

The Basel Convention Implementation and Compliance Committee: Activities of relevance to ENFORCE

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ENFORCE 3

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I. Background and features

- **Legal basis:** Decision VI/12 (2002), COP-6: establishment of the Mechanism for Promoting the Implementation of and Compliance with the obligation set out in the Basel Convention, and adoption of terms of reference
- **Implementation fund:** Decision BC-IX/2 (2009), establishment of the implementation fund to assist any Party that is a developing country or a country with an economy in transition and is the subject of a submission to the Committee
- Paragraph 9(c) of the ToR on the **Secretariat trigger** amended by Decision BC-10/11 (2011), BC-11/8 (2013) and Decision BC-12/7 (2015). Issue to be revisited at COP-14
- The Committee administering the Mechanism is one of two subsidiary bodies to the COP with the OEWG. It reports back to the COP.

- **Objective:** to assist Parties to comply with their obligations under the Convention; to facilitate, promote, monitor and aim to secure the implementation of and compliance with the obligations under the Convention
- **Composition:** 15 members nominated by Parties based on equitable geographical representation of the 5 regional groups of the UN, and elected by the COP. Members are to serve objectively and in the best interest of the Convention

Mandate:

- Specific submissions regarding individual Parties
- General issues of implementation and compliance
- **Terms of reference of ENFORCE** developed by the ICC in the context of its mandate to review general issues of implementation and compliance pertaining to preventing and combating illegal traffic (work programme 2012-2013), adopted by COP-11
- Chair of ICC participates **ex officio** in meetings of ENFORCE
- Chair of ICC, Ms Jimena Nieto (Colombia), participated in the **first meeting of ENFORCE** (Bangkok, 18–19 November 2013) and provided background information on the establishment of ENFORCE.
- Chair of ICC, Mr Alberto Capra (Argentina), was represented during the **second meeting of ENFORCE** (Sao Paulo, 3-4 May 2016) and provided information on the activities of the ICC of relevance to ENFORCE

II. Specific Submissions

- **Mandate:** « The Committee shall consider any submission made to it in accordance with paragraph 9 with a view to determining the facts and root causes of the matter of concern and, assist in its resolution »
- **Measures by the Committee:**
 - Provision to the Party, after coordination with that Party, with advice, non-binding recommendation and information, inter alia:
 - Establishing/strengthening its domestic/regional regulatory regimes
 - Facilitation of assistance in particular to developing countries/countries with economies in transition
 - Elaboration of voluntary Compliance action plans, possible recommendation of use of funding from the implementation fund
 - Any follow-up arrangements for progress reporting to the ICC, including through national reporting
 - Advice, non-binding recommendations and information other than those listed above should be provided in agreement with that Party.
- **Additional measures by the COP :**
 - Provision of further support, including prioritization of technical assistance and capacity building and access to financial resources; or
 - Issuing a cautionary statement and providing advice regarding future compliance

- **10 specific submissions** under consideration:
 - 2 self submissions,
 - 8 submissions by the Secretariat
- **8 parties:**
 - Difficulties with the national reporting obligation
- **2 parties:**
 - Difficulties with the development of legal frameworks
- **1 party:**
 - Difficulties with the designation of a CA
- **No submission to date regarding cases of illegal traffic**

- All submissions to be considered by the next meeting ICC-13 (7-10 September 2018, Geneva)
- All 10 Parties invited to attend the meeting
- Currently USD 30'000.- in the implementation fund (donors: Colombia, Japan, Norway and Switzerland). USD 100'000.- to be fundraised by the Secretariat
- For more information:
<http://www.basel.int/Implementation/LegalMatters/Compliance/SpecificSubmissionsActivities/tabid/2310/Default.aspx>

II. General issues of implementation and compliance: Illegal traffic

- **Mandate:** « The Committee shall, as directed by the Conference of the Parties, review general issues of compliance and implementation under the Convention”
- **Issues included in the ICC POW :** reporting, illegal traffic, national legislation, control system, country contacts ...
- **Funding** for activities: European Union, Japan and Norway
- For more information:
<http://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities201617/IllegalTraffic/tabid/4581/Default.aspx>

- **ICC past activities**

- Development of **directory of training institutions**
- Development of terms of reference for **ENFORCE**, established by COP-11
- Development of **guidance on the implementation of the Basel Convention provisions dealing with illegal traffic** (paragraphs 2, 3 and 4 of Article 9), adopted by COP-13
(<http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>)
- Guide and review the **Secretariat's development of tools and training activities** for customs and other enforcement officials

- **ICC POW for 2018-2019 (decision BC-13/9)**
 - Consider what additional steps could be taken to improve implementation of and compliance with Article 9 of the Convention
 - Forthcoming questionnaire to seek views from Parties and organizations involved in preventing combating illegal traffic
 - Special session during ICC-13 including dialogue with CITES
 - Recommendations for consideration by COP-14 (May 2019)

- **Steps to improve implementation and compliance with Article 9 of the Basel Convention – Illegal Traffic**

ICC developing a questionnaire, to survey information about Parties experience in implementing Article 9 of the Convention on illegal traffic.

Information is sought in particular with a view to:

- Knowing the extent of the problem
- Identifying Parties' challenges/best practices with respect to the implementation of Article 9 of the Basel Convention; and learning about the experience of Parties and others in applying available guidance and tools with respect to the implementation of that provision
- Identifying views from Parties and others on the steps that could be taken to improve the implementation and compliance with Article 9 of the Basel Convention.

Challenges identified on:

- Specific in country Knowledge on the matter (multiple stakeholders, legislation harmonization, implementation and enforcement)
- Disclosing information on a sensitive matter (International Law implications, Foreign affairs involvement)

IV. ICC-13

- 7-10 September 2018, Geneva
- Back to back to OEWG-11
- **Meeting documents:** Two kinds of documents: public (general issues) and restricted (specific submissions). Restricted documents available on ICC members restricted website and shared only with the Party concerned.
<http://www.basel.int/TheConvention/ImplementationComplianceCommittee/Meetings/ICC13/Overview/tabid/6290/Default.aspx>
- **Observers:** ICC meeting is public, unless ICC is dealing with specific submissions. In that case, the session is closed unless the Party concerned and the ICC agree otherwise.

Questions / Comments?

THANK YOU