

COMMUNICATION

IMPLEMENTATION AND COMPLIANCE COMMITTEE:

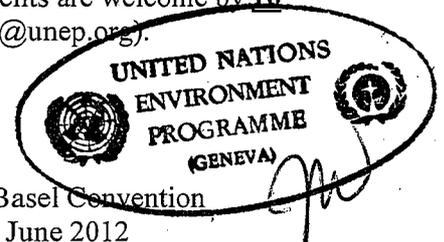
COOPERATIVE ARRANGEMENTS ON PREVENTING AND COMBATING ILLEGAL TRAFFIC

The Secretariat of the Basel Convention refers to Decision BC-10/11 whereby the Conference of the Parties to the Basel Convention requested the Committee for Administering the Mechanism for Promoting Implementation and Compliance with the Basel Convention (ICC) to prepare a first draft of terms of reference for cooperative arrangements on preventing and combating illegal traffic to bring together and improve cooperation and coordination between relevant entities with a specific mandate to deliver capacity-building activities on preventing and combating illegal traffic, such as the World Customs Organization, the International Criminal Police Organization, the United Nations Environment Programme, individual parties, the Basel Convention regional and coordinating centres, networks and the Secretariat, with a focus on the development of tools and training materials, the hosting of workshops and information exchange.

In line with the above mentioned decision, parties and others are invited to submit comments on the attached first draft of terms of reference prepared by the ICC. Comments are welcome by 10 July 2012 and should be sent to Ms. Juliette Voinov Kohler (Juliette.kohler@unep.org).

Thank you in advance for your kind cooperation and assistance.

Secretariat of the Basel Convention
Geneva, 8 June 2012



To: Focal Points and Competent Authorities of Parties and Signatories to the Basel Convention
Basel Convention Regional and Coordinating Centres
The World Customs Organization (WCO), Email: kunio.mikuriya@wcoomd.org
The International Criminal Police Organization (Interpol), Email: r.noble@interpol.int
The United Nations Environment Programme (UNEP), Email: achim.steiner@unep.org
The Asian Network for Prevention of Illegal Transboundary Movements of Wastes, Email: shunichi_honda@env.go.jp
The Transfrontier Shipments cluster of the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL-TFS), Email: Zofia.Tucinska@naturvardsverket.se; kevin.mercieca@mepa.org.mt
The International Network for Environmental Compliance and Enforcement (INECE), Email: McCabe.Catherine@epamail.epa.gov; planet-ben@uol.com.br
The Green Customs Initiative (GCI), Email: Sylvie.lemmet@unep.org
The Regional Enforcement Network (REN), Email: Nonglak.kasemsant@unep.org

cc: Permanent Missions to the United Nations in Geneva
ICC members

BASEL CONVENTION IMPLEMENTATION AND COMPLIANCE COMMITTEE

Terms of reference for cooperative arrangements on preventing and combating illegal traffic

(draft 8 June 2012¹)

Mandate

By decision BC-10/11, the tenth meeting of the Conference of the Parties to the Basel Convention requested the Committee administering the Mechanism for Promoting Implementation and Compliance with the Basel Convention (hereinafter the ICC) to prepare, in cooperation with relevant entities and for the consideration of the Conference of the Parties at its eleventh meeting, detailed draft of terms of reference for cooperative arrangements on preventing and combating illegal traffic to bring together and improve cooperation and coordination between relevant entities with a specific mandate to deliver capacity-building activities on preventing and combating illegal traffic, such as the World Customs Organization, the International Criminal Police Organization, the United Nations Environment Programme, individual parties, the Basel Convention regional and coordinating centres, networks and the Secretariat, with a focus on the development of tools and training materials, the hosting of workshops and information exchange (hereinafter “the X² on preventing and combating illegal traffic”).

X operates under the guidance of the ICC and under the authority of the Conference of the Parties to the Basel Convention (COP).

Mission Statement

The mission of X is to promote Parties' implementation, compliance and enforcement of the Basel Convention provisions pertaining to preventing and combating illegal traffic in hazardous wastes and other wastes by bringing together and improving cooperation and coordination between relevant entities with a specific mandate to deliver capacity-building activities on preventing and combating illegal traffic.

The mission of X will be achieved by:

- Promoting dialogue between its members and developing a shared vision for preventing and combating illegal traffic that is in line with the objectives and requirements of the Basel Convention;
- Improving the understanding of the issues at stake, of the role of the various stakeholders, of their challenges and needs, and of how to best address them;
- Promoting cooperation between members and a coordinated approach to capacity building activities, for instance through joint activities, in order to avoid duplication or

¹ This draft is based on the annex to document UNEP/CHW/CC/8/2 that was considered by the Committee during its eighth session and that served as the basis for the ICC to recommend to COP-10 the establishment of partnership on preventing and combating illegal traffic.

² The name of X is deliberately left open, Parties may opt for alliance, consortium, initiative....

gaps in the activities, to ensure a broader geographical distribution of such activities, and to prevent competition over resources; and

- Increasing the visibility and support for efforts aimed at preventing and combating illegal traffic.

Scope

The scope of X covers the hazardous wastes and other wastes falling within the scope of the Basel Convention.

Activities

In line with X's mission statement and through cooperation and information exchange between themselves, the members of X will focus their activities on:

- Understanding Parties' challenges and needs in preventing and combating illegal traffic,
- Developing common approaches/strategies for preventing and combating illegal traffic,
- Developing training tools and materials (including review of and improvement of existing training tools materials),
- Hosting of workshops or electronic training and information sessions,
- Sharing information for the dissemination of good practices and success stories, expertise, etc... and
- Periodical monitoring of and reporting on the progress/effectiveness of the training activities/modules, identify gaps/problematic areas and suggest modifications.

Membership

Membership is open to entities with a specific mandate to deliver capacity-building activities aimed at preventing and combating illegal traffic of hazardous wastes and other wastes under the Basel Convention.

Members of X are:

- One representative from each of the five groups of States referred to in section 1, paragraph 1, of the General Assembly Resolution 2997 (XXVII) of 15 December 1972, that are Parties to the Convention,
- The Chair of the ICC,
- The World Customs Organization, the International Criminal Police Organization (Interpol), the United Nations Environment Programme (through for instance DELC or DTIE),
- Four representatives from the Basel Convention regional and coordinating centres, ensuring equitable geographical representation,
- Constituted enforcement networks: the Asian Network for Prevention of Illegal Transboundary Movements of Wastes, the Transfrontier Shipments cluster of the European Union Network for the Implementation and Enforcement of Environmental Law (IMPEL-TFS), the Green Customs Initiative (GCI), the Regional Enforcement Network (REN), the International Network for Environmental Compliance and Enforcement (INECE), and
- The Secretariat of the Basel Convention.

The five Party representatives mentioned above shall be elected by the Conference of the Parties at each one of its meetings, based on nominations from each regional group.

The four representatives of the Basel Convention regional and coordinating centres shall be elected by the Conference of the Parties at each one of its meetings, based on nominations from each regional group.

Additional members are chosen by a decision of the members of X, bearing in mind that membership of X should not exceed 25 members.

Each member nominates a representative and notifies the Secretariat of the X accordingly. Communication with and among members will take place through the nominated representative.

Working methods

Members of X will prepare a work plan based on the mandate received by the COP and under the guidance of the ICC.

Members of the X will meet at least once a year, whether in person, by conference call or by electronic means, and whenever possible in conjunction with the meetings of the ICC or of the COP.

Meetings shall not be open to observers unless agreed otherwise by the members.

The objectives of the meetings are to develop the work plan and to ensure its effective implementation and review, including exchange of relevant information.

At the first meeting of X, a Chair and Vice Chair will be elected among the representatives of the members present at the meeting. The Chair and Vice Chair will serve as Chair and Vice Chair until the closure of the first meeting of X subsequent to a meeting of the COP.

For subsequent meetings of X, the following will apply. At the first meeting of X subsequent to a meeting of the COP, a Chair and Vice Chair will be elected among the representatives of the members present at the meeting. Election will be based, as far as possible, in a way to ensure rotation among the members of X. The Chair and Vice Chair will commence their term of office at the closure of the meeting at which they are elected and will serve as Chair and Vice Chair until the closure of the first meeting of X subsequent to a meeting of the COP.

Decision on all matters shall be taken by consensus of those members attending the meetings of the X. Procedural matters may be decided by consensus between meetings.

The report of any meeting of the X will be drafted under the authority of the Chair and circulated to members present at the meeting for its adoption. Once adopted, the report will become a document publicly available.

Secretariat

The Secretariat of the Basel Convention shall be the Secretariat of the X. It shall exercise its functions in accordance with Article 16 of the Convention.

Observers: non members and experts

Non-members that fulfill the membership criteria may, subject to the following conditions, be admitted to meetings of X and represented by observers. Such non-members wishing to be represented by observers during meetings of X shall address, through the Secretariat, a duly motivated request to the Chair of X. The Secretariat of X shall circulate the request to all members with a view to seeking their approval. If approved, the Chair of X will invite the requesting non-member to be represented by observers during the meeting of X.

Members of X may agree to invite experts possessing specialized technical knowledge on an issue to be discussed at a meeting be admitted to the meeting, or parts thereof, and represented by observers.

Observers will be requested to agree to respect the confidentiality rule applicable to the meetings of X.

Financial arrangements

The Conference of the Parties will decide, or as appropriate take note of, funding for the Secretariat to fulfil its duties with respect to the X as well as for the costs of meetings of the X. Voluntary contributions or in kind support by any member of X, any Party or any stakeholder is encouraged.

Confidentiality

The Chatham House Rule shall apply to all activities under the X, including meetings and inter-sessional correspondence. The Chatham House Rule states that participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant may be revealed.

The obligation of confidentiality set out herein shall subsist for all members of the X beyond the duration of their membership to the X.

The members of X as well as any observer or individual/entity involved in the work of X shall protect the confidentiality of information received in confidence.

Public Information

Information released on behalf of the X shall be communicated through the Secretariat of the X.

Logos and Names

Members of the X shall not use the names or logos of the Basel Convention, United Nations Environment Programme and the United Nations without the prior written authorization of each of those organizations in relation to each specific use.

Legal Liability

Neither the X nor any of the members of the X shall be held liable for any direct, incidental, consequential, indirect or punitive damages arising out of any activity, policy, and or other action undertaken by any member in the context of the X and its functioning.

The United Nations, the United Nations Environment Programme, the Secretariat of the Basel Convention and the Conference of the Parties to the Basel Convention and its subsidiary bodies shall not be responsible for dealing with any legal action, claim or other demand arising from or attributable to the operation of the X, or activities implemented thereunder.

Nothing under the X shall be deemed a waiver of any privileges and immunities of the United Nations, the United Nations Environment Programme and the Secretariat of the Basel Convention.

Dispute Resolution

In the event of a dispute that arises between members of the X, which is not covered under the present Terms of Reference, the following process shall be followed:

- i. Members with grievances shall submit their respective grievances to the Chair of the X;
- ii. The Chair shall discuss the situation with the members concerned as well as the Chair of the ICC, and then come to a decision regarding the situation that is mutually acceptable to the members concerned;
- iii. If resolution by the Chair is not achieved, the situation shall be put forward to the consideration of the members of X who shall decide on how to resolve it;
- iv. In order to continue membership with the X, members concerned shall comply with the decision arrived at using the above-mentioned processes.

Overriding Authority of the Conference of the Parties to the Basel Convention

The Conference of the Parties to the Basel Convention shall have overriding authority over all activities under the X.

The X will report on its activities to the ICC and, through the ICC, to the COP.

In the event of ambiguity in the present Terms of Reference, the Rules of Procedure for meetings of the Conference of the Parties to the Basel Convention shall apply.