



环境署

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巴塞尔公约

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## 控制危险废物越境转移及其处置巴塞尔公约

### 缔约方会议

### 第九次会议

2008年6月23—27日，巴厘

临时议程\*项目11

### 其他事项

## 缔约方会议第十一次会议（2012）的组织和《公约》第15条第7款

### 秘书处的说明

## 一. 引言

1. 《巴塞尔公约》第15条第7款规定：“缔约国会议应于本公约生效三年后并至少在其后每六年对其有效性进行评价，并于认为必要时，参照最新的科学、环境、技术和经济资料，审议是否全部或局部禁止危险废物和其他废物的越境转移。”

## 二. 执行情况

2. 在《公约》生效三年以后于1995年9月举行的第三次会议上，缔约方会议收到了一份评价《巴塞尔公约》成效的研究报告。<sup>1</sup>缔约方会议在审议了该研究报告以后通过了第 III/10号决定，并在该决定中邀请非缔约方批准《公约》，以便推动普遍应用《公约》。此后没有对《公约》的成效进行过任何审查。

3. 本说明附件一<sup>2</sup> 就为缔约方会议2012年第十一次会议评价《公约》的成效作准备的一个可能进程提供了进一步的资料。附件二<sup>2</sup> 以图解的形式载列了这一进程的可能框架。

\* UNEP/CHW.9/1。

<sup>1</sup> UNEP/CHW.3/INF.7。

<sup>2</sup> 为了节约起见，附件仅以英文分发，未作正式编辑。

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### 三. 拟议的行动

#### 4. 缔约方会议不妨按照以下案文通过一项决定：

*缔约方会议，*

*注意到* 2012年将是《巴塞尔公约》生效20周年，

1. *决定* 应该按照《公约》第15条第7款在缔约方第十一次会议上评价《公约》的成效；

2. *请* 秘书处就缔约方会议第十一次会议评价《公约》的成效的筹备过程编写一份建议，供不限成员名额工作组下次会议审议，该建议，除了其他事项以外，应该：

(a) 注意到《公约》及其机构已经在或将在缔约方会议的指导下展开的任何有关业务评估活动，

(b) 注意到与《巴塞尔公约》运作有关的任何其他活动或事态发展，

(c) 酌情提议可有助于缔约方会议在第十一次会议上评估《公约》成效的进一步的活动或试验方案，

(d) 确定缔约方会议第十一次会议可用来衡量《公约》成效的可能指标，

(e) 确定可能与关于《公约》成效评价筹备过程的建议中的每项内容有关的任何其他费用；

3. *邀请* 缔约方和其他各方在2009年……之前向秘书处转交可有助于《公约》成效评价筹备工作的意见和有关资料，并请秘书处汇编这种意见和资料，并提交不限成员名额工作组下一次会议审议；

4. *请* 不限成员名额工作组：

(a) 针对《公约》成效评价筹备过程编制一项建议，同时考虑到秘书处编制的建议和从缔约方和其他各方收到的任何意见和资料，

(b) 将这种建议提交缔约方会议第十次会议审议；

5. *吁请* 有能力的所有缔约方和其他利益攸关者提供财政或实物捐助，以便协助：

(a) 编制一份关于《公约》成效评价筹备过程的建议，

(b) 酌情制定进一步的活动或试验方案，以便协助缔约方按照最新的科学、环境、技术和经济资料，评价《公约》的成效并审议提高《公约》成效的可能机制。

## Annex I

### Possible process to prepare for an evaluation of the effectiveness of the Convention by the Conference of the Parties at its eleventh meeting in 2012

#### I. Procedural history

1. Paragraph 7 of Article 15 of the Basel Convention provides that the “Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.”<sup>3</sup>
2. Three years after the entry into force of the Convention, the Conference of the Parties received a study on the “Evaluation and Effectiveness of the Basel Convention and the Control of Transboundary Movements of Hazardous Wastes and their Disposal”.<sup>4</sup> Having considered this study the Conference of the Parties adopted decision III/10 on the evaluation of the effectiveness of the Basel Convention. No subsequent review of the effectiveness of the Basel Convention has been carried out by the Conference of the Parties.
3. At its sixth session, convened in September 2007, the Open-ended Working Group considered whether the ninth meeting of the Conference of the Parties (“COP 9”) should conduct an evaluation of the effectiveness of the Convention in accordance with paragraph 7 of article 15 of the Convention. However, several delegations expressed the view that “although a review conference would be appropriate and desirable, they were concerned that there was insufficient time to prepare sufficiently before June 2008”.<sup>5</sup>
4. Subsequently, in February 2008, the Secretariat requested the guidance of the Expanded Bureau of the eighth meeting of the Conference of the Parties on the organization of the tenth and eleventh meetings of the Conference of the Parties in 2010 and 2012, respectively. Specifically, the Secretariat requested the Expanded Bureau to consider whether the tenth meeting of the Conference of the Parties should focus on a successor arrangement to the current Strategic Plan for the Implementation of the Basel Convention, which will come to an end in 2010, and whether the eleventh meeting of the Conference of the Parties should serve as an evaluation conference pursuant to paragraph 7 of article 15 of the Convention. Noting the concerns expressed at the sixth meeting of the Open-ended Working Group, the Secretariat proposed that a process preparing for an evaluation conference could be initiated at COP 9 to allow sufficient time for such preparations. The Expanded Bureau proposed that regional consultations could be undertaken on these proposals. At the time of preparation of the present note, no feedback had been received by the Secretariat on the proposals.

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<sup>3</sup> Article 15(5) of the Basel Convention further provides:

“The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:

- (a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;
- (b) Consider and adopt, as required, amendments to this convention and its annexes, taking into consideration, inter alia, available scientific, technical, economic and environmental information;
- (c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in light of experience gained in its operation and the operation of the agreements and arrangements envisaged in Article 11;
- (d) Consider and adopt protocols as required; and
- (e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.

<sup>4</sup> UNEP/CHW.3/INF.7.

<sup>5</sup> UNEP/CHW/OEWG/6/29, at paragraph 187.

## II. Review processes

5. The Conference of the Parties has already initiated a number of processes which involve an evaluation of either the operation of the Basel Convention and its organs, or the mechanisms intended to enhance implementation of the Convention. In particular, work is on-going on:

(a) **The development of a successor arrangement to the Strategic Plan for the Implementation of the Basel Convention which expires in 2010:** By its decision VI/1, the sixth meeting of the Conference of the Parties adopted a Strategic Plan for the Implementation of the Basel Convention (to 2010) to serve as a means to give further effect to the Basel Declaration on Environmentally Sound Management. As the Strategic Plan is due to expire in 2010, the ninth meeting of the Conference of the Parties will be invited to adopt a workplan for initiating a review of the Strategic Plan, and to mandate the preparation of a strategic framework for the implementation of the Basel Convention for the period 2010-2020 (Decision VI/1; Decision VIII/10; and OEWG-VI/28);

(b) **The enhancement of cooperation and coordination among the Basel, Rotterdam and Stockholm Conventions:** The ninth meeting of the Conference of the Parties will be invited to adopt the recommendation developed by the *Ad Hoc* Joint Working Group on Cooperation and Coordination among the Basel, Rotterdam and Stockholm conventions. The consideration of this item, as well as the possible implementation of the recommendation, is likely to require consideration of the effectiveness of the operation of the Convention at the national level and an evaluation of the operation of the Secretariat at COP 9 and at a later date (process initiated by decision VIII/8);

(c) **Review of the operation of the Basel Convention regional and coordinating centres:** The ninth meeting of the Conference of the Parties will receive the text of a report on the review of the Basel Convention regional and coordinating centres, which was initiated by decision VIII/4 of the Conference of the Parties at its eighth meeting. The ninth meeting of the Conference of the Parties will also be invited to mandate the Open-ended Working Group to further develop the conclusions and recommendations set out in the report of the review, and to mandate, among other things, the development of a work plan for strengthening the Basel Convention regional and coordinating centres and the development of a set of indicators to measure performance and impediments in relation to the functions and impacts of the centres (Decision VIII/4);

(d) **Review of the implementation of decision V/32 on the enlargement of the scope of the Trust Fund to Assist Developing Countries and other Countries in Need of Assistance in the Implementation of the Basel Convention:** A report on the experiences of the Secretariat, and comments from Parties, on the implementation of decision V/32 will be presented, further to decision OEWG-VI/14. The Conference of the Parties will be invited to mandate the Open-ended Working Group to review the implementation of decision V/32 and to develop a series of recommendations thereon for consideration by the Conference of the Parties at its tenth meeting (Decision VIII/10, Section IV.B; and OEWG-VI/14).

(e) **Addressing the interpretation of paragraph 5 of Article 17 of the Basel Convention:** The Open-ended Working Group was mandated by COP 8 to address further the issue of the interpretation of paragraph 5 of article 17 of the Basel Convention, taking account of the perception of ambiguity held by many Parties, with a view to resolving it at the earliest opportunity, and to develop a draft decision to reach an agreed interpretation by the Parties in accordance with international law for consideration by the Conference of the Parties at its next meeting. The Open-ended Working Group, at its sixth session, developed a “non-exhaustive list of possible elements for a draft decision to reach an agreed interpretation of paragraph 5 of article 17 of the Basel Convention” which will be presented to COP 9 for consideration (Decision VIII/30).

## III. Proposed action

6. The theme of COP 9, “Waste Management for Human Health and Livelihood”, provides an opportunity to recall the fundamental objectives of the Convention, that is, “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". COP 9 may, therefore, be a suitable occasion upon which to initiate a process to evaluate whether the Basel Convention has been effective in promoting the achievement of these objectives, or whether the Conference of the Parties could consider other mechanisms by which to promote attainment of these objectives.

7. The on-going processes identified in the preceding section directly relate to the operation and effectiveness of the Convention and its bodies. The Conference of the Parties may, therefore, wish to consider whether it would be appropriate and efficient to initiate a process leading towards an evaluation of the effectiveness of the Convention at the eleventh meeting of the Conference of the Parties in accordance with paragraph 7 of article 15 of the Convention in 2012 and, by that process:

(a) Bring all on-going review processes and new processes initiated by COP 9 under a single framework. Annex II contains a diagram which illustrates a possible framework for such a process;

(b) Mandate work to be undertaken during the intersessional period between COP 9 and COP 10 to identify other matters that should properly be addressed in an evaluation of the effectiveness of the Basel Convention;

(c) Mandate work on further activities or pilot programmes or proposals for further activities or pilot programmes, as appropriate, that would assist in the evaluation of the effectiveness of the Convention and present possible mechanisms to enhance the effectiveness of the Convention in light of the latest scientific, environmental, technical and economic information.;

(d) Mandate work on the development of indicators to measure the effectiveness of the Basel Convention, for presentation to COP 10 which could, in turn, provide directions on the products to be presented to COP 11 to enable an evaluation to take place at COP 11.

8. By initiating such a process at COP 9, there may be sufficient time to undertake activities necessary to collect the data and information required for a reliable and comprehensive evaluation of the effectiveness of the Convention as a whole, rather than proceeding on the basis of disparate review processes continuing in parallel. Thus, COP 10 might serve as an opportunity to monitor the progress of various review activities. Furthermore, by providing that some of the relevant preliminary assessments could be undertaken by COP 10, Parties could ensure that COP 11 is not tasked with more work than it could feasibly complete. Thus, for example, preliminary recommendations on the successor arrangement to the Strategic Plan could be undertaken at COP 10, while being subject to further review at COP 11, taking into account the output of consultations and negotiations on other matters.

9. In considering whether such an evaluation process might be established, Parties may also wish to have regard to:

- (a) How and by what body should preparations for such an evaluation be undertaken;
- (b) The possible content and form of an outcome from the evaluation;
- (c) How to bear the costs of such a process, if additional costs would be incurred.

## Annex II

### Proposed road map for an evaluation process culminating at the eleventh meeting of the Conference of the Parties (2012)

