

## **VIII/35: Dates and venue of the ninth meeting of the Conference of the Parties**

*The Conference of the Parties,*

*Recalling* article 15 of the Basel Convention, which states that “ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting”,

*Recalling* also its decision I/1, in which the Conference of the Parties adopted the rules of procedure for its meetings, rule 4 of which provides that “[o]rdinary meetings of the Conference of the Parties shall be held every other year, unless the Parties decide otherwise” and that “[a]t each ordinary meeting, the Conference shall decide on the date and duration of the next ordinary meeting”,

1. *Notes* with appreciation the interest of the Government of Indonesia in hosting the ninth meeting of the Conference of the Parties to the Convention;

2. *Requests* the Executive Secretary to enter into consultations with the Government of Indonesia with a view to agreeing on satisfactory arrangements and concluding a host country agreement for hosting the ninth meeting of the Conference of the Parties;

3. *Decides* that, subject to the satisfactory conclusion of consultations between the Government of Indonesia and the Executive Secretary on arrangements for the ninth meeting of the Conference of the Parties, the ninth meeting shall be held in Indonesia in 2008, on dates to be proposed by the Secretariat.

## **Resolution expressing gratitude to the Government of Kenya**

*The Conference of the Parties,*

*Having met* in Nairobi from 27 November to 1 December 2006 at the invitation of the Government of Kenya on the occasion of its eighth meeting,

1. *Expresses* its profound gratitude to the Government of Kenya for making it possible for the meeting to be held in Nairobi;

2. *Requests* the Government of Kenya to convey to the city and the people of Nairobi the gratitude of the Conference of the Parties for the hospitality and warmth extended to the meeting participants.

## **Annex II**

### **Report of the Committee of the Whole**

#### **I. Introduction**

1. At its 2nd plenary session the Conference of the Parties decided to establish a Committee of the Whole to consider the agenda items referred to it by the Conference. The Committee of the Whole was chaired by Mr. Cristian Maquieira (Chile) and held eight sessions from 27 November to 1 December 2006 in accordance with the decision of the Conference of the Parties taken at its 2d plenary session.

#### **II. Dumping of toxic wastes in Abidjan, Côte d'Ivoire (agenda item 6)**

2. The Committee took up the item at its 6th session, on the evening of Thursday, 30 October. The Chair reported that the President of the Conference had requested the Committee to prepare a decision for the consideration of the Conference on the dumping of toxic wastes in Abidjan. The Committee agreed to set up a contact group, to be chaired by the Chair of the Committee, to consider a draft decision prepared by the group of African countries.

3. Resuming consideration of the item at its 8th session, on the afternoon of Friday, 1 December, the Committee considered a draft decision on the dumping of toxic wastes in Abidjan that had been produced on the basis of the work of the contact group and circulated in a conference room paper. Following brief discussion, the Committee approved the draft decision, as orally amended, for consideration and possible adoption by the Conference.

4. At the same session, spurred by the events in Abidjan, the Committee also considered a draft decision on cooperation between the Basel Convention and the International Maritime Organization which had been drafted by the contact group and circulated in a conference room paper. The Committee approved the draft decision for consideration and possible adoption by the Conference.

5. Finally, the Committee also considered a draft decision that had been submitted by the group of African countries and circulated in a conference room paper on the establishment of a strategic plan to strengthen the capacity of Parties to respond to emergencies. Following discussion, the Committee concluded that it did not have sufficient time to consider the draft decision at the current meeting. It therefore agreed that it would recommend to the Conference that it be taken up by the Open-ended Working Group at its next session.

#### **III. Creating innovative solutions through the Basel Convention for the environmentally sound management of electronic wastes (agenda item 7)**

6. The Committee took up the item at its 1st session, on the morning of Monday, 27 November. The representative of the Secretariat introduced the item, suggesting that electronic waste constituted one of the most complex and fastest-growing waste streams and demanded a complex set of responses and new ways of thinking. As it was an emerging issue, industry and Governments would need to adapt to understand and deal with the problem. Challenges included the need to balance the benefits from rapidly evolving technologies against the risks posed by the growing quantities of waste that they generated, the very different capacities of countries to manage hazardous wastes, the need to define more clearly what was understood by "electronic waste" and the need to clarify which wastes fell within the scope of the Convention. It would also be necessary to ensure that only functioning electronic products were exported to

developing countries and to bring informal recycling activities into the mainstream economy to ensure that they were carried out in an environmentally sound manner. Lastly, he stressed the role of public-private partnerships, saying that they would need to be open to all relevant actors, including those dealing with production, design, transport, repair and recycling of electronic waste, in order to bring more understanding, transparency and predictability to the response to the challenge posed by e-waste.

7. Following that introduction, one representative remarked that there was a need for concrete and practical measures by which countries could act to remove electronic wastes from the environment and suggested that the Secretariat should work toward identifying such measures.

8. The Committee resumed its consideration of the item at its 6th session, on the evening of Thursday, 30 October. The Chair reported that the President had requested the Committee to prepare a decision for the consideration of the Conference. The Committee agreed to set up a contact group comprising a balanced membership of developing and developed countries and countries with economies in transition, to be co-chaired by one representative from the Group of 77 and China and one from among the industrialized countries.

9. The co-chair of the contact group subsequently reported directly to the Conference sitting in plenary, where the item was concluded. The Committee accordingly did not take up the item again.

#### **IV. Report on the implementation of the decisions adopted by the Conference of the Parties at its seventh meeting (agenda item 8)**

##### **A. Strategic Plan for the Implementation of the Basel Convention to 2010**

10. The Committee took up the sub-item at its 1st session, on the afternoon of Monday, 27 November. The sub-item included four topics: report on project activities; programme framework until 2010; work and operation of the Basel Convention regional and coordinating centres; and the Basel Convention Partnership Programme. The Committee's consideration of the programme framework until 2010 was subsumed within the discussion of the sub-item as a whole and the relevant documentation was subsumed within the documentation for agenda sub-item 8 (g) on financial matters.

11. Introducing the sub-item, the representative of the Secretariat briefly outlined the draft decision set out in document UNEP/CHW.8/2 on the Strategic Plan for the Implementation of the Convention to 2010, noting that it aimed to consolidate various other draft decisions pertaining to the implementation of the Strategic Plan into a single decision and that its elements had been approved by the Open-ended Working Group at its fifth meeting. The Committee also had before it a report on project activities regarding the Strategic Plan (UNEP/CHW.8/2/Add.1); a report on the Basel Convention Partnership Programme (UNEP/CHW.8/2/Add.2); and a guidance document on the environmentally sound management of used and end-of-life mobile phones (UNEP/CHW.8/2/Add.3\*), as well as information documents on stakeholder consultations on the concept of a public-private partnership on the environmentally sound management of used and end-of-life computing equipment (UNEP/CHW.8/INF/3 and Add.1), on projects and capacity-building in support of the implementation of the Strategic Plan (UNEP/CHW.8/INF/4), on final reports, publications and documents pertaining to the projects and business plans for the period 2007–2008 on CD-ROM (UNEP/CHW.8/INF/4/Add.1), on framework agreements, business plans for the period 2007–2008 and operational strengthening of the Basel Convention regional centres (UNEP/CHW.8/INF/5) and on the Mobile Phone Partnership initiative (UNEP/CHW.8/INF/6).

12. There was general agreement that the relevant decisions pertaining to the Strategic Plan should be consolidated into a single draft decision, as had been done in the draft decision contained in document UNEP/CHW.8/2.

13. One representative said that he supported that draft decision on the understanding that it would contribute to mobilizing resources for implementation of the strategic plan and would not entail decreased resources for other chemical safety issues.

14. A revised version of the draft decision contained in document UNEP/CHW.8/2 on the Strategic Plan for the Implementation of the Basel Convention, amended to accommodate suggestions arising out of the discussion on the report on project activities, was subsequently submitted by the Secretariat to the Committee.

15. The Committee took up the item again at its sixth session, on the evening of Thursday, 30 November. Following discussion, in which it was reported that informal consultations were underway on the draft decision on the Strategic Plan, the Committee agreed to defer further consideration of the draft decision pending the outcome of discussions in the contact group on financial matters and resource mobilization.

16. At the Committee's 8th session, owing to a lack of time, the Chair proposed and the Committee agreed to recommend to the Conference that further consideration of the draft decision be conferred until the sixth session of the Open-ended Working Group.

## **1. Report on project activities**

17. Introducing the sub-item, the representative of the Secretariat drew attention to a report on project activities under the Strategic Plan for the Implementation of the Basel Convention to 2010 (UNEP/CHW.8/2/Add.1).

18. During discussions on the sub-item, several representatives welcomed the report and the successes that had been achieved. One, however, said that the report raised concerns about the financial sustainability of projects, their replicability and their expansion into neighbouring countries; such principles should, she said, guide all projects that contributed to the Strategic Plan. There was also a need to coordinate programmes better in order to prevent an ad hoc approach to implementation. Another representative observed that there was a need for a thorough analysis of the process for implementing the Strategic Plan, including the obstacles faced, and said that he looked forward to the presentation of such an analysis for consideration at the next meeting of the Conference.

19. Turning to future implementation of the Strategic Plan, one representative observed that projects should be strengthened through coordination with UNEP and other international bodies and through public-private partnerships. Several representatives underlined the need to increase the financial resources available for implementation and there was broad agreement that the regional centres had a crucial role to play. A representative of a regional economic integration organization stressed that besides sustainable financial support, training, information sharing and capacity-building would also be crucial to implementation of the Strategic Plan. He added that in order to attract financial support, there was a need to link the Strategic Plan to the Millennium Development Goals and the Johannesburg Plan of Implementation and also to incorporate environmentally sound management of waste into national poverty reduction strategies.

20. The Committee took note of the report contained in document UNEP/CHW.8/2/Add.1.

## **2. Programme framework until 2010**

21. The Committee's consideration of the programme framework until 2010 was subsumed within its consideration of sub-item 8 (a) as a whole and the documentation for the issue was subsumed within the documentation for sub-item 8 (g), financial matters.

### **3. Work and operation of the Basel Convention regional and coordinating centres**

22. The Committee took up the sub-item at its first session, on the afternoon of Monday, 27 November. Many representatives stressed the vital importance of the regional and coordinating centres to the implementation of the Basel Convention and the Strategic Plan in developing countries and countries with economies in transition and called for increased efforts by donors to strengthen the centres through, among other things, additional financial and technical resources. A number of delegates emphasized the need to ensure that the resources provided to the centres were sufficient not only for the design of specific projects but also for their implementation. One delegate said that the centres were just crucial for the implementation of the Basel Convention but were likely as well to become key tools for the implementation of the Stockholm Convention on Persistent Organic Pollutants.

23. One representative expressed support for the implementation of the Strategic Plan but said that it was necessary to prioritize its goals within the larger context of resource mobilization and sustainable financing. He also called on countries to include the environmentally sound management of hazardous wastes in their development plans and to build on the partnerships that had been adopted to implement the Bali Strategic Plan for Technology Support and Capacity-building.

24. One representative recommended revising the legal status of the regional centres, as their not-for-profit status could make it difficult for them to attract funds. Another said that the regional centres should ensure the implementation of the key principles of the Basel Convention, in particular the principles of proximity and minimization of waste generation at source and of the movement of hazardous wastes.

25. The representative of Nigeria introduced a draft decision on the Basel Convention regional and coordinating centres on behalf of the Group of 77 and China, which had been circulated in a conference room paper. He recalled that the regional and coordinating centres had been established under Article 14 of the Convention and observed that the 14 centres responded to the specific needs of developing countries and countries with economies in transition. He added that the centres had successfully completed 25 projects for the implementation of the Strategic Plan for the Implementation of the Basel Convention and had carried out more than 20 capacity-building activities since the previous meeting of the Conference of the Parties and 50 activities since 2000 on cooperation between the Basel Convention, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention. The centres, he said, required predictable and regular financial assistance until they could develop mechanisms for ensuring their financial sustainability.

26. The representative of the South Asia Cooperative Environment Programme introduced a draft decision on the establishment of the Basel Convention regional centre for South Asia at the South Asia Cooperative Environment Programme secretariat in Colombo, Sri Lanka, which had been circulated in a conference room paper.

27. The Committee took up the sub-item again at its sixth session, on the evening of Thursday, 30 November. Following discussion, the Committee agreed to defer further consideration of the draft decision on the Basel Convention regional and coordinating centres pending the outcome of discussions in the contact group on financial matters and resource mobilization.

28. At its seventh session, on the morning of Friday, 1 December, the Committee approved the draft decision on the establishment of the Basel Convention Regional Centre for South Asia at the SACEP secretariat in Colombo, Sri Lanka, for consideration and possible adoption by the Conference, on the basis of the draft decision contained in the relevant conference room paper.

29. At the same session, the Committee agreed to establish a contact group, chaired by Mr. Oladele Osibanjo (Nigeria), to consider the draft decision on the Basel Convention regional and coordinating centres proposed by the Group of 77 and China.

30. The Committee resumed consideration of the sub-item at its 8th session, on the afternoon of Friday, 1 December 2006, at which time it considered a draft decision that had been prepared by the contact group and circulated in a conference room paper. The Committee approved the draft decision for consideration and possible adoption by the Conference.

31. At the time of approval of the draft decision on the Basel Convention regional and coordinating centres, several representatives of countries in the Group of 77 and China made statements, asking that they be reflected in the present report. They underlined the importance of the Basel Convention regional centres to the implementation of the Convention and the provision of capacity-building and technology transfer support to developing countries, but stressed that to be effective the regional centres would require sustained and predictable financing, which in turn would require sustained political will and support.

#### **4. Partnership Programme**

32. The Committee took up the sub-item at its second session, on Tuesday, 28 November. Introducing it, the representative of the Secretariat said that much progress had been made under the Programme in initiating public-private partnerships that supported and addressed the objectives of the Strategic Plan and its focus areas and priorities. The representative also noted that the proposed work programme was set out in annex II of the note by the Secretariat on the Partnership Programme (UNEP/CHW.8/4/Add.2) and that it contemplated new partnerships, in particular one on the environmentally sound management of used and end-of-life computing equipment (described in UNEP/CHW.8/INF/3), another, with UNEP, on mercury and another on asbestos.

33. Following the Secretariat's presentation on the Partnership Programme, Mr. Marco Buletti (Switzerland), Chair of the Mobile Phone Working Group, introduced a draft decision on the Mobile Phone Partnership Initiative, summarized the progress made under the initiative and drew attention to the guidance document on the environmentally sound management of used and end-of-life mobile phones prepared by the Mobile Phone Working Group. He said that the Working Group, since the launch of the initiative in December 2002, had implemented activities and developed guidelines in four project areas: refurbishment and reuse of used mobile phones; collection and transboundary movement of used phones; material recovery and recycling of end-of-life mobile phones; and awareness raising and training on the environmental design of mobile phones. Pilot projects were being implemented to test the guidelines.

34. He expressed appreciation to the Governments of Australia and Switzerland and to Shields Environmental Group for its financial support to the Mobile Phone Partnership Initiative, adding that the initiative had mobilized interest and support among a wide range of stakeholders, including many from the private sector. Challenges remained, including finding further resources for translating, printing and disseminating the guidelines and overcoming private sector reluctance to engage with a convention containing the word "hazardous" in its title. Lessons had been learned, however, that could be of relevance to future public-private partnerships undertaken under the Basel Convention.

35. Mr. Joachim Wuttke, Chair of project 2.1 on collection and transboundary movement of used phones, drew attention to a Chair's paper annexed to the note on the Mobile Phone Partnership Initiative on issues raised during the discussion of the guidelines on transboundary movement of used and end-of-life mobile phones. The paper highlighted a number of issues that were raised during the discussions of the project group. In particular, several project group participants were of the opinion that challenges might exist and that the Basel Convention and its annexes, especially the electronic waste entries and their footnotes in Annexes VIII and IX, needed further clarification regarding what was covered under the Convention. Possible options for addressing used mobile phones and the broader electronic equipment issue were noted in an annex to the progress report of the Mobile Phone Partnership Initiative (UNEP/CHW.8/INF/6) for the consideration of the Committee.

36. The Committee resumed consideration of the issue at its 3rd session, on the afternoon of Tuesday, 28 November, at which time it took up draft decisions contained in the notes by the Secretariat on the Basel Convention Partnership Programme (UNEP/CHW.8/2/Add.2) and on the Mobile Phone Partnership Initiative (UNEP/CHW.8/2/Add.3).

37. Some representatives expressed support for approval of the draft decision on the Mobile Phone Partnership Initiative (UNEP/CHW.8/2/Add.3\*) without amendment, one suggesting that the partnership could serve as a key model for other initiatives such as the one on electronic wastes. Several others said that the guidance document was at least a first step toward the environmentally sound management of used and end-of-life mobile phones and could be amended as needed to ensure consistency with the Basel Convention. A few representatives expressed concerns and proposed various amendments.

38. In the light of those concerns and proposals, the Committee agreed to set up an informal group of interested parties, to be coordinated by Mr. Barry Reville (Australia), to work further on the draft decision and report back to the Committee with recommendations.

39. The Committee resumed consideration of the sub-item at its 6th session, on the evening of Thursday, 30 November, at which time it considered the outcome of the work by the informal drafting group on the Mobile Phone Partnership Initiative, which was reflected in a revised draft decision that had been circulated in conference room papers. Following discussions, the Committee approved the draft decision contained in the conference room papers, as orally amended, for consideration and possible adoption by the Conference.

40. Following the approval of the decision, a representative of the European Community made the following statement, asking that it be recorded in the present report:

“The European Community, reiterating that these Guidelines are not legally binding, recalls that under European Union law the waste character of electrical and electronic equipment (EEE) is determined, inter alia, by the intention of the holder to discard it. Guidance given in this document on EEE falls within the scope of the Basel Convention has therefore to be in line with the definition of waste according to European Union law and any further definitions of waste under the Basel Convention.”

41. At the same session, the Committee considered a revised version of the draft decision on the Basel Convention Partnership Programme, which had been circulated in a conference room paper submitted by Chile. Following discussion, the Committee approved the draft decision for consideration and possible adoption by the Conference, as orally amended.

## **B. Cooperation and synergies**

42. The Committee took up the sub-item at its 3rd session, on the afternoon of Tuesday, 28 November. The Committee had before it a note by the Secretariat on international cooperation and synergies (UNEP/CHW.8/3/Rev.1\*); a compilation of comments and proposals received from Parties pursuant to decision OEWG-V/6 (UNEP/CHW.8/INF/8); decision SC-2/15, adopted by the Conference of the Parties to the Stockholm Convention (UNEP/CHW.8/INF/10); decision RC-3/8, adopted by the Conference of the Parties to the Rotterdam Convention (UNEP/CHW.8/INF/11); a summary of the results of a report on the waste sector's contribution to climate protection and possible potentials (UNEP/CHW.8/INF/12); a study on improving cooperation and synergies between the secretariats of the Basel, Rotterdam and Stockholm conventions (UNEP/CHW.8/INF/28); a supplementary analysis of financial and administrative arrangements to be implemented to enhance synergies between the chemicals and waste conventions (UNEP/CHW.8/INF/29); recommendations on improving cooperation and synergies (UNEP/CHW.8/INF/30); a supplementary report prepared pursuant to decision SC-2/15 of the Conference of the Parties to the

Stockholm Convention (UNEP/CHW.8/INF/31); and a report on potential links between the Basel Convention and the Bamako Convention on the Ban of the Import Into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (UNEP/CHW.8/INF/32).

43. Outlining document UNEP/CHW.8/3/Rev.1\*, the representative of the Secretariat recalled that with its decision VII/38, the Conference of the Parties had requested the Secretariat to strengthen cooperation and synergies with relevant organizations. She highlighted the importance of efforts to win observer status for the Convention Secretariat in the World Trade Organization's Committee on Trade and Environment and current attempts to strengthen cooperation and develop synergies between the Basel, Rotterdam and Stockholm conventions and future links between the Basel and Bamako conventions.

44. During the ensuing discussion, there was widespread praise for the Secretariat's analysis of international cooperation and synergies in document UNEP/CHW.8/3/Rev.1\*. Representatives likewise expressed broad support for efforts to strengthen cooperation between the Basel, Rotterdam and Stockholm conventions, affirming that each convention had much to gain from such cooperation and that their successful implementation was interdependent. With that in mind, many welcomed the proposal made by the Conference of the Parties to the Stockholm Convention at its second session that an ad hoc joint working group comprising representatives of the three conferences of the Parties should be convened to consider the matter. There was also agreement that the process should be transparent, representative and inclusive. Some representatives, however, moderated their support with warnings that despite clear potential for synergies, the three conventions remained independent legal instruments, with differing targets and management mechanisms. Several called for a cautious approach that preserved the conventions' legal autonomy and focused on enhancing the efficiency and integrity of policymaking in the three regimes and filled gaps and deleted overlaps in their coverage; efficiencies gained through exploiting synergies, they said, should not be used to cut budgets but rather to improve implementation.

45. There was also general support for the efforts underway to strengthen the collaboration between the Convention and the World Trade Organization. Some representatives noted, however, that like other multilateral environmental agreements, the Convention had so far enjoyed little progress in its attempts to win observer status at meetings of the Organization's committees.

46. The Committee resumed consideration of the sub-item at its 6th session, on the evening of Thursday, 30 November, at which time it decided to divide the draft decision contained in document UNEP/CHW.8/3/Rev.1\* into two draft decisions: one on cooperation between the Basel, Stockholm and Rotterdam Conventions and a second on international cooperation generally. Following discussion, the Committee approved the draft decision on cooperation between the Basel, Stockholm and Rotterdam Conventions for consideration and possible adoption by the Conference on the basis of a draft decision that had been circulated as a conference room paper, as orally amended.

47. The Committee also approved the draft decision on international cooperation for consideration and possible adoption by the Conference, on the basis of the draft decision contained in document UNEP/CHW.8/3/Rev.1\*, as orally amended.

## **C. Reporting**

48. The Committee took up the sub-item at its 3rd session, on the afternoon of 28 November. The Committee had before it draft decision on reporting (UNEP/CHW.8/4) and a report on transmission of information (UNEP/CHW.8/INF/13). The representative of the Secretariat said that although reporting was a challenge, 99 Parties had provided reports for 2004 and that, because the Basel Convention was the only body with global statistics on transboundary movements of hazardous waste, the information provided by the growing numbers of Parties reporting was particularly valuable. He said that the Open-ended Working Group had considered progress in

reporting and prepared a draft decision on the issue, which was set out in document UNEP/CHW.8/4. He added that one representative of a regional economic integration organization had submitted a conference room paper which provided for some additional responsibilities for the Secretariat that would make reporting more comprehensive.

49. Following discussion of the draft decision, the Committee approved it, as amended, for consideration and possible adoption by the Conference.

#### **D. Technical matters**

50. The Committee took up the sub-item at its 3rd session, on the afternoon of 28 November. The Committee had before it a document containing nine proposed decisions on technical matters that had been agreed by the Open-ended Working Group at its fifth session for submission to the Conference of the Parties at the current session (UNEP/CHW.8/5).

51. The Committee approved the following draft decisions for consideration and possible adoption by the Conference, on the basis of the decisions set out in document UNEP/CHW.8/5 and its addendums, as amended where so indicated:

- (a) Technical guidelines on environmentally sound management;
- (b) Working relationship with the United Nations Subcommittee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals;
- (c) Separate identification in the World Customs Organization Harmonized Commodity Description and Coding System of certain wastes in Annexes VIII and IX to the Basel Convention;
- (d) Classification and hazard characterization of wastes;
- (e) National classification and control procedures for the import of wastes contained in Annex IX;
- (f) Implementation of decision VII/2 on hazardous waste minimization;
- (g) Amendments to the lists of wastes and the status of decision VII/21 (as amended);
- (h) Technical guidelines on persistent organic pollutants (as amended);
- (i) Harmonization of forms for notification and movement documents and related instructions (as amended).

52. Following adoption of the draft decision on the technical guidelines on persistent organic pollutants, the representative of Colombia listed various respects in which he said that the guidelines on wastes containing or contaminated with unintentionally produced polychlorinated dibenzo-p-dioxins (PCDDs), polychlorinated dibenzofurans (PCDFs), hexachlorobenzene (HCB) or polychlorinated biphenyls (PCBs) could be improved when they were next reviewed. The guidelines, he said, would benefit from better information on the various methods available for compiling inventories of the subject substances; the incorporation of information on internationally recognized methods for the sampling and analysis of dioxins and furans for each matrix; criteria for the accreditation of laboratories to carry out such analyses and qualifications for their personnel; a fuller explanation and clarification of monitoring as, he said, there was no difference between the way it was discussed in the section of the guidelines on monitoring and the section on sampling and analysis; measures or requirements pertaining to the international transport of dioxin and furan samples for analysis; principal accepted techniques for the final disposal of dioxins and furans or technical requirements prior to final disposal (e.g., encapsulation); options for the remediation of sites contaminated with dioxins and furans.

## **E. Legal matters**

53. The Committee took up the sub-item at its 4th session, on the afternoon of Wednesday, 29 November. The Committee had before it a document containing various draft decisions on legal matters that had been agreed by the Open-ended Working Group at its fifth session for submission to the Conference of the Parties at the current meeting (UNEP/CHW.8/6 and Corr.1); a note by the Secretariat on designation of competent authorities and focal points (UNEP/CHW.8/14); a report by the Secretariat in response to the dumping of toxic wastes in Côte d'Ivoire (UNEP/CHW.8/INF/7); a report on workshops on the issue of illegal traffic (UNEP/CHW.8/INF/15); a note by the Secretariat reporting on workshops on the Basel Protocol on Liability and Compensation (UNEP/CHW.8/INF/16 and Add.1); a note by the Secretariat on comments received pursuant to Open-ended Working Group decision OEWG-V/11 (UNEP/CHW.8/INF/17); a note by the Secretariat on national definitions of hazardous wastes (UNEP/CHW.8/INF/19); a note by the Secretariat on bilateral, multilateral and regional agreements and arrangements in force (UNEP/CHW.8/INF/18 and Corr.1); a note by the Secretariat on a communication by the President on the interpretation of paragraph 5 of Article 17 of the Convention and the implementation of decision III/1 (UNEP/CHW.8/INF/20); and a note by the Secretariat on IUCN recommendation 3.088 on the Ban Amendment (UNEP/CHW.8/INF/38).

54. Following brief introductions to the draft decisions by the representative of the Secretariat, the Committee approved the following draft decisions for consideration and possible adoption by the Conference, on the basis of the decisions set out in document UNEP/CHW.8/6 and Corr.1, as amended where so indicated:

(a) National legislation and other measures adopted by the Parties to implement the Basel Convention;

(b) National definitions of hazardous wastes;

(c) Article 11 agreements and amendments;

(d) Protocol on Liability and Compensation (as orally amended).

55. The Committee discussed the draft decision on the implementation of decision III/1 concurrently with the issue of regional consultations on the interpretation of paragraph 5 of article 17 of the Convention.

56. With regard to the draft decision on the implementation of the Ban Amendment, a number of representatives stressed the urgent need for all Parties to implement the amendment. One representative, however, said that her country could not ratify or implement the amendment before the issue of hazardous wastes destined for recycling and recovery operations had been given proper consideration. A few others expressed reservations regarding the amendment on the grounds that it unjustifiably assumed that countries that were not members of the Organisation for Economic Co-operation and Development neither had nor could acquire the capacity to manage hazardous wastes in an environmentally sound manner. One participant said that that assumption prevented developing countries from competing in the international recycling market and deprived them of wastes that could be used as raw materials. The amendment was also unacceptable to his country because it contradicted the principle of non-discrimination of the World Trade Organization and because its entry into force might invalidate agreements that developing country Parties and others had signed under article 11 of the Basel Convention.

57. The representative of the European Community and its member States, speaking also on behalf of Romania and Bulgaria, said that the Ban Amendment constituted a milestone in the history of the Convention and fulfilled a long-standing wish, in particular of developing countries, to prevent the export of hazardous wastes from the developed to the developing world. That wish had been reflected in the Convention's preamble, in the Ban Amendment and in various decisions by the Conference calling on Parties to accelerate the process of ratification of the Ban Amendment. Noting that its twenty-five member States had enacted legislation to implement the amendment, he expressed hope that all Parties would do the same.

58. The issue of the interpretation of paragraph 5 of article 17 of the Convention prompted considerable debate. The representative of a regional economic integration organization urged the adoption of a decision by the Conference at its eighth meeting that would settle the legal uncertainty surrounding the interpretation of paragraph 5 of article 17 of the Convention and the conditions for entry into force of the Ban Amendment and any other amendment that would be adopted in the future. He said that the Vienna Convention on the Law of Treaties allowed the Parties to adopt such a decision, which he hoped would interpret paragraph 5 of article 17 in a way that would favour the prompt entry into force of the Ban Amendment.

59. Many participants supported the adoption of a decision by the Conference clarifying the number of ratifications that would be required for an amendment to the Convention to enter into force under paragraph 5 of article 17. Some expressed the view that the number of ratifications needed for an amendment to enter into force should correspond to three-quarters of the number of Parties at the time of adoption of such an amendment. In the case of the Ban Amendment, that meant that sixty-two ratifications would be needed for it to enter into force. Others said that they adhered to legal advice issued on 8 March 2004 by the United Nations Office of Legal Affairs, according to which the number of ratifications required for an amendment to enter into force under paragraph 5 of article 17 of the Basel Convention corresponded to three-quarters of the number of parties at the time of the deposit of each instrument of ratification.

60. The representative of a non-governmental organization expressed support for the view that three quarters of the number of Parties present and voting at the time of the adoption of the Ban Amendment were required for it to enter into force. Given that 63 Parties had ratified the amendment and that according to two of the three interpretations of paragraph 5 of Article 17 the requirement for it to enter into force had been fulfilled, he urged parties to clarify which interpretation of paragraph 5 of article 17 would apply. In closing, he called on Parties not to adopt the interpretation contained in the legal opinion of the United Nations Office of Legal Affairs, suggesting that if it were adopted the amendment would not enter into force for the next twenty years.

61. Following the debate on the two issues, the Chair asked interested parties to hold informal consultations with a view to reaching consensus on how to address the issue.

62. The Committee resumed consideration of the issue at its 6th session, on the evening of Thursday, 30 November, at which time it considered two alternative draft decisions on the matter contained in two conference room papers presented by two different groups of countries. Following discussion, it was agreed that the co-sponsors of the two draft decisions and any interested parties would meet informally in an attempt to reach a consensus.

63. Also at its sixth session, the Committee considered the draft decision on designation of competent authorities and focal points contained in document UNEP/CHW.8/14. Following a brief introduction by the Chair, the Committee approved that draft decision without amendment for consideration and possible adoption by the Conference.

64. The Chair proposed and the Committee agreed that, owing to a lack of time, the Committee should recommend to the Conference that consideration of decision V/32 be deferred to the next session of the Open-ended Working Group and that the Working Group should commence its consideration on the basis of the text of the draft decision on the issue before the Committee.

65. At its eighth session, on the evening of Friday, 1 December, the Committee considered a draft decision that had been prepared and circulated in a conference room paper following the informal consultations between the proponents of the two earlier draft decisions on the interpretation of paragraph 5 of article 17 of the Convention. Following discussion, the Committee approved the draft decision, as orally amended, for consideration and possible adoption by the Conference.

66. At the same session the Committee considered a draft decision on an outline of an instruction manual for the legal profession submitted by Japan, Jamaica and Canada,

which had been circulated in a conference room paper. The Committee approved that decision for consideration and possible adoption by the Conference.

## **F. Ship dismantling**

67. The Committee took up the sub-item at its 1st session, on the afternoon of 27 November. It had before it a note by the Secretariat on the Joint Working Group of the International Labour Organization (ILO), the International Maritime Organization (IMO) and the Basel Convention on Ship Scrapping (UNEP/CHW.8/7) and information documents on information available on the Basel Convention website on the environmentally sound management of ship recycling (UNEP/CHW.8/INF/21); on a compilation of assessments provided by Parties and others comparing levels of control and enforcement established by the Basel Convention with expected levels under the draft legally binding instrument on ship recycling (UNEP/CHW.8/INF/22); and on the report of the fifty-fifth session of the Marine Environment Protection Committee (UNEP/CHW.8/INF/34). It also had before it an assessment, submitted by Japan, of the development of the draft International Convention for the Safe and Environmentally Sound Recycling of Ships (UNEP/CHW.8/INF/39) and a report on developments within IMO relating to the draft legally binding instrument on ship recycling (UNEP/CHW.8/7/Add.1).

68. Introducing the sub-item, the representative of the Secretariat pointed out that it comprised three issues: the Joint Working Group on Ship Scrapping; environmentally sound management of ship dismantling; and abandonment of ships on land or in ports.

69. Regarding the Joint Working Group, the representative of the Secretariat noted that the reports of the Group's first and second meetings were before the Conference and reported that the Marine Environment Protection Committee of IMO had deferred until its fifty-sixth session consideration of whether the Joint Working Group should hold a third meeting, while ILO had already indicated its willingness to host such a meeting.

70. Regarding the second issue, the representative of the Secretariat recalled that by its decision VII/26 the Conference of the Parties had invited IMO to continue to consider the establishment of mandatory requirements that would ensure an equivalent level of control to that established under the Basel Convention to ensure the environmentally sound management of ship recycling. The IMO Assembly, at its twenty-fourth session, had adopted a resolution requesting the Marine Environment Protection Committee to develop a legally binding instrument on ship recycling, work on which was continuing. The Open-ended Working Group, as requested by decision VII/26, had invited Parties to provide assessments of the level of control and enforcement established by the Basel Convention compared to the level expected to be provided by the draft instrument on ship recycling. One such submission had been received. The Secretariat also informed the Conference that it had developed a project aimed at promoting the implementation of the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships and drew attention to the information on environmentally sound management of ship recycling available on the Convention website.

71. On the third issue, the representative of the Secretariat recalled that, by its decision VII/27, the Conference of the Parties had invited Parties to provide the Secretariat information on the abandonment of ships on land or in ports for presentation to the Open-ended Working Group. In the light of the diversity of information received the Open-ended Working Group, at its fourth session, had developed a questionnaire designed to streamline the information and had requested the Secretariat to review and analyse the information received. Consultations had also taken place between the Basel Convention, IMO and ILO secretariats on the abandonment of ships.

72. In the ensuing debate, several representatives welcomed the steps being taken by IMO toward the development of a legally binding instrument on ship recycling but warned that particular responsibility would fall upon the Basel Convention during the interim period until such an instrument came into force, given the increasingly urgent

environmental, health and safety issues relating to ship dismantling. One representative said that development of a new international regime on ship dismantling would benefit from a life cycle approach, with particular attention to preventive measures, identification of hazardous material on ships through mandatory inventories, more efficient flow of information, an improved certification system and strengthening of national standards.

73. Some representatives expressed reservations as to whether the draft legally binding instrument on ship recycling would provide a level of control equivalent to that established under the Basel Convention. The representative of a country in which ship dismantling took place said that dismantling offered great potential for recycling and conservation of natural resources and that regulation of the activity should be left to national systems of control and did not require development of an international instrument. Another representative said that countries engaged in ship dismantling required international help in the transfer of technologies to ensure proper implementation of the Basel Convention.

74. The representative of India, asking that his comments be reflected in the present report, said that the draft instrument put an excessive burden on ship recycling States and did not establish corresponding responsibilities of ship owning and flag States in accordance with the polluter pays principle and the provisions of the Basel Convention. The roles and responsibilities of the various stakeholders in ship recycling activities would therefore need to be discussed by the Open-ended Working Group and the Working Group's conclusions considered by the Conference of the Parties at its ninth meeting. He also said that his country had appointed a high-level committee of technical experts to examine the infrastructure for ship dismantling at two sites in the country and to make suggestions for improvements.

75. Regarding the abandonment of ships, one representative said that developing countries often lacked the capacity to report on abandoned ships in their regions and that further funds needed to be made available to address that problem. Another representative said that a clear mechanism was required to solve the legal problems related to ship abandonment. The representative of IMO informed the Conference that its Legal Committee, at its ninety-second session, had approved a draft wreck removal convention, which would be considered for adoption in May 2007.

76. The Conference decided that informal consultations on the issues raised would take place and would be coordinated by Mr. Roy Watkinson (United Kingdom of Great Britain and Northern Ireland), Vice-President of the Bureau of the Meeting.

77. At the Committee's 8th session, on the afternoon of Friday, 1 December, the Committee considered three draft decisions that had been circulated in conference room papers on the environmentally sound management of ship dismantling, on the abandonment of ships on land or in ports and on the Joint Working Group of ILO, IMO and the Basel Convention on ship scrapping.

78. The Committee approved all three decisions for consideration and possible adoption by the Conference.

79. At the time of approval of the decisions, a representative of a non-governmental organization appealed to participants to keep in mind the real conditions and challenges faced in developing countries, where he said workers in shipyards died in their thousands from the effects of toxic gases and gruesome accidents. He urged the Conference to work independently from the IMO process, which, he said, was bound to take many years to finalize and would prove for many to be too little too late.

80. Also at the time of approval of the decisions, the representative of India said that one of the paragraphs of the decision on ship dismantling did not reflect what had been agreed during the deliberations of the contact group and that representatives had not been given enough time to comment on the decision before its approval. It was agreed that the representative of India would reiterate his objection when the Conference considered the adoption of the decisions approved by the Committee.

## **G. Financial matters**

81. The Committee took up the sub-item at its second session, on the morning of Tuesday, 28 November. The representative of the Secretariat introduced the item and drew attention to proposed alternative programmes and budgets for the biennium 2007–2008 and the triennium 2008–2009 (UNEP/CHW.8/8), noting that they had been formatted according to the new programmatic structure of the Secretariat, with three budget options; a note by the Secretariat containing information on financial matters (UNEP/CHW.8/INF/23); and a note by the Secretariat on the terms upon which programme support costs were charged for the administration of the Convention's trust funds (UNEP/CHW.8/INF/36), which included areas of relevance to the present sub-item.

82. In the discussion that ensued, all of the representatives who spoke expressed their appreciation for the quality of the documents provided and in particular the formatting of the budget according to the new programmatic structure of the Secretariat. One representative suggested that the proposed \$8 million dollar programme in the Technical Cooperation Trust Fund might be ambitious considering the resources that were likely to be available. Another said that the budget should, at the very least, continue to maintain the strength of the Convention at the level of recent years, while another suggested that the core budget could be improved by setting clear objectives and benchmarks for priority areas by using best practices elaborated within the United Nations system. Most of the representatives who spoke described the need for adequate, predictable and sustainable funding of the core budget commensurate with the exponentially growing problem of hazardous wastes. A number of representatives noted that there was almost no surplus remaining in the budget reserves and that income would therefore need to match expenditures. One representative recalled that at the seventh meeting of the Conference all developing countries had agreed to contribute to the budget.

83. A significant majority of the representatives who spoke favoured option 1 of the three budget options outlined in document UNEP/CHW.8/8, which they said would provide for effective implementation of the Convention through a reasonable number of meetings of the Conference providing an appropriate level of guidance and oversight of the Secretariat. It would also allow for an appropriate global profile for the Convention and would avoid delays on synergies and compliance matters. Several representatives expressed the opinion that there was scope for further savings within option 1.

84. One representative suggested that option 1 should be amended to provide for a meeting of the Open-ended Working Group during the year when there was no meeting of the Conference of the Parties and for the Open-ended Working Group to meet back-to-back with each meeting of the Conference of the Parties. Option 2 was described as inadequate by several representatives and Option 3 was rejected by most of the representatives who said that it would not allow for equal participation of all Parties due to the lack of interpretation at meetings in the six official languages of the United Nations.

85. Several representatives pointed to the need to address in a decisive manner the issue of contributions arrears, which had persisted for a number of years. One representative, noting that the Open-Ended Working Group had adopted a decision at its fourth session that requested the Executive Secretary to work with the countries concerned in order to clear the arrears, suggested that that decision should be endorsed by the Conference at the current meeting.

86. One representative noted that it was necessary to examine project proposals carefully to decide which required initial promotion or technical or legal input from the Secretariat and would therefore be best financed through the Basel Convention Trust Fund and which should be directed to conventional sources of support, including aid programmes. Another representative pointed to the need to identify new financing mechanisms, which he said should be mentioned explicitly in the final decision on the matter.

87. A number of representatives from developing countries and regions expressed their profound concern that the current assessed scale of contributions was in their view not fair. Other representatives of developing countries underlined the need to fund the Basel Convention regional and coordinating centres adequately so that they could fulfil their important role effectively.

88. One representative suggested that, in the light of financial limitations, programmatic priorities and the resources to implement them should be clearly defined and that other activities should only be undertaken as funding permitted. He also said that there should be no increase in assessed contributions and that the reserve should not be depleted further.

89. A number of representatives pointed to the need to continue and enhance a coordinated approach within the chemicals cluster, including the Strategic Approach to International Chemicals Management and other chemicals conventions. Partnerships with other conventions and the private sector were described as important by several representatives, who felt that they would bring about increased funding, visibility and efficiency of the Convention, as well as increased support for Basel Convention regional and coordinating centres. Greater resources and benefits might be achieved through the adoption of a common approach and enhancing synergies with the Rotterdam and Stockholm conventions, in particular.

90. One representative expressed the view that it was unnecessary to amend article 14 as it would not increase funding for Basel Convention projects. He pointed out that the GEF Council had recently agreed not to open a new window for funding Basel Convention projects but that GEF funding could nevertheless be obtained for Basel Convention projects through the Facility's persistent organic pollutant and international waters funding windows.

91. One speaker commended the Executive Secretary on her efforts to revitalize the Convention since taking office in 2002, including implementation of the Strategic Plan, undertaking initiatives for partnership projects incorporating outside funds and entering into memorandums of understanding with regional centres.

92. Other issues raised by individual representatives included the issue of electronic-waste, which required urgent attention in Africa and should be included in the programme elements for funding in the biennium or triennium; the need to refine the Strategic Plan to provide a framework to guide the work of the Partnership Programme, the Secretariat and the Basel Convention regional and coordinating centres; the need for annual work plans for the Convention to include achievable goals and measurable indicators; and a suggestion that the Secretariat prepare a report on its activities for the ninth meeting of the Conference in a narrative style like that prepared for meetings of the Conference of the Parties to the Stockholm Convention.

93. Following the discussion on the sub-item, the Committee agreed to establish a contact group, to be chaired by Ms. Anne Daniel (Canada), to consider the budget, as well as any legal matters referred by the Committee of the Whole, and to prepare a draft budget decision for the consideration of the Committee.

94. During the discussion under the sub-item, in response to a point raised by one representative on the need to tackle the issue of mercury waste, a representative of the Basel Convention noted that the Secretariat had been requested by UNEP to cooperate in the UNEP mercury programme and to highlight the issue of mercury waste in the course of its work. He suggested that the Conference of the Parties might wish to include mercury waste as a focus area of the Strategic Plan and noted that a conference room paper was being circulated on the issue.

95. The Committee resumed consideration of the item at its 8th session, on the afternoon of Friday, 1 December, at which time Ms. Daniel presented a draft decision on the programme and budget for the biennium 2007–2008, which had been circulated in a conference room paper.

96. The Committee approved the draft decision for consideration and possible adoption by the Conference.

97. Following the approval of the draft decision, the representative of the group of Latin American and Caribbean countries made a statement in which he reiterated statements made at prior meetings of the Conference to the effect that the current scale for calculating contributions to the Convention budget was flawed since it did not take into account economic and social realities, the capacity of Parties to pay or the specific characteristics of the Convention relating to the differences in production of hazardous waste in developing and developed countries. He said that the group was concerned that the current scale of contribution would compel Parties to sacrifice important projects in order to meet their obligations, while non-Parties would be deterred from ratifying the Convention. The group called on the Secretariat to undertake a study of the scale of contributions for review by the Conference at its meetings or by other Convention bodies during the intersessional period.

## **H. Resource mobilization and sustainable financing**

98. The Committee took up the sub-item together with the sub-item on financial matters at its second session, on the morning of Tuesday, 28 November. The Committee had before it notes by the Secretariat on the resource mobilization programme, including proposed recommendations for future activities (UNEP/CHW.8/9), and on sustainable financing (UNEP/CHW.8/10); information documents on examination of Article 14 of the Basel Convention and the feasibility of appropriate and predictable financial mechanisms of the Basel Convention (UNEP/CHW.8/INF/25) and terms upon which programme support costs are charged for the administration of the Basel Convention trust funds (UNEP/CHW.8/INF/36); and an information document entitled "Our sustainable future: the role of the Basel Convention" (UNEP/CHW.8/INF/33). The Committee also had before it an additional document on the results of a report by the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety on linkages between waste management and the reduction of climate change gases (UNEP/CHW.8/INF.12). The Executive Secretary noted that thanks to funding from the United Kingdom, a pilot resource mobilization workshop would be held in Nairobi from 3 to 7 December 2006. She drew attention to additional information on the proposed workshop (UNEP/CHW.8/INF/24), noting that it would be the first in what would be a series of regional workshops on the topic.

99. The first speaker to take the floor welcomed the fact that resource mobilization and sustainable funding would be discussed together, suggesting that it would allow the Parties to reach well integrated decisions. Noting that financial allocations were not always sufficient for developing countries to deal with environmental issues, he said that discussion was needed on the range of available options to improve access to existing sources of financing and on better ways to link the Basel Convention to the Millennium Development Goals.

100. A number of representatives welcomed the diversity of options presented in the documents and said that a range of mechanisms should be utilized in the implementation of the Basel Convention. Representatives from both developed and developing countries said that GEF was a good possible source of long-term sustainable financing, suggesting that the new GEF policy on chemicals management would improve the possibility of obtaining financing for Basel Convention activities and that GEF should be invited to provide more information to the Conference. Other avenues for obtaining funding suggested by speakers were the Clean Development Mechanism of the Kyoto Protocol, the Quick Start Programme of the Strategic Approach to International Chemicals Management, the Bali Strategic Plan for Technology Support and Capacity-building and the Montreal Protocol on Substances that Deplete the Ozone Layer. One representative noted that the Basel, Stockholm and Rotterdam Conventions should be coordinating their search for sources of funding. A number of representatives favoured looking closer to home, saying that the coverage and depth of the Basel Convention Trust Fund should be expanded to make it a more effective vehicle for assisting developing countries to fulfil their obligations under the Convention.

101. Another representative, while supporting a broad approach to the financing issue, noted that many available sources of funding had not been sufficiently utilized, perhaps owing to a lack of information in developing countries on what was available; the Secretariat thus needed to continue its efforts to provide information. A number of representatives said the Secretariat should play a stronger facilitating role in assisting countries to access funding. Another said that the most important point was to secure the political will to achieve a stable financial position and that the Conference of the Parties should help to secure the necessary cooperation.

102. A number of representatives from developing countries supported calls for increased funding to enable them to mainstream waste management into their national development plans. One representative noted that the incident in Côte d'Ivoire had highlighted the fact that the financial mechanisms for dealing with unpredictable waste disposal issues were inadequate. Another endorsed the establishment of new mechanisms if necessary to provide assistance in cases of emergency and compensation for damage resulting from transboundary movement of hazardous wastes and their disposal. Another said that it was important for developing countries to prioritize sound chemicals and waste management in their national development plans and to make them known to bilateral and multilateral funding sources.

103. The Committee agreed that the contact group established to prepare a draft budget decision would also further the work under the present sub-item and prepare a draft decision for the consideration of the Committee.

104. At the Committee's eighth session, on the evening of Friday, 1 December, the Committee considered a draft decision on resource mobilization and financing submitted by Finland on behalf of the European Community and its member States and Bulgaria and Romania, which had been circulated in a conference room paper following deliberations by the contact group. Following discussion, the Committee approved the draft decision, as orally amended, for consideration and possible adoption by the Conference.

105. At the time of the approval of that decision, the representative of China expressed regret that a suggestion made by his country during the contact group discussions, pursuant to which the decision would have requested the Secretariat to conduct a study exploring the possibility of the Basel Convention seeking funds from the Global Environment Facility during its fifth replenishment, had not been reflected in the draft decision. He said that such an effort was required because while the Convention had an increasingly heavy workload, most Parties did not seem willing to increase their contributions to the Convention's trust funds. In addition, efforts to seek funds from other external sources such as the Multilateral Fund for the Implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer were not likely to bear fruit. A number of other representatives expressed support for the statement.

106. In response, the representative of Finland, while agreeing that more reliable funding was needed, emphasized the importance of developing countries reflecting hazardous waste and Basel Convention issues in their national development plans so that donors might adhere to those plans in a coherent manner.

## **V. Work programme of the Open-ended Working Group (agenda item 9)**

107. The Committee took up the item at its eighth session, on the evening of Friday, 1 December. It had before it a note by the Secretariat on the work programme of the Open-ended Working Group for the biennium 2007–2008 (UNEP/CHW.8/11) as well as an information document on mercury waste and the Basel Convention (UNEP/CHW.8/INF/37). The Committee agreed to establish a contact group to consider the draft decision on the work programme contained in the Secretariat's note. The Committee also agreed that adoption of a decision on the work programme should await the outcome of discussions under way on the budget, as the latter would have implications for the former work programme. Finally, considering the lateness of the

hour, it agreed that following the deliberations of the contact group the item should be taken up directly by the Conference in plenary session.

## **VI. Compliance Committee (agenda item 10)**

108. The Committee took up the item at its fifth session, on Wednesday, 29 November. The Committee had before it a report from the Compliance Committee on its work in 2005–2006 and a proposed work programme for 2007–2008 (UNEP/CHW.8/12) and a note by the Secretariat on nominations to the Compliance Committee (UNEP/CHW.8/INF/14).

109. Mr. Watkinson, as Chair of the Committee for Administering the Mechanism for Promoting Implementation and Compliance (“the Compliance Committee”), presented a report on the work of the Committee during the period 2005–2006 and its proposed work programme for the period 2007–2008. He said that the Committee had held four sessions, the last in April 2006. No submissions had been received requiring action under paragraphs 19 or 20 of the terms of reference for the compliance mechanism but the Committee had been very active under the other provisions of the terms of reference and had established appropriate methods of working to deal with submissions should they arise. In addition, in accordance with paragraph 21 of the terms of reference and as requested by decision VII/30 of the Conference of the Parties, the Committee had identified and analysed, by means of a questionnaire and with the assistance of a consultant, difficulties relating to reporting obligations, designation and functioning of national competent authorities and focal points and development of national legislation to implement effectively the Basel Convention. Parties had also identified, through the questionnaire, priorities for action by the Committee, which had been considered in developing the work programme.

110. The Committee had also provided to the Secretariat comments on a draft checklist for preparation of national legislation and its members had participated in a number of events in their capacity as members of the Committee. The Committee had prepared a brief guide for Parties explaining its functions and procedures.

111. In response to queries about the financing of the Compliance Committee, the Secretariat said that its work programme was funded from voluntary contributions and that only meetings were funded from the operational core budget. One representative said that the Committee’s work programme should take into account the theme of the current meeting, i.e., the environmentally sound management of electronic wastes and that, given the importance of the compliance issue, the activities of the Committee should be funded from the core budget.

112. Following discussion of the draft decision contained in the note by the Secretariat (UNEP/CHW.8/12), the Committee approved it for consideration and possible adoption by the Conference.

## **VII. Other matters (agenda item 11)**

113. The Committee took up no other matters.

## **VIII. Closure of the sessions of the Committee of the Whole**

114. The Committee completed its consideration of the items entrusted to it by the Conference at 10.20 p.m. on 1 December 2006.

## Annex III

### **Statement by the President of the Conference of the Parties on the dumping of toxic wastes in Abidjan, Côte d'Ivoire, in August 2006**

The Conference expresses its deepest sympathy for the loss of innocent lives and commends the efforts of the Government of Côte d'Ivoire to address the grave consequences of the tragic incident of dumping of toxic wastes that happened in Abidjan, Côte d'Ivoire, in August 2006.

The Conference overwhelmingly condemns any illegal dumping that contravenes the provisions of the Basel Convention on the Transboundary Movement of Hazardous Wastes and Their Disposal.

The Conference, noting the limited international response so far to the call for urgent assistance and support made by the Government of Côte d'Ivoire and the enormous financial burden placed on Côte d'Ivoire calls for robust support from the international community to provide appropriate funding for remediation activities, monitoring and other measures necessary to safeguard public health and the environment, which have been badly affected.

The Conference emphasizes the importance of fully investigating and identifying the causes of the incident and ensuring that those found responsible by such investigations are held accountable for their acts and that appropriate compensation is made to the innocent victims in the spirit of the polluter pays principle.

The Conference recognizes that the incident in Côte d'Ivoire is a wake-up call to all Parties to the Convention and reiterates the need for increased commitment by the international community taking appropriate action to minimize and prevent similar incidences occurring in developing countries and ensuring strict compliance with and rigorous enforcement of multilateral environmental agreements and other international laws.

The Conference stresses the need to put in place stringent measures and to reinforce existing measures to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes.

The Conference observes that there is an urgent need for close coordination among Parties to the Convention to ensure that these measures are effective and expresses its collective resolve to prevent incidents like the dumping of waste in Côte d'Ivoire from occurring in the future.

The Conference stresses the need for appropriate instruments of the Basel Convention, including the amendment contained in its decision III/1 and the Protocol on Liability and Compensation, to enter into force. Furthermore, the Conference underscores the need to strengthen regional instruments such as the Bamako Convention on the Ban of the Import Into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa and calls on those States that have not yet ratified the Basel Convention to do so as soon as possible.

The Conference underscores the need for the international community:

(a) To support Côte d'Ivoire in the expeditious conclusion of ongoing investigations in order to establish the culpability of those responsible for the illegal dumping of toxic wastes;

(b) To support the clean-up activities being undertaken by Côte d'Ivoire, as well as the follow-up activities aimed at monitoring and addressing the long-term effects of the toxic wastes;

(c) To consider the international legal regimes established under the Basel Convention and the instruments of the International Maritime Organization, with a view to identifying and addressing any gaps.

## Annex IV

### **Nairobi declaration on the environmentally sound management of electrical and electronic waste**

*We, the Ministers and other heads of delegation from States,*

*Having met* in Nairobi, Kenya, from 27 November to 1 December 2006, on the occasion of the eighth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, and in particular during the World Forum on E-Waste,

*Acknowledging* that all countries benefit from increasing access to electrical and electronic products (e-products), including modern information and communications technologies and recognizing the importance of exploiting know-how and experience from different areas of the world regarding the recycling of electrical and electronic waste (e-waste),

*Noting* that the rapid expansion of the production and use of e-products results in an increase in the generation of used and end-of-life e-products and a rapid expansion in the transboundary movements of e-waste worldwide,

*Underlining* the fact that the Basel Convention provides an effective framework for developing strategic partnerships to continue discussing and exchanging views and experiences with a view to continuing to improve the environmentally sound management of e-waste worldwide,

*Concerned* about the risk to the environment and human health arising from international traffic in e-waste to countries, in particular developing countries that do not possess the capacity for the environmentally sound management of such wastes,

*Conscious* of the importance of minimizing the generation of e-waste and reducing transboundary movements of such waste,

*Mindful* of the opportunities, from an economic and social perspective, that recycling and recovery of used and end-of-life e-products can bring when properly managed in an environmentally sound manner throughout the life-cycle of such products,

*Recognizing* the importance of encouraging green design and extended producer responsibility in the life-cycle of electrical and electronic products,

*Fully aware* of the urgent need to strengthen enforcement and take further actions to prevent and combat illegal traffic in e-waste,

*Declare:*

1. That we shall promote awareness at all levels on the issue of e-waste challenges and solutions;
2. That we shall encourage and promote the exchange of information and the transfer of best available technologies for the environmentally sound management of e-waste from developed countries to developing countries and countries with economies in transition;
3. That we shall promote clean technology and green design for e-products, including the phase-out of hazardous substances used in production and included in components and shall promote product stewardship and extended producer responsibilities in the life-cycle management of electrical and electronic products;

4. That the Basel Convention is the main global instrument for guiding the environmentally sound management of hazardous e-waste and that its provisions need to be fully respected;

5. That illegal traffic in e-waste is a serious concern that requires urgent action in the context of the implementation of the Basel Convention;

6. That we shall encourage national, regional and global comprehensive actions for the environmentally sound management of e-waste and end-of-life equipment through shared responsibilities and commitments from all concerned stakeholders;

7. That we shall promote integrated waste management in order to reduce the harm caused by the hazardous components contained in e-waste by ensuring proper collection of end-of-life equipment and its separation from household or municipal waste, achieving this through cooperation with municipalities and non-governmental organizations and the full participation of the general public;

8. That we shall improve waste management controls through the establishment of robust national policies, legislation and diligent enforcement, including producers' and traders' responsibilities as well as take-back and recycling schemes and their targets;

9. That we shall prevent and combat illegal traffic of e-wastes, taking into account the benefits accrued through harmonization of national laws at the regional level;

10. That we shall encourage and support strategic partnerships initiated within the context of the Basel Convention targeting e-waste with a view to improving the environmentally sound management of e-products worldwide;

11. That we shall develop and consolidate national, regional, and international cooperation and programmes or initiatives to support the implementation of activities aimed at the environmentally sound management of e-waste utilizing, as appropriate, the Basel Convention regional centres;

12. That we welcome the Conference of the Parties' decision VIII/2 on the environmentally sound management of electrical and electronic waste.