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**Conference of the Parties to the Basel Convention  
on the Control of Transboundary Movements of  
Hazardous Wastes and Their Disposal  
Ninth meeting  
Bali, 23–27 June 2008**

Item 7 (h) of the provisional agenda\*

**Implementation of the decisions adopted by the Conference of the Parties  
at its eighth meeting: technical matters**

## **Review of cooperation with the World Customs Organization and its Harmonized System Committee pursuant to decision VIII/20**

**Note by the Secretariat**

### **I. Introduction**

1. Reference is made to decision VIII/10 on the work programme of the Open-ended Working Group for 2007–2008 and to decision VIII/20 on separate identification in the World Customs Organization (WCO) Harmonized Commodity Description and Coding System of certain wastes in Annexes VIII and IX to the Basel Convention. By the latter decision, the Conference of the Parties requested the Secretariat to cooperate with various WCO bodies, to continue to make progress in identifying the wastes covered by the Basel Convention in the World Customs Organization Harmonized Commodity Description and Coding System and to report regularly to the Open-ended Working Group and the Conference of the Parties on progress.

### **II. Implementation**

2. Work on separate identification in the 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 and decision VIII/20 of the Conference of the Parties. The Secretariat presented a report on progress to the Conference of the Parties at its eighth

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\* UNEP/CHW.9/1.

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meeting.<sup>1</sup> A further progress report in relation to this work is set out in the annex<sup>2</sup> to the present document.

### III. Proposed action

3. The Open-ended Working Group, at its sixth session, in September 2007 agreed to forward the following draft decision to the Conference of the Parties for consideration at its ninth meeting:

*The Conference of the Parties,*

*Taking note* of the progress of work on separate identification in the Harmonized System of certain wastes in Annexes VIII and IX to the Basel Convention,

1. *Requests* the Secretariat to pursue its cooperation with the World Customs Organization secretariat, the Harmonized System Committee, the Harmonized System Review Subcommittee and the Scientific Subcommittee of the World Customs Organization;

2. *Also requests* the Secretariat to continue to move forward, under the guidance of the Open-ended Working Group, with the issue of the identification of the wastes covered by the Basel Convention in the World Customs Organization Harmonized Commodity Description and Coding System and to report regularly to the Open-ended Working Group and the Conference of the Parties on progress.

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<sup>1</sup> UNEP/CHW.8/INF/9.

<sup>2</sup> For reasons of economy, the annex is made available in English only and has not been formally edited.

## Annex

### **Progress report on separate identification of certain wastes in Annexes VIII and IX to the Basel Convention in the World Customs Organization Harmonized Commodity Description and Coding System**

1. Work on separate identification of certain wastes in Annexes VIII and IX to the Basel Convention in the World Customs Organization (WCO) Harmonized Commodity Description and Coding System (the Harmonised System) has continued pursuant to subparagraph 1 (f) of decision VII/38 and VIII/20 of the Conference of the Parties.
2. As reported to the eight meeting of the Conference of the Parties (COP8), three proposals for listing certain additional wastes under the Harmonized System Nomenclature had been presented by the Secretariat of the Basel Convention to the WCO Secretariat. These proposals are related to the following wastes:
  - (a) Waste personal computers including associated hardware; electronic equipment; and waste mobile phones; (Basel List: A1180, B1110)
  - (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)
3. The WCO Harmonized System Review Sub-Committee had concluded that the scope of all three categories of wastes proposed and the criteria for identifying them as wastes and for distinguishing between the wastes and the products from which they originated required further elaboration. Account also needed to be taken that certain of the wastes, provided they met particular specifications, could then be regarded as raw materials for the manufacture of other products. It had invited the Secretariat of the Basel Convention 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.
4. Exchanges of information between the WCO Secretariat and the Secretariat of the Basel Convention clarified certain aspects of the proposals. To avoid significant debate on their complicated nature and delays this could create, agreement was reached that references to the wastes as mentioned in paragraphs 2(b) and 2(c) above for now would be limited to their inclusion in the Harmonized System Explanatory Notes. While the Explanatory Notes do not have legal force, they are used widely to provide definitive classification guidance on the correct Harmonised System Codes to use for particular products. This assists in achieving one of the principal goals of the Basel Convention over the identification and control of trade in hazardous wastes. Also, it provides a means to ensure that wastes are easily and correctly identified. Their safe packaging, handling, transport and processing in an environmentally sound manner can then be prescribed by Parties.
5. Wastes mentioned in paragraphs 2(b) and 2(c) are now incorporated in the Fourth Edition (2007) of the Harmonised System Explanatory Notes as follows:

#### **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 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).

**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 the production, formulation and use of inks, dyes, pigments, paints, lacquers and varnishes.

6. With respect of waste personal computers, electronic equipment and mobile telephones, concerns about the practical difficulties in differentiating between “new”, “used but still functional” and “waste” items had been expressed by the WCO Harmonized System Review Sub-Committee. There was considered to be a need for excessive reliance on subjective descriptions that could not easily be specified. This was in contrast to the use of precise descriptions in the Harmonised System. Also, the Harmonised System does not classify goods and products by their end use. Discussions had continued and the Secretariat of the Basel Convention presented a revised proposal to the Harmonised System Review Sub-Committee Meeting in November 2006. Although this provided additional information progress could not be made by the Sub-Committee and the problems identified were therefore referred to the Harmonised System Committee for its consideration.

7. Based on the discussions at the November 2006 Harmonised System Review Sub-Committee Meeting the WCO Secretariat had prepared a paper entitled “Classification of Electronic Waste” for the WCO Harmonised System Committee Meeting in April 2007. In it was indicated that if the intent of the Basel Convention Secretariat was to cover all electronic waste that may be subject to control under the Basel Convention because of the presence of hazardous components, many additional headings and codes would need to be opened in the Harmonised System. Also, as far as electronic equipment was concerned, there was difficulty in composing a single definition for “waste” or “used” or “no longer functional”. One possibility would be to provide text in the Harmonised System General Explanatory Notes indicating that provisions include articles and parts that are no longer functional but this would not be straightforward as they would need to be presented as wastes when in reality they would not be regarded as such by many. Another solution could be to include products of concern that contain hazardous components in the “Table Establishing a Correlation Between the Harmonised System and Selected International Conventions” (the Correlation Table<sup>3</sup>) compiled by the World Customs Organization.

8. This latter proposal found favour with the Harmonised System Committee. Subsequently, for the Harmonised System Committee meeting in September 2007 the WCO Secretariat prepared a paper entitled “Updating of the Table Establishing a Correlation Between the Harmonised System and Selected International Conventions” (the Correlation Table) together with an Annex. The Annex provided HS Codes for goods in the Harmonised System that are likely to contain electrical and/or

<sup>3</sup> The current Correlation Table can be viewed at, or downloaded from the WCO’s Public Website, at [http://www.wcoomd.org/home\\_wco\\_topics\\_hsoverviewboxes.htm](http://www.wcoomd.org/home_wco_topics_hsoverviewboxes.htm), and click on “Interconnection Table”.

electronic components. These, when presented as waste would almost certainly contain hazardous substances and thereby would merit inclusion in the Correlation Table.

9. The Annex prepared by the WCO Secretariat listed those HS Codes for goods that would need to be added to the existing Correlation Table. This Table covered all Harmonised System listed products that may contain electrical or electronic components which, when presented as waste would satisfy the provisions of the Basel Convention.

10. Subsequently, further work on the Annex by the WCO and Basel Convention Secretariats has provided an update to the Correlation Table which when published will include additional references to HS Codes for the wastes listed in Annexes VIII and IX of the Basel Convention.

11. In continuing cooperation with the World Customs Organization the proposed objective for the future should be for more of the wastes listed in Annex VIII and IX of the Basel Convention to be recognised in the Harmonised System Nomenclature of the Harmonized Commodity Description and Coding System of the World Customs Organization.

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