

BRS Conventions COPs Highlights: Wednesday, 15 June 2022

The Basel Convention (BC) and Rotterdam Convention (RC) COPs both agreed to amendments to their respective Conventions. The BC amended three annexes to make all e-waste subject to the prior informed consent (PIC) procedure. The RC agreed to list decabromodiphenyl ether (decaBDE) and perfluorooctanoic acid (PFOA). Contact groups met on BC legal matters, BC strategic matters, RC listing, budget, and technical assistance and financial resources.

Joint Sessions

Adoption of the Report

The COPs adopted the report of the joint sessions (L.2) and the report and key messages of the high-level segment held on 1 June (CRP.8).

Basel Convention

Matters Related to the Implementation of the Convention

Legal, Compliance, and Governance Matters: Providing further legal clarity: Mari-Liis Ummik (Estonia), Co-Chair of the contact group on legal matters, introduced a draft decision on the amendments to Annexes II, VIII, and IX regarding e-waste, contained in CRP.29. She reported that the last set of brackets was cleared this morning, after the previously concerned party agreed to the text. She stressed that according to the decision, all hazardous and non-hazardous e-waste will be covered by the PIC procedure under the BC, and that amendments will enter into force on 1 January 2025.

BC COP President Álvarez-Pérez thanked the Co-Chairs and Switzerland and Ghana, for their work in a spirit of cooperation and consensus to achieve this significant milestone for human health and the environment, which will also help protect vulnerable countries from unwanted imports.

The BC COP adopted the decision as presented in CRP.29.

CHINA thanked Switzerland and Ghana for putting forward the proposal and expressed support for putting e-waste completely and comprehensively under the control of the BC to prevent pollution, especially in developing countries. She noted that chapeau in Annex VIII is not very clear and could cause confusion in identifying which part of the Convention relates to specific e-waste, and expressed hope that further interpretation of this amendment will reaffirm that all e-wastes are covered by the BC.

SWITZERLAND and GHANA thanked each other and other delegates for fruitful work over the past two years that led to this decision and congratulated parties on this achievement. GHANA also thanked China for its support of the decision.

Scientific and Technical Matters: Technical guidelines:

E-waste: BC COP President Álvarez-Pérez invited parties to consider the expert working group, particularly its work on the e-waste technical guidelines, noting that in previous discussions there was broad support for extending its mandate, as set out in Option 2 of the draft decision (CHW.15/6), while one party supported disbanding it.

Noting the adoption of the technical guidelines on e-waste, the EU said it could agree to a modified version of Option 2, which would include: moving the submission date for Bureau nominations to 31 July 2022 and delaying the date for parties to submit the results of their use and/or testing of the technical guidelines to 31 October 2022; requesting the expert working group to prepare “updated,” rather than “revised” technical guidelines; and deleting a reference to the OEWG so that the group would report directly to COP16.

INDIA, SAUDI ARABIA, PAKISTAN, and ARGENTINA supported the EU’s proposal. SAUDI ARABIA underscored that the transition to solar panels will generate “enormous quantities” of e-waste.

IRAN requested a justification of the changes and, with GHANA, requested time to reflect on the EU’s proposal.

BC COP President Álvarez-Pérez requested the EU to prepare a CRP outlining the changes and their rationale and said the COP would return to this issue on Thursday, 16 June. The EU agreed, noting, *inter alia*, that the shift to 31 July aligns with other decisions and the shift to 31 October will give parties more time to prepare comments.

Plastic wastes: The BC COP adopted the decision with a proposed way forward for the intersessional work as outlined in CRP.27, and cleared by the budget contact group, as well as guidelines contained in CRP.27/Add.1.

Further Consideration of Plastic Waste: The BC COP adopted the decision, cleared by the budget contact group, as outlined in CRP.26.

Work Programme of the OEWG: BC COP President Álvarez-Pérez informed the plenary that consultations with regions on the draft work programme were ongoing. Noting that several decisions are outstanding, he proposed delaying consideration of this issue to Thursday afternoon.

SWITZERLAND supported this and, noting that many documents may need to be updated to reflect amendments to the Convention, suggested requesting the Secretariat to identify relevant documents and report to the OEWG.

BC COP President Álvarez-Pérez took note of this proposal and said the BC COP would consider it alongside a decision on the work programme.

Adoption of the Report: Delegates reviewed the report of the meeting (CHW.15/L.2/Add.1 and L.2/Add.2).

CHINA requested an amendment to paragraph 45 of the draft report (UNEP/CHW.15/L.2/Add.2), noting, *inter alia*, it had not “insisted” on working online at OEWG13 and had instead called on the BC COP to “consider the option of” holding a hybrid meeting.

The report was adopted as orally amended.

Rotterdam Convention

Matters Related to the Implementation of the Convention

Listing of Chemicals: Decabromodiphenyl ether (decaBDE): RC COP Vice-President Khashashneh recalled that the COP previously agreed that the criteria for listing this chemical are met, but parties could not agree to include it in Annex III. Noting that consultations had been held, he asked if the RC COP was ready to adopt a decision on listing without brackets around the date of entry into force.

IRAN highlighted the constructive discussions held and stated that it was difficult for them to agree with this decision, but they were willing to be flexible upon the requests from other parties and RC COP Vice-President Khashashneh.

The RC COP adopted the decision to list decaBDE in Annex III of the Convention (RC/COP.10/9), as well as the guidance document (RC/COP.10/9/Add.1).

PFOA, its salts, and related compounds: RC COP Vice-President Khashashneh recalled that the COP previously agreed that the criteria for listing are met, but parties could not agree to include it in Annex III. He reported that consultations were conducted and asked if the RC COP was ready to adopt the listing decision.

The RC COP adopted the decision to list PFOA, its salts, and related compounds (RC/COP.10/12), as well as the guidance document (RC/COP.10/12/Add.1).

Technical Assistance: The RC COP adopted the decision on technical assistance (CRP.8).

Contact Groups

BC Legal Matters: The contact group, co-chaired by Mari-Liis Ummik (Estonia) and Florisvindo Furtado (Cabo Verde), met in the morning to finalize two remaining decisions: on the Implementation and Compliance Committee (ICC) and legal clarity. Parties swiftly finalized the ICC decision, rejecting in full the proposed amendment to the Terms of Reference of the committee and including reference to “capacity building” in addition to technical assistance when it comes to addressing illegal trade.

On legal clarity decision, parties worked to review additional and alternative text introduced at the previous sessions, namely related to the basis of work and mandate of an expert working group and the way forward with their work on possible amendments to Annex IV. Most parties agreed that expert recommendations provide a good basis for further work, and the exact mandate should be discussed at the OEWG. One party opposed adding a list of issues for the expert working group to focus on, based on this COP discussion, stating it would add too much pressure to the already busy experts, and one party proposed to delete the Annex to the draft decision saying it is redundant given all the proposed edits. With a significant part of the draft decision still in brackets, the contact group will meet one more time to complete its work.

Technical Assistance and Financial Resources: In the contact group, co-chaired by David Kapindula (Zambia) and Premysl Stepanek (Czech Republic), parties read the latest version of the draft decision on the financial mechanism where brackets remained in six paragraphs. Based on informal consultations

among parties, they quickly reached agreement on the text in the sections on assessment of funding needs and on assessment of funding needs regarding polychlorinated biphenyls.

Participants then considered two bracketed paragraphs on guidance to the financial mechanism. One party asked to consider these paragraphs together and insisted on including the paragraph proposed by his country, which requests the Secretariat to prepare a comprehensive report on the challenges faced by developing parties on accessing GEF financial resources. Some developed countries opposed, noting that this would limit the scope of the GEF’s consideration of the information in the needs assessment report.

After a break for informal consultations, the parties agreed to clean the text in the rest of the draft decision, but keep the brackets in the two outstanding paragraphs on guidance to the financial mechanism. Discussions will continue on Thursday, 16 June.

RC Listing: In the contact group, Co-Chairs Marit Randall (Norway) and Carol Theka (Malawi) presented a draft decision and invited parties to consider it. One group suggested indicating that parties were “not yet able,” rather than “unable,” to reach consensus on listing the remaining five chemicals on the agenda. Several countries said they were uncomfortable with this change. One country also suggested mentioning that “a minority of parties did not agree on listing,” which was opposed by other parties. After further exchange, participants agreed on a draft decision, which takes note of the discussions regarding the challenges, concerns, views, and possible ways forward expressed at COP10 about the chemicals for which the COP was unable to reach consensus on listing in Annex III.

In the Corridors

It was a day for celebration at the TripleCOP. It felt a bit like a Friday, or the end of the meeting because delegates applauded and held a soirée to celebrate major decisions that will advance the work of the Conventions. The BC made all e-waste subject to its prior informed consent procedure. Hazardous or not, exporters will have to notify importing countries – and crucially, receive their consent – before sending e-waste shipments to developing countries. The fastest-growing waste stream in the world is now fully covered by the BC’s controls.

The RC likewise had reason to celebrate. Parties agreed to list decaBDE and PFOA in Annex III. Both are already listed under the Stockholm Convention, in Annex A (elimination), but with some specific exemptions. While limited production and use are allowed, trade in these chemicals must have the developing countries’ prior informed consent. Some were more relieved than celebratory, with one saying it would have been “a disaster” for the Convention if it failed to list the two chemicals that the Stockholm Convention already slated for the much stronger measures, including elimination.

No one has ordered champagne for the legacy RC chemicals that have not been listed, even though countries agree all the criteria are met. Leaving the contact group, one party wondered why they bothered negotiating a decision, “it will say in writing what we’ve said in words for years – that we don’t agree to list these chemicals.” Others worried that such a decision might be used by parties who strongly opposed listing of these chemicals to argue that the relevant agenda items have been completed, and listing should no longer be considered by future RC COPs.

With two days left, a participant also observed roadblocks in the budget and compliance discussions. Optimistically, however, he saw a way ahead in the financial mechanism discussion. Perhaps the celebratory mood that led to the e-waste amendments and RC listings could grease the wheels for consensus on these remaining difficult issues.