

SUMMARY OF THE FIFTH SESSION OF THE OPEN-ENDED WORKING GROUP OF THE BASEL CONVENTION: 3-7 APRIL 2006

The fifth session of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (OEWG5) took place in Geneva, Switzerland, from 3-7 April 2006. The meeting was attended by several hundred participants representing governments, UN agencies and bodies, other intergovernmental organizations, the private sector and non-governmental organizations.

The purpose of OEWG5 was to follow up on decisions from the seventh meeting of the Conference of the Parties (COP7) and prepare for COP8, which will take place from 27 November to 1 December 2006, in Nairobi, Kenya. A wide range of issues were addressed, with three topics occupying most of the delegates' time: financing and synergies among the chemicals-related Conventions, technical guidelines on persistent organic pollutants (POPs), and ship dismantling. Discussions on financing, especially a draft decision on the budget for 2007-2008, required extensive negotiations, and was only resolved on the final afternoon after delegates concluded that agreement on some parts of the text would not be possible until COP8. Other issues considered at OEWG5 included the Mobile Phone Partnership Programme, the strategic plan for implementation of the Basel Convention, illegal traffic, and the Basel Protocol on Liability and Compensation. In total, the group adopted 14 decisions, several of which also contained draft decisions for consideration by COP8. OEWG5 also approved a dozen additional draft decisions that will be forwarded to COP8.

While the meeting ran efficiently, and resolved a number of technical and legal issues, including guidelines on POPs and a decision on liability, other issues will require additional discussion at COP8. In particular, parties will need to address key financing issues that remain as divisive as ever, as well as matters related to synergies among the chemicals treaties, and ship dismantling.

A BRIEF HISTORY OF THE BASEL CONVENTION

The Basel Convention was adopted in 1989 and entered into force on 5 May 1992. It was created to address concerns over the management, disposal and transboundary movement of the estimated 400 million tonnes of hazardous wastes that are produced worldwide each year. The guiding principles of the Convention are: transboundary movements of hazardous wastes should be reduced to a minimum; they should be managed in an environmentally sound manner; hazardous wastes should be treated and disposed of as close as possible to their source of generation; and hazardous waste generation should be minimized at the source. There are currently 162 parties to the Convention.

Since the Convention's entry into force, parties have continued to review its implementation and have considered additional actions through the COP, which has met seven times.

COP1: The first COP was held in Piriapolis, Uruguay, from 3-4 December 1992. COP1 requested industrialized countries to prohibit transboundary movements of hazardous wastes for final disposal to developing countries. It also noted that the transboundary movements of wastes destined for recovery and recycling should take place in accordance with the requirement that the wastes be handled in an environmentally sound manner (Decision I/22). Since Decision I/22 was not legally binding, a "pro-ban coalition," consisting of developing countries,

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This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Paula Barrios, Richard de Ferranti, and Chris Spence. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org> and the Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the Government of the United States of America (through the Department of State Bureau of Oceans and International Environmental and Scientific Affairs), the Government of Canada (through CIDA), the Swiss Agency for Environment, Forests and Landscape (SAEFL), the United Kingdom (through the Department for International Development - DFID), the Danish Ministry of Foreign Affairs, the Government of Germany (through the German Federal Ministry of Environment - BMU, and the German Federal Ministry of Development Cooperation - BMZ), the Netherlands Ministry of Foreign Affairs, and the European Commission (DG-ENV). General Support for the *Bulletin* during 2006 is provided by the United Nations Environment Programme (UNEP), the Government of Australia, SWAN International, the New Zealand Ministry of Foreign Affairs and Trade, the Austrian Federal Ministry of Agriculture, Forestry, Environment and Water, the Swedish Ministry of Sustainable Development, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES), and the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI). Funding for translation of the *Earth Negotiations Bulletin* into French has been provided by the International Organization of the Francophonie (IOF) and the French Ministry of Foreign Affairs. Funding for the translation of the *Earth Negotiations Bulletin* into Spanish has been provided by the Ministry of Environment of Spain. The opinions expressed in the *Earth Negotiations Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Earth Negotiations Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-646-536-7556 or 212 East 47th St. #21F, New York, NY 10017, USA.

Greenpeace and the Nordic states, urged delegates to adopt a binding amendment to the Convention. The issue of hazardous wastes destined for recycling and recovery was forwarded to the Technical Working Group (TWG) for further study.

COP2: During the second COP, held in Geneva from 21-25 March 1994, parties agreed on an immediate ban on the export of hazardous wastes intended for final disposal from the Organization for Economic Cooperation and Development (OECD) countries to non-OECD countries. Parties also agreed to ban, by 31 December 1997, the export of wastes intended for recovery or recycling (Decision II/12). The issue of whether or not the ban was legally binding was unclear, since Decision II/12 was not incorporated into the text of the Convention itself.

COP3: At the third COP, held in Geneva from 18-22 September 1995, the ban was adopted as an amendment to the Convention (Decision III/1). The Ban Amendment does not use the OECD/non-OECD membership distinction, but bans the export of hazardous wastes for final disposal and recycling from Annex VII countries (EU, OECD and Liechtenstein) to non-Annex VII countries. The amendment thus is not in itself a barrier for non-OECD countries to retain the option of receiving OECD hazardous wastes by joining Annex VII. According to Article 17, entry into force should take place upon ratification by at least three-fourths of the parties who accepted it, i.e. a total of 62 parties. However, there is some dispute over the number of ratifications required for the ban to enter into force, with some parties suggesting that the number may in fact be higher, following an opinion on the matter by the UN Office of Legal Affairs. As of April 2006, the Ban Amendment had been ratified by 61 parties. COP3 further mandated the TWG to continue its work on the characterization of "hazardous wastes" and the development of lists of wastes that are hazardous (Decision III/12).

COP4: Two of the major decisions adopted at the fourth COP, held in Kuching, Malaysia, from 23-27 February 1998, related to the Ban Amendment. COP4 considered proposals by countries seeking to join Annex VII and decided that the composition of this annex would remain unchanged until the Ban Amendment entered into force (Decision IV/8). In this decision, COP4 also requested the Secretariat to undertake a study of issues related to Annex VII. On the question of which wastes should be covered by the Ban, COP4 considered the proposal put forward by the TWG on List A, identifying wastes characterized as hazardous, and List B, identifying non-hazardous wastes. COP-4 decided to incorporate these lists as Annex VIII and Annex IX to the Convention, respectively.

COP5: The fifth COP met in Basel, Switzerland, from 6-10 December 1999. With over 450 participants in attendance and 115 Parties represented, delegates celebrated the tenth anniversary of the Convention's adoption. They also adopted the Protocol on Liability and Compensation for damage resulting from transboundary movements of hazardous wastes and their disposal, and a "Basel Declaration" for promoting the environmentally sound management (ESM) of hazardous wastes over the next ten years, along with a decision setting the next

decade's agenda. Seven parties have ratified the Protocol on Liability and Compensation, which will enter into force upon receipt of 20 instruments of ratification.

The COP also adopted a number of decisions covering the Convention's implementation and monitoring, legal matters, prevention and monitoring of illegal traffic, technical matters, and institutional, financial and procedural arrangements.

COP6: The sixth COP met in Geneva, Switzerland, from 9-14 December 2002. COP6 emphasized the importance of the goals of the Basel Convention to sustainable development and launched a partnership programme with environmental non-governmental organizations (NGOs), industry and business. The COP adopted decisions on a range of issues relating to the implementation of the Convention, amendment of the Convention and its annexes, and institutional, financial and procedural arrangements.

COP6 also agreed on guidance elements for the detection, prevention, and control of illegal traffic in hazardous wastes, and on technical guidelines for ESM of biomedical and healthcare wastes, plastic wastes, waste lead-acid batteries and ship dismantling.

Delegates at COP6 agreed to promote further cooperation between the Basel Secretariat and other organizations and secretariats involved in chemicals management. COP6 set the budget for 2003-2005, agreed on a compliance mechanism for the Convention, adopted a Strategic Plan, and finalized the Framework Agreement on the legal establishment of the Basel Convention Regional Centers (BCRCs) for Training and Technology Transfer.

COP7: At COP7, held in Geneva from 25-29 October 2004, delegates considered decisions on a range of issues relating to the BCRCs, the Basel Convention Partnership Programme, institutional arrangements, the Ban Amendment and the Basel Protocol on Liability and Compensation. COP7 also adopted decisions on definitions of hazardous wastes, hazardous waste characteristics and a number of technical guidelines. Delegates adopted decisions on guidance elements for bilateral, multilateral or regional agreements and on the follow-up to the 2002 World Summit on Sustainable Development (WSSD). After protracted negotiations, COP7 set the budget for 2005-2006 and took decisions on the Strategic Plan and the 2005-2006 work programme for the OEWG.

OEWG4: The fourth session of the Open-ended Working Group was held in Geneva from 4-8 July 2005. The aim of the meeting was to follow up on decisions taken at COP7 and to start preparing for COP8. Participants addressed a range of issues, including technical guidelines on persistent organic pollutants (POPs), the Mobile Phone Partnership Initiative, and ship dismantling. Participants also considered the outcome of the first meeting of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants. Parties to the Convention also witnessed the signing of an agreement establishing a Basel Convention Regional Center in Argentina. Funding issues and sustainable financing were also considered.

INTERSESSIONAL HIGHLIGHTS**JOINT WORKING GROUP ON SHIP SCRAPPING AND ENVIRONMENTALLY SOUND MANAGEMENT OF SHIP DISMANTLING:**

The Joint Working Group of the International Labor Organization (ILO), International Maritime Organization (IMO) and Basel Convention on Ship Scrapping and Environmentally Sound Management of Ship Dismantling took place in Geneva from 12-14 December 2005. At the meeting, an IMO representative reported that the IMO Assembly had recently adopted a resolution requesting its Marine Environment Protection Committee (MEPC) to develop a legally-binding instrument on ship recycling. The group recommended that the Basel Convention's OEWG welcome the steps taken to develop such an instrument and invite Parties and other stakeholders to provide information to the Secretariat on any technical cooperation activities or other relevant initiatives already launched or planned. The Group also requested the Basel Convention Secretariat to follow the development of the draft text and report to COP8.

LIABILITY WORKSHOP: A regional workshop on the Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal was held in Warsaw, Poland, from 18-20 January 2006. The workshop sought to promote ratification of the Liability Protocol. Participants were briefed on key elements of the protocol, and country representatives outlined the key elements of civil liability under their domestic regimes, with most currently taking a "fault-based approach," although strict liability was also being contemplated in several cases. The financial implications of ratifying the Protocol were discussed, and compatibility and possible discrepancies with European Union (EU) legislation were examined.

EXPANDED BUREAU MEETING: The expanded COP7 Bureau convened in Geneva from 14-15 February 2006. The Bureau discussed financial and administrative matters, as well as a study on synergies with other chemicals-related secretariats. Informal consultations and briefings for those countries that are not members of the Expanded Bureau were also held on 14 February. Among the financial and administrative matters taken up by the Bureau were: the proposed format and contents of the budget to be submitted to OEWG5; the Basel Convention Resource Mobilization Strategy and the examination of Article 14; and sustainable support to the BCRCs. Considering the synergies study prepared following relevant decisions by parties to the Stockholm and Rotterdam Conventions, the expanded Bureau recommended placing the examination of synergies and cooperation on the Basel Convention agenda, and it was set down for consideration at OEWG5.

OEWG5 REPORT

The fifth session of the Open-ended Working Group of the Basel Convention (OEWG5) was opened on Monday, 3 April 2006, by Anne Daniel (Canada), who co-chaired the meeting with Ernesto Navarro (Mexico).

Basel Convention Executive Secretary Sachiko Kuwabara-Yamamoto welcomed delegates, drawing attention to the strategic and programmatic approach developed under the

strategic plan and to the draft programme budget for 2007-2008, which resulted from a review of needs to ensure the effective delivery of work. She also highlighted the regional element in the Convention's implementation and the work of the Basel Convention Regional Centers (BCRCs). She noted work on technical guidelines relating to persistent organic pollutants (POPs), observing that adopting these guidelines would be a major item on COP8's agenda and ahead of the Stockholm Convention's third meeting of the Conference of the Parties in 2007.

Kuwabara-Yamamoto identified ship dismantling as a major issue for OEWG5. Noting that the benefits and risks of ship dismantling are attracting global attention, she highlighted IMO's work on a legally-binding instrument on ship recycling. She drew attention to the 2005 UN World Summit's outcome calling for a more coherent institutional framework that would support greater coordination and efficiency in environmental issues within the UN system. Finally, she indicated progress on ratification of Basel Convention instruments, including ratification of the Ban Amendment by 61 parties. She also anticipated that further ratifications of the Protocol on Liability and Compensation could be expected.

Parties then adopted the agenda (UNEP/CHW/OEWG/5/1) and agreed to the proposed organization of work, which Co-Chair Daniel said would involve contact groups on ship dismantling, technical guidelines on POPs and financing issues.

This report summarizes the discussions and decisions based on OEWG5's agenda.

IMPLEMENTATION OF COP7 DECISIONS

During OEWG5, delegates focused almost all of their attention on a range of issues listed under the main substantive agenda item, "Implementation of COP7 decisions." This agenda item dealt with numerous issues that were introduced either as "reports to the Working Group" or as "proposed draft decisions" for COP8. The three main issues taken up during OEWG5 – all of which were addressed under this agenda item – were financing and synergies, technical guidelines on POPs and ship dismantling. All three were discussed throughout the week in plenary sessions and contact groups. Other issues addressed under this section included the Mobile Phone Partnership Programme, the strategic plan for implementation of the Basel Convention, illegal traffic and the Basel Protocol on Liability and Compensation. There were also more than a dozen other issues for which draft COP8 decisions had been prepared prior to OEWG5. These were taken up briefly in plenary before being approved and forwarded to COP8 for its consideration.

FINANCIAL MATTERS, RESOURCE MOBILIZATION, SUSTAINABLE FINANCING AND SYNERGIES: Budget:

The budget was raised in plenary on Monday and Tuesday, 3-4 April, and a contact group was established. The contact group, which was co-chaired by Anne Daniel (Canada) and Osvaldo Alvarez (Chile), discussed the budget for the Convention throughout the rest of the week, only reaching agreement on a draft OEWG decision on Friday. The Basel Convention's difficult financial situation formed the backdrop for the discussion. A number of issues, many of them procedural in nature, resulted in protracted discussions. These included:

- the Secretariat's presentation of the budget in a new "programme budget format," which many said lacked sufficient supporting/explanatory information, and which they found hard to use;
- questions about the precise budget increase (which apparently represented a 36% increase from biennium to biennium, and which prompted detailed analysis of some of the proposals);
- a proposal by the Latin American and Caribbean Group (GRULAC) to maintain assessed contributions at the same nominal level and for voluntary contributions to the Technical Cooperation Trust Fund to increase;
- the collection of "arrears" from parties not up-to-date with their assessed contributions; and
- a proposal by the EU to hold COPs every three years, rather than every two.

The proposed programme budget format and the increase proposed for overall funding required the most in-depth discussions in the contact group on how the budget should be presented to the COP. Delegates requested numerous supporting tables clarifying the position on programmes and staffing. Responding to questions about salaries, Executive Secretary Kuwabara-Yamamoto said no there was no actual increase in salary levels although expenses increased to some extent due to changes in exchange rates and in UN conditions of service payments. The EU and GRULAC, reiterating positions they had expressed in plenary, asked that the budget tables not simply set out activities but also results-oriented reporting and key performance indicators. Since many thought there was insufficient information to make an informed decision, delegates decided they were not prepared to submit an overall budget to COP8. Thus, while the text of a draft decision to be relayed to the COP was agreed, no figures were included in the draft, leaving it for COP8 to agree on the levels of funding.

Detailed discussion of the draft decision also saw a number of proposals from GRULAC about the need for developed countries to increase their voluntary contributions, which it argued was consistent with donors' commitment at COP7 that they would do so in exchange for developing countries' agreement to make regular assessed contributions. There was also considerable discussion about the timing of payment of arrears. While some developed country delegates wished to see all arrears paid up by a COP8 deadline, some developing countries objected to this. Eventually, agreement was reached on a call from the OEWG for parties to bring their payments up to date in the shortest time possible.

The EU, supported by a number of developed countries, also put forward a proposal that COPs be held only every three years, instead of every two. Most developing countries opposed this on the grounds that more implementation action needs to be evident before parties can move to a less frequent schedule.

OEWG5 Decision: The OEWG decision on financial matters (UNEP/CHW/OEWG/5/5) requires the Secretariat to present a range of savings options to COP8: first, holding only one (instead of two) intersessional OEWG meetings; second, holding COPs only every three years (instead of every two); or third, holding assessed contributions at current levels over the biennium. It also stresses the need for arrears to be paid and

voluntary contributions to be increased. The OEWG decision also contains a draft decision for COP8. This decision would require, *inter alia*, the Secretariat to provide transparent budget information on expenditure and staffing and invites further action by the COP to encourage parties to pay their arrears.

Resource Mobilization: The issue of resource mobilization was first taken up in plenary on Monday and Tuesday, with consideration of a progress report (UNEP/CHW/OEWG/5/INF/5) that was favorably received by parties. The issue was then taken up by the contact group on finance and in informal negotiations, before a final agreement was reached on Wednesday afternoon. Two key issues emerged: one procedural and one substantive. The former related to GRULAC concerns about the very late distribution of a revision to the original document for this agenda item (UNEP/CHW/OEWG/5/2/Add.5). GRULAC and the EU eventually reached a compromise on an OEWG decision that would request the Secretariat to provide recommendations to COP8 on further actions in this area. This text also reflected GRULAC's desire to stimulate action by the Secretariat to monitor and report on follow-up to COP7's discussion about the need for developed countries to enhance their voluntary contributions.

The key substantive change proposed by GRULAC was to add a clause, as part of the OEWG's draft decision for COP8, in which the Secretariat would be urged to reinforce efforts in fundraising for voluntary contributions and to report every six months on the results of these resource mobilization activities. Overnight the EU and GRULAC were able to produce a revised version of this draft decision, which was then agreed by the contact group and adopted in plenary on Friday.

OEWG5 Decision: The decision (UNEP/CHW/OEWG/5/2/Add.5) welcomes Secretariat and BCRC progress in mobilizing further resources; urges the Secretariat to continue efforts on fundraising for the Technical Cooperation Trust Fund and maintain up-to-date reports on its website; and provide recommendations to COP8 for further action in this area, in accordance with decision OEWG IV/15.

Sustainable Financing: This issue was first taken up in plenary on Monday and Tuesday, where the Secretariat's document and draft decision (UNEP/CHW/OEWG/5/2/Add.6) were introduced. The decision suggested that the related study on Article 14 of the Convention (Financial Aspects) be conveyed to COP8 for its consideration. The topic was then taken up by the finance contact group before a final compromise version of a draft decision emerged late on Thursday evening. The contact group discussions did not fully resolve the considerable disagreement over the way forward, however, with square-bracketed paragraphs presenting three different approaches to take to COP8. The key area of contention in the group was the timing and manner of engaging the COP on how to approach the Global Environment Facility (GEF) to seek its becoming a significant source of financing for the Basel Convention.

While many developing countries spoke in support of seeking to have the GEF become one of the financial mechanisms of the Convention, many developed countries, including the EU and Japan, indicated that they either did not support seeking to

access GEF funds at this time, or did not see this as a possibility in the short term. They also pointed out that there could be better alternative sources of funding.

At the suggestion of Co-Chair Daniel, the contact group focused its attention on the short-, medium- and long-term options for future action outlined in the document with a view to formulating a more meaningful decision. Debate centered around the question of how best to access the GEF, in a formal and structured way, as a major source of funding. Delegates from developed countries maintained a position that attempting to access the GEF at the present time would be extremely difficult, stating that negotiations over its fourth replenishment were close to being finalized and there was little scope for further expansion of commitments. In their view it was vital, if the Basel Convention was to pursue this path, that a case should be presented to GEF officials that clearly established the linkages between Basel Convention activities and broader global environmental and health benefits (thereby also linking the Basel Convention to the Millennium Development Goals). Developed countries argued that the OEWG's aim should be to develop its case over time, with a view to accessing the fifth GEF replenishment, due for consideration around 2010. Developing countries disagreed. They insisted that there was an urgent need for action and that COP8 should undertake this work in 2006. In the end both options, and a third alternative, were included, in brackets, in the draft decision.

The group also agreed that there were immediate steps that the OEWG could take to enhance the Basel Convention's financial position. First, it could undertake a review to better align voluntary contributions with a short-list of strategic priorities identified by the COP. Secondly, the Secretariat could develop a "funding rationale" reflecting the Convention's benefits for the global environment, human health and sustainable development to support Basel parties' ongoing efforts to seek funding from a range of bodies. These options were also included in the decision.

OEWG5 Decision: The decision (UNEP/CHW/OEWG/5/2/Add.5) requests the Secretariat to develop a generic funding rationale to support current efforts by parties to obtain funding. It also includes a draft decision for consideration at COP8, which would: agree to an OEWG review of the Basel Convention Technical Cooperation Trust Fund to align voluntary contributions better with the strategic plan's focus areas; and request the Secretariat to enhance efforts to explore and pursue current GEF opportunities. It also includes three alternatives in relation to the question of the GEF becoming an official financial mechanism of the Convention. These options are: OEWG to develop recommendations for COP9; the Executive Secretary to explore the possibility of the GEF becoming a financial mechanism, in cooperation with her GEF counterpart; and the Executive Secretary to explore access to enhanced financing under the current arrangements.

Synergies: This item concerned potential synergies between the activities of the Stockholm, Rotterdam and Basel Conventions. The issue was considered first in plenary on Tuesday morning as part of the package of financial matters

needing resolution. It was considered throughout the week in the finance contact group and was finally resolved late on Thursday night.

In the initial discussion on this issue, Co-Chair Daniel introduced several relevant documents, including a UNEP draft paper (UNEP/CHW/OEWG/5/INF/18), a related report from the Stockholm Convention Secretariat (UNEP/CHW/OEWG/5/INF/17), and a report and proposed decision drafted by the Basel Secretariat (UNEP/CHW/OEWG/5/2/Add.8). The UNEP document included two proposed options to improve synergies between the Basel, Rotterdam and Stockholm Conventions that would establish either: (a) a "common head and common convention support limited to core management functions"; or (b) an integrated administrative support "plus integrated implementation and technical assistance services, including the partial amalgamation of secretariats." The Secretariat clarified that the Stockholm Convention and UNEP documents had only been received in the week prior to the meeting, making it impossible for them to carry out the OEWG's request to comment in detail on these proposals.

In an initial exchange of views, the African Group expressed its strong opposition to finding synergies between the activities of the three conventions' secretariats. Nigeria stated that "Basel is being weakened and subjected to a marriage that is going to kill the Convention."

During the discussions in the contact group, three contentious issues emerged: developing countries' concerns over whether this could cause significant damage to the Basel Convention's identity and effectiveness; how to ensure that the Basel Convention's perspective on this issue was presented to all the relevant conventions in a timely way, especially given that the Stockholm Convention's COP will meet in early May; and how to mobilize coordinated actions within national administrations so that consistent proposals go forward to all three Conventions' COPs. Agreement was reached after discussion in the contact group, which highlighted that the Basel Convention had to communicate its views on this quickly or decisions taken in the COPs of the other two conventions involved might leave parties little room to maneuver. A redrafted decision proposed by the EU paved the way for a final agreement.

OEWG5 Decision: In the decision, the OEWG requests the Basel Secretariat to convey its report on this issue (UNEP/CHW/OEWG/5/2/Add.8, Annex) as soon as practicable to the other chemicals secretariats, as well as to UNEP's Executive Director, for use by the Conventions' respective COPs. The three convention secretariats and UNEP are also invited to enhance their cooperation on this issue. In addition, the decision requests the Basel Secretariat to prepare recommendations to COP8. Parties are invited to comment on the Basel Secretariat's report by 31 July 2006.

SHIP DISMANTLING AND ABANDONMENT: The issues of ship dismantling and abandonment were first addressed in plenary on Monday, 3 April, and subsequently taken up in a contact group chaired by Roy Watkinson (UK). The group met from Monday through Thursday, with most of the discussions focusing on the relationship between the Basel Convention and IMO on ship dismantling. By Thursday evening, text for two

draft OEWG decisions had been agreed, on dismantling and abandonment, and these were adopted in plenary the following day.

Ship Dismantling: On Monday in plenary, the Secretariat introduced a compilation of comments received from parties on ship dismantling (UNEP/CHW/OEWG/5/INF/4), a draft legally-binding convention on ship recycling being developed by the IMO's Marine Environment Protection Committee (MEPC) (UNEP/CHW/OEWG/5/INF/23), and a document containing a report of the work of the ILO/IMO/BC Joint Working Group on ship scrapping and a corresponding draft decision (UNEP/CHW/OEWG/5/2/Add.1). In their initial comments, many delegates welcomed IMO's work on environmentally-sound ship recycling. The EU and others urged a full debate on all ship recycling-related issues by the Basel Convention, while Japan, the US and a number of participants suggested that parties participate in the correspondence group recently created by IMO to ensure their input was taken into account in the IMO instrument. The UK urged interim short-term and medium-term measures until the IMO instrument enters into force. The Global NGO Platform on Shipbreaking said the IMO appeared to have no intention of creating a convention with a level of control equivalent to that of the Basel Convention, and urged parties to: reaffirm the Basel Convention's relevance to ships and make relevant recommendations; support green design provisions in the IMO draft convention; and ensure an adequate level of control, as provided for in the Basel Convention.

The discussion in the contact group centered around the input the Basel Convention could provide to the forthcoming 55th session of IMO MEPC (MEPC-55), to be held in October 2006, in the development of its instrument on ship recycling, and how to ensure the IMO instrument would provide an "equivalent level of control" and the environmentally-sound management (ESM) of ship dismantling, as required by COP decision VII/26. In that context, a number of issues were addressed that generated considerable debate. The first was an EU proposal to hold another meeting of the ILO/IMO/Basel Convention Joint Working Group on Ship Scrapping, the objectives and work programme of which could be determined at COP8. However, it soon became apparent that Japan, IMO, India and the US opposed this idea on the grounds that MEPC-54 (20-24 March 2006) had already agreed to defer the decision on a future meeting of the Joint Working Group until MEPC-55.

Linked to this discussion was another proposal by the EU to request the Secretariat to prepare an analysis of the "level of control" established by the Basel Convention and, in consultation with IMO, to make a comparison with the level of control provided by the draft IMO instrument for consideration at COP8. Japan, India, IMO and the US again disagreed, arguing that such an analysis would be premature. Japan and the US further stated that the Basel Convention was not the appropriate forum, as the negotiations on a new instrument on ship dismantling were taking place within IMO. These participants also emphasized the opportunity to provide input to the IMO process through the Correspondence Group (an intersessional group convened under the Joint Working Group). After informal consultations, delegates worked out a compromise text on both issues. The compromise

included recognition that a future meeting of the Joint Working Group could be useful but its programme of work should not only be determined by COP8 but also by the ILO and IMO. Negotiators also agree to invite parties – rather than request the Basel Convention Secretariat – to undertake the "level of control" analysis.

In addition to these matters, the group briefly discussed: key elements of ESM and the need to make relevant information available to stakeholders; and a proposal by BAN for a study on pre-cleaning and decontamination to establish whether, and the extent to which, a ship can be cleaned before arriving at the recycling yard. This discussion resulted in a request to parties to provide available information on the issue to the Secretariat. On Friday, 7 April, delegates reconvened in plenary to examine the draft decision dealing with the various ship dismantling issues considered by the contact group. The decision was adopted without amendment.

OEWG5 Decision: In the decision on the ESM of ship dismantling (UNEP/CHW/OEWG/5/5), the OEWG recalls paragraph 5 of Decision VII/26 (ESM of ship dismantling) and, *inter alia*:

- encourages parties to coordinate among their IMO and Basel Convention representatives and participate actively in the MEPC's negotiations on a ship recycling instrument;
- requests the Secretariat to follow the development of the IMO negotiations and report to COP8;
- requests parties and others to submit to the Secretariat, by 30 June 2006, information on measures to address, in the short and medium term, the potentially harmful consequences of ship dismantling to human health and the environment;
- requests parties and others to submit to the Secretariat, by 30 June 2006, information with regard to pre-cleaning and decontamination and the Secretariat to make such information available on its website;
- invites parties and others to provide their assessments of the level of control and enforcement established by the Basel Convention "in its entirety";
- invites parties and others to make a comparison with the expected level of control and enforcement to be provided by the draft IMO instrument "in its entirety" and submit it to the Secretariat;
- requests the Secretariat to compile the information received for consideration by COP8; and
- welcomes the outcome of the second session of the Joint Working Group and "acknowledges" that a future meeting of the group "could" be useful, and that specific proposals for the meeting's objectives and work programme "could" be formulated by COP8 and by "other relevant bodies of the three organizations," taking into account the work of the correspondence group and developments within IMO.

Ship Abandonment: During the plenary session on Monday, 3 April, the Secretariat introduced a compilation of comments received from parties on ship abandonment (UNEP/CHW/OEWG/5/INF/5 and UNEP/CHW/OEWG/5/INF/5/Add.1) and a related draft decision (UNEP/CHW/OEWG/5/2). It was decided that the contact group on ship dismantling would also address this matter.

The discussion in the contact group was brief, with a number of participants emphasizing the complexity of the issue. Greece urged examining other categories, such as confiscated ships, and Malta proposed referring the issue back to the potential meeting of the Joint Working Group. Delegates agreed that further information and work on ship abandonment was required, and introduced a small amendment to the proposed decision, which was adopted on Friday in plenary.

OEWG5 Decision: In the decision on ship abandonment (UNEP/OEWG/5/5) the OEWG requests the Secretariat to: review and analyze information received from parties and other stakeholders by 30 June 2006, on the abandonment of ships on land or in ports, and to submit proposals on how to address such cases for consideration by COP8; and continue consultations with the ILO and IMO secretariats and follow developments in both organizations, also reporting on them to COP8.

TECHNICAL GUIDELINES ON PERSISTENT ORGANIC POLLUTANTS: Various draft technical guidelines relating to the environmentally-sound management of persistent organic pollutants (POPs) were considered at OEWG5. These guidelines covered various pesticides, DDT, and unintentionally-produced wastes (PCDDs, PCDFs, HCB, and PCBs). In addition, existing guidelines on PCBs, PCTs and PBBs, as well as general technical guidelines on POPs, had been set down for revision or amendment.

This item was initially taken up in plenary on Monday, 3 April. It was referred to a contact group tasked with addressing technical matters. The group, which met throughout the week, sought to build on the work of a small intersessional working group that convened prior to OEWG5, and to finalize all of the guidelines with a view to recommending them for adoption at COP8. Both the intersessional group and the OEWG5 contact group were chaired by Michael Ernst (Germany). In the contact group, experts worked their way through the guidelines and made numerous technical and editorial corrections and clarifications. Sections on health and safety required particular attention, especially the question of what constituted situations relating to POPs that were “high” or “higher” risk, and “low” or “lower” risk. After some discussion, participants agreed to language defining these situations with regard to workers and members of the public.

The group also concluded work on a draft decision. Discussion focused on a paragraph noting that it was not practical or feasible to pursue a methodology for the further definition of “low persistent organic pollutant content and levels of destruction and irreversible transformation at the level of the Basel Convention.” Several delegates expressed concerns about this paragraph, pointing out that some work on such a methodology had already been conducted, and adding that it might be practical to consider such a methodology further at a later date. After some discussion, they agreed to note that it was not practical to consider such a methodology “for the time being.” Delegates also agreed that definitions of low POPs content would be reviewed “at a later stage after 2008 after sufficient experience has been gained in the application of the definitions contained in the general technical guidelines.” During the closing plenary, the International POPs Elimination Network

(IPEN) said this matter should be dealt with in 2007-2008 rather than after 2008, noting that it relates to both the Stockholm and Basel Conventions. OEWG Co-Chair Ernesto Navarro said this comment had been noted, and delegates adopted the decision.

OEWG Decision: The OEWG decision (UNEP/CHW/OEWG/5/5) agrees to forward to COP8 draft technical guidelines on pesticides (UNEP/CHW/OEWG/5/INF/8/Rev.1), DDT (UNEP/CHW/OEWG/5/INF/9/Rev.1), and unintentionally produced PCDDs, PCDFs, HCB and PCBs (UNEP/CHW/OEWG/5/INF/7/Rev.1 and Corr.1). It also agrees to forward the proposed amendments to the general technical guidelines on POPs and the guidelines on PCBs, PCTs and PBBs (UNEP/CHW/OEWG/5/INF/24). The OEWG invites parties and others to submit comments to the Secretariat, by 30 June 2006, on various aspects of the general guidelines, and mandates a small intersessional group to continue working.

The OEWG decision submits a draft decision to COP8, which adopts the guidelines, reflects on the methodology for low POPs content and agrees on a review. It also sets out some specific areas requiring further consideration by the OEWG for 2007-2008.

HARMONIZATION OF FORMS FOR NOTIFICATION AND MOVEMENT DOCUMENTS AND RELATED INSTRUCTIONS:

OEWG5 took up the issue of harmonizing documents and forms used to monitor the movement of hazardous wastes in plenary on Monday, 3 April, before referring it to the contact group on technical matters chaired by Michael Ernst. The contact group based its work on a draft decision (UNEP/CHW/OEWG/5/2), with Chair Ernst also drawing attention to a submission by Germany (UNEP/CHW/OEWG/5/INF/10). Canada expressed its concerns that revisions proposed to the units of measurement employed in notification and movement documents could “create significant regulatory issues for the government of Canada, its provincial and territorial government and regulated community.” He proposed providing for some flexibility in the units of measurement used in such documents, and suggested allowing units such as kilograms and liters to be retained. Chair Ernst said the changes required to harmonize the use of such forms under the Basel Convention might require legislative changes in some cases, but were important for consistency in the documentation between countries. He clarified, however, that this was only a preliminary discussion and that there was still considerable time for further consideration of this issue. After a further exchange of views, a decision was adopted in plenary on Friday, 7 April.

OEWG Decision: The OEWG5 decision (UNEP/CHW/OEWG/5/5) requests Germany (which offered to take the lead on this issue) to prepare draft revised versions of the forms for notification and movement, taking into account discussions at OEWG5, with a view to posting them on the Basel Convention website by early May 2006. It invites comments on the revised forms to be submitted to the Secretariat and Germany by 15 July 2006, and requests Germany to consult with a small intersessional working group to revise these draft forms by 15 September 2006. The intersessional working group will finalize

the drafts prior to COP8. The OEWG decision also agrees to forward text to COP8 that would adopt the revised forms and request the Secretariat to disseminate them.

STRATEGIC PLAN FOR THE IMPLEMENTATION OF THE BASEL CONVENTION: ROLE AND ACTIVITIES OF THE REGIONAL CENTERS: On Monday morning, 3 April, OEWG5 took up the sub-item on the strategic plan for the implementation of the Basel Convention – the role and activities of BCRCs. Basel Deputy Executive Secretary Pierre Portas briefed delegates on activities undertaken under the plan and noted a background information report on the issue (UNEP/CHW/OEWG/5/INF/11 and UNEP/CHW/OEWG/5/2). He noted that parties had identified priorities that were reflected in the strategic plan's focus areas. He stressed that regional work was the key to implementing the Convention's activities and to further developing its increasing emphasis on waste minimization, particularly moving from "end-of-pipe" approaches to preventing the creation of hazardous waste generation. He outlined a proposed mid-term framework (to 2010) that would build on work to date on the focus areas, but would be sufficiently flexible to accommodate emerging issues, such as end-of-life equipment.

The OEWG noted the oral and written reports presented.

BASEL CONVENTION PARTNERSHIP PROGRAMME:

The Basel Convention Partnership Programme, which was included in the OEWG5's agenda and in a key document containing proposed COP decisions (UNEP/CHW/OEWG/5/2), was not taken up in plenary.

MOBILE PHONE PARTNERSHIP INITIATIVE: On Monday, 3 April, Marco Boletti (Switzerland), Chair of the Mobile Phone Working Group established under the Mobile Phone Partnership Initiative (MPPI), reported to plenary on the progress of the group (UNEP/CHW/OEWG/5/INF/13) and a related draft decision (UNEP/CHW/OEWG/5/2). He explained that the MPPI included four project groups on: awareness raising and environmental design of mobile phones; mobile phone refurbishment and reuse; material recovery and recycling; and collection schemes and transboundary movements of used and end-of-life mobile phones. He noted that all groups had developed guidelines on their respective issues, and only the issue of transboundary movements of mobile phones destined for repair, refurbishment or upgrading was pending within the group on transboundary movements, where disagreement remained about whether such mobile phones constituted "hazardous waste."

Many participants thanked the Mobile Phone Working Group for the guidelines, stressing the relevance of the issue, and called for funding for the pilot projects. Nigeria stressed the responsibility of mobile phone companies, and said the MPPI should inspire other initiatives, especially on e-waste. The US supported the completion of a paper discussing the problems and potential solutions on transboundary movement of mobile phones necessary for ESM of mobile phones. The Basel Action Network (BAN) said exports of mobile phones under the name of repair, refurbishing and reuse could cause great environmental harm, as shown in a recent film on e-waste in Nigeria. Switzerland applauded the interventions from GRULAC in support of MPPI.

On Thursday, 6 April, delegates considered a draft decision developed in light of their earlier comments (UNEP/CHW/OEWG/5/CRP.7), and adopted the text without further amendment.

OEWG5 Decision: In this decision, the OEWG requests the Mobile Phone Working Group to complete the overall guidance document on ESM of used and end-of-life mobile phones for consideration and adoption at COP8. It invites parties and other stakeholders to make financial and in-kind contributions for the implementation of the pilot collection and treatment schemes and requests the Secretariat to prepare a draft decision on the Mobile Phone Partnership Initiative for consideration at COP8.

AMENDMENTS TO THE LISTS OF WASTES AND THE STATUS OF DECISION VII/21: Delegates considered this issue (UNEP/CHW/OEWG/5/2, pages 8-13) in plenary on Thursday, 6 April. The item dealt specifically with amendments and/or corrections to the lists of wastes in the different UN working languages. It came about due to an earlier proposal by France to modify the French language text for the entry B1030 (refractory metals containing residues) in Annex IX of the Convention, which raised issues of the legal distinction between corrections and amendments. Delegates considered a draft decision (UNEP/CHW/OEWG/5/2) with amendments proposed by Germany (UNEP/CHW/OEWG/5/CRP.9). An oral amendment was also made by OEWG Co-Chair Daniel to invite comments from parties and others for a technical review on B1030. Parties agreed to the decision, with the proposed additions and alterations.

OEWG5 Decision: The decision clarifies the legal distinction between amendments and corrections to the lists of wastes in Annexes VIII and IX. It establishes a procedure for amendments and corrections, setting out the role of parties, the Secretariat and the OEWG.

ILLEGAL TRAFFIC: During plenary on Monday, the Secretariat introduced a revised draft training manual on illegal traffic (UNEP/CHW/OEWG/5/2/Add.3), noting that a draft decision on this issue would also be introduced later in the meeting. If agreed, this decision would lead to a COP8 decision that would request development of a second manual on illegal traffic, which would be intended for the legal profession and would complement the first manual. Delegates discussed the draft manual and the proposed second manual at some length. The OEWG agreed that the Secretariat should finalize the first draft manual with a few minor modifications for wide dissemination, including to the World Customs Organization.

With regard to a possible manual aimed at the legal profession, Co-Chair Daniel noted delegates' concern about its utility when legal systems differed markedly from country to country. Delegates agreed to a UK proposal that the Secretariat should outline, in a revised draft decision for COP8, how such a manual would address legal professionals' needs.

On Thursday afternoon a revised draft decision on illegal traffic (UNEP/CHW/OEWG/5/CRP.3) was introduced during plenary. The Secretariat explained that the draft incorporated the amendments proposed earlier in the week, and included a request

to transmit the training manual on illegal traffic to the World Customs Organization for comments. The decision was approved without amendment for adoption at COP8.

OEWG5 Decision: In the decision (UNEP/CHW/OEWG/5/5), the OEWG approves the draft training manual (UNEP/CHW/OEWG/5/2/Add.3, Annex). It requests the Secretariat to disseminate the training manual widely as funds become available. It also asks parties to submit to the Secretariat proposals for items that could be addressed in an instruction manual for the legal profession on prosecuting illegal traffic, with a deadline for submissions of 31 July 2006. In this decision, the OEWG also invites COP8 to consider adopting a short decision that would approve an outline of the instruction manual for the legal profession, and asks the Secretariat to prepare a draft manual for the legal profession in time for OEWG7. It calls on parties to make voluntary contributions for the draft manual. The decision also requests the Secretariat to continue efforts to organize further training seminars, and calls on parties and organizations in a position to do so to contribute towards these seminars either financially or "in-kind."

BASEL PROTOCOL ON LIABILITY AND

COMPENSATION: OEWG5 first took up this matter in plenary on Monday, 3 April, addressing issues raised in a background document (UNEP/CHW/OEWG/5/2/Add.7). On Thursday afternoon, 6 April, the Secretariat introduced a draft decision (UNEP/CHW/OEWG/5/CRP.5) noting that a deadline of 31 July 2006 had been proposed in relation to submissions on this issue. The OEWG approved the decision without amendment.

OEWG5 Decision: In this decision (UNEP/CHW/OEWG/5/5), the OEWG invites parties to identify whether there are specific concerns or considerations regarding the adequacy of the financial limits set down in Annex B of the Liability Protocol and to provide comments to the Secretariat, by 31 July 2006, on which of the possible financial guarantees required under the Basel Protocol should be further explored by the Secretariat.

PROPOSED DRAFT DECISIONS FOR

CONSIDERATION AT COP8: On Thursday afternoon, 6 April, delegates considered over a dozen draft decisions that had been proposed for consideration at COP8, all of which were contained in a document prepared by the Secretariat prior to OEWG5 (UNEP/CHW/OEWG/5/2, Annex II). These draft decisions were all approved and forwarded by OEWG5 for consideration at COP8 (the final versions are to be found in the report of OEWG5: UNEP/CHW/OEWG/5/5). In most cases these decisions were not controversial, and were adopted by OEWG5 with little or no discussion in plenary. The draft COP decisions address various issues related in most cases to implementation or follow up of previous COP decisions.

Report on the relationship with the UN Subcommittee of Experts on the Globally Harmonized System of Classification and Labeling of Chemicals: This matter was taken up briefly in plenary, with parties approving the draft decision without amendment, and agreeing to forward it to COP8 for its consideration.

Draft Decision: The text to be forwarded to COP8 agrees to extend the mandate of the Joint Correspondence Group between the OEWG and the UN Subcommittee of Experts on the

Globally Harmonized System of Classification and Labeling of Chemicals, and requests the Basel Secretariat to communicate this decision to the UN Subcommittee. It also asks the Secretariat to report regularly to the OEWG and the COP on the Joint Correspondence Group's work.

Identification in the World Customs Organization System of certain wastes in Basel Convention Annexes VIII and IX: On the 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, parties agreed to forward the draft decision to COP8.

Draft Decision: In the draft decision, the COP would request the Basel Secretariat to pursue its cooperation with the Secretariat of the Harmonized System Committee, the Harmonized System Review Subcommittee and the Scientific Subcommittee of the World Customs Organization. It would also request the Secretariat, with guidance from the OEWG, to continue to move forward on the issue of identification of wastes covered by the Basel Convention in the World Customs Organization's work and to report regularly to the OEWG and the COP.

Classification and Hazard Characterization of Wastes: Germany proposed deleting three of the four paragraphs drafted on this issue, which referenced a review of PVC wastes and also would have invited guidance papers on hazard characteristics H10 (Liberation of toxic gases in contact with air or water) and H11 (Toxic delayed or chronic, on an appropriate *de minimis* level). He pointed out that these issues were either not concluded or not a priority at this time. He also suggested a revised new paragraph on hazard characterization H10 and H11. These proposals were accepted by plenary.

Draft Decision: The draft decision to be forwarded to COP8 invites parties to contribute to the finalization of the guidance papers on hazard characteristic H10 and H11 with a view to adopting them at COP9.

National Classification and Control Procedure for the Import of Wastes Contained in Annex IX: The OEWG took up this matter briefly in plenary on Thursday afternoon, 6 April, adopting a short draft decision for consideration at COP8.

Draft Decision: In the draft decision, the COP invites parties experiencing difficulties with national classification or control procedures relating to the import of wastes contained in Annex IX to report this information to the Secretariat, and ask the Secretariat to collect such information and keep the OEWG up-to-date on the situation.

Technical Guidelines on ESM: This item, which relates principally to a review of the technical guidelines on used tires, was approved with some minor amendments introduced by the Secretariat to delete reference to "hazard characteristic Y17" and some alterations proposed by Germany to specify some specific matters that requiring further attention. The text was adopted, as orally amended.

Draft Decision: In the draft decision, the COP welcomes the initiative taken by Brazil to review the technical guidelines on used tires and request the OEWG to undertake a review of selected guidelines.

Implementation of Decision VII/2 on Hazardous Waste Minimization: Parties agreed to forward a draft COP decision for consideration by COP8 inviting comments on experiences with hazardous waste minimization. In the initial draft, the date for such submissions was not set. Nigeria and Germany noted that, as this matter would be taken up at COP9 in 2008, there was no urgency for such comments to be submitted. The OEWG therefore agreed to set the date for submissions as 30 June 2008.

Draft Decision: In the draft decision, the COP invites parties and others to provide comments on their experiences with hazardous waste minimization by 30 June 2008, and request the Secretariat to prepare a compilation of these comments for consideration by parties at COP9.

Transmission of information, including implementation of decision II/12: OEWG5 adopted a draft decision to be forwarded to COP8 after making some minor amendments suggested by Germany, including a reference to the submission of information "in electronic form" being preferable.

Draft Decision: In the draft decision, the COP urges parties that have not done so to complete and send to the Secretariat the completed questionnaires on transmission of information for the year 2004 as soon as possible. It also invites parties to fill in gaps in data that may exist in previously reported datasets, and requests the Secretariat to continue to provide training to developing countries and others in need of assistance to meet their reporting obligations by organizing workshops and taking other action, as appropriate.

Ban Amendment: The Secretariat presented a draft decision on the implementation of decision III/1 (Ban Amendment). Noting that a 62nd instrument of ratification had recently been deposited in the UN, she reported that the Expanded Bureau was engaging in regional consultations on interpretation of Article 17(5) of the Convention (entry into force of amendments), as there were divergent views on how many ratifications are required for the Ban Amendment to enter into force.

The Basel Action Network highlighted the increased importance of the ban given the greater amount of hazardous wastes being generated worldwide, and applauded the efforts of the Expanded Bureau to tackle the ambiguity surrounding Article 17. He urged parties not to adhere to the view of the UN Office of Legal Affairs, which he maintained required a much larger number of ratifications and did not correspond to what was originally intended by parties. Austria, on behalf of the EU, welcomed the recent ratifications of the Ban Amendment and urged all parties to ratify it, but advised against discussing its entry into force at this stage. Kuwait announced its recent ratification of the amendment. The draft decision was adopted without amendment.

Draft Decision: In the draft decision, the COP welcomes the recent ratification of the Ban Amendment by several parties to the Convention, and strongly appeals to other parties to ratify the amendment to facilitate its entry into force.

Implementation of Decision V/32: The Secretariat introduced this issue on Thursday, 6 April, noting that Decision V/32 had enlarged the scope of the Technical Cooperation Trust Fund on an interim basis to assist parties in relation to emergency

prevention and response plans. A draft decision submitted by GRULAC (UNEP/CHW/OEWG/5/CRP.2) was presented and approved without amendment.

Draft Decision: In the draft decision the COP urges parties to contribute to the Technical Cooperation Trust Fund to support the activities in the interim guidelines and invite parties to submit responses to the questionnaire on incidents, as defined by Article 2(h) of the Protocol, by 31 January 2007.

National legislation: Delegates considered a draft decision on collection of national legislation and other measures adopted by parties to implement the Convention. The text was adopted without amendment.

Draft Decision: In the draft decision, the COP encourages parties to continue providing the Secretariat with the texts of relevant national legislation and other measures, and urges parties to fulfill their obligations under the Convention to develop stringent laws to control transboundary movements of hazardous wastes and to incorporate appropriate sanctions or penalties for illegal traffic in wastes covered by the Convention.

Article 11 agreements and arrangements: The Secretariat introduced a draft decision on agreements and arrangements in relation to Article 11 of the Convention (Bilateral, multilateral and regional agreements). Ethiopia noted that information relating to this issue could be useful in determining whether a party that had signed an agreement under Article 11 was complying with the Convention's requirements, and proposed that this be analyzed by the Secretariat or the Compliance Committee with a view to considering the matter at COP8. OEWG5 took note of this suggestion and approved the draft decision.

Draft Decision: In the draft decision, the COP requests parties to notify the Secretariat of any bilateral, multilateral or regional agreements they have concluded, and ask the Secretariat to make the texts of such agreements available on its website.

National definitions of hazardous wastes: The Secretariat briefed the plenary on implementation of COP Decision VII/33 regarding transmission to the Secretariat of national definitions of hazardous wastes, other than those listed in Annexes I, II and VIII). OEWG5 agreed to a follow-up decision for consideration at COP8.

Draft Decision: In the draft decision, the COP requests parties that have not provided the Secretariat with information required under Convention Article 3 (national definitions of hazardous wastes) to do so as soon as possible. It also requests the Secretariat to make this information available on its website and to report to COP9 on the implementation of this decision.

OEWG work programme: Delegates considered this matter briefly in plenary, noting a suggested draft COP8 decision. Germany suggested that a formal decision on this was not required, and suggested simply requesting the Secretariat to work on the programme for 2007-2008 in the lead-up to COP8, in light of OEWG5's various decisions. Parties agreed to this approach. No formal decision was taken on this matter.

INTERNATIONAL COOPERATION: WORLD TRADE ORGANIZATION

On Thursday, 6 April, the Secretariat briefed participants on its activities in responding to a request from parties (Decision VII/38) that it work with the World Trade Organization (WTO) on relevant trade-related matters. The Secretariat also advised of difficulties in obtaining permanent observer status at the WTO's Committee for Trade and the Environment (CTE). Delegates expressed their strong support for the Secretariat to have permanent observer status at the CTE. The WTO Secretariat explained that the WTO's General Council members had not taken a general decision on CTE observer status for interested organizations such as Convention secretariats. In the absence of such a decision, the WTO's CTE had agreed in 2003 to invite organizations on an *ad hoc* basis, with the secretariats of seven environmental treaties being granted such status at formal meetings. Egypt expressed an interest in the Secretariat submitting a report to COP8 analyzing relevant issues dealt with in the CTE that had relevance to the Basel Convention, but the meeting adopted a draft decision contained in the background document on this topic (UNEP/CHW/OEWG/5/3).

OEWG5 Decision: In the decision, the OEWG: requests parties to coordinate at a national level on Basel Convention trade-related matters to enhance cooperation at all levels; invites parties to provide information to the Secretariat on trade-related issues, including on litigation, to promote cooperation between the Basel Convention and the WTO; and requests the Secretariat to continue to promote such cooperation.

OTHER MATTERS

COMPLIANCE COMMITTEE: On Thursday, 6 April, delegates considered a revised draft decision on the compliance committee (UNEP/CHW/OEWG/5/CRP.4), which incorporated an amendment to the original decision on the matter to invite parties to nominate candidates who were likely to serve for the full term, for the sake of continuity (UNEP/CHW/OEWG/5/4). The decision was approved in plenary without amendment.

OEWG Decision: The decision (UNEP/CHW/OEWG/5/5) calls on parties to conduct regional consultations and nominate candidates for membership on the compliance committee, requesting that nominations are submitted by 27 September 2006.

UNEP REPORT: OEWG5 agreed to transmit to COP8 a report from UNEP on its assistance and support to the Basel Convention (UNEP/CHW/OEWG5/INF/20).

LETTERS OF DESIGNATION: This issue was taken up in plenary on Friday, 7 April. The Secretariat explained that its original request for "letters of designation" for attendance at some meetings had been prompted by the increased security measures introduced at the Palais des Nations in Geneva. She noted that OEWG4 had considered this issue and asked Canada to consult with the Secretariat regarding questions of whether such letters of designation might require a change in the rules of procedure (UNEP/CHW/OEWG/4/18, paragraphs 91-93). Canada reported its understanding that the Secretariat would be able to proceed along the lines proposed. No formal decision was deemed necessary on this issue.

CLOSING PLENARY

OEWG5's closing plenary took place on Friday afternoon, 7 April, with delegates adopting the draft report of the meeting (UNEP/CHW/OEWG/5/5), with several minor corrections.

Delegates thanked the Co-Chairs, participants, Secretariat, interpreters and other staff for their hard work and preparations. Kenya reminded delegates that it would be hosting COP8, adding that OEWG5 had prepared the way so that COP8 could "push the Basel Convention agenda forward."

Austria, on behalf of the EU, said this had been a positive and constructive meeting. The BCRC in Iran commented on the discussions on financing, stressing that a "stronger Basel Convention would help us all." On behalf of all BCRC directors, he thanked delegates for their role in working toward this goal.

OEWG5 Co-Chair Ernesto Navarro highlighted the role of non-governmental organizations and other stakeholders involved in the process, as well as parties.

In her closing speech, Co-Chair Anne Daniel noted all the behind-the-scenes work that had led to a smooth and successful meeting. Noting that Basel was a long-standing convention and not necessarily one of the "sexy" treaties, she observed that it was a process where participants were involved in "real work" and where there was wide stakeholder involvement. She thanked all of those involved and closed the meeting at 4:22 pm.

A BRIEF ANALYSIS OF OEWG5

In spite of a heavy agenda of issues forwarded by COP7, OEWG5's work essentially focused on three main topics: ship dismantling, guidelines on POPs wastes, and financing and the related issue of synergies between the Basel, Rotterdam and Stockholm Conventions. Delegates decided early on to convene three contact groups to address these issues. This proved a wise move, as considerable progress was achieved in solving key matters and clarifying parties' positions in the lead-up to COP8.

POPs guidelines were most easily dealt with. Discussions were largely of a technical nature and ran relatively smoothly, mainly because most contentious issues had been resolved at COP7. Discussions in the groups on finance and ships proved to be quite another matter. Significant disagreements persisted at OEWG5 on these issues, both of which are widely considered to be critical for the Convention's future. On financing, delegates disagreed over what COP8 should do to ensure sufficient funding for the Basel Convention in the medium and long term, while the ships debate had to navigate its way through differences over whether the legally-binding instrument on ship recycling being developed by the IMO presently meets the requirement of ensuring a level of control "equivalent" to that of the Basel Convention. This brief analysis looks at these and other matters that were the subject of much debate within the financing and ship dismantling groups, and which are likely to resurface prominently at COP8 and beyond.

SHIP DISMANTLING

The OEWG's deliberations on ship dismantling focused largely on how the Basel Convention and IMO's work on this issue should relate to each other. Participants argued, in particular, over the importance of COP7's ruling that ship

dismantling falls within the scope of the Basel Convention. As with many decisions, however, this one appears to be subject to various interpretations. While everyone seemed to agree that the decision means that the mandatory requirements being considered by the IMO on ship recycling would have a “level of control” that is “equivalent” to that of the Basel Convention, it soon became apparent that participants disagreed strongly about what the term “equivalent level of control” actually means. Environmental NGOs and others insisted that any “equivalence test” would require comparing the IMO instrument to the Basel Convention’s core elements, such as its notification and prior informed consent requirements. Others, such as Japan, argued that the equivalence between the two instruments should be determined by examining the level of control provided by each treaty “as a whole,” rather than looking at its particular elements. Under this view, aspects of the Convention that for some are essential to fulfilling the “equivalency test,” such as written prior informed consent by all concerned actors, might not be required of the IMO instrument.

This matter is all the more relevant given parties’ disagreement over the extent to which the Basel Convention will apply to ship dismantling once the IMO treaty enters into force. For some participants, including Germany and environmental NGOs, it is clear that the Basel Convention will continue to apply to ship dismantling regardless of the entry into force of the IMO instrument unless otherwise agreed by parties. Others said this would depend on the scope of the IMO instrument, and even dared to suggest that the Basel Convention will cover only those matters that are not covered by the IMO treaty, such as warships and other government-owned vessels. One participant suggested that if the IMO instrument truly ensured an equivalent level of control to that of the Basel Convention it could eventually be regarded as a multilateral agreement under Article 11 of the Convention. That provision allows parties to enter into bilateral, regional or multilateral agreements regarding transboundary movements of hazardous wastes with parties or non-parties, provided that such agreements “do not derogate from the environmentally sound management of hazardous wastes” as required by the Convention. Whether ESM in ship dismantling is achieved, however, will depend on how well represented the Basel Convention is in the IMO process to ensure that the instrument on ship recycling provides adequate environmental and health protections.

THE PERENNIAL ISSUE: FINANCING

After the protracted financial discussions at COP7, it was no surprise that the issue of finance continued to generate heated debate at OEWG5. While one could draw parallels with other chemicals agreements recently seeking funds, notably the Rotterdam Convention and the Strategic Approach to International Chemicals Management, many feel that the Basel Convention is truly the “poor sister” among the chemicals-related agreements, especially considering its comprehensiveness and maturity. Some experts view this as indicating a lack of political will by donors to contribute sufficient funds to an issue that is of interest primarily to developing countries. Others argue, however, that the precarious financial state of the Convention is above all a reflection of the fact that it is only now “getting

its act together” to make itself attractive to donors and that appropriate private sector partnerships may provide opportunities for Basel to improve its financial situation.

These perceptions permeated the debate at OEWG5, in particular the discussion on the current contributions to the Technical Cooperation Trust Fund to strengthen BCRCs, the possible solutions to make the Convention financially sound in the long term, and the related discussion of synergies with other chemicals-related multilateral environmental agreements.

BUDGET PROMISES: On the trust fund issue, many developing countries expressed frustration at the fact that, despite their commitment at COP7 to making assessed contributions in return for significantly larger voluntary contributions by developed countries, the latter have not yet complied with their part of the deal. Many developing country delegates noted that private sector funding sources should not replace contributions by parties, and that each party should contribute according to its ability. A few donor countries reiterated their willingness to increase their voluntary contributions, but called for a study by the Secretariat showing clearly the need for such an increase. Some developing countries saw this as a ploy by donor countries hoping to delay as long as possible any growth in their contributions, while others felt that this position partly reflected the increased demand for funds for other environmental conventions.

THE GEF DEBATE: The question of whether the GEF should be sought as a possible financial mechanism of the Convention was also the cause of friction between developed and developing countries. While nearly everyone agreed that the Basel Convention could already benefit from GEF funds through existing focal areas such as POPs, water and climate change, opinions differed as to the appropriateness or utility of seeking a greater role for the GEF in the Convention’s financial framework by trying to make it one of Basel’s official financial mechanisms. One developed country expert made the point that it might not be wise to try to cut the “shrinking [GEF] pie into more pieces” and suggested turning to other sources of funding. One example of such funding was development aid, given the strong connection between hazardous waste management problems and poverty. Developing countries rejected this view, arguing that the Basel Convention is as important as the Stockholm Convention and that it deserves equal treatment by the GEF. Some donors insisted, however, that the Basel Convention would need to develop a well-articulated presentation of its global benefits before seeking a new window in the GEF, and that this was not something that could happen quickly but would take several years to bring about. Skeptics alleged that this was yet another attempt to delay the issue of how to make the Convention financially robust.

THE PUSH FOR SYNERGIES: The discussion of synergies with the Rotterdam and Stockholm Conventions, although preliminary, revealed that parties, other stakeholders and the secretariats themselves hold significantly different views on the matter. Although everyone at OEWG5 seemed to agree on the value of increasing efficiency and coordination among the three conventions in theory, defining what this meant in practice was quite another matter. A number of participants worried

that a search for efficiency could turn into nothing more than a cost-saving exercise in disguise, something they felt would not benefit the Basel Convention at all. In the face of some developed countries' enthusiasm for exploring structural changes to truly "cluster" the three conventions, many developing countries expressed the fear that synergies taken too far would, in practical terms, mean the "death" of the Basel Convention and its technical work, including its regional centers, to which developing countries attach great importance. Others suggested, however, that by addressing not only hazardous wastes but also POPs-related issues, regional centers could raise their status in the eyes of donors, given the strong interest in POPs by many developed countries. Whether these positions change will be revealed by the end of 2006, as the parties to each convention continue negotiations at the upcoming meetings of the conferences of the parties.

CONCLUSION

While some issues remain unresolved after OEWG5, experts at the meeting addressed technical and legal matters efficiently, paving the way for political discussions at COP8. OEWG5 produced a large number of decisions for consideration and adoption at COP8 that are important for the Convention's implementation, including on technical guidelines on POPs, movement documents, and liability. The strong disagreement over financing and the resultant heavily bracketed decision, however, indicates that finance discussions at COP8 will be as arduous as they were at COP7. The discussion on synergies is also likely to be contentious as positions become clearer in the more politically-loaded discussion of the COP. Although much of the discussion on ship dismantling is now taking place at IMO, where negotiations on a legally-binding instrument on ship recycling have unfolded, the issue will also remain on the Basel Convention agenda for some time, as parties debate how to influence the IMO process to ensure that its instrument on ship recycling fulfils the Basel Convention's requirements.

UPCOMING MEETINGS

OPEN-ENDED AD HOC WORKING GROUP ON NON-COMPLIANCE OF THE STOCKHOLM CONVENTION: This meeting will take place in Geneva, Switzerland, from 28-29 April 2006, ahead of the second meeting of the Conference of the Parties. For more information, contact: Stockholm Convention Secretariat; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: ssc@pops.int; internet: <http://www.pops.int>

SECOND CONFERENCE OF THE PARTIES TO THE STOCKHOLM CONVENTION: POPS COP-2 will be held in Geneva from 1-5 May 2006. For more information, contact: Stockholm Convention Secretariat; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: ssc@pops.int; internet: <http://www.pops.int>

EIGHTH INTERNATIONAL CONFERENCE ON MERCURY AS A GLOBAL POLLUTANT: Scheduled for 6-11 August 2006, this conference, which is co-hosted by the University of Wisconsin-Madison, the U.S. Geological Survey, and the University of Wisconsin-La Crosse, will take place in Madison, Wisconsin, US. For more information, contact:

conference secretariat; tel: +1-608-265-5085; fax: +1-608-262-0454; e-mail: info@mercury2006.org; internet: <http://www.mercury2006.org/>

FIFTH SESSION OF THE INTERGOVERNMENTAL FORUM ON CHEMICAL SAFETY: IFCS Forum V will be held in Budapest, Hungary, from 25-29 September 2006. Pre-meetings will be held on 23-24 September 2006. For more information, contact: IFCS Secretariat; tel: +41-22-791-3873; fax: +41-22-791-4875; e-mail: ifcs@who.ch; internet: <http://www.who.int/ifcs/>

THIRD CONFERENCE OF PARTIES TO THE ROTTERDAM CONVENTION: PIC COP-3 will convene in Geneva from 9-13 October 2006. For more information, contact: Rotterdam Convention Secretariat; tel: +41-22- 917-8296; fax: +41-22-917-8082; e-mail: pic@unep.ch; internet: <http://www.pic.int>

IMO MARINE ENVIRONMENT PROTECTION COMMITTEE: The 55th meeting of the MEPC will take place in London from 9-13 October 2006. For more information, contact: IMO Secretariat; tel: +44-(0)20-7735-7611; fax +44-(0)20-7587-3210; e-mail: info@imo.org; internet: http://www.imo.org/Newsroom/mainframe.asp?topic_id=109

SECOND MEETING OF THE PERSISTENT ORGANIC POLLUTANTS REVIEW COMMITTEE: The second meeting of the POPs Review Committee will be held in Geneva from 6-10 November 2006. For more information, contact: Stockholm Convention Secretariat; tel: +41-22-917-8191; fax: +41-22-797-3460; e-mail: ssc@pops.int; internet: <http://www.pops.int>

EIGHTH MEETING OF THE CONFERENCE OF THE PARTIES TO THE BASEL CONVENTION: COP8 will take place from 27 November to 1 December 2006, in Nairobi, Kenya. For more information, contact: Basel Convention Secretariat; tel: +41-22-917-8218; fax: +41-22-797-3454; e-mail: sbc@unep.ch; internet: <http://www.basel.int>

GLOSSARY

BAN	Basel Action Network
BCRC	Basel Convention Regional Centers
COP	Conference of the Parties
DDT	Dichloro-diphenyl-trichloroethane
ESM	Environmentally-sound management
GEF	Global Environment Facility
HCB	Hexachlorobenzene
ILO	International Labor Organization
IMO	International Maritime Organization
MEPC	IMO Marine Environment Protection Committee
OEWG	Open-ended Working Group
PBBs	Polybrominated biphenyls
PCBs	Polychlorinated biphenyls
PCDDs	Polychlorinated dibenzo-p-dioxins
PCDFs	Polychlorinated dibenzofurans
PCTs	Polychlorinated terphenyls
PIC	Prior informed consent
POPs	Persistent Organic Pollutants

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 VOLUME 95, No. 5, MONDAY, 7 JUNE 2004

SUMMARY REPORT OF THE INTERNATIONAL CONFERENCE FOR RENEWABLE ENERGIES - RENEWABLES 2004: 1-4 JUNE 2004

The International Conference for Renewable Energies (*renewables 2004*) took place from 1-4 June 2004, in Bonn, Germany. Approximately 3600 participants from 154 countries attended the Conference, including several Heads of State, 121 Ministers and representatives from governments, intergovernmental organizations (IGOs), non-governmental organizations (NGOs), the scientific community and the private sector.

The *renewables 2004* programme consisted of nine Plenary Sessions, including a Multi-Stakeholder Dialogue and a Ministerial Segment. The Multi-Stakeholder Dialogue addressed: the value of, and opportunities for, renewable energy - policy frameworks and regulatory certainty; and promoting renewable energy - finance and capacity for the future. Other Plenary Sessions addressed best-practice examples and success stories.

The Ministerial Segment included three Ministerial Roundtables that considered policies for renewable energy market development, financing options, and strengthening capacities, research and policy



Members of major groups and delegations in the main plenary room.

developing countries, and the mobilization of financial resources for new and renewable sources of energy. However, it was only following the 1992 UN Conference on Environment and Development (UNCED) that renewable energy issues began to feature more promi-

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Dr. Heinrich Schneider
 Conference Secretariat
 International Conference for
 Renewable Energies, Bonn 2004

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