



环境署

BC

UNEP/CHW.9/28



巴塞尔公约

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## 控制危险废物越境转移及其处置巴塞尔公约

### 缔约方会议

### 第九次会议

2008年6月23日—27日，巴厘

临时议程\* 项目7(i)

缔约方大会第八届会议通过的各项决定的执行情况：  
法律事项

## 实施：缔约方通过的执行《巴塞尔公约》和打击非法贩运的国家立法和其他措施

### 秘书处的说明

## 一. 导言

1. 参照缔约方会议第八次会议通过的第VIII/24号决定和不限成员名额工作组第六届会议通过的第OEWG-VI/13号决定，这两项决定要求秘书处为法律专业编制关于对非法贩运进行起诉的指南手册以便供缔约方会议第九次会议审议，并且在收到自愿捐款之后，拟定和开展关于非法贩运的培训讲习班。还参照了关于缔约方在《公约》第九条第四款和第五款之下通过法律、行政和其他措施实施和加强《公约》各项条款和防治与惩罚非法贩运的各项义务的第VIII/26号决定。根据第VIII/26号决定，请秘书处继续收集各缔约方通过的国家立法和其他措施并且在公约的网页上提供这些措施，并且与巴塞尔公约区域中心协作组织关于制定和编制国家立法的区域或次区域培训讲习班，还要继续在各缔约方的请求之下提供关于国家立法的咨询和援助。

\* UNEP/CHW.9/1。

## 二. 实施情况

2. 秘书处没有收到为法律专业编制对非法贩运进行起诉的指南手册的费用的自愿捐款，因而秘书处采用其本身的资源，根据缔约方会议决定附件内的纲要并参照从四个国家收到的评论意见和信息制定了一份详细的纲要草案。详细的纲要草案已提交不限成员名额工作组审议。<sup>1</sup> 由于没有收到为此目的的自愿捐款并且秘书处没有足够的内部资源来开展这项工作，因而在不限成员名额工作组第六届会议之后没有进一步开展这方面的工作。在不限成员名额工作组第六届会议之后没有收到任何评论意见。至于国家立法和其他措施，只要所获得的资源允许，秘书处将继续收集立法和其他措施，并且将其公布在网页之上，并且还在缔约方的请求下提供援助。

3 本说明附件之内载有关于实施培训活动的详细汇报。<sup>2</sup>

## 三. 提议的行动

4. 缔约方会议不妨按照下列措辞通过一项决定：

### *缔约方会议*

1. *促请* 各缔约方履行《公约》第九条第4款和第5款之下的各项义务，特别是：

(a) 颁布，修订和制定控制有害废物过境转移的严厉立法；

(b) 在国家立法中列入对有害废物或《巴塞尔公约》所涉其他废物的非法贩运的适当制裁或惩治措施；

2. *请* 秘书处在获得资助的情况下，和巴塞尔公约区域中心、其他多边环境协定秘书处和其他国际组织、机构或方案一起组织实施培训活动以援助各缔约方，特别是发展中国家和经济转型国家制定国家立法和其他措施以实施和加强《公约》并且防止和惩处非法贩运；

3. *鼓励* 各地方继续向秘书处提供其为实施和加强《巴塞尔公约》通过的国家立法和其他措施的案文；

4. *请* 秘书处继续收集各缔约方为实施《巴塞尔公约》通过的国家立法和其他措施，其中包括防止和惩处非法贩运的措施，并且将这些措施在公约网页上提供；

5. *请* 秘书处在收到为此目的的自愿捐款之后，根据文件 UNEP/CHW/OEWG/6/12 所载的详细纲要草案以及根据本决定所提供的任何提议和评论意见，为法律专业编制对非法贩运提出起诉的指南手册草案并且将草案提交

<sup>1</sup> 文件 UNEP/CHW/OEWG/6/12 附件内载有详细纲要草案。

<sup>2</sup> 为节省经费，载有实施各项活动的报告的附件仅以英文提供，且未对之作任何正式编辑整理。

不限成员名额工作组供其审议并可能通过；

6. 请 各缔约方及其他各方于 [ ] 之前向秘书处提供关于上文第五段内所提到的详细纲要草案的提案和评论意见以及与指南手册有关的具体经验和案例的资料；

7. 请 不限成员名额工作组审议并核准指南手册草案；

8. 吁请 凡有能力这么做的各缔约方和其他各方为开展实施培训活动和为法律专业编制关于起诉非法贩运的指南手册草案提供财政或实物捐款；

9. 请 秘书处在缔约方的请求之下继续提供关于实施和加强《公约》，包括制定国家立法的咨询和援助。

## Annex

## Detailed report on implementation of COP8 decisions

Subject matter	Elements of the decision	Status of implementation
<p>Instruction manual for the legal profession on the prosecution of illegal traffic</p>	<p>COP VIII/24:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Requests Parties and others to provide the Secretariat information regarding concrete experiences and cases relevant to the proposed instruction manual.</li> <li>• Calls upon Parties and others to make voluntary contributions for the preparation of the draft detailed outline for an instruction manual.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• 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</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• The Open-ended Working Group also requested the Secretariat, <i>inter alia</i>, <i>subject</i> 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.</li> <li>• 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.</li> </ul>

<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>COP VIII/24</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> <li>• 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 project.</li> </ul>
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		<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• The Secretariat continues to assist other interested countries in adapting the project proposal to their national needs, for presentation to donors for possible funding.</li> </ul>
<b>National legislation and other measures to implement the Convention</b>	<p>COP-VIII/26:</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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</li> </ul>	<ul style="list-style-type: none"> <li>• The Secretariat has compiled and maintained copies of national legislation provided to it by Parties on the Basel Convention website (<a href="http://www.basel.int/legalmatters/natleg/index.html">http://www.basel.int/legalmatters/natleg/index.html</a>)</li> <li>• 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.</li> <li>• 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.</li> <li>• The Secretariat continues, upon request, to provide advice and assistance on national legislation to Parties.</li> </ul>

	<p>identified by Parties relating to the development of national legislation during the implementation of the 2005-2006 work programme of the Compliance Committee</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• Requests the Secretariat to continue to provide advice and assistance on national legislation to Parties upon request.</li> </ul>	
<p><b>Compliance Committee – Directory of training institutions offering activities aimed at improving capacity for detection, prevention and prosecution of cases of illegal traffic</b></p>	<ul style="list-style-type: none"> <li>• COP-VIII/32:</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> <li>• 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.</li> </ul>
<p><b>Training Manual on Illegal Traffic for Customs and other Enforcement Agencies</b></p>	<ul style="list-style-type: none"> <li>• OEWG-V/9:</li> <li>• 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</li> </ul>	<ul style="list-style-type: none"> <li>• 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.</li> <li>• 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</li> </ul>

	<p>that end to enable the Secretariat to disseminate the Training Manual;</p> <ul style="list-style-type: none"><li>• 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</li><li>• Invites Parties to use the Training Manual, to report to the Secretariat on their experience in the use of the Training Manual.</li></ul>	<p>forthcoming.</p> <ul style="list-style-type: none"><li>• The Secretariat has not received any comments from Parties on their experience in using the Training Manual.</li></ul>
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