

VIII/24: Illegal traffic: Outline of an instruction manual for the legal profession

The Conference of the Parties

1. *Requests* Parties and others to submit by 31 March 2007 proposals for items and the specific content pertaining to such items that could be addressed in an instruction manual for the legal profession on the prosecution of illegal traffic, taking into account the draft outline set out in the annex to the present decision;

2. *Also requests* Parties and others to provide to the Secretariat by the same date information regarding concrete experiences and cases relevant to the proposed instruction manual;

3. *Requests* the Secretariat to prepare, subject to the availability of funding, a draft detailed outline for an instruction manual for the legal profession on the prosecution of illegal traffic based on the proposals and comments provided in accordance with paragraphs 1 and 2 above and to submit the draft to the Open-ended Working Group for its consideration;

4. *Calls on* Parties and others to make voluntary contributions for the preparation of the draft detailed outline for an instruction manual;

5. *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;

6. *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;

7. *Also 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;

8. *Calls upon* all Parties and organizations in a position to do so to make financial or in-kind contributions toward the organization of such training seminars.

Annex to decision VIII/24

Manual on illegal traffic for the legal profession: draft outline of sections and contents¹

1. What environmental principles and concepts could be applied to the enforcement of the Basel Convention?

2. What do judges, prosecutors, and other legal officers need to know about the Basel Convention? *This section will include general background information on the Convention and its procedures and, in particular, the legal requirements flowing from the Convention's obligations.*

3. Illegal traffic of hazardous wastes and other wastes. *This section will include a description of what constitutes illegal traffic of hazardous wastes as defined under the Basel Convention and of the most common infractions.*

¹ The present manual is intended to supplement, among other things, the Training Manual on Illegal Traffic that was adopted at the fifth meeting of the Open-ended Working Group of the Basel Convention in decision OEWG-V/9. As a result, where issues that are discussed in the Training Manual on Illegal Traffic are described, cross-reference will be made to the relevant sections of that manual to avoid duplication.

4. Investigating and prosecuting a suspected case of illegal traffic of hazardous wastes or other wastes. *This section will include a description of the steps to be followed by prosecutors and other enforcement officers in building a case to address an alleged offence of illegal trafficking, including, among other things, investigation; the task force approach; evidence gathering, handling and storage; and required safety measures. It will be noted that different legal systems may impose different obligations; accordingly, examples of national laws and procedures giving effect to those obligations will be included to highlight the different approaches.*

5. Judging a case of alleged illegal traffic of hazardous wastes or other wastes. *This section will include a description of the special issues that environmental cases present, including, among other things, types of action (civil, administrative, criminal); locus standi; timeliness of action; burden and standard of proof, expertise required; scientific uncertainty. It will be noted that different legal systems may impose different obligations; accordingly, examples of national laws and procedures giving effect to those obligations will be included to highlight the different approaches.*

6. Remedies and enforcement of judicial decisions. *This section will include a description of potential penalties for illegal traffic of wastes including sanctions, penalties, restitution and remediation and quantification or valuation of damage, as well as potential mechanisms to ensure compliance with judicial decisions at the national level. It will be noted that different legal systems may impose different obligations; accordingly, examples of national laws and procedures giving effect to those obligations will be included to highlight the different approaches.*

7. Appendix: Legislative, administrative and other measures required for implementing and enforcing the obligations established by the Basel Convention. *The appendix will include a checklist for the preparation of national legislation for the implementation of the Basel Convention developed by the Secretariat, in consultation with the Implementation and Compliance Committee of the Basel Convention, pursuant to decision VII/32 on the guidelines for the preparation of national legislation for implementation of the Basel Convention, adopted at the seventh meeting of the Conference of the Parties to the Basel Convention.*