

BASEL COP10 HIGHLIGHTS: WEDNESDAY, 19 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 third day on Wednesday, 19 October 2011. In the morning, delegates discussed the Partnership Programme and legal, compliance and governance matters. In the afternoon, delegates considered scientific and technical matters, and the OEWG work programme. Contact groups met throughout the day on the CLI and the strategic framework, technical matters, and ship dismantling.

IMPLEMENTATION

SCIENTIFIC AND TECHNICAL MATTERS: Amendment of the annexes to the Convention: Parties agreed that no decision was necessary and to make reference to the item in the report.

LEGAL, COMPLIANCE AND GOVERNANCE MATTERS: National legislation, enforcement, illegal traffic: After suggestions on the instruction manual on the prosecution of illegal traffic by the EU (UNEP/CHW.10/CRP.9) and CANADA, parties adopted the amended manual and decision.

International cooperation and coordination: COP10 briefly revisited the decision on this matter (UNEP/CHW.10/16) and adopted it with a minor amendment requesting parties to “coordinate” with national and regional organizations, as opposed to “pursue coordination.”

On cooperation between the Convention and IMO, CANADA and the EU explained they had consulted and agreed to omit references to an intersessional working group on the revised legal analysis, and the amended decision was adopted (UNEP/CHW.10/CRP.10).

Implementation of decision V/32 on the enlargement of the scope of the Trust Fund: The Secretariat introduced the item (UNEP/CHW.10/15). Emphasizing the need for a mechanism to assist developing countries, especially small island developing states (SIDS) in the event of emergencies, CUBA highlighted its proposed draft decision, requesting the Secretariat to prepare a report on the expediency of procedures under the mechanism and a comparative analysis of similar mechanisms. Responding to a question from NORWAY, the Secretariat explained that the Trust Fund for emergency assistance had only been triggered once by Côte d'Ivoire, following the aftermath of the toxic waste dumping incident in Abidjan. ARGENTINA, ECUADOR, VENEZUELA and the DOMINICAN REPUBLIC, opposed by the EU, supported the draft decision. The EU and CUBA will confer informally to find a way forward.

Capacity building for the implementation of the Basel Convention: The Secretariat introduced the item, including a draft decision on capacity building (UNEP/CHW.10/22). Parties agreed to provisionally approve the draft decision, subject to the outcomes of the budget negotiations and the CLI discussions.

PARTNERSHIP PROGRAMME: Parties discussed the Basel Convention Partnership Programme. Parties discussed an EU proposal to clearly distinguish between partnerships under the Basel Convention and other partnerships in which the Secretariat is involved. This was supported by NORWAY, BRAZIL and KENYA, and the decision was provisionally approved, subject to the outcome of the budget negotiations (UNEP/CHW.10/19).

Progress reports on PACE (UNEP/CHW.10/20 and UNEP/CHW.10/INF/21) and the Mobile Phone Partnership Initiative (MPPI) (UNEP/CHW.10/21; UNEP/CHW.10/INF/27) were presented by the partnerships' chairs, Marco Buletti (Switzerland) and Oladele Osibanjo (BCRC, Nigeria). On PACE, the EU stated that it fully supports the adoption of the guidelines on ESM of used and end-of-life equipment, except section 3 on transboundary movements, and noted it has submitted comments to the Contact Group on technical guidelines. BAN reiterated double standards of the EU regarding exports of certain non-functioning equipment. Parties agreed to continue discussions in the Contact Group.

On the MPPI, parties consulted informally on changes proposed by Brazil (UNEP/CHW.10/CRP.7) regarding the transboundary movements section in the guidance document on ESM of used and end-of-life mobile phones, and then adopted the decision.

FINANCIAL MATTERS: Resource mobilization: The Secretariat introduced the report and draft decision on resource mobilization (UNEP/CHW.10/25), noting that COP9's recommendation to establish a joint resource mobilization service remains under discussion. He explained the draft decision requests the Secretariat to strengthen cooperation with relevant international and regional organizations.

Bakary Kante, UNEP, on behalf of UNEP Executive Director, Achim Steiner, updated participants on the Consultative Process, which he said now also encompasses financing for the Strategic Approach to International Chemicals Management (SAICM) and the future mercury treaty. He explained that Steiner would present recommendations to the UNEP Governing Council in 2012, with a view to initiating negotiations on a formal financing option.

ARGENTINA said that references to “progress made” in resources mobilization were too optimistic, and proposed referring to “efforts made” instead. MEXICO, CUBA,

ECUADOR, the DOMINICAN REPUBLIC, TOGO, COLOMBIA, VENEZUELA and URUGUAY supported this. The EU requested time to consult internally and the matter was deferred.

OEWG WORK PROGRAMME: The Secretariat introduced this item explaining that parties may wish to adopt the work programme (UNEP/CHW.10/26). The EU said the decision was related to the outcomes of work of the contact groups, and the issue was deferred.

CONTACT GROUPS

BUDGET: The group, chaired by Kerstin Stendahl (Finland), made progress on identifying potential areas of savings. In the evening, the group continued discussions on a revised budget proposal and financial rules on synergies.

TECHNICAL MATTERS: The Contact Group on technical guidelines, co-chaired by Michael Ernst (Germany) and Mohammed Khashashneh (Jordan), convened throughout Wednesday and made progress on cement kilns, mercury, the PACE guidelines, and e-waste.

Guidelines on co-processing and cement kilns (UNEP.CHW.10/6/Add.3) were adopted after delegates emphasized including language on cooperation with the Stockholm Convention.

On mercury, delegates adopted the text (UNEP.CHW.10/6/Add.2) after discussing, *inter alia*: whether take-back collection programmes were an upstream issue or a handling, transport and storage issue; and contamination of waste streams and the extent of extended producer responsibility. Participants also debated whether to remove a section establishing a link to outcomes of the global negotiations on mercury, and, similarly, to remove clarification that the guidelines do not apply to “mercury as a commodity,” which is language under debate in the mercury negotiations. Proponents found the language helpful for non-technical policy-makers, while opponents found it could prejudice the outcome of the mercury convention negotiations. Ultimately, parties decided to delete the sections.

On the PACE documents (UNEP.CHW.10/20), delegates chose to adopt sections 1, 2, 4, and 5 on ESM, testing, refurbishment and repair, and material recovery and recycling, and to “welcome and recognize” section 3 on transboundary movements rather than provisionally adopt it as many had urged. One party opposing adoption pointed to differences between the PACE documents from the e-waste guidelines, which should be “complimentary and not contradictory,” as well as to unresolved domestic opinion on the matter. One developing country party underlined the world’s need for guidance on the transboundary movements of computer waste.

On e-waste, delegates decided to continue work via an intersessional working group which will assist in preparing relevant guidelines.

The group will reconvene on Thursday to address tyres and POPs waste guidelines.

CLI: The group, chaired by Osvaldo Alvarez (Chile), continued its deliberations throughout Wednesday.

On providing further legal clarity on Convention provisions, it was agreed that the Secretariat, rather than the Implementation and Compliance Committee, should prepare a draft report on possible interpretation options for certain Convention provisions, with assistance from legal and technical experts, as appropriate. Some cautioned against creating new definitions, others said the idea is to clarify existing terms to provide further guidance to parties. Discussion ensued about the terms the Secretariat should consider, with some claiming terms such as “charitable donations” were redundant, while others stressed that many developing countries receive near-end-of-life products and

solutions are needed to ensure their ESM. In response, text was proposed requesting the Secretariat to identify options to deal with used and end-of-life goods, including take-back obligations for charitable donations.

On strengthening BCRCs, a few parties expressed concern about asking BCRCs to “encourage” parties to ratify the Ban Amendment. It was agreed BCRCs should “assist” parties in that task.

The sections on illegal trade and assisting vulnerable parties to prohibit hazardous waste imports were agreed with minor amendments.

On addressing the entry into force of amendments, Article 17(5), delegates discussed whether reference should be made to “vulnerable” parties, “developing countries,” or simply “parties” unable to ensure ESM of wastes. Regarding the interpretation of the article, most agreed to the proposed “fixed time” approach. One participant asked about the relationship between this interpretation and that of the UN Office of Legal Affairs, which proposed the “current time” approach. It was noted that the COP has the legal authority to decide which interpretation to adopt, and the group eventually agreed to the “fixed time” approach, and to minor amendments to the section.

The group then moved to review the strategic framework, focusing on goals and indicators to measure performance.

SHIP DISMANTLING: During the afternoon contact group chaired by Claude Wohrer (France), delegates addressed the proposed mandate of the group regarding: considering the report of the Secretariat (UNEP/CHW.10/18) with a view to concluding the assessment on whether the Hong Kong Convention provides an equivalent level of control to that of the Basel Convention; developing the conclusions of the assessment in the form of a draft decision by the COP; and considering the way forward for the Basel Convention.

During the ensuing discussion, divergent views were expressed on the results of the assessment and the issue of equivalence. Several interventions noted that the two instruments are designed to fulfill different objectives, and so it is like comparing “apples and oranges.” Parties also addressed the scope, applicability, control and enforcement of both conventions. Arguing that the Hong Kong Convention does not provide the same level of control, one party expressed fears about becoming a new “recycling state.” In response, it was pointed out that there is no requirement under the Hong Kong Convention that a state approve ship-recycling facilities. However, an observer disagreed, noting that under Hong Kong there is no right to ban imports, nor is there a notification procedure on such imports.

Parties also addressed ship abandonment and prior informed consent. Discussions continued into the evening on the conclusions of the assessment.

IN THE CORRIDORS

Torrential rains, a flooded old town, and a walk through thigh-deep water couldn’t keep delegates away from COP10 negotiations on Wednesday. Despite the inclement weather, by Wednesday afternoon some delegates were overjoyed at the real possibility of “making history” in Cartagena.

In the CLI contact group, long held resistance to the “fixed time” approach appeared to have been swept away with flood waters. To many parties’ surprise and praise, all seemed prepared to adopt the interpretation, which is set to facilitate the entry into force of the 1995 Ban Amendment.

One delegate was heard joking that a high-level segment could have been useful after all. They were referring to the plenary sessions running so smoothly and efficiently that COP10 may well exhaust its agenda before Friday.