

Implementation and Compliance Committee (ICC)

Progress on the Development of the Guidance on the implementation of the Basel Convention provisions dealing with the consequences of illegal traffic (paragraphs 2, 3 and 4 of Article 9)

GERI-GERONIMO R. SAÑEZ

Chief, Hazardous Waste Management Section

Environmental Management Bureau

Department of Environment and Natural Resources

PHILIPPINES

Twelfth ICC Meeting (Nairobi, 4-6 June 2016)

- By its decision BC-12/7, the Conference of the Parties (COP) at its twelfth meeting adopted the work programme for the biennium 2016–2017 of the ICC, whereby it mandated the Committee, among other things, to prevent and combat illegal traffic.
- Continue to develop, through consultations with the Open-ended Working Group, guidance on the take-back provision under paragraph 2 of Article 9 and develop guidance on the implementation of paragraphs 3 and 4 of Article 9 of the BC
- Integrate the two sets of guidance into one document, for consideration and possible adoption by the Conference of the Parties at its thirteenth meeting



- Committee Members - Argentina, Switzerland, and Dominican Republic – took the lead on this activity
- Following the twelfth meeting of the COP, a questionnaire on parties' implementation of paragraphs 3 and 4 of Article 9 of the Convention was developed.
- The questionnaire, available in English, French and Spanish, was communicated to Parties on 21 July 2015 with an invitation to respond by 10 September 2015.



- 16 September 2015:
 - Secretariat informed Committee members of responses received to the questionnaire
- 02 December 2015: informal consultations
 - Secretariat reported that:
 - a voluntary contribution from Japan had allowed the Secretariat to hire a consultant;
 - 53 responses to the questionnaire had been received by the time of the consultations;
 - an initial draft guidance was currently under consideration by the lead Committee members



- 05 February 2016:
 - Secretariat circulated to the Committee members the second draft guidance on the implementation of the Basel Convention provisions dealing with the consequences of illegal traffic (paragraphs 2, 3 and 4 of Article 9
- 03 March 2016:
 - Secretariat reported that a revised draft guidance (taking into account comments from one Committee member) had been endorsed by the Committee for consultation with the Open-ended Working Group at its tenth meeting and consideration by the Committee at its twelfth meeting.



- 4-6 June 2016: Twelfth meeting of the ICC
 - Outcome of the OEWG-10:
 - Most of the comments received from the European Union and its member States were of an editorial nature.
 - Canada had suggested that some case studies illustrate the implementation of paragraphs 3 and 4 of Article 9. Canada was invited to share such case studies.
 - Members agreed that for any case study to be included in the guidance, all Parties concerned by it should agree to its inclusion.



- 4-6 June 2016: Twelfth meeting of the ICC
 - The Committee requested the Secretariat to:
 - (a) Prepare by 15 August 2016 revised draft guidance taking into account the outcome of the consultations with the OEWG as well as the outcome of the Committee's consideration of the guidance during its twelfth meeting;
 - (b) Circulate the new draft guidance to Parties and others with an invitation to comment thereon by 10 September 2016;
 - (c) Prepare final draft guidance by 30 September 2016 taking into account comments received from Parties and others, for endorsement by electronic means by the Committee and for consideration and possible adoption by the Conference of the Parties at its thirteenth meeting.



Guidance on the Implementation of the BC Provisions Dealing with Illegal Traffic (paragraphs 2, 3, and 4 of Article 9)

draft as of 19 August 2016

1. Objectives
2. Determining whether a shipment is deemed to be illegal traffic
 - 2.1. BC provisions pertaining to illegal traffic
 - 2.2. Determining the applicability of paragraphs 2, 3, or 4 of Article 9
 - 2.2.1 Steps for determination
 - 2.2.2 Actors involved



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3. States and entities involved

3.1. States involved

3.1.1 Parties

3.1.2 Non-Party States

3.2 Entities involved

3.3 Initial contact and immediate measures



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- 4. Illegal traffic deemed to be as the result of conduct on the part of the exporter or generator
 - 4.1. The take-back of the wastes
 - 4.1.1 Request for the take-back
 - 4.1.2 Notification of the take-back
 - 4.1.3 Costs related to the take-back
 - 4.2 In case take-back is impracticable
 - 4.2.1 The disposal of the wastes
 - 4.2.2 Costs related to the disposal of the wastes
 - 4.3 Action to be taken following the take-back or disposal of the wastes



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- 5. Illegal traffic deemed to be as a result of conduct on the part of the importer or disposer
 - 5.1. The disposal of the wastes by the importer of disposer
 - 5.2. The disposal of the wastes by the State of import
 - 5.3. The costs related to the disposal of the wastes
 - 5.4. Action to be taken following disposal of the wastes



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6. Where responsibility for the illegal traffic cannot be assigned
 - 6.1. The disposal of the wastes
 - 6.2. The costs related to the disposal of the wastes
 - 6.3. Actions to be taken following disposal of the wastes
7. Procedures and mechanisms in case of disagreement between the Parties
8. Emergencies and liability for damage



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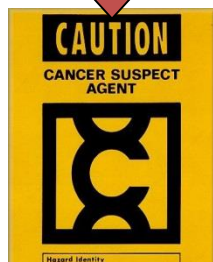


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