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UNEP/CHW.8/12



Distr.: General
21 June 2006

Original: English

**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal**

Eighth meeting

Nairobi, 27 November to 1 December 2006

Item 8 of the provisional agenda*

Compliance Committee

Compliance Committee

Note by the secretariat

I. Mechanism for promoting implementation and compliance

A. Background

1. By decision VI/12, adopted at its sixth meeting, the Conference of the Parties established a mechanism for promoting implementation of and compliance with the obligations under the Convention, as well as terms of reference for the mechanism, which are provided in the annex to the decision. The terms of reference provide for the establishment of a committee charged with administering the mechanism, which is known as the Committee for Administering the Mechanism for Promoting Implementation and Compliance (“the Committee”).

2. In accordance with paragraph 3 of the terms of reference, the Committee consists of 15 members nominated by the Parties (based on equitable geographical representation of the five regional groups of the United Nations) and elected by the Conference of the Parties. Paragraph 5 of the terms of reference further provides that the members of the committee will serve objectively and in the best interest of the Convention and shall have expertise relevant to the subject matter of the Convention, including in the scientific, technical, social and economic and legal fields.

3. Paragraph 6 of the terms of reference deals with the election of members of the Committee by the Conference of the Parties. It states as follows:

“At the meeting at which the decision establishing the mechanism is adopted, the Conference of the Parties shall elect five members, one from each region, for one term, and ten members, two from each region, for two terms. The Conference of the Parties

* UNEP/CHW.8/1.

K0651786 280906

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shall, at each ordinary meeting thereafter, elect for two full terms new members to replace those members whose period of office has expired, or is about to expire. Members shall not serve for more than two consecutive terms. For the purposes of the present terms of reference “term” means the period that begins at the end of one ordinary meeting of the Conference of the Parties and ends at the end of the next ordinary meeting of the Parties.”

B. Implementation

4. At its fifth session, the Open-ended Working Group noted that the terms of office for ten members of the Committee, two from each of the five regional groups of the United Nations, would expire at the end of the eighth meeting of the Conference of the Parties and that it would, therefore, be necessary to hold elections during the eighth meeting of the Conference of the Parties. Accordingly, by decision V/16, the Open-ended Working Group called upon Parties to submit nominations for the ten candidates and requested the secretariat to distribute the nominations together with the provisional agenda and supporting documents for that meeting.

5. The curricula vitae of candidates nominated may be obtained on the Basel Convention website (<http://www.basel.int/legalmatters/index.html>). Nominations received in advance of the eighth meeting of the Conference of the Parties will be circulated by the secretariat with the documents for that meeting.

6. Annex I to the present note contains a list of currently serving members of the Committee whose terms will expire at the end of the ninth meeting of the Conference of the Parties. During the biennium 2007–2008, the Compliance Committee will comprise those members listed in annex I to the present note and those elected at the eighth meeting of the Parties.

C. Proposed action

7. The Conference of the Parties may wish to adopt a decision along the following lines:

“The Conference of the Parties

Elects, in accordance with the terms of reference contained in the annex to decision VI/12, the following members to serve on the committee for administering the mechanism for promoting the implementation and compliance of the Basel Convention:

From the African region: [to be completed]

From the Asian region: [to be completed]

From the Central and Eastern European region: [to be completed]

From the Latin American and Caribbean region: [to be completed]

From the Western European and other countries region: [to be completed]

II. Report for the period 2005–2006 on the work of the Committee for Administering the Mechanism for Promoting the Implementation and Compliance of the Basel Convention and proposed work programme for the committee for the period 2007–2008

A. Background

8. Following elections held at the seventh meeting of the Conference of the Parties, the Committee for Administering the Mechanism for Promoting Implementation and Compliance was composed of the following members for the period 2005–2006, as reflected in decision VII/31:

From the African region

Mr. Prakash Kowlessar (Mauritius)
Mr. Ibrahima Sow (Senegal) (Vice-Chair)
Mr. Ratemo Waya Michieka (Kenya)

From the Asian region

Ms. Wang Qian (People's Republic of China)
Mr. Akiho Shibata (Japan) (Rapporteur)
Mr. Abdul Hameed (Pakistan)

From the Central and Eastern European region:

Mr. Givi Kalandadze (Georgia)
Mr. Pavel Suian (Romania) (Vice-Chair)
Ms. Ilze Donina (Latvia)

From the Latin American and Caribbean region

Mr. Miguel Angel Hildmann (Argentina) (Vice-Chair)
Mr. Mauricio Garcia-Velasco (Mexico)
Ms. Yocasta Valenzuela (Dominican Republic)

From the Western European and other countries region

Ms. Anne Daniel (Canada)
Mr. Roy Watkinson (United Kingdom) (Chair)
Mr. Jürg Bally (Switzerland)

9. Because of other professional commitments, three members were replaced before the Committee held its fourth session: China nominated Ms. Chenyi Fang to replace Ms. Wang Qian, Kenya nominated Mr. Avignon Mwinzi to replace Mr. Ratemo Waya Michieka and Mexico nominated Mr. Wilehaldo Cruz Bressant to replace Mr. Mauricio Garcia-Velasco.

B. Implementation

10. The Committee held its third session on 2 and 3 July 2005, during which the bureau of the Committee for the period 2003–2004 was re-elected for the period 2005–2006. The fourth session of the Committee was held on 8 and 9 April 2006. The Committee also consulted by e-mail between sessions.

1. Report of work carried out to fulfil the functions under paragraphs 19 and 20 of the terms of reference for the compliance mechanism

11. At the time of preparation of the present note, the Committee had not received any submissions from Parties or the secretariat. Accordingly, there are no items for the Committee to report on under paragraphs 19 and 20 of the terms of reference for the compliance mechanism.

2. **Implementation of the work programme for the biennium 2005-2006, including recommendations on general issues of compliance and implementation under review**

12. By decision VII/30, the Conference of the Parties instructed the Committee to review the following general issues in accordance with paragraph 21 of the terms of reference for the compliance mechanism and in accordance with the priorities and budget agreed by the Conference of the Parties:

- (a) Identification and analysis of difficulties relating to reporting obligations under the Basel Convention;
- (b) Identification and analysis of difficulties relating to designation and functioning of national competent authorities and focal points;
- (c) Identification and analysis of difficulties relating to development of national legislation to implement effectively the Basel Convention.

13. At its third session, the Committee decided to transmit to Parties questionnaires on the three issues identified above. Having determined the content of the questionnaires, the Committee retained a consultant to finalize the questionnaires in consultation with the Committee, make a preliminary analysis of any responses received and submit a report to the Committee at its fourth session. Financing for the consultancy was kindly provided by the United Kingdom of Great Britain and Northern Ireland.

14. On 7 February 2006, the secretariat transmitted, on behalf of the Committee, the questionnaires to the focal points of all Parties to the Convention with a deadline for submissions of responses to the questionnaire of 3 March 2006. Ten Parties submitted responses within the deadline. Taking into account the limited number of responses received, further communications were sent to the members of the Compliance Committee, the directors of the Basel Convention regional centres and contact persons of several Parties requesting them to assist the Committee by encouraging the focal points for their countries to respond to the questionnaire. Fifty-three responses were received by 29 March 2006.

15. At its fourth session, the consultant presented her report to the Committee. The consultant's analysis was based on the fifty-three responses received by 29 March 2006. The Committee considered the difficulties and solutions identified by Parties, as described in the report. Throughout the discussion at that session, earlier work on the issues undertaken by the Conference of the Parties and the Open-ended Working Group, such as decision VI/27 (revised questionnaire on transmission of information) and decision VII/35 (transmission of information), was taken into account.

16. The Committee reached certain conclusions and made recommendations, as follows:

- (a) On the issue of reporting obligations, the Committee, noting existing and possible future decisions of the Conference of the Parties concerning national reporting and the Strategic Plan, highlighted the importance of national reporting for the effective operation of the Convention and expressed its strong support for such decisions;
- (b) On the issue of the designation and functioning of national competent authorities and focal points, the Committee agreed to recommend to the secretariat that it use its best efforts to follow up with those Parties that had not designated focal points or competent authorities;
- (c) On the issue of the development of national legislation to implement effectively the Basel Convention, the Committee recommended that the secretariat consider how to best use its resources in engaging with UNITAR and other similar research and training organizations to further reinforce current training projects. It also encouraged it to find out what assistance UNEP could provide to Parties with the development of legislation, similar to that offered to African countries under the Partnership for Development of Environmental Law and Institutions (PADELIA) project. It was also proposed that the legislation on the Basel Convention website be grouped by language and legal system, to facilitate its use by Parties as a resource tool;
- (d) On the issue of the development of national legislation to implement effectively the Basel Convention, the Committee also decided to recommend to the Conference of the Parties that it request the secretariat to organize training seminars, subject to receipt of voluntary contributions, on the elements required in legislation for implementing the Basel Convention. The proposal that such training seminars be held back-to-back with a meeting of the Parties was put forward. Furthermore, the Committee decided to request the Conference of the Parties to encourage Parties to refer to the checklist

for national legislation,¹ once completed, and to undertake self-audits, using the checklist, to assess whether their national legislation complied with the obligations set out in the Convention;

(e) Taking note of the other difficulties identified by Parties in implementing the Convention, the Committee agreed to draw the attention of the Conference of the Parties to the importance of increasing understanding of the differing waste coding systems that exist and their correlation with the Basel Convention codes, for example, through the development of a table of concordance on waste codes, observing that the Committee itself was not in a position to undertake work on that issue.

17. A detailed description of the discussions of the Committee on the work programme is available in the report of the Committee's fourth session (UNEP/CHW/CC/4/6), which is available on the Convention website (www.basel.int).

3. Preparation of work programme for the biennium 2007–2008: Proposal for general issues of compliance and implementation to be the subject of review

18. In decision VII/30, the Conference of the Parties at its seventh meeting requested the secretariat to compile the views of the Parties on general issues of compliance and implementation and the priorities that the Committee should assign to the matters under its review, and provide those views to the Committee for its consideration in connection with the draft work programme for 2007–2008. Accordingly, Parties were requested to present such views together with the responses to the questionnaires related to the Committee's 2005–2006 work programme.

19. The main priorities, in order of importance, identified by the Parties who responded were as follows:

- (a) Ensuring the environmentally sound management of wastes;
- (b) Accessing technical and financial support;
- (c) Training customs and other personnel;
- (d) Illegal traffic.

20. The Committee noted that it should be mindful that some work on relevant issues was being undertaken by the Open-ended Working Group and the secretariat.

21. The Committee considered proposals for its work programme for 2007–2008. The Committee agreed that its future work should build on its work programme for 2005–2006. The proposed work programme for 2007–2008 is contained in annex II to the present note.

4. Consideration of the procedures of the Committee and possible lacunae

22. At its third session, the Committee briefly considered a document prepared by the secretariat and entitled "Possible procedural lacunae in the terms of reference for the implementation and compliance committee", with a view to identifying internal administrative procedures related to the work of the Committee. It was agreed that no change to the terms of reference should be made at the time, given that no submissions had been received.

23. After further intersessional work, the Committee, at its fourth session, confirmed that the secretariat would not screen submissions from Parties but could, at the same time transmitted such submissions to the Committee, inform the submitting Parties whether additional information might be needed in order to expedite the Committee's review.

24. In order to assist the new members of the Committee who would be elected at the eighth meeting of the Conference of the Parties, the Committee decided to prepare an internal note on those administrative and procedural issues that had been considered during the 2005–2006 biennium and that required further consideration by the Committee.

5. Brief guide on the functions and procedures of the Committee

25. As decided at its second session, the Committee prepared a brief guide for Parties explaining in clear terms the functions and procedures of the Committee. The United Kingdom of Great Britain and

¹ To be prepared by the secretariat in accordance with decision VII/32 of the seventh meeting of the Conference of the Parties. The checklist is further discussed under item (f) of the present report.

Northern Ireland generously provided funding for the production of this guide and its distribution in all official United Nations languages.

26. The Committee, at its third session, reviewed the draft guide based on text proposed by the secretariat. After further work between sessions, the Committee adopted the text. Copies of the guide were circulated at the fifth session of the Open-ended Working Group and at the fourth session of the Committee.

6. Consideration of checklist for preparation of national legislation

27. Decision VII/32 of the seventh meeting of the Conference of the Parties requested the secretariat to develop a checklist for the preparation of national legislation, as a complement to the model national legislation, taking into account the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, in consultation with the Committee. At its third and fourth sessions, as well as between sessions, the Committee provided preliminary comments on a draft checklist prepared by the secretariat.

28. Members of the Committee agreed to submit any further comments on the checklist to the secretariat by 30 June 2006, after which the secretariat would incorporate any comments received and publish the checklist on the Basel Convention website.

7. Financial matters

29. The secretariat reported on the proposals related to the Compliance Committee included in the draft budget to be submitted at the eighth meeting of the Conference of the Parties and on efforts being undertaken to secure resources for the Committee's work programme for the 2007–2008 biennium. The Chair was encouraged by the Committee to express the concerns of the Committee regarding the budget at the eighth meeting of the Conference of the Parties. Members of the Committee were encouraged to raise this issue within their regional groups, noting the importance of compliance issues and the role of the Committee in this regard.

8. Relevant activities of members during the intersessional period

30. Members briefed the Committee on activities that they had undertaken in their capacity as members of the Committee. Members had participated in the following activities: a World Trade Organization regional seminar on trade and environment, held in Santo Domingo, Dominican Republic, from 19 to 21 July 2005; the Second Regional Latin American Training Programme on Environmental Law and Policies, organized by the UNEP Regional Office for Latin America and the Caribbean and held in Panama City, Panama, from 25 July to 5 August 2005; and the High-Level meeting on Envisioning Next Steps for Compliance and Enforcement of Multilateral Environmental Agreements (MEAs), organized by UNEP and held in Colombo, Sri Lanka, on 21 and 22 January 2006.

9. Reports of the sessions

31. The Committee agreed to make the reports of its sessions available to the public on the Basel Convention website.

C. Proposed Action

32. At its eighth meeting, the Conference of the Parties may wish to consider adopting a decision along the following lines:

The Conference of the Parties,

Noting the report of the committee on its work during the period 2005–2006 and the recommendations contained therein,

1. *Approves* the work programme of the Committee for Administering the Mechanism for Promoting Implementation and Compliance for 2007–2008, which is contained in the annex to the present decision;

2. *Requests* the Committee to establish priorities and work methods and schedules as regards the issues identified in the work programme and to coordinate with the Open-ended Working Group, the secretariat and the Basel Convention regional centres so as to avoid duplication of activities;

3. *Recognizes* the need to provide the Committee with sufficient funding in order to enable it to function effectively and to carry out its work programme;
4. *Calls upon* all Parties that are in a position to do so to make financial or in-kind contributions to assist the Committee to carry out its work programme;
5. *Requests* the Committee to report to the Conference of the Parties at its ninth meeting on the work it has carried out to fulfil its functions in accordance with paragraphs 23 and 24 of the terms of reference for the Mechanism for Promoting Implementation of and Compliance with the Basel Convention;
6. *Calls upon* Parties to make use of the Mechanism for Promoting Implementation of and Compliance with the Basel Convention.

Annex I

Members of the Committee to serve until the end of the ninth meeting of the Conference of the Parties

From the African region

Mr. Avignon Mwinzi (Kenya)

From the Asian region

Mr. Abdul Hamid (Pakistan)

From the Central and Eastern European region

Ms. Ilze Donna (Latvia)

From the Latin American and Caribbean region

Ms. Yocasta Valenzuela (Dominican Republic)

From the Western European and other countries region

Mr. Jürg Bally (Switzerland)

Annex II

Work programme for 2007–2008 of the Committee for Administering the Mechanism for Promoting Implementation and Compliance

1. During the biennium 2007–2008, the Committee for Administering the Mechanism for Promoting Implementation and Compliance shall review the following general issues in accordance with paragraph 21 of the terms of reference for the mechanism contained in the annex to decision VI/12 of the Conference of the Parties and in accordance with the priorities and budget decided by the Conference of the Parties:

(a) The Committee shall further develop its understanding of national reporting issues by building on the work undertaken pursuant to its work programme for 2005–2006, with a view to providing guidance on how national reporting could be improved, given that it underpins the operation of the Convention;

(b) The Committee shall undertake work on the issue of illegal traffic, which could include identifying available existing resources from a number of institutions, working in collaboration with such institutions and the Basel Convention regional centres, and assisting Parties through training, taking into account that such work would assist in ensuring the environmentally sound management of wastes.

2. In doing so, the Committee shall take full account of the previous discussions and decisions by Basel Convention bodies on the relevant issues and shall also take account of its mandate to complement the work performed by other bodies of the Basel Convention and by the Basel Convention regional centres.

3. The Committee shall also continue to monitor any developments on the other issues addressed under its work programme for 2005–2006.

4. When the Committee receives specific submissions in accordance with paragraph 9 of the terms of reference, it shall give priority to dealing with such submissions.