

CUSTOMS

Green Customs Guide

to Multilateral Environmental Agreements

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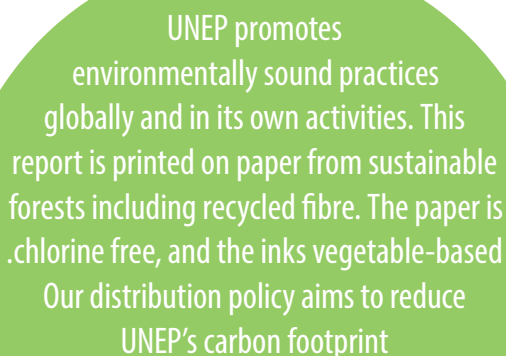
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GREEN CUSTOMS GUIDE

TO MULTILATERAL ENVIRONMENTAL AGREEMENTS

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Foreword

Customs officers and other relevant border control officers are on the frontline of facilitating and monitoring international trade. Customs and border control officers are expected to maximise the benefits society can derive from this trade, while at the same time we ask Customs officers and border control officers to limit the risks and threats that such commerce can pose, such as uncontrolled and illegal trade or criminal activities.

Certain substances and commodities that cross borders are considered to be “environmentally sensitive” for human health or ecosystems because of their inherent hazardous qualities, their potential for misuse, or their impact or possible impact on biodiversity or species. Such items include banned or restricted chemicals, hazardous and other wastes, rare and endangered species and living modified organisms. Many of these environmentally sensitive substances and commodities are controlled under trade-related multilateral environmental agreements (MEAs). Effective monitoring and control of the transboundary movement of such substances and commodities is a key component of environmental protection and, in many cases, national security.

For Customs officers and border control officers to do their daily work effectively, they need information and guidance so that they know what to look for, why they are looking for it, what the implications of its uncontrolled or illegal trade are, and whom to contact for more specialised assistance. Such capacity building of Customs officers and border control officers was initiated under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Montreal Protocol on Substances that Deplete the Ozone Layer, and it soon became evident that both illegal and legal trade needed to be considered in a holistic manner by making links, where appropriate, with other environmental Conventions to provide integrated training.

This Green Customs Guide is a tool that assists with this. This publication, which has been designed to be used by Customs officers and border control officers as part of a training curriculum or as a stand-alone introduction to the subject, provides an overview of the Conventions, their requirements related to trade in the environmentally sensitive substances and commodities, and Customs officers and border control officers’ role in facilitating their legal trade and preventing illegal trade.

This Guide has been produced by the Green Customs Initiative, an unprecedented and award-winning collaborative effort of 11 international organizations and convention Secretariats concerned with the implementation or enforcement of agreements with trade-related aspects. By finding links between the respective mandates and scopes of operation, the partners have joined together to engage, encourage and support Customs officers and border control officers in the implementation of MEAs and related agreements, in a cost-effective and coordinated manner.

Today, Customs officers and border control officers are increasingly aware that their traditional role as guardians of the trading system is evolving into a more nuanced one encompassing different dimensions of sustainable development related to the well-being and protection of society. Now we are asking Customs officers and border control officers to be at the frontline not only for trade, but also for environmental protection purposes, and to contribute to the greening of trade.

Through this Guide, the Green Customs partners invite you to join in the effort to protect our global common environment as well as that of your country by facilitating the implementation of important aspects of these international agreements in your daily work. We sincerely hope that this Guide is helpful and stimulates you to become more involved as a protector of the environment to facilitate conservation and sustainable use through responsible trade.



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Preface

Customs officers and border control officers ensure that any goods entering or leaving their country comply with national laws. If their country is a Party to one or more multilateral environmental agreements (MEAs), then these agreements should be integrated in the national legal frameworks.

Environmental problems are transboundary in nature and have a global impact. They can be effectively addressed only through international cooperation and shared responsibility, made possible through MEAs. Several MEAs regulate the cross-border movement of items, substances and products, mainly in the form of imports, transits, exports and re-exports. Thus the front-line Customs and border control officers responsible for controlling trade play a very important role in protecting the national and global environment.

Of particular importance to the work of Customs and border control officers are the treaties with trade-related provisions, such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Cartagena Protocol on Biosafety, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Montreal Protocol on Substances that Deplete the Ozone Layer, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants.

MEAs regulate the transboundary movement of a wide variety of items that Customs or border control officers might encounter in their work. Verifying shipments and their documentation is altogether a complex task and a large responsibility, as is verifying compliance with national laws and taking action when violations occur.

This guide is intended to help Customs and border control officers in their work. Chapter 1 explains what MEAs are and introduces the organizations that are partners to the Green Customs Initiative. Chapter 2 provides an overview of the main MEAs with trade-related provisions, with details on how they regulate trade, the roles and responsibilities of Customs and other border authorities, the specialised terminology associated with MEAs, and where to find additional information and guidance. Chapter 3 explores the practical aspects of implementing MEAs' monitoring requirements, including identification and inspection of suspicious goods, seizure and disposal, health and safety, legal issues and cooperation with other authorities. This chapter also includes references to training and reference materials and other useful information.

The implementation of MEA provisions at the national level requires a great deal of effort and commitment. However, Customs officers are not expected to undertake this task alone. At the national level, various entities are responsible for MEA implementation and can assist Customs officers in their work. They also rely on the efforts of these officers to ensure national compliance with MEAs. Within their mandates, each Green Customs partner organisation is also able to produce information, training and/or other specialised assistance related to its MEA or area of expertise. It is important that those working to ensure safe, legal trade recognise that through their efforts they are helping to deliver a better environment and sustainable future for their country and for all nations.

The information in this guide is up-to-date as of December 2017.

List of Abbreviations

AIA	Advanced Informed Agreement
BCH	Biosafety Clearing House
CAP	Compliance Assistance Programme
CAS	Chemical Abstracts Service
CCP	Container Control Programme
CEITs	Countries with Economies in Transition
CFCs	Chlorofluorocarbons
CITES	Convention on International Trade in Endangered Species of Wild Flora and Fauna
CWC	Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction
ESM	Environmentally Sound Management
FAO	Food and Agriculture Organization of the United Nations
GCI	Green Customs Initiative
GMM	Genetically Modified Micro-organism
GMO	Genetically Modified Organism
HFCs	Hydrofluorocarbons
HS	Harmonized System
LMO	Living Modified Organism
LMO-FFP	Living Modified Organism intended for direct use as food or feed, or for processing
MEA(s)	Multilateral Environmental Agreement(s)
NA	National Authority
NCB	National Contact Bureau
NOU	National Ozone Unit
ODS	Ozone Depleting Substances
OECD	Organisation for Economic Cooperation and Development
OPCW	Organisation for the Prohibition of Chemical Weapons
PIC	Prior Informed Consent
POPs	Persistent Organic Pollutants
UNODC	United Nations Office for Drugs and Crime
WCO	World Customs Organization



Multilateral Environment Agreements and Partners in the Green Customs Initiative

Multilateral environmental agreements

Multilateral environmental agreements (MEAs) are treaties between multiple States and, in some cases, regional economic integration organizations such as the European Union to pursue specific objectives aimed at protecting the environment and conserving natural resources. The intention of the international community to develop a new MEA is often brought about by worldwide concerns about the actual or potential serious impacts of human activities on the Earth's fragile environment and the need to address these through concerted efforts at the global level in order to ensure a safe future for coming generations. Measures that may be embodied in MEAs include for instance the monitoring and control of production and use of environmentally sensitive items, the restriction or elimination of their production and use, identifying and promoting alternatives, and regulating the way they are disposed of. Regulating the international trade of certain environmentally sensitive items is at the core of the MEAs covered by this guide.

Once an MEA enters into force, those States and organizations that have expressed consent to be bound by it - the Parties are legally obliged to comply with its provisions. The main MEAs with international trade-related provisions are the following:

- ➔ Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
- ➔ Cartagena Protocol on Biosafety to the Convention on Biological Diversity
- ➔ Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- ➔ Montreal Protocol on Substances that Deplete the Ozone Layer
- ➔ Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- ➔ Stockholm Convention on Persistent Organic Pollutants

The Chemical Weapons Convention¹ is an international agreement whose primary purpose is not environmental protection, but which shares common concerns and procedures with the MEAs

covered in this Guide. The role played by Customs officers and other border control officers to implement and enforce each agreement is similar in many respects.

Throughout this guide, the treaties mentioned above will be presented in alphabetical order.

The role of Customs in MEAs

Regulating the cross-border movement in certain environmentally sensitive items, e.g. commodities, substances and wild species, through MEAs is one of several means available to preserve and protect the environment from the actual or potential adverse effects of specific human activities. When States take the legal steps to formally agree to be bound by an MEA regulating international trade, they commit themselves to monitor, control and, when provided, restrict or ban trade in certain environmentally sensitive items through the enactment of national laws and regulations. Customs and border control officers play a central role in implementing international trade-related MEAs. They help regulate legal trade and help detect illegal trade. They check the validity of trade documents and ensure they correspond to the actual items. They combat fraud and check traders' compliance with prohibition and restriction measures. They collect the applicable duties and taxes. They also may be involved in investigation of illegal trade. Finally, they inform the public about measures to implement and comply with MEAs. By means of these tasks, Customs and border control officers are a safeguard against the deterioration of their country's and the global environment.

The Green Customs Initiative

The Green Customs Initiative is a partnership of organizations aimed at raising the awareness and building the capacity of Customs and border control officers on trade-related multilateral environmental agreements (MEAs). The partners of the Green Customs Initiative comprise the secretariats of the above-mentioned trade related MEAs, as well as the International Criminal Police Organization (INTERPOL), the United Nations Environment Programme (UN Environment), the United Nations Office on Drugs and Crime (UNODC), and the World

¹ Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction

Customs Organization (WCO). The following is a brief introduction of each Partner.

Basel Convention

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal establishes the legal and procedural framework for the regulation of transboundary movements of hazardous and other wastes. The goal is to ensure that such movements take place only when the transport and disposal of the wastes are conducted in an environmentally sound manner. Training and materials for Customs and border control officers are provided by the Secretariat of the Basel Convention and the Basel Convention Regional Centres.

The Secretariat of the Convention², which is administered by UN Environment is located in Geneva, Switzerland.

Cartagena Protocol on Biosafety

The Cartagena Protocol on Biosafety to the Convention on Biological Diversity is an international treaty that seeks to protect biological diversity from the potentially adverse effects that may be caused by living modified organisms (LMOs) produced through modern biotechnology. Such organisms are also often referred to as genetically modified organisms or GMOs. The Protocol is a supplementary agreement to the Convention on Biological Diversity. In 2010, the Nagoya-Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol was adopted, which provides for international rules and procedure on liability and redress for damage to biodiversity resulting from LMOs. The Secretariat of the Convention on Biological Diversity is based in Montreal, Canada.³

CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) establishes the legal framework and procedural mechanism for preventing international

trade in endangered species and regulating the trade in other species. CITES provides training for Customs officers by means of a computer-based, self-training programme online. The CITES Secretariat is administered by UN Environment and is located at Geneva, Switzerland.

INTERPOL

INTERPOL (International Criminal Police Organization, ICPO) is the world's largest international criminal police organization with 192 member countries. It coordinates and facilitates international cooperation among various national law enforcement agencies. In combating environmental crime, INTERPOL has been providing technical assistance, law enforcement contacts and investigative support such as stopping illegal transboundary movements of hazardous waste, illegal dumping, illegal traffic of ozone-depleting substances and illegal trade in endangered species of wild flora and fauna.

INTERPOL's mission is helping to create a safer world by providing the law enforcement community with a unique range of essential services to optimize international efforts to combat crime. INTERPOL's mission is to be the world's pre-eminent police organization in support of all organizations, authorities and services whose mission is preventing, detecting and suppressing crime. INTERPOL achieves its mission by: providing both a global perspective and a regional focus; exchanging information that is timely, accurate, relevant and complete; facilitating international co-operation; co-ordinating the joint operational activities of its member countries; and making available know-how, expertise and good practice.

INTERPOL addresses the needs and requirements of the international law enforcement community by anticipating and/or responding to its member countries' demands and expectations, while remaining alert to developments in order to anticipate future requirements. INTERPOL provides four core services: 1) facilitating information sharing among and across the international law enforcement community through secure communication channels; 2) ensuring communication by delivering data services and databases to police forces through INTERPOL's National Central Bureaus (NCBs); 3) organising and encouraging operational activities

² <http://www.brsmeas.org/Secretariat/Overview/tabid/3609/language/en-US/Default.aspx>

³ <https://www.cbd.int/secretariat/>

to combat organised crime at the national, regional and global scale; and 4) building capacity of the law enforcement community through trainings and development.

INTERPOL has been working to suppress environmental crime since 1992, when an Environmental Crimes Committee was set up by way of INTERPOL resolution AGN/61/RES/12. The Committee (now known as the Environmental Compliance and Enforcement Committee (ECEC)) comprises Working Groups on Wildlife Crime, Forestry Crime, Fisheries Crime and Pollution Crime. In 2009, INTERPOL established the Environmental Security Programme, which works to protect biodiversity, natural resources and environmental quality. EcoMessage is a tool created by INTERPOL in 1994 for its member countries to report environmental crime cases; it is used by INTERPOL to gather and share information on environmental crime.

Organization for the Prohibition of Chemical Weapons

The Chemical Weapons Convention (CWC) – an international treaty – bans the use of chemical weapons and aims to eliminate chemical weapons everywhere and forever. The Convention provides the basis on which the Organisation for the Prohibition of Chemical Weapons (OPCW) monitors the destruction of existing declared stocks of chemical weapons and the facilities formerly used to produce them, as well as inspects industrial sites to ensure that chemicals monitored under the Convention are produced only for purposes not prohibited by the Convention. The Convention requires its State Parties to restrict and report annually to the OPCW all exports and imports of chemicals listed in the Annex of Chemicals to the Convention. Those chemicals are considered to pose a special risk for chemical weapons production. The OPCW also promotes international co-operation and the exchange of scientific and technical information, so that people and governments can benefit from the legitimate uses of chemistry. The Technical Secretariat of the OPCW assists the Conference of the States Parties and the Executive Council in the performance of their functions⁴.

Montreal Protocol

The Montreal Protocol on Substances that Deplete the Ozone Layer is an international agreement that controls the production and consumption of specific man-made chemicals that destroy the ozone layer, the earth's protective shield. Customs controls and enforcement of national import/export licensing systems is essential for developing countries to meet their time-targeted compliance commitments under the Montreal Protocol. The Protocol is a supplementary agreement to the Vienna Convention for the Protection of the Ozone Layer. The Ozone Secretariat⁵ is the Secretariat for the Vienna Convention for the Protection of the Ozone Layer and for the Montreal Protocol on Substances that Deplete the Ozone Layer and is based at the United Nations Environment Programme (UN Environment) offices in Nairobi, Kenya

Rotterdam Convention

The Rotterdam Convention is an international agreement designed to promote shared responsibility and co-operative efforts among Parties in the international trade in certain hazardous chemicals—in particular, pesticides, industrial chemicals and severely hazardous pesticide formulations—in order to protect human health and the environment from potential harm. The Secretariat of the Convention is located in Geneva, Switzerland, and in Rome, Italy. The Food and Agriculture Organization of the United Nations (FAO)⁶ and the United Nations Environment Programme (UN Environment) jointly perform the Secretariat⁷ functions for the Rotterdam Convention.

Stockholm Convention

The Stockholm Convention on Persistent Organic Pollutants is directed toward protecting human health and the environment from one group of hazardous chemicals—persistent organic pollutants (POPs). The major obligations under the Convention are aimed at reducing or eliminating releases of POPs by the Parties. This includes obligating Parties to take measures to regulate the export and import

⁴ <https://www.opcw.org/about-opcw/technical-secretariat/>

⁵ <http://ozone.unep.org/en/about-secretariat>

⁶ <http://www.fao.org/home/en/>

⁷ <http://www.brsmeas.org/Secretariat/Overview/tabid/3609/language/en-US/Default.aspx>

of POPs. The Secretariat⁸ of the Convention, which is administered by United Nations Environment Programme (UN Environment) is located in Geneva, Switzerland.

United Nations Environment Programme (UN Environment)

The United Nations Environment Programme (UN Environment) is the leading global environment authority that sets the global environmental agenda, promotes the coherent implementation of the environmental dimension of sustainable development within the United Nations system and serves as an authoritative advocate for the environment. UN Environment's work encompasses assessing global, regional and national environmental conditions and trends, developing international and national environmental instruments, and strengthening institutions for the effective management of the environment.

The mission of UN Environment is "to provide leadership and encourage partnership in caring for the environment by inspiring, informing, and enabling nations and peoples to improve their quality of life without compromising that of future generations. UN Environment leads the international community in the progressive development of environmental law through the promotion of capacities, transparency and accountability in judiciaries, legislatures and policy making institutions. Working directly with countries to combat environmental crime and to meet international environmental commitments, UN Environment improves cooperation between lawmakers the world over who are seeking to safeguard the environment.

Several of UN Environment's divisions are involved in implementing the Green Customs Initiative: the Law Division⁹, which hosts the Secretariat of the Initiative in Nairobi, the Economy Division, which implements activities from Paris as well as the regional offices of the organization.

United Nations Office on Drugs and Crime

The United Nations Office on Drugs and Crime (UNODC) is committed to achieving health, security and justice for all by tackling threats from illicit drugs, organised crime and terrorism worldwide. UNODC works directly with governments, international organizations, other United Nations entities and civil society groups to develop and implement programmes that meet the needs of the assisted countries and regions and that are fully coordinated with the core themes of the organisation. UNODC works towards strengthening the capacity of law enforcement and criminal justice officials to detect, investigate, prosecute and adjudicate environmental crimes. The transnational nature of environmental crimes, the established involvement of organized criminal groups and the failings of government structures that often sustain these forms of criminality, make them highly relevant to the work of UNODC. Wildlife, forest products, including timber, and hazardous waste are the object of international trafficking, often perpetrated by organized criminal groups that might also be engaged in the trafficking of other goods, often relying on failures in the criminal justice system. Two programmes of UNODC are particularly involved in countering environmental crime: the UNODC-WCO Container Control Programme (CCP) and the Global Programme for Combating Wildlife and Forest Crime (GP), which have a partnership with the CITES Secretariat, INTERPOL, World Bank and World Customs Organization.

World Customs Organization

The World Customs Organization (WCO), established in 1952 as the Customs Co-operation Council, is the only international intergovernmental organization that specializes in Customs matters. Its 180 member governments are responsible for processing 98 percent of world trade.

The WCO enhances the efficiency and effectiveness of member Customs administrations, thereby assisting them to contribute successfully to national development goals, particularly in the areas of trade

⁸ <http://www.brsmeas.org/Secretariat/Overview/tabid/3609/language/en-US/Default.aspx>

⁹ <http://staging.unep.org/delc/>

facilitation, revenue collection, community protection and national security.

To fulfil its mission, the WCO:

- Develops, maintains and promotes a series of international conventions, other instruments and best-practice approaches in seeking to harmonize and simplify Customs systems and procedures
- Promotes the strategic interests of the WCO and wider international Customs community by cooperating, communicating and acting in partnership with governments, other international and regional organizations, donor agencies and the private sector
- Provides a range of capacity-building, training and technical assistance, and integrity programs to increase the capacity of member Customs administrations to contribute effectively to national development goals
- Analyses issues and trends of strategic importance to the WCO and member administrations.

Customs plays a very important role in the implementation of MEAs and the fight against environmental crime. Since 2001, the WCO has been an active Partner to the Green Customs Initiative (GCI), a series of collaborative activities by partner organizations, coordinated by UN Environment and aimed at raising the awareness of Customs officers to trade-related MEAs.

In 2008, the WCO Council adopted a Recommendation concerning Actions Against Cross-Border Environmental Offences, outlining steps to be taken by Customs administrations to enhance their capabilities in this area. In 2010 the WCO, the CITES Secretariat, INTERPOL, the UNODC and the World Bank founded the International Consortium on Combating Wildlife Crime (ICWC)¹⁰, in order to provide more support to the national wildlife law enforcement agencies, as well as to the regional and sub-regional networks combating against illegal trade in natural resources. In June 2014, the WCO Council adopted WCO Declaration on the Illegal Wildlife Trade¹¹ demonstrating the commitment of

the global Customs community to address these crimes in a timely, coherent and coordinated manner.

In response to its Members' needs, the WCO launched the Environmental Program¹² in March 2012 to contribute to the combatting of environmental crime, in particular, illegal wildlife trade, illegal trade in hazardous and other waste, ozone depleting substances (ODS) and illegal trade in timber. The Illicit Trade Report series¹³ provides further information on every component of the Program on the annual basis.

Along with different tools and instruments offered by the WCO to its Members, ENVIRONET, a real-time communication tool for information exchange among all competent national authorities, international organizations and regional networks, and CLiKC!¹⁴, the WCO e-learning facility containing courses on environmental crime, is particularly worth mentioning.

The WCO Harmonized System (HS) has been effectively applied to implement and enforce trade related MEAs by customs officers worldwide. Based on several recommendations adopted by the WCO Council, numerous subheadings and their explanatory notes have been inserted into the HS for the purpose of monitoring and controlling international trade in certain goods covered by the MEAs.

Within the framework of the Environmental Program, the WCO constantly works on broadening the scope of partnerships with other organizations working in the area of fighting against environmental crime. Throughout the past years, the WCO signed Memoranda of Understanding (MoUs) with the CITES Secretariat, Secretariat of the Basel Convention, UN Environment, Lusaka Agreement Task Force, and TRAFFIC, an NGO active in the area of trade in plants and wild animals in the context of sustainable development and biodiversity conservation. In 2016, the WCO signed the 'United for Wildlife Transport Taskforce Buckingham Palace Declaration' in London, United Kingdom.

10 <https://cites.org/eng/prog/iccwc.php>

11 http://www.wcoomd.org/en/about-us/legal-instruments/~/_media/BC96FE063BF848AD83E3ADB56B0A79BE.ashx

12 <http://www.wcoomd.org/en/topics/enforcement-and-compliance/activities-and-programmes/environmental-programme.aspx>

13 <https://illicittrade.com/reports/>

14 <http://clikc.wcoomd.org/>



Overview of The Treaties Covered by the Green Customs Initiative

- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
- Cartagena Protocol on Biosafety to the Convention on Biological Diversity
- Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)
- Montreal Protocol on Substances that Deplete the Ozone Layer
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade
- Stockholm Convention on Persistent Organic Pollutants



BASEL CONVENTION

ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES

The Basel Convention¹⁵, among other things, regulates the transboundary movement of hazardous wastes and other wastes. The obligations and procedures of the Convention apply whenever hazardous wastes and other wastes covered by the Convention cross from one national jurisdiction to another, whether or not the wastes are being shipped as part of a commercial transaction or under a trading relationship.

Because the Convention regulates movements across international frontiers its effective implementation by national Customs officers or border control officers is essential to ensure compliance with the Convention. The Basel Convention was adopted on 22 March 1989, and it entered into force on 5 May 1992. As at 30 October 2017 there are 186 Parties to the Basel Convention.

The objectives of the Convention are:

- To reduce transboundary movements of hazardous wastes and other wastes to a minimum consistent with their environmentally sound management
- To treat and dispose of hazardous wastes and other wastes as close as possible to their source of generation in an environmentally sound manner
- To minimise the generation of hazardous wastes and other wastes in terms of both quantity and potential hazard.

To achieve these objectives, the Basel Convention has established a regulatory system based, inter alia, on the following:

- The requirement of prior informed consent of a State of import and States of transit before waste can be exported and, to this end, trigger of a notification procedure
- Restriction on exports to and imports from a country that is not a party to the Convention
- Consequences to be applied when an export or import has not complied with the provisions of the Convention.

¹⁵ <http://www.basel.int>

How the Basel Convention regulates transboundary movements

Wastes falling within the scope of the Basel Convention can be shipped across international boundaries only if certain conditions are met and only in accordance with certain procedures. The “Competent Authority¹⁶” will assess whether the conditions are met and will be responsible for ensuring that the procedures are followed (see the box “Controlled Wastes” for a description of those wastes falling under the scope of the Convention).

Conditions for movement

Parties are obliged to take the appropriate measures to ensure that the transboundary movement of hazardous wastes and other wastes is allowed only if (1) the State of export does not have the technical capacity and the facilities, capacity or suitable disposal sites needed to dispose of the wastes in question in an environmentally sound manner; or (2) the wastes in question are required as raw material for recycling or recovery industries in the State of import. The Convention permits the Parties to adopt other applicable criteria from time to time. Such criteria are normally found in the decisions adopted by the Conference of the Parties. These decisions can be found in the final reports of the meetings of the Conference of the Parties¹⁷.

In all cases, the Convention requires that the standard of “environmentally sound management” (ESM) is met. This standard is defined as “taking all practicable steps to ensure that the wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes” (Article 2(8)). What is required to meet the standard of environmentally sound management may change from time to time, taking into account the current scientific, technical, economic and environmental information. Ministries of environment and environment agencies are normally the best

sources of such scientific and technical information, and the Secretariat of the Basel Convention also publishes technical guidelines¹⁸ on the best practices for various waste streams. The Basel Convention provides for, and permits Parties to restrict or prohibit exports and imports of covered wastes.

Specifically

- ➔ Parties have the right to prohibit the import of hazardous wastes or other wastes into their jurisdictions for disposal. Where a Party has exercised this right and has notified all other Parties, through the Secretariat, of such a prohibition, all other Parties must prohibit the export of such wastes to the State that has adopted the prohibition. In this way, a Party can prohibit the import of a particular waste stream, such as used lead-acid batteries. A list of such notifications¹⁹ are transmitted to the Secretariat.
- ➔ Parties must not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic or political integration organisation that has, by legislation, prohibited all imports. For example, such legislation may have been adopted by African countries in accordance with the Bamako Convention on the Ban of the Import Into Africa And The Control Of Transboundary Movement And Management Of Hazardous Wastes Within Africa²⁰, which prohibits the import of hazardous wastes into Africa. Similarly, the Pacific Islands that are Parties to the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Trans-boundary Movement and Management of Hazardous Wastes within the South Pacific Region²¹, have an obligation to introduce a similar ban.
- ➔ Parties should be aware of the “Ban Amendment” to the Basel Convention. In 1995, the Third Meeting of the Conference of the Parties adopted an amendment to the Basel Convention (the Ban Amendment) that restricts

16 The Competent Authority is the governmental authority designated to be responsible for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification. The list of all competent authorities is available at: <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>

17 <http://basel.int/TheConvention/ConferenceoftheParties/ReportsandDecisions/tabid/3303/Default.aspx>

18 <http://www.basel.int/Implementation/TechnicalMatters/DevelopmentofTechnicalGuidelines/AdoptedTechnicalGuidelines/tabid/2376/Default.aspx>

19 <http://basel.int/Countries/ImportExportRestrictions/tabid/4835/Default.aspx>

20 <http://staging.unep.org/delc/BamakoConvention/tabid/106390/Default.aspx>

21 <http://www.sprep.org/legal/waigani-convention>

the export of hazardous wastes destined for disposal from Annex VII countries (members of the European Union and the Organisation for Economic Cooperation and Development, and Liechtenstein) to non Annex VII countries (all other Parties to the Convention). Under Article 17(5) of the Basel Convention, the acceptance of the Ban Amendment by three-fourths of those Parties that were Parties at the time of the adoption of the amendment is required for its entry into force. While the Ban Amendment is not yet in force, as at October 2017, 39 Parties²² to the Convention have consented to be bound by it.

- ➡ A Party must not allow exports to a State when it has reason to believe that the wastes in question will not be managed in an

environmentally sound manner. For example, if the proposed destination does not have the appropriate technology to recycle electronic equipment in an environmentally sound manner, the state of export must not allow a shipment described as used computers for recycling to be sent there.

- ➡ A Party is prohibited from exporting wastes to, or importing wastes from, a non-Party (Article 4(5)). However, such exports/imports are permitted if the Party has entered into a bilateral agreement or arrangement on the transboundary movements of hazardous wastes or other wastes with the non-Party, or is a party to a multilateral or regional agreement that also involves the non-Party, as long as the agreement does not derogate

Controlled wastes

- ➡ Wastes controlled by the Basel Convention regulatory regime include “hazardous wastes” and “other wastes”. Hazardous wastes are listed in Annex I of the Convention and are further clarified in Annexes VIII and IX. These wastes include: waste pharmaceuticals, drugs and medicines; wastes from the production, formulation and use of organic solvents; waste lead-acid batteries; certain waste electrical and electronic assemblies; glass waste from cathode-ray tubes; waste asbestos; waste oils/water, hydrocarbon/water mixtures, emulsions; and wastes of an explosive nature not subject to other legislation. However, such wastes are not regarded as hazardous and subject to the Basel Convention procedures if it can be shown that they do not display any of the hazardous characteristics listed in Annex III of the Convention, such as explosive, flammable, oxidizing, poisonous or corrosive. “Other wastes” are listed in Annex II of the Convention and include household wastes and residues arising from the incineration of household wastes.
- ➡ Individual codes are assigned to the wastes covered by the Convention, and they are indicated in Annexes I, II, VIII and IX, alongside each waste classification. The Secretariat of the Basel Convention co-ordinates with the World Customs Organization to continually review and identify the corresponding codes under the Harmonized System for the wastes covered by the Basel Convention. Customs declarations may contain

either the codes assigned by the Convention or the Harmonized System codes available on the website of the World Customs Organization.

- ➡ National definitions of hazardous wastes. Parties may also define wastes that are not listed in Annexes I and II as hazardous under their national legislation. If Parties wish to apply the Basel Convention procedures to such wastes, they must notify all other Parties to the Convention, through the Secretariat, of such “national definitions” and of any requirements related to transboundary movement procedures (Articles 3 and 13 of the Convention). The national definitions¹ are transmitted to the Secretariat.
- ➡ It is the responsibility of each Party to ensure that its enforcement agencies, including Customs officers, are aware of the provisions of properly notified national definitions of hazardous wastes, so that they can ensure compliance with the requirements, thereby preventing illegal imports or exports.

¹ <http://basel.int/Countries/NationalDefinitions/Overview/tabid/5104/Default.aspx>

²² <http://basel.int/Countries/StatusofRatifications/BanAmendment/tabid/1344/Default.aspx>

from the environmentally sound management of hazardous wastes and other wastes as required by the Basel Convention (Article 11). All Parties to the Basel Convention must notify the Secretariat of any such agreements or arrangements they have entered. A list²³ of the agreements or arrangements is transmitted to the Secretariat.

- Parties are prohibited from exporting wastes falling within the scope of the Convention for disposal within the area south of latitude 60° south, whether or not such wastes are subject to trans-boundary movement (Article 4(6)).

The Competent Authority, when considering whether to permit a transboundary movement, must verify that the request is consistent with any relevant restrictions (for example, import bans on certain waste streams or special procedural requirements provided by national definitions). To foster effective enforcement of the Convention's obligations, the Competent Authority should also ensure that Customs officers are kept informed of any restrictions or requirements that derive from the Convention or from measures adopted by individual States, so that they can take these into account when verifying shipments at the border.

Notification procedure

To make certain that the conditions and requirements described above are met and that

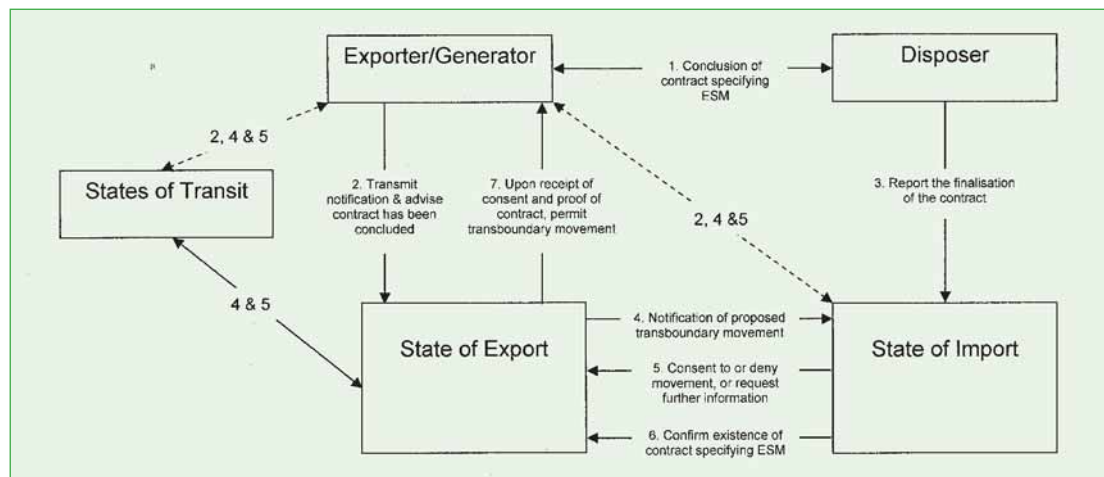
a State has the information it needs to make an informed decision about permitting an import, export or transit shipment, the Basel Convention establishes a notification procedure. State-to-State contacts are made through the Competent Authorities.

Step 1. The exporter/generator of the wastes and the proposed disposer enter into a contract that specifies that the wastes will be disposed of in an environmentally sound manner (see Figure 2-1).

Steps 2 and 4. The exporter/generator notifies the Competent Authority of the State from which the wastes are to be exported about the proposed shipment. The State of export then informs the State of import about the proposed movement of hazardous wastes or other wastes by means of a notification document (see Figures 2-2 and 2-3). This document should contain the information set out in Table 2-1, and it must be in a language that is acceptable to the State of import.

Steps 3, 5 and 6. Before any movement begins, the Competent Authority of the State of import must provide the State of export with written consent, and must confirm the existence of a contract between the generator/exporter and the disposer specifying environmentally sound management of the wastes. When deciding whether to consent to the shipment, the Competent Authority should take into account the requirements of the Basel Convention and

Figure 2-1 depicts the procedure, which consists of the following seven steps



23 <http://basel.int/Countries/Agreements/tabid/1482/Default.aspx>

Table 2-1 Information to be included in notification of state of import

- | | |
|--|---|
| 1. Reason for waste export | handling requirements, including emergency provisions in case of accident |
| 2. Exporter of the waste ^a | |
| 3. Generator(s) of the waste and site of generation ^a | 14. Type of packaging envisaged (for example, bulk, drummed, tanker) |
| 4. Disposer of the waste and actual site of disposal ^a | 15. Estimated quantity by weight/volume ^a |
| 5. Intended carrier(s) of the waste or their agents, if known ^a | 16. Process by which the waste is generated ^b |
| 6. Country of export of the waste—Competent Authority ^b | 17. For wastes listed in Annex I, classifications from Annex III: hazardous characteristic, H ⁱ number and UN class |
| 7. Expected countries of transit—Competent Authority ^b | 18. Method of disposal as per Annex IV of Convention |
| 8. Country of import of the waste—Competent Authority ^b | 19. Declaration by the generator and exporter that the information is correct |
| 9. General or single notification | 20. Information transmitted (including technical description of disposal plant) to the exporter or generator from the disposer of the waste on which the latter has based his assessment that there is no reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import |
| 10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including points of entry and exit) ^c | 21. Information about the contract between the exporter and disposer. |
| 11. Means of transport envisaged (road, rail, sea, air, inland waters) | |
| 12. Information relating to insurance ^d | |
| 13. Designation and physical description of the waste, including its Y ^e number and UN number and its composition ^f , and information on any special | |

a Full name and address, telephone, telex or telefax number, as well as the name, address, telephone, telex or telefax number of the person to be contacted.

b Full name and address, telephone, telex or telefax number.

c In the case of a general notification covering several shipments, either the expected dates of each shipment or, if not known, the expected frequency of the shipments will be required.

d Information should be provided on the relevant insurance requirements and how they are being met by exporter, carrier and disposer.

e The Y number is a classification code assigned to indicate which category of controlled waste is being shipped (for example, Y1 indicates clinical wastes). The full list of Y codes can be found in Annex I of the Convention.

f The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers, of the waste and the dangers they present both in handling and in relation to the proposed disposal method.

g In the case of a general notification covering several shipments, estimates of both the total quantity and the quantity of each shipment will be required.

h Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal.

i The H number is a classification code assigned to indicate the type of hazardous characteristic of the shipment (for example, explosive, flammable). The list of H codes can be found in Annex III of the Convention.

Figure 2-2 Notification document for transboundary movements/shipments of waste

1. Exporter - notifier Registration No:				3. Notification No:			
Name:				Notification concerning			
Address:				A.(i) Individual shipment: <input type="checkbox"/> (ii) Multiple shipments: <input type="checkbox"/>			
				B.(i) Disposal (1): <input type="checkbox"/> (ii) Recovery: <input type="checkbox"/>			
Contact person:				C. Pre-consented recovery facility (2;3) Yes <input type="checkbox"/> No <input type="checkbox"/>			
Tel: Fax:				4. Total intended number of shipments:			
E-mail:				5. Total intended quantity (4):			
2. Importer - consignee Registration No:				Tonnes (Mg):			
Name:				m ³ :			
Address:				6. Intended period of time for shipment(s) (4):			
				First departure: Last departure:			
Contact person:				7. Packaging type(s) (5):			
Tel: Fax:				Special handling requirements (6): Yes: <input type="checkbox"/> No: <input type="checkbox"/>			
E-mail:				11. Disposal / recovery operation(s) (2)			
8. Intended carrier(s) Registration No:				D-code / R-code (5):			
Name(7):				Technology employed (6):			
Address:							
Contact person:				Reason for export (1;6):			
Tel: Fax:							
E-mail:				12. Designation and composition of the waste (6):			
Means of transport (5):							
9. Waste generator(s) - producer(s) (1;7;8) Registration No:							
Name:							
Address:							
				13. Physical characteristics (5):			
Contact person:							
Tel: Fax:				14. Waste identification (fill in relevant codes)			
E-mail:				(i) Basel Annex VIII (or IX if applicable):			
Site and process of generation (6)				(ii) OECD code (if different from (i)):			
				(iii) EC list of wastes:			
10. Disposal facility (2): <input type="checkbox"/> or recovery facility (2): <input type="checkbox"/>				(iv) National code in country of export:			
Registration No:				(v) National code in country of import:			
Name:				(vi) Other (specify):			
Address:				(vii) Y-code:			
				(viii) H-code (5):			
Contact person:				(ix) UN class (5):			
Tel: Fax:				(x) UN Number:			
E-mail:				(xi) UN Shipping name:			
Actual site of disposal/recovery:				(xii) Customs code(s) (HS):			
15. (a) Countries/States concerned, (b) Code no. of competent authorities where applicable, (c) Specific points of exit or entry (border crossing or port)							
State of export - dispatch		State(s) of transit (entry and exit)				State of import - destination	
(a)							
(b)							
(c)							
16. Customs offices of entry and/or exit and/or export (European Community):							
Entry:		Exit:		Export:			
17. Exporter's - notifier's / generator's - producer's (1) declaration:							
I certify that the information is complete and correct to my best knowledge. I also certify that legally enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantee is or shall be in force covering the transboundary movement.							
Exporter's - notifier's name:				Date:		Signature:	
Generator's - producer's name:				Date:		Signature:	
18. Number of annexes attached							
FOR USE BY COMPETENT AUTHORITIES							
19. Acknowledgement from the relevant competent authority of countries of import - destination / transit (1) / export - dispatch (9):				20. Written consent (1;8) to the movement provided by the competent authority of (country):			
Country:				Consent given on:			
Notification received on:				Consent valid from: until:			
Acknowledgement sent on:				Specific conditions: No: <input type="checkbox"/> If Yes, see block 21 (6): <input type="checkbox"/>			
Name of competent authority:				Name of competent authority:			
Stamp and/or signature:				Stamp and/or signature:			
21. Specific conditions on consenting to the movement document or reasons for objecting							
<p>(1) Required by the Basel Convention (2) In the case of an R12/R13 or D13-D15 operation, also attach corresponding information on any subsequent R12/R13 or D13-D15 facilities and on the subsequent R1-R11 or D1-D12 facility(ies) when required (3) To be completed for movements within the OECD area and only if B(ii) applies (4) Attach detailed list if multiple shipments (5) See list of abbreviations and codes on the next page (6) Attach details if necessary (7) Attach list if more than one (8) If required by national legislation (9) If applicable under the OECD Decision</p>							

Figure 2-3 List of abbreviations and codes used in the notification document

DISPOSAL OPERATIONS (block 11)			
D1	Deposit into or onto land, (e.g., landfill, etc.)		
D2	Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)		
D3	Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)		
D4	Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)		
D5	Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)		
D6	Release into a water body except seas/oceans		
D7	Release into seas/oceans including sea-bed insertion		
D8	Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list		
D9	Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g., evaporation, drying, calcination, etc.)		
D10	Incineration on land		
D11	Incineration at sea		
D12	Permanent storage, (e.g., emplacement of containers in a mine, etc.)		
D13	Blending or mixing prior to submission to any of the operations in this list		
D14	Repackaging prior to submission to any of the operations in this list		
D15	Storage pending any of the operations in this list		
RECOVERY OPERATIONS (block 11)			
R1	Use as a fuel (other than in direct incineration) or other means to generate energy (Basel/OECD) - Use principally as a fuel or other means to generate energy (EU)		
R2	Solvent reclamation/regeneration		
R3	Recycling/reclamation of organic substances which are not used as solvents		
R4	Recycling/reclamation of metals and metal compounds		
R5	Recycling/reclamation of other inorganic materials		
R6	Regeneration of acids or bases		
R7	Recovery of components used for pollution abatement		
R8	Recovery of components from catalysts		
R9	Used oil re-refining or other reuses of previously used oil		
R10	Land treatment resulting in benefit to agriculture or ecological improvement		
R11	Uses of residual materials obtained from any of the operations numbered R1-R10		
R12	Exchange of wastes for submission to any of the operations numbered R1-R11		
R13	Accumulation of material intended for any operation in this list.		
PACKAGING TYPES (block 7)		H-CODE AND UN CLASS (block 14)	
1. Drum		UN Class	H-code Characteristics
2. Wooden barrel			
3. Jerrican		1	H1 Explosive
4. Box		3	H3 Flammable liquids
5. Bag		4.1	H4.1 Flammable solids
6. Composite packaging		4.2	H4.2 Substances or wastes liable to spontaneous combustion
7. Pressure receptacle			
8. Bulk		4.3	H4.3 Substances or wastes which, in contact with water, emit flammable gases
9. Other (specify)		5.1	H5.1 Oxidizing
MEANS OF TRANSPORT (block 8)		5.2	H5.2 Organic peroxides
R = Road		6.1	H6.1 Poisonous (acute)
T = Train/rail		6.2	H6.2 Infectious substances
S = Sea		8	H8 Corrosives
A = Air		9	H10 Liberation of toxic gases in contact with air or water
W = Inland waterways		9	H11 Toxic (delayed or chronic)
PHYSICAL CHARACTERISTICS (block 13)		9	H12 Ecotoxic
1. Powdery/powder		9	H13 Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above
2. Solid			
3. Viscous/paste			
4. Sludgy			
5. Liquid			
6. Gaseous			
7. Other (specify)			

Note: Further information, in particular related to waste identification (block 14)—that is, on Basel Annexes VIII and IX codes, OECD codes and Y codes—can be found in a guidance/instruction manual available from the OECD and the Secretariat of the Basel Convention.

Step 7. Upon receipt of the written consent from the State of import and any states of transit, the Competent Authority of the State of export may permit the shipment to start.

accordance with the terms of the contract, unless alternative arrangements can be made for their disposal in an environmentally sound manner (Article 8).

The wastes must be accompanied throughout the entire shipment by a movement document (see Table 2-2 and Figures 2-4 and 2-5). The generator/exporter must retain a copy of the movement document and give copies to the transporter. Each person who takes charge of the wastes must sign the movement document upon delivery or receipt of the wastes. Once the hazardous wastes have reached their final disposal site, a copy of the movement document should be sent to the Competent Authority of the State of export by the disposer. The information to be included in the movement document is listed in Table 2-2. Customs officers or border control officers must verify the contents of the shipment against the information in the movement document, for example, checking if the type and number of packages on the truck match those indicated in the document.

Table 2-2 Information to be included in movement document

1. Exporter of the waste^a
2. Generator(s) of the waste and site of generation^a
3. Disposer of the waste and actual site of disposal^a
4. Carrier(s) of the waste a or his agent(s)
5. Subject of general or single notification
6. Date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste
7. Means of transport (road, rail, inland waterway, sea, air), including countries of export, transit and import, and points of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements, including emergency provision in case of accident Type and number of packages
11. Quantity in weight/volume
12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter that no objections have been raised by the Competent Authorities of all states concerned that are Parties
14. Certification by disposer of receipt of waste at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

^a Full name and address, telephone, telex or telefax number, as well as the name, address, telephone, telex or telefax number of the person to be contacted in an emergency.

Figure 2-4 Movement document for transboundary movements/shipments of waste

1. Corresponding to notification No:		2. Serial/total number of shipments: /	
3. Exporter - notifier Registration No:		4. Importer - consignee Registration No:	
Name:		Name:	
Address:		Address:	
Contact person:		Contact person:	
Tel:		Tel:	
Fax:		Fax:	
E-mail:		E-mail:	
5. Actual quantity: Tonnes (Mg): m ³ :		6. Actual date of shipment:	
7. Packaging Type(s) (1): Number of packages:			
Special handling requirements: (2) Yes: <input type="checkbox"/> No: <input type="checkbox"/>			
8. (a) 1st Carrier (3):		8. (b) 2nd Carrier:	
Registration No:		Registration No:	
Name:		Name:	
Address:		Address:	
Tel:		Tel:	
Fax:		Fax:	
E-mail:		E-mail:	
8. (c) Last Carrier:			
Registration No:		Registration No:	
Name:		Name:	
Address:		Address:	
Tel:		Tel:	
Fax:		Fax:	
E-mail:		E-mail:	
----- To be completed by carrier's representative -----			
Means of transport (1):		Means of transport (1):	
Date of transfer:		Date of transfer:	
Signature:		Signature:	
9. Waste generator(s) - producer(s) (4;5;6):		12. Designation and composition of the waste (2):	
Registration No:			
Name:			
Address:			
Contact person:			
Tel:			
Fax:			
E-mail:			
Site of generation (2):			
10. Disposal facility <input type="checkbox"/> or recovery facility <input type="checkbox"/>			
Registration No:			
Name:			
Address:			
Contact person:			
Tel:			
Fax:			
E-mail:			
Actual site of disposal/recovery (2)			
11. Disposal/recovery operation(s)			
D-code / R-code (1):			
15. Exporters - notifier's / generator's - producer's (4) declaration:			
I certify that the above information is complete and correct to my best knowledge. I also certify that legally enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantee is in force covering the transboundary movement and that all necessary consents have been received from the competent authorities of the countries concerned.			
Name:		Date:	
		Signature:	
16. For use by any person involved in the transboundary movement in case additional information is required			
17. Shipment received by importer - consignee (if not facility):		Date:	
		Name:	
		Signature:	
TO BE COMPLETED BY DISPOSAL / RECOVERY FACILITY			
18. Shipment received at disposal facility <input type="checkbox"/> or recovery facility <input type="checkbox"/>		19. I certify that the disposal/recovery of the waste described above has been completed.	
Date of reception:		Accepted: <input type="checkbox"/> Rejected*: <input type="checkbox"/>	
Quantity received: Tonnes (Mg): m ³ :		*immediately contact competent authorities	
Approximate date of disposal/recovery:			
Disposal/recovery operation (1):			
Name:		Name:	
Date:		Date:	
Signature:		Signature and stamp:	
(1) See list of abbreviations and codes on the next page		(4) Required by the Basel Convention	
(2) Attach details if necessary		(5) Attach list if more than one	
(3) If more than 3 carriers, attach information as required in blocks 8 (a,b,c).		(6) If required by national legislation	
FOR USE BY CUSTOMS OFFICES (if required by national legislation)			
20. Country of export - dispatch or customs office of exit		21 Country of import - destination or customs office of entry	
The waste described in this movement document left the country on:		The waste described in this movement document entered the country on:	
Signature:		Signature:	
Stamp:		Stamp:	
22. Stamps of customs offices of transit countries			
Name of country:		Name of country:	
Entry:		Entry:	
Exit:		Exit:	
Name of country:		Name of country:	
Entry:		Entry:	
Exit:		Exit:	

Figure 2-5 List of abbreviations and codes used in movement document

DISPOSAL OPERATIONS (block 11) D1 Deposit into or onto land, (e.g., landfill, etc.) D2 Land treatment, (e.g. biodegradation of liquid or sludgy discards in soils, etc.) D3 Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.) D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.) D5 Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment), etc. D6 Release into a water body except seas/oceans D7 Release into seas/oceans including sea-bed insertion D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list D9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations in this list (e.g., evaporation, drying, calcination, etc.) D10 Incineration on land D11 Incineration at sea D12 Permanent storage, (e.g., emplacement of containers in a mine, etc.) D13 Blending or mixing prior to submission to any of the operations in this list D14 Repackaging prior to submission to any of the operations in this list D15 Storage pending any of the operations in this list		RECOVERY OPERATIONS (block 11) R1 Use as a fuel (other than in direct incineration) or other means to generate energy (Basel/OECD) - Use principally as a fuel or other means to generate energy (EU) R2 Solvent reclamation/regeneration R3 Recycling/reclamation of organic substances which are not used as solvents R4 Recycling/reclamation of metals and metal compounds R5 Recycling/reclamation of other inorganic materials R6 Regeneration of acids or bases R7 Recovery of components used for pollution abatement R8 Recovery of components from catalysts R9 Used oil re-refining or other reuses of previously used oil R10 Land treatment resulting in benefit to agriculture or ecological improvement R11 Uses of residual materials obtained from any of the operations numbered R1-R10 R12 Exchange of wastes for submission to any of the operations numbered R1-R11 R13 Accumulation of material intended for any operation in this list																																														
PACKAGING TYPES (block 7) 1. Drum 2. Wooden barrel 3. Jerrican 4. Box 5. Bag 6. Composite packaging 7. Pressure receptacle 8. Bulk 9. Other (specify)	H-CODE AND UN CLASS (block 14) <table><tr><th>UN class</th><th>H-code</th><th>Characteristics</th></tr><tr><td>1</td><td>H1</td><td>Explosive</td></tr><tr><td>3</td><td>H3</td><td>Flammable liquids</td></tr><tr><td>4.1</td><td>H4.1</td><td>Flammable solids</td></tr><tr><td>4.2</td><td>H4.2</td><td>Substances or wastes liable to spontaneous combustion</td></tr><tr><td>4.3</td><td>H4.3</td><td>Substances or wastes which, in contact with water, emit flammable gases</td></tr><tr><td>5.1</td><td>H5.1</td><td>Oxidizing</td></tr><tr><td>5.2</td><td>H5.2</td><td>Organic peroxides</td></tr><tr><td>6.1</td><td>H6.1</td><td>Poisonous (acute)</td></tr><tr><td>6.2</td><td>H6.2</td><td>Infectious substances</td></tr><tr><td>8</td><td>H8</td><td>Corrosives</td></tr><tr><td>9</td><td>H10</td><td>Liberation of toxic gases in contact with air or water</td></tr><tr><td>9</td><td>H11</td><td>Toxic (delayed or chronic)</td></tr><tr><td>9</td><td>H12</td><td>Ecotoxic</td></tr><tr><td>9</td><td>H13</td><td>Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above</td></tr></table>			UN class	H-code	Characteristics	1	H1	Explosive	3	H3	Flammable liquids	4.1	H4.1	Flammable solids	4.2	H4.2	Substances or wastes liable to spontaneous combustion	4.3	H4.3	Substances or wastes which, in contact with water, emit flammable gases	5.1	H5.1	Oxidizing	5.2	H5.2	Organic peroxides	6.1	H6.1	Poisonous (acute)	6.2	H6.2	Infectious substances	8	H8	Corrosives	9	H10	Liberation of toxic gases in contact with air or water	9	H11	Toxic (delayed or chronic)	9	H12	Ecotoxic	9	H13	Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above
UN class	H-code	Characteristics																																														
1	H1	Explosive																																														
3	H3	Flammable liquids																																														
4.1	H4.1	Flammable solids																																														
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4.3	H4.3	Substances or wastes which, in contact with water, emit flammable gases																																														
5.1	H5.1	Oxidizing																																														
5.2	H5.2	Organic peroxides																																														
6.1	H6.1	Poisonous (acute)																																														
6.2	H6.2	Infectious substances																																														
8	H8	Corrosives																																														
9	H10	Liberation of toxic gases in contact with air or water																																														
9	H11	Toxic (delayed or chronic)																																														
9	H12	Ecotoxic																																														
9	H13	Capable, by any means, after disposal of yielding another material, e. g., leachate, which possesses any of the characteristics listed above																																														
MEANS OF TRANSPORT (block 8) R = Road A = Air T = Train/rail W = Inland waterways S = Sea																																																
PHYSICAL CHARACTERISTICS (block 13) 1. Powdery / powder 2. Solid 3. Viscous / paste 4. Sludgy 5. Liquid 6. Gaseous 7. Other (specify)																																																

Note: Instructions for completing the notification and movement documents can be found at <http://www.basel.int/techmatters/forms-notif-mov/vCOP8.doc>.

Illegal traffic

Illegal traffic occurs if the transboundary movement of hazardous wastes takes place under any of the following conditions, as provided for in Article 9:

- Without notification, pursuant to the provisions of the Basel Convention of all States concerned - that is, Parties that are States of export or import, or transit States (whether or not Parties to the Basel Convention)
- Without the consent of a State concerned
- Through consent obtained by falsification, misinterpretation or fraud
- When the movement does not conform in a material way with the documents
- When the movement results in deliberate disposal of hazardous wastes in contravention of the Convention and of general principles of international law.

Illegal traffic in hazardous wastes or other wastes is criminal, and Parties are obligated to “introduce appropriate national/domestic legislation to prevent and punish illegal traffic” (Articles 4 and 9). To effectively combat such illegal traffic, law enforcement agencies and other relevant authorities must know the provisions of these laws and have the legal and technical capacity to enforce them. The formulation of such laws and regulations will normally be the responsibility of the ministry charged with legal affairs and the ministry or agency responsible for regulation of environmental matters. These entities should ensure that Customs officers or border control officers are aware of the relevant national laws and regulations. Customs officers play an important role in detecting illegal traffic and in ensuring that each suspicious shipment identified is handled in a way that will promote the chances of a successful prosecution of illegal traffic.

In cases in which the illegal traffic results from conduct on the part of the exporter or generator, the State of export is obligated to ensure that the wastes in question are taken back by the exporter/generator, or, if necessary, the State of export takes the wastes back itself. If this is impracticable, the State of export must ensure that the wastes are otherwise disposed of in accordance with the Convention (Article 9 paragraph 2). If the illegal traffic results from conduct on the part of

the importer or disposer, the State of import has to ensure that the wastes are disposed of in an environmentally sound manner (Article 9 paragraph 3). If responsibility for the illegal traffic cannot be assigned, the States of import and export must co-operate to ensure that the wastes in question are disposed of as soon as possible in an environmentally sound manner.

The role of Customs and border protection offices

The notification procedure ensures that wastes do not leave a State without being authorized to do so. It also ensures that the wastes do not enter a State of import or transit without that State having an opportunity to make an informed decision as to whether it wishes to permit the entry of such wastes. That consent is provided on the basis of the information supplied by the exporter/generator and, for that reason, it is imperative that Customs officers and border control officers verify compliance with the notification procedure and that the wastes being shipped conform to the information on which consent to import or transit was based, as reflected in the movement document.

Shipments should be appropriately packaged and accompanied by all the appropriate documentation, including a hazardous waste movement document, hazardous materials placards and an “Acknowledgement of Consent” from the State of import. Discrepancies between documents may be evidence of illegal trafficking and warrant further investigation. Even when accompanied by documentation for wastes, chemical products or hazardous materials, the actual contents of the shipment must match the labels, notifications and information on the movement document, particularly with respect to the nature and quantity of the substance. A discrepancy, or packaging not appropriate for the type of substance declared, may be evidence of illegal trafficking. When a shipment gives rise to suspicions, the Customs officer or border control officer should contact the Competent Authority at the earliest possible opportunity to confirm that there is genuine consent from the State of import and, if so, for what substance, in what amount and under what conditions.

Successful detection and prosecution of illegal traffic require the cooperation of all enforcement agencies at the national level. Customs officers or border control officers cannot combat illegal traffic alone; they have to rely on the relevant national environmental and health agencies to provide them with the appropriate legal and technical information so they are in a position to identify instances of illegal traffic and know what steps to take. Conversely, national environment agencies and enforcement agencies need the support of the Customs and border protection agencies to ensure that cases of suspected illegal traffic are detected as early as possible at the border and are signalled to the appropriate national authorities. For example, a Customs officer or border control officer may detect a cargo containing waste prohibited from import into the identified State of import, or perhaps the nature of the goods does not conform to their description in the movement document, or there is no movement document because the notification procedure has not been followed. Because all these situations present the possibility of illegal traffic, Customs officers or border control officers should stop the shipments and inform the appropriate authorities. Any officer faced with a possible case of illegal traffic should pursue the actions specified by national laws and regulations.

Basel Convention-specific guidance and training materials for Customs officers

The “Manual on the Implementation of the Basel Convention” and the “Guide to the Control System,” published by the Basel Secretariat, offer a basic outline of the Convention’s regulatory regime²⁴. Sample movement and notification documents, approved by the Conference of the Parties, are also available²⁵.

“Guidance Elements for the Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes” highlights matters that should be considered by national enforcement agencies to ensure effective implementation of the Basel Convention. The “Training Manual for the Enforcement of Laws Implementing the Basel Convention: Guidance

for Safe and Effective Detection, Investigation, and Prosecution of Illegal Traffic in Hazardous and Other Wastes” addresses specific issues of relevance to enforcement officers. In addition, the “*Instruction Manual on the Prosecution of Illegal Traffic*” is more targeted to prosecutors. All three guidance documents are available on the Basel Convention website²⁶.

Finally, the Secretariat has developed an interactive *Manual for Customs on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm Conventions*²⁷.

The Parties to the Convention have developed numerous technical guidelines for particular waste streams or methods of disposal that may be useful to Customs officers as they work to identify and handle certain substances that fall within the Convention. Examples are the “Technical Guidelines for the Identification and Environmentally Sound Management of Plastic Wastes and for Their Disposal” and the “Basel Convention Technical Guidelines on the Identification and Management of Used Tyres”. Technical guidelines also address more specifically the issue of transboundary movements - see the technical guidelines on transboundary movements of electrical and electronic waste and used electrical and electronic equipment, in particular regarding the distinction between waste and non-waste under the Basel Convention²⁸.

²⁴ <http://www.basel.int/Implementation/Publications/GuidanceManuals/tabid/2364/Default.aspx>

²⁵ <http://basel.int/Procedures/NotificationMovementDocuments/tabid/1327/Default.aspx>

²⁶ <http://basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx#>

²⁷ <http://synergies.pops.int/Implementation/TechnicalAssistance/ToolsandMethodologies/ManualforCustomsOfficers/tabid/4457/language/en-US/Default.aspx>

²⁸ <http://www.basel.int/Implementation/Ewaste/TechnicalGuidelines/DevelopmentofTGs/tabid/2377/Default.aspx>

For more information

Contact the Secretariat of the Basel Convention:
 Secretariat of the Basel Convention
 United Nations Environment Programme (UN Environment)
 11-13, Chemin des Anémones
 CH - 1219 Châtelaine
 Geneva, Switzerland
 Tel: (+41 22) 917 8271
 Fax: (+41 22) 917 80 98
 E-mail: brs@brsmeas.org
<http://www.basel.int>.

Or contact the nearest Basel Convention Regional Centre.
 Contact details for the Regional Centres appear at:
<http://www.basel.int/Partners/RegionalCentres/Overview/tabid/2334/Default.aspx>

The following links will be helpful to those seeking more information on the Basel Convention:
 List of Competent Authorities and Focal Points: <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>

Lists of wastes covered by the Basel Convention (these lists, which appear at the end of the Convention text at this link, are subject to change.)
<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>

Parties to the Convention
<http://www.basel.int/Countries/StatusofRatifications/PartiesSignatories/tabid/4499/Default.aspx>

Text of the Convention
<http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>



CARTAGENA PROTOCOL

ON BIOSAFETY TO THE CONVENTION ON BIOLOGICAL DIVERSITY

The Cartagena Protocol on Biosafety is an international treaty that seeks to protect biological diversity from potential adverse effects that may be caused by living modified organisms (LMOs), also often referred to as genetically modified organisms (GMOs), which are a product of modern biotechnology. The Protocol is a supplementary agreement to the Convention on Biological Diversity. The Protocol was adopted by the Conference of the Parties to the Convention in January 2000 and entered into force in September 2003. As of January 2017, 170 countries had become Parties to the Protocol.

The Cartagena Protocol establishes two different procedures for the import and export of LMOs. The first applies to the transboundary movement of LMOs intended for introduction into the environment of the importer. The second procedure applies to the transboundary movement of LMOs that are intended for direct use as food or feed, or for processing. Parties can also adopt a simplified decision-making procedure, provided that adequate measures are in place to ensure the safe intentional transboundary movement of the LMOs. Parties may use their domestic regulatory frameworks so long as they are consistent with the Protocol.

The Protocol establishes a Biosafety Clearing House (BCH) to facilitate the exchange of information on LMOs and to assist countries in the implementation of the Protocol. It furthermore includes provisions on documentation requirements, and addresses illegal and unintentional transboundary movements of LMOs as well as transboundary movements between Parties and non-Parties.

Which transboundary movements of LMOs are subject to the Cartagena Protocol on Biosafety?

LMOs intended for introduction into the environment of the Party of import

Intentional introduction into the environment refers to the deliberate release of an LMO into the environment. This may be sought for various reasons such as experimental trials to evaluate an LMO's performance and further assess its potential adverse effects; commercial production, releasing transgenic mosquitoes to control certain diseases or releasing transgenic animals for biological control.

Shipments of LMOs intended for introduction into the environment could consist of seeds, trees, seedlings, live fish, animals for breeding, bacteria or any other micro-organism for use in the open environment, as well as other propagating materials. This list is not exhaustive and Customs officers should be aware that other types of organisms could be LMOs intended for introduction into the environment as well.

The transboundary movements of LMOs intended for intentional introduction into the environment of the Party of import are subject to the advance informed agreement (AIA) procedure, which applies prior to the first intentional transboundary movement of the LMO.

The AIA procedure

The AIA procedure is intended to ensure that the exporter provides the information needed by the Party of import to make informed decisions regarding the import of an LMO into its territory. The procedure consists of three steps:

- ➔ **Step 1: Notification by exporter.** The AIA procedure requires the Party of export or the exporter itself to notify the Competent National Authority of the Party of import prior to the intentional transboundary movement of an LMO covered by this procedure.
- ➔ **Step 2: Acknowledgement of receipt of notification by importer.** The Party of import must acknowledge receipt of the notification. The acknowledgement must state, among

other things, whether decision making will proceed according to the domestic regulatory framework of the Party of import or according to the procedure outlined in Article 10 of the Protocol.

- ➔ **Step 3: Decision making.** If decision-making is to proceed according to the domestic regulatory framework of the Party of import, then the rules and procedures of this regulatory framework will apply. Since each of these regulatory frameworks is different, Customs officers will have to familiarise themselves with the rules and procedures in their country.

Article 10 of the Protocol allows the Party of import to decide to approve the import with or without conditions or prohibit the import. The Party of import must communicate its decision to the notifier. However, failure to communicate the decision within the prescribed time period does not imply the Party's consent to an intentional transboundary movement.

Customs officers can receive information on decisions that have been taken under the AIA procedure from country's Competent National Authorities and find it in the Biosafety Clearing-House (instructions on accessing the Biosafety Clearing-House appear later in this chapter).

Shipment documentation

The documentation that must accompany shipments of LMOs for intentional introduction into the environment must contain the following information and declaration:

- ➔ Clear identification as "living modified organisms" and a brief description of the organisms, including common and scientific names, relevant traits and genetic modification, transgenic traits and characteristics such as event(s) of transformation or, where available and applicable, a reference to a system of unique identification (see box "Unique Identification Systems" on page 30).
- ➔ Any requirements for the safe handling, storage, transport and use of the LMOs as provided under the applicable existing international requirements, domestic regulatory frameworks or any agreement entered into by the importer and exporter. If there is no

Important definitions

Advance informed agreement (AIA)

A procedure under the Protocol that applies to the first intentional transboundary movement of living modified organisms for intentional introduction into the environment of the Party of import. The AIA procedure includes several steps: notification by the exporting Party or exporter, acknowledgement of notification and risk assessment by the importing Party as the prelude to a decision.

Biosafety Clearing-House (BCH)

A mechanism aimed at facilitating the exchange of scientific, technical, environmental and legal information on, and experience with, living modified organisms and assisting the Parties in implementing the Protocol.

Competent National Authority

An entity designated and authorised by a government to fulfil the decision-making requirements of the Protocol—for example, under the advance informed agreement procedure.

Contained use

As defined in the Protocol, any operation undertaken within a facility, installation or other physical structure that involves living modified organisms controlled by specific measures that effectively limit their contact with, and their impact on, the external environment.

Focal Point.

A person, designated by each Party to the Protocol, who is responsible for communicating with the Secretariat of the Convention on Biological Diversity on a particular topic.

Living modified organism (LMO)

As defined in the Protocol, a “living modified organism” means any living organism that possesses a novel combination of genetic material obtained through the use of modern biotechnology. Living organism is defined as any biological entity capable of transferring or replicating genetic material, including sterile organisms, viruses and viroids. Modern biotechnology is defined as the application of:

1. in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid (DNA) and direct injection of nucleic acid into cells or organelles, or
2. the fusion of cells beyond the taxonomic family,

that overcome natural physiological reproductive or recombination barriers and that are not techniques used in traditional breeding and selection.

Living modified organism intended for direct use as food or feed, or for processing (LMO-FFP)

LMO-FFPs represent a large category of agricultural commodities that are intended to be directly consumed by humans or animals or to be processed into other goods or substances. They are not meant for intentional release into the environment.

Party

A State or regional economic integration organization that has ratified, accepted, approved or acceded to the Protocol.

Transboundary movement

As defined in the Protocol, a “transboundary movement” means the movement of a living modified organism from one Party to another Party. For the purposes of unintentional transboundary movements and emergency measures (Article 17) and transboundary movement between Parties and non-Parties (Article 24), the Protocol extends to movement between Parties and non-Parties.

specific requirement, the documentation must say so.

- ➔ Name and address of the exporter and of the importer.
- ➔ Details of the contact point for further information, including an individual or organisation that has the information needed to handle an emergency.
- ➔ A declaration that the movement of the living modified organisms conforms with the requirements of the Cartagena Protocol on Biosafety applicable to the exporter.
- ➔ Where appropriate, further information should include the commercial name, risk class and

import approval for the first transboundary movement of LMOs.

Other types of documents accompanying shipments

Exporters of LMOs intended for introduction into the environment may incorporate the required information into one of the following documents that usually accompany the shipment: a commercial invoice; a document required or utilised by existing documentation systems such as phytosanitary certificates; or other documentation as required by domestic regulatory or administrative frameworks.

Possible formats for these documents appear in Figure 2-12 for illustrative purposes. The flow chart in Figure 2-6 presents a hypothetical example of how a country might make decisions on LMOs intended for release into the environment and the role of Customs officers in this process.

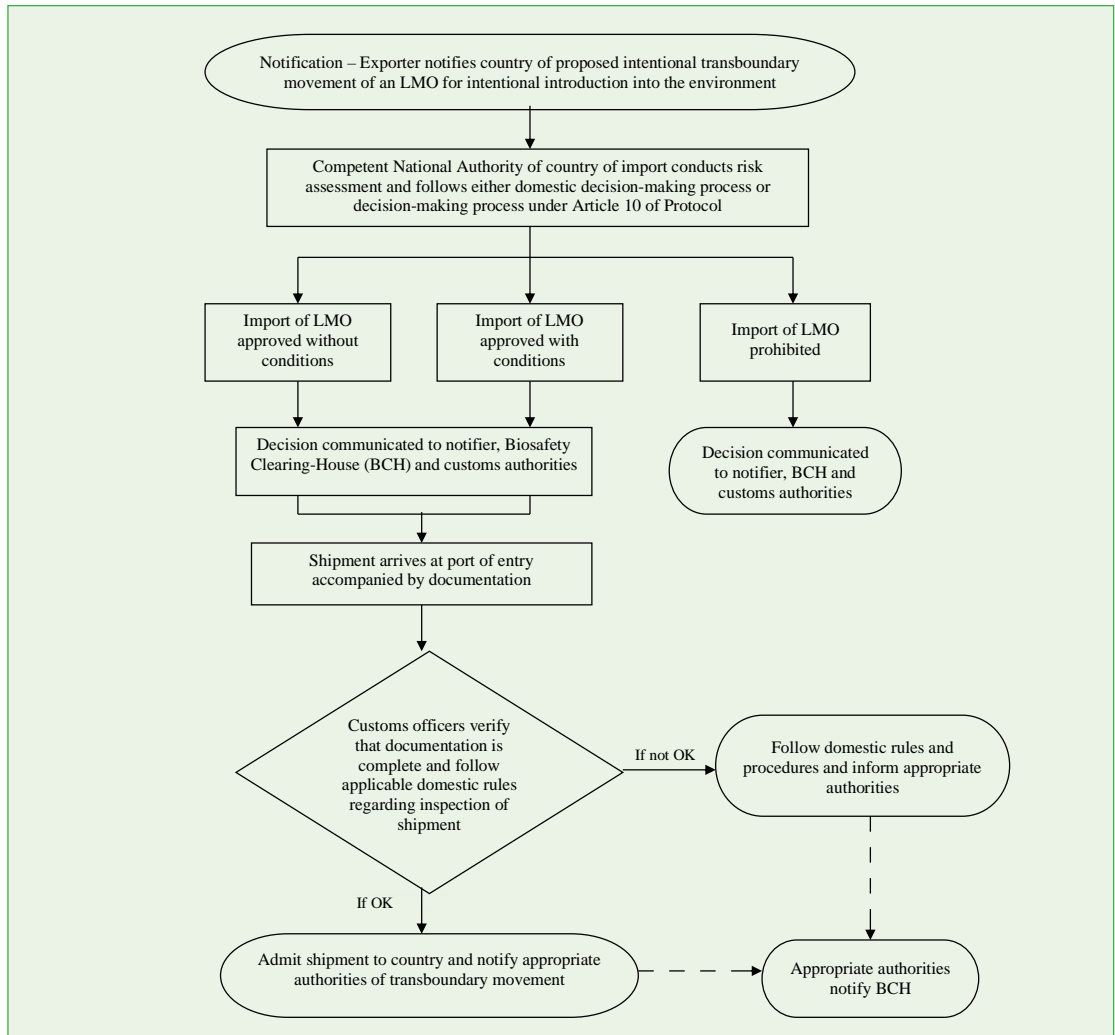
Living modified organisms intended for direct use as food or feed, or for processing

The designation 'living modified organisms intended for direct use as food or feed, or for processing' (LMOs-FFP), refers to LMOs intended for direct consumption by humans or animals or to be processed into other goods or substances.

They are not meant for intentional release into the environment.

Living modified organisms for direct use as food or feed, or for processing, are the largest category of genetically modified organisms traded internationally. They may appear as bulk shipments of agricultural commodities, including genetically modified soybeans, corn/maize, cotton, canola/rapeseed and rice, as well as other products. This list is not exhaustive, however, and Customs officers should be aware that other types of organisms—including other species of plants as well as other non-plants organisms—can also be LMOs intended for direct use as food or feed, or for processing.

Figure 2-6 Hypothetical example of decision making under the AIA procedure and the role of Customs officers



Transboundary movements of LMOs-FFP

Transboundary movements of LMOs-FFP are subject to the following two-step procedure:

- **Step 1:** Informing the Biosafety Clearing-House of a final decision on domestic use. A Party that makes a final decision about the domestic use of an LMO-FFP that may be subject to transboundary movement, including placing it on the market, must inform the other Parties of this decision through the Biosafety Clearing-House. See Figure 2-7 for an example of a notification under the LMO-FFP procedure.
- **Step 2:** Decision making by a potential importing Party. A Party may take a decision on the import of an LMO-FFP under its domestic regulatory framework. A developing country Party or Party with an economy in transition may, in the absence of a domestic regulatory framework, declare through the Biosafety Clearing-House that its decision prior to the first import of an LMO-FFP will be taken in accordance with a risk assessment and a decision taken within a predictable timeframe not exceeding 270 days.

Figure 2-7 Screenshot from the BCH of a notification by New-Zealand of a decision on the domestic use of genetically modified cotton

The screenshot shows a notification form for New Zealand. The 'Country submitting the decision or communication' is New Zealand. The 'Subject(s) of the decision' includes 'Decision on LMOs for direct use as food or feed, or for processing (Article 2.1, LMOs-FFPs)' and 'Decision on domestic use of an LMO, including its placing on the market'. The 'Uses of the LMO(s)' are 'LMOs for direct use as food'. The 'Importer's or Applicant's contact details' are for Rayon CropScience (Aumotu (Agrifera (Plant Genetic Systems))). The 'Result of the decision' is 'Approval of the Import/Use of the LMO(s) without conditions'. The 'LMO Identification' is 'MST #G272-2 - Soy modified for tolerance to glyphosate and HPPO herbicides'. The 'Risk assessment' is 'Application A1851 - Food derived from Herbicide-tolerant Soybean Event PGF2'. The 'Decision document' is 'New Zealand Gazette Issue 14 (9 February 2012)'.

Figure 2-8 Screenshot from the BCH with a decision by Turkey prohibiting the import of an LMO for use as feed

The screenshot shows a notification form for Turkey. The 'Country submitting the decision or communication' is Turkey. The 'Title / Reference number of the decision or communication' is 'XX. Biosafety Board Meeting Decision'. The 'Date of the decision' is '2012-02-06'. The 'Is the decision taken prior to entry into force of the Protocol?' is 'No'. The 'Notification' is 'Turkey'. The 'Is this an amendment to a previous decision / communication?' is 'No'. The 'Subject(s) of the decision' includes 'Decision on LMOs for direct use as food or feed, or for processing (Article 2.1, LMOs-FFPs)', 'Decision on import of LMOs', 'Notification that domestic regulations shall apply with respect to specific imports of LMOs (Article 14.3)', and 'Prohibition of the import/Use of the LMO(s)'. The 'Reasons' are 'M20002 notice that have been reported as filed by Biosafety Board'. The 'LMO Identification' is 'M20002-2 - Herbicide-tolerant soybean'. The 'Risk assessment' is 'Risk Assessment for M20002-2'. The 'Decision document' is 'Report of the Biosafety Board Meeting M20002-2.pdf'.

Shipment documentation

The documentation accompanying shipments of LMOs-FFP must clearly state the following:

- In cases in which the identity of the LMOs is known through means such as identity preservation systems, that the shipment contains LMOs intended for direct use as food or feed, or for processing.
- In cases in which the identity of the LMOs is not known through means such as identity preservation systems, that the shipment may contain one or more LMOs intended for direct use as food or feed, or for processing.
- That the LMOs are not intended for intentional introduction into the environment.
- The common, scientific and, where available, commercial names of the LMOs.
- The transformation event code of the LMOs or, where available, as a key to accessing information in the Biosafety Clearing-House, its unique identifier code (see box "Unique Identification Systems").

- ➔ The Internet address of the Biosafety Clearing-House for further information.

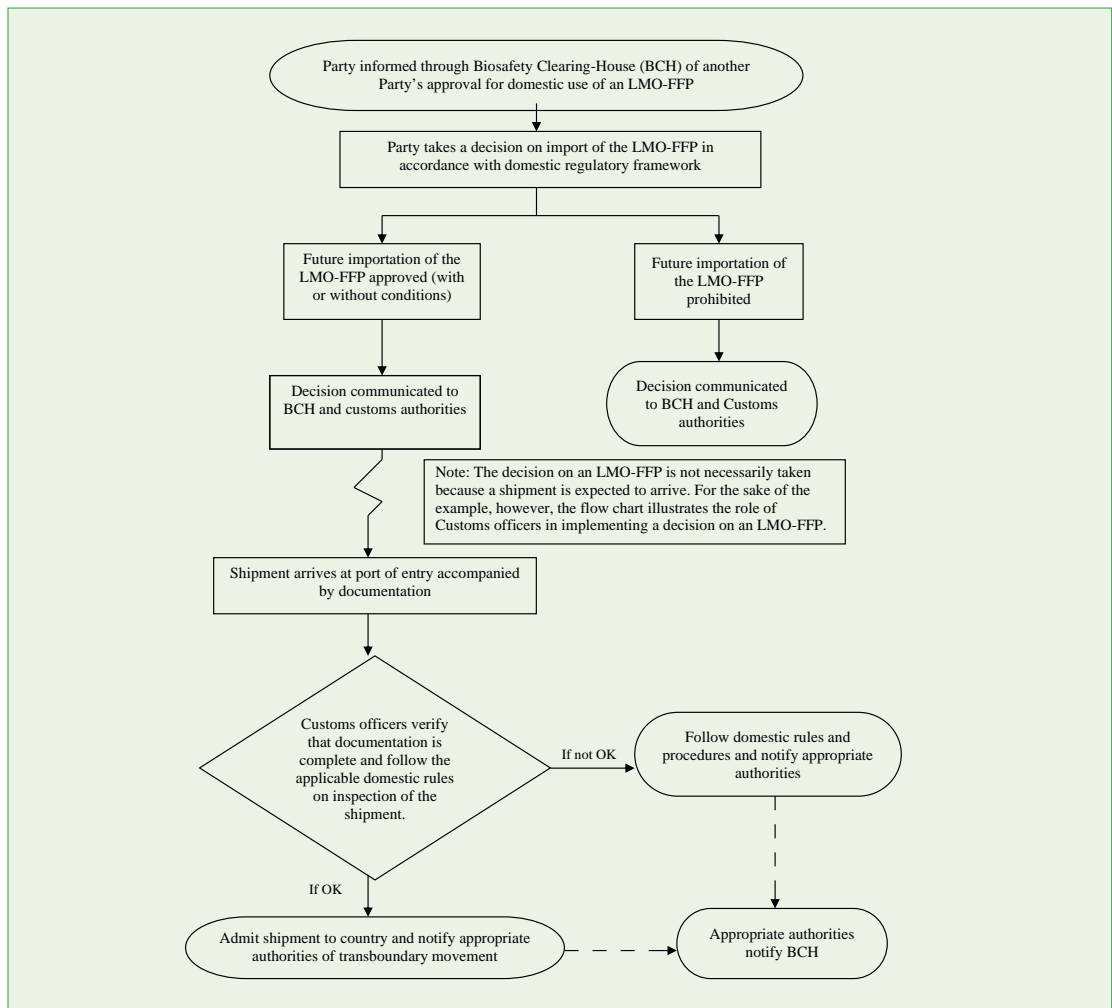
The document accompanying such shipments must also contain the details of a contact point for further information: the exporter, the importer or any appropriate authority when designated by a government as the contact point. Using this information, Customs officers or the Competent National Authorities can easily direct any questions they may have about a shipment. Customs officers should also verify that the LMOs in question are in commercial production and authorised in accordance with the domestic regulatory frameworks of both the exporting and importing countries.

Other types of documents accompanying shipments

Other types of documents that may accompany shipments of LMOs-FFP include a commercial invoice, a document required or utilised by existing documentation systems or other documentation as required by domestic regulatory or administrative frameworks. The required information may be incorporated into such existing documents. Possible formats for these documents appear in Figure 2-12 for illustrative purposes.

The flow chart in Figure 2-9 presents a hypothetical example of the process that underlies the transboundary movement of an LMO-FFP and the role of Customs officers in this process.

Figure 2-9 Hypothetical example of decision making underlying the transboundary movement of an LMO-FFP and the role of Customs officers in the process



LMOs destined for contained use

LMOs destined for contained use may include any LMO intended for use in a facility, installation or other physical structure where LMOs are controlled by specific measures that effectively limit their contact with, and their impact on, the external environment, such as a laboratory or other similar settings.

The Cartagena Protocol attaches no procedure to the transboundary movement of LMOs destined for contained use. Nevertheless, shipments of such LMOs are subject to a general requirement of safe handling, transport and packaging, as well as specific requirements that apply for the purpose of identifying such LMOs during a transboundary movement.

Shipment documentation

The documentation accompanying shipments of LMOs destined for contained use must include the following information and declaration:

- Clear identification as “living modified organisms”, including common and scientific names of the organisms, and as “destined for contained use”.
- Name and address of the consignee, and exporter or importer, as appropriate, including the contact details needed to reach them as fast as possible in an emergency.

LMO Quick-links

LMO Quick Links¹ are small image files, which can be easily copied and pasted, that identify an LMO through its unique identifier, trade name and a link to the BCH where information on the LMO is available (e.g. LMO characteristics, countries' decisions, risk assessments). LMO Quick Links can be used in documentation accompanying LMO shipments and facilitate access to the BCH.

Figure 2-10 – LMO quick link



¹ <http://bch.cbd.int/resources/quicklinks.shtml>

Figure 2-11 Screenshot from the BCH with an example of a unique identifier record



- Any requirements for the safe handling, storage, transport and use of the LMOs under applicable existing international instruments (such as the United Nations Recommendations on the Transport of Dangerous Goods, the International Plant Protection Convention and the Organisation International des Epizooties), domestic regulatory frameworks or any agreements entered into by the importer and exporter. If there is no requirement, the documentation should say so.
- Where appropriate, further information should include the commercial names of the LMOs, if available, new or modified traits and characteristics such as event(s) of transformation, risk class, specification of use, as well as any unique identification, where available, as a key to accessing information in the Biosafety Clearing-House (see box “Unique Identification Systems”).

Other types of documents accompanying shipments

Other types of documents that may accompany shipments of LMOs intended for contained use include a commercial invoice, a document required or utilised by existing documentation systems, or other documentation as required by domestic regulatory or administrative frameworks. Shipments of LMOs destined for contained use could also be accompanied by the shipping documentation that is presently in use in the context of the UN's Model Regulations on the Transport of Dangerous Goods (see box). Figure 2-12 shows examples of information requirements into existing documentation.

Unintentional transboundary movements

The Cartagena Protocol requires Parties to notify affected or potentially affected States, the Biosafety Clearing-House and, where appropriate, the relevant international organizations when they know of a release that has led or may lead to an unintentional transboundary movement of an LMO likely to have significant adverse effects on the conservation and sustainable use of biodiversity and perhaps pose risks to human health.

Parties are also to provide the Biosafety Clearing-House with the information of a point of contact for the purposes of receiving information about releases that have led or may lead to an unintentional transboundary movement.

Customs officers play a role in preventing unintentional transboundary movements through border checkpoints such as airports or seaports. Each country's point of contact for notification of releases that have led or may lead to an unintentional transboundary movement should communicate with Customs officers upon receiving such a notification.

Customs officers need to know what type of organism may be involved, how the unintentional transboundary movement may take place, and what to do if they detect an unintentional transboundary movement.

Illegal transboundary movements of LMOs

The Protocol on Biosafety requires Parties to adopt appropriate domestic measures aimed at preventing and, if appropriate, penalizing transboundary movements of LMOs carried out in contravention of domestic measures to implement the Protocol. The Protocol also provides that such movements are illegal transboundary movements.

In case of illegal transboundary movements, the affected Party may request the Party of origin to dispose, at its own expense, of the LMO in question by repatriation or destruction, as appropriate. The Protocol also requires Parties to make available to the Biosafety Clearing-House information concerning cases of illegal transboundary movements pertaining to it.

Customs officers play a role in preventing illegal transboundary movements through border checkpoints. Competent National Authorities and Customs should inform one another immediately of possible illegal transboundary movements of which they become aware.

Customs officers need to know what type of LMOs may be involved in the illegal transboundary movement, how the illegal transboundary movement takes place, how to detect the LMO and what to do if an illegal transboundary movement is detected.

Other procedures that may apply to certain transboundary movements of LMOs

Simplified procedure

Under the Cartagena Protocol a Party may apply a simplified procedure for the import of certain LMOs, but the Party of import must inform the Biosafety Clearing-House in advance that it intends to use the procedure. The simplified procedure can take one of two forms:

1. The Party of import can specify cases in which an intentional transboundary movement to it may take place at the same time that it is notified of the movement.
2. The Party of import can specify imports of LMOs to it that are exempt from the advance informed agreement procedure.

Figure 2-12 Examples of integration of information requirements into existing documentation

Example 1 of template for Article 18.2 (b) of the Cartagena Protocol: Contained use

COMPANY OR INSTITUTION LETTERHEAD

INVOICE

Date _____

	Exporter	Consignee	Contact point EXPORTER <input type="checkbox"/> CONSIGNEE <input type="checkbox"/> OTHER <input type="checkbox"/>
Company or institution	XXXX	YYYY	
Contact person			
Street			
City, Postal Code			
Country			
Phone; Fax			
Email			

Shipping details	Shipper reference number	Shipper contact details

Item	Amount	Weight/Volume	Description	Value
1	bag	50 g	Living modified organisms: Destined for contained use Papaya Research material seeds, PRSV (Papaya Ring Spot Virus) resistant	none

Any requirements for safe handling, storage, transport and use	Should only be used in registered facilities
--	--

Example 2 of template for Article 18.2 (b) of the Cartagena Protocol: Contained use

Shippers Declaration of Dangerous Goods			
Shipper: Name	Air Waybill No:		
Company or Institution			
Address	Page 1 of 1 Pages		
Phone number	Shipper's Reference Number sso (optional)		
Consignee :	Contact Point	Shipper <input type="checkbox"/>	Consignee <input type="checkbox"/>
Company or Institution		Other <input type="checkbox"/>	
Contact Person	Company or Institution		
Street, City	Contact Person		
Postal Code, Country	Street, City		
Phone, Fax	Postal Code, Country		
Email	Phone, Fax		
Two Completed and signed copies of this Declaration must be handed to the operator		WARNING	
TRANSPORT DETAILS		Failure to comply in all respects with the applicable Dangerous Goods Regulations may be in breach of the applicable law, subject to legal penalties. This Declaration must not, in any circumstances, be Completed and/or signed by a consolidator, a Forwarder or an IATA cargo agent.	
Airport of Departure			
This shipment is within the limitations prescribed for:			
(delete non-applicable)			
PASSENGER	CARGO		
AND CARGO	AIRCRAFT		
AIRCRAFT	ONLY		
Airport of Destination:		Shipment Type: (delete non-applicable) NON-RADIOACTIVE RADIOACTIVE	

NATURE AND QUANTITY OF DANGEROUS GOODS							
Dangerous Goods Identification							
Proper-Shipping Name	Class or Division	UN or ID No.	Packing Group	Subsidiary Risk	Quantity and Type of Packing	Packing Instruction	Authorization
Infectious Substances	6.2	UN 2814			1 Fiberboard Box	602	
Affecting Humans					(*Safe-T-Pak*)		
HIV gene bank in E.coli K12					x 25.0 mL		
Living modified organisms							
Dry Ice	9	UN1845	III		1 x 12.4Kg	904	
					1 Overpack Used		
Additional Requirements for Safe Handling, Storage, Transport and Use							
Prior Arrangements As Required By The IATA Dangerous Goods Regulations 1.3.3.1 Have							
Been Made.						IATA/ICAO USED	
This material is for contained use only in a certified Safety Level 2 Facility							
24 hr. Emergency Contact Telephone No.				Chemtrec 800/424-9300			
I hereby declare that the contents of this consignment are fully and accurately described above by the proper shipping name and are classified, packaged, marked and labeled/placarded, and are in all respects in proper condition for transport according to applicable international and national governmental regulations.					Name/Title of Signatory		
					Name/Title of Signatory		
					Place and Date		
					City, State, Country		
					Date		
(see warning above)							

Example 3 of template for Article 18.2 (c) of the Cartagena Protocol: Intentional introduction into the environment

COMPANY OR INSTITUTION LETTERHEAD

INVOICE

Date _____

	Exporter	Importer	Contact point Exporter <input type="checkbox"/> Importer <input type="checkbox"/> Other <input type="checkbox"/>
Company or institution	XXXX	YYYY	ZZZZ
Contact person			
Street			
City, Postal Code			
Country			
Phone; Fax			
Email			

Shipping details		Shipper reference number		Shipper contact details	
Item	Amount	Weight/Volume	Description	Value	
1	1000 bags	50'000 pounds	Living modified organism:	22'000 €	
			Soybean WSD 432, high oleic acid, HOA		
			Permit #GM21345/2002 for planting		
			OECD UI: BI-ABC891-8		
			Commercial seeds material		
Any requirements for safe handling, storage, transport and use			No specific requirement		

I declare that this transboundary movement/shipment is in conformity with the requirements of the Cartagena Protocol applicable to the exporter.

Signature of exporter _____

Date _____

Unique identification systems

Decisions taken by the Parties to the Protocol have helped in elaborating the documentation and identification requirements associated with the transboundary movements of LMOs. One aspect of these requirements is the use of unique identification systems. Under a unique identification system, an alphanumeric code is assigned to an LMO based on its transformation event - that is, its genetic modification. The code is then used to facilitate the search for and retrieval of information, particularly in the Biosafety Clearing-House.

Currently, the only existing unique identification system in international use is the Organisation for Economic Cooperation and Development's (OECD) Unique Identifier for Transgenic Plants¹. The OECD identification system has been designed such that developers of a new transgenic plant can generate a unique identifier and include it in the dossiers they forward to national authorities during the risk assessment process. Once the national authority approves the plant for a particular use, it should then forward the unique identifier to the OECD Secretariat for inclusion in the OECD's product database, from which the information is automatically shared with the Protocol's Biosafety Clearing-House.

The OECD unique identifier is a nine-digit code composed of three elements separated by dashes:

- ➔ Two or three alphanumeric digits to designate the applicant
- ➔ Five or six alphanumeric digits to designate the transformation event
- ➔ One numerical digit for verification.

See Figure 2-11 for an example of an LMO record and its unique identifier in the BCH.

¹ <http://www.oecd.org/science/biotrack/uniqueidentifierfortransgenicplants.htm>

UN's Model Regulations on the Transport of Dangerous Goods

Under the UN's Model Regulations on the Transport of Dangerous Goods, shipments of genetically modified micro-organisms (GMMs) and genetically modified organisms (GMOs) can fall under either Class 6, toxic and infectious substances, or Class 9, miscellaneous dangerous substances. Class 6 is divided into two divisions. Of most relevance here is Division 6.2, which covers infectious substances.

According to the Model Regulations, infectious substances are those known or reasonably expected to contain pathogens. Pathogens, in turn, are defined as micro-organisms (including bacteria, viruses, rickettsiae, parasites and fungi) and other agents such as prions that can cause disease in humans or animals. On shipping documentation, GMMs and GMOs in Division 6.2 are required to be assigned to:

- ➔ UN 2814 if they cause disease in humans or in both humans and animals
- ➔ UN 2900 if they cause disease only in animals
- ➔ UN 3373 as appropriate.

GMMs and GMOs that do not meet the definition of an infectious substance, but are capable of altering animals, plants or microbiological substances in a way that is not normally the result of natural reproduction, fall into Class 9. They are to be assigned to UN 3245.

Customs officers should stay informed about national decisions to apply the simplified procedure to any LMOs. They must continue, however, to verify the documentation that accompanies any shipments of LMOs to which a simplified procedure applies and follow the applicable domestic rules on inspection of the shipment. Figure 2.13 reproduces

an example from the BCH of a declaration by South Africa of an import exempt from the AIA procedure.

Bilateral, regional and multilateral agreements and arrangements

The Protocol allows Parties to enter into bilateral, regional and multilateral agreements and

Figure 2-13

General information

Country submitting the decision or communication
 • South Africa

Subject(s) of the decision
 • Decision under the Simplified Procedure (Article 10)

Does the decision specify cases when the intentional transboundary movement of LMOs should be exempted from the Advance Informed Agreement (AIA) procedure?
 Yes

LMO Identification
 MOW 12000-2 - Bollgard II™ cotton. Accession # 04724
 Resistance to herbicide - Atrazine, Stomachache Resistance to disease and pest - Insect - Lepidoptera (Subfamilies and moths) (Subfamilies number genus and species genus)
 (Please detach this section)

Additional information

Bollgard II cotton has obtained general release (commercial planting/sowing on the market) under the Genetically Modified Organisms (GMO) Act, 1997 (Act No. 15 of 1997).

The South African Government does not require the information listed in Article 9 and the advance informed agreement procedure in Article 10, for the imports of Bollgard II cotton.

The procedure to follow is to complete the application form for 'Importation of a LMO that has obtained general release or commercial clearance under the GMO Act'.

Please note that every import into SA is still subject to any other applicable legislation in SA, with particular reference to phytosanitary requirements under the Agricultural Pests Act, 1985.

The application form for 'Importation of a LMO that has obtained general release or commercial clearance under the GMO Act' is available on the website of the Department of Agriculture at <http://www.afa.gov.za/eng/geneticresources/geneticcontrol.htm>

arrangements on the intentional transboundary movements of LMOs. The Protocol may not apply to the intentional transboundary movements that take place under the terms of these agreements or arrangements, which can cover any aspect of the intentional transboundary movement of LMOs such as documentation requirements and LMOs destined for contained use. Parties are to inform each other through the Biosafety Clearing House of any such agreements or arrangements.

Customs officers should also stay informed of any bilateral, regional or multilateral agreement or arrangement their country has entered, the other country or countries Party to the agreement or arrangement, and how the terms of the agreement or arrangement apply to the intentional transboundary movement of LMOs.

Customs officers and LMOs: A summary

Customs or border protection officials contribute to the implementation of the Cartagena Protocol by inspecting shipment documents to verify their validity and shipped goods to ensure they correspond to the documentation. They also enforce any restrictions or prohibitions placed on the import of an LMO through a domestic biosafety regulatory system, the AIA procedure or the

procedure for LMOs-FFP in the Protocol²⁹.

Inspecting documentation

As noted in earlier sections, Customs officers inspecting shipments should be aware that different categories of LMOs have different documentation requirements. A country's own biosafety regulatory regime may also include additional documentation and information requirements. Before inspecting shipment documents, Customs officers should verify these requirements with the appropriate Competent National Authority. They should also ensure that any handling requirements for the shipment are met.

Inspecting shipments

In addition to verifying documentation, Customs officers may need to inspect incoming shipments of LMOs to ensure their contents correspond to the documentation. Since different countries have different rules and procedures for determining when shipments must be inspected, Customs officials should familiarise themselves with the situation in their country. Inspecting shipments involves taking samples and identifying the LMOs, where sampling and detection techniques and technologies are available.

A number of methodologies and techniques are available to detect, identify and quantify living modified organisms. These methodologies range from those that are fast and more cost-effective identification techniques that can be performed on-site by Customs officers while they are inspecting shipments, such as lateral flow tests. Other methodologies are more complex and require scientific expertise and equipment. Such tests may be offered by specialized laboratories that are authorized to receive samples of shipments that have been collected by Customs officers in order to analytically verify the identity of the LMOs that may be present in the shipment.

Reporting information to national authorities

Just as Competent National Authorities should be communicating their decisions on the import of LMOs to Customs officers, so too should

²⁹ More information on some issues addressed in this section are discussed in Chapter 3.

Customs officers communicate information to the Competent National Authorities on LMOs that arrive at a port of entry.

Copies of documents that accompany a shipment should be forwarded to the appropriate Competent National Authorities so they can verify compliance with their decisions and stay abreast of the LMOs that have entered the country.

Taking into account relevant domestic regulations or administrative rules

Unlike some of the other MEAs that prohibit or restrict the transboundary movement of specific chemicals or species, the Cartagena Protocol leaves it up to each Party to decide which LMOs it will allow into the country and which it will restrict or prohibit. Customs officers thus need to familiarise themselves with:

- ➔ How decisions on LMOs are made in their country in order to verify whether or not a transboundary movement of LMOs has followed the correct procedure.
- ➔ The decisions made in their country on specific LMOs - including where and how to access such information if needed - in order to verify whether the LMOs in question have been approved for import.
- ➔ The rules in their country on illegal transboundary movements in order to be aware of the appropriate steps to take if faced with an illegal transboundary movement.
- ➔ Information on how to respond to unintentional transboundary movements or accidental releases of LMOs.

The Biosafety Clearing-House is an ideal source of information, such as decisions and declarations that have been made under the Protocol and contact details of the Competent National Authorities and National Focal Points of each Party (see the next section for more information on how to access the Biosafety Clearing-House).

Biosafety Protocol-specific training materials for Customs officers

A variety of information and training materials, particularly on the use of the Biosafety Clearing-House, have been prepared by the Secretariat of the Convention on Biological Diversity and others.

Descriptions of some of these materials follow below.

E-learning modules developed for Customs officials

The Secretariat of the Convention on Biological Diversity has developed a set of e-learning modules designed for Customs officials on the following topics:

1. Introduction to the Cartagena Protocol on Biosafety
 2. Requirements on Handling, Transport, Packaging and Identification of LMOs
 3. The role of Customs authorities under the Cartagena Protocol on Biosafety
 4. Methods for detecting, identifying and quantifying LMOs
 5. Access to and Exchange of information on LMOs through the Biosafety Clearing-House
- The e-learning modules can be accessed through the CBD's e-learning Platform.³⁰

Workshop materials developed for Customs officials

Training materials, which were developed for a series of workshops targeting Customs officials, are available on the Secretariat's website.³¹

General information about the Cartagena Protocol on Biosafety

- ➔ Biosafety and the Environment: An Introduction to the Cartagena Protocol on Biosafety. This booklet is intended to help the public better understand the Protocol. It is available in English³², Spanish and French.
- ➔ Frequently Asked Questions on the Biosafety Protocol. A set of questions and answers covering biosafety and biotechnology, the Biosafety Protocol and its implementation, and how to become a Party to the Protocol. The FAQ are available in English³³ and French.

³⁰ The e-learning modules are available at: <https://scbd.unssc.org/>. The e-learning modules can also be accessed through the World Customs Organization's website at: <http://clikc.wcoomd.org/>

³¹ The materials of these workshops are available on the Portal for Customs Officials: http://bch.cbd.int/protocol/cpb_art18/customs_portal/

³² <http://www.cbd.int/doc/press/presskits/bs/cpbs-unesp-cbd-en.pdf>

³³ http://bch.cbd.int/protocol/cpb_faq.shtml

For more information

For more information on the Biosafety Protocol, contact:

Secretariat, Convention on Biological Diversity
413, rue Saint-Jacques, Suite 800
Montreal, Quebec
Canada H2Y 1N9

Tel.: +1 (514) 288-2220

Fax: +1 (514) 288-6588

E-mail: secretariat@cbd.int

The following links will be helpful to those seeking more information on the Cartagena Protocol on Biosafety:

To access the Biosafety Clearing-House	http://bch.cbd.int/
To search for Competent National Authorities and National Focal Points	http://bch.cbd.int/database/contacts/
To obtain a list of Parties to the Protocol	http://bch.cbd.int/protocol/parties
To obtain a copy of the text of the Protocol	http://www.cbd.int/biosafety/protocol.shtml



CHEMICAL WEAPONS CONVENTION

ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION

The Organisation for the Prohibition of Chemical Weapons (OPCW) Technical Secretariat commenced its operations in 1997, when the Chemical Weapons Convention (CWC) entered into force.

The OPCW¹ has emerged as a new type of global, treaty-based international organisation with responsibilities for disarmament and non-proliferation, among others, and with impartial mechanisms necessary to verify compliance and to redress situations of non-compliance, should they occur. In 2013, in recognition of its extensive efforts to eliminate chemical weapons, the OPCW was awarded the Nobel Peace Prize. It is located in The Hague, the Netherlands.

One hundred and ninety-two States are party to the Convention. Only four UN Member States are not yet a State Party to the Convention. Among them Israel is a Signatory State, while Egypt, People's Republic of Korea and South Sudan are Non-Signatory States. The main objectives of the Convention are to prohibit the development, production, stockpiling and use of chemical weapons; to seek the destruction of existing stockpiles of chemical weapons; and to implement the verification regime, which describes the comprehensive regime for routine monitoring of the chemical industry through declarations and on-site inspections. Due to the possible commercial application of many toxic chemicals and precursors, the CWC categorises them into three Schedules, listed in the Annex on Chemicals. The declaration and inspection requirements for each Schedule vary, depending in part on the risk its chemicals pose to the object and purpose of the Convention.

¹ <https://www.opcw.org/>

OPCW Mission Statement

The Convention commits its States Parties to work together to promote peaceful use of chemistry for the purpose of pursuing their economic and technological development.

The mission of the OPCW is to implement the provisions of the CWC to achieve the OPCW vision of a world that is free of chemical weapons and of the threat of their use, and a world in which co-operation in chemistry for peaceful purposes for all is fostered. The ultimate aim is to contribute to international security and stability, to general and complete disarmament, and to global economic development. To this end, the OPCW proposes policies for the implementation of the CWC to the Member States of the OPCW, and develops and delivers programmes with and for them. These programmes have four broad aims:

1. To ensure a credible and transparent regime for verifying the destruction of chemical weapons and to prevent their re-emergence, while protecting legitimate national security and proprietary interests.
2. To provide protection and assistance against chemical weapons.
3. To encourage international cooperation in peaceful uses of chemistry.
4. To bring about universal membership of the OPCW by facilitating international co-operation and national capacity building.

How the CWC regulates trade and the cross-border movements of certain chemicals

The chemicals explicitly specified in the Convention for monitoring purposes cover a wide range of compounds and include chemical warfare agents, as well as key and more distant precursors. These chemical compounds, or families of compounds, are listed in the three schedules in the Convention's Annex on Chemicals. Each of these schedules has different requirements for verification—the more stringent for those chemicals deemed to pose a greater risk. A brief description of the declaration's requirements, restrictions to trade and reporting per schedule are presented in Table 2-3. A list of scheduled chemicals appears in Table 2-4.

CWC provisions related to trade in scheduled chemicals

The Convention contains provisions covering the export and import of scheduled chemicals (Table 2-3). Schedule 1 contains chemicals known to have been developed or used as chemical weapons or are the immediate precursor compounds used in the production of chemical weapons. Almost none of the compounds on this schedule are known to have any significant legitimate commercial uses.

Under the Convention, Schedule 1 chemicals may be acquired only in the territory of a State Party and may be transferred only to other States Parties. All transfers are subject to advance notification and annual declaration. Re-export to a third State is not permitted. These restrictions apply irrespective of the amount to be transferred or the concentration of the chemical if transferred in a mixture. Transfer to any State not Party to the Convention is forbidden under any circumstances, and States are required to adopt penal legislation in this respect.

Some examples of legitimate uses of small quantities of Schedule 1 chemicals are as follows:

- **Saxitoxin.** This natural toxin is one of the reference standards routinely acquired by the public health authorities of coastal States in order to test shellfish for the toxins responsible for paralytic shellfish poisoning (PSP). PSP toxins accumulate in the shellfish during periods of certain algae blooms ("red tides"). Testing is essential to prevent deadly poisoning of humans consuming the shellfish. For many importing countries, shellfish testing is a prerequisite to allowing any such import.
- **Ricin.** This natural toxin is used in medical and pharmaceutical research and in the development of treatments of certain types of cancers as well as AIDS.
- **Mustine.** Mustine (one of the nitrogen mustards) is a component of mustine hydrochloride, which is used for the treatment of certain types of cancer by chemotherapy.

Schedule 2 contains chemicals considered to pose a significant risk to the object and purpose of the Convention, but that also have legitimate commercial uses. These chemicals are sometimes traded as mixtures or in formulations.

Table 2-3 Summary of CWC import/export provisions

	Schedule 1	Schedules 2 and 3	
Declaration obligations	Any transfer of a Schedule 1 chemical from one State Party to another must be notified by both the sending and the receiving States Parties to the OPCW Technical Secretariat at least 30 days before the planned transfer, except for transfers of saxitoxin for medical/ diagnostic purposes in quantities smaller than 5 mg where the notification can be done at the time of the transfer. Every year, each State Party must make a detailed annual declaration of all transfers made during the previous year. This declaration shall be submitted no later than 90 days after the end of that year and shall include specific information on each Schedule 1 chemical that has been transferred.	<p>States Parties are required to make initial and annual declarations on aggregate national data for the previous calendar year on</p> <ol style="list-style-type: none"> 1. The quantities of each Schedule 2 chemical produced, processed, consumed, imported and exported 2. The quantities of each Schedule 3 chemical produced, imported and exported 3. A quantitative specification of imports and exports for each country and chemical involved. <p>Low concentration limits for declarations of Schedule 2 chemicals: Chemical mixtures containing 30 per cent or less of a Schedule 2B chemical are not subject to any declaration obligations. Guidelines for mixtures containing Schedule 2A and 2A* chemicals are still pending.</p> <p>Low concentration limits for declarations of Schedule 3 chemicals: Chemical mixtures containing 30 per cent or less of a Schedule 3 chemical are not subject to any declaration obligations.</p>	
	Schedule 1	Schedule 2	Schedule 3
Restrictions on the international transfer of scheduled chemicals	Import and exports to States not Party to the Convention are prohibited. Transfers can be made to other States Parties only for justified non-prohibited purposes (research, medical, pharmaceutical or protective) and in a quantity that allows the receiving State Party to retain a national aggregate amount of all such chemicals equal to or less than one tonne at any given time. Retransfer of Schedule 1 chemicals to a third state is prohibited.	<p>On 29 April 2000, the transfers of Schedule 2 chemicals to or from States not Party were prohibited.</p> <p>Exceptions: The prohibition of Schedule 2 transfer to or from States not Party to the CWC is not applicable to</p> <ul style="list-style-type: none"> • Products containing 1 per cent or less of a Schedule 2A or 2A* chemical • Products containing 10 per cent or less of a Schedule 2B chemical • Products identified as consumer goods packaged for retail sale for personal use or packaged for individual use 	<p>Transfers of Schedule 3 chemicals to States not Party shall be only for purposes not prohibited by the Convention. The recipient state should produce an end-use certificate.</p> <p>Exceptions: No end-use certificates required for products containing 30 per cent or less of a Schedule 3 chemical and products identified as consumer goods packaged for retail sale for personal use or packaged for individual use</p>
Aggregate national data: reporting transfers, challenges	<p>Accurate import and export data are critical for an accurate declaration of aggregate national data. The Harmonized Commodity Description and Coding System (HS) used by 95 per cent of states (either as Parties to the HS Convention or as voluntary participants) for Customs and statistical purposes is playing a growing role in monitoring the transboundary movements of categories of goods.</p> <p>The main obstacle for National Authorities in compiling their aggregate national data is the fact that Customs authorities normally use only a six-digit code at the international level to identify goods.</p> <p>This code identifies a chemical family, but not a specific chemical. National Authorities are therefore not able to determine from the statistics of Customs authorities whether shipments should be included in their declaration. Customs potentially can play an important role by providing detailed declared import/export data to the National Authorities for declarations.</p> <p>To increase control and to facilitate the identification of chemicals by Customs officers, the World Customs Organization (WCO) has recommended inserting national subheadings for substances controlled under the CWC.</p> <p>A new, simplified recommendation is currently under consideration by the WCO.</p> <p>It is important that States Parties improve the co-operation between their National Authorities, and that they agree on and apply similar rules and standards for collecting and reporting data.</p>		

Table 2-4 CWC Schedules of Chemicals

Schedule 1		(CAS Registry number)
A. Toxic chemicals:		
(1)	O-Alkyl (<C10, incl. cycloalkyl) alkyl (Me, Et, n-Pr or i-Pr)-phosphonofluoridates Examples: Sarin: O-Isopropyl methylphosphonofluoridate Soman: O-Pinacolyl methylphosphonofluoridate	(107-44-8) (96-64-0)
(2)	O-Alkyl (<C10, incl. cycloalkyl) N,N-dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidocyanidates Example: Tabun: O-Ethyl N,N-dimethyl phosphoramidocyanidate	(77-81-6)
(3)	O-Alkyl (H or <C10, incl. cycloalkyl) S-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonothiolates and corresponding alkylated or protonated salts Example: VX: O-Ethyl S-2-diisopropylaminoethyl methyl phosphonothiolate	(50782-69-9)
(4)	Sulfur mustards: 2-Chloroethylchloromethylsulfide..... Mustard gas: Bis (2-chloroethyl)sulfide Bis (2-chloroethylthio)methane Sesquimustard: 1,2-Bis (2-chloroethylthio)ethane..... 1,3-Bis (2-chloroethylthio)-n-propane 1,4-Bis (2-chloroethylthio)-n-butane..... 1,5-Bis (2-chloroethylthio)-n-pentane..... Bis (2-chloroethylthiomethyl)ether..... O-Mustard: Bis(2-chloroethylthioethyl)ether	(2625-76-5) (505-60-2) (63869-13-6) (3563-36-8) (63905-10-2) (142868-93-7) (142868-94-8) (63918-90-1) (63918-89-8)
(5)	Lewisites: Lewisite 1: 2-Chlorovinylchloroarsine Lewisite 2: Bis (2-chlorovinyl)chloroarsine Lewisite 3: Tris (2-chlorovinyl)arsine.....	(541-25-3) (40334-69-8) (40334-70-1)
(6)	Nitrogen mustards: HN1: Bis (2-chloroethyl)ethylamine HN2: Bis (2-chloroethyl)methylamine..... HN3: Tris (2-chloroethyl)amine	(538-07-8) (51-75-2) (555-77-1)
(7)	Saxitoxin	(35523-89-8)
(8)	Ricin.....	(9009-86-3)
B. Precursors:		
(9)	Alkyl (Me, Et, n-Pr or i-Pr) phosphonyldifluorides Example: DF: Methylphosphonyldifluoride.....	(676-99-3)
(10)	O-Alkyl (H or <C10, incl. cycloalkyl) O-2-dialkyl (Me, Et, n-Pr or i-Pr)-aminoethyl alkyl (Me, Et, n-Pr or i-Pr) phosphonites and corresponding alkylated or protonated salts Example: QL: O-Ethyl O-2-diisopropylaminoethylmethylphosphonite	(57856-11-8)
(11)	Chlorosarin: O-Isopropyl methylphosphonochloridate.....	(1445-76-7)
(12)	Chlorosoman: O-Pinacolyl methylphosphonochloridate	(7040-57-5)
Schedule 2		
A. Toxic chemicals:		
(1)	Amiton: O,O-Diethyl S-[2-(diethylamino)ethyl] phosphorothiolate and corresponding alkylated or protonated salts.....	(78-53-5)
(2)	PFIB: 1,1,3,3,3-Pentafluoro-2-(trifluoromethyl)-1-propene	(382-21-8)
(3)	BZ: 3-Quinuclidinyl benzilate (*)	(6581-06-2)
B. Precursors:		
(4)	Chemicals, except for those listed in Schedule 1, containing a phosphorus atom to which is bonded one methyl, ethyl or propyl (normal or iso) group but no further carbon atoms Examples: Methylphosphonyl dichloride Dimethyl methylphosphonate..... Exemption: Fonofos: O-Ethyl S-phenyl ethylphosphonothiolothionate.....	(676-97-1) (756-79-6) (944-22-9)
(5)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) phosphoramidic dihalides	
(6)	Dialkyl (Me, Et, n-Pr or i-Pr) N,N-dialkyl (Me, Et, n-Pr or i-Pr)-phosphoramidates	
(7)	Arsenic trichloride.....	(7784-34-1)
(8)	2,2-Diphenyl-2-hydroxyacetic acid.....	(76-93-7)
(9)	Quinuclidin-3-ol	(1619-34-7)
(10)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethyl-2-chlorides and corresponding protonated salts	
(11)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-ols and corresponding protonated salts Exemptions: N,N-Dimethylaminoethanol and corresponding protonated salts N,N-Diethylaminoethanol and corresponding protonated salts	(108-01-0) (100-37-8)
(12)	N,N-Dialkyl (Me, Et, n-Pr or i-Pr) aminoethane-2-thiols and corresponding protonated salts	
(13)	Thiodiglycol: Bis(2-hydroxyethyl)sulfide.....	(111-48-8)
(14)	Pinacolyl alcohol: 3,3-Dimethylbutan-2-ol.....	(464-07-3)

Schedule 3

A. Toxic chemicals:

(1) Phosgene: Carbonyl dichloride	(75-44-5)
(2) Cyanogen chloride	(506-77-4)
(3) Hydrogen cyanide	(74-90-8)
(4) Chloropicrin: Trichloronitromethane	(76-06-2)

B. Precursors:

(5) Phosphorus oxychloride	(10025-87-3)
(6) Phosphorus trichloride	(7719-12-2)
(7) Phosphorus pentachloride	(10026-13-8)
(8) Trimethyl phosphite	(121-45-9)
(9) Triethyl phosphite	(122-52-1)
(10) Dimethyl phosphite	(868-85-9)
(11) Diethyl phosphite	(762-04-9)
(12) Sulfur monochloride	(10025-67-9)
(13) Sulfur dichloride	(10545-99-0)
(14) Thionyl chloride	(7719-09-7)
(15) Ethyldiethanolamine	(139-87-7)
(16) Methyl-diethanolamine	(105-59-9)
(17) Triethanolamine	(102-71-6)

Definitions on import or export

Definitions of import and export depend on the legislation of State Parties and hence States Parties may declare imports and exports of scheduled chemicals in different ways. To have a common understanding on the terms import and export by all State Parties, the Executive Council of the OPCW on its 53rd Session, approved the Decision EC-53/Dec.16, dated 27 June 2008, on "Guidelines regarding declaration of import and export data for Schedule 2 and 3 chemicals". This decision sets out the following voluntary guidelines:

Solely for the purposes of submitting declarations under the CWC (under paragraph 1, 8(b) and 8(c) of Part VII and paragraph 1 of Part VIII of the Verification Annex), the term 'import' shall be understood to mean the physical movement of scheduled chemicals into the territory or any other place under the jurisdiction or control of a State Party from the territory or any other place under the jurisdiction or control of another State, excluding transit operations; and the term 'export' shall be understood to mean the physical movement of scheduled chemicals out of the territory or any other place under the jurisdiction or control of a State Party into the territory or any other place under the jurisdiction or control of another State, excluding transit operations.

Transit operations shall mean the physical movements in which scheduled chemicals pass through the territory of a State on the way to their intended State of destination. Transit operations include changes in the means of transport, including temporary storage only for that purpose.

For the purposes of declaring imports, the declaring State Party shall specify the State from which the scheduled chemicals were dispatched, excluding the States through which the scheduled chemicals transited and regardless of the State in which the scheduled chemicals were produced.

For the purposes of declaring exports, the declaring State Party shall specify the intended State of destination, excluding the States through which the scheduled chemicals transited.

Since 29 April 2000, Schedule 2 chemicals have been limited to export or import between States Parties. In a decision taken in May 2000 by the OPCW Conference of the States Parties, it was clarified that this limitation also applies to mixtures containing Schedule 2B chemicals in concentrations above 10 per cent. The only exception is consumer goods packaged for retail sale for personal use or packaged for individual use.

States Parties are required to make initial and annual declarations on the aggregate quantities

imported and exported of each Schedule 2 chemical, including details of the aggregate amounts imported from or exported to each other country involved.

Some examples of why a State Party might wish to import or export these chemicals, either as pure compounds or as components in formulations, are as follows:

- ➔ **Dimethyl methylphosphonate (DMMP).** DMMP is used directly as a flame retardant for fabrics (such as those used to make seat covers, curtains and clothes) and for polyurethane

foams (used widely in the furniture industry). It is also an important ingredient in the preparation of formulations (mixtures) such as automotive specialty lubricants and oils, and as a raw material in the production of agricultural chemicals, including pesticides.

- ➔ **Thiodiglycol.** This chemical is widely employed in water-based dyes for the cloth manufacturing industries, including the rural industries of developing countries. And it is a key component of the water-based inks used in the manufacture of felt-tip pens and in certain printing inks. It is also a starting chemical in the production of specialty resins and adhesives, and is used as a lubricant additive.
- ➔ **Arsenic trichloride.** Arsenic trichloride is the key starting material in the production of most arsenic-containing insecticides, fungicides, herbicides, rodenticides and defoliants.
- ➔ **Methyl phosphonic acid.** This chemical is used as a starting material in the production of the herbicide glyphosate and the sugarcane ripener glyphosine.
- ➔ Schedule 3 contains chemicals considered to pose a risk to the object and purpose of the Convention, but that typically are manufactured in very large quantities for legitimate commercial purposes.

Schedule 3 chemicals may be exported only to a State not Party if that State issues an end-use certificate stating that the transferred chemicals will be used only for purposes not prohibited by the Convention and that they will not be re-transferred. The certificate also must list the types and quantities of the chemicals, their end use(s), and the name(s) and address(es) of the end user(s). The end-use certificate should be issued by a competent government authority of the State not Party. Instructions and the appropriate forms are available at the OPCW website³⁴.

No end-use certificates are required for products containing 30 per cent or less of a Schedule 3 chemical and products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.

States Parties are required to make initial and annual declarations on the aggregate quantities imported and exported of each Schedule 3 chemical, including details of the aggregate amounts imported from or exported to each other country involved.

The worldwide trade in Schedule 3 chemicals and products containing them is vast. Product groups include pesticides, pharmaceuticals, toiletries, resins and plastics, urethanes, absorbents, antistatic agents, acrylics, preparations used in leather tannery, surfactants, corrosion inhibitors, materials used in gold extraction and vulcanising agents. Some reasons a State Party might wish to import or export these chemicals, either as pure compounds or as components in formulations, are as follows:

- ➔ **Trimethyl phosphite (TMP).** TMP is used as a flame retardant in some plastic and rubber products. It is also used as an optical brightener, viscosity modifier and antioxidant in products ranging from lubricants to paints and as a raw material in the manufacture of agricultural and pesticide products.
- ➔ **Sulfur monochloride.** This chemical is a vulcanising agent used in the manufacture of specialist rubber products, including tyres, hoses and electrical cable covers. It is also a raw material in the production of sulfide products ranging from fungicides to cosmetics additives and dyes, and it is used as a treatment for vegetable oils and to harden softwoods.
- ➔ **Triethanolamine.** Triethanolamine is a component of many formulations used by industries that produce chemicals from natural gas or petroleum. Oil refineries use it to remove sulphur. It is very widely used in products such as oil drilling emulsions, cutting oils, automotive coolants, surface active agents, textile specialties, waxes and polishes, herbicides, cements, pharmaceutical products and toiletries.

The most commonly traded scheduled chemicals are listed in table 3-1 (page 76) and all relevant information is available at: <https://www.opcw.org/our-work/non-proliferation/declarations-adviser/most-traded-scheduled-chemicals>

³⁴ <https://www.opcw.org/our-work/non-proliferation/declarations-adviser/>

Important definitions

Annex on Chemicals

One of three annexes to the CWC. It contains the Schedules of Chemicals and the criteria for inclusion of chemicals in schedules.

Chemical Abstracts Service (CAS)

A universal system of numbering and naming used to identify chemicals and specific chemical mixtures.

Chemical weapons

All toxic chemicals and their precursors, except when intended for those purposes foreseen by the Convention as not prohibited, as well as munitions and devices specifically designed to cause death, harm, temporary incapacitation or sensory irritation through the release of a toxic chemical, and any equipment specifically designed for use directly in connection with the employment of such munitions and devices.

Dual-use

The term applied to a chemical or piece of equipment that has both peaceful and chemical weapons applications.

End-use certificate

The document required to transfer Schedule 3 chemicals to a "State not Party" to the Convention. In this document, the State not Party declares that the chemicals will be used for peaceful, non-prohibited purposes.

Implementing legislation

Legislation enacted at the national level that criminalises the prohibitions of the Convention and enables the prosecution of individuals for crimes related to chemical weapons. In many cases, implementing legislation is also required in order for a State Party to monitor effectively industry's use of toxic chemicals.

National Authority (NA)

The bodies established by a national government to act as liaison between the government and the Technical Secretariat for implementation of the CWC. NAs serve many functions, including co-ordinating inspections, monitoring the chemical industry and collecting information.

Precursor

Any chemical reactant that takes part in any stage in the production of a toxic chemical, including any key component of a binary or multi-component chemical weapon system.

Prohibited purposes

The use of toxic chemicals or precursors in developing or producing chemical weapons as prohibited under Article I of the CWC. The term also applies to the transfer or use of chemical weapons, preparations to use chemical weapons militarily or assisting in the performance of these prohibited activities.

Scheduled chemicals

Toxic chemicals and their precursors listed in the CWC's Schedules of Chemicals. Schedule 1 chemicals are the most dangerous, and therefore the most controlled, and have few peaceful uses. The restrictions on the chemicals listed in Schedules 2 and 3 are fewer, and they are often produced in large quantities for industrial purposes.

Schedules

The Schedules of Chemicals, found in the Convention's Annex on Chemicals, lists toxic chemicals that either have been used as chemical weapons or are precursors to chemical weapons, and that may or may not be produced commercially. These chemicals, divided among three schedules, are controlled under the terms of the Convention.

State Party

A state that has signed and ratified or acceded to the Chemical Weapons Convention and for which the initial 30-day period has passed (the CWC enters into force for a state only 30 days after its ratification or accession to the treaty).

Technical Secretariat

The main implementation organ of the Organisation for the Prohibition of Chemical Weapons. It includes the Inspectorate and various support staff.

Toxic chemical

Any chemical that through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals.

Unscheduled chemicals

The Convention does not contain specific provisions to regulate exports and imports of unscheduled chemicals, or on chemical production equipment and technologies. However, States Parties have undertaken not to assist in the proliferation of chemical weapons capabilities and are required to “adopt the necessary measures” to ensure penal legislation.

The role of Customs and border protection agencies

Collecting export and import data

Customs and border protection agencies play a crucial role in helping National Authorities to comply with the Convention requirements by:

- ➔ Providing details of declarable import/export data for compilation of CWC declarations
- ➔ Enforcing restrictions on the transfer of scheduled chemicals to States not Party
- ➔ Validating data from different sources
- ➔ Enforcing national regulations, such as implementing legislation for the Convention that may require the issuance of import/export licences for the transfer of scheduled chemicals
- ➔ Resolving discrepancies in data declared by other State Parties that are trading partners through the extensive international Customs network.

Double-checking compliance

States Parties have found that a regular programme of double-checking compliance is helpful. Customs organizations can review Customs documents to see whether all declarable imports and exports

were reported to the National Authority. If the declarations rely on a licensing or permit scheme, the licences or permits should be checked against the Customs statistics to see which imports actually entered the country and which exports were actually shipped.

Making a final check

Customs officers may find the following checklist helpful in scrutinizing shipments:

- ➔ If the shipment is a chemical, verify it is scheduled
- ➔ Compare packing list, bill of entry and country of origin to make sure they match
- ➔ Check HS code
- ➔ Check import/export licences
- ➔ Compare HS code with invoice description
- ➔ In transshipment, transit or export, check country of destination (e.g. determining if the country is a State Party)
- ➔ Verify that importer and place of business exist
- ➔ Verify container numbers and seals
- ➔ Inspect the merchandise
- ➔ Verify the labelling is consistent with documentation
- ➔ Verify quantities and weight carefully
- ➔ If a theft occurs, call the police authorities immediately and report it to the National Authority
- ➔ Exchange information with other Customs organizations on implementation of Convention requirements on transfers.

Customs facilitate the provision of import and export Schedule 2 and 3 chemicals to the National Authority for the trade declarations.

For more information

The following addresses and links will be helpful to those seeking more information on the Chemical Weapons Convention:

General information
Media and Public Affairs Branch/External Relations Division
Organisation for the Prohibition of Chemical Weapons (OPCW)
Johan de Wittlaan 32 2517 JR The Hague
The Netherlands
Tel.: +31 70 416 3300
Fax: +31 70 306 3535
<http://www.opcw.org>

Legal issues
Office of the Legal Adviser, OPCW
Tel.: +31 70 416 3708
E-mail: legal@opcw.org

Declarations, information on chemicals, transfers of chemicals
Declarations Branch, OPCW
Tel.: +31 70 416 3062
E-mail: deb@opcw.org

Support to National Authorities in all key areas
Implementation Support Branch, OPCW
Tel.: +31 70 416 3376
E-mail: ipb@opcw.org



CITES

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

CITES aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival. CITES entered into force in 1975 and currently has 183 Parties. The trade in CITES-listed species is diverse, ranging from live animals and plants to food products, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines and other wildlife products. The Convention accords varying degrees of protection to more than 35,000 species of animals and plants, whether they are traded as live specimens or as raw or finished products.

How CITES regulates trade

CITES subjects the international trade in specimens of selected species to certain controls. All imports, exports, re-exports and introductions from the sea of species covered by the Convention are authorised through a licensing system. Each Party to the Convention must designate one or more Management Authorities to administer the licensing

system and one or more Scientific Authorities to advise them on the effects of trade on the status of the species. The species covered by CITES are listed in three Appendices, according to the degree of protection they need (see boxes “The CITES Appendices” and “Conditions for Trade”).

The Appendices include some whole groups, such as primates, cetaceans (whales, dolphins and

The CITES Appendices

- ➔ Appendix I includes species threatened with extinction that are or may be affected by trade. International trade in specimens of these species is permitted only in exceptional circumstances, and commercial trade is generally prohibited. Appendix I lists over 600 animal species and over 300 plant species.
- ➔ Appendix II includes species not necessarily threatened with extinction, but for which trade must be controlled to avoid their becoming threatened. Appendix II also includes species that resemble those already in Appendix I or II. International trade is permitted but regulated. Appendix II lists over 4,900 animal species and nearly 30,000 plant species.
- ➔ Appendix III includes species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade. International trade is permitted but regulated. Some 190 animal species and 200 plant species are listed in Appendix III.

Conditions for trade

A specimen of a CITES-listed species may be traded from a State party to the Convention only if the appropriate document has been obtained and presented for clearance at the port of entry or exit. Because requirements vary somewhat from country to country, Customs administrations should check on the national laws, but the main conditions that apply for each Appendix are described below.

Appendix I specimens

An import permit issued by the Management Authority of the State of import is required. It may be issued only if the specimen is not to be used primarily for commercial purposes and if the import will be for purposes that are not detrimental to the survival of the species. In the case of a live animal or plant, the Scientific Authority must be satisfied that the proposed recipient is suitably equipped to house and care for it. An export permit or re-export certificate issued by the Management Authority of the State of export or re-export is also required. An export permit may be issued only if the specimen was legally obtained; the trade will not be detrimental to the survival of the species; and an import permit has already been issued. A re-export certificate may be issued only if the specimen was imported in accordance with the provisions of the Convention and, in the case of a live animal or plant, if an import permit has been issued. A live animal or plant must be prepared and shipped to minimise any risk of injury, damage to health or cruel treatment. In the case of specimens introduced from the sea, a certificate must be issued by the Management Authority of the State into which the specimens are being brought.

Appendix II specimens

An export permit or re-export certificate issued by the Management Authority of the State of export or re-export is required. An export permit may be issued only if the specimen was legally obtained and the export will not be detrimental to the survival of the species. A re-export certificate may be issued only if the specimen was imported in accordance with the Convention. In the case of a live animal or plant, it must be prepared and shipped to minimise any risk of injury, damage to health or cruel treatment. No import permit is needed unless required by national law. In the case of specimens introduced from the sea, a certificate must be issued by the Management Authority of the State into which the specimens are being brought.

Appendix III specimens

For trade from a State that included the species in Appendix III, an export permit issued by the Management Authority of that State is required. This permit may be issued only if the specimen was legally obtained and, in the case of a live animal or plant, if it will be prepared and shipped to minimise any risk of injury, damage to health or cruel treatment. For export from any other State, a certificate of origin issued by its Management Authority is required. As for re-export, a re-export certificate issued by the State of re-export is required.

Important definitions

Conference of the Parties Refers to all the member States (Parties)

Every three years the Conference of the Parties meets to review the implementation of the Convention.

Introduction from the sea

The transport into a State of specimens of any species taken from a marine environment not under the jurisdiction of any State.

Management Authority

A national management authority designated to implement the Convention.

Personal or household effects

Specimens that are personally owned or possessed for non-commercial purposes, are legally acquired and, at the time of import, export or re-export, either are worn, carried or included in personal baggage or are part of a household move.

Re-export

The export of any specimen previously imported.

Scientific Authority

A national scientific authority designated to advise the Management Authority.

Species

Any species, subspecies, or geographically separate population thereof.

Specimen

Any animal or plant, whether alive or dead. It may also include any recognisable part or derivative.

Tourist souvenir specimen

Applies only to personal and household effects acquired outside the owner's State of usual residence. This term is not applied to live specimens.

Trade Export, re-export, import and introduction from the sea

Transit or transshipment of specimens Refers only to (1) specimens that remain in the control of Customs and are in the process of shipment to a named consignee, and (2) to cross-border movements of sample collections accompanied by an ATA Carnet.

porpoises), sea turtles, parrots, corals, cacti and orchids, but in some cases only a subspecies or the population of just one country is listed. Any type of wild plant or animal may be included in the Appendices, and in some cases specific products or items may be included or excluded. Only the Parties can add, remove or transfer species between Appendices.

The role of Customs administrations in the CITES process

The role of Customs officers, or border control officers, in the CITES process is to conduct documentary and physical inspections, to check the validity of the documents submitted, and to ensure that they correspond to the actual goods. They also combat fraud and check compliance with prohibition and restriction measures, collect duties and taxes, and, in many countries, conduct investigations at traders' premises or carry out checks on the transport of goods within the country. Customs officers also help inform the public about conservation measures in place for fauna and flora. Some countries have Customs units that specialise in CITES matters.

In carrying out this mission, Customs officers are not alone. Experts may assist in the identification of specimens, and the CITES Secretariat and various CITES Management Authorities produce manuals on how to identify species. Customs laboratories or other scientific institutions may analyse certain products to determine whether they contain CITES specimens, and CITES Management Authorities help Customs administrations solve the problem of what to do with the live animals or plants they seize.

CITES documents

All import, export, re-export and introduction from the sea of species covered by the Convention must be authorised through a licensing system administered by one or more Management Authorities designated by each Party. The CITES permit provides detailed information on the specimens being traded. Because verifying the CITES permit or certificate is the focal point of the documentary inspection, it is important that Customs officers become familiar with the permit, its various fields and their contents (see box "Information on a typical CITES Permit"). Importers and exporters who are moving CITES specimens across international borders must ensure that the

Information on a typical CITES permit

- Name and logo of the Convention
- Unique number
- Document type
- Period of validity
- Exporter's address
- Exporter's signature
- Exporter's address
- Management Authority address
- Purpose of trade
- Species name
- Specimen type
- Appendix
- Source
- Quantity/units
- Quota and exports to date
- Number of the breeding operation (as appropriate)
- If a re-export, the original country of export and the export permit number and date of issuance, and the same for the country of last re-export
- Date of acquisition (for pre-Convention)
- Place and date of issuance
- Signature and stamp of the Management Authority
- Security stamp and number (as appropriate)
- Waybill number
- Port of export
- Date of export
- Export endorsement (specimen count)
- Export endorsement signature (usually Customs)
- Stamp of the inspection authority

specimens are accompanied by the appropriate CITES documents. Although the format of these permits may vary somewhat from one country to another, their contents must always comply with the requirements of the Convention.

An import permit is required to import Appendix I specimens. It is not required by CITES for Appendix II specimens, but it may be required by national legislation. An import permit (Appendix I) has a validity of a maximum of one year. The validity is cancelled at the moment of import.

An export permit is required to export Appendix I and II specimens and is also required by the listing Party to export Appendix III specimens. An export permit is valid up to six months after the date of issuance. Some Parties, however, may use a shorter validity period. Within the validity period, the specimens at issue have to be exported and consequently imported into the country of destination.

A re-export certificate is required for re-export of specimens included in Appendices I, II and III.

A certificate of origin is required for export of Appendix III specimens from countries that did not include the species in Appendix III. A CITES certificate of origin may be issued only by a Management Authority of the country of origin; in practice, the export permit form is usually used.


Other documents that may have to be verified are the import declaration, veterinary and phytosanitary certificates, and the bill of lading and invoices. The flow chart in Figure 2-15 depicts the various steps for verifying a CITES document. If after the inspection the situation is still unclear, Customs officers should contact the Management Authority for assistance.

For imports, the original of the import permit must be retained and forwarded to the Management Authority. For exports, the endorsement box must be completed at the time of export. It should include the quantity of specimens exported (any unused boxes should be crossed out), and the place, date and Customs officer's signature and seal. A copy should be retained and forwarded to the Management Authority.

In some specific situations, documents other than the regular permits may be used, or special provisions may apply to the traded specimens (for example, pre-Convention certificates, phytosanitary certificates, multiple-use certificates or provisions related to captive-bred animals and artificially propagated plant specimens). In such cases, Customs officers should contact the Management Authority for assistance.

Standard permit/certificate form

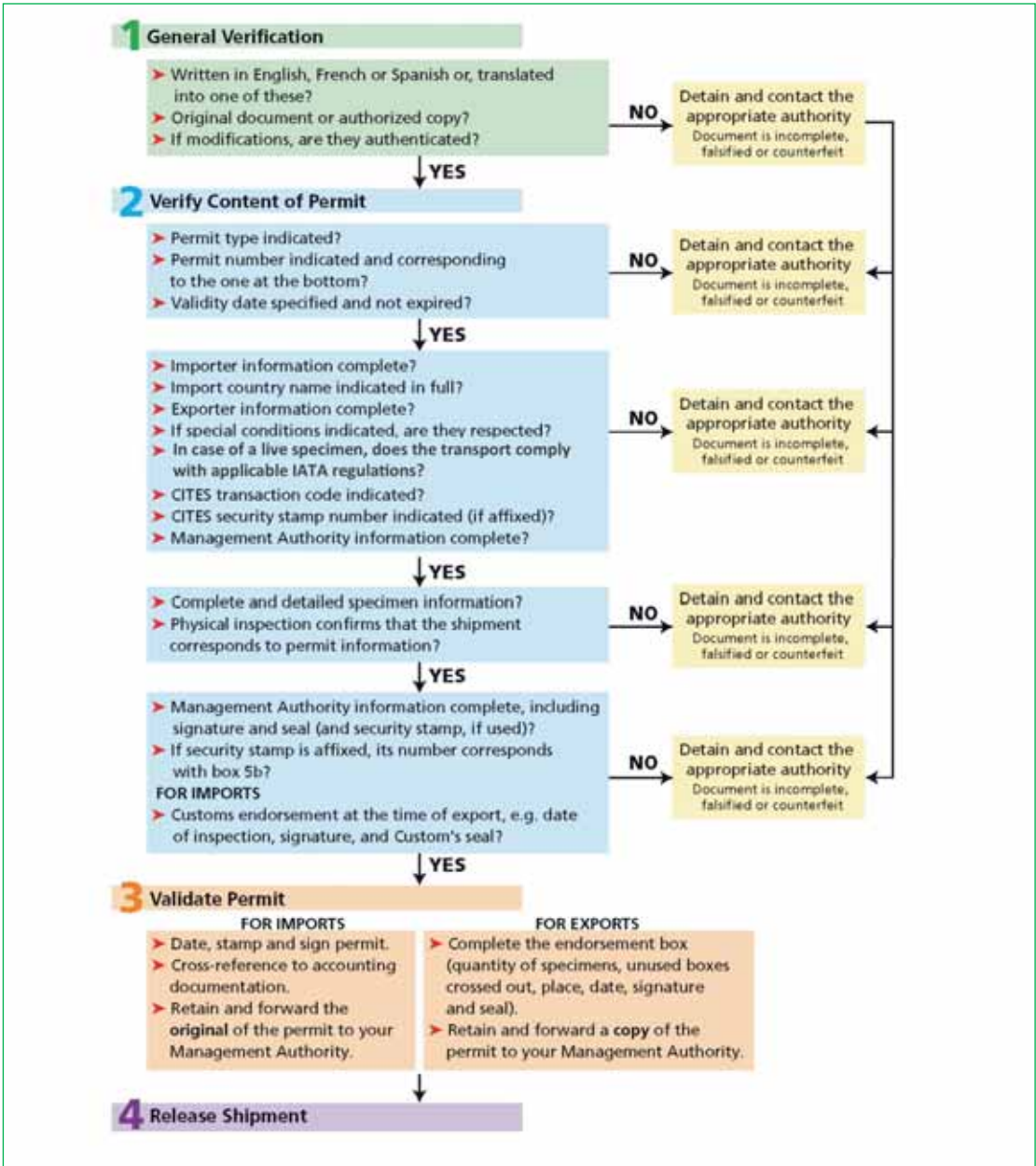
Standard permit/certificate form

 CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA		PERMIT/CERTIFICATE No. <input type="checkbox"/> EXPORT <input type="checkbox"/> RE-EXPORT <input type="checkbox"/> IMPORT <input type="checkbox"/> OTHER:		Original	
				2. Valid until	
3. Importer (name and address)			4. Exporter/re-exporter (name, address and country)		
3a. Country of import			Signature of the applicant		
5. Special conditions <i>For live animals, this permit or certificate is only valid if the transport conditions conform to the CITES Guidelines for transport or, in the case of air transport, to the IATA Live Animals Regulations</i>			6. Name, address, national seal/stamp and country of Management Authority		
5a. Purpose of the transaction (see reverse)		5b. Security stamp no.			
7./8. Scientific name (genus and species) and common name of animal or plant		9. Description of specimens, including identifying marks or numbers (see reverse)		10. Appendix no. and source (see reverse)	
				11. Quantity (including unit)	
				11a. Total exported/Quota	
7./8.		9.		10.	
A 12. Country of origin * Permit no. Date		12a. Country of last re-export Certificate no. Date		12b. No. of the operation ** or date of acquisition ***	
B 12. Country of origin * Permit no. Date		12a. Country of last re-export Certificate no. Date		12b. No. of the operation ** or date of acquisition ***	
C 12. Country of origin * Permit no. Date		12a. Country of last re-export Certificate no. Date		12b. No. of the operation ** or date of acquisition ***	
D 12. Country of origin * Permit no. Date		12a. Country of last re-export Certificate no. Date		12b. No. of the operation ** or date of acquisition ***	
* Country in which the specimens were taken from the wild, bred in captivity or artificially propagated (only in case of re-export) ** Only for specimens of Appendix I species bred in captivity or artificially propagated for commercial purposes *** For pre-Convention specimens					
13. This permit/certificate is issued by:					
Place		Date		Security stamp, signature and official seal	
14. Export endorsement:		15. Bill of Lading/Air waybill number:			
Block	Quantity				
A					
B					
C					
D					
Port of export		Date		Signature	
				Official stamp and title	

CITES PERMIT/CERTIFICATE No.

(as amended at CoP14)

Figure 2-15 Permit verification flow chart



For more information

Inquiries about CITES and the training course just described should be directed to:

CITES Secretariat
Capacity Building Unit
International Environment House
Chemin des Anémones
CH-1219 Châtelaine, Geneva, Switzerland
Tel.: (+4122) 917-8139/40
Fax: (+4122) 797-3417
E-mail: info@cites.org

The following links will be helpful to those seeking more information on CITES:

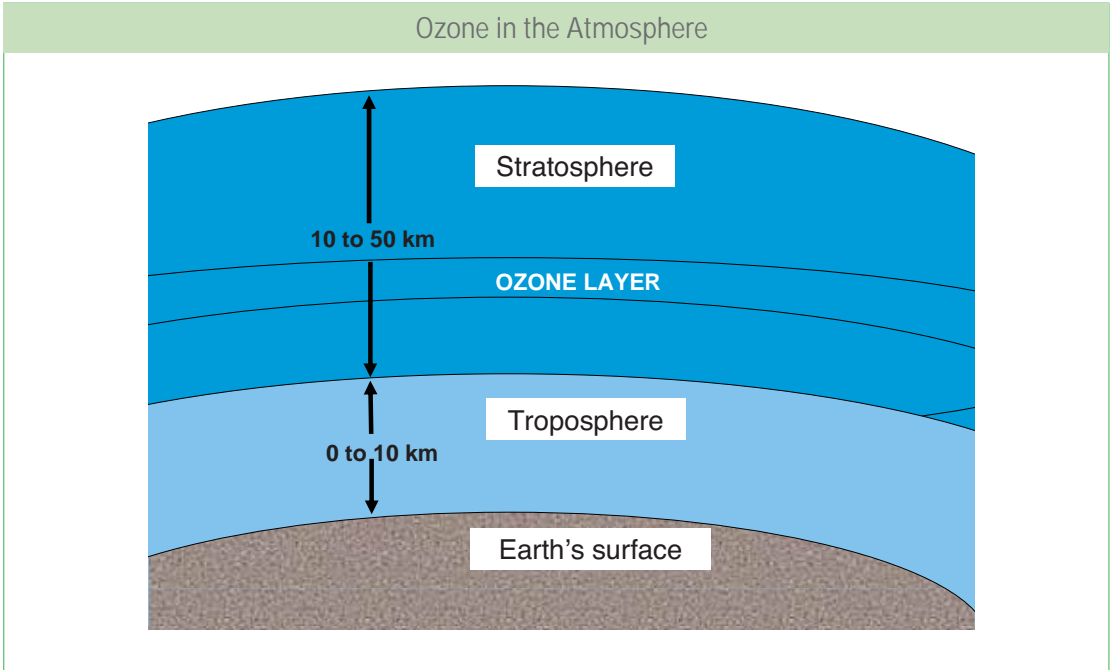
List of Management and Scientific Authorities	http://www.cites.org/common/directy/e_directy.html
List of species covered by CITES	http://www.cites.org/eng/app/index.shtml
List of Parties to the Convention	http://www.cites.org/eng/disc/parties/index.shtml
Text of the Convention	http://www.cites.org/eng/disc/text.shtml
General information on CITES	http://www.cites.org



MONTREAL PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

The Montreal Protocol is an international agreement that controls the production and consumption of specific man-made chemicals that destroy the ozone layer or contribute to global warming. Ozone is a gas that is naturally present in the atmosphere. The large amount of ozone in the part of the upper atmosphere known as the stratosphere is often referred to as the "ozone layer" (see Figure 2-16). This layer encircles the entire globe and acts as a protective shield that filters harmful ultraviolet radiation (UV-B). UV-B radiation is a highly energetic light that originates from the sun, and ozone molecules reduce the amount of UV-B radiation reaching the surface of the earth. The ozone layer is destroyed by ozone-depleting substances (ODS) when those chemicals are released into the atmosphere and then react with the ozone molecules. Elevated ultraviolet radiation reaching the earth as a result of ozone depletion can have major impacts on life and nature such as skin cancer, cataracts, and overall weakened immune systems. It also can damage terrestrial plant life, including crops, and aquatic ecosystems.

Figure 2-16 Layers of the earth's atmosphere



Over the years, ODS have been used worldwide in many common industrial processes and consumer products (see box “Main Categories of ODS” and “Main Uses of ODS and Products That Can Contain ODS”). For example, chlorofluorocarbons (CFCs) were once used in almost all refrigeration and air-conditioning systems, and halons were widely used in fire extinguishers. The production and consumption

of all ODS by human activities are now tightly regulated worldwide by the Montreal Protocol and have been reduced by 99 per cent from the historic peak levels. The main objective of the Protocol is to reduce and eliminate the consumption and production of ODS according to an agreed timetable for developed and developing countries.

Main categories of Ozone Depleting Substances

- Chlorofluorocarbons (CFCs), e.g. CFC-12 (also known as R-12 or F-12)
- Halons (Bromochlorofluorocarbons), e.g. Halon 1301
- Carbon tetrachloride
- Methyl chloroform
- Hydrochlorofluorocarbons (HCFCs), e.g. HCFC-22 (also known as R-22 or F-22)
- Hydrobromofluorocarbons (HBFCs)
- Bromochloromethane
- Methyl bromide

Main uses of ODS and products that can contain ODS

- Refrigerants (gases)
- Fire extinguishers
- Fumigants, pesticides
- Foam-blowing agents
- Cleaning solvents
- Aerosol propellants
- Air-conditioning systems (and components)
- Refrigerators/freezers
- Compressors
- Vehicles (mobile air-conditioning systems)
- Insulating boards/pipe covers
- Metered-dose inhalers (medical inhalers)

The Montreal Protocol was signed on 16 September 1987 and entered into force on 1 January 1989. The Protocol was developed in response to scientific proof that the depletion of the stratospheric ozone layer, caused by chlorine and bromine emissions from human activities, was inflicting considerable damage on human health and the environment. The complete list of controlled ODS can be found in Annexes A, B, C and E of the Protocol text (see Table 2-8).

In 2016, the Montreal Protocol was amended to add powerful greenhouse gases - hydrofluorocarbons (HFCs) to the list of substances controlled under the Protocol and which will be phased-down. The use of HFCs is increasing rapidly as substitutes for ozone-depleting substances and its phase-down is expected to avoid up to 0.5 degree Celsius of global temperature rise by 2100, while continuing to protect the ozone layer. In accordance with its article IV, paragraph 1, the Kigali Amendment shall enter into force on 1 January 2019, provided that at least twenty instruments of ratification, acceptance or approval of the Amendment have been deposited by States or regional economic integration organizations that are Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In the event that this condition has not been fulfilled by that date, the

Amendment shall enter into force on the ninetieth day following the date on which it has been fulfilled.

Under the Amendment, Montreal Protocol parties are required to gradually reduce HFC use by 80-85 per cent by the late 2040s. First reductions by most developed countries are expected in 2019. Most developing countries will follow with a freeze of HFCs consumption levels in 2024, and in 2028 for some developing countries. Details of the elements of the agreed HFC phase-down schedule are provided in table 2.6 below:

How the Montreal Protocol regulates trade

Each Party to the Montreal Protocol is committed to complying with the Protocol's target schedule for phase-out of controlled substances, and so each Party must introduce control measures to ensure that its government will meet its obligations.

A Multilateral Fund was created under the Montreal Protocol to provide eligible developing countries with the financial and technical assistance needed to comply with the treaty. Some eligible countries with economies in transition receive similar support from the Global Environment Facility.

Table 2-6 Phase-down schedule for HFCs in Article 5 and non-Article 5 parties

	A5 parties (developing countries) – Group 1	A5 parties (developing countries) – Group 2	Non-A5 parties (developed countries)
Baseline formula	Average HFC consumption for 2020-2022 + 65% of hydrochlorofluorocarbon (HCFC) baseline	Average HFC consumption for 2024-2026 + 65% of HCFC baseline	Average HFC consumption for 2011-2013 + 15% of HCFC baseline*
Freeze	2024	2028	-
1st step	2029 – 10%	2032 – 10%	2019 – 10%
2nd step	2035 – 30%	2037 – 20%	2024 – 40%
3rd step	2040 – 50%	2042 – 30%	2029 – 70%
4th step	-	-	2034 – 80%
Plateau	2045 – 80%	2047 – 85%	2036 – 85%

* For Belarus, Russian Federation, Kazakhstan, Tajikistan, Uzbekistan, 25% HCFC component of baseline and different initial two steps (1) 5% reduction in 2020 and (2) 35% reduction in 2025

Notes:

1. Group 1: Article 5 parties not part of Group 2
2. Group 2: Bahrain, India, the Islamic Republic of Iran, Iraq, Kuwait, Oman, Pakistan, Qatar, Saudi Arabia and the United Arab Emirates
3. Technology review in 2022 and every five years
4. Technology review four to five years before 2028 to consider the compliance deferral of two years from the freeze of 2028 of Article 5 Group 2 to address growth in relevant sectors above certain threshold.

Financial and technical assistance is provided by the Multilateral Fund in the form of grants or concessional loans and is delivered primarily through four 'implementing agencies':

- United Nations Environment Programme (UN Environment)
- United Nations Development Programme (UNDP)
- United Nations Industrial Development Organization (UNIDO)
- World Bank

The Multilateral Fund supports various activities in developing countries, including industrial conversion, technical assistance, information dissemination, training and capacity building aimed at phasing out ODS and phasing down of HFCs. The capacity building component includes training of Customs officers, establishment and enforcement of licensing systems and related policies, and cooperation to combat illegal ODS and HFC trade.

Import/export licensing system and other instruments

Most developing countries do not produce ODS and HFCs and are completely dependent on their imports. Consequently, monitoring the legal trade and preventing illegal trade of these chemicals is crucial to achieving the gradual phase-out of ODS and phase down of HFCs and conversion to non-ODS and non-HFC alternatives. The most important of these measures is establishing and enforcing a national import/export licensing system that covers all ODS and HFCs controlled by the Montreal Protocol, either through the adjustment of existing legislation or through the creation of new laws.

The objective of a licensing system is to ensure that ODS and HFCs are not imported or exported unless the importer or exporter first applies for and obtains an import/export licence (see Figure 2-17).

All Parties that have ratified the Montreal Amendment to the Montreal Protocol must introduce an import/export licensing system for new, used, recycled and reclaimed controlled substances. The elaboration or development of an ODS and HFC licensing system is a prerequisite, along with other control regulations and legislation and the commencement of a specific training programme for Customs officers on the Montreal

Protocol. A licensing system facilitates the control of a country's ODS and HFC supply, increases the reliability of the monitoring and collection of information on imported and exported ODS and HFC quantities by chemical, and helps to identify end users and prevent illegal imports. All Parties have an ODS licensing system in place and will soon introduce similar licensing systems for HFCs after they become party to the Kigali Amendment to the Montreal Protocol.

Monitoring of ODS exports also helps to prevent illegal exports such as those intended for non-Party countries.

Format

The Parties did not adopt a standard or uniform format for the import/export licence. Each government issued its own import-export licence as mandated by its local regulations. Customs authorities should therefore establish close co-ordination with the country's National Ozone Unit (NOU) and the government agency that issues the import/export licence (see below for links to the NOU contact details). Customs officers should familiarise themselves with the relevant documents and learn to properly distinguish an authentic licence from a falsified one.

Enforcement and penalties

Customs officials, as well as NOU (usually located within the environment agency) and the prosecuting agency, usually enforce import/export licensing systems. Penalties are used to discourage the illegal importation or exportation of ODS, ODS-containing products or ODS-based equipment. Such penalties will in due course be extended to HFCs. The penalties are subject to the national laws related to the import/export licensing systems.

Seized ODS and ODS-based products and equipment

National laws and the provisions of the import/export licensing system prescribe what happens to seized ODS or ODS-containing products. The decision matrix in Table 2-7 presents options for seized ODS and ODS-based products and equipment. The shaded boxes indicate the environmentally preferable options. However, the most appropriate option will depend on a country's

Figure 2-17 Import licensing process: The role of Customs

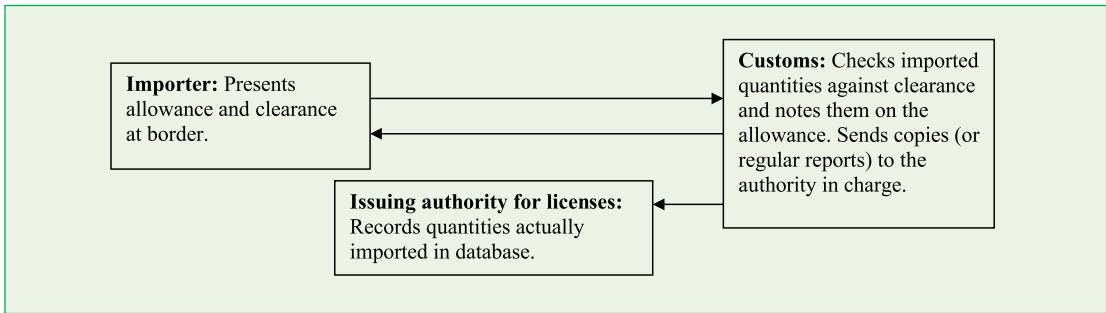


Table 2-7 Decision matrix: Seized ODS and ODS-based products and equipment

Option	Ozone-depleting substances (e.g., CFC refrigerants, methyl bromide)	Products containing ODS (e.g., aerosol cans, foams, paint)	Equipment containing ODS or whose functioning relies on ODS (e.g., refrigerators, air-conditioners)
<i>Re-exporting</i> to the country of origin or to any Party that wishes, and is entitled, to legally import the seized goods	Cost for re-export to be borne by importer <ul style="list-style-type: none"> • Goods at risk of being smuggled again • If auctioning off and disposal are not possible 	Cost for re-export to be borne by importer <ul style="list-style-type: none"> • Goods at risk of being smuggled again • If disposal is not possible 	Cost for re-export to be borne by importer <ul style="list-style-type: none"> • Equipment at risk of being smuggled again • If retrofitting and disposal are not possible
<i>Auctioning off</i> to a licensed importer and deducting the quantity from the importer's allowance	<i>If the import of ODS is not banned</i> <ul style="list-style-type: none"> • Replaces legal imports 	If the import of ODS-containing products is not banned <ul style="list-style-type: none"> • Usually no allowances made for imports of products containing ODS • This option to be avoided 	If the import of ODS-based equipment is not banned <ul style="list-style-type: none"> • Usually no allowances made for imports of equipment based on ODS • Increases the country's dependency on ODS • This option to be avoided
<i>Mandatory retrofitting</i> of ODS-based equipment by certified service company	Not applicable	Not applicable	Cost of retrofitting to be borne by illegal importer or by licensed importer who bought the equipment from Customs
<i>Disposal or destruction</i> of the seized goods <ul style="list-style-type: none"> • Cost to be borne by illegal importer or Customs • Proper waste management • practices to be applied 	If Montreal Protocol–approved destruction technologies are available <ul style="list-style-type: none"> • If auctioning off or re-export is not possible 	<i>Recover ODS before disposal for re-use or disposal (not possible for paints or foams)</i>	Before disposal, recover ODS and other working fluids for re-use or proper disposal <ul style="list-style-type: none"> • If retrofitting or re-export is not possible
<i>Long-term storage</i> , an intermediate option that is costly for Customs and requires a final solution	If re-export, auctioning or disposal is not possible <ul style="list-style-type: none"> • This option to be avoided 	If re-export, auctioning or disposal is not possible <ul style="list-style-type: none"> • This option to be avoided 	If re-export, auctioning, retrofitting or disposal is not possible <ul style="list-style-type: none"> • This option to be avoided

Note: ODS contained in imported products or equipment does not count towards a country's ODS consumption.

specific situation and the costs. Customs officers may wish to discuss the approach presented in this table with the NOU.

Recording of data, data management and reporting

Other important aspects of import/export licensing systems are the recording of data, data management and reporting. The NOU, ODS licensing agencies and Customs administration

usually collaborate on the collection of data.

The NOU is in charge of reporting the data to the Ozone Secretariat in Nairobi, Kenya, which in turn is responsible for receiving, analysing, and providing to the Parties data and information on the production and consumption of ODS. Data collection is handled differently in each country. Customs authorities coordinate with the NOU on data management.

Other instruments: Quotas and bans

Imports and exports of ODS and HFCs can also be restricted through quotas or bans. Bans are the complete prohibition of the import of a specific ODS or HFC and also may apply to ODS-containing products or ODS-based equipment. A quota can be transformed into a ban once a specific ODS or HFC is either phased out or phased down.

To comply with the phase-out schedules for ODS and the phase down of HFCs, a country must define its annual quotas for each type of ODS and HFC and then gradually reduce them from year to year. The NOU works with other relevant national agencies to define quota amounts for importers. Importers may apply for import allowances, which are usually granted based on importers' historic imports. Each time an importer wishes to import ODS or HFC, an import permit must be issued for the specified quantity. The importer must not exceed the granted allowance for a specific substance.

Any Party may apply for exemptions for essential uses, uses as feedstock or uses as process agents (see Chapter 3). Customs officers should be aware of such exemptions and how they are translated into import allowances and permits.

Training for Customs officers

The Multilateral Fund supports training programmes on the Montreal Protocol for Customs officers in Article 5 countries. This national training, which is conducted by the Fund's implementing agencies, forms part of a broader national plan for compliance with this treaty. Known as Refrigeration Management Plans or Terminal Phase-out Management Plans, these strategic integrated plans may include any of the following:

- Training of Customs officials and refrigeration technicians
- Policy instruments, including economic instruments for controlling and monitoring ODS and HFC imports and exports
- Economic incentives for promoting the use and consumption of non-ODS refrigerants
- Education and the dissemination of information
- Recovery and recycling of ODS and HFCs
- Institutional arrangements.

Customs training uses a two-phase approach: after a train-the-trainer workshop delivered by the implementing agency, the national trainers take charge of disseminating and replicating the training of Customs officers around the country. National Customs training institutions are encouraged to incorporate the training materials into their curricula to promote the long-term sustainability of the training.

Freeze, phase-out and phase down schedules

Parties to the Montreal Protocol must freeze, reduce and phase out or phase down their production and consumption of ODS and HFCs according to a specific step-wise schedule. Article 5 countries must follow the schedule as summarised in Table 2-8 for ODS. The phase down schedule of HFCs applicable to Article 5 Parties appears in columns 3 and 4 of Table 2-6.

Use of HS codes and other means of identifying ODS and HFCs

Customs officers need the commercial trade names of the imported chemical products they may encounter (as indicated on the product packaging and transaction or manifest papers), as well as their chemical composition and manufacturer (see box "Trade Names"). Furthermore, many users in small and medium-size enterprises recognise chemicals only by their trade names, especially solvents and refrigerant mixtures.

All Parties to the Protocol are therefore strongly encouraged to exchange information and intensify joint efforts to improve means of identifying ODS and HFCs, thereby preventing the illegal trade in ODS and HFCs. Customs officers can consult UN Environment's mobile/smartphone application³⁵ which contains a database of chemicals containing ODS and their alternatives. The current database contains nearly 200 products. The database can be consulted using the various criteria including: (1) by trade/brand name of products containing ODS; (2) by trade/brand name of products not containing ODS; (3) by Harmonized System code listing; or (4) by Chemical Abstract Service (CAS) code listing, AHRAE designation, chemical name, etc. Users can also search the database by country of companies manufacturing or trading ODS. The application

³⁵ OzonAction mobile apps: www.unep.org/ozonaction/resources/mobile-apps

Table 2-8 Phase-out schedule of ODS for Article 5 countries

ANNEX A (for both production and consumption)

Group I: **Chlorofluorocarbons** (CFC-11, CFC-12, CFC-113, CFC-114 and CFC-115)

Freeze	50% reduction	85% reduction	Phase-out (100%)
July 1, 1999	January 1, 2005	January 1, 2007	January 1, 2010 ^a

Group II: **Halons** (halon 1211, halon 1301 and halon 2402)

Freeze	50% reduction	Phase-out (100%)
January 1, 2002	January 1, 2005	January 1, 2010 ^a

ANNEX B (for both production and consumption)

Group I: **Other fully halogenated CFCs** (CFC-13, CFC-111, CFC 112, CFC-211, CFC-212, CFC-213, CFC-214, CFC-215, CFC-216, CFC-217)

20% reduction	85% reduction	Phase-out (100%)
January 1, 2003	January 1, 2007	January 1, 2010 ^a

Group II: **Carbon tetrachloride**

85% phase-out	Phase-out (100%)
January 1, 2005	January 1, 2010 ^a

Group III: **Methyl chloroform** (1,1,1-trichloroethane)

Freeze	30% reduction	70% reduction	Phase-out (100%)
January 1, 2003	January 1, 2005	January 1, 2010	January 1, 2015 ^a

ANNEX C (for both production and consumption)

Group I: **HCFCs**

Freeze	10% reduction	35% reduction	67.5% reduction	Annual average of 2.5% of baseline	Phase-out (100%)
January 1, 2013	January 1, 2015	January 1, 2020	January 1, 2025 ^a	2030–2040	2040

Group II: **HBFCs**

Phase-out (100%)
January 1, 1996 ^a

Group III: **Bromochloromethane**

Phase-out (100%)
January 1, 2002 ^a

ANNEX E

Group I: **Methyl bromide** (applicable to production and consumption; amounts used for quarantine and pre-shipment applications exempted)

Freeze	20% reduction	Phase-out (100%)
January 1, 2002	January 1, 2005	January 1, 2015 ^b

^a With possible essential-use exemptions.

^b With possible critical-use exemptions.

provides the Montreal Protocol control measures by substance.

Montreal Protocol-specific training materials for Customs officers

UN Environment's OzonAction Branch, has produced various guidelines and awareness and training materials that can be downloaded from the OzonAction website³⁶. Hard copies of videos

and publications can also be requested through the website.

The following are some of the materials intended for Customs officers and other stakeholders (all available on the OzonAction website):

- Training Manual for Customs and Enforcement Officers (Third Edition) - En, Fr, Sp, Ru
- This manual provides NOUs and Customs trainers with guidance on how to organize and conduct multi-phased Customs training programmes. It includes generic agendas,

³⁶ <http://www.unep.org/ozonaction>

concept notes, evaluation questionnaires, as well as all the relevant training materials and overheads. The programme focuses on identifying ODS and ODS-containing mixtures and products containing and equipment based on ODS, as well as the different smuggling schemes.

- ➔ Customs and enforcement officers quick guide - Changes in the 2012 HS Nomenclature for HCFCs and certain other Ozone Depleting Substances
- ➔ Customs Poster – En, Fr, Sp
- ➔ Customs Quick Tool for Screening ODS – En, Fr, Sp
- ➔ E-Learning modules (jointly created with the WCO) To access WCO's e-learning platform - the Customs officers must get in touch with WCO's national coordinator who will provide them with their individual/personal access codes.

These materials are also available to Customs officers on request.

The regional teams of UN Environment's Compliance Assistance Programme (CAP) are located in UN Environment regional offices (in Bangkok, Thailand, for Asia/Pacific; in Nairobi, Kenya, for Africa; in Manama, Bahrain, for West Asia; in Panama City, Panama, for Latin America and the Caribbean). The regional network co-ordinator assisting countries in Europe and Central Asia, is based in the UN Environment Paris office. These regional teams can provide any type of technical or policy assistance required. They coordinate Regional Networks of NOUs as well as specific activities for Customs officers. The regional CAP teams are in regular communication with the NOUs in their respective regions.

For more information

Inquiries about implementation of the Montreal

Protocol should be directed to:

The Ozone Secretariat

Ozone Secretariat

UN Environment

United Nations Avenue, Gigiri

P.O. Box 30552, Nairobi 0010, Kenya

Tel.: (254 20) 762 23532

E-mail: ozone.info@un.org

Satellite link, via the UN facility in Italy (when public Kenya network lines are busy):

+39 083124 3691-3

<http://ozone.unep.org>

UN Environment, Economy Division, OzonAction, (located both in Paris and in UN Environment Regional Offices)
OzonAction

UN Environment, Economy Division

1, Rue Miollis, Building VII, 75015 Paris, France

Tel.: +33 1 44 37 14 50

Fax: +33 1 44 37 14 74

E-mail: ozonaction@unep.org

<http://www.unep.org/ozonaction>

The following links will be helpful to those seeking more information on the Montreal Protocol:

List of Parties to the Montreal Protocol	http://ozone.unep.org/Ratification_status.asp
Text of the Montreal Protocol treaty	http://www.unep.org/ozone/pdfs/Montreal-Protocol2000.pdf
UN Environment Customs Training Manual (En, Fr, Sp, Ru) and other material	http://www.unep.org/ozonaction
Contacts for UN Environment CAP staff	http://web.unep.org/ozonaction/who-we-are/staff-contacts
Contacts for UN Environment Regional Offices	http://web.unep.org/ozonaction/who-we-are/staff-contacts
Online resources for Customs officers about the Montreal Protocol	http://web.unep.org/ozonaction/what-we-do/Customs-enforcement http://www.greencustoms.org/
Contacts for the Multilateral Fund's implementing agencies	United Nations Environment Programme (OzonAction): http://www.unep.org/ozonaction/ United Nations Development Programme: http://www.undp.org/montrealprotocol United Nations Industrial Development Organization: http://www.unido.org World Bank: http://www.worldbank.org/montrealprotocol
Commission for Environmental Cooperation (Canada, Mexico, United States), which has developed training on ozone for enforcement officers in North America	http://www.cec.org

Important definitions

Adjustments

Adjustments of the Montreal Protocol itself may modify the phase-out schedules of already controlled substances as well as the ODP values of controlled substances based on new scientific assessments. Adjustments are automatically binding for all countries that have ratified the Protocol, or the relevant Amendment, which introduced the controlled substance.

Amendments

Amendments to the Montreal Protocol may introduce control measures or new ODS. Each Amendment is binding only after ratification by the Parties. Parties that have not ratified a certain Amendment are considered to be non-Parties.

Article 5 country

Countries classified as “developing countries” by the United Nations using less than 0.3 kg ODP tonnes per capita per year of Annex A controlled ODS or 0.2 kg ODP tonnes of Annex B controlled ODS. Article 5 countries are entitled to delay for ten years their compliance with the control measures.

Countries with Economies in Transition (CEITs)

States of the former Soviet Union, and Central and Eastern Europe that have been undergoing a process of major structural, economic and social change, which has resulted in severe financial and administrative difficulties for both government and industry. These changes have affected implementation of international agreements such as the phase out of ODS in accordance with the Montreal Protocol. CEITs include both Article 5 and non-Article 5 countries.

Feedstock

Controlled substances used in the manufacture of other chemicals and completely transformed in the process are defined as feedstock.

Montreal Amendment

The 1997 Ninth Meeting of the Parties in Montreal introduced inter alia a requirement that all Parties establish import/export licensing systems for trade in ODS.

Multilateral Fund

The Multilateral Fund for the Implementation of the Montreal Protocol provides funds to help developing countries comply with their obligations under the Protocol to phase out the use of ozone-depleting substances (ODS) at an agreed schedule. The Fund is managed by an Executive Committee with an equal representation of seven industrialised and seven Article 5 countries which are elected annually.

NOU

National Ozone Unit (usually located within the environment agency).

ODS

Ozone depleting substances and hydrofluorocarbons. Ozone depleting substances are used in refrigeration, foam extrusion, industrial cleaning, fire extinguishing and fumigation. Hydrofluorocarbons (HFCs) are commonly used in air conditioning and as refrigerants in place of the older chlorofluorocarbons such as CFC-12 and hydrochlorofluorocarbons such as HCFC-21.

Ozon Action

The United Nations Environment Programme, Economy Division (UN Environment) OzonAction Branch assists developing countries and countries with economies in transition (CEITs) to enable them to achieve and sustain compliance with the Montreal Protocol.

Ozone layer

The zone of the highest concentration of ozone molecules in the stratosphere. The layer, which lies approximately 20-50 km above the earth's surface acts as a filter for some 99% of the harmful ultraviolet (UV-B) radiation.

Ozone Secretariat

The Ozone Secretariat is the Secretariat for the Vienna Convention for the Protection of the Ozone Layer of 1985 and the Montreal Protocol on Substances that Deplete the Ozone Layer of 1987. It is based at UN Environment headquarters in Nairobi, Kenya.

Process agent

Some amounts of controlled substances used in the production of other chemicals (e.g. as a catalyst or an inhibitor of a chemical reaction) without being consumed.

Production and consumption

Production is defined as the amount of controlled substances produced, minus the amount destroyed by technologies to be approved by the Parties and minus the amount entirely used as feedstock in the manufacture of other chemicals. Consumption = (production + imports) – exports.



ROTTERDAM CONVENTION

ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE

The objective of the Rotterdam Convention¹ is to promote shared responsibility and cooperative effort among the Parties to the Convention with respect to the international trade in designated hazardous industrial chemicals, pesticides and severely hazardous pesticide formulations, in order to protect human health and the environment from potential harm and to contribute to the environmentally sound use of chemicals, by facilitating the exchange of information about the characteristics of such chemicals, providing for a national decision-making process on their import and export and disseminating the decisions on the export and import of such chemicals to Parties.

The Rotterdam Convention was adopted and opened for signature at a conference of plenipotentiaries in Rotterdam, the Netherlands in September 1998. The Convention entered into force on 24 February 2004 and the first meeting of the Conference of the Parties was convened in Geneva, Switzerland in September 2004. As at 30 October 2017, it has 159 Parties.

The Food and Agriculture Organization of the United Nations (FAO) and the United Nations Environment Programme (UN Environment) jointly perform the Secretariat functions for the Rotterdam Convention.

¹ <http://www.pic.int/>

How trade is regulated under the Rotterdam Convention

The Rotterdam Convention contains two key provisions: the prior informed consent or PIC procedure, and information exchange.

PIC Procedure

The PIC procedure is a mechanism used to formally obtain and disseminate the decisions of the importing Parties on whether they wish to receive future shipments of those chemicals listed in Annex III of the Convention. It is also used to ensure compliance with these decisions by the exporting Parties.

Article 10 of the Convention establishes the obligations of the Parties to deal with imports of substances subject to the PIC procedure. Once a chemical is included in the PIC procedure, a decision guidance document (DGD) containing information on the chemical and the regulatory decisions to ban or severely restrict the chemical for health or environmental reasons is circulated to Parties. Parties have nine months in which to prepare a response regarding future imports of the chemical. This import response can consist of either a final decision to allow import of the chemical, not to allow import or to allow import subject to specified conditions, or an interim response, which may include a request for additional information or assistance from the Secretariat. To ensure that decisions are not made in a protectionist manner, any prohibitions or specific conditions must apply equally to domestic production and to imports from all sources of the chemical.

Article 11 of the Convention establishes the obligations of the Parties to deal with exports of substances subject to the PIC procedure. Exporting Parties are obliged to take appropriate measures to ensure that exporters within their jurisdiction comply with the import decisions of other Parties. Where no import response has been provided by a Party, they must ensure that export to that Party takes place only if there is explicit consent or the chemical is already registered or used there.

The PIC procedure does not provide for a global ban or restriction on chemicals. Instead it requires

exporters to obtain the prior informed consent of the countries to which they wish to export before proceeding with trade. The procedure gives Parties the power to make informed decisions on which chemicals they want to import and thus to exclude those they cannot manage safely. The Convention also requires labelling on potential health and environmental impacts of traded chemicals.

Information Exchange

The Rotterdam Convention facilitates the exchange of information among the Parties on a very broad range of potentially hazardous chemicals. The PIC Circular is a key tool for the information exchange provisions of the Convention. Appendices I and II of the Circular contain summaries of the notifications of final regulatory actions to ban or severely restrict a chemical (article 5) and of proposals for inclusion of severely hazardous pesticide formulations in the PIC procedure (article 6). This information may be used by Parties to strengthen national decision making on chemicals. Appendix III lists all the chemicals subject to the PIC procedure.

All the import responses submitted by Parties for chemicals listed in Annex III are available on the website of the Convention³⁷. The website also includes a list of those Parties that have failed to submit an import response for each chemical. These lists are a key reference for exporting Parties in meeting their obligations under Article 11.

Under Article 12, Export Notification, a Party wishing to export a chemical that it has banned or restricted in its own territory must provide importing Parties with an export notification containing specified information. It must do it prior to the first export of the chemical following adoption of the ban or restriction and prior to the first export of the chemical in each subsequent calendar year.

Article 13, which outlines the information to accompany exported chemicals, states that, without prejudice to any requirements of the importing Party, each exporting Party must

³⁷ <http://www.pic.int/tabid/1370/Default.aspx>

ensure that chemicals that are subject to the PIC procedure or are banned or severely restricted in its territory are appropriately labelled and accompanied by basic information on the risks or hazards to human health or the environment.

Finally, Article 14 on information exchange declares that Parties are obliged to promote the exchange of scientific, technical, economic and legal information on chemicals within the scope of the Convention, including toxicological and safety information.

Illegal or unwanted trade

Some developing countries and countries with economy in transition have expressed concern about illegal or unwanted trade in chemicals. The provisions of the Rotterdam Convention, in particular the PIC procedure, serve to help countries to reduce such trade. Furthermore, the World Customs Organization has assigned Harmonized System Customs codes for the chemicals included in Annex III of the Convention in order to facilitate implementation and enforcement of the PIC procedure.

The role of designated national authorities

Designated national authorities (DNAs) play an important role in implementing the Convention. They serve as the key point of contact for the secretariat and in their respective countries are responsible for submitting import responses and for disseminating information on the PIC procedure to the relevant government departments and exporting and importing industries, among others.

The role of Customs and border control officers in implementation of the Rotterdam Convention

The PIC procedure was developed based on the fact that some countries, especially developing countries or countries with economies in transition lack the infrastructure to manage hazardous chemicals safely. By effectively ensuring that trade provisions relevant to the Convention are respected, Customs officers contribute directly to the protection of human health and the environment from the potential adverse effects of these substances, while allowing the continued use of essential chemicals by countries with the capacity to manage them safely. A list of all DNAs and their

Scope of the convention

The Rotterdam Convention applies to:

- ➡ Banned or severely restricted chemicals
- ➡ Severely hazardous pesticide formulations.

The Convention does not apply to:

- ➡ Narcotic drugs and psychotropic substances
- ➡ Radioactive materials
- ➡ Wastes
- ➡ Chemical weapons
- ➡ Pharmaceuticals, including human and veterinary drugs
- ➡ Chemicals used as food additives
- ➡ Food
- ➡ Chemicals in quantities not likely to affect human health or the environment provided they are imported for the purpose of research or analysis or by an individual for his or her own personal use in quantities reasonable for such use.

full contact details can be found on the Convention website³⁸.

In practical terms, Customs officers are the gate keepers of the Convention because they are likely to encounter the chemicals subject to the Convention as part of their daily work. The successful identification of chemicals subject to the Convention, as well as a clear understanding of where to go for further information on the provisions of the Convention and applicable national laws is crucial to the success of their work. Clear communication between Customs officers and DNAs is essential for the successful implementation of the Convention.

Customs officers should contact DNAs when they have questions about the applicability of the Convention. For example, they may wish to know where they can find the relevant legislation about a chemical subject to the Convention or national import decisions for chemicals listed in Annex III. Ideally DNAs should keep Customs officers up to date on any developments that might affect their work. As mentioned above, all import responses communicated by Parties for each chemical listed in Annex III may be found on the website of the Convention³⁹.

38 <http://www.pic.int/Countries/CountryContacts/tabid/3282/language/en-US/Default.aspx>

39 <http://www.pic.int/tabid/1370/Default.aspx>

Working with Harmonized System codes

Chemicals listed in Annex III of the Convention and subject to the PIC procedure are assigned specific Customs codes by the World Customs Organization (WCO) under its Harmonized Commodity Description and Coding System. These codes may be found in the Harmonized System Codes published by the WCO. They may also be found on the Convention website⁴⁰.

The HS codes should facilitate the implementation of the Rotterdam Convention by integrating the chemicals subject to the PIC procedure with the existing system for the identification of chemicals used by Customs officers.

Customs inspections

Is your country a Party to the Rotterdam Convention? If so, when inspecting a shipment of chemicals, Customs officers will need to consider the following issues:

For exports:

- Is the chemical listed in Annex III of the Rotterdam Convention?
- Are the specific World Customs Organization's Harmonized System codes assigned to the chemical included in the shipping documents?
- If the chemical is listed in Annex III of the Convention, there is a need to check the import decision of the importing country on the Convention website⁴¹ for the chemical in question. If the decision is "no consent" then the export cannot proceed, if it is "consent under certain conditions" it may be necessary to contact the DNA in the importing country before exporting the chemical in order to ensure that those conditions are met.
- If the exported chemical is listed in Annex III or is banned or severely restricted in your country check the following:
 - Does the chemical meet the labelling requirements for risks/hazards to human health and the environment? The label should contain information on possible

hazards of the chemical and the safety data sheet should contain information on how to handle accidents and spills.

- For chemicals that are to be used for occupational purposes, ensure that the safety data sheet, following an internationally recognised organisation, setting out the most up-to-date information available, is sent to each importer.
- Are any corresponding requirements under national legislation relevant to this chemical or group of chemicals?
- Should you as a Customs officer have any doubts regarding the above, contact your DNA(s) for further information and clarification.

For imports:

- Verify whether the chemical is listed in Annex III.
- Keep up-to-date regarding any import decision your Government has taken with respect to the chemical by checking the Rotterdam Convention website⁴².
- Is the chemical adequately labelled and accompanied by adequate information?
- Is a safety data sheet included if the chemical is used for occupational purposes? The safety data sheet should be in an internationally recognized format.
- Is the information on labels and safety data sheets provided, when possible, in the language of the importing Party.
- Should you as a Customs officer have any doubts regarding the above, contact your DNA(s) for further information and clarification.

Customs training activities under the Rotterdam Convention

The Green Customs Initiative (GCI) is an important partner of the Rotterdam Convention Secretariat in training of Customs authorities on the implementation of the Convention. It is recognised that, to implement the provisions of the Rotterdam Convention, an adequate exchange of information is essential between those responsible for implementation of the Convention at the national level and national Customs officials. Furthermore,

⁴⁰ <http://www.pic.int/TheConvention/Chemicals/HarmonizedSystemCodes/tabid/1159/language/en-US/Default.aspx>

⁴¹ <http://www.pic.int/Procedures/ImportResponses/Database/tabid/1370/language/en-US/Default.aspx>

⁴² <http://www.pic.int/Procedures/ImportResponses/Database/tabid/1370/language/en-US/Default.aspx>

national legislation that gives Customs officials the appropriate authority to operate effectively is also required.

National and sub-regional planning meetings on the implementation of the Convention have emphasized the importance of a mechanism to facilitate the flow of information between DNAs and Customs authorities. The guidance documents developed to assist DNAs highlight the importance of good communication with custom authorities in the effective implementation of the Convention⁴³.

As noted above, all chemicals included in Annex III of the Convention and subject to the PIC procedure have been assigned Harmonized System Customs codes by the World Customs Organization. These codes should facilitate the integration of the requirements of the Rotterdam Convention into training programmes for Customs officials. The Secretariat of the Rotterdam Convention is working with the WCO Secretariat on how best to incorporate the provisions of the Convention into its existing training programmes. In the meantime, as a mean of increasing awareness of the Rotterdam Convention,

relevant information on the Convention has been made available to the WCO regional training centres and the organisation's Customs enforcement network.

Also helpful to Customs officers are case studies prepared by the Convention's designated national authorities of Jamaica and Switzerland. These case studies are intended to provide successful examples of how two countries, with very different operational realities, have integrated Customs officers into their national processes for implementing the Convention.

The Secretariat of the Rotterdam Convention will continue to provide information on the Convention at national and regional workshops on the implementation of the Green Customs Initiative. The Secretariat is also co-operating with the Secretariats of the Basel and Stockholm Conventions to ensure that, wherever possible, synergies in Customs training activities among the three Conventions is achieved. For instance, the Secretariat has developed an interactive Manual for Customs on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm Conventions⁴⁴.

List of chemicals subject to the Prior Informed Consent (PIC) procedure as at 15 September 2017

49 chemicals are in Annex III and subject to the PIC procedure. Several additional chemicals are recommended for listing¹, while others are currently being evaluated²

34 pesticides: 2,4,5-T and its salts and ethers, alachor, aldicarb, aldrin, azinphos-methyl, binapacryl, captafol, carbofuran, chlordane, chlordimeform, chlorobenzilate, DDT, dieldrin, dinitro-ortho-cresol (DNOC) and its salts, dinoseb and its salts, endosulfan, ethylene dichloride, ethylene oxide 1,2-dibromoethane (EDB), fluoroacetamide, HCH, heptachlor, hexachlorobenzene, lindane, mercury compounds, methamidophos, monocrotophos, parathion, pentachlorophenol, toxaphene and tributyltin compounds plus certain formulations of, methyl-parathion and phosphamidon, as well as dustable-powder formulations containing a combination of benomyl at or above 7 per cent, carbofuran at or above 10 per cent and thiram at or above 15 per cent.

16 industrial chemicals: five forms of asbestos (actinolite, anthophyllite, amosite, crocidolite and tremolite), commercial octabromodiphenyl ether, commercial pentabromodiphenyl, perfluorooctane sulfonic acid, polybrominated biphenyls (PBB), polychlorinated biphenyls (PCB), polychlorinated terphenyls (PCT), short-chain chlorinated paraffins, tetraethyl lead, tetramethyl lead and tris (2,3 dibromopropyl) phosphate and tributyltin compounds.

¹ <http://www.pic.int/TheConvention/Chemicals/RecommendedtoCOP/tabid/1185/language/en-US/Default.aspx>

² <http://www.pic.int/TheConvention/Chemicals/CandidatetoCRC/tabid/1061/language/en-US/Default.aspx>

⁴⁴ <http://synergies.pops.int/Implementation/TechnicalAssistance/Tool-sandMethodologies/ManualforCustomsOfficers/tabid/4457/language/en-US/Default.aspx>

⁴³ <http://www.pic.int/Implementation/ResourceKit/tabid/1064/language/en-US/Default.aspx>

Important definitions

Banned chemical

A chemical for which all uses within one or more categories have been prohibited by final regulatory action by a Party to protect human health or the environment. Banned chemicals include those that have been refused approval for first-time uses or have been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process in the face of clear evidence that such action has been taken to protect human health or the environment.

Chemical

A substance that is by itself or in a mixture or preparation and is manufactured or obtained from nature, but does not include any living organism. Chemicals fall into two use categories: pesticidal (including severely hazardous pesticide formulations) and industrial.

Chemical Review Committee

The subsidiary body referred to in paragraph 6, Article 18, of the Rotterdam Convention.

Export and import

Respectively, the movement of a chemical from one Party to another Party; mere transit operations are excluded from the scope of the Convention.

Final regulatory action

An action taken by a Party that does not require subsequent regulatory action by that Party, the purpose of which is to ban or severely restrict a chemical.

Party

A State or regional economic integration organization that has consented to be bound by the Rotterdam Convention and for which the Convention is in force.

Regional economic integration organization

An organization constituted by sovereign States of a given region to which its Member States have transferred competence in matters governed by this Convention and which has been duly authorised, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to this Convention.

Severely hazardous pesticide formulation

A chemical formulated for pesticidal use that produces severe health or environmental effects observable within a short period of time after single or multiple exposure under conditions of use.

Severely restricted chemical

A chemical for which virtually all use within one or more categories has been prohibited by final regulatory action to protect human health or the environment, but for which certain specific uses remain allowed. These chemicals include those that, for virtually all uses, have been refused for approval or have been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment.


For more information

Inquiries about the Rotterdam Convention should be directed to:

Secretariat of the Rotterdam Convention
Food and Agriculture Organization of the United Nations (FAO)
Viale delle Terme di Caracalla
00100 Rome, Italy
Tel: +39 06 5705 5586
Fax: +39 06 5705 3057 E-mail: pic@fao.org

Secretariat of the Rotterdam Convention
United Nations Environment Programme (UN Environment)
11-13, Chemin des Anémones
CH - 1219 Châtelaine
Geneva, Switzerland
Tel: (+41 22) 917 8271
Fax: (+41 22) 917 80 98
E-mail: brs@brsmeas.org

Comprehensive information on the Rotterdam Convention may be found on the website www.pic.int



STOCKHOLM CONVENTION

ON PERSISTENT ORGANIC POLLUTANTS

The Stockholm Convention on Persistent Organic Pollutants¹ is a global treaty to protect human health and the environment from chemicals that remain intact in the environment for long periods, become widely distributed geographically and accumulate in the fatty tissue of humans and wildlife. Exposure to persistent organic pollutants (POPs) can lead serious health effects, including certain cancers, birth defects, dysfunctional immune and reproductive systems, greater susceptibility to disease and even diminished intelligence. Given their long-range transport, no single government acting alone can protect its citizens or its environment from POPs. In response, the Stockholm Convention, which was adopted in 2001 and entered into force in 2004, requires Parties to take measures to eliminate or reduce the release of POPs into the environment. As at 30 October 2017, there are 181 Parties to the Convention, which is administered by the United Nations Environment Programme and based in Geneva, Switzerland.

POPs are classified into two categories: those that are intentionally produced and those that are not. The intentionally produced POPs include pesticides and industrial chemicals that may be traded between countries. The unintentionally produced POPs are by-products of industrial or other processes involving combustion which are not products in commerce.

Because POPs are semi-volatile and take a long time to degrade in the environment, they are carried globally by wind and water currents and accumulate through the global food chain. Thus, POPs cause harm in areas far away from their production sites, irrespective of national boundaries. Only concerted action at the international level can solve the problem.

1 <http://chm.pops.int/>

The Convention

The goal of the Convention is to protect human health and the environment from POPs. The 26 POPs regulated as at 15 September 2017 by the Convention as pesticides, industrial chemicals and/or by-products are:

- ➔ **Pesticides:** Aldrin, Alpha hexachlorocyclohexane, Beta hexachlorocyclohexane, Chlordane, Chlordecone, DDT, Dieldrin, Endrin, Heptachlor, Hexachlorobenzene, Lindane, Mirex, Pentachlorobenzene (PeCB), Technical endosulfan and its related isomers, Toxaphene;
- ➔ **Industrial chemicals:** Hexabromobiphenyl, Hexabromocyclododecane (HBCD), Hexabromodiphenyl ether and Heptabromodiphenyl ether (commercial octabromodiphenyl ether), Hexachlorobenzene, Hexachlorobutadiene (HCBD), Pentachlorobenzene (PeCB), Perfluorooctane sulfonic acid (PFOS), its salts and esters, Perfluorooctane sulfonyl fluoride (PFOS-F), Polychlorinated naphthalenes (PCNs), Polychlorinated biphenyls (PCBs); Tetrabromodiphenyl ether and Pentabromodiphenyl ether (commercial pentabromodiphenyl ether);
- ➔ **By-products:** Alpha hexachlorocyclohexane, Beta hexachlorocyclohexane, Hexachlorobenzene; Pentachlorobenzene (PeCB), Polychlorinated dibenzo-p-dioxins and Polychlorinated dibenzofurans (PCDD/PCDF), Polychlorinated biphenyls (PCBs), and Polychlorinated naphthalenes (PCNs)

The POPs Review Committee of the Stockholm Convention is responsible for recommending the listing of additional chemicals under the Convention⁴⁵.

Obligations of Parties under the Convention

The control measures of the Parties under the Convention include:

- ➔ Eliminating the production and use of chemicals listed in Annex A

- ➔ Restricting the production and use of chemicals listed in Annex B.
- ➔ Reducing or eliminating the production of unintentionally produced POPs listed in Annex C.
- ➔ Reducing or eliminating releases of POPs from wastes of all chemicals listed in Annexes A, B or C.

Obligations for intentionally produced POPs (the first two of the above points) are subject to exemptions for production and use. Any State upon becoming a Party may register, by informing the Secretariat, for a specific exemption for the production or use of a POP that is listed for a particular chemical in Annex A or B. Specific exemptions expire five years after they enter into force although a Party may request extensions of up to five years from the Conference of the Parties. Under Annex B, “acceptable purposes” are also allowed for information on how each Party has made use of the possibility to register⁴⁶ for specific exemptions or acceptable purposes.

To ensure the environmentally sound management of stockpiles, wastes and products and articles that, upon becoming wastes, consist of, contain or are contaminated by POPs, the Convention sets the following obligations for its Parties:

- ➔ Develop and implement strategies to identify stockpiles, products and articles in use, and wastes containing POPs
- ➔ Manage stockpiles in a safe, efficient and environmentally sound manner until they are deemed to be wastes
- ➔ Take measures to handle, collect, transport and store wastes in an environmentally sound manner and dispose of wastes in a way that destroys POP content, or otherwise in an environmentally sound manner, taking into account international rules, standards and guidelines.

Under the Convention, the Parties are also obligated to develop national implementation plans. Parties report to the Conference of the Parties on their national implementation measures by, among other things, providing data on imports and exports of each POP in the Convention.

⁴⁵ <http://chm.pops.int/TheConvention/POPsReviewCommittee/OverviewandMandate/tabid/2806/Default.aspx>

⁴⁶ <http://chm.pops.int/Procedures/Exemptionsandacceptablepurposes/tabid/4646/Default.aspx>

Finally, the Parties are obligated to facilitate the exchange of information, promote public awareness and education, and encourage research, development and monitoring under the Convention.

How the Convention regulates the international trade in POPs

Obligations relevant to import/export activities cover intentionally produced POPs only.

The import of POPs included in the Convention is allowed only for the purpose of environmentally sound disposal or for a use permitted under the Convention for the importing Party. All other imports are prohibited.

The export of POPs included in the Convention is allowed only for the purpose of environmentally sound disposal or for a use permitted under the Convention for the importing Party. All other exports between Parties are prohibited.

Export is also allowed to a State that is not a Party to the Convention if the State provides an annual certification in which it specifies the intended use of the chemical and includes a statement in which it commits to:

- Protecting human health and the environment by minimizing or preventing releases
- Complying with provisions of the Convention

- on the management of wastes and stockpiles
- Complying with requirements for DDT production and use, if applicable.

Import and export requirements do not apply to quantities of chemicals to be used for laboratory-scale research or as a reference standard and to quantities of chemicals occurring as unintentional trace contaminants in products and articles. Quantities of POPs in articles manufactured or in use on 17 May 2004 (date of the entry into force of the Convention), should these articles remain in use and are notified to the Secretariat by a Party, are not covered by the Convention.

Role of Customs in implementation of the Convention

The role of Customs administrations of the Parties is to ensure that imports and exports of intentionally produced POPs listed in Annexes A and B of the Convention do not take place if they are not in compliance with the Convention.

While controlling the import and export of POPs under the Convention, Customs officers should take into consideration the obligations of their country under the Convention. Figures 2-18 and 2-19 depict two examples of the decisions a Customs officer might face in implementing the Convention.

Figure 2-18 Approach of Customs to imported heptachlor

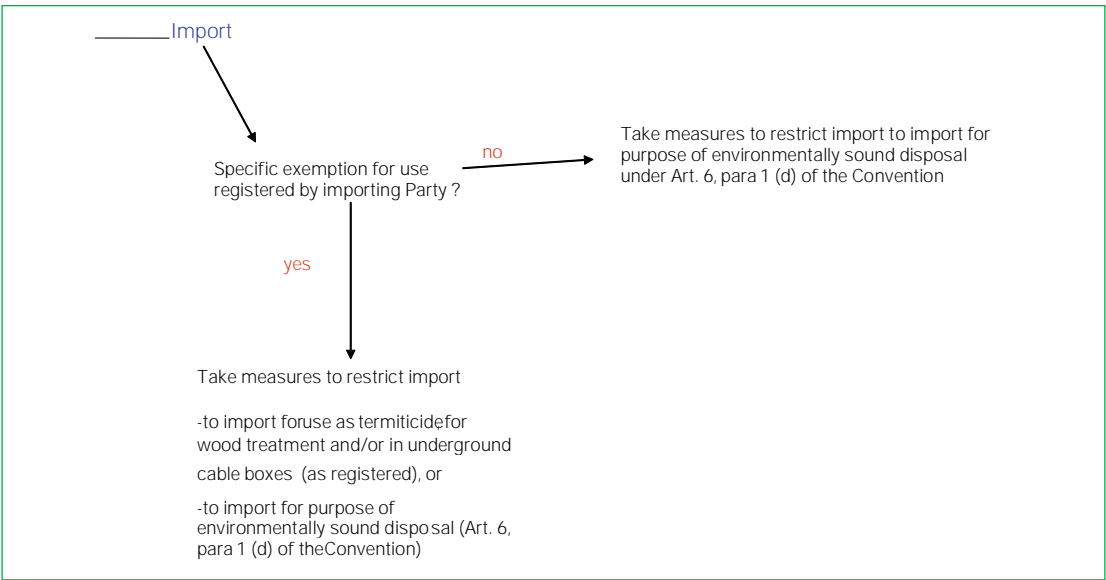
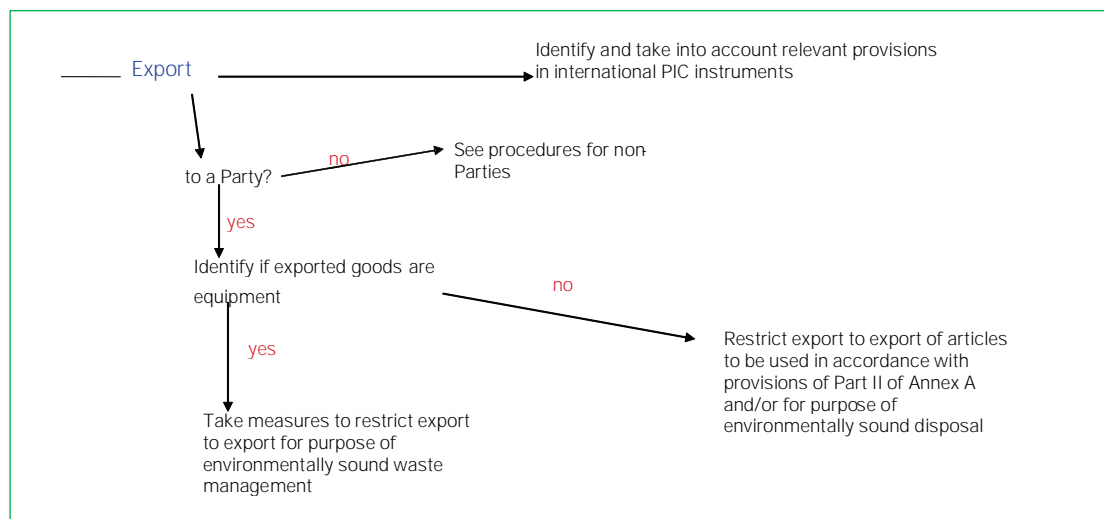


Figure 2-19 Approach of Customs to exported PCBs



For the purposes of a Party's reporting requirements under the Convention, Customs officers should:

- ➔ Register the imports and exports of each chemical
- ➔ Maintain a list of States from which chemicals are imported
- ➔ Maintain a list of States to which chemicals are exported.

Finally, Customs agencies should co-operate with their counterparts in other Parties in order to ensure that all Parties share responsibility for the export and import of POPs under the Convention. Customs agencies should also co-operate closely with national implementing agencies, in particular with the coordinators of national implementation plans.

For more information

Inquiries about the Stockholm Convention should be directed to:

Secretariat of the Stockholm Convention
 United Nations Environment Programme (UN Environment)
 International Environment House
 11-13, chemin des Anémones
 CH-1219, Châtelaine, Geneva, Switzerland
 Tel: (+41 22) 917 8271
 Fax: (+41 22) 917 80 98
 E-mail: brs@brsmeas.org

Or you may contact a Stockholm Convention regional or subregional Centre at:
<http://chm.pops.int/Partners/RegionalCentres/Overview/tabid/425/Default.aspx>

Comprehensive information on the Stockholm Convention may be found on the website <http://www.pops.int>
 Comprehensive information on the Rotterdam Convention may be found on the website www.pic.int



The Practical Aspects of Implementing MEAs

Although each of the international agreements described in Chapter 2 has a different purpose, there are similarities between them at the operational level. Thus, the types of issues a Customs or border control officer faces when implementing one treaty might resemble those encountered in implementing other treaties.

The first part of this chapter provides a snapshot on common issues in general for Customs officers and border control officers in the implementation of relevant MEAs.

The remaining parts of the chapter describe in more details the following practical aspects pertaining to Customs officers handling environmentally sensitive commodities and substances covered by relevant MEAs:

- Identification of suspicious items
- Seizure, storage and disposal
- Health and safety
- Cooperation with other authorities
- Legal issues
- Report cases of illegal traffic in environmentally sensitive items
- References to further relevant information.

Common issues for Customs: an introduction

Customs officers are considered one of the key gate-keepers when it comes to detection and prevention of illegal trade in the items regulated by the MEAs. Most MEAs have developed methods and materials to assist Customs and other relevant border control officers in their efforts and support the implementation of these instruments. The common issues are described below.

Inspections

Customs and border control officers already have well developed structures in place to perform inspections and checks which are part of their daily job and responsibility. The enforcement of trade-related control measures set out in MEAs could require in some cases a different approach and methodology depending on the MEA. Those authorities at the national level responsible for the implementation of the MEAs (hereinafter “national competent authorities”) should be aware of the possible confidentiality of Customs methods and access to certain data. It is however highly recommended that inspection strategies are developed jointly between Customs or border protection agencies and other relevant entities, such as health or environmental entities or inspectorates, as much as possible. For example, by developing risk profiles with input from the national competent authorities, getting insight in *modus operandi*, trends, indicators, routes, etc., based on combining and analyzing information and intelligence from different sources.

Health and Safety

Dealing with living species or environmentally sensitive items, addressed under some of the MEA presented in this guide, could endanger the health and safety of those officers performing the checks. In addition to the standard operation procedures for Customs and border control officers, some MEAs have provisions dealing with health and safety measures. Common precautions measures apply in general, such as:

- Do not open and/or enter drums, trailers, trucks, containers or other confined spaces without appropriate prior assessment

- Do not assume exact content based on labels solely
- Do not touch hazardous materials or specimens directly
- Secure the scene
- Report to and involve appropriate health, safety and regulatory authorities
- Use appropriate personal protective equipment and adequate sampling equipment

Cooperation

Implementation, monitoring and enforcement of obligations deriving from MEAs, requires specific expertise and competences from different entities. Cooperation is therefore essential. Clear communication lines between the involved entities should therefore be in place (e.g. up-to-date contact details, regular sharing of information, including changes to legislation or reference documents). Other suggestions include the development of joint monitoring and enforcement strategies, training programmes and provision of other types of mutual support. Performing implementation, monitoring and enforcement activities in an inter-agency setting will increase the efficiency and quality of the monitoring and enforcement efforts.

There are various ways of setting up inter-agency collaboration: either on an informal basis or on a formal basis. The formal or informal nature of the cooperation will depend on the specificities of the national or local context. Agreeing on a formal basis for cooperation may take more time than establishing informal modes of cooperation. However, formal cooperation has the advantage of clarity and legal certainty. It also usually means that a higher level of management is involved in the process, with the associated benefit of stability in the joint or shared efforts that are to be undertaken to enforce environmental rules and regulations. Examples of cooperation could relate to the establishment of rules of procedure for communication between relevant authorities, mutual training and support, joint actions or the adoption of joint-guidelines. An example of formalizing the cooperation is by way of a memorandum of understanding in which multiple partners agree on the main aspects of their collaboration.

Legal issues

Whilst MEAs form the over-arching international legal basis for global efforts to address particular environmental issues, their provisions need to be implemented into national or regional legislation by the Parties. For up-to-date information on the legal framework implementing the MEA in a given State, including steps that may have been taken to tailor the MEA to national circumstances, Customs should check with the competent bodies at the national level; this also relates to competences, enforcement powers and criminalization of illegal trade.

Free trade zones

Generally, Customs officers should check with the relevant authority the applicable trade rules of MEAs to which their country is a Party in specific zones such as free trade zones⁴⁷.

Reporting illegal trade

Some MEAs provide for the possibility for Parties to report to all Parties, for example through the relevant MEA Secretariat, information on cases of illegal trafficking⁴⁸. This contributes to a better understanding of illegal trade, facilitates addressing the problem and preventing similar patterns elsewhere, and helps develop policy and measures to fight against illegal trafficking. Aside from the reporting mechanisms within the framework of the MEA, the WCO and INTERPOL have procedures and systems in place that facilitate the collection, exchange and analysis of data (see chapter 3 on Reporting cases of illegal traffic in environmentally sensitive items) .

Identification, verification and inspection of suspicious items

Per Convention or Protocol, this part will go into more detail on how to identify items possible suspicious shipments and how to verify and check if they conform to legal requirements.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and Stockholm Convention on Persistent Organic Pollutants

This sub chapter addresses the three Conventions dealing with hazardous chemicals and wastes and the mechanisms to control their imports and exports. The control procedures provided in the Basel and the Rotterdam conventions apply, as appropriate, to the chemicals covered by the Stockholm Convention. These procedures are expected to ensure that importing States are not confronted with hazardous chemicals and wastes that they do not wish to receive, for instance because they are unable to manage them in an environmentally sound manner.

A first step is to perform a risk⁴⁹ assessment of the current situation. This assessment may provide, for instance, information on the risks associated with the legal trade of hazardous chemicals and wastes, an evaluation of the existence of illegal trade/ traffic, and the impact of illegal trade/ traffic on human health, the environment and the economy. It is recommended to perform the risk assessment together with other relevant governmental entities, in particular the police as well as environmental, health and agricultural authorities. The production of a risk assessment may rely on the following three phases: 1. risk identification; 2. risk analysis; and 3. evaluation and prioritization.

Risk indicators and search parameters are developed following completion of the risk identification and analysis phases of the risk assessment. Risk indicators flag potential problems with a particular shipment. If Customs work with electronic systems, risk profiles can be built into their electronic systems. Risk indicators can relate to:

⁴⁷ Free trade zones are areas where goods may be traded without any barriers imposed by Customs authorities like quotas and tariffs.

⁴⁸ See for instance under the Basel Convention: <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/CasesofIllegalTraffic/tabid/3424/Default.aspx>

⁴⁹ By "risk", we mean the potential for non-compliance with relevant rules and regulations.

1. The object of the trade
2. Documents
3. Packaging
4. Concealment methods
5. Customs procedures
6. Routing
7. Individuals/companies involved
8. Countries concerned

When a certain shipment has been selected for further screening, there are key questions to be answered:

1. Is this a waste or a product? A waste is a substance or object that is disposed of, intended to be disposed of or required to be disposed of by national law. Disposal operations are listed in Annex IV of the Basel Convention and include both final disposal operations and recovery operations. In case of uncertainty as to whether a substance or object meets the “waste” definition, practical indicators that can be used are: codes used (Customs or waste codes), the description of the load, such as used, recycled, scrap, expired, rejected, a low value of the goods and names of the companies involved, e.g. using terms such as recycling, waste management, environment.
2. Is this a waste falling under the scope of the Basel Convention? Check Annexes I, II, III, VIII and IX of the Basel Convention and national legislation implementing the Basel Convention provisions to see if the waste is classified as hazardous or not, or as “other” (i.e. household waste)
3. Is this a chemical falling under the scope of the Rotterdam or Stockholm conventions whose international trade is regulated? Check Annex III of the Rotterdam Convention and national legislation banning or severely restricting chemicals, or Annexes A and B of the Stockholm Convention,
4. Is the export of this chemical or waste to the country of import allowed?
5. Is the import of this chemical or waste into my country allowed?

For more information, see the interactive Manual for Customs on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm Conventions⁵⁰.

Remember, when in doubt, Customs are encouraged to contact entities responsible for the implementation of the conventions at the national level: Competent Authorities under the Basel Convention⁵¹, Designated National Authorities under the Rotterdam Convention⁵² and National Focal Point under the Stockholm Convention⁵³.

Cartagena Protocol on Biosafety to the Convention on Biological Diversity

It may not be possible to distinguish a living modified organism from its non-modified counterpart by visual inspection alone. Sampling and detection techniques are frequently necessary to test for the presence of an LMO. Unfortunately, these techniques can be costly and out of the reach of some countries. The Secretariat of the Convention on Biological Diversity has developed technical tools and guidance for the detection and identification of LMOs. More information is available on the Secretariat’s website⁵⁴. An e-learning module addressing sampling and detection and targeting Customs officers is available through the CBD’s e-learning Platform⁵⁵. The Parties to the Protocol have adopted an Action Plan for Building Capacities for the Effective Implementation of the Biosafety Protocol. Under the Action Plan, identification of LMOs (including their detection) is a key element requiring concrete action. Customs officers should discuss their needs for identifying LMOs with the appropriate authorities so capacity building can be undertaken to help meet these needs.

50 <http://synergies.pops.int/Implementation/TechnicalAssistance/ToolsandMethodologies/ManualforCustomsOfficers/tabid/4457/language/en-US/Default.aspx>

51 <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>

52 <http://www.pic.int/Countries/CountryContacts/tabid/3282/language/en-US/Default.aspx>

53 <http://chm.pops.int/Countries/CountryContacts/tabid/304/Default.aspx>

54 http://bch.cbd.int/protocol/cpb_detection/toolsandguidance/topic1.shtml

55 <https://scbd.unssc.org/>

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)

OPCW Tools of Identification of Scheduled Chemicals

<https://www.opcw.org/our-work/non-proliferation/declarations-adviser/>

All OPCW's documents and tools that have been developed to facilitate the efforts of National Authorities in implementing national requirements of the Convention are available on the website⁵⁶, including three OPCW Tools for the Identification of Scheduled Chemicals incorporating unique 6-digit HS-codes for the relevant CWC scheduled chemicals in accordance with the amendments made in 2017 edition of HS Convention (effective from 1 January 2017):

1. Brochure on Most Traded Scheduled Chemicals 2017

This brochure⁵⁷ covers 49 Schedule 2 and Schedule 3 chemicals identified as the most traded scheduled chemicals based on trade declarations submitted by States Parties since 1997 up to 2014. This Brochure also covers some examples of commercial applications and industrial uses of the chemicals obtained from the open sources. The brochure includes correlation table between previous 2012 version of HS 2012 and current version of HS 2017 (see Table 3-1).

2. Handbook on Chemicals 2017

The Handbook on Chemicals 2017⁵⁸ contains 1800 scheduled chemicals declared by the States Parties to CWC from 1997 up to 2014 (it includes 49 most traded schedule chemicals provided in Brochure on Most Traded Scheduled Chemicals 2017)

3. OPCW Online Scheduled Chemicals Database 2017

The OPCW Online Scheduled Chemicals Database 2017⁵⁹ contains 31851 scheduled Chemicals including 1800

scheduled chemicals of the Handbook on Chemicals 2017 and 49 chemicals of the Brochure on Most Traded Scheduled Chemicals 2017.

Please note, that due to 12 families of chemicals covered by the CWC (Annex on Chemicals) the list of all declarable scheduled chemicals is not possible to produce.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Background

Over 35,000 species of wild fauna and flora are covered by the Convention. This large number places significant obligations on Customs and border protections officers, who may physically inspect shipments to ensure a match between their contents and their documents and who, as non-specialists, may be compelled to verify every species listed in a permit application or CITES document. Indeed, the routine exports of a country may be familiar to its Customs officers, but imports or specimens in transit may be unfamiliar and difficult to identify. An ability to identify specimens correctly is essential for verifying the validity of documents and detecting fraud, and Customs officers face the need to address this challenge on a practical level so that the trade transaction is not hindered.

The challenges encountered in identifying specimens vary. For example, an ornithologist identifying a bird in the field has much additional information on which to rely, such as habitat, behaviour and the known ranges of species, but identifying a bird in a crate that may be one of a hundred birds with damaged or soiled plumage, and perhaps from an unknown source, is quite another matter. Raw, semi-finished and finished products may be particularly difficult to detect or identify, and the provisions that relate to parts and derivatives may be quite different from those for whole or live specimens.

Thankfully, many Parties, institutions, intergovernmental agencies and non-governmental organizations (NGOs) have joined the CITES Secretariat in creating species identification tools in the form of books, manuals and online assistance

⁵⁶ <https://www.opcw.org/our-work/non-proliferation/declarations-adviser/>

⁵⁷ <https://www.opcw.org/our-work/non-proliferation/declarations-adviser/most-traded-scheduled-chemicals/>

⁵⁸ <https://www.opcw.org/our-work/non-proliferation/declarations-adviser/handbook-on-chemicals/>

⁵⁹ <https://apps.opcw.org/cas/>

Table 3-1: Correlation Table between the previous 2012 and current 2017 versions of HS codes

	CAS	Chemical Name	Schedule	HS 2012	HS 2017
	170836-68-7	Mixture of (5-ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphinan-5-yl)methyl methyl methylphosphonate (CAS RN 41203-81-0) and Bis[(5-Ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphinan-5-yl)methyl] methylphosphonate (CAS RN 42595-45-9)	2B04	3824.90	3824.91
	18755-43-6	Dimethyl propylphosphonate	2B04	2931.90	2931.32
	41203-81-0	(5-Ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphinan-5-yl)methyl methyl methylphosphonate	2B04	2931.90	2931.36
	42595-45-9	Bis[(5-Ethyl-2-methyl-2-oxido-1,3,2-dioxaphosphinan-5-yl)methyl] methylphosphonate	2B04	2931.90	2931.37
	68957-94-8	2,4,6-Tripropyl-1,3,5,2,4,6-trioxatriphosphinane 2,4,6-trioxide	2B04	2931.90	2931.35
	756-79-6	Dimethyl methylphosphonate	2B04	2931.90	2931.31
	78-38-6	Diethyl ethylphosphonate	2B04	2931.90	2931.33
	84402-58-4	Methylphosphonic acid with (aminoiminomethyl)urea (1:1)	2B04	2931.90	2931.38
	84962-98-1	Sodium 3-(trihydroxysilyl)propyl methylphosphonate	2B04	2931.90	2931.34
	76-93-7	2,2-Diphenyl-2-hydroxyacetic acid	2B08	2918.19	2918.17
	4261-68-1	2-(N,N-Diisopropylamino)ethylchloride hydrochloride	2B10	2921.19	2921.14
	4584-46-7	2-(N,N-Dimethylamino)ethylchloride hydrochloride	2B10	2921.19	2921.12
	869-24-9	2-(N,N-Diethylamino)ethylchloride hydrochloride	2B10	2921.19	2921.13
	96-80-0	2-(N,N-Diisopropylamino)ethanol	2B11	2922.19	2922.18
	100-38-9	2-(N,N-Diethylamino)ethanethiol	2B12	2930.90	2930.60
	111-48-8	Bis(2-hydroxyethyl)sulphide	2B13	2930.90	2930.70
	75-44-5	Carbonyl dichloride	3A01	2812.10	2812.11
	506-77-4	Cyanogen chloride	3A02	2853.00	2853.10
	74-90-8	Hydrogen cyanide	3A03	2811.19	2811.12
	76-06-2	Trichloronitromethane	3A04	2904.90	2904.91
	10025-87-3	Phosphorus oxychloride	3B05	2812.10	2812.12
	7719-12-2	Phosphorus trichloride	3B06	2812.10	2812.13
	10026-13-8	Phosphorus pentachloride	3B07	2812.10	2812.14
	121-45-9	Trimethyl phosphite	3B08	2920.90	2920.23
	122-52-1	Triethyl phosphite	3B09	2920.90	2920.24
	868-85-9	Dimethyl phosphite	3B10	2920.90	2920.21
	762-04-9	Diethyl phosphite	3B11	2920.90	2920.22
	10025-67-9	Sulfur monochloride	3B12	2812.10	2812.15
	10545-99-0	Sulfur dichloride	3B13	2812.10	2812.16
	7719-09-7	Thionyl chloride	3B14	2812.10	2812.17
	139-87-7	Ethylidiethanolamine	3B15	2922.19	2922.17
	105-59-9	Methylidiethanolamine	3B16	2922.19	2922.17
	102-71-6	Triethanolamine	3B17	2922.13	2922.15
	108-02-1	2-(N,N-Dimethylamino)ethanethiol	2B12	2930.90	2930.90

	129788-86-9	Product from the reaction of Methylphosphonic acid and 1,3,5-Triazine-2,4,6-triamine	2B04	-----	-----
	1619-34-7	3-Quinuclidinol	2B09	2933.39	2933.39
	25333-42-0	R-(-)-3-Quinuclidinol	2B09	2933.39	2933.39
	3001-98-7	3,9-Dimethyl-2,4,8,10-tetraoxa-3,9-diphosphaspiro[5.5]undecane 3,9-dioxide	2B04	2931.90	2931.39
	4708-04-7	Propylphosphonic dichloride	2B04	2931.90	2931.39
	676-97-1	Methylphosphonic dichloride	2B04	2931.90	2931.39
	7526-26-3	Diphenyl methylphosphonate	2B04	2931.90	2931.39
	849-29-6	O-(3-chloropropyl) O-[4-nitro-3-(trifluoromethyl)phenyl] methylphosphonothionate	2B04	2930.90	2931.39
	993-13-5	Methylphosphonic acid	2B04	2931.90	2931.39
	99580-93-5	Product from the reaction of methylphosphonic acid and 1,2-ethanediamine	2B04	-----	-----
	294675-51-7	Phosphonic acid, methyl-, polyglycol ester (Exolit OP 560 TP)	2B04	-----	3824.99
	663176-00-9	Phosphonic acid, methyl-, polyglycol ester (Exolit OP 560)	2B04	-----	3824.99
	363626-50-0	Bis(polyoxyethylene) methylphosphonate	2B04	3907.20	3907.20
	63747-58-0	Poly(1,3-phenylene methyl phosphonate)	2B04	3911.90	3911.90
	70715-06-9	Dimethylmethylphosphonate, polymer with oxirane and phosphorus oxide	2B04	3824.90	3824.99

to make the identification of CITES specimens easier. These materials are collected and made available in the CITES Virtual College (see link below). The Management Authority should be contacted for details on what tools are available and appropriate for that country and to assist in solving any difficulties encountered in identifying species during inspection.

Identification

Customs officers need to verify whether a species in trade are CITES protected, and if they are, whether they are accompanied by the appropriate CITES documents. The online course “Introduction to CITES for Customs” instructs Customs officers on how to conduct documentation and physical inspections of CITES listed species.⁶⁰

- Identification materials from stakeholders (in the CITES Virtual College)⁶¹
- Identification materials at ENVIRONET (restricted access)⁶²

- Shark identification materials database⁶³ on the CITES Website
- iSharkFin⁶⁴
- CITES Wiki Identification manual⁶⁵
- List of national authorities (Management Authority, Scientific Authority and enforcement authority)⁶⁶

Montreal Protocol on Substances that Deplete the Ozone Layer

Checking documentation can yield many valuable clues about whether a shipment is legitimate. Because there is no common international standard, Customs officers should ask the following questions:

- Is the consignment’s classification consistent, and do the Harmonized System code, ASHRAE and UN numbers, trade name and chemical name match?
- Are the invoice, packing list and bill of lading

60 see CITES Virtual college (restricted access): <https://cites.unia.es/>

61 <https://cites.unia.es/cites/mod/resource/view.php?id=57#D-manuals>

62 <https://cites.org/sites/default/files/notif/E-Notif-2015-039.pdf>

63 <https://cites.org/eng/prog/shark/resources.php>

64 <http://www.fao.org/ipoa-sharks/tools/software/isharkfin/en/>

65 https://www.cites.org/eng/resources/wiki_id.php

66 <https://www.cites.org/eng/cms/index.php/component/cp>

consistent, and are they compatible with the shipping manifest?

- Is the country of origin or destination party to the treaty, and is the paperwork consistent with the markings of the container?
- Does the container number match the documents, and is it a genuine container number (verify with the shipping line or owner of the container)?
- Does the importer's address actually exist? The authorised licensing agency can help to verify that the importer has a valid licence. If the importer is new to the trade, further investigation is warranted.
- For recycled products, does the exporting country have a recycling capacity? A list of recycling capacities can be obtained from the treaty's Secretariat. Customs officers could request an analysis of a sample of the chemical as well as information on the source of the chemical and the name and details of the recycling facility.
- Is the shipping route logistically and economically viable?
- Is the price realistic and in line with international prices?

Physical inspection of cylinders and packaging can provide important information about the validity and legality of the consignment. Customs officers should use the following checklist:

- Is the colour of the cylinder consistent with the industrial standards of the chemical declared?
- Is the language on the cylinder/packaging appropriate for the intended market?
- Are there any spelling mistakes on the cylinder/packaging?
- Are there any inconsistencies (inappropriate use of company logos, taglines or trademarks)?
- Is the type of valve used on the cylinder correct?
- Has the cylinder been painted or tampered with?
- Are the labels on the cylinders silk-screened or spray painted (not printed or stickers)?
- Are the manufacturer's contact details printed on the cylinder?
- Is the date of manufacture consistent with the paperwork?

Table 3-2 The main smuggling techniques for ODS encountered by Customs officers.

Smuggling method	Detection tip
<i>Front door smuggling.</i> In countries that have no effective licensing system or in which shipments are never properly checked, smugglers do not even attempt to disguise shipments.	<ul style="list-style-type: none"> • Check paperwork carefully. • Raise awareness among Customs officers.
<i>False labelling</i> of cylinders and cartons of ODS as other chemicals.	<ul style="list-style-type: none"> • Check imports routinely. • Use gas identifiers if possible.
<i>Mis-declaration.</i> Controlled chemical declared on the documentation as another chemical (smugglers assume that officials are unfamiliar with chemical names and codes), cylinders declared empty, mis-declaration by under-invoicing.	<ul style="list-style-type: none"> • Check paperwork carefully. • Match paperwork with consignment.
<i>Declared as recycled.</i> Virgin CFCs and halons may be declared as used, recovered, reclaimed or recycled because recycled imported CFCs and halons do not count against a country's ODS consumption. Some smugglers even contaminate virgin CFCs so they appear used.	<ul style="list-style-type: none"> • Check the exporting country's recycling capacity. • Analyse a sample of the refrigerant.
<i>Double layering</i> which entails hiding the illegal materials behind a layer of legal products.	<ul style="list-style-type: none"> • Check paperwork carefully. • Inspect consignments.
<i>Concealment</i> or hiding chemicals among other cargo or in vehicles, boats, backpacks, head-loads or rickshaws	<ul style="list-style-type: none"> • Maintain vigilance at border crossings.
<i>Transshipment fraud</i> which consists of elaborate shipping routes, fictitious destinations and false paperwork to put officials off the scent.	<ul style="list-style-type: none"> • Pursue international co-operation and communication. • Cross-check with the exporting and any transit countries.
<i>Chemical declared as equipment</i> such as refrigeration equipment, compressors or auto parts. Chemicals can even be smuggled inside the equipment.	<ul style="list-style-type: none"> • Inspect consignments thoroughly.

Customs officials should treat neutral packaging with no labelling, country of origin or manufacturer as suspicious, and they should call trained personnel for further testing (identifying) if needed. Colour codes can now be used to identify the supposed content of a cylinder. See the example in Table 3-3 using Air-conditioning and Refrigeration Institute (ARI) codes.

Table 3-3 Colours of cylinders for main refrigerants (ARI colour code)

ODS

CFC-11: orange
CFC-12: white
HCFC-22: light green
CFC-113: dark purple

Alternatives: HFC-134a (R-134a): light blue (sky)

Note: ARI codes are a US standard and not applicable in all countries.

Seizures, Storage and Disposal

Basel Convention, Rotterdam and Stockholm Conventions

What Customs should do when faced with a possible illegal shipment depends very much on the powers entrusted to them under the applicable national rules and regulations. The authority to control documents, to stop, open and physically inspect vehicles/containers, and to detain shipments for further investigation seems to be commonplace. On the other hand, Customs may not have the authority to take administrative, civil or criminal investigation/enforcement measures, for instance taking samples or gathering additional evidence. The national legal and institutional framework also specifies the responsibilities of other relevant authorities and may clarify how such authorities should cooperate.

Detaining the shipment

Pending the outcome of an investigation, the shipment may be detained in order to avoid further transportation of the suspicious load into the country or out of the country. Detaining a container has financial consequences and may be seen as disrupting legitimate trade. It is therefore important that the various stakeholders concerned (i.e. the

exporter or importer, the shipping line, shipping agent, port authority, handling companies) be, if possible, informed about this action; for example, by issuing a 'stop notice'.

Storing the load

During the time of the investigation, the load should be stored in a safe and protected area where it cannot harm human health and the environment and where evidence cannot be tampered with. Generally, it is only with the explicit approval of the authority that ordered the detainment that a shipment can be released. Port and train terminals are expected to provide the required storage facilities at the points of loading and offloading. In case the container is being transported by truck, it could be required to have the container moved (preferably under escort) to an appropriate location to perform the inspection and store the load safely.

Evidence gathering and case documentation

The gathering of evidence aims first to support a decision by the responsible authority with respect to the suspicious shipment and whether to allow the import, transit or export to proceed or not. Secondly, in the event the shipment is deemed illegal, the investigation aims at identifying the various elements associated with the shipment: the nature of the shipment, the stakeholders involved (States, individuals, companies) and where the responsibilities may lie. This latter point is especially important when it comes to the financial consequences of the illegal trade (i.e. who is to cover the costs for: storing a load, taking it back or its disposal). The third aim is to collect as much evidence as possible, keeping in mind possible future steps: the take-back of the shipment by the exporter or its environmentally sound disposal in the case of hazardous wastes; and possible administrative, civil or criminal proceedings. It is important to collect and report as much relevant information as possible.

Dealing with illegal traffic

The Stockholm and Rotterdam Conventions do not contain specific provisions defining what amounts to "illegal trade" and on how to deal with illegally imported or exported hazardous chemicals falling under their scope. However, national legislation implementing these MEAs may specify this. The

Basel Convention on the other hand specifically defines illegal traffic and consequences thereof. Specific guidance on this matter is available⁶⁷.

A. Exporter or generator's responsibility

In the event of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:

- Taken back by the exporter or the generator or, if necessary, by itself into the State of export; or, if impracticable,
- Otherwise disposed of in accordance with the provisions of this Convention within 30 days from the time the State of export has been informed about the illegal traffic, or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

B. Importer or disposer's responsibility

In the event of a transboundary movement of hazardous wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall cooperate, as necessary, in the disposal of the wastes in an environmentally sound manner.

C. Unclear assignment of responsibilities

In the event the responsibility for the illegal traffic of hazardous wastes cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through cooperation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or in the State of import or elsewhere, as appropriate.

Cartagena Protocol on Biosafety to the Convention on Biological Diversity

The Biosafety Protocol makes no mention of seizures or confiscation. It does, however, state that in the event of an illegal transboundary movement of a living modified organism, the affected Party may request the Party of origin to dispose of the LMO in question by repatriation or destruction, as appropriate, and at its own expense. An illegal transboundary movement is a movement of an LMO carried out in contravention of a Party's domestic measures to implement the Protocol. Customs and border control officers should be aware of the rules, procedures and contact points their country has in place for responding in the event an illegal transboundary movement of an LMO is detected.

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)

Countries should have established national procedures to apply if an illegal shipment of scheduled chemicals is identified and seized. Any Customs officers not aware of these rules should contact the Convention's National Authority. The storage requirements for seized chemicals depend on the chemical involved. Expert scientific advice should be sought from a Competent Authority, such as a Customs laboratory.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

The CITES Management Authority should be informed of any seizures of CITES specimens. Because the Convention states that any living specimen confiscated shall be entrusted to the Management Authority of the State of confiscation, it is the responsibility of the Management Authority to care for and to decide on the disposal of confiscated specimens. Customs administrations may not have the facilities and expertise to care for confiscated live specimens of plants or animals, and such specimens may need immediate attention, depending on the circumstances of the seizure.

⁶⁷ <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx>

The storage of seized products may raise health and safety concerns, and some high value products, such as sturgeon caviar, may be highly perishable if not stored at the correct temperature. Because confiscations might occur outside of normal government working hours, Customs officers should ensure that they have the after-hours contact information for the CITES officials and experts.

Montreal Protocol on Substances that Deplete the Ozone Layer

Table 2-7 in Chapter 2 lists all necessary recommendations and options on seizures and storage under the Montreal Protocol. The National Ozone Unit should be informed at the earliest opportunity.

Seized Ozone Depleting Substances (ODS) and ODS-based products and equipment

National laws and the provisions of the import/export licensing system prescribe what happens to seized ODS or ODS-containing products. The decision matrix in Table 2-7 presents options for seized ODS and ODS-based products and equipment. The shaded boxes indicate the environmentally preferable options. However, the most appropriate option will depend on a country's specific situation and the costs. Customs officers may wish to discuss the approach presented in this table with the NOU.

Health and Safety

Basel Convention, Rotterdam and Stockholm Conventions

The safety of the Customs officer and surroundings is a high priority when monitoring legal trade in chemicals and wastes. The exact composition of a material is not always clear; clues that can support the classification of the content of a shipment and thus evaluate potential risks should therefore be closely watched. There are various ways to identify hazardous chemicals and wastes that are subject to the control measures under the three conventions. The administrative examination should focus on who is involved,

the origin and destination of the chemicals or waste, the description and the composition of the load. Important indicators are for example: HS codes, waste codes and trade names. A visual screening, labels, packaging and appearance all provide information that helps the Customs officer with the identification of the load. Sampling and testing are also an option, although it is strongly recommended that these be performed by specialists. It needs to be stressed that during the identification of the load, the safety of the Customs officers and others is of paramount importance. UN, Globally Harmonized System of Classification and Labelling of Chemicals (GHS) and IMDG codes as well as data information sheets give information about possible hazardous characteristics of the load, which should be taken into account. Before performing a visual inspection of the content of a container, relevant safety issues should be taken into account.

More specific guidance on how to verify a shipment that contains, or may contain, hazardous wastes can be found in the "Training Manual for the Enforcement of Laws Implementing the Basel Convention: Guidance for Safe and Effective Detection, Investigation and Prosecution of Illegal Traffic in Hazardous Wastes"⁶⁸. This manual addresses general inspection of trailers and drums and techniques for safely gathering samples.

Cartagena Protocol on Biosafety to the Convention on Biological Diversity

For both living modified organisms (LMOs) for intentional introduction into the environment and LMOs for contained use, the Biosafety Protocol requires that instructions for the safe handling, storage, transport and use of the LMOs be indicated in the documentation that accompanies the shipment. If there are no instructions, that fact must be indicated in the documentation in accordance with the relevant decision of the Parties to the Protocol. Customs officers should refer to the documentation accompanying a shipment of LMOs to determine whether they should take health and safety precautions.

⁶⁸ <http://www.basel.int/legalmatters/illegtrafficking/index.html#subt2>

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)

Because the Chemical Weapons Convention (CWC) deals with the elimination of some of the most toxic substances known to humankind, health and safety concerns are central to its implementation. The health and safety policy and regulations of the Organisation for the Prevention of Chemical Weapons (OPCW), together with the Convention itself, lay down principles and obligations for both the Secretariat and States Parties through which the health and safety of all those associated with OPCW activities will be safeguarded (see Table 3-4).

Table 3-4 Do's and don'ts upon discovery of a chemical weapon or toxic chemical

Do's

- Assess the situation
- Try to identify the substance only with information provided
- Secure the scene
- Report incident to the appropriate authority

Don'ts

- Take any action unless you have been trained in handling toxic chemicals.
- Enter confined spaces
- Open trailers or trucks
- Open drums or other containers
- Presume the exact contents of the cargo based on label
- Destroy evidence

The implementation of the OPCW's health and safety programme focuses on providing specialised medical and safety support to inspection teams, as well as advice, information and training to member states, on request, on the health and safety aspects of chemical weapons and defence (that is, on the properties of chemicals, detection, protection, decontamination and medical treatment). These activities are performed in conjunction with the International Cooperation and Assistance Division.

More information on the activities of the OPCW is available from each country's National Authority⁶⁹.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Safety must be the first priority when dealing with live animals and plants, and parts thereof (see Box below "Things to remember . . ."). All animals, even those supposedly tame, can inflict wounds that range from a simple scratch to a potentially lethal bite. Bites, scrapes and scratches can be inflicted by the teeth of monkeys, cats, canines, crocodiles and lizards; by the beaks of turtles and bills of birds, such as parrots, birds of prey, toucans, ostriches and pheasants; by the fangs of snakes and stingers of scorpions, which can inject a potentially fatal venom; and by the claws of cats, monkeys, turtles and birds. Indeed, mammals and birds can, for example, transmit to humans the infection caused by the fungus *Aspergillus*. Monkeys can be carriers of serious diseases such as hepatitis A and B, Ebola virus, Marburg disease and the simian immunodeficiency syndrome, a form of AIDS.

Parrots can transmit psittacosis. Ducks and geese can be carriers of the bacteria that trigger botulism. And reptiles, more specifically turtles, are carriers of the bacteria that cause salmonellosis. And then there are the chemical products, such as pesticides and fungicides that are routinely used to treat hunting trophies and artificially propagated plants. Such chemical products can release harmful particles. Even plants, although easy to examine, may carry potential health and safety risks.

Once Customs officers have seen to their own safety and that of their colleagues, they must take steps to ensure the safety and survival of the specimens. They must not only make certain that the guidelines and regulations on the transport conditions of live animals are followed, but also monitor the specimens to ensure that they remain healthy while under the control of Customs. If after examining the documents and conducting a physical inspection Customs officers determine that the permit is not valid or of doubtful authenticity, they can apply the normal detention procedures

69 http://www.opcw.org/en/NA_menu.html

and contact the relevant authorities. Otherwise, they should retain the original copy (Copy 1) of the validated foreign CITES export permit (and the original copy of the CITES import permit for Appendix I specimens) and forward them to the CITES Management Authority.

CITES provides that confiscated live specimens shall, after consultation with the State of export, be returned to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the Convention. Customs officers may therefore need to refer to the CITES Management Authority on the national legislation covering the disposal of confiscated live specimens of CITES-listed species.

Things to remember when dealing with potentially hazardous CITES specimens

- ➔ Do not handle the specimens directly
- ➔ Assess potential hazards before handling cages and boxes
- ➔ Avoid handling jute bags or other soft containers that may contain venomous specimens
- ➔ Avoid handling any raw mammal skins and hunting trophies
- ➔ Inspect plants, especially artificially propagated ones, in a well-ventilated area
- ➔ Ensure that only those people directly involved in the inspection are present if handling jute bags or other soft containers that may contain venomous specimens

Health and safety of animals

For Appendix I and II specimens, the preparation and shipment of any live specimen must minimise any risk of injury, damage to health or cruel treatment, and in the case of live animal specimens shipped by air, conditions of transport must meet the International Air Transport Association (IATA) Live Animals Regulations (LAR).

Accepted by CITES and recognised as the international standard for transport of animals by air, the IATA Live Animals Regulations⁷⁰ specify the minimum requirements for the international transport of animals and wildlife and indicate what precautions airlines, shippers, cargo agents

and animal care professionals should take on the ground and in the air. In the case of plants, the IATA Perishable Cargo Regulations⁷¹ applies.

Montreal Protocol on Substances that Deplete the Ozone Layer

Ozone-depleting substances include a wide range of chemicals with different chemical and physical properties. Most of these chemicals pose a risk to human health and the environment if handled, stored, transported or used without proper safety precautions. National safety regulations must be observed.

The following general rules should be observed:

- ➔ Do not vent refrigerants
- ➔ Do not take samples of refrigerants without adequate training and equipment
- ➔ Contact a designated professional for sampling and analysis
- ➔ Use refrigerant identifiers only if familiar with their use and authorised to do so
- ➔ Use leak detectors to inspect refrigerant cylinders for leaks; inspect the cylinders and valves for damage
- ➔ Use protective clothing (gloves, goggles) when handling containers of pressurised gases such as CFCs or HCFCs, as they may cause frostbite
- ➔ Store refrigerant cylinders vertically and secure in a protected, well-ventilated area
- ➔ Do not expose refrigerant cylinders to open flames or direct sunlight; they contain pressurised gases
- ➔ Handle refrigerant cylinders carefully and do not drop them; that may lead to valve damage
- ➔ Display warnings clearly in storage areas
- ➔ Do not dispose of any refrigerant by using methods other than recovery and recycling, reclaim, reuse, adequate storage or destruction
- ➔ Observe local regulations and standards on the handling, transport and storage of refrigerants

⁷⁰ <http://www.iata.org/publications/store/Pages/live-animals-regulations.aspx>

⁷¹ <http://www.iata.org/publications/store/Pages/perishable-cargo-regulations.aspx>

Cooperation with MEA competent national authorities and other authorities

Basel Convention, Rotterdam and Stockholm Conventions

A Customs officer might not have all the technical know-how in relation to chemicals and wastes. It is essential to know which national, regional and even local authorities are involved in matters pertaining to the import, transit and export of chemicals and wastes. In addition to being aware of their role in enforcing legal frameworks regulating the international trade of hazardous chemicals and wastes, Customs officers need to know who to contact in case of doubt, for support or if there is a need for more information. An up-to-date contact list of relevant authorities would therefore be useful to Customs. These relevant authorities can support you with, for instance:

- Training and capacity building
- Technical and legal information
- Information about licenses and consents
- Identification and classification issues
- Sampling and testing
- Contacting authorities in other countries
- Follow-up, such as the take back procedure or prosecution
- Up- or downstream investigation
- Historical data from previous inspection or enforcement actions.

On the other hand, Customs officers have access to relevant data concerning import, export and transit of goods. Customs' mandate and legal powers may extend to the following kind of information and activities:

- Pre-arrival and pre-departure information
- Historical shipping data
- Alert system through profiles in the Customs systems
- Power to detain, open, break seals and inspect containers
- Access to off-loading facilities and equipment and storage areas
- X-ray scanner
- Access to ships, trains or trucks.

Resources:

Basel Convention

- Competent Authorities⁷²
- Fact sheets of organizations and networks focused on preventing and combating the illegal traffic in hazardous and other wastes⁷³
- Members of the ENFORCE Network⁷⁴
- Basel Convention Regional and Coordinating Centres⁷⁵

Rotterdam Convention

- Designated National Authorities⁷⁶
- Guidance to Designated National Authorities on the operation of the Rotterdam Convention⁷⁷ (page 30-31)

Stockholm Convention

- National Focal Point⁷⁸
- Stockholm Convention regional and subregional Centres⁷⁹

Cartagena Protocol on Biosafety to the Convention on Biological Diversity

Communication is central to the operation and implementation of the Biosafety Protocol. The Biosafety Clearing-House (BCH), in particular, plays a crucial role, allowing Parties to post information about their decisions under the Protocol. Customs officers should be familiar with the BCH and know how to search it for various kinds of information.

Communication between the competent national authority or authorities in a country and its Customs officers is also very important. Competent national authorities can help to keep Customs officers informed and up-to-date on the different LMOs being approved, restricted or prohibited from import into the country. National authorities should also facilitate access to the BCH by Customs officers.

72 <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>

73 <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/InternationalCooperation/tabid/3425/Default.aspx>

74 <http://www.basel.int/Implementation/TechnicalAssistance/Partnerships/ENFORCE/Overview/tabid/4526/Default.aspx>

75 <http://www.basel.int/Partners/RegionalCentres/Overview/tabid/2334/Default.aspx>

76 <http://www.pic.int/Countries/CountryContacts/tabid/3282/language/en-US/Default.aspx>

77 <http://www.pic.int/Implementation/DNAGuidance/tabid/3571/language/en-US/Default.aspx>

78 <http://chm.pops.int/Countries/CountryContacts/tabid/304/Default.aspx>

79 <http://chm.pops.int/Partners/RegionalCentres/Overview/tabid/425/Default.aspx>

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)

The National Authority plays an important role in the implementation of the Convention and in the communication associated with it. Although the OPCW is the mechanism through which compliance is verified, the National Authority is the mechanism through which compliance is achieved and demonstrated. Each State Party is required to “designate or establish a National Authority to serve as the national focal point for effective liaison with the Organization and other States Parties”. The National Authority must be designated by the date of the entry into force of the Convention for the State Party concerned.

States Parties enjoy wide discretion in determining the size, structure, composition and mandate of their National Authorities. State Parties may either assign the task of National Authority to an existing government department or agency, or create an entirely new entity specifically for this function. Each State Party’s actual situation (such as whether it possesses chemical weapons, chemical weapons production facilities, Schedule 1 facilities, a significant chemical industry or export/import activities relevant to the Convention, as well as the resources it can allocate) determines the composition, structure and mandate of its National Authority.

The National Authority can be either a centralised entity with responsibilities covering all aspects of national implementation of the Convention or a decentralised entity that acts as liaison between the OPCW and the several government departments or agencies responsible for specific aspects of national implementation. OPCW States Parties have structured their National Authorities in a variety of ways.

As the national focal point for liaison with the OPCW and other States Parties, the national data collection point and the facilitator of national implementation, an effective National Authority is

of central importance to the effectiveness of the Convention itself. To meet its basic obligations, each State Party must be in a position to:

- Submit all the required declarations
- Act as liaison with the OPCW
- Co-operate with other States Parties
- Facilitate OPCW inspections
- Respond to OPCW requests for assistance
- Protect the confidentiality of classified information
- Monitor and enforce national compliance
- Co-operate in the field of chemical activities for purposes not prohibited under the Convention.

All these functions involve a State Party’s National Authority to a greater or lesser extent, and the mandates of National Authorities have been defined correspondingly. Since the entry into force of the Convention, experience has shown that many National Authorities face significant challenges in carrying out the varied tasks assigned to them under the Convention.

Customs officers will find that close co-operation with the National Authority in their country will greatly assist in the effective implementation of the CWC obligations related to trade in chemicals. A complete list of National Authorities with their contact details is available at the OPCW website⁸⁰. In those countries in which the National Authority is still being formed, the Permanent Representative to the OPCW of those countries, usually the diplomatic mission posted in The Hague (Netherlands) or Brussels (Belgium), can be contacted for advice. A full list of Permanent Representatives to the OPCW is available at the OPCW website as well.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

For a Customs or border control officer, assistance with CITES matters should be a telephone call away. It is therefore important that officers have on hand the contact names, details and numbers they may need (contact details and useful links can be found in chapter 2). They also should be

⁸⁰ <http://www.opcw.org>

fully informed about CITES and, most important, about any changes in CITES or in national controls that could have an impact on their work. That very important task falls to the CITES Management Authority^{81 82}. It should send Customs offices regular updates on CITES.

Information sharing, communication and international cooperation

ENVIRONET

ENVIRONET, which includes the CITES Enforcement Authorities Forum, is a secure real-time global communication tool for information exchange and cooperation, managed and coordinated by the WCO Secretariat. It is accessible to all authorities responsible for wildlife and other environmental law enforcement, including Customs, police and wildlife authorities, as well as other enforcement authorities with similar responsibilities.

ENVIRONET aims to:

- Share best practices;
- Provide downloadable training materials, identification guides, manuals, and other background information valuable for environmental enforcement;
- Exchange information on seizures, and possible on-going trafficking;
- Create discussion forums on specific topics;
- Facilitate assistance by experts from international organizations, competent national authorities, and experienced Customs officers;
- Facilitate cooperation between Customs administrations, competent agencies and international organizations.

The ENVIRONET library provides selected folders managed by the CITES Secretariat which contain comprehensive information on CITES such as CITES sample permits, CITES alerts, CITES Notifications to the Parties on enforcement matters, and other relevant materials and information.⁸³

International Consortium on Combating Wildlife Crime (ICCWC)

In order to bring coordinated support to the national wildlife law enforcement agencies, and to sub-regional and regional enforcement networks, CITES and four other inter-governmental organizations agreed to form the International Consortium on Combating Wildlife Crime (ICCWC) in 2010. The ICCWC partners are the CITES Secretariat, INTERPOL, the United Nations Office on Drugs and Crime, the World Bank and the World Customs Organization.

ICCWC's mission is to strengthen criminal justice systems and provide coordinated support at national, regional and international level to combat wildlife and forest crime. In this context, the Consortium works for, and with, the wildlife law enforcement community, since it is frontline officers who eventually bring criminals engaged in wildlife crime to justice. ICCWC seeks to support the development of law enforcement that builds on socially and environmentally sustainable natural resource policies, taking into consideration the need to provide livelihood support to poor and marginalized rural communities.

Based on the Consortium's Strategic Mission, ICCWC partners have been providing, since the launch of ICCWC in 2010, coordinated law enforcement support in many different countries and regions across the world.

Key activities delivered under the auspices of ICCWC include the development and implementation of the tools, built on the technical expertise of all ICCWC partners as well as through extensive consultations with experts from across the globe from a variety of related fields.

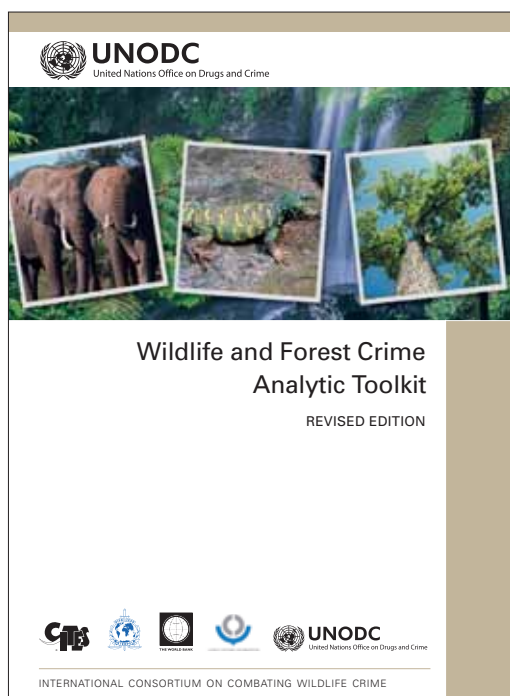
ICCWC Wildlife and Forest Crime Analytic Toolkit (2012)

provides government officials, Customs, police and other relevant enforcement agencies with a framework to conduct a comprehensive analysis of their response to wildlife and forest crime and identify their technical assistance needs. The country's capabilities are assessed in relation

⁸¹ <https://www.cites.org/eng/cms/index.php/component/cp>

⁸² https://cites.org/eng/resources/enforcement_focal_points

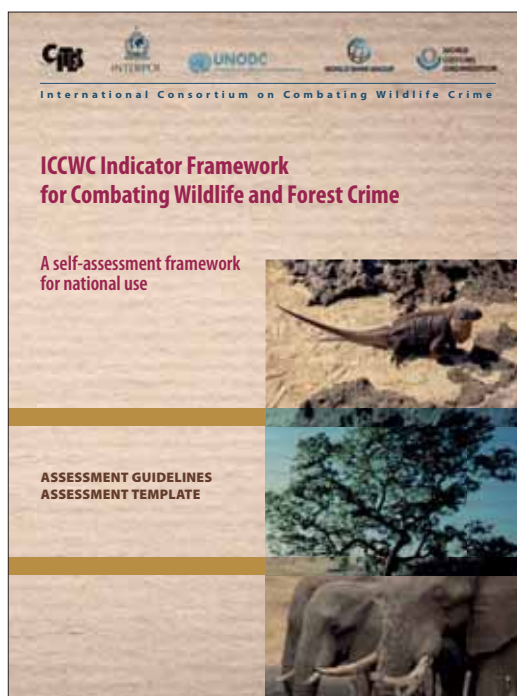
⁸³ For more details how to get access to ENVIRONET, see CITES Notification to the Parties No. 2015/039 of 25 June 2015: <https://cites.org/sites/default/files/notif/E-Notif-2015-039.pdf>



to relevant legislation, law enforcement measures, prosecutorial and judicial capacities, factors that drive offences, the effectiveness of preventive measures, and the availability and use made of data.

The Toolkit is available in English⁸⁴, French⁸⁵ and Spanish⁸⁶. See the Toolkit Fact Sheet⁸⁷ and implementation step by step guide⁸⁸ for more details.

ICCWC Indicator Framework for Wildlife and Forest Crime⁸⁹ (2016) is a self-assessment tool designed for use by countries at national level to measure and monitor the effectiveness of their law enforcement responses to wildlife and forest crime. It can be used in conjunction with or independently from the Toolkit and consists of 50 indicators against which countries can measure their own progress.



It consists of Assessment Guidelines⁹⁰ that provide an overview of the ICCWC Indicator Framework, and introduce the 50 indicators and the eight enforcement outcomes they are grouped under. It also provides practical guidance on completing an assessment using the ICCWC

Indicator Framework discusses the analysis of results including the more detailed exploration of results using the ICCWC Toolkit. It also includes an Assessment Template⁹¹ that provides the full measurement details of all 50 indicators to conduct the national assessment.

The Indicator Framework is available in English⁹², French⁹³, Portuguese⁹⁴ (template only) and Spanish⁹⁵.

84 https://cites.org/common/resources/pub/ICCWC_Toolkit_v2_english.pdf

85 http://www.unodc.org/documents/Wildlife/Toolkit_f.pdf

86 http://www.unodc.org/documents/Wildlife/Toolkit_s.pdf

87 https://cites.org/sites/default/files/eng/prog/iccwc/Toolkit_Fact_Sheet_ENG.pdf

88 <https://cites.org/sites/default/files/eng/prog/iccwc/Toolkit%20implementation%20-%20step%20by%20step%20v3.pdf>

89 https://cites.org/sites/default/files/eng/prog/iccwc/E-ICCWC-Ind-FW-Assessment_guidelines_and_template_clickable-final.pdf

90 <https://cites.org/sites/default/files/eng/prog/iccwc/ICCWC-Ind-FW-ASSESSMENT-GUIDELINES-FINAL.pdf>

91 https://cites.org/sites/default/files/eng/prog/iccwc/ICCWC-Ind-FW-ASSESSMENT_TEMPLATE-FINAL.pdf

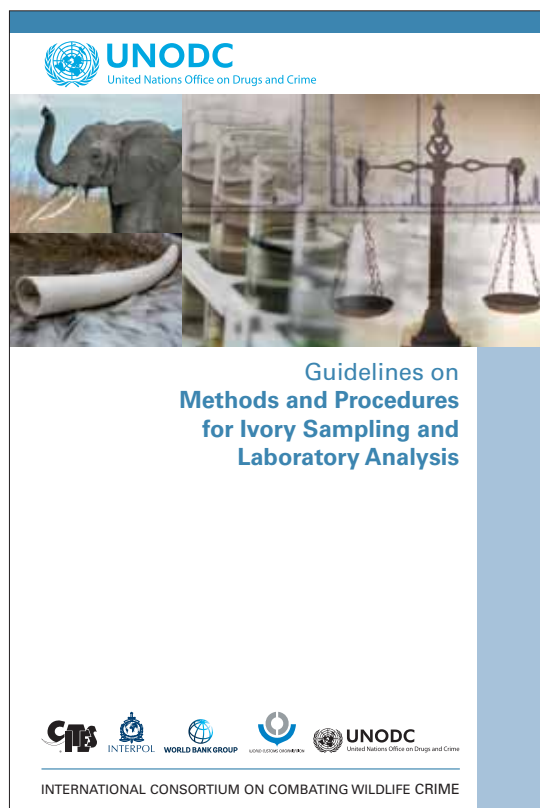
92 https://cites.org/sites/default/files/eng/prog/iccwc/E-ICCWC-Ind-FW-Assessment_guidelines_and_template.pdf

93 https://cites.org/sites/default/files/eng/prog/iccwc/F-ICCWC-Ind-FW-Assessment_guidelines_and_template.pdf

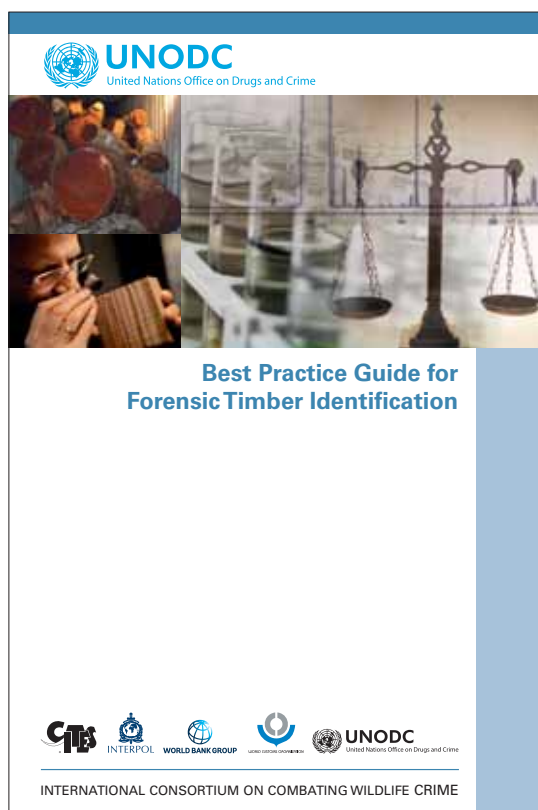
94 https://cites.org/sites/default/files/eng/prog/iccwc/ICCWC-Ind-FW-ASSESSMENT_TEMPLATE-FINAL-RevJuly16-port.pdf

95 https://cites.org/sites/default/files/eng/prog/iccwc/S-ICCWC-Ind-FW-Assessment_guidelines_and_template.pdf

ICCWC Guidelines on Methods and Procedures of Ivory Sampling and Analysis⁹⁶ (2014) was developed in support of the deployment of forensic technology to combat elephant poaching. To complement the Guidelines, ICCWC has also developed a training video on ivory sampling that is available in *English*⁹⁷ and *French*⁹⁸, as well as in *Arabic*⁹⁹ and *Chinese*¹⁰⁰.



Best Practice Guide for Forensic Timber Identification¹⁰¹ (2016) facilitates the use of forensic science to combat illicit trafficking in timber, and covers the whole chain of custody, providing information on best practices and procedures from the crime scene to the court room, to ensure that forensic data are credible and admissible in court.



Wildlife Crime and Money Laundering training program (2016) is a four day workshop to help Financial Intelligence Units (FIUs), investigators, prosecutors and judges to overcome the investigative, legal and procedural challenges related to wildlife crime and money laundering cases. It aims to develop capacity to standardise procedures in detecting illegal transactions and suspicious activities, and to investigate, prosecute and adjudicate money laundering cases related to wildlife trafficking. Individual programme modules are being tailored to the needs of the different practitioners, to help them choose effective strategies, understand complex criminal patterns, reconstruct financial transactions, and apply relevant procedures or statutes.

⁹⁶ https://www.unodc.org/documents/Wildlife/Guidelines_Ivory.pdf

⁹⁷ <https://www.youtube.com/watch?v=TgwGLIO-R7k&feature=youtu.be>

⁹⁸ <https://www.youtube.com/watch?v=vM6Vr2zmPyA&feature=youtu.be>

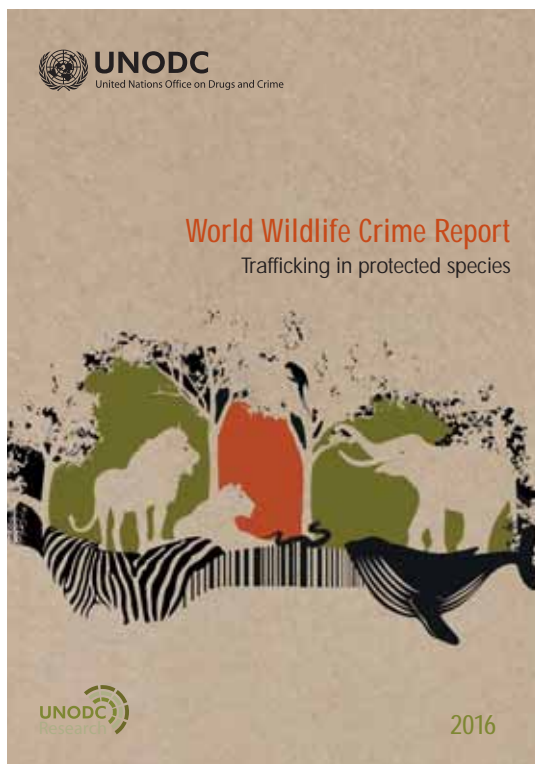
⁹⁹ <https://www.youtube.com/watch?v=HX0bfEc59Uc&feature=youtu.be>

¹⁰⁰ https://www.youtube.com/watch?v=LRw-qZ2i3_o&feature=youtu.be

¹⁰¹ https://www.unodc.org/documents/Wildlife/Guide_Timber.pdf

World Wildlife Crime Report¹⁰² takes stock of the present wildlife crime situation with a focus on illicit trafficking of specific protected species of wild fauna and flora, and provides an assessment of the nature and extent of the problem at the global level. The first ever report, published in 2016, looks at seven large industrial sectors that make use of wild sourced products and are vulnerable to wildlife and forest crime: seafood; pets, zoos and breeding; food, medicine and tonics; art, décor and jewellery; cosmetics and perfume; fashion; and furniture. It includes a quantitative market assessment and a series of in-depth illicit trade case studies based on evidence from 164,000 seizures in 120 countries, covering nearly 7,000 species.

More on ICCWC¹⁰³.



Montreal Protocol on Substances that Deplete the Ozone Layer

All treaties offer similar advice on communication: Customs officers should be aware of the national contact point for each MEA to which their country is a Party, and they should receive regular updates from contact points on how to implement the treaties.

Legal issues

Basel, Rotterdam and Stockholm Conventions

National legislation

In order to implement the three conventions at the national level, Parties should develop regulatory infrastructures. Each Convention requires that Parties take specific measures to develop an appropriate legal and institutional framework for the implementation and enforcement of the conventions. For instance, under the Basel Convention, each Party is required to consider illegal traffic in hazardous wastes as criminal and to introduce appropriate national/domestic legislation to prevent and punish illegal traffic.

Transit

In case of a movement of a waste falling under scope of the Basel Convention, via one or more transit country Parties, these countries also have to be notified and consulted as part of the notification procedure and agree to the transit. They also retain the right to perform checks and verify the document accompanying the movement (s). The Basel Convention defines “transit” as a movement “through” a State, it is therefore important to check what is meant by “transit” within a given Party. The Basel Convention does not clearly define the procedures to be applied in cases where the waste is legally defined as or considered to be hazardous wastes only by the State of transit. For practical reasons, it is recommended that the exporter or the State of export, through negotiations or by some other means, makes arrangements for the notification to be provided to the competent authority of the State of transit in accordance with the Basel Convention.

With respect to the Rotterdam Convention, any Party requiring information on transit movements

102 https://www.unodc.org/documents/data-and-analysis/wildlife/World_Wildlife_Crime_Report_2016_final.pdf

103 <https://cites.org/eng/prog/iccwc.php>

through its territory of chemicals listed in Annex III may report its need to the Secretariat. Other than this provision, the Rotterdam Convention does not regulate transit movements. The Stockholm Convention is silent on the matter of transits.

Exceptions

Basel Convention

Radioactive waste that is covered under other international control systems and wastes which derive from the normal operation of ships, the discharge of which is covered by another international instrument, are excluded from the scope of the Basel Convention.

Stockholm Convention

The Stockholm Convention only to those chemicals identified and listed as POPs in its Annexes A, B or C. In general, the Stockholm Convention prohibits the intentional production and use of POPs and bans their trade across international boundaries. However, the Convention can allow some exceptions to these rules for specific POPs when used in specific applications by Parties that have registered for such uses. The import and export of POPs wastes is also allowed for the purpose of environmentally sound disposal, taking into account relevant international rules, standards and guidelines, such as provided by the Basel Convention PIC procedure.

Specific Exemptions and Acceptable Purposes

A register of specific exemptions¹⁰⁴ is established in accordance with Article 4 of the Stockholm Convention, to identify Parties that have registered specific exemptions listed in Annex A or Annex B. The register has been amended by various decisions of the Conference of the Parties. Two registers of acceptable purposes¹⁰⁵ have been established in relation to DDT and PFOS / PFOS-F. The registers have also been amended by various decisions¹⁰⁶ of the Conference of the Parties.

Rotterdam Convention

The Rotterdam Convention does not apply to:

- ➔ Narcotic drugs and psychotropic substances;
- ➔ Radioactive materials;
- ➔ Wastes;
- ➔ Chemical weapons;
- ➔ Pharmaceuticals, including human and veterinary drugs;
- ➔ Chemicals used as food additives;
- ➔ Food;
- ➔ Chemicals in quantities not likely to affect human health or the environment provided they are imported:
 - For the purpose of research or analysis; or
 - By an individual for his or her own personal use in quantities reasonable for such use.

Non-parties to the Basel, Rotterdam or Stockholm Conventions

Basel Convention

Hazardous and "other" wastes may not be exported to or imported from a State not Party to the Basel Convention unless the Party and the non-Party have entered a bilateral or multilateral agreement regarding transboundary movements of wastes that does not derogate from the environmentally sound management of wastes as required by the Basel Convention (article 11).

Stockholm Convention

Export is allowed to a State that is not a Party to the Convention if the State provides an annual certification in which it specifies the intended use of the chemical and includes a statement in which it commits to:

- ➔ Protecting human health and the environment by minimizing or preventing releases
- ➔ Complying with provisions of the Convention on the management of wastes and stockpiles
- ➔ Complying with requirements for DDT production and use, if applicable.

Rotterdam Convention

Because of the requirement of the trade neutrality of the Import Response, a Party deciding not to consent or providing specified conditions to the import of certain chemicals, must also refuse, or allow only under the same specified conditions, imports of these chemicals from any source, including from non-Parties (article 10 paragraph 9).

¹⁰⁴ <http://chm.pops.int/Implementation/Exemptions/RegisterofSpecificExemptions/tabid/1133/Default.aspx>

¹⁰⁵ <http://chm.pops.int/Implementation/Exemptions/RegistersofAcceptablePurposes/tabid/793/Default.aspx>

¹⁰⁶ <http://chm.pops.int/Implementation/Exemptions/DecisionsRecommendations/tabid/167/Default.aspx>

Cartagena Protocol on Biosafety to the Convention on Biological Diversity

National legislation

The Biosafety Protocol requires that each Party takes the necessary legal, administrative and other measures to implement its obligations under the Protocol, including measures aimed at preventing and, if appropriate, penalizing transboundary movements of LMOs carried out in contravention of its domestic measure to implement the Protocol. Many countries are adopting new legislation or amending existing laws in order to implement the Protocol in their jurisdiction. These laws often include rules defining how a country will decide whether it will allow the import of an LMO, prohibit the import of an LMO or impose restrictions on the import of an LMO. Customs officers should know what systems their country has in place for making decisions on LMOs and how to find information on the decisions that have been made under any such systems.

Non-parties

Although countries that are not Parties to the Biosafety Protocol are not bound by its provisions, they may be required indirectly to abide by its terms if they are trading in living modified organisms with Parties. Article 24 of the Protocol requires the transboundary movements of LMOs between Parties and non-Parties to be consistent with the objective of the Protocol. The Biosafety Clearing-House, which is used by both Parties and non-Parties, includes numerous records of decisions on LMOs that have been taken by non-Parties.

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)

National legislation

All States Parties are required to adopt the necessary measures to implement the Chemical Weapons Convention (including the enactment of penal legislation) and to inform the OPCW of any legislative and administrative measures they have taken.

National implementing legislation is also important for submission of the information needed for an accurate national declaration and for export/import controls under the CWC. The format and extent of the legislation will depend on the State Party's legal system, the extent of its declarable chemical industry and whether it possesses chemical weapons.

States Parties to the CWC are obliged to implement its various requirements in their national law and review existing legislation for any incompatibilities with the Convention. Primary legislation typically covers:

- ➔ Definitions
- ➔ Composition, mandate and powers of the National Authority
- ➔ Prohibitions of certain activities
- ➔ Penalties for violations
- ➔ Extraterritorial application to nationals
- ➔ Requirement to submit data relevant for declarations
- ➔ Requirement to co-operate with inspections
- ➔ Requirement to protect confidential information.

Subsidiary regulations typically cover:

- ➔ Licensing of production facilities
- ➔ Import/export controls
- ➔ Procedures for submitting declarations-related data
- ➔ Procedures for inspections.

The following activities are usually prohibited by penal law. The law will state that no person shall, under any circumstances:

- ➔ Develop, produce, otherwise acquire, stockpile, own, possess or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone
- ➔ Use chemical weapons
- ➔ Assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under the Convention
- ➔ Transfer to or receive from any person in a State not Party any Schedule 1 or 2 chemicals
- ➔ Transfer any Schedule 3 chemicals to a State not Party without first obtaining an end-use certificate issued by the competent government authority of the State not Party

- Engage in any military preparations to use chemical weapons
- Use riot control agents as a method of warfare.

Free-trade zones

The free flow of goods in free zones and free ports is a revenue generator, and thus is vital to the economic health of some States Parties. However, the controls of environmentally sensitive commodities and substances should be applied and enforced in these zones as implied by the obligation under MEAs to prohibit certain activities in any place under its control. And yet over-regulation could choke off international trade. The States Parties must therefore achieve a balance.

The legislation, regulations and procedures applicable in the free zone or port will determine whether the port authority will routinely be aware of illegal transfers and in a position to enforce the Convention. In cases in which the violation is brought to the attention of the port authority by another State Party, the CWC is explicit: Article VII, paragraph 2, stipulates that the State Party shall co-operate and afford the appropriate form of legal assistance. The extent to which the Convention is being enforced in free zones or free ports varies. Some States Parties to the Convention have drafted their legislation in such a way that the Convention can be stringently enforced in their free zones or ports.

Non-party

Under the terms of the Convention, the transfer of Schedule 1 chemicals to States not Party is forbidden.

A similar ban on the transfer of Schedule 2 chemicals to and from States not Party came into force in April 2000. The following types of products are excluded from the ban on transfers of Schedule 2 chemicals to or from States not Party:

- Products containing 1 per cent or less of a Schedule 2A or 2A* chemical
- Products containing 10 per cent or less of a Schedule 2B chemical
- Products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.

It is permitted to transfer Schedule 3 chemicals to both State Parties and States not Party. However, an exporting State Party must obtain an end-use certificate from the recipient State not Party to ensure that the chemicals are being used for purposes not prohibited under the Convention. An end-use certificate is not required for:

- Products containing 30 per cent or less of a Schedule 3 chemical
- Products identified as consumer goods packaged for retail sale for personal use or packaged for individual use.

The Convention does foresee that States Parties may consider other measures regarding the transfer of Schedule 3 chemicals to States not Party five years after the Convention enters into force.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

National Legislation

National laws for implementing CITES empowers government officials to act, places limits on human actions and articulates policy in relation to the regulation of international wildlife trade. Although international agreements like CITES are legally binding on States that adhere to them, they are generally not self-executing. This means that they cannot be fully implemented until specific domestic measures have been adopted for that purpose. It is therefore absolutely essential that CITES Parties have legislation in place which allows them to implement all aspects of the Convention.

Only through adequate legislation which is permanently up to date and efficiently enforced, both at the borders and within countries, can CITES really work. Adequate national legislation is key to effective wildlife trade controls by the State agencies charged with implementing the Convention. It is also a vital prerequisite for ensuring that a State Party complies with the provisions of the Convention.

Creating and adopting effective and enforceable legislation is not an easy task and the Convention provides some guidance to Parties on what to include in their implementing legislation:

- Set forth the conditions for trade in specimens of CITES-listed species (Convention Articles III to VII);
- Requirement that Parties designate a Management Authority and a Scientific Authority (Article IX); and
- Requirement that Parties prohibit trade in specimens in violation of the Convention, penalize such trade and allow for the confiscation of specimens illegally traded or possessed (Article VIII).

More on CITES and national legislation is available on the CITES website¹⁰⁷.

Exceptions

In its Article VII, the Convention allows or requires Parties to make certain exceptions to the general provisions of the Convention. This situation can result in exemptions to the normal procedures in which no CITES documentation is required, or in special procedures in which trade is regulated but the specimens are subject to the provisions of an Appendix different to the one in which it is listed, or documents other than the normal CITES documentation are required.

Exceptions may include:

- Specimens in transit or transshipment
- Pre-Convention specimens
- Personal or household effects
- Captive-bred animals and artificially propagated plants
- Exchange between registered scientific institutions
- Travelling exhibitions

There are special rules in these cases, but a permit or certificate is generally still required.

Furthermore, some Parties have domestic legislation with trade controls that are stricter than those required by CITES. In such cases compliance with the basic CITES regulations may not be sufficient to ensure that trade is legal.

Non-parties

When an export or re-export is to, or an import is from, a State not a Party to the Convention, comparable documentation, issued by the competent authorities in that State, that substantially conforms to the requirements of CITES for permits and certificates may be accepted in lieu thereof. The Parties recommend that particular attention be given to inspecting specimens in transit from or to non-Parties and to the documents that accompany them.

Montreal Protocol on Substances that Deplete the Ozone Layer

Exemptions from calculation of consumption of controlled substances¹

The four main exemptions from calculation of consumption of controlled substances under the Montreal Protocol are as follows:

1. The imports and exports of recycled and used ozone-depleting substances are not taken into account in calculating a Party's consumption, provided such data are reported to the Ozone Secretariat
2. The use of methyl bromide for quarantine or pre-shipment treatment does not count as consumption for the country. National Ozone Units can provide more information on this category of use
3. Feedstock and process agents, where the chemicals are used in chemical processes and result in non-ODS products
4. Equipment containing ODS is not controlled by the Montreal Protocol. However, the Ozone Secretariat holds a list of countries that do not manufacture for domestic use and do not wish to import products and equipment whose continuing functioning relies on CFCs and halons. National Ozone Units can provide more information.

The Montreal Protocol also includes provisions for exempting the production and consumption of certain ozone depleting substances for three broad sets of exemptions; critical uses of methyl bromide, essential uses for all other chemicals controlled by the Montreal Protocol (except for HCFCs); and laboratory and analytical uses. Customs officers

¹⁰⁷ <https://cites.org/legislation>

should consult their National Ozone Units about other exemptions that may apply in their country.

Non-Parties

For Parties to the Montreal Protocol, ODS imports from or exports to countries not party to the Protocol are forbidden.

Reporting cases of illegal traffic in environmentally sensitive items

WCO enforcement instruments

Global Information and Intelligence Strategy (GIIS) and Risk Assessment Indicators

Risk management is central to reconciling the requirements of enforcement, security and facilitation. Intelligence, in turn, is a key component of risk management. To assist its members in constructing their national information and intelligence systems, the World Customs Organization (WCO) has developed and periodically updated its Global Information and Intelligence Strategy (GIIS, EC0132E1).

Since 2005, the WCO has developed Standardized Risk Assessments Model Risk Indicators/Profiles (EC0149E7). Among other things, this tool contains specific indicators for MEA-related trafficking. The indicators help Customs officers target goods and conveyances either for physical inspection or for post-importation audit, thereby allowing them to operate more efficiently and effectively.

Both of these tools have proven effective in collecting and analysing data, enhancing international co-operation and providing members with guidelines.

WCO Customs Enforcement Network (CEN) and the Regional Intelligence Liaison Offices (RILO)

The WCO Customs Enforcement Network (CEN) suite was developed to provide Customs administrations with the latest technology tools to successfully meet the challenges of the digital age in the fight against transnational organised crime.

As the pioneer of the CEN suite, the web-based CEN application assists the Customs enforcement community in gathering non-nominal data and

information for intelligence purposes, enhancing global profiling at the strategic, tactical and operational level, also in the area of environmental crime. The data in the CEN is classified into fifteen commodities, including environmentally-sensitive commodities such as CITES and hazardous material based on the Basel and Rotterdam Conventions. The application also allows the input of information on fauna and flora prohibitions which are not covered by the CITES Convention, as well as ozone depleting substances, pesticides etc.

To supplement intelligence gathering capabilities of Customs, the WCO also developed the CENcomm application for the exchange and dissemination of information during special border enforcement operations. CENcomm is a web-based communication platform permitting a closed user group of officers to exchange messages via encrypted channels, in real time, for the duration of an operation. CENcomm also hosts a number of specific long-term projects, such as ENVIRONET, which is a communication system for information exchange in the area of environmental crime, bringing together national authorities, international organizations, and other stakeholders such as the transport industry. The use of CENcomm grows every year, with an average of ninety operations and projects making use of this communication platform every year.

The primary users of the CEN suite on the global arena are the WCO's Regional Intelligence Liaison Offices. The unique nature of this RILO network offers an added layer of information exchange to the already existing channels between the WCO and Member administrations at the strategic level. Each of the eleven RILO offices covers a number of WCO Member States and responds to their intelligence needs at the regional level.

In addition to intelligence related requests, the RILO network supports its member administrations by providing them operational support, designing and implementing target-oriented intelligence analysis projects and regional intelligence-led operations, facilitating mutual administrative assistance and promoting and maintaining regional co-operation with other law enforcement agencies and organizations.

For more information on RILO activities in different regions, please contact:

Regional Intelligence Liaison Office for Asia-Pacific

Customs Department
721 Eonju-ro, Gangnam-gu
135-702 Seoul – KOREA

Regional Intelligence Liaison Office for Central Africa

Direction générale des douanes
Quai de la marine 05
B.P. 4049
Douala – CAMEROON

Regional Intelligence Liaison Office for Eastern and Central Europe

Polish Customs Service
Ministry of Finance
Swietokrzyska St. 12
00-916 Warsaw – POLAND

Regional Intelligence Liaison Office for CIS Countries

Central Enforcement Department
Federal Customs Service of Russia
Novozavodskaya St. 11/5
121087 Moscow – RUSSIA

Regional Intelligence Liaison Office for East and Southern Africa

Ministry of Finance
Praça dos Trabalhadores
Rua Consiglier Pedroso 436, 1º andar
Maputo – MOZAMBIQUE

Joint Intelligence Office for the Caribbean

Caribbean Customs Law Enforcement Council
4 Manoel St.
P.O. Box 1030
Castries – ST. LUCIA

Regional Intelligence Liaison Office for Middle East

Customs Department
P.O. Box 22631
11416 Riyadh – SAUDI ARABIA

Regional Intelligence Liaison Office for North Africa

Administration des douanes et Impôts Indirects
Avenue Ennakhil
Hay Ryad
Rabat – MOROCCO

Regional Intelligence Liaison Office for South America

Dirección nacional de Aduanas
60 Plaza Sotomayor
Valparaiso – CHILE

Regional Intelligence Liaison Office for Western Africa

Rue René Ndiaye angle Carde
B.P. 4033
Dakar – SENEGAL

Regional Intelligence Liaison Office for Western Europe

Zollkriminalamt (ZKA)
Bergisch Gladbacher St. 837
51069 Köln – GERMANY

A note about the WCO website: The website has both a public area and a private one. The public area (<http://www.wcoomd.org>) is designed to promote the various legal instruments managed by the WCO Secretariat. Access to the private area is restricted to WCO members.

INTERPOL's Ecomessage

It is generally agreed that environmental crime is one of the most profitable and fastest-growing areas of international criminal activity. Criminal networks and syndicates, motivated by high profits and low risks, have established an international industry that:

- Endangers the health and welfare of communities and future generations
- Compromises the natural heritage and ecological integrity of the planet
- Unfairly disadvantages those companies complying with environmental laws
- Flouts environmental law as well as many other laws.

It is important to keep in mind that environmental crime can be both local and transnational. For example, illegal dumping of hazardous waste obviously affects the site of the incident. But the generators and transporters of the waste, as well as the agents, principals and witnesses, may be far from the scene, and frequently reside beyond national borders. In those situations, the environmental crime is effectively countered only by good international co-operation.

More than a quarter-century of experience persuaded INTERPOL that the timely exchange of pertinent information is crucial to any campaigns that target international environmental crime. INTERPOL also learned, however, that information exchange between various countries can suffer from disruptive complications because:

- The required information often must be collected from widely scattered sources
- Countries do not have uniform reporting methods
- There has been no international repository for the collection, storage, analysis and circulation of information useful in efforts against environmental crime
- Investigators in one country often have not known which law enforcement agency or agencies were their appropriate contacts in other countries.

INTERPOL resolved these shortcomings by creating a reporting system and database of environmental crime cases (INTERPOL Resolution (1994),

AGN/63/RES/12). This system of Ecomessages covers all major environmental crime, including:

- Illegal transboundary movements and illegal dumping of wastes;
- Illegal transboundary activities involving ozone-depleting and radioactive substances;
- Illegal traffic in species of wild flora and fauna;
- Transnational fisheries crime.

Ecomessage: what it is and how it functions

INTERPOL's General Secretariat in Lyon, France, serves as a central collection point for information on international environmental crime. INTERPOL's Ecomessage systematically accepts environmental crime data and enters it into a computerised data collection facility at the General Secretariat.

The Ecomessage system uses a simple, carefully designed form to transmit details of a particular crime to INTERPOL. The standardised design of the communication permits:

- Speedy and methodical entry of the report's details in a format that is compatible with the INTERPOL database
- Efficient cross-referencing of the data against other entries in the computerised database
- Organised and meaningful extraction of that data in a way that facilitates applications such as criminal intelligence analysis.

An Ecomessage report must be transmitted to INTERPOL via a standardised procedure and routing. This systematic approach helps to ensure the validity of the data transmitted. Assured validity increases the reliability of the information in INTERPOL's database and provides more dependable results when that information is used.

In any one country, many government law enforcement agencies may enforce environmental laws, and the environment ministry or agency itself may have various enforcement authorities. The Customs agency often intercepts and seizes contraband consignments of waste shipments. If the case concerns pollution on surface waters, the water police and coast guard authorities may be involved. National and local police departments also often play a role in environmental law enforcement, as do attorneys general and other government agencies.

Any of these agencies may gather the information required for an Ecomessage report. When the information is gathered, however, it should be brought to the INTERPOL National Central Bureau (NCB) of the reporting country. The NCB is usually found in the international relations department of the national police. If difficulty is experienced in locating the NCB in their country the INTERPOL General Secretariat should be contacted:

INTERPOL General Secretariat
200, quai Charles de Gaulle,
69006 Lyon, France
Fax: +33 (0) 4 7244 7163
Tel.: +33 (0) 4 7244 7000
E-mail CCC-OperationsRoom@INTERPOL.int

It is the NCB's responsibility to transmit the details of an Ecomessage to the INTERPOL General Secretariat. This responsibility is outlined in INTERPOL circular letter reference 38/DII/SD2/E/INT/WG/2/ENV/94 of 9 June 1994, which should be on file in every INTERPOL NCB worldwide.

When the INTERPOL General Secretariat receives an Ecomessage, the information it contains is entered into INTERPOL's computerised database. Several important benefits are generated by this process:

- The information is immediately screened against all other information in the INTERPOL computer, which can produce important feedback. For example, if Country X reports the arrest of Mr. A on charges of illegally transporting waste, the processing of the Ecomessage may produce information that Mr. A is also wanted by Country Y for a similar offence, or that he has already been convicted in Country Z for a related offence. Information on concurrent warrants for arrest, or prior convictions, is of great interest and importance to prosecuting attorneys.
- The Ecomessage form also has provision for the reporting country to ask questions, and it provides a mechanism for international co-operation. For example, suppose a waste broker has shipped an illegal load of hazardous waste into Country X from Country Y. Using the questioning possibilities of

Ecomessage, investigators in Country X can ask for information about the waste broker in Country Y, or the carrier involved. They can also ask anything else for which international information exchange will help their case along.

- Data collected in INTERPOL's computers can be accessed by the professional analysts who work in the INTERPOL Analytical Criminal Intelligence Unit. When adequate reliable data are available, very useful analyses can be conducted to reveal the criminals involved, as well as the size, structure and dynamics of the criminal enterprise or network involved.

Although INTERPOL has been using the Ecomessage for years, the database is still too small to produce a truly global analysis of the criminality associated with international environmental crime. The system needs more data via Ecomessage reports. Once statistically significant masses of data are acquired, they can be analysed and used to construct a worldwide picture of the illegal international environmental crime.

Ecomessage Form

Examples of the Ecomessage form appear in Figure 3-1. The style presented in this example can be used to transmit the Ecomessage to the INTERPOL General Secretariat in Lyon, France.

Anyone preparing an Ecomessage form should keep all entries in the same numbered and lettered sequence, which is important to maintain compatibility with the INTERPOL database. A properly prepared form will enter easily into the database and is much more likely to produce results.

If the information for a particular item on the form is not available, mark it as «unknown» or simply leave it blank.

The complete Ecomessage form should be delivered to the local INTERPOL National Central Bureau.

ECOMESSAGE FORMS

EXAMPLE I (GENERIC FORM)

1. Subject

- 1.1 A brief description of the crime
- 1.2 Code/operation name, reference number as generated by your authority
- 1.3 Legal description of the offence (Reference number, Citation of legislation violated and legally possible penalties)
- 1.4 Law enforcement agency with primary responsibility for the case. Include name, address and contact details

2. Place and method of discovery

- 2.1 Place where offence was discovered (e.g. name of a port or city). If on sea or open countryside, indicate distance and direction to a known reference point.
- 2.2 City, Country, Exclusive Economic Zone (EEZ) or Sea
- 2.3 Latitude and longitude
- 2.4 How the crime was discovered (e.g. customs inspection, informant information, patrols etc.)

3. Date and time

- 3.1 Date and time when the crime was discovered
- 3.2 Date and time when the crime was committed (if different from 3.1)

4. Contraband products

- 4.1 Items seized: e.g. animal parts (type and condition), timber, money, weapons, ammunition, hazardous waste etc.
- 4.2 Quantity: specify/estimate the volume and units of measure
- 4.3 Value: specify/estimate the value and currency

5. Identity of person(s) involved

Note: Items 5.1. to 5.12. must be completed for each person involved.

- 5.1. Date of arrest
- 5.2. Family name (and Maiden name)
- 5.3. First name(s)
- 5.4. Sex
- 5.5. Alias(es)
- 5.6. Date of birth
- 5.7. Place of birth
- 5.8. Nationality
- 5.9. Address
- 5.10. Telephone number
- 5.11. Email
- 5.12. Information contained on passport or national ID - Include numbers, place & date of issue, period of validity
- 5.13. Profession
- 5.14. Bank account/credit card number(s)
- 5.15. Role in the offence e.g. courier, dealer, etc.
- 5.16. Role in any company mentioned in item 6
- 5.17. Additional information about the person e.g. links to other criminals or crimes

6. Companies involved

Note: Items 6.1. to 6.6. must be completed for each business involved.

- 6.1. Type: legal type of company
- 6.2. Name: legal name and any trade names
- 6.3. Activities
- 6.4. Address and telecommunications details of headquarters
- 6.5. Registration number
- 6.6. Business address and phone/fax (If not same as item 6.4)
- 6.7. Bank account/credit card number(s)
- 6.8. Additional information about the company e.g. links to criminals or crimes

7. Means of transport and route

Type of transport used in the commission of the crime, State if it has been seized

8. Vessel

- 8.1 Type of vessel, history, recent and previous flag state
- 8.2 Has the vessel been blacklisted? If so, when and with which international Regional Fishing Monitoring Organization
- 8.3 IMO number
- 8.4 MMSI number
- 8.5 Hull number
- 8.6 Owner details including name, address and nationality
- 8.7 Flag state, registration document or number
- 8.8 Catch logbook number
- 8.9 Cargo manifest(s) or bill of lading
- 8.10 Is there a radio transmission logbook
- 8.11 Is there an engine logbook
- 8.12 Does the vessel have any country licenses for fishing in EEZ
- 8.13 Does the vessel have any quotas on species in EEZ

9. Locations and routes

- 9.1 Country and town/port of origin
- 9.2 Country of provenance: Country of last re-export
- 9.3 Country/countries of transit
- 9.4 Country and address of destination: destination declared on transport documents and the real destination, if different.

10. Modus operandi

Describe the modus operandi precisely, including: concealment method, use of weapons, falsified documents, equipment and financial instruments. Note links to other cases

11. Identification of documents used

Types of documents, including authorisations, transport documents, invoices, etc. Specify if altered or fraudulent.

12. Additional information

Other relevant information not covered elsewhere

13. INTERPOL support required

Do you require further information from foreign countries (e.g. a freight forwarding company's history of violations) or operational support from INTERPOL to progress enquiries?

14. Evaluation**14.1 Is the source of information?**

(A) always reliable	(B) sometimes reliable	(C) unreliable	(X) untested
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14.2 Is the information

(1) known to be true	(2) known to the source but not the person reporting	(3) not known to the source but corroborated	(4) not known to the source and cannot be corroborated
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Further information

Basel, Rotterdam and Stockholm Conventions

Training and capacity building materials

- Interactive Manual for Customs on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm conventions¹⁰⁸
- E-learning module for law enforcement officers on hazardous chemicals and wastes under the Basel, Rotterdam and Stockholm Conventions¹⁰⁹
- Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Waste¹¹⁰
- Basel Convention Training Manual on Illegal Traffic for Customs and Enforcement Agencies¹¹¹
- Guidance on the implementation of the Basel Convention provisions dealing with illegal traffic (paragraphs 2, 3 and 4 of Article 9)¹¹²

Cartagena Protocol on Biosafety to the Convention on Biological Diversity

Training and capacity building materials:

- Biodiversity e-learning platform¹¹³
- Video: the Cartagena Protocol on Biosafety¹¹⁴
- Handling, Transport, Packaging and Identification¹¹⁵
- Collaborative Portal for Customs Officials¹¹⁶
- Sampling, Detection and Identification¹¹⁷

Other useful information:

- Text of the protocol¹¹⁸
- Compliance Committee¹¹⁹

Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (CWC)

Other useful information:

- Text of the Convention¹²⁰
- Annex on Chemicals¹²¹

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

Training and capacity building materials

- CITES Training materials & Green Customs Knowledge Series (from CITES Virtual College)¹²²

Other useful information

- CITES Website¹²³
- List of Parties to the Convention¹²⁴
- Text of the Convention¹²⁵
- International Consortium on Combating Wildlife Crime (ICWC)¹²⁶
- ICWC tools¹²⁷

Montreal Protocol on Substances that Deplete the Ozone Layer

Training and capacity building materials:

- Other useful information:
- Text of the Montreal Protocol – 10th edition (2016)¹²⁸

108 <http://www.basel.int/Portals/4/download.aspx?d=UNEP-FAO-CHW-RC-POPS-MANUAL-CUSTOM-2014.En.pdf>

109 <http://synergies.pops.int/Implementation/TechnicalAssistance/ToolsandMethodologies/Elearningmoduleforlawenforcement/tabid/3534/language/en-US/Default.aspx>

110 <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx>

111 <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx>

112 <http://www.basel.int/Implementation/LegalMatters/IllegalTraffic/Guidance/tabid/3423/Default.aspx>

113 <https://scbd.unssc.org/>

114 https://bch.cbd.int/protocol/cpb_media_video1.shtml

115 https://bch.cbd.int/protocol/cpb_art18.shtml

116 https://bch.cbd.int/protocol/cpb_art18/customs_portal/

117 https://bch.cbd.int/protocol/cpb_detection.shtml

118 <https://bch.cbd.int/protocol/text/>

119 https://bch.cbd.int/protocol/cpb_art34_info.shtml

120 <https://www.opcw.org/chemical-weapons-convention/>

121 <https://www.opcw.org/chemical-weapons-convention/annexes/annex-on-chemicals/>

122 <https://cites.unia.es/cites/mod/resource/view.php?id=58>

123 <https://cites.org>

124 <https://cites.org/eng/disc/parties/index.php>

125 <https://cites.org/eng/disc/text.php>

126 <https://cites.org/eng/prog/icwc.php>

127 <https://cites.org/eng/prog/icwc.php/Tools>

128 <http://ozone.unep.org/en/handbook-montreal-protocol-substances-deplete-ozone-layer/25415>

This Guide is available in both hard copy and electronically. It can be downloaded from <http://www.greencustoms.org>.

For more information

For more information on the Green Customs Initiative, contact:

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UN ENVIRONMENT Law Division
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Nairobi, Kenya
Tel.: + 254 20 7624011
E-mail: unenvironment-greencustomsinitiative@un.org
green.customs@unep.org
www.greencustoms.org

About the UN Environment Law Division

The UN Environment Law Division is the lead Division charged with carrying out the functions of UN Environment that involve the development and facilitation of international environmental law, governance and policy. To fulfil its mandate, the Law Division work focuses on:

- Leading the international community in the progressive development of environmental law;
- Supporting States in the development and implementation of legal and policy measures that address emerging environmental challenges;
- Facilitating harmony and inter-linkages among environmental conventions;
- Working with MEA Secretariats to support States in implementing their treaty obligations;
- Enhancing States' participation in regional and global environmental forums.

THE GREEN CUSTOMS GUIDE to Multilateral Environmental Agreements

The Green Customs Guide provides information and guidance to Customs and other border control officers to assist in their efforts to monitor and facilitate the legal trade and to detect and prevent the illegal trade in environmentally sensitive items such as ozone depleting substances, toxic chemicals, hazardous waste, endangered species and living modified organisms.

This Guide explains the Green Customs Initiative and provides an overview of the relevant trade-related treaties and organizations that are included in this initiative. Information is provided on how trade is regulated and the responsibilities of Customs officers and border protection agencies in implementing the various controls are described. Specialised terminology is explained and sources of further information and assistance is provided. The Guide is designed to be used as part of a training curriculum for Customs officers or border control officers, or as a stand-alone resource.

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