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مؤتمر الأطراف في اتفاقية بازل بشأن التحكم في نقل
النفايات الخطرة والتخلص منها عبر الحدود
الاجتماع التاسع

بالي، ٢٣ - ٢٧ حزيران/يونيه ٢٠٠٨
البند ٧ (ط) من جدول الأعمال المؤقت*

تنفيذ المقررات التي اعتمدها مؤتمر الأطراف في اجتماعه الثامن:
المسائل القانونية

الإنفاذ: التشريعات الوطنية والتدابير الأخرى التي اعتمدها الأطراف لتنفيذ اتفاقية
بازل لمكافحة الاتجار غير المشروع

مذكرة من الأمانة

أولاً - مقدمة

١ - من المواد المرجعية يورد المقرر ٢٤/٨ الذي اعتمده مؤتمر الأطراف في اجتماعه الثامن، ومقرر الفريق العامل المفتوح العضوية - ١٣/٦، الذي اعتمده الفريق العامل في دورته السادسة، الذي طلب فيه إلى الأمانة أن تعد دليلاً عالمياً للمهن القانونية بشأن المحاكمة على الاتجار غير المشروع، لكي ينظر فيه مؤتمر الأطراف في اجتماعه التاسع، وأن تعد وتنظم حلقة تدارس تدريبية بشأن الاتجار غير المشروع، رهناً بتوفر المساهمات الطوعية. ومن المواد المرجعية أيضاً المقرر ٢٦/٨ الذي يتعلق بالتزامات الأطراف، بموجب الفقرة ٤ من المادة ٤ والفقرة ٥ من المادة ٩ من الاتفاقية، فيما يتعلق باعتماد تدابير قانونية وإدارية وغيرها من التدابير لتنفيذ وإنفاذ أحكام الاتفاقية، ول منع الاتجار غير المشروع والمعاقبة عليه. وطلب إلى الأمانة، بموجب المقرر ٢٦/٨ أن تواصل عملية جمع

التدابير التشريعية الوطنية والتدابير الأخرى التي تعتمد عليها الأطراف، وأن تتيح تلك التدابير على موقع الاتفاقية على الإنترنت، وأن تنظم حلقة تدريب إقليمية ودون إقليمية بالتعاون مع المراكز الإقليمية التابعة لاتفاقية بازل تتناول وضع وصياغة التشريعات الوطنية، وأن تستمر في تزويد الأطراف بناء على طلبها بالمشورة والمساعدة في مجال التشريعات الوطنية.

ثانياً - التنفيذ

٢ - لم تتلق الأمانة أية مساهمات طوعية لتغطية تكاليف وضع مشروع دليل التعليمات للمهن القانونية للمحاكمة على الاتجار غير المشروع، وتبعاً لذلك استخدمت الأمانة مواردها الخاصة في وضع مشروع مخطط مفصل بناء على المخطط العام المرفق بمقرر مؤتمر الأطراف، ومع مراعاة التعليقات والمعلومات التي وردتها من أربعة بلدان. وقد تم عرض مشروع المخطط المفصل على الفريق العامل المفتوح العضوية^(١) للنظر فيه. ولم يتم الاضطلاع بأية أعمال إضافية في هذا الصدد منذ الدورة السادسة للفريق العامل المفتوح العضوية نظراً لعدم ورود أية مساهمات طوعية لهذا الغرض ولعدم توفر الموارد الداخلية الكافية للأمانة للاضطلاع بهذا العمل. كما لم ترد أي تعليقات منذ الدورة السادسة للفريق العامل المفتوح العضوية. وفيما يتعلق بالتدابير التشريعية الوطنية وغيرها من التدابير، تمكنت الأمانة، بقدر الموارد المتاحة لها، من مواصلة جمع التدابير التشريعية والتدابير الأخرى، وأتاحها على موقع الأمانة على الإنترنت، وقامت بتقديم المساعدة إلى الأطراف بناء على طلبها.

٣ - يتضمن المرفق^(٢) لهذه المذكرة تقارير مفصلة عن تنفيذ الأنشطة التدريبية.

ثالثاً - الإجراء المقترح

٤ - قد يود مؤتمر الأطراف أن يعتمد مقررًا على غرار ما يلي:

إن مؤتمر الأطراف،

١ - يحث الأطراف على الوفاء بالتزاماتها بموجب الفقرة ٤ من المادة ٤ والفقرة ٥ من المادة ٩ من الاتفاقية، وعلى وجه الخصوص:

(أ) إصدار، أو استكمال أو تطوير تشريعات صارمة لمكافحة نقل النفايات الخطرة عبر الحدود؛

(ب) تضمين تشريعاتها الوطنية جزاءات أو عقوبات مناسبة على الاتجار غير المشروع في النفايات الخطرة والنفايات الأخرى التي تغطيها اتفاقية بازل؛

٢ - يطلب إلى الأمانة، رهنا بتوفر التمويل، تنظيم أنشطة تدريب عن الإنفاذ، بالتعاون مع المراكز الإقليمية التابعة لاتفاقية بازل، وأمانات الاتفاقات البيئية المتعددة الأطراف الأخرى

(١) يرد مشروع المخطط المفصل في المرفق للوثيقة UNEP/CHW/OEWG/6/12.

(٢) لدواعي الاقتصاد في النفقات يتاح المرفق باللغة الإنجليزية فقط، بصيغته الواردة دون تحريره رسمياً.

والمنظمات والوكالات أو البرامج الدولية الأخرى، من أجل مساعدة الأطراف، وعلى وجه الخصوص البلدان النامية والبلدان التي تمر اقتصاداتها بمرحلة انتقال، في تمكينها من وضع تدابير تشريعية وغيرها من التدابير الوطنية الأخرى لتنفيذ الاتفاقية وإنفاذها، ولمنع الاتجار غير المشروع والمعاقبة عليه؛

٣ - يشجع الأطراف على الاستمرار في تزويد الأمانة بنصوص التدابير التشريعية وغيرها من التدابير الوطنية الأخرى التي اعتمدها لتنفيذ اتفاقية بازل وإنفاذها؛

٤ - يطلب إلى الأمانة مواصلة تجميع التدابير التشريعية والتدابير الوطنية الأخرى التي تعتمدها الأطراف لتنفيذ اتفاقية بازل، بما في ذلك التدابير الخاصة بمنع الاتجار غير المشروع والمعاقبة عليه، وإتاحة هذه التدابير على موقع الاتفاقية على الإنترنت؛

٥ - يطلب إلى الأمانة أن تعد، رهناً بالمساهمات الطوعية التي ترد لها لهذا الغرض، مشروع دليل تعليمات للمهن القانونية للمحاكمة على الاتجار غير المشروع، يقوم على أساس مشروع المخطط المفصل الوارد في الوثيقة UNEP/CHW/OEWG/6/12، بالإضافة إلى أية مقترحات أو تعليقات تقدم وفقاً لهذا المقرر وأن تقدم المشروع إلى الفريق العامل المفتوح العضوية للنظر فيه وفي إمكانية اعتماده؛

٦ - يطلب إلى الأطراف وغيرها تزويد الأمانة، في موعد أقصاه [] مقترحات وتعليقات على مشروع المخطط المفصل المشار إليه في الفقرة ٥ أعلاه ومعلومات عن تجارب وحالات معينة تتصل بدليل التعليمات؛

٧ - يطلب إلى الفريق العامل المفتوح العضوية أن ينظر في مشروع دليل التعليمات ويعتمده؛

٨ - يدعو الأطراف والجهات الأخرى القادرة على تقديم مساهمات مالية أو عينية لتنفيذ الأنشطة التحريية الخاصة بالإنفاذ وإعداد مشروع دليل التعليمات للمهن القانونية للمحاكمة على الاتجار غير المشروع، أن تفعل ذلك؛

٩ - يطلب إلى الأمانة أن تواصل في تزويد الأطراف بناء على طلبها بالمشورة والمساعدة في المسائل المتصلة بتنفيذ وإنفاذ الاتفاقية، بما في ذلك، فيما يتعلق بوضع التشريعات الوطنية.

Annex

Detailed report on implementation of decisions VIII/24, VIII/26, VIII/32, and OEWG-V/9

Subject matter	Elements of the decision	Status of implementation
<p>Instruction manual for the legal profession on the prosecution of illegal traffic</p>	<p>OP VIII/24:</p> <ul style="list-style-type: none"> • Requests Parties and others to submit proposals for items and the specific content pertaining to such items that could be addressed in the instruction manual. • Requests Parties and others to provide the Secretariat information regarding concrete experiences and cases relevant to the proposed instruction manual. • Calls upon Parties and others to make voluntary contributions for the preparation of the draft detailed outline for an instruction manual. • Requests the Open-ended Working Group to consider the draft detailed outline for an instruction manual and make appropriate recommendations to the Secretariat for the preparation of a draft instruction manual for the consideration of the Conference of the Parties at its next meeting. 	<ul style="list-style-type: none"> • The proposals and information submitted by Parties and others relating to the specific content of the instruction manual was compiled by the Secretariat and submitted for the consideration of the Open-ended Working Group as documents UNEP/CHW/OEWG/6/INF/7 and INF/7/Add.1 • No voluntary contributions were received by the Secretariat for the preparation of the draft detailed outline for an instruction manual. Accordingly, the Secretariat used its own resources to develop a draft detailed outline, based upon the outline annexed to the decision of the Conference of the Parties and taking into account comments and information received from four countries. • The sixth session of the Open-ended Working Group considered the draft detailed outline prepared by the Secretariat (UNEP/CHW/OEWG/6/12) and requested, by its decision OEWG-VI/13, the Secretariat to develop, subject to the availability of funding, the instruction manual for the legal profession on the prosecution of illegal traffic, taking into account the discussions of the sixth session of the Open-ended Working Group. • The Open-ended Working Group also requested to Parties to submit comments on the draft instruction manual, and called upon Parties and others to offer expertise and in-kind and pecuniary contributions for, <i>inter alia</i>, the preparation of the instruction manual. • The Open-ended Working Group also requested the Secretariat, <i>inter alia</i>, subject to the level of voluntary contributions received for these purposes, to submit the draft instruction manual for consideration and possible approval by the Conference of the Parties at its next meeting. • Following the sixth session of the Open-ended Working Group, no comments were received from Parties by the Secretariat on the draft instruction manual. Neither did the Secretariat receive any offers of expertise and in-kind and pecuniary contributions for the preparation of the instruction manual. Accordingly, no resources have been available to fully develop the instruction manual for possible approval by the ninth meeting of the Conference of the Parties.

Subject matter	Elements of the decision	Status of implementation
<p>Organization of training seminars on illegal traffic and assistance to developing countries and countries with economies in transition in implementing the guidance elements at the national level</p>	<p>OP VIII/24</p> <ul style="list-style-type: none"> • Requests the Secretariat, in collaboration with the Basel Convention regional centres, to continue to assist Parties, particularly developing countries and countries with economies in transition, in implementing the guidance elements at the national level, including the development of national contingency plans. • Requests the Secretariat to continue its efforts to organize further training seminars in cooperation, where feasible, with other international organizations, agencies or programmes to assist Parties, particularly developing countries and countries with economies in transition, in implementing the guidance elements. • Calls upon all Parties and organizations in a position to do so to make financial or in-kind contributions towards the organizations of such training seminars. 	<ul style="list-style-type: none"> • By its decision OEWG-VI/13, the sixth session of the Open-ended Working Group reiterated the call for Parties and others to offer expertise and in-kind and pecuniary contributions for the development and delivery of training seminars on illegal traffic, and for the Secretariat to report to the Conference of the Parties at its next meeting on steps it had taken to this end. • The Secretariat did not receive any offers of expertise and in-kind and pecuniary contributions to enable it to develop and deliver training seminars specifically pertaining to illegal traffic. The Secretariat has, however, cooperated with other international organizations, such as the Organization of Security and Cooperation in Europe in the organization of workshops on illegal traffic of hazardous wastes. • The Secretariat has developed a proposal for a wider project aimed at strengthening legislative, regulatory and enforcement capacity for hazardous wastes and other wastes. This project is designed to deliver an integrated series of activities aimed at improving the enforcement capacity of participant countries in a consolidated and coherent manner. • The project has been devised so as enhance participant countries' foundational capacity generally for chemicals management, given that waste prevention, minimization as well as disposal are significant aspects of such management. Accordingly an integrated approach will be taken to so as to address international obligations under the Rotterdam and Stockholm Conventions, where appropriate, to the participant country. • Accordingly, the project seeks to (i) identify gaps and needs of the participant countries to form the basis for work under latter phases in the preparation of draft legislation or other measures implementing the Convention and, where relevant, the Stockholm and Rotterdam Conventions; (ii) produce tools to facilitate the development of legislative and regulatory measures to address obligations under the Basel Convention and, where relevant, the Stockholm, Rotterdam, Bamako and Cartagena Conventions, and to draft implementing legislation or regulatory measures for the participant countries; and (iii) develop training materials for agencies (competent authorities and focal points, legal professionals, enforcement agencies) engaged in implementation and enforcement, and to delivery training workshops on enforcement. • The Secretariat received the endorsement of eighteen countries that are classified as Least Developed Countries, Landlocked Developing Countries, or Small Island Developing States, expressing their desire to participate in the said

Subject matter	Elements of the decision	Status of implementation
		<p>project.</p> <ul style="list-style-type: none"> • The Secretariat assisted the Government of Trinidad and Tobago in successfully raising funds under the SAICM Quick Start Programme to undertake the activity in Trinidad and Tobago. A grant was received in the amount of USD 178,794, and implementation is due to commence in May 2008. It is intended that while the base activities are carried out in Trinidad and Tobago, the results of the project are shared and disseminated in the region through the organization of regional workshops at each of the phases of implementation. The project will involve all relevant Ministries in Trinidad and Tobago, and has received the support of the Secretariats of the Rotterdam and Stockholm Conventions. • The Secretariat will serve as the executing agency for this project in Trinidad and Tobago. The Secretariat's involvement in coordinating this project is funded from a voluntary contribution received from Sweden for this purpose. • The Secretariat continues to assist other interested countries in adapting the project proposal to their national needs, for presentation to donors for possible funding.
<p>National legislation and other measures to implement the Convention</p>	<p>OP-VIII/26:</p> <ul style="list-style-type: none"> • Encourages Parties to continue to provide the Secretariat with the texts of national legislation and other measures adopted by them to implement the Basel Convention and notes in that regard that under paragraph 4 of article 4 and paragraph 5 of article 9 of the Convention such measures include appropriate national and domestic legislation to prevent and punish illegal traffic. • Requests the Secretariat to continue to maintain a collection of national legislation and other measures adopted by Parties to implement the Basel Convention, including measures to prevent and punish illegal traffic, and to make such measures available on the Convention website. • Requests the Secretariat, subject to the availability of funding, to organize regional or subregional training workshops, in collaboration with the Basel Convention regional centres, on the development and formulation of national legislation, taking into account the difficulties identified by Parties relating to the development of national legislation during the implementation of the 2005-2006 work programme of the 	<ul style="list-style-type: none"> • The Secretariat has compiled and maintained copies of national legislation provided to it by Parties on the Basel Convention website (http://www.basel.int/legalmatters/natleg/index.html) • Following a recommendation made by the Basel Convention Compliance Committee at its fourth session, the Secretariat has taken steps to arrange the national legislation on the website so that it can be sorted by country and language. • No financial or in-kind contributions were forthcoming to allow the Secretariat to organize workshops on the development and formulation of national legislation. Attention is drawn, however, to the project aimed at strengthening legislative, regulatory and enforcement capacity for hazardous wastes and other wastes, which is described in detail above, which includes an element on providing assistance to participant countries in drafting their legislation. The implementation of this project in Trinidad and Tobago is due to commence in May 2008. • The Secretariat continues, upon request, to provide advice and assistance on national legislation to Parties.

Subject matter	Elements of the decision	Status of implementation
	<p>Compliance Committee</p> <ul style="list-style-type: none"> • Urges all Parties and organizations that are in a position to do so to make financial or in-kind contributions toward the organization of workshops on the development and formulation of national legislation. • Requests the Secretariat to continue to provide advice and assistance on national legislation to Parties upon request. 	
<p>Compliance Committee</p> <p>-</p> <p>Directory of training institutions offering activities aimed at improving capacity for detection, prevention and prosecution of cases of illegal traffic</p>	<p>COP-VIII/32:</p> <ul style="list-style-type: none"> • As part of its work programme for 2007-2008 the Basel Convention Compliance Committee shall undertake work on the issue of illegal traffic, which could include identifying available existing resources from a number of institutions, working in collaboration with such institutions and the Basel Convention regional centres, and assisting Parties through training, taking into account that such work would assist in ensuring the environmentally sound management of wastes. 	<ul style="list-style-type: none"> • The Committee agreed through e-mail correspondence, that it would develop a directory of training institutions offering training activities at the national, regional and international levels aimed at improving capacity for detection, prevention and prosecution of cases of illegal traffic, to serve as a useful source of information for governments and others. • Accordingly, the Committee approved a questionnaire to be issued in English, French and Spanish, and the Secretariat transmitted the aforementioned questionnaire to over 100 relevant training institutions, Basel Convention Focal Points, the Basel Convention Regional Centres and members of the Committee seeking information to be compiled in the directory. • The Committee continues to seek information on relevant training institutions, with a view to publishing the training directory for eventual dissemination to all Parties and relevant organizations.
<p>Training Manual on Illegal Traffic for Customs and other Enforcement Agencies</p>	<p>OEWG-V/9:</p> <ul style="list-style-type: none"> • Approves the draft training manual, and requests the Secretariat to publish the Training Manual in the six official United Nations languages and to disseminate it widely as funds become available for that purposes, and invites Parties to provide voluntary contributions towards that end to enable the Secretariat to disseminate the Training Manual; • Requests the Secretariat to transmit the Training Manual to the World Customs Organization and to seek that organization's comments thereon, having regard to its competence and activities related to illegal traffic <p>Invites Parties to use the Training Manual, to report to the Secretariat on their experience in the use of the Training Manual.</p>	<ul style="list-style-type: none"> • The Secretariat transmitted the Training Manual to the World Customs Organization, and received some comments to be incorporated into the Training Manual. The Secretariat has sought to raise funds to have these comments incorporated into all language versions; however, as yet, funds have not been forthcoming. • The Secretariat has had the English version of the Training Manual designed by a graphic designer, and has sought to raise funds to have the other language versions similarly designed and to have all language versions published and printed for wide dissemination. Unfortunately funds have not been forthcoming. • The Secretariat has not received any comments from Parties on their experience in using the Training Manual.