

BRS CONVENTIONS COPS HIGHLIGHTS: THURSDAY, 4 MAY 2017

The BRS COPs continued Thursday, meeting jointly in the morning to hear reports from contact groups and to adopt a decision on enhancing cooperation and coordination among the BRS Conventions. The BC COP and RC COP met in the morning. In the afternoon, the high-level segment convened, followed by the RC COP. The budget contact group met throughout the day. Contact groups on technical assistance and financial resources and SC compliance met in the evening.

JOINT SESSION OF THE COPS

RC Effectiveness: Informal group Co-Chair Silvijia Kalniņš reported that the group had completed its work, having agreed on a draft decision on enhancing the effectiveness of the Convention mandating the continuation of work on this issue during the intersessional period.

ENHANCING COOPERATION AND COORDINATION AMONG THE BRS CONVENTIONS: Delegates agreed to adopt the joint draft decision "From Science to Action" (CHW.13/CRP.40; RC/COP.8/CRP.16; POPS/COP.8/CRP.26).

BASEL COP13

MATTERS RELATED TO IMPLEMENTATION OF THE CONVENTION: Operations and work programme of the OEWG: BC COP13 President Khashashneh proposed and, delegates agreed, to adopt the draft decision on the work programme and operations of the OEWG for the 2018-2019 biennium (CHW.13/CRP.42).

Strategic issues: Follow-up to the Indonesian-Swiss CLI: BC COP13 President Khashashneh proposed to adopt the draft decision (CHW.13/CRP.41). The EU introduced amendments, to: invite parties and others to submit comments on the review of the Annexes to the Secretariat; request the Secretariat to publish the comments on the BC website; and request the Secretariat to undertake work as mandated by the expert working group.

CHINA suggested language, including on the inclusion of "others" in place of "non-parties."

After consultations between China and the EU, the Secretariat introduced the amended decision, which: invites parties and others to "submit comments, if any" to the Secretariat; refers to "observers involved in the expert working group" instead of "others;" deletes the request for the Secretariat to undertake work mandated by the expert working group; and includes an appendix as submitted by the contact group on BC Strategic Matters.

JAPAN indicated that it would provide technical and financial support for intersessional activities. The COP adopted the draft decision as orally amended.

ROTTERDAM COPS

COMPLIANCE: RC COP8 President Perrez presented a President's proposal based on the work of the Friends of the President group that would, *inter alia*: establish a committee with 20 members; refer to "parties concerned"; include facilitative steps; reflect the need to understand specific national circumstances; decide that measures will be facilitative, non-punitive and non-adversarial; and ensure regular reviews of the procedures and mechanism.

Reiterating that "nothing is agreed until everything is agreed," IRAN, supported by SUDAN, objected to a party-to-party trigger, called for consensus-based decision-making in the committee, and said the committee should have a minimum of 25 members.

Noting he had requested but had not received any comments on this proposal from concerned delegations, RC COP8 President underscored that incrementalism is the "fundamental principle of negotiations."

CAMEROON thanked the President for his efforts and called for compromise, but noted the provisions on financial and technical assistance in the Convention's preamble and potential consequences of punitive measures.

INDIA, CUBA and SYRIA suggested more discussion in a contact group. VENEZUELA welcomed Iran's proposal and underlined the necessity to have a flexible and non-punitive compliance mechanism associated with financial mechanisms.

Saying "75-80%" of parties had not seen the President's proposal, PAKISTAN drew attention to Article 18 of the Convention indicating that the COP shall adopt rules of procedures for its subsidiary bodies by consensus. The Secretariat clarified that rules of procedure for the compliance committee have to be adopted by consensus. RC COP8 President Perrez further explained that the COP can decide by consensus whether the decision-making within the compliance committee needs consensus.

The RUSSIAN FEDERATION supported the establishment of a compliance mechanism, emphasizing its willingness to find compromise.

The EU, AUSTRALIA and COLOMBIA supported the President's proposal, with the EU lamenting that some parties were trying to block consensus. NAMIBIA said some parties misinterpreted the proposal's provisions.

NORWAY said the discussion in the Friends of the President's group was "fair and transparent," and noted his disappointment that many parties broke agreements reached at previous COPs.

RC COP8 President Perrez summarized the plenary discussion. Stating that he could see no objection, he declared the adoption of the proposed text.

IRAN, supported by INDIA, SUDAN, KAZAKHSTAN and PAKISTAN, emphasized its disagreement, indicating that the decision was “not valid.”

The RUSSIAN FEDERATION suggested more discussion, reminding parties that they still had time to reach agreement.

RC COP8 President Perrez closed the plenary, noting that the legal advisor could comment on the legitimacy of the decision on Friday.

In the afternoon, RC COP8 President Perrez apologized for the misunderstanding, noted the lack of consensus among parties and withdrew his proposal. Seeing parties were unlikely to agree on the issue of compliance, he proposed to defer the issue to COP9 with the Annex to decision RC-7/6 (procedures and mechanisms on compliance with the Rotterdam Convention) as the basis for future work.

IRAN emphasized that consensus is fundamental and said the CRPs submitted at COP8 could contribute to future work. INDIA reiterated its disagreement with the text proposed by the President. CAMEROON called for parties to engage constructively rather than block the discussion.

Noting the President’s “wise decision” to withdraw his proposal on the compliance mechanism, the EU supported the COP7 text on compliance as the basis of discussion at COP9. CANADA, NORWAY, AUSTRALIA, COLOMBIA and SWITZERLAND supported the COP7 text being forwarded to COP9.

The RUSSIAN FEDERATION preferred that COP9 discuss compliance, taking into account all the deliberations that have been made so far. IRAN, with PAKISTAN, stressed that the COP7 text would be “a basis” for discussion, and called for including all other proposals from COP8 in discussions at COP9. SUDAN proposed considering the President’s text as well as any other proposals from this meeting.

President Perrez then proposed that COP9 continue to consider this issue using the COP7 text as a basis and taking into consideration all discussions, clarifying that he had withdrawn his proposal.

CHILE proposed only negotiating bracketed text going forward, and using the text from COP7 for negotiations at COP9.

IRAN suggested that the COP7 text and deliberations at COP8 should be treated equally and suggested that some parties work together on language. The EU reiterated that only the COP7 text should be the basis of negotiations and that CRPs can be submitted prior to the next COP.

RC COP8 President suspended plenary, encouraging parties to consult among themselves.

ADOPTION OF THE REPORT: RC COP8 adopted the report with minor amendments (UNEP/FAO/RC/COP.8/L.1/Add.1)

HIGH-LEVEL SEGMENT

Corinne Momal-Vanian, UN Office Geneva, welcomed delegates. An award ceremony was held to recognize seven countries that recently ratified the Ban Amendment.

Calling the BRS and Minamata Conventions “cornerstones” of international environmental cooperation, Marc Chardonens, State Secretary for the Environment, Director of the Federal Office for the Environment, Switzerland, stated that the effectiveness of the RC must be improved and said the Conventions need adequate financing to realize change on the ground for a detoxified world.

SC COP8 President Abu-Kumi, on behalf of the three BRS COP Presidents, highlighted links to broader environmental challenges and initiatives, saying that the BRS Conventions demonstrate synergies at their best, particularly because “no country can realize a detoxified future alone.”

Highlighting various environmental initiatives, Erik Solheim, Executive Director, UN Environment, underscored the importance of cooperation, saying that achieving a pollution-free planet requires that governments, civil society and the private sector work together.

Naoko Ishii, CEO and Chairperson, the GEF, characterized chemicals and wastes as integrated into key economic systems, said there is “no option” but to transform current production and consumption patterns, and underscored that the GEF stands ready to work toward a detoxified future.

Maria Helena Semedo, Deputy Director-General, Climate and Natural Resources, FAO, underscored FAO’s commitment to support innovative solutions, dialogue and policies to realize sustainable agriculture and ecosystems approaches, highlighting its work to reduce the footprint of agriculture and impact of microplastics on fisheries.

Kate Gilmore, UN Deputy High Commissioner for Human Rights (OHCHR), highlighted the many links between human rights and toxics, including for children, who she said are being born “pre-polluted.” She further underscored that exposure to toxins and marginalization go hand in hand, which is counterproductive to early warning and just response. She underscored the role of the state to protect rights holders.

CONTACT GROUPS

BUDGET: The group met throughout the day. In the morning, delegates considered draft decisions. On the decision related to the CLI, delegates “cleared” the decision after BC Compliance Co-Chair Simonelli explained budgetary implications related to the need to host at least two face-to-face meetings of the 50-member expert working group on legal clarity intersessionally. They also “cleared” the draft decisions on, *inter alia*, the OEWG work programme and operations for the biennium 2018-2019.

IN THE CORRIDORS

Delegates were abuzz on Thursday after the surprise adoption – and subsequent rescinding – of a President’s text on compliance for the Rotterdam Convention. Consensus on this issue has long eluded delegates, and many were pessimistic about the possibility of agreement at this meeting after some parties sought to reopen text previously agreed at COP7. While some cheered the adoption, others raised doubts about the validity of the hastily-taken decision and asked whether more time should have been given to discussion. Tempers flared in some quarters, with one delegate declaring that if the decision was upheld, his country would have to “recalibrate its position toward the UN.” Others defended the “extraordinary commitment” of President Perrez, who thought he had achieved a satisfactory compromise.

After the withdrawal of the President’s proposal, and an apology from the RC COP President, some delegates voiced concern about “misuse” of the principle of consensus, saying that without efforts to compromise, it “can easily be used to block agreement and weaken the Convention.” One participant described the events of the day as an illustration of “lowest common denominator” multilateralism.

Looking ahead to Friday, one seasoned participant worried that the earlier controversy would hinder discussions of remaining work, particularly on SC compliance. “I really appreciate how brave [RC COP8 President Perrez] was, but I think we can expect a very late night on Friday,” she lamented.

ENB SUMMARY AND ANALYSIS: The *Earth Negotiations Bulletin* summary and analysis of the BRS Conventions COPs will be available on Monday, 8 May 2017, online at: <http://enb.iisd.org/chemical/cops/2017/>