

## BC-14/15: Committee Administering the Mechanism for Promoting Implementation and Compliance

### *The Conference of the Parties*

1. *Takes note* of the note by the Secretariat on the work of the Committee Administering the Mechanism for Promoting Implementation and Compliance,<sup>1</sup> and welcomes the work undertaken by the Committee since the thirteenth meeting of the Conference of the Parties;

### I

#### **Specific submissions regarding Party implementation and compliance**

2. *Welcomes* the resolution of implementation and compliance matters set out in six specific submissions;<sup>2</sup>

3. *Encourages* Parties concerned with a specific submission to cooperate with the Committee with a view to resolving the matter of concern;

4. *Welcomes* the report on the evaluation of the amendment to paragraph 9 (c) of the terms of reference of the mechanism for promoting implementation of and compliance with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal;<sup>3</sup>

5. *Notes that:*

(a) The Secretariat has successfully made use of the possibility provided under paragraph 9 (c) of the terms of reference to make 13 submissions to the Committee with respect to possible difficulties faced by Parties in complying with their obligations under Article 5 and under paragraph 3 of Article 13 of the Convention, all submissions have been deemed admissible by the Committee, and, as at 31 October 2018, 11 matters had been resolved;

(b) The Secretariat has not yet made use of the possibility, under the amended paragraph 9 (c) of the terms of reference, to make a submission to the Committee with respect to possible difficulties faced by any Party in complying with its obligations under paragraph 1 of Article 3, paragraph 1 (a) of Article 4 and paragraph 2 of Article 13 of the Convention;

(c) Whereas failure to comply with the obligations set out in paragraph 1 of Article 3, paragraph 1 (a) of Article 4 and paragraph 2 of Article 13 of the Convention affects the efficient implementation of the Convention, the obligation to transmit information to the Secretariat pursuant to these provisions only arises under specific circumstances at the national level, and such knowledge would need to be acquired by the Secretariat while it exercises its functions in accordance with Article 16 of the Convention; accordingly, unlike in instances where implementation of and compliance with Article 5 and paragraph 3 of Article 13 of the Convention are at stake, the Secretariat is not in a position to become aware of possible difficulties faced by any Party in complying with such obligations as a result of the mere lack of transmission of information to the Secretariat by a Party;

6. *Agrees*, accordingly, with the Committee's recommendation not to extend the possibility for the Secretariat to make a submission to the Committee with respect to possible difficulties faced by any Party in complying with its obligations under paragraph 1 of Article 3, paragraph 1 (a) of Article 4 and paragraph 2 of Article 13 of the Convention;

### II

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

##### **National reporting: individual compliance performance**

7. *Notes with concern* that, as at 15 June 2018, 75 Parties had not submitted their reports for the year 2014 and 81 Parties had not submitted their reports for the year 2015;

8. *Also notes with concern* that the overall rate of transmission of national reports since 2009 does not appear to have improved;

9. *Welcomes* the continued improvement in the completeness of national reports transmitted between 2010 and 2015;

<sup>1</sup> UNEP/CHW.14/13.

<sup>2</sup> The submissions regarding Cabo Verde, Eritrea, Guinea-Bissau, Libya and Turkmenistan, and the submission by Oman.

<sup>3</sup> UNEP/CHW.14/INF/20.

10. *Expresses its appreciation* to the 15 Parties that transmitted a complete report for 2014 on time, namely Andorra, Argentina, Armenia, Australia, Azerbaijan, Bulgaria, the Central African Republic, Estonia, Finland, Guinea-Bissau, Lithuania, Poland, Portugal, Singapore and South Africa, and to the 12 Parties that transmitted a complete report for 2015 on time, namely Australia, Azerbaijan, Bulgaria, Egypt, Estonia, Guatemala, Guinea-Bissau, Hungary, Poland, Saint Lucia, Slovakia and South Africa;

11. *Notes with concern* that the targets for the years 2014 and 2015 approved by the Conference of the Parties at its thirteenth meeting have not been met, with 8 per cent of reports due for 2014 and 6 per cent of reports due for 2015 transmitted complete and on time, against a target of 10 per cent, and with 14 per cent of reports for 2014 and 18 per cent of reports for 2015 transmitted complete, whether on time or late, against a target of 20 per cent;

12. *Acknowledges* that the problem of non-reporting, incomplete reporting and 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;

#### **National reporting: targets**

13. *Sets*, as a way of measuring progress in the overall implementation of and compliance with paragraph 3 of Article 13 of the Convention, the following interim targets for the reports: 25 per cent of reports due for 2016 and 2017 are transmitted complete and on time; and 50 per cent of reports due for 2016 and 2017 are transmitted complete, whether on time or late;

#### **National reporting: guidance**

14. *Adopts* the benchmark report aimed at facilitating reporting under paragraph 3 of Article 13 of the Basel Convention – examples reflecting Parties' good practices,<sup>4</sup> and the revised guidance on improving national reporting,<sup>5</sup> and encourages Parties to use them;

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

15. *Welcomes* the report on the status of reporting and how to improve the timeliness and completeness of reporting;<sup>6</sup>

16. *Decides* to explore how to integrate national reporting into the United Nations Development Assistance Framework, as provided for in the work programme of the Committee for 2020–2021;

17. *Requests* the Secretariat to expand its technical assistance activities aimed at supporting Parties in transmitting their national reports, including country-level technical assistance activities, targeting both the development of inventories and the development of adequate legal and institutional frameworks;

18. *Encourages* Parties that have not transmitted complete national reports on time and that seek support from the Special Programme to support institutional strengthening at the national level for implementation of the Basel, Rotterdam and Stockholm conventions, the Minamata Convention and the Strategic Approach to International Chemicals Management to include in their application specific deliverables on the transmission of reports pursuant to paragraph 3 of Article 13 of the Convention;

19. *Invites* the Committee to consider elaborating and further assessing measures not included under paragraphs 20 (a) and (b) of the terms of reference of the Committee that may be required when a Party has not submitted its national report for two or more years since the report due in 2016, and to report to the Conference of the Parties at its fifteenth meeting;

20. *Emphasizes* the importance of the transmission of national reports for measuring progress towards the goals and objectives of the Basel Convention strategic framework for 2012–2021 as well as towards achieving the Sustainable Development Goals, in particular using indicator 12.4.1 (number of parties to international multilateral environmental agreements on hazardous waste and other chemicals that meet their commitments and obligations in transmitting information as required

<sup>4</sup> UNEP/CHW.14/13/Add.4/Rev.1.

<sup>5</sup> UNEP/CHW.14/13/Add.1.

<sup>6</sup> UNEP/CHW.14/INF/21.

by each relevant agreement) and indicator 12.4.2 (hazardous waste generated per capita and proportion of hazardous waste treated, by type of treatment);

21. *Also emphasizes* the importance of accessing funding, inter alia, through the implementation fund for Parties concerned with a submission to come into compliance with the national reporting obligation, and the importance of targeting financial resources for that purpose;

22. *Further emphasizes* the number of submissions to the Committee that the Secretariat could be in a position to make owing to possible difficulties faced by Parties in meeting their national reporting obligations;<sup>7</sup>

### **National legislation**

23. *Adopts* the guide for the development of national legal frameworks to implement the Basel Convention;<sup>8</sup>

24. *Encourages* entities undertaking activities aimed at assisting Parties to review or develop legislation implementing the Convention to:

- (a) Offer specific support to individual Parties for the development of their legal frameworks;
- (b) Use the best practices identified in responses to the Secretariat's questionnaire;<sup>9</sup>
- (c) Use the relevant guidance adopted by the Conference of the Parties, as well as relevant technical assistance tools developed by the Secretariat;
- (d) Cooperate with the Committee in its work to fulfil its mandate to continuously monitor and oversee activities by organizations to support Parties in reviewing or developing their legal frameworks aimed at implementing the Basel Convention;

### **Insurance, bond and guarantee**

25. *Takes note* of the work done on the guidance to improve the implementation of paragraph 11 of Article 6 of the Convention, on insurance, bond and guarantee;<sup>10</sup>

26. *Requests* the Committee to invite comments from Parties and others on the guidance by 30 September 2019, to review and update the guidance, as needed, for consultation with the Open-ended Working Group at its twelfth meeting, and to prepare a revised version of the guidance for consideration and possible adoption by the Conference of the Parties at its fifteenth meeting;

### **Review of the operation of the implementation fund**

27. *Takes note* of the report on the review of the operation of the implementation fund and the conclusions set out therein;<sup>11</sup>

## **III**

### **Work programme for the biennium 2020–2021**

28. *Approves* the work programme of the Committee for the biennium 2020–2021 set out in the annex to the present decision;

29. *Requests* the Committee:

- (a) To establish priorities, work methods and schedules for the activities in its 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;
- (b) To consult Parties, in advance of the fifteenth meeting of the Conference of the Parties, on an annotated draft work programme for the biennium 2022–2023;
- (c) To report to the Conference of the Parties at its fifteenth meeting on the work that it has carried out to fulfil its functions in accordance with paragraphs 23 and 24 of the terms of reference of the mechanism for promoting implementation and compliance;

<sup>7</sup> See UNEP/CHW.14/INF/21, paras. 16 and 17.

<sup>8</sup> UNEP/CHW.14/13/Add.2/Rev.1.

<sup>9</sup> See UNEP/CHW/CC.13/INF/11, annex, appendix I, sect. III.4 of the questionnaire.

<sup>10</sup> UNEP/CHW.14/13/Add.3.

<sup>11</sup> UNEP/CHW.14/INF/22.

## IV

**Election of members of the Committee**

30. *Elects*, in accordance with the terms of reference of the mechanism for promoting implementation and compliance with the Basel Convention,<sup>12</sup> the following members to serve on the Committee until the close of the sixteenth meeting of the Conference of the Parties:

## African States:

Mr. Paul-Babidou Zarabingui (Central African Republic)

Mr. Florisvindo Jaimilito Rodrigues Furtado (Cabo Verde)

## Asia-Pacific States:

Mr. Mohamed Aman (Bahrain)

Mr. Hamed Alinejad (Iran, Islamic Republic of)

## Central and Eastern European States:

Mr. Flavius Mihai Ardelean Motoc (Romania)

Ms. Gordana Vesligaj (Croatia)

## Latin American and Caribbean States:

Ms. Jimena Nieto Carrasco (Colombia)

Ms. Odessa Duncan (Guyana)

## Western European and other States:

Mr. Mark Govoni (Switzerland)

Ms. Nicole Mohammed (United Kingdom of Great Britain and Northern Ireland).

<sup>12</sup> See appendix to decision VI/12.

## Annex to decision BC-14/15

### Work programme of the Committee Administering the Mechanism for Promoting Implementation and Compliance for the biennium 2020–2021

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

<i>Objective</i>	<i>Activity</i>
<b>1. National reporting</b> Improve timely and complete national reporting under paragraph 3 of Article 13 of the Convention	<p>(a) Classify and, as appropriate, publish information on Parties' compliance with their annual national reporting obligations for 2016 and 2017 based on the assumptions, criteria and categories adopted by the Conference of the Parties at its thirteenth meeting<sup>13</sup> and the targets adopted by the Conference of the Parties at its fourteenth meeting;<sup>14</sup></p> <p>(b) Develop recommendations on the revision of targets referred to in paragraph 13 of decision BC-14/15 for the reports due for 2018 and subsequent years;</p> <p>(c) With a view to increasing the completeness and timeliness of national reporting under paragraph 3 of Article 13, explore how individual Parties can integrate national reporting needs under the Basel Convention into the United Nations Development Assistance Framework;</p> <p>(d) Monitor the activities undertaken by or with the support of the Basel Convention regional and coordinating centres, the United Nations Environment Programme and other entities aimed at assisting Parties to transmit national reports and develop recommendations on improving implementation and compliance with paragraph 3 of Article 13 of the Convention;</p> <p>(e) Develop recommendations on how best to make use of the information contained in the national reports as a means of improving timeliness and completeness of national reporting under paragraph 3 of Article 13 of the Basel Convention.</p>
<b>2. Illegal traffic</b> Prevent and combat illegal traffic	<p>(a) Based on the information provided by Parties in table 9 of their national reports, the forms for confirmed cases of illegal traffic notified to the Secretariat and information provided by relevant international organizations and entities such as the International Criminal Police Organization, World Customs Organization, United Nations Office for Drugs and Crime, United Nations Environment Programme, United Nations University, Organization for Security and Cooperation in Europe, Basel Convention regional and coordinating centres and European Union Network for the Implementation and Enforcement of Environmental Law, undertake a scoping exercise of the extent of illegal traffic with a view to estimating: (i) how many cases of illegal traffic there are; (ii) with respect to which wastes; (iii) in which regions; and (iv) how they were resolved;</p> <p>(b) To better assist Parties to enhance coordination between their competent authorities and enforcement entities, taking into account the information set out in document UNEP/CHW.14/23–UNEP/FAO/RC/COP.9/19–UNEP/POPS/COP.9/26, develop a better understanding of the reasons for: (i) any shortcomings in establishing coordination mechanisms; (ii) the limited amount of information on illegal traffic shared with the Secretariat; and (iii) what can be done to enhance coordination and increase the flow of information;</p>

<sup>13</sup> Decision BC-13/9, para. 12.

<sup>14</sup> Decision BC-14/15.

Objective	Activity
	<ul style="list-style-type: none"> <li>(c) Establish a dialogue with other multilateral environmental agreements with international trade control regimes to learn from their experience;</li> <li>(d) Review the information provided by Parties in response to question 1 (c) of the reporting format and make recommendations to improve the implementation of paragraphs 3 and 4 of Article 4 of the Convention as they relate to preventing and combating illegal traffic;</li> <li>(e) Review existing cooperative arrangements with international organizations or entities with a mandate regarding preventing and combating illegal traffic (including the International Criminal Police Organization, World Customs Organization, United Nations Office for Drugs and Crime, United Nations Environment Programme, United Nations University, Organization for Security and Cooperation in Europe, Basel Convention regional and coordinating centres and European Union Network for the Implementation and Enforcement of Environmental Law), including the terms of reference of the Environmental Network for Optimizing Regulatory Compliance on Illegal Traffic (ENFORCE), with a view to strengthening such arrangements;</li> <li>(f) Explore modalities for disseminating, especially to enforcement entities, existing guidance and technical assistance tools developed under the Convention to assist Parties to prevent and combat illegal traffic;</li> <li>(g) Oversee the activities undertaken under the Convention to prevent and combat illegal traffic more effectively and develop recommendations to improve implementation and compliance with Article 9 of the Convention.</li> </ul>
<b>3. National legislation</b> Improve implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention	<ul style="list-style-type: none"> <li>(a) Invite Parties to undertake a self-review of their legislation for implementing the Convention, using the legislator's checklist,<sup>15</sup> and to consider general trends;</li> <li>(b) Monitor progress achieved by Parties in transmitting to the Secretariat texts of national legislation and other measures adopted by them to implement and enforce the Convention;</li> <li>(c) Monitor requests for information received by the Secretariat from Parties aimed at facilitating the development and review of national legal frameworks, as well as the technical assistance activities of the Secretariat aimed at promoting the implementation of paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention;</li> <li>(d) Monitor activities undertaken by or with the support of the Basel Convention regional and coordinating centres, the United Nations Environment Programme and other entities aimed at assisting Parties to develop legal frameworks for the implementation of the Basel Convention;</li> <li>(e) Develop recommendations on how to improve implementation of and compliance with paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention, taking into account activity 2 (d) of the work programme.</li> </ul>
<b>4. Control system</b> Improve the implementation of and compliance with Article 6 of the Convention	<ul style="list-style-type: none"> <li>(a) Review the information provided by Parties in response to questions 3 (g) and 3 (h) of the reporting format;</li> <li>(b) Finalize guidance on the implementation of paragraph 4 of Article 6 of the Convention<sup>16</sup> by inviting and taking into account any additional comments from Parties and observers, including the World Customs Organization, through consultation with the Open-ended Working Group and through targeted exchanges with the United Nations Division for Ocean Affairs and the Law of the Sea, for consideration and possible adoption by the Conference of the Parties at its fifteenth meeting.</li> </ul>

<sup>15</sup> See Manual for the Implementation of the Basel Convention, annex I.

<sup>16</sup> UNEP/CHW.14/INF/26.

<i>Objective</i>	<i>Activity</i>
<b>5. Review and updating</b> Generally improve the implementation of and compliance with the Convention	Regularly review the guidance on legal matters developed by the Committee (e.g., the Manual for the Implementation of the Basel Convention, the guide to the control system and the guidance on illegal traffic), based on periodic feedback from users and suggestions from stakeholders and in the light of decisions adopted by the Conference of the Parties, and make recommendations to the Conference of the Parties on their updating.

## II. Specific submissions regarding Party implementation and compliance

1. The Committee shall accord priority to dealing with specific submissions regarding Party implementation and compliance received or initiated in accordance with paragraph 9 of the terms of reference of the mechanism for promoting implementation and compliance.
2. In relation to the implementation fund, the Committee shall make recommendations to the Executive Secretary on the allocation of the available resources from the implementation fund during the period between the fourteenth and fifteenth 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. The resources are intended to fund activities listed in the compliance action plans presented by Parties in relation to specific submissions and approved by the Committee.