

TENTH CONFERENCE OF THE PARTIES TO THE BASEL CONVENTION: 17-21 OCTOBER 2011

The tenth meeting of the Conference of the Parties (COP10) to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal begins today, Monday, 17 October 2011 in Cartagena, Colombia, under the theme of “Prevention, minimization and recovery of wastes.” The key issues to be considered during the week-long meeting include: a new strategic framework; the outcomes of the Indonesian-Swiss country-led initiative (CLI) to improve the effectiveness of the Basel Convention; technical guidelines; environmentally sound dismantling of ships; capacitybuilding; and the Basel Convention Partnership Programme.

A BRIEF HISTORY OF THE BASEL CONVENTION

The Basel Convention was adopted in 1989 and entered into force on 5 May 1992. It was created to address concerns over the management, disposal and transboundary movements of the estimated 400 million tonnes of hazardous wastes that are produced worldwide each year. The guiding principles of the Convention are that transboundary movements of hazardous wastes should: be reduced to a minimum; be managed in an environmentally sound manner; be treated and disposed of as close as possible to their source of generation; and be minimized at the source. There are currently 178 parties to the Convention.

COP1: The first COP was held in Piriapolis, Uruguay, from 3-4 December 1992. COP1 requested industrialized countries to prohibit the transboundary movements of hazardous wastes for final disposal to developing countries (Decision I/22). Decision I/22 also noted that the transboundary movements of wastes for the purpose of recovering and recycling materials should take place in accordance with the requirement that the wastes be handled in an environmentally sound manner. Decision I/22 was not legally binding, and a “pro-ban coalition,” consisting of developing countries, Greenpeace and the Nordic states, urged delegates to adopt the ban as a binding amendment to the Convention. The issue of hazardous wastes destined for recycling and recovery was forwarded to the Technical Working Group (TWG) for further study.

COP2: During the second COP, held in Geneva from 21-25 March 1994, parties agreed on an immediate ban on the export of hazardous wastes intended for final disposal from Organisation

for Economic Co-operation and Development (OECD) countries to non-OECD countries. Parties also agreed to ban, by 31 December 1997, the export of wastes intended for recovery or recycling (Decision II/12) from OECD to non-OECD countries. Since Decision II/12 was not incorporated into the text of the Convention itself, the issue of whether or not the ban was legally binding was unclear.

COP3: At the third COP, held in Geneva from 18-22 September 1995, the ban was adopted as an amendment to the Convention (Decision III/1). The Ban Amendment does not use the OECD/non-OECD membership distinction but bans the export of hazardous wastes for final disposal and recycling from Annex VII countries (EU, OECD and Liechtenstein) to non-Annex VII countries. According to Article 17, paragraph 5, entry into force of amendments takes place upon ratification by at least three-fourths of the parties “who accepted them.” There are differing interpretations over the term “who accepted them” and therefore over the number of ratifications required for the Ban Amendment to enter into force. Some parties suggest that the number is 62, that is, three-fourths of parties at the time of adoption of the Ban Amendment. Others, including the UN Office of Legal Affairs, argue that three-fourths of current parties must ratify the Ban Amendment. To date, the Ban Amendment has been ratified by 71 parties. COP3 mandated the TWG to continue its work on the characterization of “hazardous wastes” and the development of lists of wastes that are hazardous (Decision III/12).

COP4: Two of the major decisions adopted at the fourth COP, held in Kuching, Malaysia, from 23-27 February 1998, related to the Ban Amendment. COP4 considered proposals by countries seeking to join Annex VII and decided that the composition of this annex would remain unchanged until the Ban Amendment entered into force (Decision IV/8). In this decision, COP4 also requested the Secretariat to undertake a study of issues related to Annex VII. On the question of which wastes should be covered by the Ban, COP4 considered the proposal put forward by the TWG on List A, identifying hazardous wastes, and List B, identifying non-hazardous wastes. COP4 decided to incorporate these lists as Annex VIII and Annex IX to the Convention, respectively.

COP5: The fifth COP met in Basel, Switzerland, from 6-10 December 1999, when delegates celebrated the tenth anniversary of the Convention’s adoption. They also adopted the

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Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal, and a “Basel Declaration” for promoting the environmentally sound management (ESM) of hazardous wastes over the next ten years, along with a decision setting the next decade’s agenda. To date, ten parties have ratified the Protocol on Liability and Compensation, which will enter into force upon receipt of 20 instruments of ratification. The COP also adopted decisions covering the Convention’s implementation and monitoring, legal matters, prevention and monitoring of illegal traffic, technical matters and institutional, financial and procedural arrangements.

COP6: The sixth COP met in Geneva, Switzerland, from 9-14 December 2002. COP6 restated the importance of the Basel Convention’s goals relating to sustainable development and launched a partnership programme with environmental non-governmental organizations, industry and business. The COP adopted decisions on issues relating to the implementation of the Convention, amendment of the Convention and its annexes and institutional, financial and procedural arrangements. COP6 also agreed on guidance elements for the detection, prevention and control of illegal traffic in hazardous wastes, and on technical guidelines for ESM of biomedical and healthcare wastes, plastic wastes, waste from lead-acid batteries and ship dismantling. Delegates at COP6 agreed to promote further cooperation between the Basel Secretariat and other organizations and secretariats involved in chemicals management. COP6 set the budget for 2003-2005, agreed on a compliance mechanism for the Convention, adopted a Strategic Plan, and finalized a framework agreement on the legal establishment of the Basel Convention Regional Centres (BCRCs) for training and technology transfer.

COP7: At the seventh COP, held in Geneva from 25-29 October 2004, delegates considered decisions on a range of issues relating to the BCRCs, the Basel Convention Partnership Programme, institutional arrangements, the Ban Amendment and the Basel Protocol on Liability and Compensation. COP7 also adopted decisions on definitions of hazardous wastes, hazardous waste characteristics and a number of technical guidelines. Delegates adopted decisions on guidance elements for bilateral, multilateral or regional agreements and on the follow-up to the 2002 World Summit on Sustainable Development (WSSD). After protracted negotiations, COP7 set the budget for 2005-2006 and took decisions on the Strategic Plan and the 2005-2006 work programme for the Open-Ended Working Group (OEWG).

COP8: The eighth COP was held from 27 November to 1 December 2006 in Nairobi, Kenya. COP8 opened against the backdrop of a toxic waste dumping incident in Abidjan, Côte d’Ivoire. Delegates considered reports on activities within the Convention’s mandate and adopted a declaration on e-waste and more than 30 decisions on, *inter alia*: the 2007-2008 programme of work; the implementation of the Strategic Plan, including consideration of the work and operations of the BCRCs, as well as the Basel Convention Partnership Programme; synergies and cooperation; e-waste and end-of-life equipment; ship dismantling; legal matters; amendments to the general technical guidelines for the ESM of persistent organic pollutant (POP) wastes; guidelines for the ESM of wastes; and the election of new members of the Implementation and Compliance Committee and the Committee’s work programme.

COP9: The ninth COP was held from 23-27 June 2008, in Bali, Indonesia. COP9 adopted more than 30 decisions on, *inter alia*: cooperation and coordination; the budget; legal matters; review of the BCRCs; the Partnership Programme; the Strategic Plan; and technical matters. During COP9 Switzerland and Indonesia announced a CLI, inviting key players to discuss in an informal, dynamic and non-dogmatic manner issues related to the transboundary movements of hazardous wastes, especially to developing countries.

INTERSESSIONAL HIGHLIGHTS

Ex-COP: The simultaneous extraordinary Conferences of the Parties to the Basel, Rotterdam and Stockholm Conventions were held from 22-24 February 2010 in Bali, Indonesia. Delegates at each meeting adopted nearly identical omnibus synergies decisions on joint services, joint activities, synchronization of the budget cycles, joint audits, joint managerial functions, and review arrangements. Jim Willis (US) was appointed as the Joint Head of the Basel and Stockholm Convention Secretariats and the UNEP-part of the Rotterdam Convention Secretariat in April 2011.

OEWG7: The seventh session of the OEWG took place in Geneva, Switzerland, from 10-14 May 2010.

The meeting considered several issues, including: the work programme of the OEWG for 2012-2013; financial matters; enforcement of the Convention and efforts to combat illegal traffic; cooperation between the Basel Convention and the International Maritime Organization; draft technical guidance on cement kilns; draft technical guidance on mercury wastes; harmonization and cooperation; and cooperation on the environmentally sound dismantling of ships. In total, OEWG7 approved 19 decisions.

INDONESIAN-SWISS CLI: Three meetings of the CLI convened between COP9 and COP10. The outcome of the CLI takes the form of a draft omnibus decision aiming to ensure that hazardous wastes moving between countries have no adverse impact on the environment or human health. It addresses: the entry into force of the Ban Amendment; the development of standards and guidelines for ESM; the provision of further legal clarity of key provisions in the BC; the further strengthening of the BCRCs; combating illegal traffic; assisting vulnerable countries; and capacity building. The draft omnibus decision will be considered by COP10.

COMMITTEE FOR ADMINISTERING THE MECHANISM FOR PROMOTING IMPLEMENTATION AND COMPLIANCE: The Committee held its seventh and eighth sessions in Geneva, Switzerland, from 25-26 June 2009 and 21-23 March 2011, respectively. The Committee considered national reporting activities included in its 2009-2011 work programme, and recommended that COP10 adopt decisions on: assessing the status of reporting, parties’ needs for assistance with reporting and assessing parties’ compliance with respect to the annual reporting obligation. It also recommended that COP10 considers a “benchmark” national report to guide parties on Convention reporting, and including in the proposed work programme for 2012-2013 the development of electronic training tools.