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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN
INTERNATIONAL LEGALLY BINDING INSTRUMENT
FOR IMPLEMENTING INTERNATIONAL ACTION ON
CERTAIN PERSISTENT ORGANIC POLLUTANTS

Seventh session

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Item 5 of the provisional agenda*

Preparations for the Conference of the Parties

**DEVELOPMENT OF TECHNICAL GUIDELINES ON THE ENVIRONMENTALLY SOUND
MANAGEMENT OF PERSISTENT ORGANIC POLLUTANTS AS WASTES****

Note by the secretariat

The information contained in the annexes to the present note was provided by the secretariat of the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal and has not been formally edited.

* UNEP/POPS/INC.7/1.

** Stockholm Convention on Persistent Organic Pollutants, article 6, paragraph 2; Conference of Plenipotentiaries of the Stockholm Convention, resolution 5; UNEP/POPS/INC.6/22, annex I, decision INC-6/5.

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Annex I

IMPLEMENTATION OF THE BASEL CONVENTION

CONTRIBUTION TO THE ENVIRONMENTALLY SOUND MANAGEMENT OF
PERSISTENT ORGANIC POLLUTANTS AS WASTES

I. BACKGROUND

1. All the current persistent organic pollutants (POPs) covered by the Stockholm Convention are classified as hazardous wastes in the Basel Convention. The Conference of the Parties has adopted technical guidelines that concern or relate to the environmentally sound management of persistent organic pollutants as wastes. These technical guidelines are supportive tools that provide Parties with internationally accepted level playing field and assist them to fulfil their environmentally sound management obligations under the Convention.

2. At its fifth meeting in December 1999, the Conference of the Parties adopted decision V/8 on Cooperation with the United Nations Environment Programme (UNEP) on the activities undertaken at the global level on persistent organic pollutants. In this decision, the Conference requested the secretariat, under the guidance of the Technical Working Group, to continue its cooperation with the UNEP Chemicals and the Food and Agriculture Organization of the United Nations, and also with other relevant intergovernmental organizations (eg: WHO, OECD), on the issue of persistent organic pollutants, in particular, with a view, first, to building the capacities of developing countries and other countries in needs of such assistance to manage waste persistent organic pollutants in an environmentally sound manner; second, to ensuring efficient use of resources and identifying areas of common interest and opportunities for synergy; third, to providing technical and other guidance to the Intergovernmental Negotiating Committee on persistent organic pollutants, as appropriate; and, fourth, to identifying overlaps and gaps and the means to overcome them.

3. At its sixth meeting, held in December 2002, the Conference of the Parties requested the Open-ended Working Group to finalize the technical guidelines on the environmentally sound management of persistent organic pollutants as wastes in 2003, including the revised technical guidelines on polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PTCs) and polybrominated biphenyls (PBBs) prepared by Canada. The Conference of the Parties also requested the secretariat to cooperate with the interim secretariat of the Stockholm Convention in the implementation of decisions INC-6/9 and INC-6/10 of the Intergovernmental Negotiating Committee on feasibility and case studies on regional and sub-regional centres, respectively.

II. CURRENT WORK

Technical guidelines

4. A revised text of the technical guidelines on the environmentally sound management of persistent organic pollutants as wastes, together with the revised technical guidelines on PCBs, PCTs and PBBs, was considered by the Open-ended Working Group at its first session that took place from 28 April to 2 May 2003. The development of these technical guidelines has been guided by a small intersessional group of experts comprising representatives from Parties, Signatory, UNEP Chemicals/interim secretariat of the Stockholm Convention, industry and environmental non-organizations.

5. Taking into account the requirements of the Stockholm Convention, in particular referring to paragraph 2 of Article 6, the Open-ended Working Group considered how to progress regarding the establishment of levels of destruction and irreversible transformation; determination of methods that

constitute environmentally sound disposal; and establishment of concentration levels. The Group agreed on a revised approach entailing preparation of a general technical guidelines and five specific guidelines for PCBs (including PCTs and PBBs), dioxins and furans, DDT, HCB, and the eight pesticides covered by the Stockholm Convention. Work would continue intersessionally and draft guidelines would be considered at the second meeting of the Open-ended Working Group, which has tentatively been scheduled for October 2003. The Group invited experts of the Intergovernmental Negotiating Committee of the Stockholm Convention to participate in the preparation of the guidelines and to submit comments to the Secretariat of the Basel Convention. Further details may be found in the attached advance copy of the decisions adopted as well as the relevant extract from the report of the Open-ended Working Group. Copies of the draft guidelines and comments from stakeholders will be posted on the Basel Convention website, www.basel.int.

Dioxins and furans

6. In its mandate, the Open-ended Working Group shall consider a work programme on dioxins and dibenzofurans. At its first session, the Open-ended Working Group reviewed the matter, taking into account the requirements of the Stockholm Convention concerning the reduction of releases of dioxins and furans, the fact that much work is being carried out internationally on those chemicals and the need to avoid duplication and promote synergies. Consideration was also given to the linkages between the work on dioxins and furans and the ongoing development of criteria and guidelines on the hazardous characteristics of Annex III to the Basel Convention and the scientific studies on polyvinyl chloride (PVC) and PVC-coated cables.

7. Given the important and urgent work to finalize the technical guidelines on the environmentally sound management of persistent organic pollutants as wastes and the activities of the secretariat as described in document UNEP/CHW/OEWG/12, no further work will be performed before the seventh meeting of the Conference of the Parties to the Basel Convention unless requested by the Intergovernmental Negotiating Committee of the Stockholm Convention.

Awareness/training/capacity building

8. The secretariat of the Basel Convention together with the Basel Convention Regional Centres have cooperated closely with UNEP Chemicals and the interim secretariat of the Stockholm Convention in the conduct of regional/sub-regional workshops, awareness raising and training on issues concerning persistent organic pollutants, as well as in the development of regionally-based activities on the environmentally sound management of PCBs, of obsolete stocks of pesticides and dioxins/furans inventory.

Annex II

ADVANCE UNEDITED DECISION OF THE OPEN-ENDED WORKING GROUP
OF THE BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF
HAZARDOUS WASTES AND THEIR DISPOSAL

I. Decision on item 5 (d)

The Open-ended Working Group,

Noting decision VI/23 of the sixth meeting of the Conference of the Parties and decision INC-6/5 of the Intergovernmental Negotiating Committee to the Stockholm Convention,

Noting with appreciation that Canada is serving as lead country for the draft PCB/PCT/PBB guidelines,

1. Agrees that the following separate technical guidelines for the environmentally sound management of persistent organic pollutants as wastes should be developed:

- (a) A general technical guideline;
- (b) Specific technical guidelines on each of the five persistent organic pollutants or group of persistent organic pollutants: PCBs (including PCTs and PBBs), dioxins and furans, DDT, HCB and the eight pesticides;

2. Agrees that at least the elements contained in the Appendix should be contained in these technical guidelines, whereby emphasis should be given to issues which might be included in national legislation and/or adopted under the Stockholm Convention;

3. Agrees that documents UNEP/CHW/OEWG/1/INF/6 and UNEP/CHW/OEWG/1/INF/6/Add.2 as well as other relevant materials should be used for the preparation of the technical guidelines mentioned in paragraph 1, taking into account the need to avoid duplication. General issues with regard to all persistent organic pollutants (e.g. the methodology for further definition of the low persistent organic pollutant content after the seventh meeting of the Conference of the Parties) should be addressed in the general technical guidelines and issues with regard to specific persistent organic pollutants or groups of persistent organic pollutants (e.g. provisional definitions for the low persistent organic pollutant content) should be addressed in the specific guidelines;

4. Agrees to aim to include in the draft technical guidelines referred to in paragraph 1 (b) to be considered at the seventh meeting of the Conference of the Parties:

- (a) provisional definitions for the low persistent organic pollutant content (cf. Art. 6.2 (c) of the Stockholm Convention) for each persistent organic pollutant;
- (b) levels of destruction and irreversible transformation;

5. Invites Parties and others to submit to the secretariat by 30 June 2003 with respect to the six technical guidelines referred to in paragraph 1:

- (a) Proposals on provisional definitions of the low persistent organic pollutant content for each persistent organic pollutant, taking into account that the situation may be different for different forms of waste (e.g. liquid, foam) and that analytical methods should be available;

- (b) Suggestions for a methodology to define the low persistent organic pollutant content on a more scientifically sound basis for a possible later revision of provisional definitions referred to in paragraph 4 (a);
 - (c) Proposals on levels of destruction and irreversible transformation;
 - (d) Other comments on the elements contained in the Appendix as well as on other issues contained in documents UNEP/CHW/OEWG INF/6 and UNEP/CHW/OEWG INF/6/Add.2, taking into account comments contained in UNEP/CHW/OEWG INF/6/Add.1, other comments available on the web site of the Secretariat and other relevant materials made at the first session of the Open-ended Working Group.
6. Invites Parties to serve as lead country and to inform the Secretariat accordingly by 31 May 2003;
7. Requests the secretariat and the lead country or lead countries to prepare revised draft technical guidelines for the environmentally sound management of persistent organic pollutants as wastes for consideration at the second session of the Open-ended Working Group;
8. Agrees the following tentative timetable:
- (a) Comments from Parties and others on the draft referred to in paragraph 9 is due by the end of 2003;
 - (b) New revised draft technical guidelines for consideration at third session of the Open-ended Working Group;
9. Agrees to establish a small intersessional working group to monitor and assist in the preparation of revised draft technical guidelines, working in particular with electronic means;
10. Invites Parties and others to nominate participants for the small intersessional working group to the secretariat by 31 May 2003, whereby at least one participant from each United Nations region should be nominated;
11. Requests the secretariat to put new draft technical guidelines and comments by Parties and others on its website as soon as they are available;
12. Requests the secretariat to also put on its website:
- (a) The unformatted January 2003 draft persistent organic pollutants technical guidelines showing also track changes compared to the October 2002 draft as contained in doc. UNEP/CHW/OEWG/INF/6/Add.1;
 - (b) The September 2002 draft PCB/PBB/PBT guidelines and comments from Parties and others on this draft;
 - (c) Comments from Parties and others not yet available on the website;
13. Invites experts of the Intergovernmental Negotiating Committee to the Stockholm Convention:
- (a) To participate in the preparation of the technical guidelines, e.g. in Open-ended Working Group meetings and/or in the small intersessional working group;

- (b) To submit comments on the issues referred to in paragraph 5 above to the secretariat of the Basel Convention.

II. Suggestion on Item 5 g (vi) - work programme on dioxins and furans

Given the important and urgent work on the technical guidelines on the environmentally sound management of persistent organic pollutants as wastes and the activities of the secretariat as described in document UNEP/CHW/OEWG/12, no further work in the Open-ended Working Group should be performed before the seventh meeting of the Conference of the Parties unless requested by the Intergovernmental Negotiating Committee of the Stockholm Convention.

Appendix

Elements to be addressed in technical guidelines on the environmentally sound management of persistent organic pollutants as wastes

Notes: The order of the elements is arbitrary. The articles refer to the Stockholm Convention. The paragraphs of the text of the guidelines should be numbered.

1. Definition of the low persistent organic pollutant content referred to in Article 6, paragraph 1 (d) (ii) (cf. Article 6.2 (c))
2. Methods that constitute environmentally sound disposal referred to in Article 6.1 (cf. Article 6.2 (b)), including monitoring and assessment
(Note: More emphasis should be put on economic considerations)
 - 2.1 Destruction or irreversible transformation (cf. Article 6.1 (d) (ii), first part)
 - 2.2 Other disposal in an environmentally sound manner (cf. Article 6.1 (d) (ii), second part)
 - 2.2.1 Other disposal when the persistent organic pollutant content is low
 - 2.2.2 Other disposal when destruction or irreversible transformation does not represent the environmentally preferable option
Note: Cases where this option may be used as well as disposal operations to be addressed
 - 2.3 Pre-treatment before destruction/irreversible transformation or before other disposal
3. Establishment of levels of destruction and irreversible transformation (cf. Article 6.2 (a))
4. Handling, collection, transportation and storage (cf. Article 6.1 (d) (i))
5. Identification of wastes consisting of, containing or contaminated with persistent organic pollutants (cf. Article 6.1 (a) (ii))
6. Remediation of sites contaminated by persistent organic pollutants (cf. Article 6.1 (e)), including monitoring and assessment.
7. Analytical methods
8. Public awareness
9. Environmental levels and hazards
10. Waste prevention and minimization
11. Health and safety
12. Emergency response
13. Regulatory oversight

Annex III

ADVANCE UNEDITED REPORT FROM THE FIRST SESSION OF THE
OPEN-ENDED WORKING GROUP OF THE BASEL CONVENTION ON THE CONTROL OF
TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND
THEIR DISPOSAL – PARAGRAPHS PERTAINING TO POPS AS WASTES¹

1. It was noted that priority should be given to the destruction/disposal of wastes with a high content of persistent organic pollutants (POPs).
2. Because of the complexity of the task to define low persistent organic pollutant content
 - (a) it was proposed to aim to agree on provisional definitions at the seventh meeting of the Conference of the Parties, taking into account existing definitions, and
 - (b) at the same time start a process to prepare a methodology for an improved definition on a more scientifically sound basis. It was also suggested to set a timeframe for this work.

It was clarified that low persistent organic pollutant content refers to the input into a waste management facility.

3. It was pointed out that not only a low persistent organic pollutant content differentiates between destruction or irreversible transformation and other disposal, but also the fact when destruction or irreversible transformation is not the environmentally preferable option. However, there was only one example mentioned to operationalize the latter approach: in cases where a destruction technology is not yet available, it was seen as preferable to safely store the waste for a certain time.
4. Divergent views were expressed on the question if, given the obligation in Article 6.1 (d) (iii) not to subject persistent organic pollutants as wastes to disposal operations that may lead to recovery of persistent organic pollutants, persistent organic pollutants as wastes may be subjected to recovery operations in which Article 6.1 (d) (ii) would be fulfilled.
5. With respect to levels of destruction and irreversible transformation, the concept of destruction efficiency (DE) as well as the concept of setting absolute concentration levels for persistent organic pollutants in the output of a waste management facility was mentioned. It was noted that the dependence of the DE on the content of persistent organic pollutants in a waste should be further elaborated on. Preliminary suggestions for DE ranged between 99.999 and 99.9999%. With regard to absolute levels in the output, the option of detection limits and an example with a limit of 5 ppm for PCB in waste wood which is allowed to be used in the production of new products were mentioned (cf. recent German waste wood ordinance available at www.bmu.de).
6. It was noted that *inter alia* the following work which were already undertaken, are important to finalize the work on the technical guidelines:
 - (a) under the Basel Convention (e.g Destruction and Decontamination Technologies for PCBs and Other POPs Wastes, Preparation of a National Environmentally Sound Management Plan for PCBs and PCB-Contaminated Equipment);
 - (b) under UNEP Chemicals (UNEP Inventory of Worldwide PCB Destruction Capacity – Dec. 1998, UNEP Survey of Currently Available Non-Incineration PCB Destruction Technologies – Aug. 2000);

¹ Paragraph numbers will be different in the final edited version of the report.

- (c) under the Stockholm Convention (e.g. work on Best Available Techniques (BAT) and Best Environmental Practice (BEP), National Chemical Profiles (NCP) and National Implementation Plans (NIPs));
- (d) the Technology and Economic Assessment Panel (TEAP) of the Montreal Protocol (e.g. report on destruction technologies of April 2002); and
- (e) work performed by certain countries, environmental non-governmental organizations and industry and business sectors.

It was also noted that work in other fora should not be duplicated.

7. It was noted that a waste may contain more than one persistent organic pollutant and other contaminants as well and that this issue should be addressed in the technical guidelines.

8. The Co-Chair of the Expert Group on BAT and BEP under the Stockholm Convention reported on the outcome of the first meeting of their group. It was noted that there is some overlap of this work and the technical guidelines under the Basel Convention and that there is a need for better coordination.

9. On the legal status of the technical guidelines it was noted that technical guidelines under the Basel Convention are not legally binding and it was up to the Parties to the Stockholm Convention to decide on the legal status under their Convention (cf. decision INC6/5).

10. After the agreement to develop a general technical guidelines and specific technical guidelines, no detailed conclusions could be drawn at this stage on the differentiation of material between the general guidelines and the specific guidelines.

11. Canada was requested by the Co-Chair to consider to serve as lead country not only on the PCB/PCT/PBB guidelines, but also on all technical guidelines. Canada indicated that it would consider this after the meeting and come back to the secretariat. Also the option of having more than one lead country was mentioned.

12. Regarding the time table for further work on these technical guidelines it was recognized that moving the next meeting of the Open-ended Working Group to October 2003 could be agreed. The secretariat clarified that the new draft texts would have to be finalized at least 2 months before the second meeting of the Open-ended Working Group.
