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**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal**
Eighth meeting
Nairobi, 27 November–1 December 2006
Item 6 (d) of the provisional agenda*
**Implementation of the decisions adopted by the
Conference of the Parties at its seventh meeting:
Technical matters**

Separate identification in the World Customs Organization Harmonized Commodity Description and Coding System of certain wastes in Annexes VIII and IX to the Basel Convention

Note by the Secretariat

I. Background

1. Reference is made to decisions VII/12 and VII/38 of the seventh meeting of the Conference of the Parties to the Basel Convention.

II. Implementation

2. Work on separate identification in the World Customs Organization (WCO) Harmonized Commodity Description and Coding System (the Harmonized System) of certain wastes in Annexes VIII and IX to the Basel Convention has continued pursuant to subparagraph 1 (f) of decision VII/38 of the Conference of the Parties.

3. Three proposals for listing certain additional wastes under the Harmonized System Nomenclature were presented by the Secretariat of the Basel Convention. The WCO Harmonized System Review Sub-Committee (RSC) has considered these at its thirtieth, thirty-first, thirty-second and thirty-third sessions, in November 2004, May 2005, November 2005 and May 2006. The proposals related to the following wastes:

(a) Waste personal computers including associated hardware; electronic equipment; and waste mobile phones (Basel List: A1180, B1110);

* UNEP/CHW.8/1.

(b) Coal-fired power station fly ash; waste gypsum (Basel List: A2040, A2060, B2040, B2050, B2080);

(c) Waste from inks, dyes, paints, lacquers and varnishes (Basel List: A3050, A4070, B4010, B4020).

4. At its thirtieth session the Harmonized System Review Sub-Committee concluded that the scope of all three categories of wastes proposed, the criteria for identifying them as wastes and for distinguishing between the wastes and the products from which they originated required further elaboration. It therefore invited the Basel Convention Secretariat to continue development of the proposals in close cooperation with the Parties to the Basel Convention and the WCO Secretariat, taking into account the observations of the Harmonized System Review Sub-Committee.

5. Following the thirty-first Session of the Review Sub-Committee there had been extensive discussions and exchanges of information between the WCO Secretariat and the Basel Convention Secretariat in order that certain aspects of the proposals were clarified. In the first instance, to avoid significant debate and delays in their introduction it was agreed that for now references to the wastes should be limited to their inclusion in the Explanatory Notes to the Harmonized System. Although the Explanatory Notes do not have legal force, nevertheless they provide definitive classification guidance on the correct Harmonized System Codes to use. This assists in achieving the principal goal of the Basel Convention over the control of trade in wastes to ensure that they are easily identified, their packaging, handling, transport and processing in an environmentally sound manner can then be ensured.

6. Concerning waste personal computers, electronic equipment and mobile telephones, several participants at the thirty-second session of the Harmonized System Review Sub-Committee expressed continued concerns about the difficulties in differentiating between new, used but still functional and waste items. There was considered to be excessive reliance on subjective decisions. Also, the Harmonized System does not classified goods by their end use. It was concluded therefore, that at that time it was difficult for the Committee to take a position on the proposal. Nevertheless it remained open to consider the proposal again at the thirty-third Session following further discussions between the WCO and Basel Convention Secretariats. Discussions have continued and a revised proposal is to be presented at the thirty-fourth Session of the Harmonized System Review Sub-Committee in November 2006.

7. At the thirty-first Session of the Review Sub-Committee, it was agreed that the proposal on coal fired power plant fly ash was acceptable and amendments to the Explanatory Notes under Heading 26.20 concerning Power Plant Ash and Residues as drafted by the WCO Secretariat should be sent for consideration by the Harmonized System Committee at its next meeting in November 2005. If endorsed, the amendments would be submitted to the WCO Council for approval and should be included in the 2007 Explanatory Notes of the Harmonized System. At the Sub-Committee's thirty-second Session, in November 2005, consideration was given to flue gas desulphurization (FGD) gypsum residues, and it was agreed that a new item in the Explanatory Notes to heading 38.25 would be recommended to the Harmonized System Committee. The draft amendments to the Explanatory Notes include the following references:

Heading 26.21 - Ash and clinker of mineral origin produced primarily from burning coal, lignite, peat or oil in utility boilers. Its principal uses are as a raw material for cement manufacture, as a supplement to cement in concrete, in mine backfill, as a mineral filler in plastics and paints, as a lightweight aggregate in building block manufacture and in civil engineering structures such as embankments, highway ramps and bridge abutments. It includes:

- (a) Fly ash – finely divided particles entrained in furnace flue gases and removed from the gas stream by bag or electrostatic filters;
- (b) Bottom ash – more coarse ash removed by settlement from the gas stream immediately after leaving the furnace;
- (c) Boiler slag – coarse residues removed from the bottom of the furnace;
- (d) Fluidised bed combustor ash (FBC-ash) – inorganic residues from burning coal or oil in a fluidised bed of limestone or of dolomite.

Heading 38.25 – Residues from the processing of power plant combustion off-gases by so called limestone gypsum flue gas desulphurisation (LG FGD). These residues are solid or in the form of a slurry and can be further processed and used as a substitute for natural gypsum in plasterboard manufacture. However, purified calcium sulphate isolated from these residues is excluded (heading 28.33).

8. In regard to waste from inks, dyes, pigments, paints, lacquers and varnishes, a number of questions were raised at the thirty-second session of the Harmonized System Review Sub-Committee. These concerned chemical composition and processes leading to creation of the wastes, given the vague nature of the wastes in question. The view was taken that segregation of the wastes into categories, which could provide a more precise description of the constituent parts, might be a way forward.

9. Following detailed discussions with the WCO Secretariat, a revised proposal was made and discussed at the thirty-third Session of the Review Sub-Committee in May 2006. This proposal was agreed and would be recommend to the Harmonized System Committee, for eventual adoption. The draft amendments to the Explanatory Notes include the following references:

Headings 26.20, - Slag, ash and residues resulting from the production, formulation and use of inks, dyes, pigments, paints, lacquers and varnishes, of a kind used for the recovery of metals or their compounds.

Heading 27.10. – Waste oils resulting from the production, formulation and use of inks, dyes, pigments, paints, lacquers and varnishes.

Heading 38.25. – Other wastes from chemical or allied industries. This group includes, inter alia, wastes resulting from resulting from the production, formulation and use of inks, dyes, pigments, paints, lacquers and varnishes.

10. In continuing cooperation with the Secretariat of the World Customs Organization the proposed objective for the future should be for wastes listed in Annex VIII and IX of the Basel Convention to be recognised in the Harmonized System Nomenclature of the Harmonized Commodity Description and Coding System of the World Customs Organization as used by its 50 Contracting Parties.
