/eli/reg/2016/1179/20161117/0001/eng)).

Y23: Zinc compounds

0. Status quo

1. Zinc compounds, zinc in metallic dispersible form (metal powder)

Supporting information, rationales and/or relevant scientific and technical considerations: Zinc powder and zinc dust are classified as Aquatic Acute 1 and Aquatic Chronic 1 according to GHS criteria. In addition, not stabilised zinc powder is also classified as a Pyrophoric Solid (H250) and as a Water reactive substance (H250).

Classification can be found in the CLP Regulation under entries 030-001-00-1 and 030-001-01-9. See <http://data.europa.eu/eli/reg/2008/1272/2021-10-01>.

Detailed information on the toxicity to aquatic and terrestrial organisms of zinc metal can be found in the Risk Assessment Report prepared by the Netherlands in the year 2008. See <https://echa.europa.eu/documents/10162/d7248de0-eb5b-4a9b-83b9-042c4fd66998>.

The identification of zinc powder as a reactive substance with pyrophoric properties can be seen for instance in its associated IPCS/INCHEM data sheet prepared by WHO/ILO. See <https://incchem.org/documents/icsc/icsc/eics1205.htm>

Y24: Arsenic; arsenic compounds

0. Status quo

Y25: Selenium; selenium compounds

0. Status quo

Y26: Cadmium; cadmium compounds

0. Status quo

Y27: Antimony; antimony compounds

0. Status quo

Y28: Tellurium; tellurium compounds

0. Status quo

Y29: Mercury; mercury compounds

0. Status quo

Y30: Thallium; thallium compounds

0. Status quo

Y31: Lead, lead compounds

0. Status quo

Y32: Inorganic fluorine compounds excluding calcium fluoride

0. Status quo

Y33: Inorganic cyanides

0. Status quo

Y34: Acidic solutions or acids in solid form

0. Status quo

Y35: Basic solutions or bases in solid form

0. Status quo

Y36: Asbestos (dust and fibres)

0. Status quo

1. [Asbestos and [mineral fibers] [asbestos-like substances]]

Note: See also the suggestion to include a new Y-entry “Fibers other than asbestos capable of causing lung damage through inhalation”, identified as B3.

Y37: Organic phosphorus compounds

0. Status quo

Y38: Organic cyanides

0. Status quo

Y39: Phenols; phenol compounds including chlorophenols

0. Status quo

1. Merge with Y40: Organic oxygen compounds, e.g. ethers and phenols including chlorophenols other than covered by C10

Supporting information, rationales and/or relevant scientific and technical considerations: Phenol (entry 604-001-00-2) is classified in the CLP Regulation, according to GHS criteria, as Muta. 2, Acute Tox. 3, STOT RE 2, Skin Corr. 1B (H341, H331, H311, H301, H373, H314). Detailed information on the toxicity of phenol can be found in the EU Risk Assessment report on phenol (2006). <https://echa.europa.eu/documents/10162/1ca68f98-878f-4ef6-914a-9f21e9ad2234>.

This is part of a proposal for a reorganization of all persistent organic pollutants, considering current entries Y39, Y40, Y43, Y44 and Y45, as well as new entries C7 and C10. The complete reorganization is shown in the annex to the present appendix.

Note: See also the suggestion to include a new Y-entry “Chemicals listed in Annexes A, B and C of the Stockholm Convention, e.g. PCDD/PCDF, PCB etc.”, identified as C10.

Y40: Ethers

0. Status quo

1. Merge with Y39: Organic oxygen compounds, e.g. ethers and phenols including chlorophenols other than covered by C10

Supporting information, rationales and/or relevant scientific and technical considerations: Ethanediol (ethylene glycol) (entry 603-027-00-1) is classified in the CLP Regulation, according to GHS criteria, as Acute Tox. 4 (H302).

Tert-butyl methyl ether (MTBE) (entry 603-181-00-X) is classified as a Flam. Liq. 2 and Skin Irrit. 2 (H225, H315).

All referred classifications can be found in the CLP Regulation.

Detailed information on the toxicology of glycol ethers can be found in ECETOC Technical Report 95. 2005. See <https://www.ecetoc.org/wp-content/uploads/2014/08/ECETOC-TR-095-Vol-I.pdf>.

This is part of the proposal for a reorganization of all persistent organic pollutants presented in the annex to the present appendix.

Note: See also the suggestion to include a new Y-entry “Chemicals listed in Annexes A, B and C of the Stockholm Convention, e.g. PCDD/PCDF, PCB etc.”, identified as C10.

Y41: Halogenated organic solvents

0. Status quo

Y42: Organic solvents excluding halogenated solvents

0. Status quo

Y43: Any congener of polychlorinated dibenzo-furan

0. Status quo

1. Merge with Y44 and part of Y39 (pentachlorophenol) and Y40 (decaBDE, tetraBDE, pentaBDE, hexaBDE, heptaBDE) as “Chemicals listed in Annexes A, B or C of the Stockholm Convention e.g. PCDD/PCDF, PCB etc.”, identified as C10.

Supporting information, rationales and/or relevant scientific and technical considerations: Grouping all POPs into a single (new) entry providing a dynamic reference to all substances listed in Annexes A, B or C of the Stockholm Convention is the most effective and “future proof” approach.

This is part of the proposal for a reorganization of all persistent organic pollutants presented in the annex to the present appendix.

Y44: Any congener of polychlorinated dibenzo-p-dioxin

0. Status quo
1. Merge with Y43 and part of Y39 (pentachlorophenol) and Y40 (decaBDE, tetraBDE, pentaBDE, hexaBDE, heptaBDE) as “Chemicals listed in Annexes A, B or C of the Stockholm Convention e.g. PCDD/PCDF, PCB etc”, identified as C10.

Supporting information, rationales and/or relevant scientific and technical considerations: Grouping all POPs into a single (new) entry providing a dynamic reference to all substances listed in Annexes A, B or C of the Stockholm Convention is the most effective and “future proof” approach.

This is part of the proposal for a reorganization of all persistent organic pollutants presented in the annex to the present appendix.

Y45: Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

0. Status quo
1. Organohalogen compounds, e.g. brominated or chlorinated flame retardants, chlorofluorocarbons, bromofluorohydrocarbons, other than covered by Y41 and C10

Supporting information, rationales and/or relevant scientific and technical considerations: Numerous organohalogen compounds have been classified as hazardous according GHS criteria. Examples are 1,2,3-trichloropropane (entry 602-062-00-X) as Carc. 1B, hexafluoropropene (entry 602-061-00-4) as STOT SE 3; tetrabromobisphenol-A (entry 604-074-00-0) as Aquatic Acute 1.

Further classifications can be found in the CLP Regulation.

Chlorofluorocarbons or bromofluorohydrocarbons cause ozone depletion and are banned or severely restricted by the Montreal Protocol. See https://ozone.unep.org/sites/default/files/2019-12/The%20Ozone%20Treaties%20EN%20-%20WEB_final.pdf.

This is part of the proposal for a reorganization of all persistent organic pollutants presented in the annex to the present appendix.

Note: See also the suggestion to include a new Y-entry “Chemicals listed in Annexes A, B and C of the Stockholm Convention, e.g. PCDD/PCDF, PCB etc.”, identified as C10 which merges Y43 and Y44 and part of Y39 (pentachlorophenol) and Y40 (decaBDE, tetraBDE, pentaBDE, hexaBDE, heptaBDE).

Proposals for new waste constituents

A. Metal constituents

A1 Aluminium in metallic dispersible form (metal powder), aluminium compounds

Supporting information, rationales and/or relevant scientific and technical considerations: Aluminium powder (pyrophoric) with entry 013-001-00-6 is classified as a Pyrophoric Solid 1 and as Water Reactive Water-react. 2 (H250, H261). Stabilised aluminium powder (013-002-00-1) is classified as a Flammable Solid 1 and Water-reactive. 2 (H228, H261). Anhydrous aluminium chloride (013-003-00-7) is classified as Skin Corr. 1B (H314).

All referred classifications can be found in the CLP Regulation.

Aluminium is a well-known neurotoxicant. Accumulation in the human body has been related to the presence of aluminium in dialysis fluids and the concomitant intake of aluminium-containing drugs. This accumulation has resulted in dialysis encephalopathy that was often fatal.

Neurotoxic effects have been observed in welders with aluminium urine >100 µg/L. Aluminium has been suggested to be one of several factors contributing to Alzheimer's disease, although this has not been satisfactorily demonstrated. Information quoted from: Handbook on the Toxicology of Metals, 3rd Edition. 2009. Chapter 17 – Aluminum. See

https://www.academia.edu/42363530/Handbook_on_the_Toxicology_of_Metals_3rd_Edition.

A recent review of health effects of aluminium can be found in the opinion by the Scientific Committee on Health, Environmental and Emerging Risks (SCHEER) “Final opinion tolerable intake of aluminium with regards to adapting the migration limits for aluminium in toys”.

https://ec.europa.eu/health/system/files/2018-03/scheer_o_009_0.pdf.

A1 ALT Aluminium in metallic dispersible form (metal powder)

A2 Alkaline or alkaline earth metals: lithium, sodium, potassium, calcium in uncombined form and magnesium in metallic dispersible form (metal powder); inorganic lithium compounds

Supporting information, rationales and/or relevant scientific and technical considerations:

Lithium (entry 003-001-00-4) is classified as Water-react. 1 and Skin Corr. 1B (H260, H314).

A recent assessment of the health effects (reproductive toxicity) of lithium carbonate, lithium chloride and lithium hydroxide was adopted by the European Chemicals Agency in September 2021. See <https://echa.europa.eu/documents/10162/e2a3c38e-85fe-505c-a325-293c70a74da5>.

Sodium (entry 011-001-00-0) sodium is classified in the CLP Regulation as Water-react. 1 and Skin Corr. 1B (H260, H314).

Potassium (entry 019-001-00-2) is classified in the CLP Regulation as Water-react. 1 and Skin Corr. 1B (H260, H314).

Calcium (entry 020-001-00-X) is classified in the CLP Regulation as Water-react. 2 (H261).

Magnesium powder (pyrophoric) (entry 012-001-00-3) is classified in the CLP Regulation as Pyr. Sol. 1 and Water-react. 1 (H250, H260).

Magnesium, powder or turnings (entry 012-002-00-9) is classified in the CLP Regulation as Flam. Sol. 1, Self-heat. 1 and Water-react. 2 (H228, H252, H261).

All referred classifications can be found in the CLP Regulation.

A3 Vanadium compounds

Supporting information, rationales and/or relevant scientific and technical considerations:

Divanadium pentaoxide (entry 023-001-00-8) is classified in the CLP Regulation as Muta. 2, Repr. 2, Acute Tox. 4, STOT SE 3, STOT RE 1 and Aquatic Chronic 2 (H341, H361d, H332, H302, H335, H372, H411).

All referred classifications can be found in the CLP Regulation.

Further information on the toxicology of Vanadium can be found in the ATSDR Toxicological Profile of Vanadium. September 2012. See <https://www.atsdr.cdc.gov/toxprofiles/tp58.pdf>.

A4 Nickel, nickel compounds

Supporting information, rationales and/or relevant scientific and technical considerations:

Nickel (entry 028-002-00-7) is classified in the CLP Regulation as Carc. 2, STOT RE 1 and Skin Sens. 1 (H351, H372, H317).

Nickel powder; [particle diameter < 1 mm] (entry 028-002-01-4) is classified in the CLP Regulation as Carc. 2, STOT RE 1, Skin Sens. 1 and Aquatic Chronic 3 (H351, H372, H317, H412).

Nickel dioxide (entry 028-004-00-8) is classified in the CLP Regulation as Carc. 1A, STOT RE 1, Skin Sens. 1 and Aquatic Chronic 4 (H350i, H372, H317, H413).

Nickel (II) 10hlegmat (entry 028-006-00-9) is classified in the CLP Regulation as Carc. 1A, Muta. 2, STOT RE 1, Skin Sens. 1, Aquatic Acute 1 and Aquatic Chronic 1 (H350i, H341, H372, H317, H400, H410). Many other nickel compounds are classified as hazardous.

All referred classifications can be found in the CLP Regulation.

Detailed information on the toxicity of nickel and nickel compounds can be found in the EU Risk Assessment Report on Nickel. 2008. See <https://echa.europa.eu/documents/10162/cefd8bc-2952-4c11-885f-342aacf769b3>.

A4 ALT Nickel compounds

A5 Cobalt; cobalt compounds

Supporting information, rationales and/or relevant scientific and technical considerations:

Cobalt metal and numerous cobalt compounds are classified as hazardous in the CLP Regulation, following GHS criteria. Some examples of classified substances are provided below:

Cobalt (entry 027-001-00-9) is classified as Carc. 1B, Muta. 2, Repr. 1B, Resp. Sens. 1, Skin Sens. 1 and Aquatic Chronic 4

(H350, H341, H360F, H334, H317, H413)

Cobalt oxide (entry 027-002-00-4) is classified as Acute Tox. 4, Skin Sens. 1, Aquatic Acute 1 and Aquatic Chronic 1 (H302, H317, H400, H410).

Cobalt dichloride (entry 027-004-00-5) is classified as Carc. 1B, Muta. 2, Repr. 1B, Acute Tox. 4, Resp. Sens. 1, Skin Sens. 1, Aquatic Acute 1, Aquatic Chronic 1 (H350i, H341, H360F, H302, H334, H317, H400, H410).

All referred classifications can be found in the CLP Regulation.

Further information on the toxicity of cobalt, and the basis for its hazard classification, can be found in the report by the Risk Assessment Committee of the European Chemicals Agency. 2017. See <https://echa.europa.eu/documents/10162/b7316b11-ae65-1dd0-2e64-bb6ad3efbd82>.

A6 Silver compounds

Supporting information, rationales and/or relevant scientific and technical considerations: Silver nitrate (entry 047-001-00-2) is classified in the CLP Regulation, based on GHS criteria, as Ox. Sol. 2, Skin Corr. 1B, Aquatic Acute 1 and Aquatic Chronic 1 (H272, H314, H400, H410). All referred classifications can be found in the CLP Regulation.

A proposal to classify silver as a hazardous substance has been submitted by Sweden in 2021 to the European Chemicals Agency, under the CLP Regulation. The proposed classification is: Skin Sens. 1, H317; Muta. 2, H341; Repr. 1B, H360FD; Aquatic Acute 1, H400; Aquatic Chronic 1, H410.

Further information on the toxicology and physical chemical properties of silver are available in the related dossier: See <https://echa.europa.eu/documents/10162/fcd8f90a-2394-d9fc-ca96-6b9bed3e8fa1>.

A7 Organic tin compounds and tin tetrachloride

Supporting information, rationales and/or relevant scientific and technical considerations: Numerous organic tin compounds as well as an inorganic tin compound are classified as hazardous substances in the CLP Regulation, according to GHS classification criteria. Some examples include:

Tin tetrachloride (entry 050-001-00-5) is classified as Skin Corr. 1B and Aquatic Chronic 3 (H314, H412).

Trimethyltin compounds (entry 050-005-00-7) are classified as Acute Tox. 1, Acute Tox. 2, Aquatic Acute 1 and Aquatic Chronic 1 (H310, H330, H300, H400, H410).

Tributyltin compounds (050-008-00-3) are classified as Repr. 1B, Acute Tox. 3, Acute Tox. 4, STOT RE 1, Skin Irrit. 2, Eye Irrit. 2, Aquatic Acute 1, Aquatic Chronic 1 (H360FD, H301, H312, H372, H315, H319, H400, H410).

Dibutyltin dichloride (DBTC) (entry 050-022-00-X) is classified as Muta. 2, Repr. 1B, Acute Tox. 2, Acute Tox. 3, Acute Tox. 4, STOT RE 1, Skin Corr. 1B, Aquatic Acute 1, Aquatic Chronic 1 (H341, H360FD, H330, H301, H312, H372, H314, H400, H410).

All referred classifications can be found in the CLP Regulation

Further information on the toxicological profile of tin and tin compounds can be found in ATSDR 2005; see <https://www.atsdr.cdc.gov/toxprofiles/tp55.pdf>, and in the chapter by Dopp and Rettenmeier in the book Encyclopedia of Metalloproteins. See https://www.researchgate.net/publication/277889777_Tin_Toxicity.

A8 Barium; barium compounds, excluding barium sulfate

Supporting information, rationales and/or relevant scientific and technical considerations: Some barium compounds are classified for their acute toxicity in the CLP Regulation, according to GHS criteria. Some examples include:

Barium chloride (entry 056-004-00-8) is classified as Acute Tox. 3 and Acute Tox. 4 (H301, H332).

Barium salts, with the exception of barium sulphate (entry 056-002-00-7) and some other exceptions are classified as Acute Tox. 4 (H332, H302).

All referred classifications can be found in the CLP Regulation.

Further information on the toxicity of barium and barium compounds can be found in the Toxicological Profile for Barium and barium compounds published by ATSDR in toxicological profile for barium and barium compounds, available at <https://www.atsdr.cdc.gov/toxprofiles/tp24.pdf>.

B. Other inorganic constituents**B1 Inorganic isocyanates**

Supporting information, rationales and/or relevant scientific and technical considerations: Potassium cyanate is classified as Acute Tox. 4 (H302) according GHS criteria. Sodium cyanate is classified as Acute Tox. 4 and Aquatic Chronic 3 (H302, H412) according GHS criteria. Classification can be found in the CLP Regulation under entries 615-016-00-9 and 011-006-00-8.

B2 Inorganic sulphides

Supporting information, rationales and/or relevant scientific and technical considerations: Sodium sulphide is classified as Acute tox. 4, Acute Tox. 3, Skin corr 1 B and Aquatic Acute 1 (H311, H302, H314, H400) according GHS criteria. Sodium polysulphides is classified as Acute Tox. 3, Skin Corr. 1B and Aquatic Acute 1 (H301, H314, H400) according GHS criteria.

Classification can be found in the CLP Regulation under entries 016-009-00-8 and 016-010-00-3.

B3 Fibers other than asbestos capable of causing lung damage through inhalation

Supporting information, rationales and/or relevant scientific and technical considerations: Certain man-made vitreous fibres are known to cause lung damage. Further information on the specific fibers and their effects can be found in:

IARC Monographs on the Evaluation of Carcinogenic Risks to Humans. WHO IARC. 2002. Vol. 81. See <https://monographs.iarc.who.int/wp-content/uploads/2018/06/mono81.pdf>.

Recommendation from the Scientific Committee on Occupational Exposure Limits for man-made mineral fibres (MMMF) with no indication for carcinogenicity and not specified elsewhere. SCOEL/SUM/88. March 2012. See

<https://ec.europa.eu/social/BlobServlet?docId=7722&langId=en&>.

Certain refractory ceramic fibres are classified as carcinogens of Cat. 1B in the CLP Regulation (under index number 650-017-00-8. Certain mineral wools are classified as Carc. Cat 2 under entry 650-016-00-2.

Note: see also Y36

C. Organic constituents

C1 Hydrocarbons other than covered by C2 to C4

Supporting information, rationales and/or relevant scientific and technical considerations: See information on toxicity of hydrocarbons at: <https://www.concawe.eu/wp-content/uploads/Hazard-classification-and-labelling-of-petroleum-substances-in-the-European-Economic-Area-%E2%80%93-2020.pdf>.

C2 Mineral oils

Supporting information, rationales and/or relevant scientific and technical considerations: In principle covered by C1 but a specific code for mineral oils would be acceptable.

C3 Aromatic compounds other than covered by C4

Supporting information, rationales and/or relevant scientific and technical considerations: Benzene, toluene ethylbenzene and xylene (BTEX) are a group of related volatile organic compounds and often applied in practical waste analysis. They are classified as hazardous according GHS criteria. Classification of benzene (entry 601-020-00-8) as Flam. Liq. 2, Carc. 1, Muta. 1B, STOT RE 1, Asp. Tox. Eye Irrit. 2 and Skin Irrit. 2 (H225, H350, H340, H372, H304, H319 and H315); toluene (entry 601-021-00-3) as Flam. Liq. 2, Repr. 2, Asp. Tox. 1, STOT RE 2, Skin Irrit. 2 and STOT SE 3 (H225, H361, H304, H373, H315, H336); ethylbenzene (entry 601-023-00-4) as Flam. Liq. 2, Acute Tox. 4, STOT RE 2 and Asp. Tox. (H225, H332, H373, H304) or xylene (entry 601-022-00-9) as Flam. Liq. 3, Acute Tox. 4, Acute Tox. 4 Skin Irrit. 2 (H226, H332, H312, H315) and further aromatic compounds can be found in the CLP Regulation. Further information can also be found in <https://www.atsdr.cdc.gov/interactionprofiles/ip-btex/ip05.pdf> and https://publications.iarc.fr/_publications/media/download/6043/20a78ade14e86cf076c3981a9a094f45da6d27cc.pdf.

C4 Polycyclic aromatic hydrocarbons

Supporting information, rationales and/or relevant scientific and technical considerations: Numerous PAHs are classified as hazardous substances due to their carcinogenicity, mutagenicity or toxicity for reproduction, as well as due to their ecotoxicity. Detailed information on assigned classifications can be found in the CLP Regulation, for example: naphthalene (entry 601-052-00-2) as Carc. 2, benzo[a]pyrene (entry 601-032-00-3) as carc. 1B. Polycyclic aromatic compounds are often used as a sum parameters in waste classification. Further detailed information on the toxicity of PAHs can be found in: IARC Monographs on the Evaluation of Carcinogenic Risks to Humans. Vol.92. October 2005. Some Non-heterocyclic Polycyclic Aromatic Hydrocarbons and Some Related Exposures. See <http://publications.iarc.fr/110>.

C5 Organic nitrogen compounds, e.g. aliphatic or aromatic amines

Supporting information, rationales and/or relevant scientific and technical considerations: Some examples of the classification of relevant amines include: Trimethylamine (entry 612-001-00-9)

as Flam. Gas 1, Acute Tox 4, STOT SE 3, Skin Irrit 2, Eye Dam. 1 (H220, H332, H335, H315, H318).

Nitrobenzene (entry 609-003-00-7) as Carc. 2, Repr. 1B, Acute Tox. 3, Acute Tox. 3, Acute Tox. 3, STOT RE 1 and Aquatic Chronic 3 (H351, H360, H301, H331, H311, H372, H412); Aniline (entry 612-008-00-7) as Carc. 2, Muta 2, Acute Tox. 3, Acute Tox. 3, Acute Tox. 3, STOT RE 1, Eye Dam. 1, Skin Sens 1, Aquatic Acute 1 (H351, H341, H331, H311, H301, H372, H318, H317, H400).

Further classifications can be found in the CLP Regulation.

Further detailed information can be found in:

IARC Monograph Vol. 127. (2021) Some Aromatic Amines and Related Compounds. See

<https://publications.iarc.fr/599>

IARC Monograph Vol. 123. (2020) Some Nitrobenzenes and Other Industrial Chemicals. See

<http://publications.iarc.fr/584>

IARC Monographs Vol. 122. (2019) Isobutyl nitrite, β -picoline, and some acrylates.

https://publications.iarc.fr/_publications/media/download/5994/f020f11a6da11e6966cb8eacff492542d7f64935.pdf.

C6 Organosulfur compounds

Supporting information, rationales and/or relevant scientific and technical considerations:

Numerous organosulfur compounds are classified as hazardous according to GHS criteria. Some relevant examples are Dimethyl sulphate (entry 016-023-00-4) as Carc. 1B, Muta 2, Acute Tox. 2, Acute Tox. 3, Skin. Corr. 1B, Skin. Sens (H350, H341, H330, H301, H314, H317); ethanethiol (entry 016-022-00-9) as Flam. Liq. 2, Acute Tox. 4 Aquatic Acute and Aquatic Chronic 1 (H225, H332, H400, H410) and bis(methoxythiocarbonyl) disulphide (entry 016-024-00-X) as Acute Tox. 4, Aquatic Acute 1, Aquatic Chronic 1 (H301, H400, H401).

Further classifications can be found in the CLP Regulation.

C7 Organic oxygen compounds, e.g. ethers and phenols including chlorophenols other than covered by C10

Supporting information, rationales and/or relevant scientific and technical considerations:

Numerous organic oxygen compounds were classified as hazardous according to GHS criteria. Some relevant examples are methanol (entry 603-001-00-X) as Flam. Liq. 2, Acute Tox. 3, Acute Tox. 3, Acute Tox. 3 STOT SE 1 (H225, H331, H311, H301, H370); tert-butyl methyl ether (entry 603-181-00-X) as Flam. Liq. 2, Skin Irrit 2 (H225, H315); 2-chlorophenol (entry 604-008-00-0) as Acute Tox. 4, Acute Tox. 4 Acute Tox 4, Aquatic Chronic 2 (H332, H312, H302, H411); 2,4-dichlorophenol (entry 604-011-00-7) as Acute Tox. 4, Eye Irrit. 2, Skin cor. 1B, Aquatic Chronic 2 (H311, H302, H314, H411) or bisphenol A (entry 604-030-00-0) as Repr. 1B, STOT SE 3, Eye Dam. 1, Skin Sens. 1 (H360, H335, H318, H317).

Further classifications organic oxygen compounds can be found in the CLP Regulation.

Further detailed information can also be found in:

IARC Monographs on the Evaluation of the Carcinogenic Risk of Chemicals to Humans Vol 36. 1985. Allyl Compounds, Aldehydes, Epoxides and Peroxides. See

https://publications.iarc.fr/_publications/media/download/1584/3ef54f58ce19b8cb94da1d31bc8ead4eb6679a2a.pdf.

IARC Monographs on the Evaluation of Carcinogenic Risks to Humans Vol 77. 2000. Some Industrial Chemicals. See

https://publications.iarc.fr/_publications/media/download/2519/d3673e35a0c40e4a03f2b642b6a5d50d59cac040.pdf.

IARC Monographs on the Evaluation of Carcinogenic Risks to Humans Vol 117. 2019.

Pentachlorophenol and Some Related Compounds. See

https://publications.iarc.fr/_publications/media/download/5717/3507e6ef7631cd3e073e5cb65415daa0b524989c.pdf.

This is part of the proposal for a reorganization of all persistent organic pollutants presented in the annex to the present appendix.

Note: C7 is identical with Y39 option 1 and Y40 option 1

C8 Organic isocyanates, e.g. methyl isocyanate

Supporting information, rationales and/or relevant scientific and technical considerations:

Methyl isocyanate (entry 615-001-00-7) is classified as Flam. Liq. 2, Repr. 2, Acute Tox. 2, Acute Tox. 3, Acute Tox. 3. Resp. Sens. 1, Skin Sens. 1, STOT SE 3, Skin Irrit. 2, Eye Dam. 1 (H225, H361, H330, H311, H301, H334, H317, H335, H315, H318) according to GHS categories.

Toluene-2,4-di-isocyanate (entry 615-001-00-4) is classified as Carc. 2, Acute Tox. 2, Eye Irrit. 2, STOT SE 3, Skin Irrit. 2, Resp. Sens. 1, Skin Sens. 1, Aquatic Chronic 3 (H351, H330, H319, H335, H315, H334, H317, H412) according to GHS criteria.

Classification of methyl isocyanate, toluene-2,4-di-isocyanate and further isocyanate can be found in the CLP Regulation.

C9 Creosotes

Supporting information, rationales and/or relevant scientific and technical considerations: Creosotes are mixtures of substances and are produced by distillation of tars from fossil fuels or the pyrolysis of plant material, e.g. wood. The distillate of coal tar produced by high temperatures is classified as Carc 1 B (H350) according to GHS criteria. Classification can be found in the CLP Regulation under entry 648-101-00-4.

C10 Chemicals listed in Annexes A, B or C of the Stockholm Convention, e.g. PCDD/PCDF, PCB etc.

Supporting information, rationales and/or relevant scientific and technical considerations: Grouping all POPs into a single (new) entry providing a dynamic reference to all substances listed in Annexes A, B or C of the Stockholm Convention is the most effective and “future proof” approach.

Note: C10 includes Y43 and Y44 and part of Y39 (pentachlorophenol) and Y40 (decaBDE, tetraBDE, pentaBDE, hexaBDE, heptaBDE).

Supporting information, rationales and/or relevant scientific and technical considerations: Grouping all POPs into a single (new) entry providing a dynamic reference to all substances listed in Annexes A, B or C of the Stockholm Convention is the most effective and “future proof” approach.

This is part of the proposal for a reorganization of all persistent organic pollutants presented in the annex to the present appendix.]

C11 Perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride

Supporting information, rationales and/or relevant scientific and technical considerations: Listed as a POP substance in Annex A of the Stockholm Convention, this entry should be covered by the group entry C10.

C12 Short-chain chlorinated paraffins

Supporting information, rationales and/or relevant scientific and technical considerations: Listed as a POP substance in Annex A of the Stockholm Convention, this entry should be covered by the group entry C10.

C13 Polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)

Supporting information, rationales and/or relevant scientific and technical considerations: PCBs and HBB are listed as POP substances in Annex A of the Stockholm Convention. This entry should on the one hand be covered by the group entry C10 (PCBs and HBB), and on the other hand by group entry Y45 “organohalogen compounds” covering PCTs and PBBs other than HBB.

Further information on the toxicity of PBBs can be found in:

EFSA Panel on Contaminants in the Food Chain (CONTAM); Scientific Opinion on Polybrominated Biphenyls (PBBs) in Food. EFSA Journal 2010 ; 8(10) :1789.

<https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2010.1789>.

ATSDR, 2004. Toxicological profile for polybrominated biphenyls and polybrominated diphenyl ethers. <https://www.atsdr.cdc.gov/toxprofiles/tp68.pdf>.

WHO, 1994. International Programme on Chemical Safety (IPCS). Environmental Health Criteria 152. Polybrominated biphenyls.

<https://apps.who.int/iris/bitstream/handle/10665/39263/9241571527-eng.pdf?sequence=1>.

Exhaustive information on the toxicity of PCBs and of PCTs can be found in:

World Health Organization & International Programme on Chemical Safety, 1993.

Polychlorinated biphenyls and terphenyls, 2nd. Ed. World Health Organization. See

<https://apps.who.int/iris/bitstream/handle/10665/38678/9241571403-eng.pdf?sequence=1&isAllowed=y>.

C14 Organosilicon compounds

Supporting information, rationales and/or relevant scientific and technical considerations: Organosilicon compounds contain carbon-silicon bounds. These compounds are widely used in commercial products. Most common are sealants, caulks or adhesives.

Classification of Octamethylcyclotetrasiloxane as Repro. 2, Aquatic Chronic 4 (H361, H413) according to GHS criteria can be found in the CLP Regulation under entry 014-018-00-1.

D. Organic or inorganic constituents

D1 Pharmaceutical, including phytopharmaceutical, or veterinary compounds, e.g. cytotoxic and cytostatic drugs

D2 Biocides

D3 Materials containing pathogens

D4 Azides, chlorates, perchlorates and peroxides

[D5 Organic peroxides]

Supporting information, rationales and/or relevant scientific and technical considerations for D1 to D4: Lead azide [≥ 20 % phlegmatiser] is classified as Exp. 1.1, Repr 1A, Acute Tox. 4, STOT RE 2, Aquatic Acute 1, Aquatic Chronic 1 (H201, H360, H332, H302, H373, H400, H410) according GHS criteria (entry 082-003-01-4). Ammonium perchlorate is classified as Expl. 1.1, Ox. Sol. 1 (H201, H271) according GHS criteria (entry 017-009-00-0). These and further entries can be found in the CLP Regulation.

Supporting information, rationales and/or relevant scientific and technical considerations for D5: link to the possible deletion of hazardous characteristic H5.2 Organic peroxides which is about constituents

Paragraphs (a) to (d) at the end of Annex I

0. Status quo

Annex to Appendix I: Proposal for a reorganization of entries of all Persistent Organic Pollutants in Annex I to the Convention

ENTRIES FOR PERSISTENT ORGANIC POLLUTANTS				
	Current entries			New entries proposed by EU+MS
Y39	Phenols, phenol compounds including chlorophenols		C7+C10	
Y40	Ethers		C7+C10	
Y43	Any congener of polychlorinated dibenzo-furan		C10	
Y44	Any congener of polychlorinated dibenzo-p-dioxin		C10	
Y45	Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)		Y45	Organohalogen compounds, e.g. brominated or chlorinated flame retardants, chlorofluorocarbons, bromofluorohydrocarbons, other than the chemicals referred to in C10
	New entries presented in the Report of the fourth meeting of the Expert Working Group on the review of Annexes (supplementary sessions, 11-15 October 2021)			
C7	Organic oxygen compounds, e.g. ethers and phenols including chlorophenols other than covered by C10		C7	Organic oxygen compounds, e.g. ethers and phenols including chlorophenols other than covered by C10
C10	Chemicals listed in Annexes A, B or C of the Stockholm Convention, e.g. PCDD/PCDF, PCB etc.		C10	Chemicals listed in Annexes A, B or C of the Stockholm Convention, e.g. PCDD/PCDF, PCB etc.
C11	Perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride		C10	
C12	Short-chain chlorinated paraffins		C10	
C13	Polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)		C10 and Y45	

Appendix II to the [draft] recommendations by the expert working group

Whether any additional constituents in relation to plastic waste should be added to Annex I to the Convention

The following constituents seem relevant in relation to plastic wastes:

- a) From the current constituents: [Y23], Y24, Y26, Y27, [Y29], Y31 and Y45;
- b) From the proposals for new constituents: C4, C7 (which covers Y39 and Y40, including e.g. phthalates and bisphenol A, except pentachlorophenol and decaBDE, tetraBDE, pentaBDE, hexaBDE, heptaBDE) and C10 (which includes Y43 and Y44 and part of Y39 (pentachlorophenol) and Y40 (decaBDE, tetraBDE, pentaBDE, hexaBDE, heptaBDE)). [C11, C12 and C13]

Annex II

[Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex III, including whether any additional characteristics in relation to plastic waste should be added to Annex III, and findings of the expert working group on the consequential implications of the review of Annex III to the Convention (status 7 December 2022)

I. Possible amendment proposals to Annex III of the Basel Convention

1. The expert working group on the review of Annexes recommends that possible amendment proposals to Annex III should be based on one or more of the objectives of the review of the annex, as set out in the annex to decision BC-13/2, which are to:

- (a) Improve/update the list of hazardous characteristics in Annex III;
 - (b) Improve environmental controls by including any additional hazardous characteristics in Annex III that occur in practice; and
 - (c) Clarify the descriptions in Annex III to address conflicts or overlaps.
2. Members of the expert working group expressed different views as to whether:
- (a) The description of the hazardous characteristics should refer to substances within the wastes and/or to the wastes;
 - (b) The list of hazardous characteristics should be organized considering the different types of hazards involved (e.g. physical, chemical, environmental and delayed hazards);
 - (c) An introduction should be added to Annex III;
 - (d) Hazardous characteristics, and which ones, should be added, of those described in the Globally Harmonized System of Classification and Labelling of Chemicals (GHS);
 - (e) *De minimis* concentration values, concentration limit values or cut off concentration values should be established in order to allow an objective determination of hazardousness and, if so, which thresholds and methodology should be used;
 - (f) The threshold values to discriminate between hazardous and non-hazardous waste should define non-hazardous waste which is effectively harmless in worst-case mis-management situations or, to the contrary, results in waste still subject to sound environmental management, but not requiring control under the Convention.

3. Members of the expert working group also expressed different views on the extent to which to balance the benefits of proposed changes to Annex III with the resources required and risks involved when giving effect to them (e.g. the need to amend national legislation/regulations and for Competent Authorities and other stakeholders involved in transboundary movements to adjust their operations)¹.

4. The expert working group on the review of Annexes also recommends that further work on the review of Annex III be based on the general issues and the recommended options for possible amendment proposals to Annex III set out in appendix I to the present [draft] recommendations.

II. Whether any additional characteristics in relation to plastic waste should be added to Annex III to the Convention

¹ See the “General issues” listed in Appendix I to the [draft] recommendations by the expert working group, paragraphs 12–15 and 20–24 of the 11–15 October 2021 sessions of the fourth meeting of the EWG.

5. The expert working group on the review of Annexes also recommends that further work on whether any additional characteristics in relation to plastic waste should be added to Annex III be based on the text set out in appendix II to the present [draft] recommendations².

III. Findings of the expert working group on the consequential implications of the review of Annex III to the Convention

[...]³

² See paragraphs 68–69 of the 11–15 October 2021 sessions of the fourth meeting of the EWG, and paragraphs 119 - 121 of the report of the fifth meeting of the EWG.

³ See paragraph 70 of the 11–15 October 2021 sessions of the fourth meeting of the EWG.

Appendix I to the [draft] recommendations by the expert working group

1. The following are [draft] recommended options prepared by the expert working group on the review of the Annexes during its fourth meeting (online on 17–21 May 2021, and 11–15 October 2021) and fifth meeting (Geneva, 5–7 December 2022) for possible amendments to Annex III.
2. The expert working group discussed general issues and a general introduction, and reviewed each entry and text set out in Annex III. The [draft] recommended options do not necessarily reflect the views of all the members.
3. Each option was supported by at least one member of the expert working group. The status quo, namely the current drafting of an entry or text, was supported by at least one member if it is reflected as an option; when the status quo is not reflected as an option, it is because no member supported it⁴. The options either set out modifications to existing entries, a proposed action (e.g. delete or merge entries) or the addition of new entries (1 to 13) and new text which are listed after entries currently listed in Annex III for ease of reference. The expert working group also agreed that the ordering of the entries could be further considered.
4. For some options, supporting information was provided by proponents, such as alignment with the UN Recommendations on Transport of Dangerous Goods – Model Regulations (UN Model Regulations) and with the GHS. In this regard, it should be noted that there may be differences in the way the UN Model Regulations and the GHS are implemented at the national level.⁵
5. The present version of the recommendations sets out supporting information or rationales received from the expert working group by 7 December 2022. It should be noted that the present version of the recommendations does not include all supporting information and rationales provided in the past on Annex III (see documents UNEP/CHW/RA_EWG.2/INF/8, UNEP/CHW/RA_EWG.3/INF/7, UNEP/CHW/RA_EWG.4/INF/14 and UNEP/CHW/RA_EWG.4/INF/20), as well as comments presented in the meetings, which can be found in reports of EWG meetings (see documents UNEP/CHW/RA_EWG.2/8/Rev.1, UNEP/CHW/RA_EWG.3/8, UNEP/CHW/RA_EWG.4/3/Add.2 UNEP/CHW/RA_EWG.4/3/Add.3 and UNEP/CHW/RA_EWG.5/3).
6. More information on the fourth and fifth meetings of the expert working group on the review of the Annexes, including meeting documents, is available at the Basel Convention website.⁶

I. General issues

A. Reference to UN class

0. Status quo
Supporting information, rationales and/or relevant scientific and technical considerations: UN Model Regulations provide a key way to identify and communicate the hazards posed by the transboundary movement of dangerous goods, specifically when referring to physical hazards (e.g. explosive, corrosive, flammable).
1. Delete reference to UN Class in Annex III
Supporting information, rationales and/or relevant scientific and technical considerations: UN Model Regulations are limited to physical hazards whereas othazard properties need to be assessed to determine intrinsic hazardousness (e.g. carcinogenic, mutagenic, reprotoxic).

⁴ The only characteristic for which the status quo is retained is: H13 Capable, by any means after disposal, or yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

⁵ The text of these two sentences was finalized by email subsequently to the suspension of the meeting (see paragraph 18 of the report of the 11–15 October 2021 sessions of the fourth meeting of the EWG (UNEP/CHW/RA_EWG.4/3/Add.3)).

⁶ See

<http://www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/4rdRAEWGmtg/tabid/8522/Default.aspx> and www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/EWG5onRA/tabid/9288/Default.aspx.

B. Alignment with the Globally Harmonized System of Classification and Labelling of Chemicals (GHS)⁷

1. Incorporate relevant elements of GHS

Supporting information, rationales and/or relevant scientific and technical considerations: UN Model Regulations and GHS are complementary but not directly comparable as the classification of hazardous substances do not directly align.

GHS ensures a better protection as it encompasses a wider list of hazard properties than UN Model Regulations and are better adapted to assess the hazardousness of mixtures of substances. GHS implies including concentration limit values and cut-off concentration values.

By including GHS concentration limit values and cut-off concentration values care should be taken all wastes currently considered hazardous under the Convention are included

2. Incorporate relevant environmental, human health and delayed hazard characteristics of the GHS

C. Alignment with UN Recommendations on Transport of Dangerous Goods – Model Regulations (UN Model Regulations)⁸

1. Incorporate relevant elements of UN Model Regulations to review the physical hazardous characteristics, review the text on tests and inform the addition of new text on the precedence of hazardous characteristics
2. Incorporate elements of UN Model Regulations to review as relevant hazardous characteristics for aspects not covered under the GHS

D. Terminology

0. Status quo: reference to “substances or wastes”

1. Retain only reference to “wastes”

Supporting information, rationales and/or relevant scientific and technical considerations: alignment with articles 1.1(a) and 2.1 of BC

2. Retain reference to “substances”

Supporting information, rationales and/or relevant scientific and technical considerations: Alignment with UN Model Regulations

3. Insert reference to “substances and/or mixture”

E. Structure of hazardous characteristics in Annex III

0. Status quo

1. List the hazardous characteristics according to:

- Physical hazardous characteristics
- Human health hazardous characteristics
- Environmental hazardous characteristics
- Delayed hazardous characteristics

F. Introduction of an introductory text and paragraph on tests

1. No introductory text
2. Introduce text on methods to determine if a waste displays hazard characteristics, notably calculation methods and testing methods, how these methods relate to each other and a specific derogation from these methods for waste containing certain POPs

G. De minimis concentration values, concentration limit values or cut off concentration values

1. Discuss whether *de minimis* concentration values, concentration limit values or cut off concentration values should be established.

⁷ Globally Harmonized System of Classification and Labelling of Chemicals (GHS Rev. 9, 2021). available at: <https://unece.org/transport/standards/transport/dangerous-goods/ghs-rev9-2021>.

⁸ Recommendations on the Transport of Dangerous Goods Model Regulations – 22nd Revised Edition (Vol. I & II), available at: <https://unece.org/transport/dangerous-goods/un-model-regulations-rev-22>.

II. [Draft] [r][R]ecommended options for possible amendments to Annex III

A. Caption text: LIST OF HAZARDOUS CHARACTERISTICS

0. Status quo
1. "HAZARDOUS CHARACTERISTICS" with the following subheading: "List of [hazard] [hazardous] characteristics", after the general introduction.

B. Footnote 14 for UN Class: Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1/Rev.5, United Nations, New York, 1988)

1. Delete together with UN Class column
2. Keep footnote 14 and update the reference

Supporting information, rationales and/or relevant scientific and technical considerations: keep the reference to the UN Model Regulations

C. General Introduction

0. Status quo
1. When assessing the hazard characteristics of waste, the criteria laid down in this Annex shall apply. To determine if a waste [that belongs to any category contained in Annex I] displays hazard characteristics, the following methods can be applied:
 - Calculation methods to assess the characteristics for which thresholds and related calculation criteria based on the concentration, hazard class, category code(s), and hazard statement code(s)⁹ of the constituents as set out in Annex I present in the waste are given. Hazard classes, categories and hazard statements refer to those defined in GHS and refer to concentration thresholds, defined for such constituents to which said hazard statements can be assigned. These characteristics are: [...]

These calculation methods and associated concentration limits do not apply to pure metal alloys in their massive form (not contaminated with hazardous constituents).

- Testing methods to determine whether the waste displays hazard characteristics.

Where a hazard characteristic of a waste has been assessed by a test and by using the concentrations of a hazardous constituent as indicated in this Annex, the result of the test shall prevail.

For [...], cut-off values for individual constituents as indicated in this Annex shall apply to the assessment. Where a constituent is present in the waste below its cut-off value, it should not be included in any calculation for comparison with a threshold.

Standardized tests have been derived with respect to pure substances and materials. In many countries, national tests have been developed which can be applied to categories of wastes listed in Annex I, in order to decide if these wastes exhibit any of the characteristics listed in this Annex. In addition, available relevant internationally recognized test methods and guidelines could be used, inter alia the OECD guidelines for the testing of chemicals,¹⁰ ISO guidelines, and in any relevant standards as referred to in this Annex. The use of certain tests for waste may not be possible or advisable due to technical or practical limitations or due to animal welfare considerations.

[By way of derogation from the calculation and testing referred to above, wastes containing [aldrin, alpha-HCH, beta-HCH and lindane, chlordane, chlordecone, DDT, dieldrin, endrin, hexabromobiphenyl, hexachlorobenzene, heptachlor, mirex, PCB, PCDDs/PCDFs, pentachlorobenzene and/or toxaphene] [POPs listed under the Stockholm Convention] exceeding the low POP contents indicated in the "General technical guidelines on the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants developed under the Basel Convention" shall be classified as hazardous.]

⁹ See http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html.

¹⁰ <http://www.oecd.org/env/ehs/testing/oecdguidelinesforthetestingofchemicals.htm>.

D. Current entries and text in Annex III

H1 Explosive

An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such temperature and pressure and at such a speed as to cause damage to the surroundings

Related GHS definitions:*

Explosive substance or mixture: An explosive substance or mixture is a solid or liquid substance or mixture which is in itself capable by chemical reaction of producing gas at such temperature and pressure and at such a speed as to cause damage to the surroundings. Pyrotechnic substances and mixtures are included even when they do not evolve gases.

Pyrotechnic substance or mixture: A pyrotechnic substance or mixture is a substance or mixture designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as the result of non-detonative self-sustaining exothermic chemical reactions.

**Globally Harmonized System of Classification and Labelling of Chemicals (GHS Rev. 9, 2021)*

1. Merge with part of H5.2

H1 Explosive

Waste which is capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings. Pyrotechnic waste, explosive organic peroxide waste and explosive self-reactive waste is included. When a waste contains one or more substances classified by one of the hazard class and category codes and hazard statement codes shown in Table 1 the waste shall be assessed for H[1], where appropriate and proportionate, according to test methods. If the presence of a substance, a mixture or an article indicates that the waste is explosive, it shall be classified as hazardous by H[1].

Table 1 to be updated as indicated below, in order to take account of changes to this hazardous characteristic, introduced in revision 9 of GHS. Changes made with respect to the current version are **in bold**, deletions are in strikethrough. Hazard statement Code(s) for waste constituents for the classification of wastes as hazardous by H[1]

Hazard Class and Category Code(s)	Hazard statement Codes(s)	Hazard Class and Category Code(s)	Hazard statement Codes(s)	Hazard Class and Category Code(s)	Hazard statement Codes(s)
Unstable explosives	H209, H210, H211	Explosive 1.3	H209	Organic peroxide A	H240
Explosive 1.1	H209	Explosive 1.4	H204	Self-reactive B	H241
Explosive 1.2	H209	Self-reactive A	H240	Organic peroxide B	H242
{Explosive 1.5}	{H205}	{Explosive 1.6}			

Supporting information, rationales and/or relevant scientific and technical considerations: Include links to GHS codes. The inclusion of explosive organic peroxides here results from the fact that these substances meet the requirements to be classified as explosive. An “organic peroxide” is not a property, it is the name given to a family of chemical compounds.

Sub-division 1.5 and 1.6 are not included as they cover very insensitive and extremely insensitive substances and mixtures and as such are not relevant for the classification of waste. Hazard statement H205, previously assigned to Explosives in sub-division 1.5 has been deleted in GHS revision 9.

2. H1 Explosive

An explosive substance is a solid or liquid substance (or mixture of substances) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings. Pyrotechnic substances are included even when they do not evolve gases.

Supporting information, rationales and/or relevant scientific and technical considerations: Alignment with UN Model Regulations

H3 Flammable liquids

The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids or mixtures of liquids or liquids containing solids in solutions or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)

Related GHS definition:

Flammable liquid: A flammable liquid means a liquid having a flash point of not more than 93°C.

1. Merge H3, H4.1, H4.2, H4.3 and part of H5.2

H3 Flammable

- Flammable liquid waste: liquid waste having a flash point below 60°C or waste gas oil, diesel and light heating oils having a flash point > 55°C and ≤ 75°C
- Flammable pyrophoric liquid and solid waste: solid or liquid waste which, even in small quantities, is liable to ignite within five minutes after coming into contact with air;
- Flammable solid waste: solid waste which is readily combustible or may cause or contribute to fire through friction;
- Flammable gaseous waste: gaseous waste which is flammable in air at 20°C and a standard pressure of 101.3 kPa;
- Water reactive waste: waste which, in contact with water, emits flammable gases in dangerous quantities;
- Other flammable waste: flammable aerosols, flammable self-heating waste, flammable organic peroxides and flammable self-reactive waste.

When a waste contains one or more substances classified by one of the following hazard class and category codes and hazard statement codes shown in Table 3, the waste shall be assessed, where appropriate and proportionate, according to test methods. If the presence of a substance indicates that the waste is flammable, it shall be classified as hazardous by H[3].

Table 3: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents for the classification of wastes as hazardous by H3

Hazard Class and Category Code(s)	Hazard statement Code(s)	Hazard Class and Category Code(s)	Hazard statement Code(s)	Hazard Class and Category Code(s)	Hazard statement Code(s)	Hazard Class and Category Code(s)	Hazard statement Code(s)
Flammable Gas 1	H220	Flammable Liquid 2	H225	Self-reactive E F	H242	Self-heating 1	H251
Flammable Gas 2	H221	Flammable Liquid 3	H226	Organic Peroxide C D	H242	Self-heating 2	H252
Aerosol 1	H222	Flammable Solid 1	H228	Organic Peroxide E F	H242	Water-reactive 1	H260
Aerosol 2	H223	Flammable Solid 2	H228	Pyrophoric liquid 1	H250	Water-reactive 2	H261
Flammable Liquid 1	H224	Self-reactive C D	H242	Pyrophoric solid 1	H250	Water reactive 3	H261
[Desensitized explosives 1]	[H206]	[Desensitized explosives 2]	[H207]	[Desensitized explosives 3]	[H208]	[Desensitized explosives 4]	[H208]
[Combustible liquid]	[H227]						

Supporting information, rationales and/or relevant scientific and technical considerations: Avoid uncertainty in classification (e.g. aerosols, biphasic or pasty wastes) and establish clear links with GHS. Grouping of all flammability characteristics, regardless of whether it relates to solids, liquids or gases, in a single entry.

Further granularity can be proposed via the hazard statements under GHS.

Desensitized explosives 1, 2, 3 and 4 in Chapter 2.17 of GHS as well as “combustible liquids” are very specific classes of hazards and for reasons of simplification might be excluded from Annex III.

2. H3 Flammable liquids

Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.) Liquids with a flash point of more than 35 °C which do not sustain combustion need not be considered as flammable liquids. Liquid desensitized explosives are explosive substances which are dissolved or suspended in water or other liquid substances, to form an homogeneous liquid mixture to suppress their explosive properties

Supporting information, rationales and/or relevant scientific and technical considerations: Alignment with UN Model Regulations and include flammable liquids and liquid desensitized explosives. The word “flammable” has the same meaning as “inflammable”.

H4.1 Flammable solids

Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction

Related GHS definitions:

Flammable solid: A flammable solid is a solid which is readily combustible or may cause or contribute to fire through friction.

Readily combustible solids: Readily combustible solids were powdered, granular, or pasty substances which are dangerous if they can be easily ignited by brief contact with an ignition source, such as a burning match, and if the flame spreads rapidly.

1. Merge H3, H4.1 H4.2, H4.3 and part of H5.2

For the text see option 2 under H3

2. H4.1 Flammable solids

Solids, which, under conditions encountered in transport, are readily combustible, or may cause or contribute to fire through friction, self-reactive substances and polymerizing substances which are liable to undergo a strongly exothermic reaction; or solid desensitized explosives which may explode if not diluted sufficiently.

Flammable Solids are readily combustible solids and solids which may cause fire through friction. Readily combustible solids are powdered, granular, or pasty substances which are dangerous if they can be easily ignited by brief contact with an ignition source, and if the flame spreads rapidly.

Self-reactive substances are thermally unstable substances liable to undergo a strongly exothermic decomposition even without participation of oxygen.

Polymerizing substances are substances which, without stabilization, are liable to undergo a strongly exothermic reaction resulting in the formation of larger molecules or resulting in the formation of polymers under conditions normally encountered in transport.

Solid desensitized explosives are explosive substances which are wetted with waste or alcohols or are diluted with other substances, to form a homogeneous solid mixture to suppress their explosive properties

Supporting information, rationales and/or relevant scientific and technical considerations: Alignment with the UN Model Regulations to add definition and two substances and one type of solid

H4.2 Substances or wastes liable to spontaneous combustion

Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.

Related GHS definitions:

Self-heating substance: A self-heating substance or mixture is a solid or liquid substance or mixture other than a pyrophoric liquid or solid, which, by reaction with air and without energy supply, is liable to self-heat; this substance or mixture differs from a pyrophoric liquid or solid in that it will ignite only when in large amounts (kilograms) and after long periods of time (hours or days).

Pyrophoric liquid: A pyrophoric liquid is a liquid which, even in small quantities, is liable to ignite within five minutes after coming into contact with air.

Pyrophoric solid: A pyrophoric solid is a solid which, even in small quantities, is liable to ignite within five minutes after coming into contact with air.

Self-reactive substances or mixtures: Self-reactive substances or mixtures are thermally unstable liquid or solid substances or mixtures liable to undergo a strongly exothermic decomposition even without participation of oxygen (air). This definition excludes substances and mixtures classified under the GHS as explosives, organic peroxides or as oxidizing.

1. Merge H3, H4.1 H4.2, H4.3 and part of H5.2

For the text see option 2 under H3

2. H4.2 Substances liable to spontaneous combustion

Includes pyrophoric substances and self-heating substances.

Pyrophoric substances are substances, including mixtures and solutions, which even in small quantities ignite within five minutes of coming in contact with air.

Self-heating substances are substances, other than pyrophoric substances, which in contact with air without energy supply are liable to self-heating. These substances will ignite only when in large amounts (kilograms) and after long periods of time (hours or days).

Supporting information, rationales and/or relevant scientific and technical considerations: Alignment with the UN Model Regulations and clarification that pyrophoric substances and self-heating substances are covered under H4.2

H4.3 Substances or wastes which, in contact with water emit flammable gases

Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities

Related GHS definition:

Substances or mixtures which, in contact with water emit flammable gases: Substances or mixtures which, in contact with water, emit flammable gases are solid or liquid substances or mixtures which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

1. Merge H3, H4.1 H4.2, H4.3 part of H5.2

For the text see option 2 under H3

2. H4.3 Substances which in contact with water emit flammable gases

Substances which emit a flammable gas at a rate greater than 1 L/kg of substance per hour or spontaneously ignite at any step in the procedure described in section 2.4.4.2 of Chapter 2.4 of the *United Nations Recommendations on the Transport of Dangerous Goods*, or a comparable evidence recognized by a national competent authority.

*Supporting information, rationales and/or relevant scientific and technical considerations:
Alignment with the UN Model Regulations*

H5.1 Oxidizing

Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.

Related GHS definitions:

Oxidizing liquids: An oxidizing liquid is a liquid which, while in itself not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other material.

Oxidizing solids: An oxidizing solid is a solid which, while in itself is not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other material.

1. H5.1 Oxidizing

Wastes (or mixture of wastes) which, while in themselves are not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.

*Supporting information, rationales and/or relevant scientific and technical considerations:
Revise language to focus on wastes*

2. Merge with part of H5.2

H5.1 Oxidizing

Wastes which, may, generally by providing oxygen, cause or contribute to the combustion of other materials. When a waste contains one or more substances classified by one of the hazard class and category codes and hazard statement codes shown in Table 2, the waste shall be assessed for H[5], where appropriate and proportionate, according to test methods. If the presence of a substance indicates that the waste is oxidizing, it shall be classified as hazardous by H[5].

Table 2: Hazard Class and Category and Hazard statement Code(s) for the classification of wastes as hazardous by H[5]

Hazard Class Category Code(s)	Hazard statement Code(s)
Oxidizing Gases 1	H270
Oxidizing Liquid 1	H271
Oxidizing Solid 1	H271
Oxidizing Liquid 2	H272
Oxidizing Solid 2	H272
Oxidizing Liquid 3	H272
Oxidizing Solid 3	H272

*Supporting information, rationales and/or relevant scientific and technical considerations:
Ensure compatibility and clear links with GHS classification and covers part of H5.2 because many organic peroxides are oxidizing.*

Includes waste containing organic peroxides to which the relevant hazard statements are assigned under GHS. An “organic peroxide” does not describe a specific hazard property, but a name given to a family of chemical compounds.

3. H5.1 Oxidizing

Substances which, while in themselves not necessarily combustible, may, generally by yielding oxygen, cause, or contribute to, the combustion of other materials

H5.2 Organic Peroxides

Organic substances or wastes which contain the bivalent-o-o-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.

Related GHS definition:

Organic peroxides: Organic peroxides are liquid or solid organic substances which contain the bivalent -O-O- structure and may be considered derivatives of hydrogen peroxide, where one or both of the hydrogen atoms have been replaced by organic radicals. The term also includes organic peroxide formulations (mixtures). Organic peroxides are thermally unstable substances or mixtures, which may undergo exothermic self-accelerating decomposition. In addition, they may have one or more of the following properties:

- (a) be liable to explosive decomposition;
- (b) burn rapidly;
- (c) be sensitive to impact or friction;
- (d) react dangerously with other substances.

1. Delete H5.2 and address organic peroxides under 'Explosive' (H1 option 2), 'Flammable' (H3 option 2) or 'Oxidizing' (H5.1 option 2) according to their characteristics

Supporting information, rationales and/or relevant scientific and technical considerations:
 "Organic peroxides" does not describe a specific hazard property, but a name given to a family of chemical compounds. Wastes should be assigned to the corresponding hazard according to the properties of the specific organic peroxides they contain (based on the attributable GHS hazard statements).

2. H5.2 Organic Peroxides

Organic substances which contain the bivalent-O-O structure and may be considered derivatives of hydrogen peroxide, where one or both of the hydrogen atoms have been replaced by organic radicals. Organic peroxides are thermally unstable substances which may undergo exothermic self-accelerating decomposition

Supporting information, rationales and/or relevant scientific and technical considerations:
 Alignment with UN Model Regulations

H6.1 Poisonous (Acute)

Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

Related GHS definition:

Acute toxicity: Acute toxicity refers to serious adverse health effects (i.e., lethality) occurring after a single or short-term oral, dermal or inhalation exposure to a substance or mixture.

1. H6.1 Acute toxicity

Acute toxicity refers to serious adverse health effects (i.e., lethality) occurring after a single or shorter oral, dermal or inhalation exposure to a substance or mixture.

Supporting information, rationales and/or relevant scientific and technical considerations:
 Align with GHS definition for acute toxicity

2. H6.1 Acutely Toxic

Wastes which can cause acute toxic effects following oral or dermal administration, or inhalation exposure. If the sum of the concentrations of all substances contained in a waste, classified with an acute toxic hazard class and category code and hazard statement code given in Table 5, exceeds or equals the threshold given in that table, the waste shall be classified as hazardous by H[6.1]. When more than one substance classified as acute toxic is present in a waste, the sum of the concentrations is required only for substances within the same hazard category

The following cut-off values shall apply for consideration in an assessment:

- For Acute Toxicity 1, 2 or 3 (H300, H310, H330, H301, H311, H331): 0.1%;
- For Acute Toxicity 4 (H302, H312, H332): 1%

Table 5: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by H[6.1]

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit	Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit	Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Acute Toxicity 1 (Oral)	H300	0.1%	Acute Toxicity 1 (Dermal)	H310	0.25%	Acute Toxicity 1 (Inhalation)	H330	0.1%
Acute Toxicity 2 (Oral)	H300	0.25%	Acute Toxicity 2 (Dermal)	H310	2.5%	Acute Toxicity 2 (Inhalation)	H330	0.5%
Acute Toxicity 3 (Oral)	H301	5%	Acute Toxicity 3 (Dermal)	H311	15%	Acute Toxicity 3 (Inhalation)	H331	3.5%
Acute Toxicity 4 (Oral)	H302	25%	Acute Toxicity 4 (Dermal)	H312	55%	Acute Toxicity 4 (Inhalation)	H332	22.5%

Supporting information, rationales and/or relevant scientific and technical considerations: Grammatical adjustment of the title to align with other hazardous characteristics. Ensure compatibility and clear links with GHS classification with hazard statements aligned with GHS. The concentration limits are based on the maximum permissible toxic burden by route of exposure and are correlated with the Acute Toxicity Estimate (ATE) LD50/LC50 values (lethal dose / lethal concentration causing 50% mortality) of the various hazard statements. GHS Category 5 is not considered, given this applies to substances of relatively low acute toxicity, that may pose a hazard to relevant populations. This has not been considered relevant in the context of waste management.

3. H6.1 Toxic substances (substances of relatively high acute toxicity)

Substances liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.

Includes only substances allocated to Category 1, 2 or 3 of Chapter 3.1 of the Globally Harmonized System of Classification and Labelling of Chemicals¹¹

De minimis concentration values in wastes containing toxic substances of:

Category 1: XX mg/kg

Category 2 XX mg/kg

Category 3 XX mg/kg

Supporting information, rationales and/or relevant scientific and technical considerations¹²: hybrid approach between UN Model Regulations and GHS to separate high acute toxicity from low acute toxicity; note the proposed new entry 8.

Supporting information, rationales and/or relevant scientific and technical considerations¹³: Although the number of hazardous characteristics should be expanded to cover distinct hazardous characteristics that are not sufficiently addressed in Annex III, care should be taken to limit new characteristics to those strictly necessary so as to reduce the overall complexity of the classification system. Therefore, it might be better not to break

¹¹ Corresponds to the hazard classification system included in the Globally Harmonized System of Classification and Labelling of Chemicals (GHS) (ST/SG/AC.10/30/Rev.8/, United Nations, New York, 2019).

¹² Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for option 4.

¹³ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for option 4.

down the current code H 6.1 for “acute toxicity” into two separate codes, covering GHS acute toxicity classes 1 to 3 and 4 and 5, respectively.

H6.2 Infectious substances

Substances or wastes containing viable micro-organisms or their toxins which are known or suspected to cause disease in animals or humans

Related UN Model Regulations definition:*

Infectious substances: Infectious substances are substances known or reasonably expected to contain pathogens. Pathogens are defined as microorganisms (including bacteria, viruses, parasites, fungi) and other agents such as prions, which can cause disease in humans or animals.

* Recommendations on the Transport of Dangerous Goods Model Regulations – 22nd Revised Edition (Vol. I & II)

1. H6.2 Infectious wastes

These are wastes known or reasonably expected to contain pathogens. Pathogens are defined as micro-organisms (including bacteria, viruses, rickettsiae, parasites, fungi) and other agents such as prions, which can cause disease in humans or animals.

Supporting information, rationales and/or relevant scientific and technical considerations: align with the UN Model Regulations

2. H6.2 Infectious

Wastes containing viable micro-organisms or their toxins which are known or reliably believed to cause disease in man or other living organisms. The attribution of H[6.2] shall be assessed by the rules laid down in reference documents or national legislation.

Supporting information, rationales and/or relevant scientific and technical considerations: The reference to “substances” should be deleted, because substances as such are not infectious.

Align with the UN Model Regulations and expand definition to include, for example, diseases of plants. The text does not explicitly mention pathogens, but simply micro-organisms and their toxins and relates them to causing disease.

3. H6.2 Infectious substances

Substances known or reasonably expected to contain pathogens. Pathogens are defined as microorganisms and other agents such as prions, which can cause disease in animals or humans.

Supporting information, rationales and/or relevant scientific and technical considerations: align with the UN Model Regulations

H8 Corrosives

Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.

Related GHS definitions:

Skin corrosion: Skin corrosion refers to the production of irreversible damage to the skin; namely, visible necrosis through the epidermis and into the dermis occurring after exposure to a substance or mixture.

Corrosive to metals: A substance or a mixture which is corrosive to metals is a substance or a mixture which by chemical action will materially damage, or even destroy, metals.

1. H8 Corrosives

Wastes (or mixture of wastes) which, by contact and by chemical action, will cause severe damage to living tissue, or, in the case of leakage, will materially damage materials.

Supporting information, rationales and/or relevant scientific and technical considerations: Revise language to focus on wastes and widen approach

2. H8 Corrosive

Wastes which on application can cause skin corrosion. When a waste contains one or more substances classified as Skin corrosion 1A, 1B or 1C (H314) and the sum of their concentrations exceeds or equals 5%, the waste shall be classified as hazardous by H[8]. The cut-off value for consideration in an assessment for Skin corrosion 1A, 1B, 1C (H314) is 1.0%.

Supporting information, rationales and/or relevant scientific and technical considerations: Revise language to focus on skin corrosion, with links to GHS classification and calculation criteria. Grammatical adjustment of the title to align with other hazardous characteristics. Aligned to hazard statements and concentrations in table 3.2.3. of GHS. The reference to metals has not been included, as all corrosives to metals will be skin corrosives.

3. H8 Corrosives

Substances which, by chemical action, will cause irreversible damage to the skin, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport

Supporting information, rationales and/or relevant scientific and technical considerations: Alignment with the UN Model Regulations

H10 Liberation of toxic gases in contact with air or water

Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.

1. H10 Release of an acute toxic gas

Wastes which, releases acute toxic gases (Acute Toxicity 1, 2 or 3) in contact with water, damp air or an acid. When a waste contains substances or mixtures which in contact with water, damp air, or acids, evolve gases classified for acute toxicity in category 1, 2 or 3 in potentially dangerous amounts, it shall be classified as hazardous by H[10] according to test methods or guidelines.

Supporting information, rationales and/or relevant scientific and technical considerations: Revise language to clarify the characteristics of the released gases. Clarification of the title in line with the text. A link to GHS hazard classes for acute toxicity of gases should be provided, but no specific equivalent hazard statement exists in GHS for this hazardous characteristic]

2. H10 Liberation of toxic gases in contact with air or water

Substances which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.

Supporting information, rationales and/or relevant scientific and technical considerations: Deletion of “wastes”

Note: See also the proposed new entry 6a to include a new H-characteristic for ‘release of toxic gases in contact with acids’.

H11 Toxic (Delayed or chronic)

Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.

1. H11 Carcinogenic

Waste which induces cancer or increases its incidence. When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 6, the waste shall be classified as hazardous by H[11]. When more than one substance classified as carcinogenic is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by H[11].

Table 6: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by H[11]

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Carcinogenic 1A	H350	0.1%
Carcinogenic 1B	H350	0.1%
Carcinogenic 2	H351	1.0%

Supporting information, rationales and/or relevant scientific and technical considerations: Limit H11 to 'Carcinogenic' and complement with new entries (Mutagenic – proposed new entry 4b, Toxic for reproduction - new entry 3[, etc.]).

Limitation of the title in line with the text.

H11 aligned with hazard class and categories in GHS chapter 3.6. Concentration limits consistent with table 3.6.1. of GHS.

2. H11 Toxic (Delayed or chronic)

Substances which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, not including substances covered by other codes in this Annex

Supporting information, rationales and/or relevant scientific and technical considerations:

Delete the term "waste". Refer to proposed additions for new hazardous characteristics for specific target organ toxicity (proposal 2b), germ cell mutagenicity (proposal 4c), serious eye damage/eye irritation, (proposal 10), respiratory/skin sensitization (proposal 11), carcinogenicity (proposal 12), reproductive toxicity (proposal 13), aspiration hazard (proposal 14).

H12 Ecotoxic

Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.

Related GHS definitions:

Acute aquatic toxicity: Means the intrinsic property of a substance to be injurious to an organism in a short-term aquatic exposure to that substance

Chronic aquatic toxicity: Means the intrinsic property of a substance to cause adverse effects to aquatic organisms during aquatic exposures which are determined in relation to the life-cycle of the organism.

1. H12 Ecotoxic

Wastes which presents or may present immediate or delayed adverse impacts to the environment. Wastes which fulfils any of the following conditions shall be classified as hazardous by H[12]:

- Waste which contains a substance classified as ozone depleting assigned the hazard statement code H420 and the concentration of such a substance equals or exceeds the concentration limit of 0.1%. [$c(H420) \geq 0.1\%$]
- Waste which contains one or more substances classified as aquatic acute assigned the hazard statement code H400 and the sum of the concentrations of those substances equals or exceeds the concentration limit of 25%. A cut-off value of 0.1% shall apply to such substances. [$\sum c(H400) \geq 25\%$]
- Waste which contains one or more substances classified as aquatic chronic 1, 2 or 3 assigned to the hazard statement code(s) H410, 411 or H412, and the sum of the concentrations of all substances classified as aquatic chronic 1 (H410) multiplied by 100 added to the sum of the concentrations of all substances classified as aquatic chronic 2 (H411) multiplied by 10 added to the sum of the concentrations or all substances classified as aquatic chronic 3 (H412) equals or exceeds the concentration limit of 25%. A cut-off value of 0.1% applies to substances classified as H410 and a cut-off value of 1% applies to substances classified as H411 or H412. [$100 \times \sum c(H410) + 10 \times \sum c(H411) + \sum c(H412) \geq 25\%$]

- Waste which contains one or more substances classified as aquatic chronic 1, 2, 3 or 4 assigned the hazard statement code(s) H410, H411, H412 or H413 and the sum of the concentrations of all substances classified as aquatic chronic equals or exceeds the concentration limit of 25%. A cut-off value of 0.1% applies to substances classified as H410 and a cut-off value of 1% applies to substances classified as H411, H412 or H413. [$\Sigma c H410 + \Sigma c H411 + \Sigma c H412 + \Sigma c H413 \geq 25\%$]
Where : Σ = sum and c= concentrations of the substances.

Supporting information, rationales and/or relevant scientific and technical considerations: Language, hazard classes, categories and hazard statements aligned with GHS. For simplification only Aquatic Acute 1 and Aquatic Chronic 1 to 4 are included. Calculation rules for mixtures based on equations in tables 4.1.3 (acute) and 4.1.4, but including certain simplifications for ease of application to waste classification. In particular, M factors are not applied. Further details can be found in Annex III of Directive 2008/98/EC (see <http://data.europa.eu/eli/dir/2008/98/2018-07-05>). See also: Hennebert et al 2014: <https://pubmed.ncbi.nlm.nih.gov/24994468/>

2. H12 Ecotoxic

Substances which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems, not including substances covered by other codes in this Annex.

Supporting information, rationales and/or relevant scientific and technical considerations: Delete the term "waste". Refer to proposed additions for new hazardous characteristics for hazardous to the aquatic environment (acute or chronic toxicity) (proposal 15)

H13 Capable, by any means after disposal, or yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

0. Status quo

1. H13 Waste capable of exhibiting a hazardous characteristic listed above not directly displayed by the original waste – When a waste contains one or more substances that:
 - are explosive when dry, or
 - may form explosive peroxides, or
 - may explode if heated under confinement,
 The waste shall be classified as hazardous by H[13], unless the waste is in such a form that it will not under any circumstance exhibit explosive or potentially explosive properties. In addition, waste may be classified as hazardous by H[13] based on other applicable criteria, such as an assessment of the leachate.

Supporting information, rationales and/or relevant scientific and technical considerations: Revise language to include details of waste content and conditions.

Clarification of the title.

The reference to H205 has been deleted, as H205 has been deleted in GHS revision 9. Associated to specific EU hazard statements under the CLP Regulation which are not contained in GHS: Explosive when dry (EUH001), May form explosive peroxides (EUH019) and Risk of explosion if heated under confinement (EUH044).

In addition, waste can be classified based on assessment of its leachate.

There is no equivalent GHS or UN Model Regulations hazardous characteristic.

Tests

The potential hazard posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex I, in order to decide if these materials exhibit any of the characteristics listed in this Annex.

1. Delete and replace with explanation on testing in the general introduction

2. Tests and classification principles

The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. The *UN Manual of Tests and Criteria* contain criteria, test methods and procedures that can be applied to materials listed in Annex I, in order to decide if these materials exhibit any of the characteristics listed in this Annex, in conjunction with classification principles outlined in the *United Nations Recommendations on the Transport of Dangerous Goods* (2019), when appropriate. For hazardous characteristics 2(b), 3(b), 4(b), 5(b) and 8 to 12,¹⁴ the classification principles included in the Globally Harmonized System of Classification of Chemicals (2019) should be used instead. Many countries have developed national tests which can also be applied.

E. New proposed entries and text in Annex III

1. Irritant – skin irritation and eye damage

Waste which on application can cause skin irritation or damage to the eye. When a waste contains one or more substances in concentrations above the cut-off value, that are classified by one of the following hazard class and category codes and hazard statement codes and one or more of the following concentration limits is exceeded or equalled, the waste shall be classified as hazardous by H[...]. The cut-off value for consideration in an assessment for Skin corrosion 1A (H314), Skin irritation 2 (H315), Eye damage 1 (H318) and Eye irritation 2 (H319) is 1%. If the sum of the concentrations of all substances classified as Skin corrosion 1A (H314) exceeds or equals 1%, the waste shall be classified as hazardous according to H[...]. If the sum of the concentrations of all substances classified as H318 exceeds or equals 10%, the waste shall be classified as hazardous according to H[...]. If the sum of the concentrations of all substances classified H315 and/or H319 exceeds or equals 20%, the waste shall be classified as hazardous according to H[...]. Note that wastes containing substances classified as H314 (Skin corrosion 1A, 1B, or 1C) in amounts greater than or equal to 5% will be classified as hazardous by H8. H[...] will not apply if the waste is classified as H8.

Supporting information, rationales and/or relevant scientific and technical considerations: The text has been based on GHS hazard classes, categories and hazard statements. Concentration limits based on GHS but with some adaptation to make more appropriate for waste management. This refers primarily to limit of 20% assigned to H315-H319 (skin irritation + serious eye damage).

2(a) Specific Target Organ Toxicity (STOT)/Aspiration Toxicity

When a waste contains one or more substances classified by one or more of the following hazard class and category codes and hazard statement codes shown in Table 4, and one or more of the concentration limits in Table 4 is exceeded or equalled, the waste shall be classified as hazardous according to H[...]. When substances classified as STOT are present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by H[...]. When a waste contains one or more substances classified as Asp. Tox 1 and the sum of those substances exceeds or equals the concentration limit, the waste shall be classified as hazardous by H[...] only where the overall kinematic viscosity (at 40°C) does not exceed 20.5 mm²/s. The kinematic viscosity shall only be determined for fluids.

Table 4: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by H[...].

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
STOT SE 1	H370	1%
STOT SE 2	H371	10%
STOT SE 3	H335	20%
STOT RE 1	H372	1%
STOT RE 2	H373	10

¹⁴ These hazardous characteristics are new proposed entries for Annex III, as set out below in section E.

Aspiration Toxicity 1	H304	10
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Supporting information, rationales and/or relevant scientific and technical considerations:

Defined in chapter 3.8 and 3.9 of GHS. Not covered by UN Model Regulations.

In addition, and for the purpose of simplification towards waste classification, acute toxic effects due to Aspiration hazards associated to substances in waste, as defined in chapter 3.10 of GHS, relative to substances with hazard statement H304 “May be fatal if swallowed and enters the airways” are included under this hazardous characteristic. Aspiration Hazard of Category 2, identified with H305 “May be harmful if swallowed and enters the airways” has not been included, given it is considered of limited relevance to waste classification.

The proposed concentration limits for the attribution of the hazardous characteristic to waste, based on the concentration of individual substances classified with the corresponding hazard statements, are those under GHS for classification of mixtures. This is with the exception of the limit for STOT SE 3 substances, for which a concentration limit is not given under GHS (and for which a 20% limit has been defined).

2(b) Specific target organ toxicity

Specific target organ toxicity- single exposure refers to specific toxic effects on target organs occurring after a single exposure to a substance or mixture.

Specific target organ toxicity- repeated exposure refers to specific toxic effects on target organs occurring after repeated exposure to a substance or mixture.

De minimis concentration values in wastes containing specific target organ toxicants-single exposure of:

Category 1: XX mg/kg

Category 2: XX mg/kg

Category 3: XX mg/kg

De minimis concentration values in wastes containing specific target organ toxicants-repeated exposure of:

Category 1: XX mg/kg

Category 2: XX mg/kg

Category 3: XX mg/kg

Supporting information, rationales and/or relevant scientific and technical considerations:

Alignment with the GHS

3(a) Toxic for reproduction (Reprotoxic)

Waste which has adverse effects on sexual function and fertility in adult males and females, as well as developmental toxicity in the offspring. When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 7, the waste shall be classified hazardous according to H[...]. When more than one substance classified as toxic for reproduction is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by H[...].

Table 7: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by H[...].

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Reprotoxic 1A	H360	0.3%
Reprotoxic 1B	H360	0.3%
Reprotoxic 2	H361	3.0%

Supporting information, rationales and/or relevant scientific and technical considerations:

Defined in chapter 3.7 of GHS. Not covered by UN Model Regulations.

Applicable concentration limits are those defined in GHS for classification of mixtures.

The additional category of effects on or via lactation, covered under GHS and hazard statement H362 “May cause harm to breast-fed children” is not covered in the text given it is considered of limited relevance to waste classification.

3(b) Reproductive toxicity

Reproductive toxicity refers to adverse effects on sexual function and fertility in adults, as well as developmental toxicity in the offspring, occurring after exposure to a substance or mixture, but not including induction of genetically based inheritable effects.

De minimis concentration values in wastes containing reproductive toxicants of:

Category 1: XX mg/kg

Category 2: XX mg/kg

*Supporting information, rationales and/or relevant scientific and technical considerations:
Alignment with GHS*

4(a) Mutagenic for germ cells

Waste which may cause a mutation, that is a permanent change in the amount or structure of the genetic material in a cell. When a waste contains a substance classified by one of the following hazard class and category codes and hazard statement codes and exceeds or equals one of the following concentration limits shown in Table 8, the waste shall be classified as hazardous according to H[...]. When more than one substance classified as mutagenic is present in a waste, an individual substance has to be present at or above the concentration limit for the waste to be classified as hazardous by H[...].

Table 8: Hazard Class and Category Code(s) and Hazard statement Code(s) for waste constituents and the corresponding concentration limits for the classification of wastes as hazardous by H[...].

Hazard Class and Category Code(s)	Hazard statement Code(s)	Concentration limit
Mutagenic 1A	H340	0.1%
Mutagenic 1B	H340	0.1%
Mutagenic 2	H341	1%

*Supporting information, rationales and/or relevant scientific and technical considerations:
Defined in chapter 3.5 of GHS. Not covered by UN Model Regulations.
Applicable concentration limits are those defined in GHS for classification of mixtures.
The wording “mutagenic to germ cells” is proposed for consistency with other hazardous characteristics in which adjectives are used.*

4(b) Germ cell mutagenicity

Germ cell mutagenicity refers to heritable gene mutations, including heritable structural and numerical chromosome aberrations in germ cells occurring after exposure to a substance or mixture.

De minimis concentration values in wastes containing mutagenic substances of:

Category 1: XX mg/kg

Category 2: XX mg/kg

*Supporting information, rationales and/or relevant scientific and technical considerations:
Alignment with GHS*

5(a) Sensitising

Waste which contains one or more substances known to cause sensitising effects to the skin or the respiratory organs. When a waste contains a substance classified as sensitising and is assigned to one of the hazard statement codes H317 or H334 and one individual substance equals or exceeds the concentration limit of 10%, the waste shall be classified as hazardous by H[...].

*Supporting information, rationales and/or relevant scientific and technical considerations:
Defined in chapter 3.4 of GHS. Applicable concentration limit deviates from that defined in GHS*

for classification of mixtures (10% proposed vs 1% in GHS). The reason for this is that on account of different exposure scenarios during waste management vs consumer use (e.g. application of products on the skin).

5(b) Respiratory/skin sensitization

Respiratory sensitization refers to hypersensitivity of the airways occurring after inhalation of a substance or a mixture.

Skin sensitization refers to an allergic response occurring after skin contact with a substance or a mixture.

De minimis concentration values in wastes containing sensitizing substances of:

Category 1 (Respiratory sensitization): XX mg/kg

Category 2 (Skin sensitization): XX mg/kg

Supporting information, rationales and/or relevant scientific and technical considerations:
Alignment with GHS

6(a) Flammable gases

Flammable Gases, which consists of gases that, at 20°C and an absolute pressure of 101.3 kPa,

(i) are ignitable when in a mixture of 13 per cent or less by volume with air, or

(ii) have a flammability range with air of at least 12 percentage points determined in accordance with tests or calculations in ISO 10156, or a comparable evidence recognized by a national competent authority

Supporting information, rationales and/or relevant scientific and technical considerations:
Alignment with the UN Model Regulations (class 2.1)

Note: see also option 2 under H3

6(b) Non-flammable, non-toxic gases

Gases which:

(i) are asphyxiant-gases which dilute or replace the oxygen normally in the atmosphere, or

(ii) are oxidizing- gases which may, generally by providing oxygen, cause or contribute to the combustion of other material more than air does, as determined by a method specified in ISO 10156, or a comparable evidence recognized by a national competent authority

Supporting information, rationales and/or relevant scientific and technical considerations¹⁵:
Alignment with the UN Model Regulations (class 2.2)

Supporting information, rationales and/or relevant scientific and technical considerations¹⁶: The characteristic "Non-flammable, non-toxic gases" seems of little relevance for waste classification (which very rarely has to deal with gases). For the purpose of simplification it is suggested to exclude 6(c) from Annex III.

Note: see also option 2 under H5.1

6(c) Toxic gases

Gases which:

(i) are known to be so toxic or corrosive to humans or other as to pose a hazard to health according to CGA P-20, ISO Standard 10298, or a comparable evidence recognized by a national competent authority, or

(ii) are presumed to be toxic or corrosive to humans because they have an LC₅₀ value equal to or less than 5000 ml/m³

¹⁵ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 6(c).

¹⁶ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 6(c).

Supporting information, rationales and/or relevant scientific and technical considerations:
Alignment with the UN Model Regulations (class 2.3)
 Note: see also option 2 under H10

6bis Persistent, Bioaccumulative and Toxic (PBT) and very Persistent and very Bioaccumulative (vPvB) properties (if not included in H12)

7. Persistent organic pollutant

A persistent organic pollutant is a substance or mixture that is persistent, that bio-accumulates and that is likely, as a result of its long-range environmental transport, to lead to significant adverse human health and/or environmental effects

Supporting information, rationales and/or relevant scientific and technical considerations¹⁷:
Alignment with the Stockholm Convention

Supporting information, rationales and/or relevant scientific and technical considerations¹⁸:
“Persistent organic pollutant” should not be added as a distinct hazardous characteristic, considering this is as such not a hazardous characteristic, but a legal definition that can be attributed to certain substances under the Stockholm Convention.

Note: see text on POPs in options 1 and 2 for a General introduction

8. Toxic substances (substances of relatively low acute toxicity)

Includes only substances allocated to Category 4 or 5 of Chapter 3.1 of the Globally Harmonized System of Classification and Labelling of Chemicals. (note the related hazardous characteristic H6.1)

De minimis concentration values in wastes containing toxic substances of:

Category 4: XX mg/kg

Category 5 XX mg/kg

Supporting information, rationales and/or relevant scientific and technical considerations¹⁹:
Alignment with GHS

Supporting information, rationales and/or relevant scientific and technical considerations²⁰: “Low toxicity” substances should not be added under a separate hazardous characteristic, as the number of hazardous characteristics should be limited to those strictly necessary so as to reduce the overall complexity of the classification system for waste.

Note: see option 4 under H6.1

9. Serious eye damage/eye irritation

Serious eye damage refers to the production of tissue damage in the eye, or physical decay of vision, which is not fully reversible, occurring after exposure of the eye to a substance or mixture.

Eye irritation refers to the production of changes in the eye, which are fully reversible, occurring after the exposure of the eye to a substance or mixture.

De minimis concentration values in wastes containing substances of:

Category 1 (Serious eye damage): XX mg/kg

Category 2 (Eye irritation): XX mg/kg

¹⁷ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 7.

¹⁸ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 7.

¹⁹ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 8.

²⁰ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 8.

*Supporting information, rationales and/or relevant scientific and technical considerations²¹:
Alignment with GHS*

Supporting information, rationales and/or relevant scientific and technical considerations²²: To reduce overall complexity of the classification system, this characteristic should be kept together with cutaneous effects under “Irritant” or “Corrosive”.

Note: see H8 and proposed new entry 1

10. Carcinogenicity

Carcinogenicity refers to the induction of cancer or an increase in the incidence of cancer occurring after exposure to a substance or mixture. Substances and mixtures which have induced benign and malignant tumours in well performed experimental studies on animals are considered also to be presumed or suspected human carcinogens unless there is strong evidence that the mechanism of tumour formation is not relevant for humans.

De minimis concentration values in wastes containing carcinogenic substances of:

Category 1: XX mg/kg

Category 2: XX mg/kg

*Supporting information, rationales and/or relevant scientific and technical considerations:
Alignment with GHS*

Note: see option 2 under H11

11. Aspiration hazard

Aspiration hazard refers to severe acute effects such as chemical pneumonia, pulmonary injury or death occurring after aspiration of a substance or mixture.

De minimis concentration values in wastes containing an aspiration hazard substance of:

Category 1: XX mg/kg

Category 2: XX mg/kg

*Supporting information, rationales and/or relevant scientific and technical considerations²³:
Alignment with GHS*

*Supporting information, rationales and/or relevant scientific and technical considerations²⁴:
There is no need to define this characteristic separately. This characteristic should be integrated in option 2(a) above (on STOT), even if under GHS they are dealt with separately from STOT.*

Note: see proposed new entry 2a

12. Hazardous to the aquatic environment (acute or chronic toxicity)

An environmentally hazardous substance to the aquatic environment is a substance that satisfies the criteria for categories Acute 1, Acute 2, Acute 3, Chronic 1, Chronic 2 or Chronic 3 according to Chapter 4.1 of the Globally Harmonized System of Classification and Labelling of Chemicals.

Acute aquatic toxicity means the intrinsic property of a substance to be injurious to an organism in a short-term aquatic exposure to that substance.

²¹ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 9.

²² Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 9.

²³ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 11.

²⁴ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 11.

Chronic aquatic toxicity means the intrinsic property of a substance to cause adverse effects to aquatic organisms during aquatic exposures which are determined in relation to the life-cycle of the organism.

De minimis concentration values in wastes containing substances toxic to aquatic environment (acute) of:

Category 1: XX mg/kg

Category 2: XX mg/kg

Category 3: XX mg/kg

De minimis concentration values in wastes containing substances toxic to aquatic environment (chronic) of:

Category 1: XX mg/kg

Category 2: XX mg/kg

Category 3: XX mg/kg

Supporting information, rationales and/or relevant scientific and technical considerations:

Alignment with GHS

Note: see option 2 under H12

13. Endocrine [disruptor] [disruption]

An endocrine disruptor is an exogenous substance or mixture that alters function(s) of the endocrine system and consequently causes adverse health effects in an intact organism, or its progeny, or (sub) populations

Supporting information, rationales and/or relevant scientific and technical considerations²⁵: Based on references from the World Health Organization

Supporting information, rationales and/or relevant scientific and technical considerations²⁶: The possible attribution of a new hazardous characteristic to endocrine disrupting substances is a matter that should be discussed for substances and mixtures in future possible work to amend GHS, and only then potentially considered under Annex III of the Basel Convention. Furthermore, some relevant hazardous characteristics associated to some endocrine disrupting substances, such as oestrogenic and anti-androgenic effects are already potentially covered under the hazardous characteristic proposed for “reproductive toxicity”.

New proposed text for placement after the current text on “Tests”

Precedence of Hazardous Characteristics

When hazardous wastes meet the criteria for inclusion in more than one hazardous characteristic but meet the criteria for inclusion in one of the following hazardous characteristic, that one class is the primary hazardous characteristic:

- a) H1, Explosives, except for the substances with the following attributed UN numbers, for which H1 is a subsidiary class: UN3101; UN3102; UN3111; UN3112; UN3221; UN3222; UN3231; UN3232;
- b) H2, Gases, and within this characteristic, H2.3, Toxic Gases, takes precedence over H2.1, Flammable Gases, and H2.1, Flammable Gases, takes precedence over H2.2, Non-flammable and Non-toxic Gases;
- c) H3, Liquid desensitized explosives;
- d) H4.1, Solid desensitized explosives that are included in Packing Group I of the United Nations Transport of Dangerous Goods Model Regulations, or self-reactive substances;

²⁵ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 13.

²⁶ Members have put forward different supporting information, rationales and/or relevant scientific and technical considerations for 13.

- e) H4.2, Pyrophoric solids or liquids included in Packing Group I of the United Nations Transport of Dangerous Goods Model Regulations, or substances liable to spontaneous combustion;
- f) H5.2, Organic Peroxides;
- g) H6.1, Toxic Substances that are included in Packing Group I of the United Nations Transport of Dangerous Goods Model Regulations, due to inhalation toxicity;
- h) H6.2, Infectious Substances.

If a hazardous waste meets the criteria for inclusion in more than one of the hazardous characteristics identified above, or if a hazardous waste has multiple hazards none of which are listed above, the most stringent packing group of the *United Nations Transport of Dangerous Goods Model Regulations*, denoted to the respective hazardous characteristics of the waste, takes precedence over other packing groups and the corresponding hazardous characteristic is the primary hazardous characteristic.

Supporting information, rationales and/or relevant scientific and technical considerations: The classification system should follow established criteria already defined internationally for the transport of dangerous goods and under GHS.

All relevant and applicable hazardous characteristics should be considered in classification as all are important in establishing the appropriate risk management measures in the management of waste.

Current methodologies generally consist of methods developed for the testing of substances and mixtures and are often not suited to address the specific characteristics of waste (complexity of matrix, heterogeneity, etc.). Therefore, specific sample preparation and test methods, tailored to waste, should be considered in the continuing process.

Appendix II to the [draft] recommendations by the expert working group

Whether any additional characteristics in relation to plastic waste should be added to Annex III to the Convention

The following characteristics seem relevant [in relation to plastic wastes] [to classify plastic wastes as hazardous]:²⁷

- a) From the current entries: [H 6.1 Poisonous (Acute), and H 6.2 Infectious substances], H11 (Toxic (Delayed or chronic)) - see the proposal to limit H11 to Carcinogenic -, H12 (Ecotoxic), and possibly H13 (Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above);
- b) From the new proposed entries: 3(a) (Toxic for reproduction), 3(b) (Reproductive toxicity), 4(a) (Mutagenic for germ cells), 4(b) (Germ cell mutagenicity), 7 (POPs), 12 (Hazardous to the aquatic environment (acute or chronic toxicity) and 13 (Endocrine [disruptor] [disruption])”.

²⁷ Note that certain options under the current entries are wider than the current entries and may therefore also be relevant.

Annex III

Comments submitted during the sixteenth meeting of the Conference of the Parties to the Basel Convention

Table of Contents

I.	Parties	44
	Argentina.....	44
	Canada	46
	China	47
	Ecuador	49
	Japan	51
	Tunisia	53
	United Kingdom of Great Britain and Northern Ireland	54
II.	Observers.....	56
	United States of America	56
	BAN and IPEN	61

I. Parties

Argentina

Basel Convention COP 16 - Legal Clarity

Argentina: Submission regarding the Draft Recommendations on the review of annexes for possible amendment proposals to Annex I and III

Argentina highly appreciates the hard work done by the Expert Working Group (EWG) and the Secretariat in developing the draft recommendations for possible amendment proposals to Annex I and III, including whether any additional considerations specifically related to the identification of hazardous plastic waste.

Firstly, Argentina ratifies the comments sent in October 2022 to the Expert Working Group, and the following comments are in the same direction.

Annex I:

Argentina recommends that the EWG should not lose sight during the revision of Annex I, that it plays a fundamental role in establishing the scope of the Convention (Art. 1 paragraph 1 (a)) and that the modification of this Annex could modify the scope of the Convention: Annex I, in synergy with the Annex III, defines hazardous wastes under the Convention.

Argentina also wishes to emphasize that Annexes VIII and IX, which amended Annex I, do not affect the definition of hazardous waste in Article 1 (Annex I, *in fine*)¹. In this sense, Annexes VIII and IX should facilitate the interpretation of Annex I (BC-Decision IV/9 and related).

From our perspective, legal clarity is achieved when, at the time of applying the Convention: a) it is evident which wastes are covered and which are not; b) when the vocabulary of the entries is clear and plain; c) when the annexes interact in harmony; d) facilitates the notification procedures (PCIs). It should also be noted that some wastes, by exclusion from Annex II, falls into Annex I and should be identified adequately.

In view of the above, Argentina will not support the elimination of waste streams, if it does not find a technical, environmental and legal clarity basis to support it.

Furthermore, and in view of the fact that since the EWG initiated the revision of Annex I, new vocabulary has been introduced into the Convention, we suggest taking this aspect in consideration in the general discussions².

On the other hand, Argentina suggest to observe in its deliberations, the relevance of clearly identifying which hazardous wastes (excluded from Annex II) would be those destined to the proposed preparing for reuse operation in Annex IV.

¹ Annex I: "(d) Annexes VIII and IX do not affect the application of Article 1, paragraph 1 (a), of this Convention for the purpose of characterization of wastes".⁴

² For example, in entry proposed "Z1", it should be reformulated adapting it to the text to what was adopted at COP15 related to entry Y49 of Annex II (since the original proposal was formulated prior to the agreement of that amendment), and therefore, it should use the same language. For example: "waste electrical and electronic equipment" and a footnote clarifying by calling to "see entry A1181", in which there are examples that facilitate understanding which wastes are presumably hazardous, and covered in Annex I (and, excluded from Annex II)

Annex II

Argentina suggests that the EWG consider in its deliberations whether the proposals are applicable to "articles" (and not only to "industrial" waste). Therefore, to envisage how the definition of hazardous waste would apply, for example, to the disposal of article waste. Wastes are presumable hazardous *unless they do not possess any of the characteristics contained in Annex III.*

Canada

Comments by Canada

- Regarding Annex I, Canada supports adding new Y entries to capture waste streams and waste constituents that are not already captured and that would trigger an Annex III hazardous characteristic. Proposals to add new waste streams and constituents are expected to lead to environmental gains as more hazardous waste could be captured under the scope of the convention. Each of these additions must be evaluated individually to ensure that they result in environmental gains and be based on technical and scientific considerations. Canada does not agree to the proposal to delete waste streams (Y1-Y18) as this would negatively impact the operationalization of the Convention.
- Regarding Annex III, Canada supports maintaining the references to UN Class and UN-TDG in Annex III and would not support a full transition to the UN-GHS. Canada however sees that existing broad hazardous characteristics such as H11 Toxic and H12 Ecotoxic could be expanded upon through the addition of new environmental, human health, and delayed hazardous characteristics to improve legal clarity, bring forward the most recent scientific knowledge, and enhance environmental protection. Each of these additions must be evaluated individually to ensure that they result in environmental gains and be based on technical and scientific considerations. Canada does not agree to merge hazardous characteristics, as this would create inconsistencies with other systems as well as a loss of specificity in the characteristic.

China

Review of Annexes I and III

Comments from China

China thanks the Secretariat and the EWG for their fruitful work in improving legal clarity. Regarding the follow-up work on review of Annex I and Annex III, the comments and suggestions are proposed as follows:

1. Annex I

The purpose of the revised annex is to help Parties better identify and manage hazardous waste. Based on the principle of risk prevention, China adopts a hazardous waste identification system that prioritizes the source of waste generation (waste streams) and supplements it with the identification of hazardous characteristics. China develops and dynamically updates the national hazardous wastes catalogue, proposing 46 categories with 467 types of hazardous wastes based on waste streams. And the identification standards for hazardous wastes cover six hazardous characteristics (including flammability, corrosiveness, reactivity, leaching toxicity, acute toxicity, and toxic substance content), thresholds and detection methods.

From the practice in China, the method based mainly on waste streams (Y1-Y18) can help managers and waste generators quickly identify hazardous waste, effectively improve management efficiency, and prevent and control environmental risks. The way of solely relying on the content of hazardous substances (wastes having as constituents) to define hazardous waste requires the identification and testing of hazardous characteristics one by one, which is more time-consuming and labor-intensive, and also brings inconvenience to the unity and coordination of parties in the transboundary movement process. Therefore, China suggests retaining, refining, and improving the hazardous waste category (Y1-Y18) based on the source of generation.

In addition, the scope of some newly added entries in Annex I is too wide, and a large class of compounds such as organic nitrogen compounds and organosulfur compound are proposed to be listed in Annex I just based on the hazardous characteristics of one or a few of certain substances, which is lack of scientific nature and should be further studied.

2. Annex III

Hazardous wastes are widely generated in industrial production processes. The forms and hazardous characteristics of chemical substances in the hazardous waste are not the same as those of the pure chemicals themselves. The hazardous characteristics of

chemicals are not fully applicable to hazardous waste. It is recommended that the expert working group compare and analyze the advantages and disadvantages of the UN Class currently used in Annex III and the GHS system recommended by some parties.

In terms of proposed new hazardous characteristics such as sensitization, irritation, and specific target organ toxicity (STOT), further studies on the possibility of independent manifestation in waste as well as more scientific evidence are needed.

Regarding the issue of setting thresholds, we support further research by the expert working group on the methodology and applicability of threshold setting. As a reference, the mercury waste threshold expert working group established by the Minamata Convention on Mercury conducted detailed research on the methodology for setting mercury waste thresholds, testing methods, and the threshold values. Three methods are identified: listing method, total mercury content method, and leaching potential method. The applicability of each method is also analyzed.

Finally, considering that both Annex I and Annex VIII of the Convention are lists of hazardous waste, and Annex I is closely related to the hazardous characteristics of Annex III, we suggest that the work of the expert working group should consider the revision of each relevant annex as a whole.

Ecuador¹

UNEP/CHW.16/INF/27

Annex I

[Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex I, including whether any additional constituents in relation to plastic waste should be added to Annex I, and findings of the expert working group on the consequential implications of the review of Annex I to the Convention (status 7 December 2022)

Commented [X1]: Considering that the Annexes have been absorbed by national legislation, therefore, it is recommended not to make changes that may change the structure

I. Possible amendment proposals to Annex I of the Basel Convention

1. The expert working group on the review of Annexes recommends that possible amendment proposals to Annex I should be based on one or more of the objectives of the review of the annex, as set out in the annex to decision BC-13/2, which are to:
 - (a) Improve/update the description of categories of wastes in Annex I;
 - (b) Improve environmental controls by including any additional categories of wastes in Annex I that occur in practice; and
 - (c) Clarify the descriptions in Annex I to address conflicts or overlaps.
2. Members of the expert working group expressed different views as to whether Annex I should only list waste constituents or both waste streams and waste constituents, and as to whether the constituents in Annex I should be reorganized and listed according to subheadings. Members of the expert working group also expressed different views on the extent to which to balance the benefits of proposed changes to Annex I with the resources required and risks involved when giving effect to them (e.g. the need to amend national legislation/regulations and for Competent Authorities and other stakeholders involved in transboundary movements to adjust their operations).¹
3. The expert working group on the review of Annexes also recommends that further work on the review of Annex I be based on the general issues and the [draft] recommended options for possible amendment proposals to Annex I set out in appendix I to the present recommendations.

II. Whether any additional constituents in relation to plastic waste should be added to Annex I to the Convention

4. The expert working group on the review of Annexes also recommends that further work on whether any additional constituents in relation to plastic waste should be added to Annex I be based on the proposal set out in appendix II to the present [draft] recommendations.²

III. Findings of the expert working group on the consequential implications of the review of Annex I to the Convention

[...]³

¹ See the "General issues" listed in Appendix I to the [draft] recommendations by the expert working group, paragraphs 14–16 of the report of the 17–21 May 2021 sessions of the fourth meeting of the EWG, paragraphs 71–73 of the 11–15 October 2021 sessions of the fourth meeting of the EWG, and the report of the fifth meeting of the EWG.

² See paragraph 61 of the report of the 17–21 May 2021 sessions of the fourth meeting of the EWG and paragraph 96 of the 11–15 October 2021 sessions of the fourth meeting of the EWG. See also paragraphs 68 of the report of the fifth meeting of the EWG.

³ See paragraph 62 of the report of the 17–21 May sessions of the fourth meeting of the EWG and paragraph 97 of the 11–15 October sessions of the fourth meeting of the EWG.

¹ Only the commented sections of the recommendations are reproduced in the present compilation.

Annex II

[Draft r] [R]ecommendations by the expert working group on the review of Annexes for possible amendment proposals to Annex III, including whether any additional characteristics in relation to plastic waste should be added to Annex III, and findings of the expert working group on the consequential implications of the review of Annex III to the Convention (status 7 December 2022)

I. Possible amendment proposals to Annex III of the Basel Convention

1. The expert working group on the review of Annexes recommends that possible amendment proposals to Annex III should be based on one or more of the objectives of the review of the annex, as set out in the annex to decision BC-13/2, which are to:

- (a) Improve/update the list of hazardous characteristics in Annex III;
- (b) Improve environmental controls by including any additional hazardous characteristics in Annex III that occur in practice; and
- (c) Clarify the descriptions in Annex III to address conflicts or overlaps.

2. Members of the expert working group expressed different views as to whether:

- (a) The description of the hazardous characteristics should refer to substances within the wastes and/or to the wastes;
- (b) The list of hazardous characteristics should be organized considering the different types of hazards involved (e.g. physical, chemical, environmental and delayed hazards);
- (c) An introduction should be added to Annex III;
- (d) Hazardous characteristics, and which ones, should be added, of those described in the Globally Harmonized System of Classification and Labelling of Chemicals (GHS);
- (e) *De minimis* concentration values, concentration limit values or cut off concentration values should be established in order to allow an objective determination of hazardousness and, if so, which thresholds and methodology should be used;
- (f) The threshold values to discriminate between hazardous and non-hazardous waste should define non-hazardous waste which is effectively harmless in worst-case mis-management situations or, to the contrary, results in waste still subject to sound environmental management, but not requiring control under the Convention.

3. Members of the expert working group also expressed different views on the extent to which to balance the benefits of proposed changes to Annex III with the resources required and risks involved when giving effect to them (e.g. the need to amend national legislation/regulations and for Competent Authorities and other stakeholders involved in transboundary movements to adjust their operations)⁵.

4. The expert working group on the review of Annexes also recommends that further work on the review of Annex III be based on the general issues and the recommended options for possible amendment proposals to Annex III set out in appendix I to the present [draft] recommendations.

II. Whether any additional characteristics in relation to plastic waste should be added to Annex III to the Convention

⁵ See the "General issues" listed in Appendix I to the [draft] recommendations by the expert working group, paragraphs 12–15 and 20–24 of the 11–15 October 2021 sessions of the fourth meeting of the EWG.

Commented [X2]: It could work only when the waste generator has identified each substance that intervenes in the generating process, and then, determine the concentrations of each substance to define which one has the characteristic of representativeness of the danger. However, to carry out this entire process, each waste generator should have analytical capacity, which currently does not exist in the country, and only exists in some countries developed in specialized laboratories. Otherwise it is not manageable.

Commented [X3]: The methodology to apply GHS is complex for pure and mixed substances, even more so for waste, which in most cases contain different substances and materials in type and quantities. In addition, the identification under this methodology implies including concentration limit values and cut-off concentration values, whose agreement at the international level will be complex if all countries do not have the analytical capacity or the studies that support the proposals.

Commented [X4]: We do not agree to incorporate concentration values on substances or constituents to discriminate hazardous from non-hazardous wastes at this stage. However, we think that several issues need to be resolved or at least provide with mechanisms that address them before establishing such values in Annex III:
Lack of analytical capacity and sample representativeness: Many developing countries lack appropriate analytical apparatus and established methods to determine concentrations. For waste samples, even well established laboratories in developed countries are challenged with determining correct concentrations of contaminants in complicated matrices that are usually the case of wastes. The absence of analytical capacity in many regions may obstruct the proper determination of hazardous wastes. Sample representativeness is relatively straightforward for industrial products and materials. However, wastes usually are mixtures of many, even hundreds of components in different aggregation states. Establishing a proper methodology to represent waste samples may be a timely consuming process that require technical resources and case by case studies. Additionally, for some wastes, several samples may be required to capture the overall concentration of the whole shipment.

We would like to indicate that we do believe that a more comprehensive system for determination of hazardous materials is needed to objectively discriminate hazardous from non-hazardous wastes. Annex III needs to provide tools that are applicable globally and can be improved with time addressing the issues indicated above.

Japan

May 9, 2023
Comments for review of Annex I and III
Submission by Japan

Japan expresses appreciation to the EU for their further explanation on their proposals and to other parties for expressing their views on them. Japan shares the same questions and concerns expressed by the other parties during the contact group discussion at the COP. From our perspective, some of the current proposals may result in ambiguity when identifying hazardous waste. We would like to provide the following comments.

Overarching comments on Annex I and III

- We acknowledge the necessity of updating the annexes to reflect the latest scientific findings. However, each country has strived for better control over the TBM of wastes and built their best efforts upon the current annexes. As such, it is essential to carefully analyze the advantages and disadvantages of each proposal and determine whether they would effectively enhance the legal clarity of Annexes I and III, which serve as the cornerstone of the Basel Convention.
- The outcomes of reviewing the annexes should be a solution to problems that are caused by ambiguous terminology and constructions in the text of the current Annexes in implementing the Basel Convention.
- In considering the proposals, we should take due consideration of the feasibility and effectiveness for implementing the proposals by all the parties. Given the various resource constraints that parties face, it is necessary to ensure that the benefits of the proposed amendments justify the additional cost and burdens they may entail.
- We appreciate further scientific analysis from the proponents that will help us to fully evaluate the implications arising from the complexity of the proposals made to both annexes.

Annex I

- We believe that keeping Y1-Y18 in Annex I facilitates the identification of the hazardousness of the waste in question. Japan seeks further explanation on whether there is any issue by using Y1-Y18 entries in the day-to-day operation of implementing the Basel Convention.
- We are still under consideration and evaluation of the proposals. Some of the proposed constituents generally are not considered to be hazardous. Although Annex III plays a role in deciding whether the waste in question is hazardous, listing these new constituents in Annex I may have unintended implications. Therefore, we welcome insights and expertise from a diverse range of experts and stakeholders to be shared on this issue.

Annex III

- Utilizing a qualitative approach enables a country to take a precautionary approach.
- The process of reaching a consensus on a single threshold value is time consuming. The

May 9, 2023
Comments for review of Annex I and III
Submission by Japan

process of the amending an annex requires extensive negotiations. Additionally, each country must adjust its corresponding national legislation once the agreement has been reached among the parties. Consequently, the process may not reflect the most recent scientific findings in a timely manner.

- The proponents have suggested introducing the GHS for identifying the hazardousness of wastes. However, it can be difficult to establish a threshold value based on GHS as it is intended for products and not waste materials.
- Deleting the reference to the UN TDGs is also problematic for many parties as the parties developed their practices and national regulations for transportation.

We hope that the discussions and written inputs from this COP will aid the EWG and provide valuable guidance for their intersessional work on the review of Annexes I and III.

Tunisia

Tunisia

There is urgent need to continue the review of annex I and annex III of the Basel convention to be aligned with international standards, regulations and trends and to insure the consistency with the annex VIII which adopted after annex I (in the notification document for TBM of wastes in many case the same waste has “Y” code under waste stream of annex I and also “A” code under annex VIII).

Without threshold (concentration limit), parties have to demonstrate that all waste having any constituents listed in annex I do not have hazardous characteristic listed in Annex III.

Furthermore, it will be very useful to update annex I and Annex III by adding new hazardous constituent and characteristics recorded so far since which not reviewed since the adoption of the convention.

Based on the foregoing, Tunisia suggests that EWG continue the review of Annex I and III in parallel with annex IV and recommends that the review of these annex I and III will be listed in the order of the day of all next meetings of the EWG.

United Kingdom of Great Britain and Northern Ireland

Review of Annexes and III

Comments from the United Kingdom

UK thanks the EU for the proposals and the views of the room to help move forward to clarify the issues of substance for parties in this very important work. We support the work of the EWG going forward to continue the review of annex 1 to ensure that all categories of hazardous wastes and hazardous characteristics are included and controlled under the Basel system. However we need to understand more fully what wastes and activities the EU consider are currently sitting outside the system. We also need to ensure that the proposal brings clarity as some of the proposals appear to add complexity, duplicate or cause additional confusion instead of providing legal clarity and where entries are merged, lose specificity. This is a concern to the UK as we need to provide parties with the best environmental information to make their decision on whether they wish to accept the waste. We would like to ask the EU to provide further examples of what they are trying to capture as missing and the environmental benefits of the amendments proposed. We recognise there are environmental benefits of including additional sources of hazardous waste where they are currently uncontrolled under the Basel Convention.

In terms of annex 3, we have some concerns around the use of thresholds of either system GHS and UN model regulations. The basis of the Convention is the use of the precautionary principle and the use of thresholds means that whilst hazardous wastes are captured, some wastes that are currently controlled would be excluded. This causes us some concerns that needs to be fully explored. We also understand the capacity and cost issues raised when using thresholds tests as opposed to the source and characteristics used in the current system based on the precautionary principle.

United Kingdom

The UK welcomes the general discussions within the contact group on the review of the annexes 1, 3 and 4. We acknowledge all the views that have been put forward, and we thank the co-chairs and secretariat for facilitating the good discussions and collating the responses both during and after the contact group meetings. We also thank the EU for their explanations and presentations on their proposals as these have been very helpful in assisting our understanding.

The UK would like to have a discussion within EWG on the next steps in order to have a clear roadmap for the way ahead. We believe that following the discussions in the meetings of the EWG, OEWG and COP16, we have established a clear view of Parties views where these have been expressed and there remains considerable distance between positions. Whilst general discussions are welcome, necessary and helpful, in order to progress this work to a successful conclusion we do feel we need to collectively move into a space where we're looking to land on common ground and get towards adoption of annex 4.

We would like to propose having a discussion in EWG around prioritising the work to identify if there are higher priority key core aspects in Annex 4 which we could focus on. For example, we suggest focussing first on the new waste operations proposed. We wonder if the proposals to amend the Convention through additions to address operations not currently covered offers a good opportunity to gain consensus around high priority amendments, as opposed to the lower priority amendments such as captions, splitting and merging codes. In order to do this, we would suggest to start from the position of identifying and discussing real life examples of operations that are not currently covered by the annex, to understand the exact rationale of the proposals – in summary what are we missing at present? I understand this may feel like going back to first principles, but this may assist parties to bring the understanding in the room to the same level and help with momentum. We feel that we need more information from the proponents as to the operational basis of their proposals.

This prioritisation may help to break down what is a complex and large mandate into more manageable sections giving opportunity to identify common ground and move forward and get a successful output in the intercessional time – and we can continue to work on those more complex issues later where necessary. We can operate within the mandate given to the EWG by applying this 'bite size' way of working, taking into consideration linked issues where they exist. In this way, we will be ensuring an update of the text is achieved and the environmental benefits realised where operations are not currently controlled.

II. Observers

United States of America

United States' general comments at COP-16 on key proposals under consideration for Annexes I and III

The United States offers the following views on key proposals under consideration for Annexes I and III. We urge Parties to identify the targeted changes needed to address specific implementation issues toward achieving better environmental outcomes, while avoiding changes that would cause significant disruptions or challenges for implementation.

Annex I – General views

Deletion of waste stream-based entries Y1 – Y18

The United States does not support the recommendation to eliminate all waste categories (Y1-Y18) because: (1) these categories help classify wastes based on their origin and facilitate implementation of the Convention, with some countries relying only on Annex I listings; (2) this approach could disrupt the PIC procedure and national reporting; and (3) it is unclear whether all of these same categories would be fully covered under Annex VIII, leading to possible gaps in coverage.

Proposals to change certain waste categories

- In addition to the proposals to delete waste categories Y1-Y18, proposals are also being considered to change some of the existing waste categories. Many of the proposed changes address wastes that are already covered by entries in Annex VIII (e.g., Y1, Y2, Y3, Y12) and so it is unclear what the benefit would be of changing existing Y entries in Annex I if the wastes are already controlled as hazardous in Annex VIII.

Proposals for new waste stream categories

- Z1: Waste electrical and electronic equipment including scrap: This proposal would be inconsistent with the new electrical and electronic waste amendments which distinguish between hazardous e-waste (entry A1180) and non-hazardous e-waste (entry Y49). Including all waste electrical and electronic equipment in Annex I would imply that all such waste is presumptively hazardous under the Convention.

Proposals to add new constituents

There are several proposals to add new constituents that are very broad and could significantly expand the scope of presumptively hazardous waste to include wastes that are currently classified as not hazardous under the Convention. For example:

- Aluminum compounds and aluminum in metallic dispersible form (A1): While we agree that there are certain compounds containing these constituents that may be hazardous and support clarifying that aluminum in metallic dispersible form can be hazardous, we are concerned that the proposal will result in the classification of other non-hazardous aluminum-containing wastes and scrap as hazardous (e.g., aluminum alloys). We also seek clarification about how this

proposal could affect existing entries for waste and scrap containing aluminum currently classified as non-hazardous in Annex IX, including those identified below:

- B1010: Metal and metal-alloy wastes in metallic, non-dispersible form: Aluminium scrap
 - B1100: Metal-bearing wastes arising from melting, smelting and refining of metals: Aluminium skimmings (or skims) excluding salt slag
 - B2090: Waste anode butts from steel or aluminium production made of petroleum coke or bitumen and cleaned to normal industry specifications (excluding anode butts from chlor alkali electrolyses and from metallurgical industry)
 - B2100: Waste hydrates of aluminium and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes
 - B2110: Bauxite residue (“red mud”) (pH moderated to less than 11.5)
- Nickel, nickel compounds (A4): Similar to the proposal to add aluminum compounds, this proposal is overly broad and could result in the classification of all nickel-containing waste and scrap as hazardous when many such wastes are currently classified as non-hazardous. For example, nickel scrap in non-dispersible form and certain spent catalysts containing nickel are listed in Annex IX. We also share the concerns raised by stakeholders that nickel-containing alloys, such as those used in the manufacture of stainless steel, could be controlled as hazardous when they are safe and used in sensitive applications (e.g., materials in contact with drinking water, food, medical devices).

Annex III – General views

Use of cut-off concentrations or concentration limit values in Annex III based on the values established under the Globally Harmonized System of Classification and Labeling of Chemicals (GHS)

We continue to have concerns about using GHS to classify the hazards posed by the management of waste. Using GHS to classify the hazards posed by some waste could be less protective than the current method of characterizing hazardous wastes under the Basel Convention considering the proposed use of generic GHS cut-off concentration values below to distinguish hazardous from non-hazardous waste.

Use of the GHS generic cut-off concentration values for some wastes could result in their “declassification” as non-hazardous. For example, 0.1% or 1,000ppm is the lowest threshold value proposed to classify waste as hazardous for carcinogenicity under H11, Toxic (Delayed or chronic) (see Table 6 under H11, Toxic (Delayed or chronic) in the *Recommendations by the EWG on the review of Annexes for possible amendment proposals to Annex III*).¹ In other words, under this proposal wastes would need to contain constituents in excess of 1,000 ppm to be considered hazardous for carcinogenicity under the Convention. Such a high threshold value

¹ Note that the lowest generic cut-off concentrations proposed for a waste to be considered hazardous due to specific target organ toxicity (STOT) is at 1% or 10,000, even higher than the lowest threshold proposed for carcinogenicity (See Table 4 under New proposed entries in Annex III in the *Recommendations by the EWG on the review of Annexes for possible amendment proposals to Annex III*).

would not be protective for known or possible human carcinogens such as arsenic, benzene, cadmium, and lead² as demonstrated using the World Health Organization's Drinking Water Guideline values in the examples provided in the Appendix.

These examples (see Appendix) demonstrate that waste containing arsenic, benzene, or lead at the lowest GHS generic cut-off concentrations for carcinogenicity (i.e., 0.1% or 1,000 ppm) would not be considered hazardous even though leachate from such waste could cause groundwater to exceed the WHO drinking water guideline value of 0.01 mg/L for these constituents. Similarly, waste containing cadmium at the lowest GHS generic cut-off concentrations would not be considered hazardous even though leachate from such waste could cause groundwater to exceed the WHO drinking water guideline of 0.003 mg/L for cadmium. We also note that the lowest generic cut-off concentrations proposed for a waste to be considered hazardous due to specific target organ toxicity (STOT) is even higher, at 1% or 10,000 (See Table 4 under New proposed entries in Annex III in the *Recommendations by the EWG on the review of Annexes for possible amendment proposals to Annex III.*)

We encourage Parties to consider using a risk-based approach to evaluate the hazards posed by waste containing highly toxic chemicals rather than the GHS generic cut-off values that are intended to classify hazards posed by chemical products. We also encourage Parties to consider establishing such values in guidance rather than in the Annexes to facilitate updating values, as needed, as new scientific evidence and other information becomes available.

Appendix

The following examples illustrate how, even if the lowest GHS generic cut-off concentration values for carcinogenicity are applied to waste containing known or possible human carcinogens, such wastes would not be considered hazardous even if they could leach into groundwater at concentrations greatly exceeding the World Health Organization's drinking water guideline values for these constituents. This shows how using GHS for certain toxic constituents in waste is not protective of human health.

Example: Waste containing arsenic, benzene, or lead

- The World Health Organization sets a drinking water guideline value of 0.01 mg/L for arsenic, benzene, and lead³ (all classified as known or possible human carcinogens by the International Agency for Research on Cancer (IARC)). Because WHO values for these three constituents are the same, arsenic is used for simplicity.
- The lowest GHS generic cut-off concentration value proposed to classify waste as hazardous for carcinogenicity is 0.1% or 1,000 ppm (i.e., 1,000 mg/L).

² Arsenic, benzene, and cadmium are classified as carcinogenic to humans (Group 1) by the International Agency for Research on Cancer (IARC). Lead is classified as possibly carcinogenic to humans (Group 2B) by the IARC.

³ Source: World Health Organization Guidelines for drinking water quality, 4th edition. 2017.
<https://www.who.int/publications/i/item/9789241549950>

- If a waste containing arsenic at a concentration of 1,000ppm is evaluated using a leaching test with a liquid-to-solid ratio of 10-to-1 and all the arsenic present leached out of the waste, the leachate would contain an arsenic concentration of 100 mg/L. ($1,000 \text{ mg/L arsenic in waste} / 10 = 100 \text{ mg/L}$)
- Mismanaged waste may leach contaminants to groundwater, but some dilution may occur during groundwater transport before reaching a drinking water well. We consider two scenarios whereby waste containing arsenic leaches into groundwater at different concentrations:
 - Scenario 1:
 - Assuming the leachate is diluted 10-fold during groundwater transport to a drinking water well (i.e., the arsenic concentration in the diluted leachate is reduced by 1/10 of the original leachate concentration), then the arsenic concentration from the leachate would be 10 mg/L ($100 \text{ mg/L arsenic concentration in leachate} * 1/10 = 10 \text{ mg/L}$).
 - Therefore, at a 10-fold dilution, the concentration of arsenic at a drinking water well could exceed the WHO drinking water guideline value by 1,000 times ($10 \text{ mg/L} / 0.01 \text{ mg/L} = 1,000 \text{ times}$)
 - Scenario 2
 - Assuming the leachate is diluted 100-fold (i.e., the arsenic concentration in the leachate is reduced by 1,000 of the original leachate concentration), then the arsenic concentration from the leachate would be 1 mg/L ($100 \text{ mg/L} * 1/100 = 1 \text{ mg/L}$)
 - Therefore, at a 100-fold dilution, the concentration of arsenic at a drinking water well could exceed the WHO drinking water guideline value by 100 times ($1 \text{ mg/L} / 0.01 \text{ mg/L} = 100 \text{ times}$)
- This example illustrates that, even if the lowest GHS generic cut-off values for carcinogenicity are applied to waste containing arsenic, benzene, or lead, such waste would not be considered hazardous even though it could potentially leach into groundwater at a concentration 100 to 1,000 times the WHO drinking water guideline value of 0.01 mg/L for these constituents.

Example: Waste containing cadmium

- The World Health Organization sets a drinking water guideline value of 0.003 mg/L for cadmium⁴ (classified as a known human carcinogen by the International Agency for Research on Cancer (IARC)).
- The lowest GHS generic cut-off concentration value proposed to classify waste as hazardous for carcinogenicity is 0.1% or 1,000 ppm (i.e., 1,000 mg/L).

⁴ Source: World Health Organization Guidelines for drinking water quality, 4th edition. 2017.
<https://www.who.int/publications/i/item/9789241549950>

- If a waste containing cadmium at a concentration of 1,000 ppm is evaluated using a leaching test with a liquid-to-solid ratio of 10-to-1 and all the cadmium present leached out of the waste, the leachate would contain a cadmium concentration of 100 mg/L. ($1,000 \text{ mg/L cadmium in waste} / 10 = 100 \text{ mg/L}$)
- Mismanaged waste may leach contaminants to groundwater, but some dilution may occur during groundwater transport before reaching a drinking water well. We consider two scenarios whereby waste containing cadmium leaches into groundwater at different concentrations:
 - Scenario 1:
 - Assuming the leachate is diluted 10-fold during groundwater transport to a drinking water well (i.e., the cadmium concentration in the diluted leachate is reduced by 1/10 of the original leachate concentration), then the cadmium concentration from the leachate would be 10 mg/L ($100 \text{ mg/L cadmium concentration in leachate} * 1/10 = 10 \text{ mg/L}$).
 - Therefore, at a 10-fold dilution, the concentration of cadmium at a drinking water well could exceed the WHO drinking water guideline value by more than 3,300 times ($10 \text{ mg/L} / 0.003 \text{ mg/L} = 3,333 \text{ times}$)
 - Scenario 2
 - Assuming the leachate is diluted 100-fold (i.e., the cadmium concentration in the leachate is reduced by 1,000 of the original leachate concentration), then the cadmium concentration from the diluted leachate would be 1 mg/L ($100 \text{ mg/L} * 1/100 = 1 \text{ mg/L}$).
 - Therefore, at a 100-fold dilution, the concentration of cadmium at a drinking water well could exceed the WHO drinking water guideline value by more than 330 times ($1 \text{ mg/L} / 0.003 \text{ mg/L} = 333 \text{ times}$)
- This example illustrates that, even if the lowest GHS generic cut-off values for carcinogenicity are applied to waste containing cadmium, such waste would not be considered hazardous even though it could potentially leach into groundwater at a concentration 330 to 3,300 times the WHO drinking water guideline value of 0.003 mg/L for these constituents.

BAN and IPEN

BAN / IPEN Comments on Annexes I and III / Prepared for Submission at COP16 as requested during the Legal Contact Group.

Annex I

BAN appreciates many of the proposed entries on Annex I that will fill the gaps found within that Annex. These gaps must be filled irrespective of what appears on Annex VIII as Annex I is meant to be the root source of the hazardous waste definition in the Convention and Annex VIII must only derive from this root source.

BAN does not agree with removing the first 18 Y entries (waste streams) as we find these will save a lot of costs and time that would be required for analytical testing to know what is precisely in these streams if we were to only consider constituents. Indeed, we can see adding more streams as well as constituents going forward.

Annex III

Some Parties (e.g. the European Union) have advocated for threshold values for all of the Annex III hazardous characteristics. These are proposed to be drawn from the UN Global Harmonized System (GHS) of Classification and Labeling of Chemicals and used as hazard thresholds for certain of the H entries in Annex III. While H listings such as flammability and corrosivity are clearly obtainable and usable, BAN strongly opposes attempting to have threshold levels for the health characteristics for toxicity, poisonous and ecotoxicity. Under such an approach for these H characteristics, if a waste falls below a certain value it will be deemed *non-hazardous*, and Parties would be obligated to accept this determination.

While this might sound like a way to bring the much sought-after "legal clarity" to implementation of the Convention, it is in fact:

- unscientific
- non-precautionary
- prejudicial to developing countries
- a violation of sovereign right to enact stronger controls
- an incentive for waste dilution to avoid prosecution
- an endorsement of reliance on outdated toxicology, and
- ignorant of on-the-ground realities of waste management in importing countries.

Below we elaborate some of these concerns

Unscientific

Wastes are in fact most often a complex mixture of potentially thousands of toxic chemicals. A recent scientific study identified more than 2,400 chemicals of concern used in plastics^[1] alone. It is almost impossible for importers or exporters to know the concentrations

of such chemicals. Many of these chemicals are non-threshold toxicants that can cause significant harm even at very low concentrations, so no safe level can be established. These include endocrine disrupting chemicals, carcinogens, and chemicals harming neurodevelopment.

A wealth of scientific evidence has been generated that shows that mixtures of hazardous chemicals generally have a higher toxicity than the individual chemicals themselves. Even in mixtures where all the toxic chemicals are present at levels that are considered "safe" in traditional risk assessment, the mixture toxicity can be significant^[2]. This is due to the combined impacts from each chemical in the mixture, leading to harm to human health and the environment.

Thus, the adoption of the GHS levels for individual chemicals would make it highly likely that more hazardous waste would be exported under the false assumption of being safe. These thresholds are far too generic and are already outdated, with many having been adopted in 2003. The GHS also lacks description and considerations for important toxic impacts under H11 (toxic), such as endocrine disruption.

Prejudicial to Developing Countries

The Basel Convention was created primarily to protect developing countries from the exploitation caused by waste traders who were externalizing costs and harm to them from developed countries. Thus, it is ironic and contradictory to utilize analytical, numeric concentration levels that will be prohibitively costly to implement and enforce. Developing countries will be disproportionately burdened due to limited resources to implement the very expensive analytical lab work that will be required. Analytical testing teams, equipped with gas chromatography-mass spectrometric analysis, are extremely expensive, and not many police and labs in the developing world can do this technique routinely for the vast number of waste shipments currently arriving at their ports. Even if this analysis is required of the traders prior to export, a competent authority will still need to be able to independently corroborate the claims.

It is unreasonable to expect a small government with limited staff and budget to defend its assertion that a waste should be controlled as a hazardous waste and risk being challenged or sued by a company with far greater resources for lawyers and laboratories with a very different, self-serving idea. Legal battles favor rich plaintiffs and not developing country defendants. The victim country in such a case may never get accountability for illegal traffic and risks being victimized twice: first from the chemical assault, and second from the attempt to prove a legal basis for prosecution and accountability at great cost.

Violation of Sovereign Right to Adopt Stronger Controls

In Article 4, paragraph 11 of the Convention, it is asserted that nothing shall prevent a Party from imposing additional requirements to protect human health and the environment. Being shackled to "safe levels" of wastes denies that right of Parties to utilize

a "precautionary" or even a "risk-based" approach to determining whether they wish to export or import a waste of concern. It is a fundamental contradiction with the Convention's established right to assert stronger requirements, even on a case-by-case basis. This is the right of any Party and the job and in fact the responsibility of a Competent Authority and their staff. Even if this right is retained as it must be, this approach of safe level thresholds, will put pressure on Parties to adopt the "consensus" levels without doing independent contextual analysis.

Dilution Cannot be an Encouraged Solution

One of the perverse effects of setting concentration thresholds, below which chemical wastes will be deemed non-hazardous and therefore outside of the scope of the Convention, would be to create an incentive to dilute wastes to a point where they miraculously could be deemed "non-hazardous". In some jurisdictions such dilution is illegal, but enforcement of such a prohibition is near impossible. Operations can easily hide dilution as being part of process. As noted earlier, concentration levels are not a good indicator of harm. When the issue of ship recycling became of great concern in the Convention, the Parties resoundingly deemed that even when the toxic materials in a ship were vastly outnumbered by the volume of non-toxic steel, this did not render the ships non-hazardous and free to export outside of the Convention's scope.

By only being concerned about concentration levels and allowing such levels to determine whether we should subject materials to control under the Convention, we will in fact be encouraging dilution as a false solution to pollution.

[1] <https://pubmed.ncbi.nlm.nih.gov/34154322/>

[2] Progress report on the assessment and management of combined exposures to multiple chemicals (chemical mixtures) and associated risks https://ec.europa.eu/environment/pdf/chemicals/2020/10/SWD_mixtures.pdf

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