



CONVENIO DE BASILEA

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Conferencia de las Partes en el Convenio de Basilea sobre el control de los movimientos transfronterizos de los desechos peligrosos y su eliminación

Novena reunión

Bali, 23 a 27 de junio de 2008

Tema 11 del programa provisional*

Otros asuntos

Organización de la 11ª Reunión de la Conferencia de las Partes (2012) y párrafo 7 del artículo 15 del Convenio

Nota de la secretaría

I. Introducción

1. En el párrafo 7 del artículo 15 del Convenio de Basilea se estipula que “la Conferencia de las Partes procederá, tres años después de la entrada en vigor del Convenio, y ulteriormente por lo menos cada seis años, a evaluar su eficacia y, si fuera necesario, a estudiar la posibilidad de establecer una prohibición completa o parcial de los movimientos transfronterizos de los desechos peligrosos y otros desechos a la luz de la información científica, ambiental, técnica y económica más reciente”.

II. Aplicación

2. En su tercera reunión, celebrada en septiembre de 1995, tres años después de la entrada en vigor del Convenio, la Conferencia de las Partes recibió un estudio en el que se evaluaba la efectividad del Convenio de Basilea¹. Tras haber examinado el estudio, la Conferencia de las Partes adoptó la decisión III/10 por la que se invitaba a los Estados que no fuesen Partes en el Convenio a que se adhiriesen a él lo antes posible para asegurar su función mundial. No ha vuelto a realizarse ningún examen de la efectividad del Convenio.

3. En el anexo I² de la presente nota figura información adicional sobre un posible proceso para preparar una evaluación de la efectividad del Convenio por la Conferencia de las Partes en su 11ª Reunión que se celebrará en 2012. En el anexo II² figura, en forma de diagrama, una posible estructura para dicho proceso.

* UNEP/CHW.9/1.

¹ UNEP/CHW.3/INF.7.

² Para economizar recursos, los anexos I y II sólo se han impreso en idioma inglés y no han sido corregidos oficialmente por los servicios de edición.

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III. Medida propuesta

4. La Conferencia de las Partes tal vez desee adoptar una decisión concebida en los siguientes términos:

La Conferencia de las Partes,

Tomando nota de que en el año 2012 se cumplirá el 20º aniversario de la entrada en vigor del Convenio de Basilea,

1. *Decide* que se proceda a realizar una evaluación de la efectividad del Convenio de conformidad con el párrafo 7 del artículo 15 del Convenio, en la 11ª Reunión de la Conferencia de las Partes;

2. *Pide* a la secretaría que prepare una propuesta para su examen por el Grupo de Trabajo de composición abierta en su próxima reunión de un proceso preparatorio para realizar una evaluación de la efectividad del Convenio que realizará la Conferencia de las Partes en su 11ª Reunión, que debería, entre otras cosas:

a) Tener en cuenta todas las evaluaciones pertinentes del funcionamiento del Convenio y sus órganos ya realizadas, o que se realizarán por indicación de la Conferencia de las Partes;

b) Tener en cuenta cualesquiera otras actividades o acontecimientos pertinentes al funcionamiento del Convenio de Basilea;

c) Proponer actividades adicionales o programas experimentales, según proceda, que puedan ayudar a la Conferencia de las Partes a realizar en su 11ª Reunión una evaluación de la efectividad del Convenio,

d) Determinar posibles indicadores para medir la efectividad del Convenio que podría aplicar la Conferencia de las Partes en su 11ª Reunión;

e) Determinar los costos adicionales que pueda suponer cada elemento de la propuesta de un proceso para preparar una evaluación de la efectividad del Convenio.

3. *Invita* a las Partes y a otras entidades a que transmitan a la secretaría antes del...de 2009 opiniones e información pertinentes que puedan ayudar a la preparación de una evaluación de la efectividad del Convenio y pide a la secretaría que recopile dichas opiniones e información y las presente al Grupo de Trabajo de composición abierta en su próxima reunión para su examen;

4. *Pide* al Grupo de Trabajo de composición abierta:

a) Que formule recomendaciones para un proceso destinado a preparar una evaluación de la efectividad del Convenio, teniendo en cuenta las propuestas preparadas por la secretaría y todas las opiniones e información recibidas de las Partes y de otras entidades;

b) Que transmita dichas recomendaciones a la Conferencia de las Partes para su examen en su décima reunión;

5. *Insta* a todas las Partes y otros interesados directos que estén en condiciones de hacerlo a que aporten contribuciones financieras o en especie para ayudar a:

a) Elaborar una propuesta para un proceso destinado a preparar una evaluación de la efectividad del Convenio;

b) Preparar actividades adicionales o programas experimentales, según proceda, que puedan ayudar a la Conferencia de las Partes a realizar una evaluación de la efectividad del Convenio y examinar posibles mecanismos para mejorar la efectividad del Convenio tomando en cuenta la información científica, ambiental, técnica y económica más reciente.

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.”³

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”.⁴ 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”.⁵

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.

³ 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.

⁴ UNEP/CHW.3/INF.7.

⁵ 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)

