

BASEL COP10 HIGHLIGHTS: TUESDAY, 18 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 convened for its second day on Tuesday, 18 October 2011. In the morning delegates discussed BCRCs and scientific and technical matters. During the afternoon delegates initiated consideration of legal, compliance and governance matters.

IMPLEMENTATION

BCRCs: The Secretariat introduced a draft decision on the BCRCs (UNEP/CHW.10/4). Stressing the variable performance of BCRCs, the EU, supported by NORWAY, encouraged parties to collaborate regionally to support BCRCs. NORWAY acknowledged that the ability to provide financial support differs across regions. Noting their governments' efforts to support BCRCs, URUGUAY and ARGENTINA said BCRCs are international cooperation mechanisms that all parties must fund. CHINA, ECUADOR and NIGERIA supported this.

Many countries emphasized the importance of the BCRCs in implementing the Convention. The Nigerian BCRC, on behalf of African BCRCs, referred to them as the Convention's "foot soldiers" requiring sustainable structures and resources. TRINIDAD AND TOBAGO informed the COP that its recently established Caribbean BCRC is now fully staffed and will soon become operational.

SCIENTIFIC AND TECHNICAL MATTERS: Technical guidelines: The Secretariat introduced a document on technical guidelines for e-wastes (UNEP/CHW.10/6). The EU emphasized the importance of providing input on guidelines into the mercury negotiations, and on distinguishing between waste and non-waste. BRAZIL said it had prepared new draft guidelines on used tyres.

Noting the lack of discussion on the Partnership for Action on Computing Equipment (PACE) guidelines on computer equipment (UNEP/CHW.10/20), SWITZERLAND introduced the item, and proposed, supported by ZAMBIA, that COP10 adopt sections 1, 2, 4, and 5 on environmentally sound testing, refurbishing, repair and material recovery and recycling. The Secretariat clarified that PACE would be addressed under the Partnership Programme agenda item. ARGENTINA said the PACE guidelines should be adapted to local conditions.

Delegates established a contact group to further consider technical guidelines.

Amendments to the list of wastes contained in Annexes VIII and IX to the Basel Convention: The Secretariat introduced the item (UNEP/CHW.10/7), noting the receipt of proposals, but that these were yet to be considered by the

OEWG. CANADA, the US and MOROCCO, opposed by the EU, observed that there was no need for the draft decision instructing OEWG8 to consider the new proposals. After informal deliberations, it was agreed that no decision was necessary on this matter at COP10.

Classification and hazard characterization of wastes: The Secretariat introduced the item (UNEP/CHW.10/8).

On the guidance papers on H10 and H11, parties agreed to drop the item from the Basel Convention work programme. On review of cooperation with the World Customs Organization (WCO), parties agreed to the draft decision subject to the outcome of the budget negotiations. On harmonization and coordination, the Secretariat observed no nominations for the position of Chair of the Joint Correspondence Group had been received. CANADA proposed deleting the item, while the EU suggested further discussion. Parties agreed to discuss informally.

On national classification and control procedures, the EU, opposed by MOROCCO, NIGERIA, ZAMBIA and INDONESIA, proposed discontinuing activities due to a lack of response from parties experiencing difficulties with classification and control procedures. Delegates agreed to discuss this matter informally.

LEGAL, COMPLIANCE AND GOVERNANCE MATTERS: Implementation and Compliance Committee (ICC): ICC Chair Gillian Guthrie (Jamaica) introduced the Committee's report, and a draft decision on the work of the Committee (UNEP/CHW.10/9/Rev.1). SWITZERLAND, NORWAY and COLOMBIA supported adopting the draft decision, welcoming the Committee's proposed increased capacity to address cases of non-compliance or difficulty in complying with the Basel Convention. INTERPOL welcomed the Committee's recommendation to create a partnership on preventing and combating illegal traffic, while the EU noted that this might be premature.

On membership of the ICC (UNEP/CHW.10/10), parties agreed to the draft decision and to insert the names of elected members after finalizing their nominations.

The Secretariat introduced, *inter alia*, documents on: national legislation, enforcement and illegal traffic (UNEP/CHW.10/11); an instruction manual on the prosecution of illegal traffic (UNEP/CHW.10/12); and a survey of customs' practices (UNEP/CHW.10/INF/12).

Parties agreed to the decision on national legislation with proposed amendments from the EU and a caveat from Switzerland that the decision should conform to the outcome of the CLI discussions.

On the instruction manual, the EU proposed changes to reflect its non-binding nature and said it would distribute a CRP for parties' consideration.

National Reporting: The Secretariat introduced the item and the draft decision on national reporting (UNEP/CHW.10/13; UNEP/CHW.10/INF/48), noting decreased national reporting in recent years. MEXICO asked the Secretariat to examine the causes of the decline in reporting, while NIGER called for increased capacity building activities in developing countries and BCRCs. The draft decision was adopted without amendment.

International cooperation and coordination: The Secretariat introduced the item and parties agreed to further informally discuss the draft decision (UNEP/CHW.10/16), including proposed changes by the EU and KENYA on references to the OEWG and national legislation, respectively.

After introducing the item on the cooperation between the Basel Convention and the IMO (UNEP/CHW.10/17), the Secretariat clarified that a revised legal analysis had been necessary. Several parties expressed concern that they had not had enough time to examine this revision, and discussion of the draft decision was deferred.

Environmentally sound dismantling of ships: The Secretariat introduced the item, including a draft decision (UNEP/CHW.10/18) on international cooperation and technical assistance activities.

The EU said the Basel Convention has not reversed environmentally destructive ship dismantling practices and, supported by JAPAN, CHINA, DENMARK and the US, said the Hong Kong Convention provides for a level of enforcement at least equivalent to that of Basel. Acknowledging weaknesses in the Hong Kong Convention, NORWAY agreed, but noted the two regimes are different and therefore difficult to compare, and encouraged states to ratify the Hong Kong Convention, so that it can enter into force.

Underscoring that control measures in the Hong Kong Convention are vague, the DOMINICAN REPUBLIC, supported by MEXICO, Nigeria, for the AFRICAN GROUP and CIEL, said the Hong Kong Convention does not provide an equivalent level of control to that of the Basel Convention.

The REPUBLIC OF CONGO, supported by COLOMBIA, proposed discussing the issue in a contact group.

The IMO said the Hong Kong Convention was unanimously adopted by 63 states.

The PLATFORM FOR SHIP BREAKING noted that the Hong Kong Convention does not reflect the primary obligation of the Basel Convention and does not prevent the transboundary movement of asbestos and heavy metals. The INTERNATIONAL SHIP RECYCLERS ASSOCIATION expressed support for the Hong Kong Convention, stating that it offers specific regulations for ships, focuses on sound ship recycling, and provides strict requirements for ship recycling facilities.

BAN underscored the “fundamental disconnect” between the EU’s support for the Ban Amendment and its support for a Convention that would allow a “ship full of asbestos and PCBs” to be exported. He emphasized the need for the Basel Convention to retain its competency on end-of-life ships as toxic wastes, and for both regimes to be applied. A contact group chaired by Claude Wohrer (France) was established to discuss the issue further.

ENHANCING COOPERATION AND COORDINATION AMONG THE BASEL, ROTTERDAM AND STOCKHOLM CONVENTIONS

The Secretariat introduced the item (UNEP/CHW.10/CRP.2), indicating that the recent Rotterdam and Stockholm COPs adopted substantively identical decisions. COP10 President Caballero stressed the cost efficiency implications of the decision, and the decision was adopted without amendment.

CONTACT GROUPS

BUDGET: The contact group, chaired by Kerstin Stendahl (Finland), met in the morning and afternoon to discuss financial rules and activities regarding synergies. Activities on synergies were agreed by the group.

TECHNICAL MATTERS: The contact group on technical guidelines, co-chaired by Michael Ernst (Germany) and Mohammed Khashashneh (Jordan), reported on the pre-session meeting held on 15 October, which focused on tyres, co-processing and cement kilns, and mercury, and to review the status of the guidelines texts and PACE documents. A revised draft consensus text was introduced on tyres, and the text on co-processing and cement kilns elicited several comments, including on distinguishing between wet and dry products, metal content, and the need for new technologies to control emissions and waste. Expressing concern that little progress had been made on the links to POPs within the guidelines, a party proposed preparing an action plan for new activities.

On the PACE guidance documents, participants commented on, *inter alia*, the: legal nature; voluntary notification procedure; and reference to POPs.

CLI: Delegates met in the morning and afternoon to discuss the CLI in a contact group chaired by Osvaldo Alvarez (Chile). Starting with general comments on the omnibus draft decision, many agreed that references to waste minimization and prevention were desirable. A few expressed concern about adopting a “fixed time” approach for entry into force of amendments. It was noted that other MEAs have adopted that approach.

The group deferred discussion on the Ban Amendment section.

On the ESM section, one party wondered whether new ESM guidelines would add value to existing work. It was stressed that the guidelines would create best practice ESM standards, which would assist countries and create incentives to minimize waste at source. Wording was added to recognize ESM includes waste minimization and prevention.

Stressing that countries should prioritize managing their own wastes, one delegate proposed deleting a reference to ESM of wastes “to be exported.” Others suggested referring to all wastes, “including” those that are subject to transboundary movements, consistent with the Convention’s spirit. References were also added to parties’ obligation to minimize transboundary movements of hazardous wastes.

Many supported referring to ESM “recommendations” rather than “requirements.” Others said certain elements are “required” to achieve ESM and the guidelines would simply operationalize existing Convention requirements.

On the proposed expert group entrusted with developing ESM guidelines, delegates discussed whether the OEWG or a new group should carry out that task, and whether the latter should be closed or open-ended. Many supported an open-ended technical group, recognizing it would have financial implications and require adoption of terms of reference for the group. It was agreed “other stakeholders” should participate as observers. Delegates also discussed the elements that should be considered in the development of ESM guidelines, including their relationship to transboundary movements (UNEP/CHW.10/5, Annex I).

IN THE CORRIDORS

In the context of recurrent concerns about the dearth of resources for effective implementation of the Basel Convention, a side event on the outcomes of the UNEP Consultative Process was eagerly anticipated. Participants were introduced to the “four financing tracks” currently being considered by UNEP Executive Director Achim Steiner, as he prepares to report, and make recommendations, to the UNEP Governing Council in 2012.

While scepticism over the reality of achieving a fund for chemicals and wastes equivalent to the Multilateral Fund (MLF) was rife, some were sure they heard the sound of long awaited large wheels in motion. Several mentioned the mercury negotiations, where an MLF remains on the table as a potential financial mechanism, and pondered the potential for a joint mechanism for mercury, wastes and chemicals. UNEP’s announcement of an event on chemicals financing and synergies at Rio+20 instilled some with confidence that financing would remain on the agenda.