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**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Tenth meeting**

Cartagena, Colombia, 17–21 October 2011

Item 3 (c) (ii) of the provisional agenda*

**Matters related to the implementation of the Convention:
legal, compliance and governance matters:
national legislation, enforcement of the Convention and
efforts to combat illegal traffic**

National legislation, enforcement of the Convention and efforts to combat illegal traffic

Note by the Secretariat

Introduction

1. By its decision IX/23, the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal requested the Secretariat, subject to availability of funding, to organize enforcement training activities; to continue to maintain a collection of national legislation adopted by parties to implement the Basel Convention; to continue to provide advice and assistance on matters related to the implementation and enforcement of the Convention, to parties upon request; and to prepare, subject to the receipt of voluntary contributions for that purpose, a draft instruction manual for the legal profession on the prosecution of illegal traffic.

2. By its decision OEWG-VII/14, the Open-ended Working Group, among other things, welcomed the various implementation and enforcement activities undertaken by the Secretariat,¹ called upon parties and others in a position to do so to make financial or in kind contributions towards the implementation of such activities, and requested the Secretariat to prepare a draft decision concerning those matters for consideration by the Conference of the Parties at its tenth meeting.

I. Implementation

3. A detailed report on the implementation of the above-mentioned decisions is set out in the annex to the present note. In addition, document UNEP/CHW.10/INF/12 provides a synthesis of a survey of Customs authorities highlighting, among other things, the challenges faced in enforcing the Convention.

4. Information about the development of a draft instruction manual for the legal profession on the prosecution of illegal traffic is provided in document UNEP/CHW.10/12.

* UNEP/CHW.10/1.

1 UNEP/CHW/OEWG/7/14.

II. Proposed action

5. The Conference of the Parties may wish to adopt a decision along the following lines:

The Conference of the Parties

1. *Expresses its appreciation* to those parties that have provided funding for the activities of the Secretariat aimed at assisting parties in implementing and enforcing the Convention;
2. *Welcomes* the various implementation and enforcement activities undertaken by the Secretariat² and encourages the Secretariat to develop those activities further;
3. *Also welcomes* the active engagement of the World Customs Organization, the International Criminal Police Organization, the Green Customs Initiative, the Basel Convention regional and coordinating centres and relevant non-governmental organizations and networks in preventing and combating illegal traffic in hazardous and other wastes, and invites those organizations and networks to continue their collaboration with the Secretariat on activities aimed at assisting parties to prevent and combat illegal traffic;
4. *Urges* parties to fulfil their obligations set out in paragraph 4 of Article 4 and paragraph 5 of Article 9 of the Convention and, in particular:
 - (a) To promulgate, update or develop stringent legislation on the control of transboundary movements of hazardous wastes;
 - (b) To incorporate in their national legislation appropriate sanctions or penalties for illegal traffic in hazardous wastes and other wastes covered by the Basel Convention;
5. *Invites* parties to report confirmed cases of illegal traffic to the Secretariat using the form for confirmed cases of illegal traffic;
6. *Requests* the Secretariat to continue to provide assistance in the identification of cases of illegal traffic to parties upon request, and to make available on the Convention website the forms for confirmed cases of illegal traffic that are submitted;
7. *Encourages* parties to train enforcement personnel, including, as appropriate, Customs and port authority officers, coastguards, representatives of environment agencies, prosecutors, members of the judiciary and the police, to build their capacity better to prevent, identify and manage cases of illegal traffic in hazardous and other wastes, and encourages parties to take all practical steps to include the relevant provisions of the Basel Convention in the national training curricula of such enforcement personnel;
8. *Stresses* the importance for border officers of focusing equally on exports and imports, in addition to providing appropriate incentives and removing possible disincentives for enforcement entities to prevent and combat illegal traffic in hazardous and other wastes;
9. *Encourages* parties to raise the awareness of all relevant stakeholders, including those in the shipping industry, and waste generators and disposers, about illegal traffic in hazardous and other wastes and the applicable national legal framework;
10. *Urges* parties to improve cooperation and coordination among entities working to prevent and combat illegal traffic in hazardous and other wastes at the national level, including through the development of cooperative agreements between those entities;
11. *Requests* the Secretariat, subject to availability of funding, to organize enforcement training activities, in collaboration with the Basel Convention regional and coordinating centres, the secretariats of other relevant multilateral environmental agreements and other international organizations, agencies or programmes, to assist parties, particularly developing-country parties and parties with economies in transition, to develop national legislation and other measures to implement and enforce the Convention and to prevent and punish illegal traffic;
12. *Encourages* parties to continue to provide the Secretariat with the texts of national legislation and other measures adopted by them to implement and enforce the Convention;

² UNEP/CHW.10/11, annex.

13. *Requests* the Secretariat to continue to maintain a collection of national legislation and other measures adopted by parties to implement the Convention, including measures to prevent and punish illegal traffic, and to make such measures available on the Convention website;
14. *Also requests* the Secretariat to continue to provide advice and assistance on matters related to the implementation and enforcement of the Convention, including on the development of national legislation, to parties upon request;
15. *Calls upon* parties and others in a position to do so to make financial or in kind contributions towards the development of enforcement tools and the conduct of enforcement training activities to prevent and punish illegal traffic; the development of tools and the conduct of training activities on the development of national legislation; and other measures to implement the Convention;
16. *Requests* the Secretariat to report on these matters to the Conference of the Parties at its eleventh meeting and to prepare a draft decision thereon for its consideration.

Annex

Report on the implementation of decisions IX/23 and OEWG-VII/14

I. Tools and training activities to implement and enforce the Convention

A. Border controls

1. Since the ninth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Secretariat has cooperated with the World Customs Organization (WCO), the Green Customs Initiative of the United Nations Environment Programme (UNEP), the secretariats of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants, and the Basel Convention regional and coordinating centres in the delivery of several workshops aimed at raising Customs officers' awareness of the Basel Convention and at building their capacity to combat the illegal traffic of hazardous and other wastes. National or regional Green Customs Initiative training workshops have been held in Antigua and Barbuda, Dominican Republic, Fiji, Hungary, India, Indonesia, Kenya, Lebanon, Maldives, Niger, Nigeria, Malawi, Mongolia, Qatar, Syrian Arab Republic, Turkmenistan, Viet Nam and United Arab Emirates. Information about the workshops is available on the website of the Green Customs Initiative.³ The Secretariat was also represented at two regional Customs training workshops open to Green Customs Initiative partners organized by the Secretariat of the Convention on Biological Diversity, in Mali and Mexico.

2. As part of the synergies process, the secretariats of the Basel, Rotterdam and Stockholm conventions have jointly developed presentations for use in training Customs officials to ensure integrated training with regard to the three conventions. The three secretariats are jointly represented at Green Customs Initiative workshops.

3. The secretariats have also taken advantage of the Green Customs Initiative training courses to develop a joint questionnaire for Customs authorities aimed at collecting directly from participants for information purposes input on the following matters: domestic legal and institutional framework, monitoring and control procedures, and training and capacity-building tools. The results of these informal surveys have been synthesized in document UNEP/CHW.10/INF/12.

4. Prior to the seventh session of the Open-ended Working Group, the participation of the Secretariat or its representative (usually a Basel or Stockholm Convention regional centre) was made possible thanks to the financial support provided by the UNEP Division of Technology, Industry and Economics and WCO. Following the seventh session, the Secretariat of the Basel Convention has been in a position to fund the participation of the three secretariats' representative.

5. In addition to the delivery of training, the Secretariat is developing with WCO and the secretariats of the Rotterdam and Stockholm conventions a joint e-learning tool for Customs and enforcement officers on the three chemicals and wastes conventions. The course will be offered in 2012 via the WCO platform that already includes training modules on the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Montreal Protocol on Substances that Deplete the Ozone Layer. Financial support is provided to WCO by the UNEP Division of Technology, Industry and Economics, while the European Commission provided funding to the Secretariat to implement this activity.

B. Legal frameworks

6. As part of the synergies process, the secretariats of the Basel, Rotterdam and Stockholm conventions have organized a series of awareness-raising workshops on enhancing collaboration and cooperation between those conventions. A specific session on the legal and institutional frameworks for the implementation and enforcement of the three conventions was introduced for the first time during the workshop for Central America and the Caribbean held in San Salvador from 6 to 9 December 2010. Since then, a legal session has become a regular feature of what are known as the "synergies workshops" and has been included in workshops for French-speaking African countries (Senegal, 5–8 July 2011), Pacific island countries (Fiji, 25–29 July 2011) and the Middle East (tentatively planned for November 2011). Funding for these legal sessions was provided by the

3 www.greencustoms.org/workshops.

European Commission. A legal training course was also held in the framework of the implementation of a project in Trinidad and Tobago through a regional workshop for 13 small island developing States in the Caribbean (Trinidad and Tobago, 12 and 13 July 2011).⁴

7. The Secretariat is also cooperating with the secretariats of the Rotterdam and Stockholm conventions with a view to developing a joint legal kit bringing together legal tools under the three conventions.

8. It is proposed that future activities pertaining to the development of tools and the delivery of training on legal frameworks be undertaken jointly by the three secretariats under activity S2 of the 2012–2013 work programme.⁵

C. Other enforcement activities

9. In addition to targeting Customs officials and lawmakers, the Secretariat's enforcement activities have focused on the police and the judiciary. The Secretariat was represented by the Basel Convention regional centre for French-speaking countries in Africa at a training seminar on environmental law for French-speaking judges in Africa, held in Abidjan, Côte d'Ivoire, from 27 to 30 April 2009. The seminar was organized by the secretariat of the Convention on Wetlands of International Importance Especially as Waterfowl Habitat and supported by the UNEP Division of Environmental Law and Conventions. The Secretariat also attended a symposium on tackling illegal trade in ozone-depleting substances organized by the Division of Technology, Industry and Economics in cooperation with the Division of Environmental Law and Conventions held in Paris on 9 and 10 June 2011, during which it had the opportunity to raise the awareness of selected judges and prosecutors about the Basel Convention.

10. The Secretariat also participated in an international seminar on the policing of environmental crime, organized by the police service of the Netherlands and its academy and held in Amsterdam from 17 to 19 November 2009. The Secretariat is also cooperating with the International Criminal Police Organization on the development of an e-learning tool for the police. This tool will be based on the e-learning tool developed with WCO, but will include a module specific to police work, for example on investigations. Funding for the development of this tool has been provided by the European Commission.

11. Through the secretariats of the Rotterdam and Stockholm conventions, the Secretariat also participated in the ninth UNEP Global Training Programme on Environmental Law and Policy, held in Nairobi from 2 to 13 November 2009.

12. Following the seventh session of the Open-ended Working Group and the allocation of specific funding for that purpose, the Secretariat also initiated the design, layout and printing of the training manual on illegal traffic for Customs and other enforcement agencies in the six official languages of the United Nations.

13. Since the ninth meeting of the Conference of the Parties, the Secretariat has received 11 requests from parties to assist in the identification of cases of illegal traffic.

14. Information on other types of cooperation between the Secretariat and organizations dealing with enforcement and illegal traffic activities, such as the Green Customs Initiative, WCO, the International Network for Environmental Compliance and Enforcement, the European Union Network for the Implementation and Enforcement of Environmental Law: transfrontier shipments of waste and the International Criminal Police Organization, is provided in document UNEP/CHW.10/INF/14. Information on the work undertaken by the Implementation and Compliance Committee on issues of national legislation; notifications by parties of national definitions and of import or export prohibitions; and illegal traffic is provided in document UNEP/CHW.10/9.

II. National legislation and other measures adopted by parties

15. Following the ninth meeting of the Conference of the Parties, the Secretariat contacted those parties that had never submitted texts of their national legislation and issued communications to all parties inviting them to transmit to the Secretariat all relevant, updated legislation, regulations, guidelines and other measures to implement and enforce the Convention.

⁴ See document UNEP/CHW.10/INF/28.

⁵ See document UNEP/CHW.10/27/Add.1.

16. As a result, 22 parties transmitted texts of national legislation, bringing the number of parties with national legislation to 128; the number of parties with national legislation published on the Convention website to 111 and the number of parties without national legislation to 48.
 17. The Secretariat has also provided advice and assistance to 38 parties on matters related to the implementation and enforcement of the Convention.
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