

BC-13/9: Committee Administering the Mechanism for Promoting Implementation and Compliance

The Conference of the Parties,

Mindful of decision BC-13/17 on the work programme and operations of the Open-ended Working Group for the biennium 2018–2019 relevant to the work of the Committee Administering the Mechanism for Promoting Implementation and Compliance on electronic approaches to the notification and movement documents,

1. *Takes note* of the note by the Secretariat on the work of the Committee Administering the Mechanism for Promoting Implementation and Compliance and the recommendations made therein¹ and welcomes the work undertaken by the Committee since the twelfth meeting of the Conference of the Parties;

I

Specific submissions regarding Party implementation and compliance

2. *Encourages* Parties concerned by a submission covered by the decisions adopted by the Committee at its twelfth meeting to cooperate with the Committee with a view to resolving the matter of concern;

3. *Encourages* the Committee, in the framework of specific submissions regarding Party implementation and compliance, to continue to inform the relevant Parties about possible means of assistance from the implementation fund and from other sources, such as the United Nations Environment Programme special programme on institutional strengthening,² in accordance with the integrated approach to financing the sound management of chemicals and waste;³

4. *Takes note* of the report on the review of the operation of the implementation fund;⁴

5. *Notes* that the objective of the special programme on institutional strengthening is to support country-driven institutional strengthening at the national level, in the context of an integrated approach to financing of the sound management of chemicals and wastes, which will facilitate and enable the implementation of the Basel Convention, among other instruments;

6. *Expresses* its appreciation to the Committee for its efforts to assist with the resolution of matters of concern with regard to the implementation of and compliance with the Convention, including by recommending to the Secretariat the use of resources from the implementation fund to finance activities listed in the ten compliance action plans submitted by concerned Parties in respect of specific submissions and approved by the Committee;

7. *Notes* that resources in the implementation fund have to date been used to assist seven Parties to implement their compliance action plans and have enabled three Parties to return to compliance with the obligation to submit national reports pursuant to paragraph 3 of Article 13 of the Convention;

¹ UNEP/CHW.13/9.

² Special programme to support institutional strengthening at the national level for implementation of the Basel, Rotterdam and Stockholm conventions, the Minamata Convention and the Strategic Approach to International Chemicals Management.

³ See resolution 1/5 of the United Nations Environment Assembly of the United Nations Environment Programme, section II, on an integrated approach to the financing of the sound management of chemicals and waste.

⁴ UNEP/CHW.13/INF/25, annex.

II

Review of general issues of compliance and implementation under the Convention

National reporting: individual compliance performance

8. *Welcomes* the slight improvement in the completeness of national reports since 2010 and the positive trend towards an improvement in the timeliness of national reports since 2010;

9. *Notes* with concern that:

(a) The targets for the year 2013 approved by the Conference of the Parties at its twelfth meeting with regard to the timeliness and completeness of national reports have not been met, with 22 per cent of reports submitted on time against a target of 30 per cent and 7 per cent of reports submitted complete against a target of 20 per cent;

(b) As at 31 October 2016, 94 Parties had not submitted their reports for the year 2013;⁵

(c) The overall rate of submission of national reports since 2009 does not appear to have improved;

10. *Acknowledges* that the problem of non-reporting, incomplete reporting or late reporting is all the more serious because of the close link between the core obligations of the Convention and the obligation to submit national reports in accordance with paragraph 3 of Article 13 of the Convention;

11. *Sets*, as a way of measuring progress in the overall implementation of and compliance with paragraph 3 of Article 13 of the Convention, the following interim targets: 10 per cent of reports due for 2014 and 2015 are complete and submitted on time and 20 per cent of reports due for 2014 and 2015 are complete as submitted but late;

12. *Decides* that, in undertaking the classification of compliance with the national reporting obligation for the years 2014 and beyond, the Committee will:

(a) Classify, for its own consideration under its general review powers, Parties on the basis of two criteria: timeliness and completeness of their reports, and in the five categories as follows:

- (i) Complete report submitted on time;
- (ii) Complete report submitted late;
- (iii) Incomplete report submitted on time;
- (iv) Incomplete report submitted late;
- (v) Not reported;

(b) Classify, for its own consideration under its general review powers, Parties on the basis of the following assumptions:

- (i) Information reported by Parties is presumed to reflect reality, without prejudice to quality control by the Secretariat;
- (ii) The completeness of national reports will be reviewed on the basis of the answers provided by Parties to all questions and sub-questions of the revised reporting format,⁶ with the exception of questions and tables that are designated as optional;
- (iii) Should a report contain answers that do not provide the information sought (such as “in preparation”, “no data available” or “no information”), the Party

⁵ UNEP/CHW.13/INF/26.

⁶ See UNEP/CHW.12/9/INF/16/Rev.1, adopted by decision BC-12/6 and amended by decision BC-13/9.

providing such answers will not be considered to have submitted a complete report;

- (iv) Should a report contain answers that provide information sought that is “provisional” or “estimated”, the Party providing such answers will be considered to have submitted a complete report.

National reporting: additional steps to improve the timeliness and completeness of national reporting

13. *Decides* to prioritize efforts and ongoing activities to increase the timeliness and completeness of national reporting and calls on Parties to strengthen their efforts in that regard;

14. *Expresses its appreciation* to the Committee for its work over the years to improve the timeliness and completeness of national reporting and decides that the work programme of the Committee should continue to emphasize activities aimed at improving implementation and compliance with the national reporting obligation;

Illegal traffic

15. *Adopts* the guidance on the implementation of the Basel Convention provisions dealing with illegal traffic (paragraphs 2, 3 and 4 of Article 9)⁷ and encourages Parties to use it and to provide information to the Secretariat on their experiences with the guidance for the consideration of the Committee;

National legislation

16. *Invites* Parties, in particular Parties that have not submitted to the Secretariat their legislation for implementing the Basel Convention, to undertake a review of their implementing legislation, using the legislator’s checklist,⁸ and to submit the outcome of their review to the Committee for its consideration;

Control system: transit issues

17. *Adopts* the revisions to question 3 of the revised reporting format for Basel Convention national reporting adopted by the Conference of the Parties at its twelfth meeting⁹ and the revisions to the standardized reporting format for transmitting information under paragraphs 1 (a) and (b) of Article 4 and paragraphs 2 (c) and (d) of Article 13 of the Convention (import and export prohibitions);¹⁰

18. *Reminds* Parties of the obligation:

(a) To inform the Secretariat of any change regarding the designation of competent authorities within one month of the date of the decision by which such change is effected, as provided for in paragraph 3 of Article 5 of the Convention;

(b) To promptly acknowledge receipt of notifications of proposed transit transboundary movements, as provided for in paragraph 4 of Article 6 of the Convention;

(c) Of any State of export to not allow a transboundary movement to commence until it has received the written consent of the State of transit, as provided for in paragraph 4 of Article 6 of the Convention;

19. *Also reminds* Parties:

(a) That if at any time a Party decides, pursuant to the fourth sentence of paragraph 4 of Article 6, not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in that

⁷ UNEP/CHW.13/9/Add.1/Rev.1.

⁸ UNEP/CHW.12/9/Add.4/Rev.1.

⁹ UNEP/CHW.13/9/Add.2/Rev.1, annex I.

¹⁰ UNEP/CHW.13/9/Add.2/Rev.1, annex II.

respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13 of the Convention;

(b) That in case a Party has decided not to require prior written consent for proposed transit transboundary movements of hazardous wastes and other wastes and no response is received by a State of export within 60 days of the receipt of a given notification by the State of transit the State of export may allow the export to proceed through the State of transit;

20. *Encourages* Parties:

(a) To respond to notifications of proposed transit transboundary movements of hazardous wastes and other wastes within 60 days in accordance with paragraph 4 of Article 6 of the Convention;

(b) To ensure that the contact details of competent authorities, including e-mail addresses, are complete and up to date;

Control system: electronic approaches to the notification and movement documents

21. *Welcomes* the work of the Committee on electronic approaches to the notification and movement documents;¹¹

Control system: multiple competent authorities

22. *Adopts* the revision to question 1a of the revised reporting format and to the revised form for notification of designation of country contacts¹² and invites the Conference of the Parties to the Rotterdam Convention and the Conference of the Parties to the Stockholm Convention, at their eighth meetings, to take note of the change to the former;

III

Work programme for the biennium 2018–2019

23. *Approves* the work programme of the Committee for the biennium 2018–2019 set out in the annex to the present decision;

24. *Invites* Parties to submit comments on the revised version of the Committee's guidance on improving national reporting,¹³ the guide for the development of national legal frameworks to implement the Basel Convention¹⁴ and the guidance to improve the implementation of paragraph 11 of Article 6 of the Convention¹⁵ to the Secretariat by 30 September 2017 for consideration by the Committee;

25. *Requests* the Committee:

(a) To establish priorities, work methods and schedules for the activities in its work programme, to coordinate with the Secretariat and the Basel Convention regional and coordinating centres to avoid duplication of activities and to consult Parties and others on certain issues as appropriate;

(b) To consult Parties, in advance of the fourteenth meeting of the Conference of the Parties, on a draft work programme for 2020–2021;

¹¹ UNEP/CHW/CC.12/11/Add.2, annex; UNEP/CHW.13/9.

¹² UNEP/CHW.13/9/Add.2/Rev.1, annexes III and IV. The revised harmonized form for notification of designation of contacts was adopted by the Conference of the Parties to the Basel Convention at its eleventh meeting and was also adopted by the Conference of the Parties to the Rotterdam Convention at its sixth meeting and the Conference of the Parties to the Stockholm Convention at its sixth meeting. It is available from <http://www.basel.int/Procedures/CompetentAuthorities/tabid/1324/Default.aspx>.

¹³ UNEP/CHW.13/INF/59.

¹⁴ UNEP/CHW.13/INF/27.

¹⁵ UNEP/CHW.13/INF/24.

(c) To report to the Conference of the Parties at its fourteenth meeting on the work that it has carried out to fulfil its functions in accordance with paragraphs 23 and 24 of the terms of reference of the mechanism for promoting implementation of and compliance with the Basel Convention;

IV

Election of members of the Committee

26. *Elects*, in accordance with the terms of reference set out in the appendix to decision VI/12, the following members to serve on the Committee Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention until the close of the fifteenth meeting of the Conference of the Parties:

African States:	Mr. Leonard Leswam Tampushi (Kenya)
Asia-Pacific States:	Mr. Ali Al-Ghamdi (Saudi Arabia)
Central and Eastern European States:	Mr. Artak Khachatryan (Armenia)
Latin American and Caribbean States:	Mr. Mario Miranda (Ecuador)
Western European and other States:	Ms. Christine Vignon (France)

Annex to decision BC-13/9

Work programme of the Committee Administering the Mechanism for Promoting Implementation and Compliance for the biennium 2018–2019

I. Review of general issues of compliance and implementation under the Convention

Objective	Activity
1. National reporting Improve timely and complete national reporting under paragraph 3 of Article 13 of the Convention.	(a) Classify and, as appropriate, publish information on Parties' compliance with their annual national reporting obligations for 2014 and 2015, based on the assumptions, criteria, categories and targets adopted by the Conference of the Parties at its thirteenth meeting; ¹⁶ (b) Develop recommendations on the revision of targets referred to in paragraph 11 of decision BC-13/9 for the reports due for 2016 and subsequent years; (c) Develop an updated version of the benchmark report aimed at facilitating reporting under paragraph 3 of Article 13 of the Basel Convention as of the reporting year 2016, based on the revised reporting format for national reporting adopted in decision BC-12/6 as amended by decision BC-13/9; (d) Finalize the revised version of the Committee's guidance on improving national reporting ¹⁷ in the light of the revised reporting format adopted in decision BC-12/6 as amended by decision BC-13/9 for consideration and possible adoption by the Conference of the Parties at its fourteenth meeting; (e) On the basis of, inter alia, the information contained in

¹⁶ Decision BC-13/9.

¹⁷ UNEP/CHW.13/INF/59.

Objective	Activity
	the national reports and possible means of technical assistance, develop recommendations for improving the timeliness and completeness of national reporting under paragraph 3 of Article 13 of the Basel Convention.
<p>2. Illegal traffic Prevent and combat illegal traffic.</p>	Consider what additional steps could be taken to improve implementation of and compliance with Article 9 of the Convention.
<p>3. National legislation Improve implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention.</p>	<p>(a) Finalize the guide for the development of national legal frameworks to implement the Basel Convention¹⁸ for consideration and possible adoption by the Conference of the Parties at its fourteenth meeting;</p> <p>(b) Compile the outcome of Parties' self-review of their legislation for implementing the Convention using the legislator's checklist and consider general trends;</p> <p>(c) Monitor progress achieved by Parties in transmitting to the Secretariat texts of national legislation and other measures adopted by them to implement and enforce the Convention;</p> <p>(d) Monitor requests for information received by the Secretariat from Parties aimed at facilitating the development and review of national legal frameworks as well as the technical assistance activities of the Secretariat aimed at promoting the implementation of paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention;</p> <p>(e) Monitor activities undertaken by or with the support of the Basel Convention regional and coordinating centres, the United Nations Environment Programme and other entities aimed at assisting Parties to develop legal frameworks for the implementation of the Basel Convention.</p>
<p>4. Insurance, bond or other guarantee Improve the implementation of and compliance with paragraph 11 of Article 6 of the Convention.</p>	Finalize, including through consultation with the Open-ended Working Group, the guidance to improve the implementation of paragraph 11 of Article 6 of the Convention ¹⁹ for consideration and possible adoption by the Conference of the Parties at its fourteenth meeting.

¹⁸ UNEP/CHW.13/INF/27.

¹⁹ UNEP/CHW.13/INF/24.

Objective	Activity
<p>5. Control system Improve the implementation of and compliance with Article 6 of the Convention.</p>	<p>Develop, taking into account the report on the implementation of and compliance with paragraph 4 of Article 6 of the Basel Convention on transit transboundary movements,²⁰ in particular its paragraphs 81–83, guidance on the implementation of paragraph 4 of Article 6 of the Convention for consideration and possible adoption by the Conference of the Parties at its fourteenth meeting.</p>
<p>6. Implementation of and compliance with the Convention Improve the implementation of and compliance with the Convention.</p>	<p>(a) Regularly review the guidance on legal matters developed by the Committee (e.g., the manual for the implementation of the Basel Convention, the guide to the control system and the guidance on illegal traffic), based on periodic feedback from users and suggestions from stakeholders and in the light of decisions adopted by the Conference of the Parties, and make recommendations to the Conference of the Parties on their updating;</p> <p>(b) Review the operation of the implementation fund, including the links with the Secretariat’s technical assistance plan (document UNEP/CHW.13/INF/36-UNEP/FAO/RC/COP.8/INF/26-UNEP/POPS/COP.8/INF/25), notably in relation to access to technical and financial support.</p>

II. Specific submissions regarding Party implementation and compliance

1. The Committee shall accord priority to dealing with specific submissions regarding Party implementation and compliance received or initiated in accordance with paragraph 9 of the terms of reference of the mechanism for promoting implementation and compliance of the Basel Convention.
2. In relation to the implementation fund, the Committee shall make recommendations to the Executive Secretary on the allocation of the available resources from the implementation fund during the period between the thirteenth and fourteenth meetings of the Conference of the Parties to assist Parties in the context of the facilitation procedure set out in paragraphs 19 and 20 of the terms of reference of the Mechanism for Promoting Implementation and Compliance of the Convention. The resources are intended to fund activities listed in the compliance action plans presented by Parties in relation to specific submissions and approved by the Committee.
3. In relation to the amendment of paragraph 9 (c) of the terms of reference, the Committee shall prepare a report on the evaluation of the effectiveness of the amendment mentioned in paragraph 4 of decision BC-12/7, including recommendations, for the consideration of the Conference of the Parties at its fourteenth meeting.

²⁰ UNEP/CHW/CC.12/11/Add.1, annex.