



CONVENTION DE BALE

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**Conférence des Parties à la Convention de Bâle
sur le contrôle des mouvements transfrontières
de déchets dangereux et de leur élimination**

Neuvième réunion

Bali, 23-27 juin 2008

Point 7 i) de l'ordre du jour provisoire*

**Application des décisions adoptées par la Conférence des Parties
à sa huitième réunion : questions juridiques**

**Mise en œuvre de la décision V/32 sur l'élargissement de la portée du
Fonds d'affectation spéciale destiné à aider les pays en
développement et autres pays nécessitant une assistance à mettre en
œuvre la Convention de Bâle**

Note du secretariat

I. Introduction

1. Par sa décision V/32, la Conférence des Parties a créé un mécanisme d'urgence pour aider les Parties pays en développement ou pays à économie en transition en cas d'urgence et d'indemnisation pour les dommages résultant d'accidents découlant de mouvements transfrontières de déchets dangereux et d'autres déchets ou de leur élimination. Par sa décision VIII/10, la Conférence des Parties chargeait le Groupe de travail à composition non limitée de passer en revue la mise en œuvre de la décision V/32 et de fournir au secrétariat des orientations sur les mesures à prendre. Par sa décision OEWG-VI/14, le Groupe de travail à composition non limitée priait le secrétariat, entre autres, de transmettre les enseignements qu'il a tirés de toute assistance d'urgence éventuelle à la Conférence des Parties pour l'aider dans son examen de la mise en œuvre de la décision V/32.

II. Mise en oeuvre

2. Comme le demandait la décision OEWG-VI/14, le secrétariat a recensé les enseignements qu'il a tirés de son expérience en matière d'assistance d'urgence : rapidité des procédures prévues dans le cadre du mécanisme, adéquation des ressources disponibles à utiliser au titre du mécanisme et coopération avec d'autres organisations et agences internationales pour répondre à une situation d'urgence.

* UNEP/CHW.9/1.

3. Le secrétariat a révisé le projet de formulaire type pour la présentation de demandes d'assistance conformément à la décision V/32 sur la base des observations reçues en réponse à la décision OEWG-VI/14. Ce projet de formulaire révisé figure en annexe au projet de décision pour examen par la Conférence des Parties.
4. L'annexe I¹ à la présente note donne des informations détaillées sur la mise en œuvre des décisions ci-dessus. Les questionnaires remplis soumis conformément à la décision OEWG-VI/14 et donnant des informations relatives à des incidents tels que définis à l'alinéa h) du paragraphe 2) de l'article 2 du Protocole sur la responsabilité et l'indemnisation en cas de dommages résultant d'incidents dus à des mouvements transfrontières de déchets dangereux et autres déchets et de leur élimination font l'objet du document UNEP/CHW.9/INF/26.

III. Mesures proposées

5. La Conférence des Parties souhaitera peut-être adopter une décision libellée comme suit :

La Conférence des Parties,

1. *Prie* le Groupe de travail à composition non limitée de passer en revue la mise en œuvre de la décision V/32 et d'élaborer des recommandations au sujet de la rapidité des procédures prévues dans le cadre du mécanisme, de l'adéquation des ressources disponibles à utiliser au titre du mécanisme et de la coopération avec d'autres organisations et agences internationales pour répondre à une situation d'urgence et de transmettre ces recommandations à la Conférence des Parties pour examen à sa dixième réunion;
2. *Adopte* le formulaire type pour la présentation de demandes d'assistance conformément à la décision V/32 figurant en annexe à la présente décision;
3. *Prie* le secrétariat de publier le formulaire type pour la présentation de demandes, dans les six langues officielles de l'Organisation des Nations Unies, sur le site Internet de la Convention de Bâle;
4. *Prie instamment* les Parties de fournir des contributions au Fonds d'affectation spéciale pour la coopération technique afin de soutenir les activités visées dans les parties 1 et 3 des Directives provisoires pour la mise en œuvre de la décision V/32, élargissement de la portée du Fonds d'affectation spéciale pour la coopération technique.²

Annexe à la décision IX/...

Projet de formulaire type révisé pour la présentation de demandes d'assistance d'urgence au Fonds d'affectation spéciale pour la coopération technique par des pays en développement et autres pays ayant besoin d'une assistance

DETAILS CONCERNANT L'ETAT QUI DEMANDE L'ASSISTANCE	
Nom du pays demandant une assistance :	
Nom et adresse de l'autorité présentant la demande y compris les détails relatifs au correspondant de la Convention de Bâle et au contact pour cette demande : <i>(Veuillez indiquer le nom complet, l'adresse, les numéros de téléphone et de fax et l'adresse électronique)</i>	
Nom et contacts de toute autre organisation des Nations Unies ou des autres organismes contactés à propos de cet incident :	

¹ Par souci d'économie, l'annexe n'est disponible qu'en anglais et n'a pas été officiellement éditée.

² Voir l'annexe du document UNEP/CHW.6/40.

DETAILS TECHNIQUES CONCERNANT L'INCIDENT ET LES PERSONNES IMPLIQUEES	
Date et lieu de l'incident : <i>(Veuillez annexer une carte et/ou d'autres moyens permettant d'identifier le lieu où s'est produit l'incident et/ou un dessin ou autre support de l'incident, par ex. des photographies de la pollution ou du dommage causé)</i>	
Information définissant le matériel concerné comme déchet (en particulier par ex. lorsqu'il n'y a pas de document d'accompagnement de l'expédition le déclarant comme tel) :	
Détails spécifiques relatifs à l'incident, notamment : i) Description de la façon dont l'incident s'est produit, qui était impliqué; ii) Quand a-t-il été découvert et par qui; iii) Les déchets concernés avaient-ils fait l'objet d'un consentement donné par écrit en vertu de la procédure de notification de la Convention de Bâle; iv) Toutes données tirées des échantillons prélevés.	
Description des déchets dangereux ou autres déchets concernés (nom, origine, constitution physique, principaux constituants, contaminants typiques, volume/quantité, code du déchet) et type d'emballage et d'étiquetage³ : <i>(Veuillez fournir des photographies)</i>	
Type et étendue des dommages qui sont survenus ou qui risquent de survenir (par ex. facteurs de dilution, problèmes de dispersion, vitesse de propagation : <i>(Si des modèles de trajectoire sont utilisés, veuillez donner des détails succincts)</i>	
Noms et rôles des autres Etats impliqués dans les mouvements transfrontières en question (par ex. Etat d'origine, de transit ou de destination) et noms des autorités compétentes appropriées : <i>(Veuillez indiquer le nom complet, l'adresse, les numéros de téléphone et de fax et l'adresse électronique)</i>	
Noms et adresses des personnes impliquées dans les mouvements transfrontières en question (par ex. exportateur, importateur, notificateur, transporteur, éliminateur) : <i>(Veuillez indiquer le nom complet, l'adresse, les numéros de téléphone et de fax et l'adresse électronique)</i>	

Noms et adresses des assureurs ⁴ , s'il y a lieu : (Veuillez indiquer le nom complet, l'adresse, les numéros de téléphone et de fax et l'adresse électronique)	
MESURES A PRENDRE POUR LESQUELLES UNE ASSISTANCE EST DEMANDEE	
Mesures prises pour faire face à l'incident :	
Demandes d'assistance émanant d'autres pays impliqués dans l'incident :	
Toute information pertinente juridique ou autre, par exemple si une enquête de trafic illicite est en cours au sujet de l'incident qui pourrait comprendre le rassemblement ou l'utilisation de ces informations comme preuve :	
Mesures préventives nécessaires pour atténuer les dommages :	
Ventilation des coûts de ces mesures préventives et autres :	
Type d'assistance d'urgence requise, par ex. aide financière, matériels, équipement, expertise ou autres ressources (il serait utile d'indiquer un ordre de priorité et un calendrier) :	

Signature :

Fonction (par ex. Directeur, Ministre, etc.) :

Au nom de (nom du Gouvernement) :

Date :

Veuillez soumettre cette demande à :

UNEP-SBC
 15, chemin des Anémones
 1219 Châtelaine, Genève
 Suisse
 Tél : +41 22 917 82 18
 Fax : +41 22 797 34 54
 Courriel : sbc@unep.ch

⁴ En vertu du paragraphe 11 de l'article 6 de la Convention de Bâle.

Annexe I

Detailed report on implementation of decisions V/32 and OEWG-VI/14

1. By its decision VIII/10, the eighth meeting of the Conference of the Parties mandated the Open-ended Working Group to review the implementation of decision V/32 and provide guidance to the Secretariat on steps to be taken, which may include the development of a strategic plan to strengthen the capacity of countries to respond to emergencies and the transmittal of a questionnaire regarding incidents as defined under paragraph 2(h) of article 2 of the Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal.
2. At its sixth session, the Open-ended Working Group adopted decision OEWG-VI/14 which invited Parties to submit responses to a questionnaire seeking information regarding incidents as defined under article 2, paragraph 2 (h) of the Protocol on Liability and Compensation from Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal. The responses to the questionnaire received by the Secretariat from Parties have been compiled and are contained in document UNEP/CHW.9/INF/26.
3. By the same decision the sixth session of the Open-ended Working Group invited Parties to provide comments and suggestions on the draft form for requests for assistance under decision V/32. The Secretariat revised the draft form for requests for assistance on the basis of comments received from Paraguay, Trinidad and Tobago and the United Kingdom. The revised draft is set out in the annex to the draft decision submitted for consideration by the Parties.
4. The Open-ended Working Group also invited Parties to provide comments and suggestions to the Secretariat on steps to be taken to review the implementation of decision V/32. No comments were received from Parties in response to this invitation.
5. In transmitting the comments and suggestions on steps to be taken to review the implementation of decision V/32, the Secretariat was requested by the Open-ended Working Group to transmit its lessons learned on any case for emergency assistance, such as that of Côte d'Ivoire, including on the adequacy of technical and financial assistance which may be provided under decision V/32. The Secretariat's report on lessons learned from its experience in utilising the emergency assistance mechanism established by decision V/32 of the fifth meeting of the Conference of the Parties, and the corresponding guidelines thereon adopted by decision VI/14 of the sixth meeting of the Conference of the Parties ("the interim guidelines") is set forth in section B below.

A. Background

6. By its decision V/32, the Conference of the Parties decided to enlarge the scope of the Technical Cooperation Trust Fund of the Basel Convention to assist the Contracting Parties which are developing countries or countries with economies in transition in cases of emergency and compensation for damages resulting from incidents arising from transboundary movements of hazardous wastes and other wastes and their disposal ("V/32 mechanism"). The scope of the Technical Cooperation Trust Fund was accordingly enlarged to:
 - i) assist Parties which are developing countries or countries with economies in transition in case of an incident occurring during a transboundary movement of hazardous wastes or other wastes, so as to:
 - a) estimate the magnitude of damage occurred or damage that may occur and the measures needed to prevent damage;
 - b) to take appropriate emergency measures to prevent or mitigate the damage;
 - c) to help find those Parties and other entities in a position to give the assistance needed;
 - ii) provide compensation for damage to and reinstatement of the environment to Parties which are developing countries or countries with economies in transition, where damage occurs that is covered by the Liability and Compensation Protocol ("the Protocol"), up to the limits provided for in the Protocol, where such compensation and reinstatement is not adequate under the Protocol (only to be operational once the Protocol enters into force); and

iii) assist a Party which is a developing country or country with an economy in transition in developing its capacity-building and transfer of technology and in putting in place measures to prevent accidents and damage to the environment caused by the transboundary movement of hazardous wastes and other wastes and their disposal.

7. The interim guidelines provide for a series of procedures through which emergency assistance can be sought by Parties and, following which, emergency assistance can be rendered.

B. Lessons learned

8. The V/32 mechanism has only been triggered once to provide assistance to Côte d'Ivoire following an incident which involved the dumping of hazardous materials in September 2006. Accordingly, the Secretariat's experience in administering the V/32 mechanism is limited to the purposes identified in paragraph 7(i) above, to which Part I of the interim guidelines relates.

9. The request for assistance from Côte d'Ivoire related to the dumping of hazardous substances at several sites around the district of Abidjan on 18 and 19 August 2006. The Government of Côte d'Ivoire issued a general request for assistance to the Secretariat on 30 August 2006. Following consultations with the Secretariat on the procedures set forth in the interim guidelines, the Government of Côte d'Ivoire issued a formal request for assistance on 25 September 2006.

10. The Secretariat consulted the Expanded Bureau in accordance with the existing procedures. The third meeting of the Expanded Bureau of the seventh meeting of the Conference of the Parties, which happened to be meeting on 6 to 7 October 2006, supported the provision of emergency assistance to Côte d'Ivoire under decision V/32, to the extent that the matter fell within the scope of the Basel Convention. To this end, a rapid assessment mission under the emergency mechanism was carried out from 20 November to 1 December 2006.

11. The Secretariat's experiences in administering the V/32 mechanism may be clustered as follows:

- i) the expediency of the procedures under the mechanism;
- ii) the adequacy of resources available for use under the mechanism; and
- iii) cooperation with other international organizations and agencies in responding to an emergency situation.

i) Expediency of the procedures under the mechanism

12. Prior to requesting emergency assistance, the interim guidelines provides for the requesting Party to first;

- i) try to solve the problems with its own means;
- ii) take measures under the national system for emergency assistance in response to incidents, where such a system exists. If these measures are not sufficient the request for assistance may be made. The request must supply information specified in the guidelines.

13. The Secretariat found that it took time for the requesting authority to source the relevant information which needs to be included in a request for assistance before it can be properly considered. The information required to be submitted by the requesting authority includes such details as, the description of hazardous wastes or other wastes involved, names of states involved in the transboundary movement, and the type and extent of damage that occurred or is likely to occur. While the interim guidelines provides for such information to be supplied in so far as it is known by the requesting authority, the Secretariat found that a number of weeks passed before a formal request for assistance that met the requirements under the interim guidelines was received.

14. The Executive Secretary is required to consult with the Expanded Bureau and contributors to the Technical Cooperation Trust Fund in determining a response to the request for assistance.

15. The Secretariat found that its ability to promptly respond to the request for assistance submitted by Côte d'Ivoire was limited by the need to first consult with the Expanded Bureau and relevant donors. In the case of the request for the Côte d'Ivoire, the Expanded Bureau was able respond fairly rapidly to this request. This was, however, largely due to the fact that the Expanded Bureau happened to have a meeting scheduled in the weeks following the receipt of the request. The Secretariat found that many of the contributors were prompt to respond to consultations with the Executive Secretary so as to enable these contributions to be released to support the emergency assistance activities.

16. It is noted, however, that the emergency assistance envisaged by the V/32 mechanism includes (i) a rapid assessment to estimate the magnitude of damage that has occurred or damage that may occur and the measures needed to mitigate and prevent (further damage); (ii) emergency measures to prevent or mitigate the damage; (iii) broker activities to help find those Parties and other entities in a position to give the assistance needed. The emergency assistance activities envisaged thus need to be put in place very soon after the occurrence of the incident, in order to effectively respond to, prevent, and mitigate, any damage which has been caused. However, two months elapsed between the incident and the mission. The Secretariat considers this resulted from the procedures established by the interim guidelines. Accordingly, the outcome of the mission's findings were applied to develop medium to long-term recommendations to prevent future such emergency situations by, for example, improving the capacity of Côte d'Ivoire to respond to similar incidents.

Lessons learned:

17. Accordingly, the procedures set forth in the interim guidelines for the submission of requests for assistance, and the consultations to be undertaken by the Secretariat in acceding to such a request, are not flexible in nature and they prevent the rapid emergency assistance activities which appear to have been intended by the interim guidelines.

ii) Adequacy of resources available for use under the mechanism

18. As of 9 April 2008, a total sum of USD 302,080 was available in the Technical Cooperation Trust Fund ("the Fund") for use under the V/32 mechanism. Such funds are derived from contributions provided by eight donor countries.

19. Under the financial rules set forth in the interim guidelines, the Executive Secretary may apply no more than 30 per cent of the amount of funds available in the Fund at any given time to a single case. The Fund should have a reserve of 30 per cent for the next possible case and 10 per cent should never be used, except with express approval of the Expanded Bureau. On this basis, and on the basis of the funds currently available in the Fund, an amount of USD 90,624 can be applied to a single case.

Lessons learned:

20. The amount of funds which are available for use thus determines the scale by which emergency assistance can be rendered. The emergency assistance mission that was conducted in Côte d'Ivoire was modest in nature, in light of the funds available at the time. More comprehensive and responsive assistance to prevent and mitigate the short-term effects of the incident would have required resources beyond that which was available in the Fund for this case, noting the potential magnitude of emergency response activities to address a incident involving hazardous wastes.

21. It is noted that the interim guidelines provide for the Expanded Bureau to waive the limits on payments in respect of each incident in exceptional circumstances. However, the interim guidelines do not specify the criteria for an "exceptional circumstance".

iii) Cooperation with other international organizations and agencies in responding to an emergency situation

22. Under the interim guidelines, the Secretariat is to undertake broker activities which would include: helping find those Parties and other entities in a position to give the assistance needed; to act as a broker between the country that is the victim of an incident and potential donors (financial or in-kind); to maintain a list of and establish contact with entities, such as other international organizations involved in the field of emergency response, research institutions, private companies, non-governmental organizations or public institutions, with expertise in the relevant fields of emergency response; and to encourage and facilitate, bilateral or multilateral assistance arrangements among and between Parties.

23. The interim guidelines further note the role to be played by the UNEP/OCHA Environment Unit. The interim guidelines recalls the mandate of UNEP/OCHA which is to improve the international response to environmental emergencies by serving as a clearing-house for information and a switchboard for disaster notification, and alerting and acting as a broker between affected donor countries. The interim guidelines thus provide that the Secretariat should use the services provided by the Joint UNEP/OCHA Environment Unit in offering its emergency assistance.

24. In respect of the emergency assistance offered to Côte d'Ivoire, the Secretariat enjoyed close and effective cooperation with the UNEP/OCHA Environment Unit. In particular, the Secretariat and the UNEP/OCHA Environment Unit exchanged information so as to avoid duplication and to ensure that each entity was kept informed of the activities of the other. The Secretariat found that the UNEP/OCHA Environment Unit was better equipped to offer rapid emergency response to the incident, as it had greater field presence and operational structures. The Secretariat, on the other hand, had the technical expertise necessary to address the hazardous materials in question.

25. It is noted that other international organizations were also providing emergency assistance in response to the incident, within the remits of their particular competence, e.g. health implications of the incident.

26. Given the limited resources by which the Secretariat was able to offer rapid emergency assistance in response to this incident, the Secretariat sought to provide support to the emergency response operations of other international organizations and entities, in addition to the technical assistance mission which it undertook in November-December 2006.

Lessons learned:

27. The Secretariat found that it was possible to cooperate positively with other international organizations in responding to emergency situations. However, extensive information exchange is necessary to coordinate activities so as to ensure there is no duplication of efforts. Furthermore, the Secretariat found that cooperating with other international organizations served to alleviate the limitations placed on the V/32 mechanism due to the lack of resources and lengthy procedures to be followed before emergency assistance can be rendered.
