

The Basel Convention Implementation and Compliance Committee

Taller sobre Garantías Financieras y movimientos transfronterizos de residuos peligrosos en América del Sur
CABA, Argentina 7 Marzo 2019

Juan Simonelli, ICC Chair

- I. Background and features**
- II. Specific Submissions**
- III. General issues of implementation and
compliance: Illegal traffic**
- IV. ICC-13**

I. Background and features

- **Legal basis:** Decision VI/12 (2002), COP-6: establishment of the Mechanism for Promoting the Implementation of and Compliance with the obligation set out in the Basel Convention, and adoption of terms of reference
- **Implementation fund:** Decision BC-IX/2 (2009), establishment of the implementation fund to assist any Party that is a developing country or a country with an economy in transition and is the subject of a submission to the Committee
- Paragraph 9(c) of the ToR on the **Secretariat trigger** amended by Decision BC-10/11 (2011), BC-11/8 (2013) and Decision BC-12/7 (2015). Issue to be revisited at COP-14
- The Committee administering the Mechanism is one of two subsidiary bodies to the COP with the OEWG. It reports back to the COP.

- **Objective:** to **assist Parties** to comply with their obligations under the Convention; to *facilitate, promote, monitor* and aim to secure the implementation of and compliance with the obligations under the Convention
- **Composition:** 15 members nominated by Parties based on equitable geographical representation of the 5 regional groups of the UN, and elected by the COP. Members are to serve objectively and in the best interest of the Convention

Mandate:

- Specific submissions regarding individual Parties
- General issues of implementation and compliance
- **Link to ENFORCE** ToRs developed by the ICC in the context of its mandate to review general issues of implementation and compliance pertaining to preventing and combating illegal traffic (work programme 2012-2013), adopted by COP-11
- Chair of ICC participates **ex officio** in meetings of ENFORCE
- Chair of ICC, Ms Jimena Nieto (Colombia), participated in the **first meeting of ENFORCE** (Bangkok, 18–19 November 2013) and provided background information on the establishment of ENFORCE.

II. General issues of implementation and compliance: Illegal traffic

- **Mandate:** « The Committee shall, as directed by the Conference of the Parties, review general issues of compliance and implementation under the Convention”
- **Issues included in the ICC POW :** reporting, illegal traffic, national legislation, control system, country contacts ...
- **Funding** for activities: European Union, Japan and Norway
- For more information:
<http://www.basel.int/Implementation/LegalMatters/Compliance/GeneralIssuesActivities/Activities201617/IllegalTraffic/tabid/4581/Default.aspx>

- **ICC past activities**

- Development of **directory of training institutions**
- Development of terms of reference for **ENFORCE**, established by COP-11
- Development of **guidance on the implementation of the Basel Convention provisions dealing with illegal traffic** (paragraphs 2, 3 and 4 of Article 9), adopted by COP-13
(<http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>)
- Guide and review the **Secretariat's development of tools and training activities** for customs and other enforcement officials

- **ICC POW for 2018-2019 (decision BC-13/9)**
 - Consider what additional steps could be taken to improve implementation of and compliance with Article 9 of the Convention
 - Forthcoming questionnaire to seek views from Parties and organizations involved in preventing combating illegal traffic
 - Special session during ICC-13 including dialogue with CITES
 - Recommendations for consideration by COP-14 (May 2019)

IV. ICC-13

- 7-10 September 2018, Geneva
- Back to back to OEWG-11
- **Meeting documents:** Two kinds of documents: public (general issues) and restricted (specific submissions). Restricted documents available on ICC members restricted website and shared only with the Party concerned.

<http://www.basel.int/TheConvention/ImplementationComplianceCommittee/Meetings/ICC13/Overview/tabid/6290/Default.aspx>

- **Observers:** ICC meeting is public, unless ICC is dealing with specific submissions. In that case, the session is closed unless the Party concerned and the ICC agree otherwise.

V. Insurance, Bond & Guarantee

- Orientación para mejorar la aplicación del párrafo 11 del artículo 6 del Convenio sobre seguros, fianzas y garantías

Ultimas versiones circuladas a los países para consulta, comentarios y negociacion en el ambito del OEWG 11 y revision ICC13

DocumentOSs UNEP/CHW/OEWG.11/9 and UNEP/CHW/OEWG.11/INF/25.

- Executive Summary
 - I. Objectives of the guidance
 - II. Background information
 - A. The genesis and purpose of paragraph 11 of Article 6 of the Basel Convention
 - 1. Definition and scope of paragraph 11 of Article 6
 - 2. Meaning of the terms “insurance”, “bond” and “guarantee”
 - 3. Relationship between paragraph 11 of Article 6 and Articles 8, 9 and 14 of the Basel Convention
 - 4. Relationship between paragraph 11 of Article 6 and the Protocol on Liability and Compensation
 - 5. Relationship between the financial guarantees under paragraph 11 of Article 6 and other insurances required by other international legal instruments for the transport of dangerous goods/substances

- B. Steps taken by Parties in implementing and improving the implementation of paragraph 11 of Article 6 of the Basel Convention, and challenges met
 1. Who is required to obtain the financial guarantee?
 2. What forms of financial guarantee instruments may be used, and who may issue them?
 3. What risks and costs should be covered by the financial guarantee?
 4. During what period of time does the financial guarantee need to be in force?
 5. Who should be the beneficiary of the financial guarantee?
 6. What amount of funds needs to be guaranteed?
 7. What are the prerequisites for disbursement of guaranteed funds?
 8. How can compliance with financial guarantee requirements be monitored?
 9. How to address differences in requirements among the States of export, transit, and import?
- C. Recommendations from Parties and other stakeholders on how to address these issues and otherwise improve the implementation of paragraph 11 of Article 6 of the Basel Convention

- III. Guidance on how to improve implementation of paragraph 11 of Article 6 of the Basel Convention
 - A. Who may obtain the financial guarantee?
 - B. What forms of financial guarantee instruments are available to be used and who issues them?
 - C. What risks and costs should be covered by the financial guarantee?
 - D. During what period of time does the financial guarantee need to be in force?
 1. Issuance of financial guarantee
 2. Period of effectiveness and release of financial guarantee
 - E. Who should be the beneficiary of the financial guarantee?
 - F. What amount of funds needs to be guaranteed?
 - G. What are the prerequisites to requiring disbursement of guaranteed funds?
 - H. How can compliance with financial guarantee requirements be monitored?
 - I. How could differences in requirements among the States of export, transit, and import be addressed?

- IV. Conclusion

THANK YOU