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控制危险废物越境转移及其处置巴塞尔公约
缔约方大会
第七届会议
2004 年 10 月 25－29 日,日内瓦
临时议程* 项目 6

拟定危险特性说明方面的工作进展情况

秘书处的说明

一. 导言

1. 缔约方大会第六届会议在其关于不限成员名额工作组的工作方案的第 VI/37 号决定中商定，应把最后完成 H6.2、H10、H11 和 H13 诸类别的危险特性说明的的工作列入其工作方案、并着手对那些尚未经工作组处理的危险特性开展拟定说明的工作（任务一，活动 2）。在其关于国际合作的第 VI/29 号决定中，缔约方大会确认需要在这一领域内与联合国危险货物运输专家小组委员会及世界卫生组织（卫生组织）开展合作。

二. 执行情况

A. 危险特性 H6.2：传染性物质

* UNEP/CHW.7/1。

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2. 缔约方大会在其第六届会议所通过的第 VI/25 号决定中，请不限成员名额工作组中继续审查由联合王国根据联合国危险货物运输专家小组委员会所开展的工作草拟的一份文件草案，并请秘书处继续就此事项与特别是卫生组织等其他相关的机构进行磋商。

3. 在不限成员名额工作组 2003 年 4 月 28—5 月 2 日举行的第一届会议上，联合王国的代表向会议介绍了他的国家作为此项活动的牵头国家编制的报告和关于危险特性 H6.2（传染性物质）的指导文件草稿，并提到可能需要对相关的危险特性说明作出修订，以便计入对联合国危险货物运输专家小组委员会的条例范本、以及对全球化学品统一分类和标识制度中传染性物质的定义所作出的改动。工作组邀请各缔约方及其他利益相关者于 2003 年 9 月 30 日之前向联合王国和秘书处提供进一步的评论意见，以便推动最后完成关于这些危险特性的说明文件，供不限成员名额工作组在其第三届会议上审议、并随后提交缔约方大会第七届会议通过。

4. 按照不限成员名额工作组的要求，已把由联合王国编制的该项文件的草案登入《巴塞尔公约》的网页，供各方于 2003 年 9 月 30 日前对之发表评论意见。截至 2004 年 2 月底止，秘书处未收到任何评论意见。由联合王国随后编制的一份修订文件草案于 2004 年 4 月间提交给了不限成员名额工作组第三届会议。在该届会议上，不限成员名额工作组决定邀请各方于 2004 年 6 月 30 日之前进一步对这一新的文件草案提供进一步的评论意见，并请秘书处把经过修订的文件文本提交缔约方大会第七届会议，供其在暂行基础上予以通过。随后从加拿大和联合国欧洲经济委员会收到了评论意见。这些评论意见已登入《巴塞尔公约》的网页(www.basel.int)，并作为附件列于本说明之后。联合王国根据这些评论意见又拟订了一份经过修订的文件；现将之列于文件 UNEP/CHW.7/11/Add.1，供本届会议审议。

B. 危险特性 H10：有毒气体的释放

5. 在不限成员名额工作组 2003 年 4 月/5 月及 2004 年 4 月举行的第一和第三届会议上，荷兰代表向会议汇报了在编制关于危险特性 H10 的指导文件方面的进展情况。工作组在其 2004 年 4 月的第三届会议上邀请各缔约方和其他有关方面于 2005 年 1 月 31 日之前向荷兰和秘书处提交其评论意见，以便对该项文件作出修订，供不限成员名额工作组 2005 年的届会审议。荷兰随后向秘书处通报说，它将继续在编制此项技术指导文件方面发挥牵头作用，并请秘书处在荷兰提供资助的情况下最后完成此份文件的编制工作。

C. 危险特性 H11：毒性（延迟或慢性）

6. 美国自愿表示它有意担任编制这一危险特性的指导文件的牵头国家。在不限成员名额工作组 2003 年 4 月/5 月举行的第一届会议上，该国代表向会议介绍了由美国环境保护署起草的一份旨在确定文件适用范围的文件草案。不限成员名额工作组要求各方于 2003 年 9 月 30 日之前向美国提交其评论意见，以便得以编制出一份经过修改整理的文件，供不限成员名额工作组第三届会议审议。

7. 秘书处已把美国提交的确定范围的文件草案登入了《巴塞尔公约》的网页(www.basel.int)，并邀请各方于 2003 年 9 月 30 日之前对之发表评论意见。但其后仅从一个非政府组织收到了评论意见；所提交的评论意见已登入《巴塞尔

公约》的网页。美国提交的关于危险特性 H11 的修订文件草案于 2004 年 4 月间提交给了不限成员名额工作组第三届会议。在该届会议上，工作组决定邀请各方于 2004 年 6 月 30 日之前对该项新的文件草案提交进一步的评论意见，并请秘书处把经过修订的文件文本提交缔约方大会第七届会议，供其在暂行基础上予以通过。澳大利亚和加拿大随后对之提交了评论意见。这些评论意见已登入《巴塞尔公约》的网页(www.basel.int)，并作为附件列于本说明之后。在这些评论意见的基础上，美国进一步对该文件作了修订；现将之列于文件UNEP/CHW.7/11/Add.2 中，供本届会议审议。

D. 危险特性H13：经处置后能以任何方式产生另一种物质

8. 根据技术工作组在其2002年5月间的第十二届会议上为之布置的任务，秘书处在其向2003年4月/5月的不限成员名额工作组第一届会议上提交的一份报告中，着重阐述了与H13类别的概念有关的各项议题、并说明了拟订修改的评估程序的必要性。为此，不限成员名额工作组邀请各缔约方和其他有关方面于2003年9月30日之前提交其评论意见，并请秘书处继续着手详细拟订对浸漏液的评估程序，同时设法收集关于其他材料的最坏设想情况方面的实际经验和相关建议的进一步资料。工作组还请秘书处拟订一份经过整理和修订的新新版本，供不限成员名额工作组第三届会议审议、以及供最后提交缔约方大会第七届会议。秘书处随后未从缔约方或其他有关方面直接收到任何评论意见。巴塞尔行动网络直接向负责起草该项文件的顾问人员提交了评论意见。由秘书处负责拟订的、关于危险特性H13的修订文件草案于2004年4月间提交给了不限成员名额工作组第三届会议审议。

9. 在其第三届会议上，不限成员名额工作组决定邀请各方于2004年6月30日之前就该项新的指导文件草案提交进一步的评论意见，并请秘书处向缔约方大会第七届会议提交该指导文件的修订文本，供其在暂行基础上予以通过。随后从加拿大和美国收到了评论意见。这些评论意见已登入《巴塞尔公约》的网页(www.basel.int)，并已作为附件列于本说明之后。在这些评论意见的基础上，秘书处拟订了最后修订文件；现将之列于文件UNEP/CHW.7/11/Add.3，供本届会议审议。

E. 关于其他危险特性的准则

10. 在其第六届会议上(2002年12月9－13日)，缔约方大会在其通过的关于不限成员名额工作组的工作方案的第VI/37号决定中，要求各方着手就尚未经技术工作组处理的那些危险特性开展工作。不限成员名额工作组在其第一届会议上邀请各缔约方和其他有关方面对《巴塞尔公约》附件三所列各种危险特性中的其他危险特性开展的工作提供技术和财政支持。

11. 秘书处迄今尚未从缔约方或其他有关方面收到任何表明其愿意从技术或财政上对《巴塞尔公约》附件三所列危险特性的其他特性开展的工作提供支持的意向来文。

F. 与联合国全球化学品统一分类和标识制度事项专家小组委员会之间的合作

12. 在其第VI/29号决定(国际合作)中，缔约方大会在其第六届会议上确认需要

秘书处继续参与联合国危险货物运输专家小组委员会及全球化学品分类和标识统一制度专家小组委员会(委员会)所开展的相关工作。

13. 根据该委员会的全球化学品分类和标识统一制度专家小组委员会(小组委员会)2002年12月第四届会议提出的一项要求，巴塞尔公约秘书处于2003年7月间向该小组委员会第五届会议介绍了在《巴塞尔公约》下针对各类危险特性所开展的工作的进展情况。该小组委员会对设立一个由来自芬兰、德国、联合王国和美利坚合众国的专家组成的一个联络小组表示赞同。该联络小组受托负责对《巴塞尔公约》下的废物危险特性的经修订的现行定义和标准提出评论意见，以期将之与全球统一制度下的定义取得协调划一。在小组委员会2003年12月第六届会议上，该联络小组汇报了其工作结果。该小组委员会决定致函《巴塞尔公约》的执行秘书处，表明它愿意与其不限成员名额工作组就与全球统一制度有关的、《巴塞尔公约》的危险废物分类标准的协调划一问题开展进一步合作与协作。该信函的案文（由欧洲经委会拟订）、连同其中所列的两份附录，已一并提交联合国工作组第三届会议审议。不限成员名额工作组确认了该委员会所开展的工作的重要性，并认定此方面的工作与目前正针对《巴塞尔公约》附件三所列危险特性开展的工作具有关联性。

14. 秘书处出席了该小组委员会2004年7月的第七届会议，并向它通报了在《巴塞尔公约》下针对各种危险特性开展的工作的进展情况。欧洲经委会秘书处则向巴塞尔公约秘书处汇报了该届会议所取得的相关结果。欧洲经委会所提出的意见和看法的实质性内容列于本说明的附件（在危险特性评论意见项下）。

三. 提议采取的行动

15. 谨请各缔约方参阅文件UNEP/CHW.7/2，其中列有不限成员名额工作组转交缔约方大会审议和酌情予以通过的各项决定草案的汇编。

Annex

A. Comments received by the Secretariat on the guidance paper on hazard characteristic H6.2 (infectious substances)

Canada

Canada would like to thank the United Kingdom for its work on the development of the draft guidance paper for H6.2 (UNEP/CHW/OEWG/3/CRP.30, which includes the updated version of UNEP/CHW/OEWG/3/INF/11). Canada's comments are as follow:

Under paragraph 5, the substances listed in Category A are examples only. The Category A list is not exhaustive. The UN Model Regulation (13th Edition) states clearly that substances not listed but that have the same characteristics as any one of those listed are also Category A and if there is any doubt as to whether or not a substance is Category A, then it should be classified as Category A. This should be made very clear in the guidance paper.
Canada disagrees with calling the Category A and B substances "biological agents". There does not seem to be any need for the guidance document to justify a different name for these substances. They are infectious substances according to the UN and should be called as such to avoid any confusion for those who have to comply to have to deal with different names for the same substances.

UNECE secretariat

Extracts from the report of the Sub-Committee of Experts on the Transport of Dangerous Goods (ST/SG/AC.10/C.3/50, paras. 78-79) reflecting the discussions on the proposed draft guidance paper on hazard characteristics H6.2.

Informal document: INF.62 (Secretariat)
78. The Sub-Committee had before it the draft "guidance document" prepared by the Contracting Parties to the Basel Convention for the interpretation of the H6.2 criterion for the definition of infectious waste.
79. The Sub-Committee considered that, in order to avoid major complications of interpretation for generators of infectious wastes and monitoring bodies, it was desirable for the criteria of Annex III of the Basel Convention for the definition of H6.2 infectious wastes to be the same as those of Division 6.2 of the United Nations Model Regulations, as Annex III originally provided. The Sub-Committee therefore considered that category H6.2 should cover all wastes containing infectious substances of categories A or B, including clinical waste assigned to UN No. 3291. The secretariat was requested to inform the secretariat of the Basel Convention and the Conference of Parties accordingly."

As could be expected, the Sub-Committee expressed the same concerns as the UNECE secretariat over the fact that, according to this draft guidance document, the criteria for H6.2 wastes would differ from those of the UN division 6.2 for infectious substances, in so far as they would cover only some infectious wastes to be classified under UN Nos. 2814 or 2900, and they would exclude a wide range of wastes containing pathogens, notably those to be classified under UN 3291 (medical/clinical wastes).

In order to ensure concordance between the Basel Convention H6.2 criteria and those of the UN Model Regulations on the Transport of Dangerous Goods for division 6.2, the UNECE

secretariat would like to propose that the following changes be made to the draft guidance paper.

Paragraphs 5 and 40

Proposal: Amend the criterion to read:

"Any waste known or reasonably expected to contain pathogens, meeting the criteria for inclusion in Division 6.2 as defined in section 2.6.3 of the United Nations Recommendations on the Transport of Dangerous Goods, Model Regulations. 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."

Reasoning:

1. The definition of characteristic H6.2 in the original Annex III of the Basel Convention ("Substances or wastes containing viable microorganisms or their toxins which are known or suspected to cause disease in animals or humans.") is the definition that could be found in para. 6.9 (a) of the 5th revised edition of the UN Recommendations on the Transport of Dangerous goods published in 1988.

At that time, the criteria for this definition were rather vague. References to the risk groups of the WHO Laboratory Biosafety Manual were introduced in 1993, but after implementation through regulatory transport instruments, the concept of risk groups was considered not to be entirely satisfactory for transport operations and new criteria were developed under the lead of WHO itself. According to these new criteria, which will become applicable through international transport legal instruments as from 1 January 2005, infectious substances and wastes are divided in two categories A and B, Category A infectious substances being the most dangerous. Clinical and medical wastes known to contain category A or B infectious substances, as well as those which are reasonably believed to have a low probability of containing such substances, are to be classified in Division 6.2.

The definition proposed in the draft guidance paper would exclude from category H6.2 all wastes known to contain category B infectious substances (except those containing cultures), as well as clinical and medical wastes which are reasonably believed to have a low probability of containing category B infectious substances.

2. It should also be noted that the Sub-Committee is still considering improvements to the criteria in cooperation with WHO and other intergovernmental and non-governmental organizations concerned, and that it is likely that in the near future infectious wastes will have to be classified as follows:

Waste containing category A substances would be assigned to UN No. 2814, INFECTIOUS SUBSTANCES AFFECTING HUMANS, or UN No 2900, INFECTIOUS SUBSTANCES AFFECTING ANIMALS only;

Waste containing category B substances, whether or not in culture, would be assigned to UN No. 3373, BIOLOGICAL SUBSTANCE, CATEGORY B or UN No. 3291 CLINICAL WASTE, UNSPECIFIED, N.O.S. or (BIO) MEDICAL WASTE, N.O.S. or REGULATED MEDICAL WASTE, N.O.S.

As a consequence, the definition proposed in the draft guidance paper would have to be updated as soon as the new UN provisions become effective through international transport instruments (i.e. as from 1 January 2007), while the definition proposed above would not need be changed.

Paragraph 44:

Reasoning: H6.2 should cover all Division 6.2 infectious substances, including Category B, as explained above.

Proposal: Delete the end of the second sentence after "UN 3291".

Note: Due to decisions likely to be taken by the Sub-Committee of Experts on the Transport of Dangerous Goods in December 2004, paras. 42, 43 and 44 would have to be slightly amended as well when the new provisions come into effect for international transport (1 January 2007).

B. Comments received by the Secretariat on the guidance paper on hazard characteristic H11 (toxic (delayed or chronic))

Australia

Australia thanks the United States of America for continuing to develop this draft paper and appreciates the time and resources devoted to the task by the United States Environmental Protection Agency. The effort that has gone into providing such detailed information is very much valued and we consider this as a step forward.

However, we are concerned that the current draft does not seem to make any connections with the Globally Harmonized System of Classification and Labelling of Chemicals (GHS). At Technical Working Group19, in January 2002: " … experts who took the floor provided general comments concerning the need to draw on the current work undertaken by the United Nations Subcommittee of Experts on the GHS and to derive benefit from its results. " The Chair concluded that: " future work on H11 should build on the current work on the GHS. "

Similarly, in its decision VI/29, COP6 recognised the need for the Secretariat to continue participating in the work on the GHS. We recently agreed, at OEWG3, to propose a similar decision for COP7. This would include exploring possible links between the work undertaken in the context of the Basel Convention on hazardous characteristics and the elements of the GHS, including consideration of the respective work programmes to identify inconsistencies, discrepancies or shortcomings.

We recall that in 1989-90, the International Labor Organisation (ILO) developed and adopted a convention and recommendation on Safety in the Use of Chemicals at Work, which would require a system for hazard classification and labelling for adoption.

Under Agenda 21, we saw a commitment to sound management of chemicals throughout their life cycle and of hazardous wastes for sustainable development as well as for the protection of human health and the environment. The aims included management practices in the manufacture, use and disposal of chemicals and the management of hazardous waste leading to the minimisation of significant adverse effects on human health and the environment, using transparent science-based risk assessment procedures and science-based risk management procedures.

In 1992, UNCED established six programme areas to strengthen national and international efforts related to the environmentally sound management of chemicals under Chapter 19 of Agenda 21. Under Programme 2, the GHS was established to develop a: " globally harmonized hazard classification and compatible labelling system ".

In 2002, the World Summit on Sustainable Development adopted a Plan of Action, which in

Paragraph 23(c) encouraged countries to implement the new GHS as soon as possible with a view to having the system fully operational by 2008.

In 2003, the Intergovernmental Forum on Chemical Safety (IFCS) adopted the GHS Action Plan unanimously.

More than a decade of work has gone into GHS. Many individuals, with a wide range of expertise, from many countries, international organizations, and stakeholder organizations have been involved. It has been a difficult and long-term process, with much discussion and compromise, and is still ongoing.
We think that at this time, further work on the draft paper on hazardous characteristic H11 should investigate the feasibility of drawing on the work undertaken by the United Nations Subcommittee of Experts on the GHS.

Drawing on the GHS in this way, in the context of the Basel Convention, would help provide a mechanism to promote global adoption of the GHS.

Canada

Canada would like to thank the United States on the development of the draft guidance document on H11 (UNEP/CHW/OEWG/3/INF/12). Canada does not believe that the document is ready for adoption and is proposing that the strategy on the assessment of H11 be elaborated upon, in particular step 2 (see section 3. Proposed Assessment Strategy, page 8). This section looks at the total concentration of hazardous chemicals in the whole waste, and work towards developing a list of hazardous chemicals and concentration thresholds.

Greenpeace International

Submissions are as found in the Basel Convention website (www.basel.int/techmatters/h11_comm.html).

C. Comments received by the Secretariat on the guidelines on hazard characteristic H13 (Capable by any means, after disposal, of yielding another material)

Canada

As Canada stated at the OEWG-3, Canada has some concerns with the proposed guidance paper (UNEP/CHW/OEWG/3/INF/13) and requires additional time for domestic consultations.

In the mean time, please note the following editorial comments:

In the document, (s.7 Examples of test methods, p. 36) the Canadian reference to the test method is wrong, this should be the same as the USA method.

Appendix B includes Canada's release limits. The table does not indicate what units are used for the values; this should be mg/L or parts per million (ppm).

United States of America

General Comments:

The US believes that the revised draft paper on the hazardous characteristic H13 provides an appropriate basis for continuing development of this characteristic, and supports continued

development. However, much work and discussion remains before guidance on H13 is ready for approval by the Basel Conference of Parties. Development of a complete consensus approach in time for the COP VII meeting the week of 25-29 October 2004 seems most unlikely.

Regarding the document developed to date, the US supports in particular the draft's focus on leachate as the critical parameter for implementing H13. This is the most appropriate focus given the H13 language restricting its application to material yielded by the waste "after disposal". Focus on leachate will serve to protect groundwater and surface water resources that could be contaminated by improper management of a hazardous waste.

As noted by the draft paper, the US relies on an H13 approach to regulate 9.5 tons of waste as hazardous every year, using the Toxicity Characteristic Leaching Procedure (TCLP) leach test and the Toxicity Characteristic (TC) regulation (see the US Code of Federal Regulations: 40 CFR 261.24). The TCLP test defines the plausible worst case management conditions for waste legally disposed in the U.S. (co-disposal of industrial waste in a municipal waste landfill), and simulates key leaching conditions likely to be found in such a landfill. The TC regulation specifies limit values based on US drinking water limits, and allows for some dilution (100 fold) of the landfill leachate in groundwater before the leachate reaches a drinking water well. Waste that generates leachate which exceeds any of the limit values is classified as hazardous, and cannot be disposed in a municipal landfill without being treated to minimize its leaching potential. Effectiveness of the treatment is evaluated by applying the TCLP test to the treated waste (or recycling residual, if the waste is recycled). We believe a similar approach is supportable and appropriate for implementing H13. [Note: the TCLP test protocol is available at: http://www.epa.gov/epaoswer/hazwaste/test/pdfs/1311.pdf; a hard copy or PDF version of the protocol is available if needed.]

Specific Comments on the 29 March 2004 H13 Draft:

Paragraph 18: The first portion of this paragraph is a bit confusing and needs to be clarified. In the second portion of the paragraph, it is implied that a system in which limit values may vary depending on different disposal conditions should be developed. The US disagrees— a single set of limit values should be established and used as the basis for classifying waste as hazardous under H13. Once the waste is classified as hazardous, an evaluation of conditions needed for ensuring environmentally sound management (ESM) may be conducted. To do otherwise would miss the point of classification, which is to identify wastes that may pose hazards if improperly managed, and require ESM.

The suggested approach would also allow conditional classification of waste based on proposed disposal conditions. However, such disposal may or may not actually occur, potentially resulting in waste mismanagement and damage to the environment. Conditional classification would also result in multiple sets of limit values that would be applied under different conditions, a situation that would make implementation of the H13 hazard characteristic difficult.

Paragraph 21: The US believes that H13 assessments should test intrinsic waste properties. If the waste is changed through treatment (e.g., physical/chemical treatment, metals reclamation, etc.) a subsequent H13 assessment can be made to determine whether the waste treatment residues express the H13 characteristic.

Paragraphs 22-23: The US agrees that when developing a new system for H13 classification, a different approach than presented in paragraph 19 is appropriate, since paragraph 19 describes system implementation. The US uses the TCLP test and the TC regulation limit values to assess waste leaching and groundwater contamination potential as intrinsic waste properties. We do this using leaching under plausible worst case management and leaching conditions, as represented by the TCLP test parameters.

The US recommends a similar approach for defining H13 here, recognizing that an internationally applicable plausible worst case scenario may be different from the one used by the US (i.e., codisposal of industrial waste with municipal waste) and so require a different leaching test, and that a dilution factor that differs from the US value of 100 for groundwater protection may be appropriate.

Paragraph 24: The US agrees that groundwater protection is an appropriate primary focus for H13 evaluations, and that H13 should also be capable of considering other concerns such as surface water contamination.

Paragraphs 26-27: The US agrees with this discussion.

Paragraph 28: The Austrian approach appears to be more like H11 or H6.1, since it is based on use of an extraction fluid (*aqua regia*) that is typically used in testing for total metals content of the waste. It does not appear to evaluate the potential of materials to be capable of yielding another hazardous material after disposal.

Paragraph 32: The US agrees that H6.1, H11, and H12 compliment H 13. One appropriate approach for implementing H13 would be to use the deminimis values in H11 and H12, with an added groundwater/surface water dilution factor, to establish the limit values for leachate generated in H13 leach testing.

Paragraphs 33-35: The US agrees with the discussion in these paragraphs.

Paragraphs 36-39: The US agrees with the views expressed in these paragraphs.

Paragraph 40: Choosing an established national approach for defining H13 would be feasible if Parties can agree that an established system represents plausible worst case management for wastes, and protects at this level. Adoption of an existing national approach would save time and resources.

If there is not agreement on this point, the US would support development of a harmonized system as identified in bullet point 2 in this paragraph (although point 4 under this bullet needs clarification).