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**Conférence des Parties à la Convention de Bâle
sur le contrôle des mouvements transfrontières
de déchets dangereux et de leur élimination
Neuvième réunion
Bali, 23–27 juin 2008**

Point 7 i) de l'ordre du jour provisoire*

**Application des décisions adoptées par la Conférence des Parties
à sa huitième réunion: questions juridiques**

Application de la Convention : législation nationale et autres mesures adoptées par les Parties pour mettre en œuvre la Convention de Bâle et lutter contre le trafic illicite

Note du secrétariat

I. Introduction

1. Il est fait référence à la décision VIII/24, adoptée par la Conférence des Parties à sa huitième réunion et à la décision OEWG-VI/13, adoptée par le Groupe de travail à composition non limitée à sa sixième réunion, qui priaient le secrétariat de préparer un manuel d'instruction à l'intention des juristes sur les poursuites à engager en cas de trafic illicite en vue de le soumettre à la considération de la Conférence des Parties à sa neuvième réunion et de préparer et organiser des séminaires de formation sur le trafic illicite, sous réserve de la disponibilité de contributions volontaires. Il est également fait référence à la décision VIII/26 relative aux obligations qu'ont les Parties, en vertu du paragraphe 4 de l'article 4 et du paragraphe 5 de l'article 9 de la Convention, de prendre les mesures juridiques, administratives et autres qui sont nécessaires pour mettre en œuvre et faire respecter les dispositions de la Convention, et pour prévenir et réprimer le trafic illicite. La décision VIII/26 priait également le secrétariat de continuer à établir un recueil des législations nationales et des autres mesures adoptées par les Parties et de les afficher sur le site Internet de la Convention, d'organiser en collaboration avec les Centres régionaux de la Convention de Bâle des ateliers de formation régionaux ou sous-régionaux sur

* UNEP/CHW.9/1.

l'élaboration et la formulation d'une législation nationale, et de continuer à prêter conseil et assistance en matière de législation nationale aux Parties qui le demandent.

II. Mise en œuvre

2. Le secrétariat n'a pas reçu de contributions volontaires pour couvrir les coûts relatifs à l'élaboration du projet de manuel d'instruction destiné aux juristes sur les poursuites à engager en cas de trafic illicite et, en conséquence, il a utilisé ses propres ressources pour préparer une ébauche détaillée sur la base de celle figurant en annexe à la décision de la Conférence des Parties et en prenant en considération les commentaires et informations envoyés par quatre pays. Cette ébauche détaillée a été soumise au Groupe de travail à composition non limitée pour examen.¹ Celui-ci n'a pas poursuivi ses travaux sur cette question après sa sixième réunion du fait qu'aucune contribution volontaire n'avait été reçue à cette fin et que les ressources internes du Secrétariat étaient insuffisantes pour entreprendre cette tâche. Aucune observation n'a été faite après la sixième réunion du Groupe de travail à composition non limitée. En ce qui concerne les législations nationales et autres mesures, le Secrétariat a continué à en établir un recueil, dans les limites des ressources disponibles, et il les a publiées sur le site Internet; il a également continué à prêter assistance aux Parties sur demande.

3. L'annexe² à la présente note contient des informations détaillées sur la réalisation des activités de formation.

III. Mesure proposée

4. La Conférence des Parties souhaitera peut-être adopter une décision libellée comme suit:

La Conférence des Parties

1. *Prie instamment* les Parties de s'acquitter de leurs obligations aux termes du paragraphe 4 de l'article 4 et du paragraphe 5 de l'article 9 de la Convention, en particulier:

- a) de promulguer, actualiser ou élaborer une législation stricte sur le contrôle des mouvements transfrontières de déchets dangereux;
- b) de prévoir dans leur législation nationale des sanctions ou des peines appropriées pour réprimer le trafic illicite de déchets dangereux et d'autres déchets visés par la Convention de Bâle;

2. *Prie* le Secrétariat, sous réserve de la disponibilité de fonds, d'organiser des activités de formation en matière d'application, en collaboration avec les Centres régionaux de la Convention de Bâle, les secrétariats d'autres accords multilatéraux sur l'environnement et d'autres organisations, agences ou programmes internationaux, afin d'aider les Parties, en particulier les pays en développement et les pays à économie en transition, à élaborer leur législation nationale et autres mesures pour mettre en œuvre et appliquer la Convention et pour prévenir et réprimer le trafic illicite;

3. *Encourage* les Parties à continuer d'envoyer au secrétariat le texte de leur législation nationale et des autres mesures qu'elles ont adoptées pour mettre en œuvre et appliquer la Convention de Bâle;

4. *Prie* le secrétariat de continuer à établir un recueil des législations nationales et des autres mesures adoptées par les Parties pour appliquer la Convention de Bâle, y compris les mesures visant à prévenir et réprimer le trafic illicite, et de les afficher sur le site Internet de la Convention;

5. *Prie* le secrétariat de préparer, sous réserve de la disponibilité de contributions volontaires à cette fin, un projet de manuel d'instruction à l'intention des juristes sur les poursuites à engager en cas de trafic illicite en se fondant sur le projet d'ébauche détaillée figurant dans le document UNEP/CHW/OEWG/6/12, de même que sur les propositions et observations reçues conformément à la présente décision et de soumettre ce projet au Groupe de travail à composition non limitée pour examen et approbation éventuelle;

¹ Le projet d'ébauche détaillée figure dans l'annexe du document UNEP/CHW/OEWG/6/12.

² Par souci d'économie, l'annexe n'est disponible qu'en anglais et n'a pas été officiellement éditée.

6. *Prie* les Parties et autres de fournir au secrétariat, d'ici au [_____], des propositions et observations sur le projet d'ébauche détaillée mentionné au paragraphe 5 ci-dessus ainsi que des informations sur les expériences et cas concrets relatifs au manuel d'instruction;

7. *Prie* le Groupe de travail à composition non limitée d'examiner et d'approuver le projet de manuel d'instruction;

8. *Invite* les Parties et autres organisations qui sont en mesure de le faire à contribuer financièrement ou en nature à la conduite d'activités de formation en matière d'application et à la préparation du projet de manuel d'instruction à l'intention des juristes sur les poursuites à engager en cas de trafic illicite;

9. *Prie* le secrétariat de continuer à prêter conseil et assistance aux Parties qui le demandent sur des questions liées à la mise en œuvre et à l'application de la Convention, y compris l'élaboration de la législation nationale.

Annexe

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>COP 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.

<p style="text-align: center;">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"> • 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 project.
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<p>National legislation and other measures to implement the Convention</p>	<p>COP-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 Compliance Committee 	<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.

	<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 - Directory of training institutions offering activities aimed at improving capacity for detection, prevention and prosecution of cases of illegal traffic</p>	<ul style="list-style-type: none"> • COP-VIII/32: • 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 • Invites Parties to use the Training Manual, to report to the Secretariat on their experience in the use of the Training Manual. 	<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.