

# CARICOM CUSTOMS HANDBOOK

Guide to Multilateral Environmental Agreements



ACP MEAs



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INSIDE FRONT COVER**

# **CARICOM CUSTOMS HANDBOOK**

**Guide to Multilateral Environmental Agreements**



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ISBN: 978-976-600-284-8

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This document has been produced with financial assistance of the European Union under a joint EU-UNEP-CARICOM project. The views expressed in this publication do not necessarily reflect the official views or opinions of the CARICOM Secretariat, the European Commission, or the United Nations Environment Programme.

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## Preface

Many environmental problems have a global impact and can only be effectively addressed through international co-operation and shared responsibility, made possible through multilateral environmental agreements (MEAs).

The MEAs addressed in this Handbook all contain trade related provisions that regulate the cross-border movement – import, export, transit, re-export – of environmentally sensitive items, substances and products. The Handbook provides information about:

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

All CARICOM member states are Party to one or more of these MEAs and therefore have a responsibility to institute measures for encouraging compliance and dealing with related enforcement issues. Customs and other border control agencies play an important role in enforcement because they are empowered to exercise control over goods entering or leaving their country or economic space. It is the responsibility of Customs and other border control agencies to ensure that such imports and exports comply with national, regional and international law.

This Handbook is intended to better equip officers to carry out MEAs-related duties and, in doing so, to make a contribution to protection of the local, regional and global environment.

## Acknowledgements

This Handbook was produced by the Caribbean Community (CARICOM) Secretariat, with the financial assistance of the European Union, as part of a joint European Union-United Nations Environment Programme-CARICOM project for capacity-building related to MEAs in Caribbean members of the African, Caribbean and Pacific (ACP) Group of States.

The primary source of the information used in developing the Handbook was the *Green Customs Guide to Multilateral Environmental Agreements* (United Nations Environment Programme (UNEP), 2008), produced by the United Nations Environment Programme and the Green Customs Initiative Secretariat. Preparation of the Handbook was also informed by presentations made at the Regional Green Customs Workshop for the Caribbean, conducted by UNEP in the Dominican Republic in November 2009.

Valuable input to the Handbook was provided by participants in the pilot Caribbean Regional Training Workshop on MEAs Enforcement for Customs Officials and Border Control Personnel, conducted by the CARICOM Secretariat in the Dominican Republic in July 2012.

Key contributors to the authorship of this Handbook are Claude Paul of Claude Paul Consulting, St. Lucia, and Thérèse Yarde, Anya Thomas and Bernard Black of the CARICOM Secretariat.

## About the Handbook

This Handbook is designed for use by Customs officers and other border control officials in CARICOM member states. It is intended to assist these officials in understanding the practical aspects of enforcing MEAs as part of their normal duties of law enforcement and regulation of trade activities at ports of entry. Although each of the MEAs has a different purpose, they all involve control of trade in environmentally sensitive goods, and so there are similarities between them at the operational level. The types of issues facing a Customs officer or border control agent when implementing one treaty might resemble those encountered in implementing other treaties.

Chapters 1 to 6 of the Handbook provide an overview of each of the MEAs and highlight key issues related to customs and border control. For each MEA, the scope and purpose of the agreement is summarized, the associated legal and administrative requirements are outlined, and information is provided about practical aspects of enforcement.

Chapter 7 discusses some of the cross cutting issues relevant to general enforcement of all of the MEAs. Consideration of these issues will assist Customs officers and other border control officials in the course of their duties.

This Handbook can serve as a tool to be used by Customs officers and border control officials in the execution of their duties. It may also be used for training purposes, as a supplement to the CARICOM Learning Kit on the Role of Customs and Border Control in the Enforcement of Multilateral Environmental Agreements. Users who become familiar with its contents will gain the knowledge required to perform their MEAs-related duties effectively and so to contribute to the global efforts to protect and preserve the planet.

The information in this Handbook is correct as of July 2013.

# 1

## The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal



### *Introduction*

The Basel Convention was created to respond to increased public concern about toxic wastes in the 1980s. Tighter environmental regulation in industrialized countries resulted in sharp increases in the cost of hazardous waste disposal in these countries. Traders started shipping hazardous waste to less developed countries in Africa, Eastern Europe and other regions. There were concerns about toxic ships sailing from port to port trying to offload their poisonous cargo. In some cases, toxic waste shipments were dumped indiscriminately, spilled accidentally or managed improperly, causing severe health and environmental problems. Such incidents received international attention, and as a result the Basel Convention was negotiated under the auspices of the United Nations Environment Programme (UNEP).

### *Purpose and Objectives*

The Basel Convention is intended to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous and other wastes. Specifically, the Convention's objectives are:

- to reduce transboundary movement of hazardous and other wastes to a minimum consistent with their environmentally sound management
- to treat and dispose of hazardous wastes as close as possible to their origin, in an environmentally sound manner
- to minimize the generation of hazardous wastes and other wastes.

### *Legal Obligations*

To achieve its objectives, the Basel Convention imposes restrictions and conditions on the transportation of hazardous wastes across international boundaries.

Parties to the Convention should not allow hazardous or other wastes to be exported to countries that have prohibited the import of such wastes.

Parties have the right to prohibit the import of hazardous or other wastes for disposal.

Parties to the Convention should not allow hazardous wastes or other wastes to be exported to countries where there is reason to believe that the wastes will not be managed in an environmentally sound manner.

Generally, Parties are prohibited from exporting wastes to or importing wastes from non-Party countries.

Illegal traffic in hazardous wastes is considered criminal, and traffic is considered illegal if

- it occurs without proper notification to all States concerned
- it occurs without the consent of a State concerned
- consent for movement is obtained through falsification, misrepresentation or fraud
- movement of the waste does not conform with the relevant documents
- it results in deliberate disposal of hazardous wastes in contravention of the Basel Convention.

In the case of illegal traffic that results from conduct on the part of the disposer or exporter, the exporting State must take back the waste and/or ensure that the waste is disposed of in an environmentally sound manner.

Hazardous wastes under the Basel Convention are identified in Annexes I, II, VIII and IX of the Convention. Parties may also establish their own national definition of hazardous waste to which the Basel Convention should apply. A list of such national definitions may be found at the Basel Convention website ([www.basel.int](http://www.basel.int)).

### ***Control of Transboundary Movements of Hazardous Wastes under the Basel Convention***

The Basel Convention system for control of cross-border movements of hazardous wastes includes 3 key elements:

- Notification
- Consent
- Documentation of Movement.

#### **Notification**

A transboundary movement of hazardous waste requires all Competent Authorities of all countries involved (i.e. countries of export, import, and transit) to be notified. A notification usually covers only one type of waste and may cover only one shipment. However, a notification may cover several shipments of waste over a maximum period of one year. The purpose of the notification is to provide the Competent Authorities of the countries concerned with detailed, accurate and complete information about the waste, about the proposed disposal operation and about other details related to the proposed movement.

Before notification occurs, the generator in the country of export and the disposer in the country of import must conclude a contract for the disposal of the waste. Under the Convention this contract must ensure that the disposal is conducted in an environmentally sound manner.

Once the contract is concluded, the generator or exporter of the waste must inform the Competent Authority in the country of export of the proposed movement. If the Competent Authority has no objection to this export, it transmits a notification document to the Competent Authority of the country of import, and to the Competent Authorities of the countries of transit. The Competent Authority in the country of export may object to the movement of the wastes, and may therefore refuse to transmit a notification. The decision by a Competent Authority not to transmit a notification is perfectly in order with the spirit of the Convention.

Under the Convention it is illegal to ship waste without the proper notification to all importing and transit States concerned.

An example of a notification document is presented in Figure 1. Guidance on how notification documents should be completed is available at the Basel Convention website ([www.basel.int](http://www.basel.int)).

**Notification document for transboundary movements/shipments of waste**

<b>1. Exporter - notifier</b> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail:		<b>3. Notification No:</b> <b>Notification concerning</b> 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"/> C. Pre-consented recovery facility (2;3) Yes <input type="checkbox"/> No <input type="checkbox"/>	
<b>2. Importer - consignee</b> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail:		<b>4. Total intended number of shipments:</b>  <b>5. Total intended quantity (4):</b> Tonnes (Mg): m <sup>3</sup> :	
<b>8. Intended carrier(s)</b> Registration No: Name(7): Address:  Contact person: Tel: Fax: E-mail: Means of transport (5):		<b>6. Intended period of time for shipment(s) (4):</b> First departure: Last departure: <b>7. Packaging type(s) (5):</b> <b>Special handling requirements (6):</b> Yes: <input type="checkbox"/> No: <input type="checkbox"/>	
<b>9. Waste generator(s) - producer(s) (1;7;8)</b> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail: Site and process of generation (6)		<b>11. Disposal / recovery operation(s) (2)</b> D-code / R-code (5): Technology employed (6):  Reason for export (1;6):	
<b>10. Disposal facility (2):</b> <input type="checkbox"/> <b>or recovery facility (2):</b> <input type="checkbox"/> Registration No: Name: Address:  Contact person: Tel: Fax: E-mail: Actual site of disposal/recovery:		<b>12. Designation and composition of the waste (6):</b>   <b>13. Physical characteristics (5):</b>  <b>14. Waste identification (fill in relevant codes)</b> (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EC list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code (5): (ix) UN class (5): (x) UN Number: (xi) UN Shipping name: (xii) Customs code(s) (HS):	
<b>15. (a) Countries/States concerned, (b) Code no. of competent authorities where applicable, (c) Specific points of exit or entry (border crossing or port)</b>			
State of export - dispatch		State(s) of transit (entry and exit)	
State of import - destination			
(a)			
(b)			
(c)			
<b>16. Customs offices of entry and/or exit and/or export (European Community):</b> Entry: Exit: Export:			
<b>17. Exporter's - notifier's / generator's - producer's (1) declaration:</b> 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.			<b>18. Number of annexes attached</b>
Exporter's - notifier's name: Date: Signature: Generator's - producer's name: Date: Signature:			
<b>FOR USE BY COMPETENT AUTHORITIES</b>			
<b>19. Acknowledgement from the relevant competent authority of countries of import - destination / transit (1) / export - dispatch (9):</b> Country: Notification received on: Acknowledgement sent on: Name of competent authority: Stamp and/or signature:		<b>20. Written consent (1;8) to the movement provided by the competent authority of (country):</b> Consent given on: Consent valid from: until: Specific conditions: No: <input type="checkbox"/> If Yes, see block 21 (6): <input type="checkbox"/> Name of competent authority: Stamp and/or signature:	

**Figure 1 - Basel Convention notification document for transboundary movements of waste**

## Consent

Movement of the hazardous waste must not take place until the Competent Authorities in the countries of import and transit have provided written consent, with or without conditions. (Countries of transit may waive their right to prior written consent.) Before making a decision on consent, the Competent Authority of the country of import must confirm the existence of a contract between the exporter and the disposer in the country of import. The Competent Authority of the country of import must also confirm the existence of a contract between the exporter and the disposer. One of the most important conditions of the notification procedure is the verification of the existence of a legally binding contract between the generator and the disposer, specifying environmentally sound management of the wastes in question.

The Competent Authority of any country of transit should acknowledge receipt and provide its written consent (with or without conditions) or denial to the country of export within 60 days. Countries of transit may decide not to require prior written consent, in which case the country of transit must inform all other parties through the Secretariat that it will not require prior written consent for transit shipments. If a transit State has so informed the Secretariat, and the Competent Authority in the country of export does not receive any response from that State of transit within 60 days of notification, it may be assumed that the State of transit consents to the shipment.

If one of the countries concerned denies permission for the movement, the transboundary movement is not authorized and should not be allowed to commence. When a country of transit denies permission, but the country of import consents, the country of export must not allow the shipment to leave the country of export, even when the carrier can prove that the country of final destination has given its consent to the movement. In such cases, the exporter has to find another transit country willing to permit the waste to move across its borders.

Similarly, when the country of transit has consented to the movement, but the country of import has not, the country of export must not allow the shipment to leave until the exporter finds a country of import that consents to receive the shipment.

Movements made without the consent of all the transit and importing countries are considered to be illegal.

Once all the relevant Competent Authorities have established that all the requirements of the Convention have been met, and have provided written consent to the movement, the Competent Authority of the country of export can proceed with the issuance of the movement document and authorize the shipment to start.

## **Movement documents**

The movement document contains detailed information about the shipment and must accompany the consignment at all times, from the time of departure to the arrival of the consignment at the disposer.

The movement document provides relevant information on a particular consignment, e.g. the names of the exporter and importer, the type and quantity of waste, the date of shipment, any special handling requirements, etc. An example of a Basel Convention movement document is provided in Figure 2.

The movement document should provide accurate information on the consent given by the relevant Competent Authorities for the transboundary movement of the waste.

It is recommended that the duly completed notification should always accompany the movement document. Most countries accept a copy of the duly completed and fully authorized notification, enclosed with the movement document. However, some countries require an original notification, stamped and signed by the Competent Authority in the country of export, to accompany the Movement Document.

Each person who takes charge of the waste must sign the movement document upon receiving and/or delivering the wastes. This creates a clear chain of custody.

Practical Aspects of MEA Enforcement for Customs and Border Control Officials

<b>1. Corresponding to notification No:</b>		<b>2. Serial/total number of shipments:</b> /	
<b>3. Exporter - notifier</b> Registration No: Name: Address: Contact person: Tel: Fax: E-mail:		<b>4. Importer - consignee</b> Registration No: Name: Address: Contact person: Tel: Fax: E-mail:	
<b>5. Actual quantity:</b> Tonnes (Mg): m <sup>3</sup> :		<b>6. Actual date of shipment:</b>	
<b>7. Packaging</b> Type(s) (1): Number of packages: <b>Special handling requirements:</b> (2) Yes: <input type="checkbox"/> No: <input type="checkbox"/>			
<b>8.(a) 1<sup>st</sup> Carrier (3):</b> Registration No: Name: Address: Tel: Fax: E-mail:		<b>8.(b) 2<sup>nd</sup> Carrier:</b> Registration No: Name: Address: Tel: Fax: E-mail:	<b>8.(c) Last Carrier:</b> Registration No: Name: Address: Tel: Fax: E-mail:
----- <i>To be completed by carrier's representative</i> ----- <span style="float: right;">More than 3 carriers (2) <input type="checkbox"/></span>			
Means of transport (1): Date of transfer: Signature:		Means of transport (1): Date of transfer: Signature:	Means of transport (1): Date of transfer: Signature:
<b>9. Waste generator(s) - producer(s)</b> (4;5;6): Registration No: Name: Address: Contact person: Tel: Fax: E-mail: Site of generation (2):		<b>12. Designation and composition of the waste</b> (2):	
<b>10. Disposal facility</b> <input type="checkbox"/> <b>or recovery facility</b> <input type="checkbox"/> Registration No: Name: Address: Contact person: Tel: Fax: E-mail: Actual site of disposal/recovery (2)		<b>13. Physical characteristics</b> (1):	
<b>11. Disposal/recovery operation(s)</b> D-code / R-code (1):		<b>14. Waste identification</b> (fill in relevant codes) (i) Basel Annex VIII (or IX if applicable): (ii) OECD code (if different from (i)): (iii) EC list of wastes: (iv) National code in country of export: (v) National code in country of import: (vi) Other (specify): (vii) Y-code: (viii) H-code (1): (ix) UN class (1): (x) UN Number: (xi) UN Shipping name: (xii) Customs code(s) (HS):	
<b>15. Exporter's - notifier's / generator's - producer's (4) declaration:</b> 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:			
<b>16. For use by any person involved in the transboundary movement in case additional information is required</b>			
<b>17. Shipment received by importer - consignee (if not facility):</b> Date: Name: Signature:			
<b>TO BE COMPLETED BY DISPOSAL / RECOVERY FACILITY</b>			
<b>18. Shipment received at disposal facility</b> <input type="checkbox"/> <b>or recovery facility</b> <input type="checkbox"/> Date of reception: Accepted: <input type="checkbox"/> Rejected*: <input type="checkbox"/> Quantity received: Tonnes (Mg): m <sup>3</sup> : Approximate date of disposal/recovery: Disposal/recovery operation (1): Name: Date: Signature:		<b>19. I certify that the disposal/recovery of the waste described above has been completed.</b> Name: Date: Signature and stamp:	

Figure 2 - Movement document for transboundary movement of waste

Once the wastes have reached the disposal site, the disposer should send a copy of the movement document to the Competent Authority in the country of export. The Convention also requires confirmation to be sent by the disposer when the disposal has taken place, according to the terms of the contract as specified in the notification document. If the Competent Authority of the country of export does not receive the confirmation that disposal has been completed, it must inform the Competent Authority of the country of import accordingly.

### ***The Role of Customs and Border Control***

Customs officers and/or border control officials should verify that the appropriate notification and consent procedures have been followed. They should also verify that the wastes being transported are in accordance with the information provided in the notification and reflected on the movement document. This involves checking the documents, packages/containers of waste and possibly the contents of the containers. The responsibility to verify applies to officers in the countries of export, transit and import.

#### **Formal verification/document checks**

First, Customs officers and/or border control officials need to verify that all the documents required are presented and correctly completed with all information required. Guidance on how movement and notification documents should be completed is available at the Basel Convention website ([www.basel.int](http://www.basel.int)).

#### **Material verification/physical checks**

Then a physical inspection of the shipment should be carried out. During this inspection officers should verify that the number of containers, their type, and their volume correspond to what is indicated on the movement document. Officers should also verify that the containers are appropriately labelled. To the extent possible without endangering safety and health, officers should verify the contents of the containers to ensure that they correspond with the permitted substances. If assistance is needed with verifying the composition of the waste, officers should contact the national Competent Authority.

Any discrepancies between documents, or between the documents and the actual shipment, may be evidence of illegal trafficking. In such cases, Customs should stop the movement of the waste and contact the national Competent Authority as soon as possible, so that further investigation can be carried out. If the illegal traffic is the result of conduct on the part of the exporter or generator, the waste can be refused entry and returned to the State of export.

Officers in the country of import should be especially vigilant with respect to shipments of hazardous wastes, because the wastes are intended for disposal in their country.

If Customs and the Competent Authority are satisfied with the validity and legitimacy of the shipment, the wastes may be released for onward movement and disposal.

### ***Additional Resources and Further Information***

- The Basel Convention website is: [www.basel.int](http://www.basel.int)
- A list of Parties to the Basel Convention: <http://www.basel.int/Countries/StatusofRatifications/PartiesSignatories/tabid/1290/Default.aspx>
- A list of national Competent Authorities for the Basel Convention: <http://www.basel.int/Countries/CountryContacts/tabid/1342/Default.aspx>
- The text of the Basel Convention: <http://www.basel.int/TheConvention/Overview/TextoftheConvention/tabid/1275/Default.aspx>
- The Basel Convention Secretariat has produced a *Training Manual on Illegal Traffic for Customs and Enforcement Agencies*: <http://www.basel.int/Portals/4/Basel%20Convention/docs/legalmatters/illegtraffic/trman-e.pdf>
- The Basel Convention Regional Centre for Training and Technology Transfer for the Caribbean (BCRC-Caribbean) supports and assists Parties in the Caribbean region in their implementation of the Convention. The BCRC-Caribbean website is: [www/bcrc-caribbean.blogspot.com](http://www/bcrc-caribbean.blogspot.com)



## 2 The Stockholm Convention on Persistent Organic Pollutants



### *Introduction*

The “chemicals revolution” has contributed greatly to human well-being. Chemicals have raised farming yields by killing crop pests and have made possible an endless array of useful products. But some chemicals are highly toxic, persist in the environment for years, travel thousands of kilometres from where they were used, and have unanticipated and unintended long-term health and ecological consequences. One class of substances in particular, called persistent organic pollutants (POPs), has aroused concern. Many POPs pose such significant threats to health and the environment that an international treaty has been established, aimed at restricting and ultimately eliminating their production, use, release and storage.

Some POPs are produced intentionally for use as pesticides or for industrial purposes. Some POPs are released as unintended by-products of combustion and industrial processes. The intentionally produced POPs, which include pesticides and industrial chemicals, are products in commerce, and are listed in Annexes A and B of the Stockholm Convention. The unintentionally produced POPs are by-products of industrial or other processes, and are listed in Annex C of the Convention. A chemical may appear in more than one Annex.

A complete list of POPs is provided below. Customs and border control officials will be concerned mainly with identifying the intentionally produced POPs which may be imported into their countries.

### ANNEXES A & B POPS (INTENTIONALLY PRODUCED)

Aldrin  
Alpha Hexachlorocyclohexane  
Beta Hexachlorocyclohexane  
Chlordane  
Chlordecone  
DDT (Annex B)  
Dieldrin  
Endosulfan  
Endrin  
Heptachlor  
Hexabromobiphenyl  
Hexabromodiphenyl ether and heptabromodiphenyl ether  
Hexachlorobenzene  
Lindane  
Mirex  
Pentachlorobenzene  
Perfluorooctane sulfonic acid, its salts and perfluorooctane sulfonyl fluoride  
Polychlorinated biphenyls  
Tetrabromodiphenyl ether and pentabromodiphenyl ether

### ANNEX C POPS (UNINTENTIONALLY PRODUCED)

Dioxins  
Furans  
Hexachlorobenzene  
Polychlorinated biphenyls  
Pentachlorobenzene

### ***Purpose and Objectives***

The goal of the Stockholm Convention is to protect human health and the environment from POPs.

### ***Legal Obligations***

Parties to the Stockholm Convention are required to:

- Eliminate the production and use of chemicals listed in Annex A of the Convention
- Restrict the production and use of chemicals listed in Annex B of the Convention
- Reduce or eliminate the production of unintentionally-produced POPs listed in Annex C of the Convention
- Reduce or eliminate releases of POPs from wastes of all chemicals listed in the Convention.

Each Party to the Stockholm Convention should enact enabling legislation and/or administrative procedures to either prohibit or restrict the importation and exportation of POPs in keeping with the obligations of the Convention. Many CARICOM States control the import and export of POPs chemicals via national pesticides and toxic chemicals legislation. POPs chemicals may be included in

a list or schedule of Prohibited and Restricted Imports or Exports, detailing the relevant classification codes/numbers and including a description of the chemical in terms of its proper name and common names as used in trade.

### ***Control of International Trade in POPs under the Stockholm Convention***

POPs listed in the Convention are not allowed to be imported, except for environmentally sound disposal or for a use permitted under the Convention for the importing Party. No CARICOM Parties to the Convention have applied for exemptions for permitted use. Therefore the import of POPs for use in CARICOM member states is not allowed under the Convention.

POPS listed in the Convention are not allowed to be exported, except for environmentally sound disposal or for a use permitted under the Convention for the importing Party. If POPs are imported for environmentally sound disposal, those POPs are deemed to be hazardous waste and the provisions of the Basel Convention apply.

Generally imports and exports between a Party and a non-Party to the Convention are prohibited. A list of Parties to the Stockholm Convention can be found at the Convention website ([www.pops.int](http://www.pops.int)).

### ***The Role of Customs and Border Control***

Customs officers and border control officials are responsible for ensuring that POPs are not imported or exported in contravention of the Stockholm Convention and/or relevant national legislation.

#### **Pre-arrival checks for imports**

To the extent possible, Customs officials should scrutinize import cargo manifests prior to arrival of aircraft and vessels and take note of consignments which may contain POPs. Risk management techniques such as profiling may be used to identify possible shipments containing POPs and to pre-select such goods for physical inspection prior to release. Familiarity with the identities and uses of POPs can make pre-arrival checks easier and more effective. This information can be found at the Stockholm Convention website ([www.pops.int](http://www.pops.int)). In instances where chemicals are unknown, the guidance of the national Stockholm Convention Focal Point should be sought.

#### **Verification of imports and exports**

Documentary and physical checks may be necessary during the verification of consignments.

Under the Convention, no import of POPs into CARICOM countries is permitted.

If POPs are being exported, officers should confirm that the POPs are being exported either (i) for a permitted use in the importing country or (ii) for environmentally sound disposal in the importing country. This confirmation should be done in cooperation with the national Stockholm Convention Focal Point(s).

For exports for permitted use in the importing Party, officers should maintain a register of exports, including a list of the countries to which chemicals are exported. This information should be shared with the national Focal Point for use in the preparation of national reports required by the Convention.

For exports for environmentally sound disposal, the provisions and procedures of the Basel Convention apply.

Officers must be observant to ensure that any attempts to smuggle POPs are circumvented.

### ***Additional Resources and Further Information***

- The website of the Stockholm Convention: [www.pops.int](http://www.pops.int)
- A list of Parties to the Stockholm Convention: <http://chm.pops.int/Countries/StatusofRatifications/tabid/252/Default.aspx>
- Lists of the Official Contact Points and National Focal Points for the Convention: <http://chm.pops.int/Countries/ContactPoints/tabid/304/Default.aspx>
- The text of the Convention: <http://chm.pops.int/Convention/ConventionText/tabid/2232/Default.aspx>
- Information about the POPs controlled under the Convention: <http://chm.pops.int/Convention/ThePOPs/tabid/673/Default.aspx>

### 3

## The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade



### *Introduction*

There are currently a plethora of chemicals in international trade, new chemicals are introduced every year, and the global trade grows annually. In all countries, decisions have to be made about which chemicals are acceptable for use and which chemicals should be prohibited because they are too risky. In some cases pesticides that are banned in some countries may be widely sold and used in others. Some developing countries have expressed some concerns about chemicals that are banned or restricted in some countries, but are still being exported from those countries for use in other countries, especially developing countries which may not have the infrastructure and capacity to manage hazardous chemicals safely. The Rotterdam Convention establishes an early warning system that enables countries to take informed decisions about importing hazardous chemicals that have been banned or restricted in other countries for health or environment reasons. The Convention is intended to help stop illegal or unwanted trade in certain hazardous chemicals, and to prevent exports of chemicals to countries that don't want them.

### *Purpose and Objectives*

The objective of the Rotterdam Convention is to protect human health and the environment by promoting 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.

The Convention provides for a national decision-making process on the import and export of these chemicals, and disseminates national decisions on import and export for the information of all Parties.

The Convention aims to contribute to environmentally sound use of chemicals by facilitating information exchange about such chemicals and their hazard characteristics.

## ***Legal Obligations***

For all chemicals regulated by the Rotterdam Convention, Parties should submit a document to the Convention Secretariat to indicate whether they have decided to allow import of the chemical, to allow import subject to certain conditions, or to prohibit import. The Secretariat must then disseminate this information for the guidance of all Parties.

Parties dealing with exports of chemicals that are listed in the Convention must take appropriate measures to ensure that these exports are in accordance with the import decisions of other Parties. If no import decision has been submitted by a Party, export to that Party should take place only if there is explicit consent given or if the chemical is already registered and used in the importing country.

A Party that wishes to export a chemical that has been banned or restricted in its own territory must provide importing countries with an appropriate export notification.

Exporting Parties must ensure that exports of chemicals that are listed in the Rotterdam Convention are appropriately labelled and are accompanied by suitable information on the potential dangers to human health and the environment. This requirement also applies to exports of chemicals that are banned or restricted in the exporting country.

## ***Control of International Trade in Hazardous Chemicals under the Rotterdam Convention***

The Rotterdam Convention contains two key provisions relevant to trade:

- The Prior Informed Consent (PIC) procedure
- Information exchange.

### **The PIC procedure**

The PIC procedure is a mechanism for obtaining national decisions on the import of hazardous chemicals listed in Annex III of the Convention, and for ensuring compliance with these decisions by exporting Parties. The procedure gives Parties the power to make informed decisions on which chemicals they want to import and to exclude those they cannot manage safely. The PIC procedure does not ban or restrict chemicals. Instead, under the PIC procedure, chemicals exporters must obtain prior informed consent from the countries to which they wish to export, before they proceed with trade. A list of the chemicals in Annex III of the Rotterdam Convention can be found at the Convention website ([www.pic.int](http://www.pic.int)). Decisions on chemicals subject to the PIC procedure may be incorporated into the provisions of national pesticides and toxic chemicals laws, which address prohibition, restriction and permitting of pesticides and/or hazardous chemicals.

## Information exchange

The Convention establishes mechanisms for the exchange of information among Parties on a broad range of potentially hazardous chemicals. Information is disseminated via the Convention website and by means of PIC Circulars.

The Convention requires clear labelling on potential health and environmental impacts of traded chemicals. To facilitate this, chemicals listed in Annex III of the Convention, and therefore subject to the PIC procedure, have been assigned specific Customs codes under the World Customs Organization (WCO) Harmonized Commodity Description and Coding System. Once a specific Harmonized System (HS) code has been assigned to a chemical listed in Annex III of the Rotterdam Convention, Parties should ensure that shipping documents for all imports and exports of that chemical bear the appropriate HS code. The use of such codes assists Customs authorities in identifying chemicals subject to the PIC procedure and in ensuring compliance with the Rotterdam Convention. A list of the HS codes assigned to chemicals in Annex III of the Rotterdam Convention is available on the Convention website ([www.pic.int](http://www.pic.int)).

## *The Role of Customs and Border Control*

Customs officers and other border control officials are on the front line when it comes to ensuring that trade provisions relevant to the Rotterdam Convention are respected. They play a vital role in making sure that chemicals subject to the PIC procedure are not shipped or traded in contravention of the Convention and/or relevant national legislation.

Customs officers and border control officials are expected to be able to:

- Identify, through the use of HS Codes and Trade names, the PIC chemicals covered by Annex III of the Rotterdam Convention.
- Understand the applicable national laws relating to the Convention
- Communicate effectively with the Rotterdam Convention Designated National Authorities (DNAs).

## Verification of imports

In inspecting shipments of chemicals intended for import, officers should first check whether the chemicals are listed in Annex III of the Rotterdam Convention, and are therefore subject to the PIC procedure.

Officers should verify if the government has banned or restricted the chemicals under relevant national legislation, or if the government has prohibited importation by means of a PIC import decision.

If the chemical is banned or otherwise prohibited, importation should not be allowed.

If the chemical is subject to the PIC procedure and has not been banned or otherwise prohibited, or if the government has not issued an import decision, import should only be allowed if

- The chemical is already registered for use in the importing country, and all relevant import conditions and restrictions applying to the chemical are complied with
- The chemical is adequately labelled, including use of the appropriate HS code where applicable, and is accompanied by adequate safety information
- A safety data sheet in an internationally recognized format is provided, for chemicals to be used for occupational purposes
- Labels, safety data sheets and other hazard information are provided, if possible, in the language of the importing party.

Customs and border control authorities should contact the DNAs for the Rotterdam Convention for assistance in verification, and to obtain further information and clarification as necessary.

### Verification of exports

When inspecting shipments of chemicals intended for export, officers should check whether the chemical is listed in Annex III of the Rotterdam Convention.

If the chemical is listed, officers should check whether the importing country is Party to the Convention and has made an import decision under the PIC procedure. This information is available on the Convention website ([www.pic.int](http://www.pic.int)). If an import decision has been issued and it is not one of consent, then the export should not be allowed to proceed. If the decision is conditional, or if no decision has been transmitted, the officer should contact the DNAs concerned, in the exporting and importing countries, for further information and guidance.

For all exports of chemicals that are listed in Annex III of the Convention, or that are banned or severely restricted in the exporting country, export should only be allowed if

- the chemical is not banned or otherwise prohibited in the importing country
- the appropriate export notifications have been issued to the DNA in the importing country
- the chemical is adequately labelled and accompanied by adequate safety information
- a safety data sheet in an internationally recognized format is provided for chemicals to be used for occupational purposes
- all other relevant obligations and requirements under national law are met.

Close collaboration and communication between Customs and DNAs is necessary for the Convention to be implemented successfully. Customs should contact DNAs when additional information or advice is needed to make a correct decision in respect of imports and exports of chemicals. DNAs should keep Customs apprised of PIC-related information that would facilitate their work.

### ***Additional Resources and Further Information***

- The website of the Rotterdam Convention: [www.pic.int](http://www.pic.int)
- A list of Parties to the Rotterdam Convention: <http://www.pic.int/Countries/Statusofratifications/tabid/1072/language/en-US/Default.aspx>
- A list of Rotterdam Convention Designated National Authorities: <http://www.pic.int/Countries/DesignatedNationalAuthorities/Database/tabid/1375/language/en-US/Default.aspx>
- The text of the Convention: <http://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx>
- List of chemicals included in Annex III for control under the PIC procedure: <http://www.pic.int/TheConvention/Chemicals/AnnexIIIChemicals/tabid/1132/language/en-US/Default.aspx>
- List of WCO Harmonized System codes attached to Annex III chemicals: <http://www.pic.int/TheConvention/Chemicals/HarmonizedSystemCodes/tabid/1159/language/en-US/Default.aspx>
- The Rotterdam Convention Secretariat has prepared a Resource Kit containing information and guidance to assist countries in the implementation of the Convention: <http://www.pic.int/Implementation/RessourceKit/tabid/1064/language/en-US/Default.aspx#TRAININGMAT>



# 4

## The Cartagena Protocol on Biosafety to the Convention on Biological Diversity



### *Introduction*

The Cartagena Protocol on Biosafety is a supplementary agreement to the Convention on Biological Diversity. The Protocol governs the transboundary movement of living modified organisms (LMOs), also commonly referred to as genetically modified organisms (GMOs). The Protocol was developed in recognition that while biotechnology holds great promise for improving human wellbeing, advances in biotechnology must be developed and used with adequate safety measures for the environment and human health. The Cartagena Protocol seeks to guard biological diversity from the potential risks presented by LMOs/GMOs. It does this by setting out procedures for the safe export and import of these organisms, and by maintaining an information exchange mechanism known as the Biodiversity Clearing-House.

### *Purpose and Objectives*

The objective of the Cartagena Protocol on Biosafety is to contribute to ensuring an adequate level of protection in the field of the safe transfer, handling and use of LMOs resulting from modern biotechnology that may have adverse effects on the conservation and sustainable use of biological diversity, taking into account risks to human health, and focusing specifically on transboundary movements.

### *Legal Obligations*

Parties should ensure that the development, handling, transport, use, transfer and release of LMOs are undertaken in ways that prevent or mitigate risks to biological diversity and human health.

Parties are required to comply with the advance information agreement (AIA) procedure established by the Protocol. This means that Parties exporting LMOs intended for introduction into the environment of the Party of import shall notify the Competent National Authority (CNA) of the importing Party of the proposed export, prior to allowing the transboundary movement of LMOs covered by the Convention.

Importing Parties should acknowledge receipt of notification. They should inform the notifier, in writing, whether or not the shipment of LMOs is acceptable, and if so, what conditions, if any, apply to the movement.

Parties should take measures to notify affected States and relevant international organizations about releases that may lead to the unintentional transboundary movement of LMOs.

### ***Control of Transboundary Movement of LMOs under the Cartagena Protocol***

The Protocol imposes different requirements for transboundary movements of

- LMOs intended for introduction into the environment of the importing Party
- LMOs intended for food, feed or processing (LMO-FFPs)
- LMOs destined for contained use.

#### **LMOs intended for introduction into the environment of the importing Party**

Transboundary movements of LMOs intended for introduction into the environment of the importing Party are subject to the AIA procedure. This procedure should be applied prior to the first intentional movement of the LMOs, and consists of three steps: notification, acknowledgement of receipt of notification, and decision-making.

LMOs intended for introduction into the environment of the importing Party could include items such as seeds, trees, seedlings, live fish, animals for breeding, bacteria or other micro-organisms, and plants or propagating materials. Note that this list is not exhaustive, and there are other kinds of organisms that could be LMOs intended for introduction to the environment.

#### **Notification by Exporter**

The Party of export or the exporter itself must notify the CNA of the importing Party of the intended transboundary movement of the LMO. This should be done before movement begins.

#### **Acknowledgement of receipt of notification by Importer**

The Party of import should acknowledge its receipt of the notification and provide information about how decision-making on the import will proceed.

#### **Decision Making**

Decisions may be taken according to procedures in Article 10 of the Protocol; the Party of import can decide to approve the import with or without conditions, or to prohibit the import. Alternatively, the decision may be taken based on domestic laws and regulations related to biosafety and the import of LMOs. Customs and border control officers should acquaint themselves with these laws and with the procedures contained therein.

Most CARICOM States have not yet enacted legislation specifically to address imports or exports of LMOs. However such organisms may fall under general requirements related to the importation of animals, plants and the products derived therefrom. In such cases, importation of LMOs may require that a phyto-sanitary certificate or a veterinary permit be issued for cargo consignments before release by Customs.

The transboundary movement of LMOs intended for introduction to the environment of the importing Party should not commence until a consenting decision has been communicated by the importing country. A failure to communicate a decision with the prescribed time period does not imply consent.

### **LMOs intended for direct use as food, feed or for processing (LMO-FFPs)**

Transboundary movement of LMO-FFPs does not necessarily require importing Parties to be given direct advance notice.

Instead, when a Party approves use of an LMO-FFP in its own territory, it should inform other Parties of this decision via the Biodiversity Clearing House (BCH). Other Parties may then take decisions under their domestic regulatory framework about the future importation of the LMO-FFP. The import of that LMO-FFP is then governed by the importing Party's decision and applicable domestic laws.

LMO-FFPs are the largest category of LMOs in international trade. They include agricultural commodities that are intended to be directly consumed by humans or animals, or to be processed into other goods. They are not intended for intentional release into the environment. Commodities such as genetically-modified soybeans, corn, cotton, and rice are examples of LMO-FFPs. Other types of plants, and organisms that are not plants, may also be LMO-FFPs.

### **LMOs destined for contained use**

The Cartagena Protocol does not attach a specific procedure to transboundary movements of LMOs destined for contained use. However, all shipment of these organisms should comply with requirements related to clear identification, safe handling, transport and packaging.

LMOs destined for contained use include LMOs intended for use in a facility such as a laboratory, where contact with the outside environment is strictly controlled.

## ***The Role of Customs and Border Control***

Customs officers and border control officials contribute to implementation of the Cartagena Protocol by inspecting shipments and shipment documents to verify their validity and accuracy, and by enforcing restrictions and regulations related to the import and export of LMOs.

### **LMOs intended for introduction into the environment**

Figure 3 below shows an example of decision-making for LMOs intended for introduction into the environment, highlighting the roles of Customs officers and border control officials.

Officers should verify that appropriate notification of the transboundary movement has been given and that the movement is in accordance with the importing decision made by the importing Party. The movement should also be in accordance with any relevant domestic legislation in the importing Party.

Officers should also verify that the shipment is accompanied by the appropriate documentation, which should include:

- Clear identification as “Living Modified Organisms” and a brief description of the organisms, including common and scientific names, relevant traits and genetic modification
- Requirements for the safe handling, storage, transport and use of the LMOs
- Names and addresses of importer and exporter
- Details of a contact point for further information or for emergency response
- Declaration that the movement of the LMOs conforms with the requirements of the Cartagena Protocol on Biosafety
- Import approval for the first transboundary movement of the LMOs.

Documentation may also include phyto-sanitary certificates, commercial invoices, and any information required by law in the importing or exporting countries.

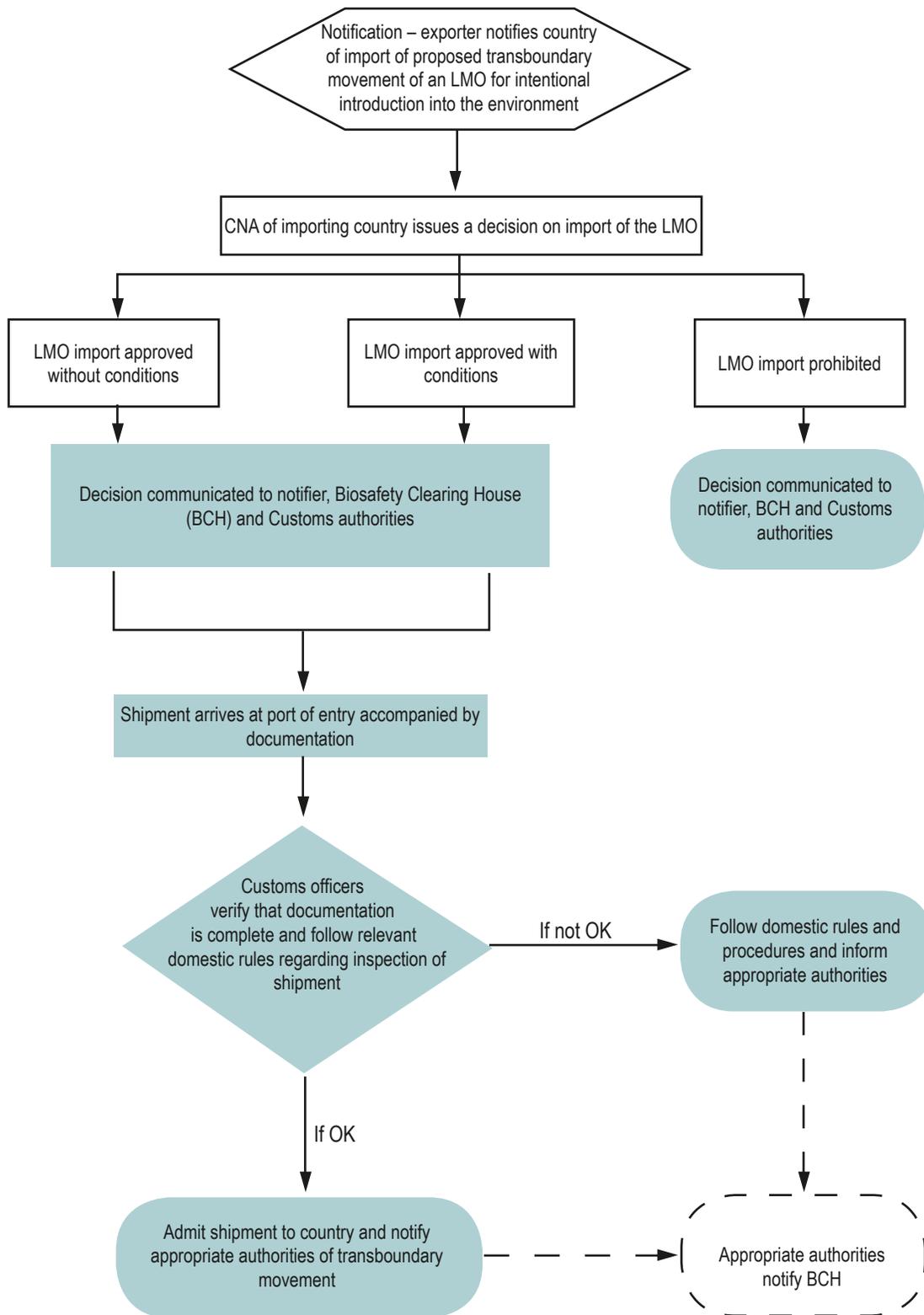
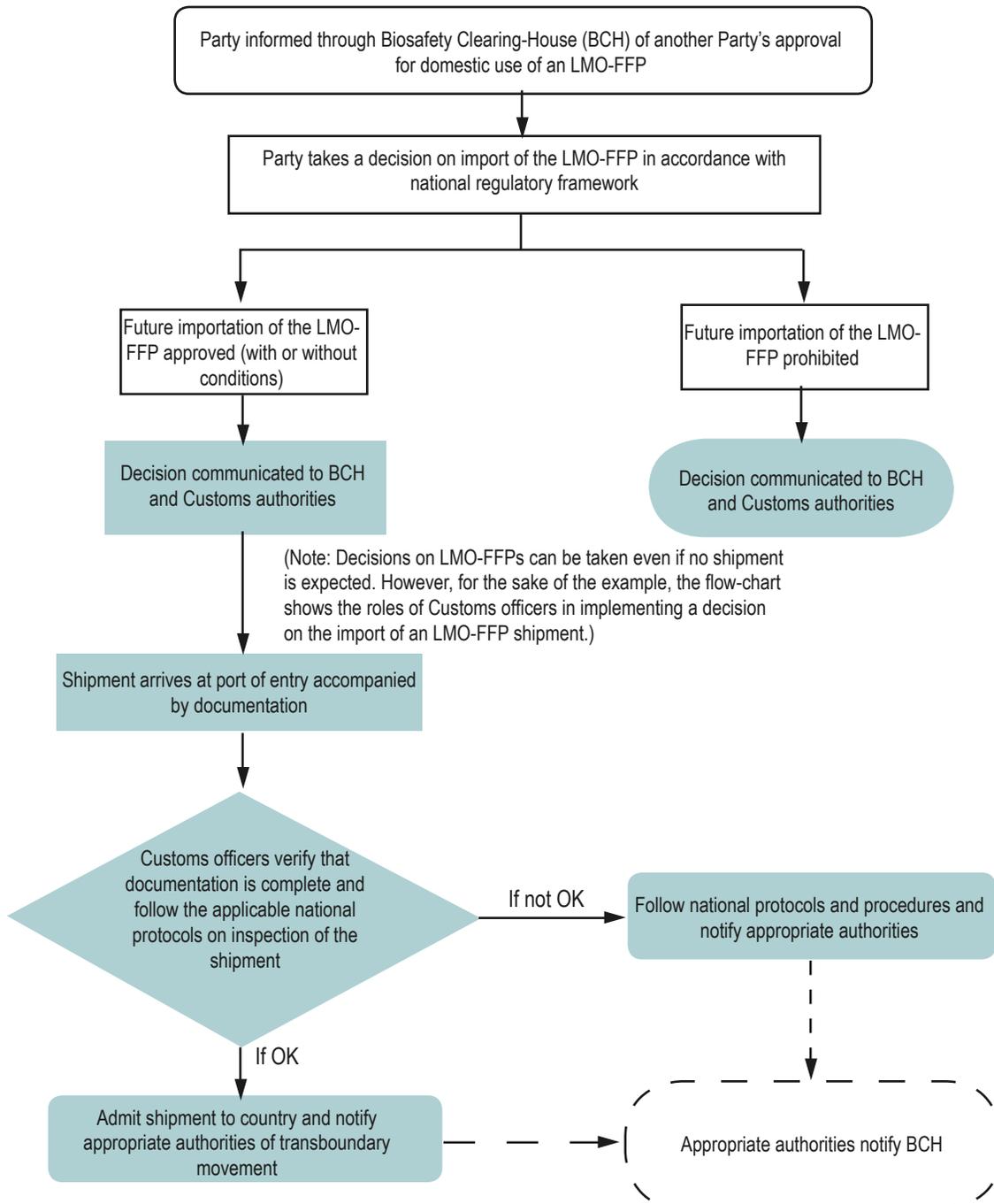


Figure 3 - Example of decision-making under the AIA procedure

**MO-FFPs**

Figure 4 shows an example of decision-making for LMO-FFPs, highlighting the roles of Customs officers and border control officials.



**Figure 4 - Example of decision-making on the transboundary movement of an LMO-FFP**

Officers should verify that the transboundary movement of LMO-FFPs is in accordance with import decisions taken in the importing country. They should also verify that the LMO-FFPs in question are in commercial production and are authorized in accordance with the laws of both the exporting and importing countries.

Officers should also verify that the shipment is accompanied by appropriate documentation, which should clearly state:

- In cases in which the identity of the LMOs is known, that the shipment contains LMOs intended for direct use as food or feed, or for processing
- In cases where the identity of the LMOs is not known, 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 commercial names of the LMOs, where available
- The internet address of the Biodiversity Clearing-House for further information

### **LMOs destined for contained use**

Customs officers should verify that shipments of LMOs destined for contained use are accompanied by appropriate documentation, including

- Clear identification as “Living Modified Organisms”, common and scientific names of the organisms, and clear designation as “Destined for contained use”
- Names and addresses of the consignee, importer and exporter, including emergency contact details
- Any requirements for safe handling, storage, transport and use of the LMOs, based on relevant international or national recommendations or guidelines

Further information may include the commercial names of the LMOs, specifications of use, and applicable shipping documentation under the United Nations Model Regulations on the Transport of Dangerous Goods.

### ***Additional Resources and Further Information***

- The Biosafety Clearing-House serves as the website of the Cartagena Protocol: <http://bch.cbd.int/protocol/>
- A list of Parties to the Cartagena Protocol: <http://bch.cbd.int/protocol/parties/>
- A regularly updated list of Cartagena Protocol national contacts is available at: <http://bch.cbd.int/database/compiled-national-contacts/>
- The text of the Cartagena Protocol: <http://bch.cbd.int/protocol/text/>
- Additional guidance on the Cartagena Protocol: [http://bch.cbd.int/protocol/cpb\\_otherpubl.shtml](http://bch.cbd.int/protocol/cpb_otherpubl.shtml)



## 5 Montreal Protocol on Ozone Depleting Substances



### *Introduction*

The Montreal Protocol has been described as perhaps the single most successful multilateral environmental agreement. There are 197 Parties to the Protocol, making it one of the most widely ratified international treaties. As a supplementary agreement to the Vienna Convention for the Protection of the Ozone Layer, the Protocol controls the production and use of certain manufactured chemicals that destroy the ozone layer. The ozone layer protects the earth from harmful ultraviolet radiation. When ozone-depleting substances (ODSs) are released into the atmosphere, they damage the ozone layer. Ozone layer depletion increases the quantities of radiation reaching the earth's surface and can have harmful impacts on human health – increased occurrence of skin cancer, cataracts and weakened immune systems – and on the environment – damage to plants, crops and aquatic ecosystems.

ODSs have been used in many common industrial processes and in consumer products such as refrigerators, air-conditioning systems, and fire extinguishers. The production, trade and consumption of all human-made ODS are now regulated by the Montreal Protocol. All CARICOM member states are Party to the Montreal Protocol.

### *Purpose and Objectives*

The principal objective of the Protocol is to reduce and eliminate the consumption and production of ODSs according to agreed timetables for developing and developed countries.

### *Legal Obligations*

Parties to the Montreal Protocol must freeze, reduce and phase out their production and consumption of ODSs according to a specific step-wise schedule.

Each Party to the Montreal Protocol should introduce national control measures to ensure that its government complies with the Protocol's target schedule for ODS phase-out.

The countries of CARICOM, like most developing countries, do not produce ODSs. Therefore in CARICOM, the phase-out of ODSs and conversion to non-ODS alternatives requires Parties to take measures to prevent illegal trade in ODS and to carefully monitor legal trade. Parties should establish and enforce national import/export licensing systems to cover all ODSs controlled by the Montreal Protocol, including new, used, recycled and reclaimed ODSs.

Countries may use either bans or quotas to achieve the phase-out of ODSs. If quotas are used, the country should gradually reduce the annual quota from year to year to comply with the international phase-out schedule. A quota can be transformed to a ban once a specific ODS is phased out.

Countries should also collect data on the import, export, production and use of ODSs. Each country's National Ozone Unit (NOU) is responsible for reporting this data to the international Ozone Secretariat.

### ***Control of Trade in ODS under the Montreal Protocol***

Each Party should establish a national import/export licensing regime for all ODSs controlled by the Montreal Protocol. Such licensing systems serve to ensure that ODSs are not imported or exported unless the importer or exporter applies for and receives the requisite licence. Licensing systems help to control a country's ODS supply, to prevent illegal imports, and to identify end users. Licensing systems also facilitate monitoring and collecting accurate information on imports and exports of ODSs.

Where annual ODS quotas have been established, importers may apply for import allowances, usually based on historical use. For an importer to import ODSs, they must receive an import permit for the specified quantity. The importer is not allowed to exceed the allocated allowance for any given ODS.

Countries that are Party to the Protocol may request exemptions to import/use ODSs for certain specified purposes. At present, no CARICOM countries have applied for such exemptions under the Protocol.

### ***The Role of Customs and Border Control***

Customs and other border control officials must be part of the process of enforcing national measure to effectively implement the Montreal Protocol. A key aspect of this enforcement is ensuring/verifying that the appropriate licences have been issued before ODSs are imported or exported. There is no standard international format for an ODS import/export licence. To help in distinguishing an authentic licence or permit from a falsified one, officers should familiarize themselves with the format of the relevant documents used in their jurisdiction.

In addition to verifying licences, there are other important inspection procedures that officers should follow to help determine whether an ODS shipment is legitimate or suspicious.

### Formal verification/document checks

Careful checking of documentation of imported shipments is one of the most important tasks in ODS control. In many cases a close scrutiny of papers has revealed anomalies and directly led to successful seizures of illegal shipments.

In carrying out a document check, officers should:

- Check the customs declaration, invoice, packing list and bill of lading to see that they are consistent and that they match with the shipping manifest.
- Check that the given country of origin for the shipment is consistent with the markings on the container and is consistent throughout the paperwork.
- Verify that the country of origin is a Party to the Montreal Protocol and its amendments.
- Check that the actual container number matches the documents and that this is a genuine container number. This can be verified with the shipping line or owner of the container.
- Ensure that the relevant trade name, chemical name, HS code, Chemical Abstracts Service (CAS) number, and United Nations number all match. There is no common international standard for naming, labelling and packaging ODSs; as a result, there are a number of systems officers should be acquainted with. The UNEP database of Trade Names of Chemicals containing ODS is a useful resource, and can be found online at <http://www.unep.fr/ozonaction/information/tradenames/main.asp>

### Material verification/physical checks

Physical inspection of cylinders and packaging can provide important information as to the validity and legality of the consignment. Initial checks to ensure that the description on the documentation matches the actual consignment should be made. This should include ensuring that 'double layering' (hiding the illegal material behind a layer of legal product) has not been used. After these initial checks the consignment should be inspected to ensure the chemicals are genuine legal products. Counterfeit cylinders of well-known brands are increasingly appearing on the market and in seizures made by authorities in many developing countries. Frequently ODSs are smuggled in counterfeit cylinders labelled as R-134a and R-22.

In carrying out a physical inspection, officers should:

- Check that the colour of the cylinder is correct. A first check that can be made is to ensure the colour of the cylinder is consistent with the industry standards for the chemical declared.
- Check misspellings and inconsistencies on the cylinder or packaging. Careful checking of the cylinder label and packaging can identify potential counterfeit material. Familiarity with genuine cylinders will assist greatly in this process. Check if the language is appropriate for the intended market, check for spelling mistakes and other inconsistencies such as inappropriate use of company logos, taglines and trademarks. The type of valve used on the cylinder may also identify a counterfeit cylinder.

- Check if the cylinder has been painted or tampered with. Check to see if the cylinder appears to have been repainted - does scratching the paint reveal a different colour underneath? Are there any signs of tampering on the cylinder, for example, does it look as if they have been re-filled? Is the cylinder number clearly visible?
- Check if the labels are printed on the cylinder. Most genuine cylinders have silk-screened or spray painted labels. If the label is a sticker or transfer it is likely it is not a genuine product and further checks should be made.
- Check if the manufacturer's contact details are printed on the cylinder. Legitimate manufacturers will clearly display their company information on the cylinders they produce. They will also frequently display contact information, as it is in their interest to make this information available to customers. If cylinders are found which do not include the manufacturer's details or contact information the material should be investigated further.
- Check that the manufacture date is consistent with the paperwork and is appropriate for the producer it originated from.
- Be suspicious of neutral packaging and incomplete forms. Suspicion should be raised when forms are not filled out completely, and where full chemical names and the appropriate identification numbers are not given. Neutral packaging with no labelling, country of origin or manufacturer identification should be treated as suspicious.

If physical inspection of the cylinders raises suspicions, it may be necessary to analyse a sample of the contents. Whenever possible trained customs personnel should be used to take samples and ensure that a proper chain of custody is observed. If needed, assistance may be obtained from the NOU.

If the inspections confirm that the material is illegal, a seizure of the shipment should follow.

### ***Additional Resources and Further Information***

- The website of the Montreal Protocol: [www.montreal-protocol.org](http://www.montreal-protocol.org)
- Extensive guidance has been produced to assist customs officers in enforcing the provisions of the Montreal Protocol. This includes a training manual titled *Saving the Ozone Layer – Phasing Out Ozone Depleting Substances in Developing Countries*: [http://montreal-protocol.org/new\\_site/en/resources.php?pt\\_id=3](http://montreal-protocol.org/new_site/en/resources.php?pt_id=3)
- The UNEP database of Trade Names of Chemicals containing ODS: <http://www.unep.fr/ozonaction/information/tradenames/main.asp>

## 6 Convention on International Trade in Endangered Species of Wild Fauna and Flora



### *Introduction*

The international trade in wildlife is estimated to be worth billions of dollars and to involve hundreds of millions of plant and animal specimens. Commercial exploitation and trade in endangered species contributes to the depletion of their populations, sometimes even to the point of near-extinction.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international instrument for achieving conservation and sustainable use objectives by controlling trade in wildlife. The Convention accords various degrees of protection to over 33,000 species of animals and plants, whether they are traded as live specimens, as raw materials, or as products.

### *Purpose and Objectives*

CITES aims to ensure that the international trade in specimens of wild animals and plants does not threaten their survival.

### *Legal Obligations*

Parties to CITES must take measures to prohibit trade in wildlife, in accordance with the Convention. This includes measures to penalize trade in and/or possession of specimens of controlled species, and measure to confiscate illegally traded specimens and return them to the State of export.

Parties are also required to ensure that legal trade in specimens is not subject to unnecessary delay.

Parties should ensure that living specimens are safely and properly cared for during periods of transit, holding or shipment.

All Parties are required to maintain records of trade in controlled species.

### ***Control of International Trade in Endangered Species under CITES***

CITES functions by making the international wildlife trade subject to certain controls. Import, export, re-export, and introduction of species covered by the Convention must be authorized through national licensing systems. These systems are administered by designated national Management Authorities (MAs) in each Party country.

Countries may have domestic legislation and regulations that impose controls that are stricter than those required under CITES. In such cases the national legislation takes precedence over the basic CITES requirements.

The species covered by CITES are listed in three Appendices to the Convention, based on the level of protection they need.

#### **Appendix I**

Appendix I includes species threatened with extinction, and trade in specimens of these species is permitted only in exceptional circumstances.

For Appendix I species the following control measures apply:

- An import permit issued by the MA in the country of import is required. This may be issued only if the specimen is not to be used for primarily commercial purposes and if the import will not be detrimental to the survival of the species. In the case of a live specimen, an import permit should only be issued if the proposed recipient is suitable equipped to house and care for the specimen.
- An export permit or re-export certificate issued by the MA in the country of export or re-export is also required. An export permit should only be issued if the specimen was legally obtained, trade will not be detrimental to the survival of the species, and an import permit has already been issued. A re-export certificate should only be issued if the specimen was imported in accordance with the provisions of the Convention and, in the case of a live specimen, if an import permit has been issued.

#### **Appendix II**

Appendix II includes species that are not necessarily threatened with extinction, but for which trade must be controlled to avoid them becoming threatened. Appendix II is the largest Appendix, including over 32,000 species of plants and animals.

For Appendix II species, the following control measures apply:

- An export permit or re-export certificate issued by the MA in the country of export or re-export is required. An export permit may only be issued if the specimen was legally obtained and if export will not be detrimental to the survival of the species. A re-export certificate may only be issued if the specimen was imported in accordance with the Convention.
- Import permits are not necessary, unless required by national law.

## Appendix III

Appendix III includes species that are protected in at least one country, that country having asked other CITES Parties for assistance in controlling the trade.

The following control measures apply to Appendix III species.

- In the case of export from the State that requested inclusion of the species, an export permit issued by the MA of that State is required. This should be issued only if the specimen was legally obtained.
- In the case of export from any other State, a certificate of origin issued by the MA in the State of export is required.
- In the case of re-export, a re-export certificate issued by the State of re-export is required.

Note that for all Appendices, certain specific exemptions to the usual procedures are allowed, for example for specimens in transit, for personal and household effects, for specimens destined for scientific research. Even in these exceptional cases, a permit or certificate is usually still required. More information can be obtained at the CITES website ([www.cites.org](http://www.cites.org)) or from national CITES MAs.

## *The Role of Customs and Border Control*

Trade in CITES listed species is allowed only if the appropriate permits and licences have been obtained and presented for clearance at the ports of entry and/or exit. The main role of Customs and border control authorities is to verify the validity of the documents submitted, and to ensure that they correspond to the actual goods. Customs officers also combat fraud and smuggling, check compliance with domestic law, and collect applicable taxes and duties.

## Formal verification/document checks

Verifying the CITES permit or certificate is the key component of a documentary inspection. There is no standard international format for CITES permits and certificates, so officers should acquaint themselves with the documentation used in their jurisdiction. A sample CITES permit form is presented in Figure 5.

CITES permits usually contain the following information:

- Name and logo of Convention
- Unique number
- Document type
- Period of validity
- Exporter's address & signature
- Management Authority address
- Purpose of trade
- Species name
- Specimen type
- Appendix
- Source
- Quantity/Units
- Quota and exports to date
- Number of breeding operation
- Place and date of issue
- Signature and stamp of Management Authority
- Port of export
- Date of export
- Export endorsement signature/stamp (usually Customs)
- Stamp of inspection authority

A flowchart outlining the permit verification process is presented in Figure 6. For imports, the original of the import permit must be retained and forwarded to the MA. For exports, the endorsement box should be completed at the time of export, and a copy of the export permit should be retained and forwarded to the MA.

In addition to verifying the CITES permit, officers should also check and verify supporting documentation such as invoices, bills of lading, and import declarations. They may also need to verify additional documents required under national laws, such as veterinary or phyto-sanitary certificates.

Assistance with materials verification may be sought from the CITES national MA.

### **Material verification/physical checks**

The CITES Secretariat has produced a manual to assist with identification of CITES species of flora and fauna. This is online at [http://www.cites.org/eng/resources/wiki\\_id.php](http://www.cites.org/eng/resources/wiki_id.php). Further assistance in identifying and verifying species should be sought from the CITES national MA.

### ***Additional Resources and Further Information***

- The CITES website: [www.cites.org](http://www.cites.org)
- A list of Parties to CITES: <http://www.cites.org/eng/disc/parties/index.php>
- A list of national CITES authorities: <http://www.cites.org/cms/index.php/component/cp/>
- Information about species listed in the CITES Appendices: <http://www.cites.org/eng/disc/species.php>
- The CITES Wiki Identification manual: [http://www.cites.org/eng/resources/wiki\\_id.php](http://www.cites.org/eng/resources/wiki_id.php)

 <b>CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA</b>		<b>PERMIT/CERTIFICATE No.</b> <input type="checkbox"/> EXPORT <input type="checkbox"/> RE-EXPORT <input type="checkbox"/> IMPORT <input type="checkbox"/> OTHER:		<b>Original</b>	
				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 (age/sex if live)	10. Appendix no. and source (see reverse)	11. Quantity (including unit)	11a. Total exported/Quota
7./8.		9.	10.	11.	11a.
<b>A</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 ***	
<b>B</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 ***	
<b>C</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 ***	
<b>D</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 ***	
* 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					
3. 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

Figure 5 - Example of a CITES permit/certificate form

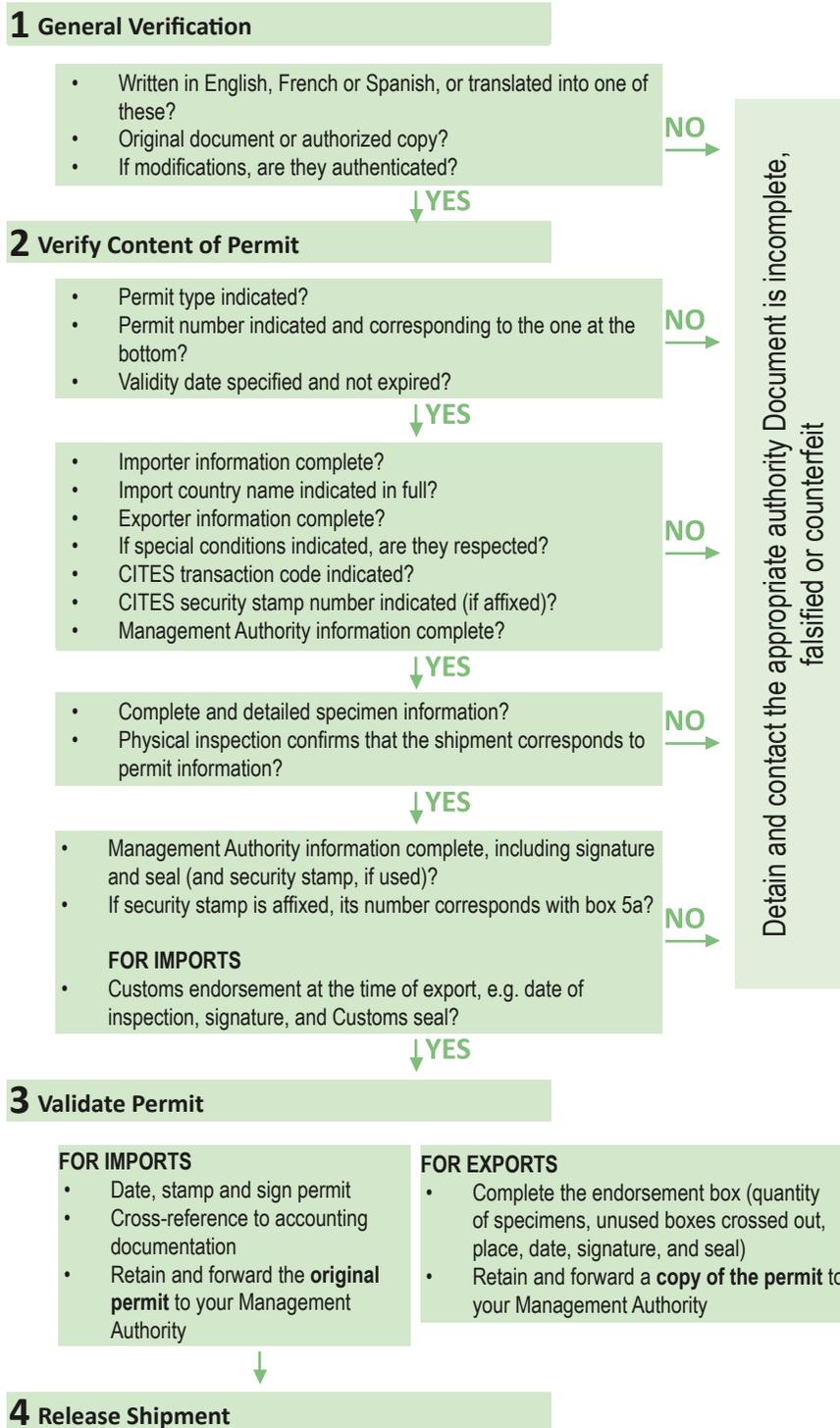


Figure 6 - CITES permit verification flow chart

# 7

## Cross Cutting Issues



### *Introduction*

Customs officers and border control officials are positioned at the ports of entry in CARICOM member states and are well placed to enforce the laws and regulations in respect to prohibitions and restrictions of trade in environmentally sensitive goods. Some of the common issues related to this enforcement are discussed in this chapter.

### *Health and Safety*

Customs officers and border control officials must be conscious of health and safety considerations and should not approach a scene where there is a possibility that they could endanger themselves or other persons in the vicinity. Environmentally sensitive shipments may include toxic chemicals, hazardous waste, live animals, genetically-modified organisms or other unknown dangerous items. A careful assessment must be carried out to determine the potential risks before taking any action.

#### **Do:**

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

#### **Don't:**

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

## **Seizures and Storage**

Most countries have rules and procedures to apply when illegal shipments are identified and seized. In the case of goods covered by MEAs, Customs should consult with the relevant authorities for expert advice or guidelines for treating with and storing such goods.

## **Legislation**

For all the MEAs addressed in this Handbook, it is important that Customs administrations are well informed of the relevant national legislation and administrative measures to be applied. To implement an MEA, countries enact enabling legislation or administrative measures to guide the actions of officials. Alternatively, they may implement the MEAs by amendments or revisions to suitable existing legislation, for example revising the schedules specifying requirements for permits, licences, phyto-sanitary certificates, veterinary certificates, etc. Ideally Customs authorities would be consulted during the preparation of legislation to apply trade-related MEAs.

## **Smuggling**

International trade in environmentally sensitive goods is regulated under the provisions of MEAs. The combined effect of increased regulation and effective enforcement creates an incentive for persons to engage in illegal trade of environmentally sensitive goods. Smuggling methods are employed in an effort to beat the system.

Smuggling generally involves disguising or concealing the nature of the material by hiding it completely, mis-describing what it is, making false claims on the documents, or some combination of these methods. An awareness of the most common smuggling methods is essential for effective enforcement of MEAs.

### **Front door smuggling**

In situations where there is no effective licensing system in place or where checking of shipments is not carried out in a vigilant manner, smugglers do not even attempt to disguise shipments; they just rely on the fact that the Customs officers and border control officials are not paying close attention.

**Detection Tip:** Increasing awareness amongst Customs officers about international prohibitions in trade of certain goods helps to increase vigilance.

### **Undeclared quantities/concealment**

Consignments may contain more items than declared, resulting in excess quantities entering the domestic market. Illegal goods are packed or concealed among legitimate goods in a manner so as to deceive the authorities.

**Detection Tip:** Proper and systematic inspection of cargo is the most effective means to discover excess goods.

### **Abuse of transit or re-export procedures**

Cargo vessels with goods intended for transit or re-export to another country sometimes find their way into the domestic market by way of internal conspiracies.

**Detection Tip:** The cargo accounting systems must be effective and constantly reviewed to ensure that all landed goods are dealt with in accordance with the relevant rules and regulations.

### **Mis-description/mis-declaration of goods**

Illegal goods may be deliberately mis-described on documents and labels so that they enter the domestic market purporting to be legitimate goods. Smugglers using this method often assume that the officials are not familiar with chemical names and relevant Customs codes. Mis-declaration is a commonly used fraud.

**Detection Tip:** The verification of declarations must include a thorough inspection of the packages and their contents to ensure that declaration matches the goods in all respects. Always take the necessary precautions to avoid contact with dangerous goods and seek expert assistance and advice if necessary to assist in the verification process.

### **Unofficial points of entry**

Small vessels and other modes of transport (aircraft or trucks where applicable) may use unofficial points of entry to smuggle illegal goods. Coastlines with numerous bays and inlets provide avenues for would-be smugglers to circumvent the law and avoid the approved ports of entry. Yachts and small vessels which regularly move between islands for leisure purposes can be utilized for illicit activities. Long terrestrial borders, especially in forested or mountainous terrain, also provide opportunities for smuggling through unofficial points of entry.

**Detection Tip:** Effective coordination between Customs and other border control agencies such as the Coast Guard and Port Authority is an effective means to combat this illicit activity.

### **Reporting**

Some form of routine national reporting is required by all the MEAs addressed in this Handbook. Reporting provides information that will help law enforcement officers to analyse trends and patterns in the illegal traffic in environmentally sensitive items.

### **In-house reporting**

Officers should follow internal procedures for preparing and presenting reports to relevant persons within the home administration. Some reports can be automatically generated from the automated processing systems, and these may be pre-set to meet the administration's responsibility for reporting on the sources and quantities of imports and exports of environmentally sensitive items. Reports of instances related to offences and illegal trade must be submitted through the appropriate channels for decision-making in respect of enforcement actions.

### **National reporting**

National MEAs focal point agencies are required to submit regular activity reports concerning the movement of environmentally sensitive items. This type of report may be useful for monitoring compliance levels in terms of any quota system in place, e.g. for ODSs, or to determine the level of trade from various sources. This data should be compiled by Customs for submission to the national focal point agencies as requested. All cases of infringements should also be reported to the designated national authorities for their own record-keeping and to meet regional or international obligations.

### **Regional reporting**

Customs administrations may also send relevant reports to the Caribbean Customs Law Enforcement Council (CCLEC) which serves as the World Customs Organization (WCO) Regional Intelligence Liaison Office (RILO) for the Caribbean Area. In particular, infringements and seizures are to be reported through the Seizure Intelligence Database which is accessible by all CARICOM Customs administrations that are members of the CCLEC. Alternatively written reports may be forwarded to the CCLEC Secretariat in St. Lucia. In keeping with its responsibility as the Caribbean RILO, CCLEC then forwards the relevant information to the WCO and/or to the International Police Organization (INTERPOL).

### ***Communication and Collaboration***

Having grasped the common issues related to MEAs and how they impact on the work of Customs and other border control personnel, it is important to share this information with others.

### **Talk to colleagues**

Exchange of information and internal communication among colleagues is important in the enforcement effort related to environmentally sensitive goods. This is one of the most effective means to promote compliance and discourage attempts by smugglers to circumvent Customs and border controls.

### **Seek more information about multilateral environmental agreements**

Customs officers and border control officials must be armed with information about MEAs if they are to be effective in doing the job of enforcement. They must keep up to date with changes in requirements or in the range of items covered by the various agreements and with other developments in the respective MEAs. Better informed officers will be more effective in carrying out their duties and responsibilities.

### **Provide feedback**

The process of developing policy and drafting appropriate legislation can be enhanced with input from persons at the operational level who are positioned at the front line of the borders. Officers who provide feedback to the decision makers can assist them in developing practical and workable solutions to the issues involved in dealing with environmentally sensitive goods.

The feedback provided in the form of reports can be useful in creating effective partnerships and networks at the national, regional and international levels. Networks of communication and collaboration can be created at the individual and organizational levels, and the informal and formal levels can effectively enhance efforts to implement the respective MEAs.

***Additional Resources and Further Information***

- The Green Customs Initiative has the objective of enhancing the capacity of customs and other relevant enforcement personnel to monitor and facilitate the legal trade and to detect and prevent illegal trade in environmentally sensitive commodities covered by the relevant MEAs: [www.greencustoms.org](http://www.greencustoms.org)

## 12. Conclusion

This Handbook is intended both to assist officers in the field and for use in raising awareness about the importance of MEAs and their relevance to the work of Customs and border control authorities in CARICOM countries. It has provided a clear overview of the scope and purpose of each MEA and the roles of Customs and border control agencies in implementing the various provisions of the agreements.

Users are encouraged to supplement the information in this Handbook with other resources to equip them with the knowledge and skills to perform their MEAs-related duties effectively.

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ISBN: 978-976-600-284-8

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