

## NINTH CONFERENCE OF THE PARTIES TO THE BASEL CONVENTION: 23 - 27 JUNE 2008

The ninth meeting of the Conference of the Parties (COP9) to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal begins Monday, 23 June 2008 in Bali, Indonesia. The theme of COP9 is "Waste Management for Human Health and Livelihood," which will be considered during the COP's high-level segment on Thursday and Friday, 26 and 27 June respectively.

The key issues to be considered by COP9 include: the 2009-2010 programme of work; a budget for the Basel Convention trust funds for 2009-2010; a recommendation for improved cooperation and coordination between the Basel, Rotterdam and Stockholm conventions developed by the *Ad Hoc* Joint Working Group on Cooperation and Coordination; initiating a process to develop a successor arrangement for the Strategic Plan beyond 2010; agreeing to an approach towards reaching an agreed interpretation of paragraph 5 of Article 17 of the Convention (and entry into force of amendments); and initiating a process leading to an evaluation of the effectiveness of the Convention at COP11, in accordance with paragraph 7 of Article 15 of the Convention.

### 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 movement 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; 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 170 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 is 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 had been ratified by 63 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 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, eight 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 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 Compliance Committee and the Committee's work programme.

### INTERSESSIONAL HIGHLIGHTS

**AD HOC JOINT WORKING GROUP:** The *Ad hoc* Joint Working Group of the Stockholm, Rotterdam and Basel conventions held three meetings to prepare joint recommendations on enhanced cooperation and coordination among the three conventions. The first meeting was held from 26-28 March 2007 in Helsinki, Finland. At that meeting the group agreed on a non-exhaustive list of objectives and guiding principles to be applied in its future work. The second meeting, held from 10-13 December 2007 in Vienna, Austria, agreed to focus its work on four themes: organizational issues in the field; technical substantive issues; information management and public awareness issues; and administrative issues. The Working Group adopted a recommendation at its third meeting (25-28 March 2008, Rome, Italy), which has been submitted to COP9.

**OEWG6:** The sixth session of the OEWG took place in Geneva, Switzerland, from 3-7 September 2007. The meeting considered several issues, including: the development of a work plan on e-waste for 2009/2010; the ESM of mercury wastes; ship dismantling; the interpretation of paragraph 5 of Article 17 of the Basel Convention; the revised technical guidelines on ESM of used tyres; and illegal traffic, reviewing the outline of an instruction manual for the legal profession. In total, the Group adopted 28 decisions.

### COMMITTEE FOR ADMINISTERING THE MECHANISM FOR PROMOTING IMPLEMENTATION AND COMPLIANCE:

The Committee held its fifth and sixth sessions on 8-9 September 2007 and 28-29 February 2008, respectively. In addition to implementing its work programme for the biennium 2007-2008, the Committee considered how it could better use its full capacity in the future. The Committee reviewed the activities that it had undertaken since its establishment, identified possible limitations and developed its proposed work programme for the biennium 2009-2010.

### OPEN-ENDED WORKING GROUP ON MERCURY:

The First Meeting of UNEP's *Ad hoc* Open-ended Working Group (OEWG) to Review and Assess Measures to Address the Global Issue of Mercury was held from 12-16 November 2007, in Bangkok, Thailand. The OEWG discussed options for enhanced voluntary measures, and new or existing international legal instruments on mercury. Delegates agreed on tasks to be undertaken during the intersessional period, including analysis on, *inter alia*: financial considerations of a free-standing convention, a new protocol to the Stockholm Convention and voluntary measures; technology transfer; implementation options; organization of response measures; meeting demand for mercury if primary production is phased out; major mercury containing products and processes with effective substitutes; and funding.

**UNEP GOVERNING COUNCIL/GMEF:** The tenth special session of the UNEP Governing Council/Global Ministerial Environmental Forum was held in Monaco in February 2008. Among other things, the GC/GMEF adopted a decision on chemicals management, including mercury and waste management. The Basel Convention Secretariat was asked to provide further input on waste management by the end of May 2008 to be presented to the 25th session of UNEP Governing Council in February 2009.