

# **BC-11/8: Committee for Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention**

## *The Conference of the Parties*

1. *Takes note* of the report of the Committee for Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention on its work and the recommendations made therein,<sup>1</sup> and welcomes the work undertaken by the Committee since the tenth 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 taken by the Committee at its ninth meeting to cooperate with the Committee with a view to resolving the matter of concern;

3. *Expresses* its appreciation to those parties that made a financial contribution to the implementation fund and encourages all parties and others in a position to do so to make contributions to the implementation fund established by decision IX/2;

4. *Authorizes* the Committee to make recommendations to the Executive Secretary on the use of the implementation fund in the intersessional period between the eleventh and twelfth meetings of the Conference of the Parties in the context of the facilitation procedure set out in paragraphs 19 and 20 of the terms of reference, to fund activities listed in the compliance action plans approved by the Committee;

5. *Decides* to review at its twelfth meeting the operation of the implementation fund in the light of the experience of the Committee and other developments;

6. *Extends*, for the period between the eleventh and twelfth meetings of the Conference of the Parties, the amendment to paragraph 9 (c) of the terms of reference of the mechanism for promoting implementation and compliance of the Basel Convention adopted by decision BC-10/11;<sup>2</sup>

## **II**

### **Review of general issues of compliance and implementation under the Convention**

#### **National reporting**

7. *Notes with concern* that the national reporting targets for the year 2010 approved by the Conference of the Parties at its tenth meeting have not been met;

8. *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;

9. *Agrees*, as a way of measuring progress in the overall implementation of and compliance with paragraph 3 of Article 13 of the Convention, on the following interim targets:

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<sup>1</sup> UNEP/CHW.11/10 and UNEP/CHW.11/10/Add.1.

<sup>2</sup> The amendment is set out in paragraph 13 of decision BC-10/11 and reads as follows: "The Secretariat, if, while acting pursuant to its functions under articles 13 and 16, it becomes aware of possible difficulties of any party in complying with its obligations under paragraph 1 of article 3, paragraph 1 (a) of article 4, article 5 and paragraphs 2 and 3 of article 13 of the Convention, provided that the matter has not been resolved within three months by consultation with the Party concerned".

30 per cent<sup>3</sup> of reports due for 2011 and for subsequent years are submitted in time; and 20 per cent<sup>4</sup> of reports due for 2011 and for subsequent years are submitted complete;

10. *Requests* the Secretariat to develop an electronic tool to help parties organize information pertaining to the generation and transboundary movements of hazardous wastes and other wastes;<sup>5</sup>

11. *Requests* the Secretariat and the Basel Convention regional and coordinating centres to assist parties, upon request, in establishing compatibility between their national classification systems and the classification system of the Basel Convention, and also to undertake technical assistance activities aimed at supporting parties to develop and maintain national inventories of hazardous wastes and other wastes;

### **National legislation**

12. *Invites* parties that may be facing difficulties in implementing and complying with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention to make use of the Committee's legal framework programme<sup>6</sup> through a submission under paragraph 9 (a) of the terms of reference, which may lead to consideration of possible funding from the implementation fund;

13. *Requests* the Secretariat:

(a) To continue to provide advice upon request and to collect and disseminate legal information, for instance national legislation;

(b) To publicize the Committee's legal framework programme on the website;

(c) To give priority, in the legal component of the Secretariat's technical assistance programme, to assisting parties in enacting and reviewing implementing legislation, including by: tailoring specific tools and training activities aimed at assisting parties to undertake a preliminary survey of existing legislation; providing access to specialist expertise in environmental law and hazardous waste issues for translating Convention obligations into domestic law; and providing access to specialist expertise in legislative drafting;

(d) To undertake activities aimed at facilitating exchanges of experiences between countries on the development and implementation of legislation;

(e) Within available resources, to disseminate more widely existing guidance, tools, mechanisms and other resources available to assist parties to implement and comply with Article 4, paragraph 4, and Article 9, paragraph 5, of the Convention;

14. *Invites* the Basel Convention regional and coordinating centres to include assistance to parties in the development or review of national legislation implementing the Basel Convention as part of their business plans, using guidance developed by the Convention bodies, while taking into account regional specificities;

### **Illegal traffic**

15. *Adopts* the terms of reference for cooperative arrangements on preventing and combating illegal traffic, also referred to as the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE), set out in annex I to the present decision;

16. *Elects*, in accordance with the terms of reference, the following representatives of the four parties to the Basel Convention in the cooperative arrangements on preventing and combating illegal traffic:

From the African group: Mr. Dany Mpolesha Kankonda (Democratic Republic of the Congo)

From the Asia and Pacific group: Ms. Lumbini Keviella (Sri Lanka)

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<sup>3</sup> Baseline: 15 per cent for the reports due for 2010.

<sup>4</sup> Baseline: 0.6 per cent for the reports due for 2010.

<sup>5</sup> See details set out in document UNEP/CHW.11/13 on national reporting.

<sup>6</sup> Paragraphs 52–54 of decision BC-10/11.

From the Latin American and Caribbean group: Ms. Karla Acosta Resendiz (Mexico)

From the Western European and others group: Mr. Santiago Davila Sena (Spain)

17. *Designates*, in accordance with the terms of reference, the following four representatives from the Basel Convention regional and coordinating centres to serve in the cooperative arrangements on preventing and combating illegal traffic:

From the African region: Basel Convention Coordinating Centre for the African Region in Nigeria

From the Asia and Pacific region: Basel Convention Regional Centre for Asia and the Pacific Region in China

From the Central and Eastern European region: Basel Convention Regional Centre for Central Europe in Slovakia

From the Latin American and Caribbean region: Basel Convention Regional Centre for the South American Region in Argentina

18. *Invites* the organizations and entities listed in paragraph 8 of the terms of reference to become members of the cooperative arrangements on preventing and combating illegal traffic and requests the Secretariat to communicate this invitation to each of these organizations and entities;

19. *Requests* the Secretariat, subject to the availability of resources, to make the necessary arrangements for organizing the first meeting of the cooperative arrangements on preventing and combating illegal traffic and to report back to the Conference of the Parties at its twelfth meeting on the implementation of this decision;

#### **Work programme for the biennium 2014–2015**

20. *Approves* the work programme of the Committee for 2014–2015 set out in the annex to the present decision;

21. *Requests* the Committee to establish priorities, work methods and schedules with regard to the issues identified in the work programme and to coordinate with the Open-ended Working Group, the Secretariat and the Basel Convention regional and coordinating centres to avoid duplication of activities;

22. *Also requests* the Committee to report to the Conference of the Parties at its twelfth 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;

23. *Calls upon* parties to make use of the mechanism for promoting implementation and compliance.

#### **Annex I to decision BC-11/8**

#### **Terms of reference for cooperative arrangements on preventing and combating illegal traffic: the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE)**

##### **A. Mission statement**

1. The mission of the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE) is, through a network of relevant experts, to promote parties' compliance with the provisions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal pertaining to preventing and combating illegal traffic in hazardous wastes and other wastes through the better implementation and enforcement of national law.

2. This will be achieved by bringing together existing resources and enhancing and improving cooperation and coordination between relevant entities with a specific

mandate to deliver capacity-building activities and tools on preventing and combating illegal traffic.

## **B. Scope**

3. The activities of ENFORCE may relate to transboundary movements of hazardous wastes and other wastes falling within the scope of the Basel Convention.

## **C. Activities**

4. Consistent with the mission of ENFORCE and through cooperation and information exchange, members will focus their activities on undertaking capacity-building activities to prevent and combat illegal traffic, for instance:

- Sharing and developing training tools and materials (including review of and improvement of existing training tools materials);
- Hosting and organizing workshops or electronic training and information sessions, in particular for developing countries;
- Facilitating information exchange on success stories, techniques and expertise, and dissemination of good practices;
- Periodic monitoring of and reporting on the progress and effectiveness of the training activities and modules, for example by developing performance indicators, identifying gaps and problematic areas and proposing modifications;
- Developing means to ensure sustainability in the efforts under ENFORCE.

5. To support these activities and with a view to avoiding duplication and maximizing the use of available resources, the members of ENFORCE may also engage in the following activities:

- Improving understanding of the challenges and needs of parties and the various stakeholders in preventing and combating illegal traffic in line with the requirements of the Basel Convention;
- Developing common approaches and strategies for preventing and combating illegal traffic in line with the requirements of the Basel Convention;
- Promoting dialogue between members and developing a shared vision for preventing and combating illegal traffic that is in line with the objectives and requirements of the Basel Convention;
- Promoting cooperation between members and a coordinated approach to capacity-building and operational activities, for instance through joint activities, to broaden the geographical distribution of such activities and to reduce competition over resources;
- Increasing the visibility of and support for efforts aimed at preventing and combating illegal traffic.

## **D. Members**

6. Membership in ENFORCE is open to:

- Parties to the Basel Convention;
- Entities with a specific mandate to deliver implementation and enforcement capacity-building activities that could assist parties to the Basel Convention in preventing and combating illegal traffic of hazardous wastes and other wastes under the Basel Convention;
- Entities with a specific role or relevance in relation to the above-mentioned task.

7. Members of ENFORCE are:

- One representative from each of the five United Nations regions that are parties to the Convention;
- Five representatives from the Basel Convention regional and coordinating centres, based on equitable geographical representation.

8. The following organizations and entities, among others, are eligible to become additional members:

- World Customs Organization;
- International Criminal Police Organization (INTERPOL);
- United Nations Environment Programme (UNEP), through, for instance, the Division of Environmental Law and Conventions or the Division of Technology, Industry and Economics;
- Constituted enforcement networks: the Asian Network for Prevention of Illegal Transboundary Movement of Hazardous Wastes, the Transfrontier Shipment of Waste (TFS) cluster of the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL), the Green Customs Initiative, the Multilateral Environmental Agreements Regional Enforcement Network (MEA-REN), the International Network for Environmental Compliance and Enforcement (INECE), and the United Nations Office on Drugs and Crime (UNODC);
- Non-governmental organizations active in the field of prevention and combating illegal traffic, such as the Basel Action Network (BAN);
- Other organizations with the potential to make a contribution that are approved by ENFORCE in accordance with the provisions of paragraph 12 below.

9. The five party representatives mentioned above shall be elected by the Conference of the Parties at each of its meetings, based on nominations from each regional group. Elected party representatives are eligible for re-election at subsequent meetings of the Conference of the Parties to the Basel Convention.

10. The five representatives of the Basel Convention regional and coordinating centres shall be designated by the Conference of the Parties at each of its meetings, based on nominations from each regional group. The elected representatives are eligible for re-election at subsequent meetings of the Conference of the Parties to the Basel Convention.

11. The membership of ENFORCE should not exceed 25 members.

12. Organizations and entities fulfilling the conditions set out in paragraph 6, such as those listed in paragraph 8, and wishing to become members of ENFORCE, may address, through the Secretariat, a duly motivated request to the chair of ENFORCE. The secretariat of ENFORCE shall circulate the request to all members. Members are accepted by a decision of the members of ENFORCE. Each new member designates a representative with recognized expertise in the field of the activities of ENFORCE and notifies the secretariat of ENFORCE accordingly. Members can at any time decide no longer to be members of ENFORCE. Such a decision shall be notified to the secretariat of ENFORCE.

13. Communication with and among members will take place through the designated or, as appropriate, elected representative.

## **E. Working methods**

14. Members of ENFORCE, through their designated representative, will meet at least once a year, whether in person, by conference call or by electronic means, and whenever possible in conjunction with the meetings of Basel Convention bodies.

15. The Chair of the Committee Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention shall participate in the meetings *ex officio*.

16. Meetings shall only be open to observers approved by the members through the process set out below.

17. The objective of the meetings is for members to exchange information on activities of relevance to ENFORCE, and also to identify activities that would benefit from being coordinated or jointly planned and implemented by two or more members.

18. At each meeting, members of ENFORCE will elect a chair and a vice-chair among the representatives of the members at the meeting. Election will be based, as far as possible, in a way to ensure rotation among the members of ENFORCE.

19. At the first meeting of ENFORCE, a chair and vice-chair will be elected. The chair and vice-chair will remain in office until the closure of the first meeting of ENFORCE subsequent to the next meeting of the Conference of the Parties. The subsequent chair and vice-chair will commence their term of office at the closure of the meeting at which they are elected and will serve as chair and vice-chair until the closure of the first meeting of ENFORCE subsequent to the next meeting of the Conference of the Parties.

20. To ensure transparency for parties to the Basel Convention, ENFORCE will prepare timely reports of its meetings. The reports of meetings of ENFORCE will be drafted under the authority of the chair and circulated to members present at the meeting for its endorsement. Once endorsed, the report will become a document publicly available. Where ENFORCE produces recommendations that it wishes the Conference of the Parties to act upon, it shall include these in its report to the Conference of the Parties.

#### **F. Secretariat**

21. The Secretariat of the Basel Convention shall be the secretariat of ENFORCE. It shall exercise its functions in accordance with Article 16 of the Convention.

#### **G. Observers and experts**

22. Non-members may, subject to the following conditions, be admitted to meetings of ENFORCE and represented as observers. Such non-members wishing to be represented as observers during meetings of ENFORCE shall, through the Secretariat, address a duly motivated request to the chair of ENFORCE. The secretariat of ENFORCE shall circulate the request to all members with a view to seeking their timely approval. If approved, the chair will invite the requesting non-member to be represented as an observer during the meeting of ENFORCE.

23. Members of ENFORCE may agree to invite experts possessing specialized technical knowledge on an issue to be discussed at a meeting to be admitted to the meeting, or relevant parts thereof.

24. Observers will be requested to agree to respect the confidentiality and other rules applicable to the meetings of ENFORCE.

#### **H. Confidentiality**

25. The Chatham House Rule<sup>7</sup> shall apply to all activities under ENFORCE, including meetings and intersessional correspondence. Under the Chatham House Rule, participants at a meeting are free to use the information received, but neither the identity nor the affiliation of the speaker(s) nor that of any other participant may be revealed.

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<sup>7</sup> See <http://www.chathamhouse.org/about-us/chathamhouserule>.

26. The obligation of confidentiality set out herein shall subsist for all members of ENFORCE beyond the duration of their membership with ENFORCE.

27. The members of ENFORCE, and also any observer, individual or entity involved in the work of ENFORCE shall protect the confidentiality of information received in confidence.

#### **I. Public information**

28. Information released on behalf of ENFORCE shall be communicated through the secretariat of ENFORCE.

#### **J. Logos and names**

29. Members of ENFORCE will not use the names or logos of the Basel Convention, the United Nations Environment Programme and the United Nations without the prior written authorization of each of those organizations in relation to each specific use.

### **Annex II to decision BC-11/8**

### **Work programme for 2014–2015 of the Committee for Administering the Mechanism for Promoting Implementation and Compliance**

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

<b>Objective</b>	<b>Activity</b>
<p>1. National reporting</p> <p>Improve timely and complete national reporting under paragraph 3 of Article 13 of the Convention</p>	<p>(a) Classify and, as appropriate, publish parties' individual compliance performance with regard to their annual national reporting obligations for 2011, 2012 and 2013 as available, including a separate analysis of performance with regard to parts I and II of the reports, based on the assumptions and elements set out in the report of the Committee to the Conference of the Parties at its eleventh meeting,<sup>8</sup> based on the criteria and categories adopted by the Conference of the Parties at its tenth meeting,<sup>9</sup> and using the targets mentioned in paragraph 9 of decision BC-11/8;</p> <p>(b) Finalize, taking into account comments received by parties and Basel Convention regional centres by 31 July 2013, and including through consultations with the Open-ended Working Group, the development of guidance on the development of inventories for the consideration and possible adoption by the Conference of the Parties at its twelfth meeting;</p> <p>(c) Analyse whether additional guidance or tools should be developed for the purpose of developing and maintaining inventories for consideration and possible adoption by the Conference of the Parties at its twelfth meeting;</p> <p>(d) Continue its dialogue with other multilateral environmental agreement compliance bodies.</p>
<p>2. National legislation</p> <p>Improve implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention</p>	<p>(a) Continue the development of strategies to promote full legislative implementation of the Basel Convention among its parties;</p> <p>(b) Consider an expansion of the checklist for the legislator.<sup>10</sup></p>

<sup>8</sup> UNEP/CHW.11/10.

<sup>9</sup> Decision BC-10/11, para. 18, that refers to para. 26 of document UNEP/CHW.10/9/Rev.1.

<sup>10</sup> <http://www.basel.int/Implementation/LegalMatters/LegalFramework/Tools/tabid/2750/Default.aspx>.

Objective	Activity
3. Illegal traffic Prevent and combat illegal traffic	Finalize, including through consultations with the Open-ended Working Group, the development of guidance on the take-back provision for consideration and possible adoption by the Conference of the Parties at its twelfth meeting.
4. Insurance, bond, guarantee Improve the implementation of and compliance with paragraph 11 of Article 6 of the Convention	Compile information on how parties are implementing paragraph 11 of Article 6 of the Convention, including through national legislation, and consider the development of guidance on how to implement this provision for consideration and possible adoption by the twelfth meeting of the Conference of the Parties.
5. Control system Improve the implementation of and compliance with Article 6 of the Convention	(a) Finalize, including through consultations with the Open-ended Working Group, the updating of the guide to the control system for consideration and possible adoption by the Conference of the Parties at its twelfth meeting;  (b) Develop an interactive tool that could take the form of a searchable database in order to make available to all parties the information needed to complete the forms for the notification and movement documents and other relevant associated information.
6. Improve the implementation of and compliance with the Convention	Review and update, including through consultations with the Open-ended Working Group, the manual for the implementation of the Basel Convention in a way to ensure consistency between the manual and the guide to the control system and, as far as possible, to avoid duplication between the two documents, for consideration and possible adoption by the Conference of the Parties at its twelfth meeting.

## 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.
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 in the period between the eleventh and twelfth 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 Basel Convention. The resources are intended to fund activities listed in the compliance action plans elaborated by the party concerned in its submission and approved by the Committee.
3. In relation to the amendment of paragraph 9 (c) of the terms of reference, the Committee shall provide to the Conference of the Parties at its twelfth meeting a report on its evaluation of the effectiveness of the amendment mentioned in paragraph 3 of the present decision, including recommendations.
4. The Committee shall also review whether its legal framework programme needs further refining.