

# REPLICATION IN CENTRAL AMERICA OF MERCOSUR ACHIEVEMENTS IN MANAGEMENT OF TRADED HAZARDOUS SUBSTANCES

*AN OVERVIEW OF A PIONEER OAS/DSD PROJECT*



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# **INTRODUCTORY REMARKS**

The following is a first approximation to the Project goal:

*In the context of the support the Organization of American States intends to provide the Central American region in the sphere of chemical security and implementation of the Basel Convention standards, study the achievements of the MERCOSUR States in the realm of customs harmonization, and attempt to draft a similar model for Central America, considering customs codification, labelling issues, as well as the particular importance, for the Central American region, of both licit and illicit chemical substance trade.*

The Department of Sustainable Development is fully aware of, and concerned for, the environmental challenges faced by our Region. Such issues are a fundamental component of the DSD mission, and my research covers a very sensitive aspect of such larger theme: chemical substances and products potentially harmful for human health, welfare and development, and for the environment at large. Such hazards stem not only from spontaneous release of such substances, but also from licit and illicit trade, insufficient information, regulatory gaps, lack of coordination among governments, and other factors we are about to discuss.

In the last few decades, the international community has made significant efforts to face and overcome such issues, and the work of the international agencies, including the OAS, through the DSD, has been pivotal for the regional and global agreements reached. A number of international conventions, such as those of Basel, Rotterdam and Vienna, and the Montreal Protocol, which I will describe very briefly, have fostered responsible behaviours and sensible legislation in the sphere of toxic substances, but the problem is so serious and widespread, that much more needs to be done, and the OAS/DSD is committed to that task in our Hemisphere.

In view of the above, I have structured this paper in two parts. This volume describes the issues and the OAS/DSD project, including its justification and expected outcomes. Annexes include a selected listing and summary explanation of the provisions of the

Central American and MERCOSUR legislation on the subject matter of the project. A second volume is entirely devoted to providing a listing and summary explanation of the provisions of the Central American and MERCOSUR legislation on the subject matter of the project. Certainly, the research reflected in both volumes has to be continued –what I intend to do- and I hope it could be a useful input for the data base being created by the Organization.

## **SUMMARY BACKGROUND**

Sound management of hazardous chemicals has consistently been a major concern for the Department of Sustainable Development, particularly in connection with agricultural and mining sectors of Latin America and the Caribbean, given their human and economic importance for the Region. This commitment has been documented in various internal papers of DSD, such as the October, 2006 “*Preliminary Diagnostics on the available information on Hazardous Chemicals in the Region*”, by Michela Miletto and Andrea Salinas. The Department has also performed relevant tasks in various initiatives such as the 2006-2008 project, named Supporting Trade-Related Capacity Building in Environmental Management, financed by the Canadian International Development Agency (CIDA). The Executive Report for this project<sup>1</sup>, one of whose subregions is Central America, identifies the issues to be met with OAS and other international agencies’ assistance:

- 1) Development of a hemispheric network which includes private and public actors;
- 2) Preliminary inventory of PTS and an on-line database;
- 3) Compilation of existing legal, management systems and institutional capacities;
- 4) Identification of opportunities to sustain a regional program for the sound management of chemicals;
- 5) Sub-regional technical meetings;
- 6) Outreach activities;
- 7) A Regional Action Plan for the Sound Management of Hazardous Chemicals.

*Priority topics, in turn, consist of*

- 1) phasing out pesticides: supporting chemical security reforms with particular attention to gender and poverty issues<sup>2</sup>;
- 2) obsolete pesticide stockpiling: sites inventory and disposal;
- 3) prevention and control of mercury contamination derived by gold-mining activities;

- 4) PCB: inventory, decontamination, disposal, and implementation of alternative technologies

As part of the DSD-executed initiative on *Trade and Environment in the Americas*, the Department is working in strengthening capacities of member States in the area of sound management of chemicals (Cluster I).<sup>3</sup>

The DSD has also co-sponsored a number of workshops with outreach, information-sharing, and academic connotations. The Agenda for a coming event of this type can be found in Annex II of this document.

I would also like to mention that in the framework of the first phase of its initiative on persistent toxic chemicals safe management, the OAS/DSD has been pursuing a research on most POPs and heavy metals.

Work done so far for the MERCOSUR/C.A. Project - The activities started last October and consist of the formation of a database on PTS (Persistent Toxic Substances), to collect information from Latin America and the Caribbean. The Design and Website of the Database are in process, and it will serve as a portal for the country representatives to use and feed. It will contain a wide range of informations on the two basic sides of the problem of chemicals: the legal and the technical sides.

Scientific information is constantly evolving. For instance, the Stockholm Convention on Persistent Organic Pollutants (POPs) identified 12 POPs, but the number is growing. Many countries signed the conventions, but before had to fulfill certain requirements, The countries are requested to:

- Fill out **National Profiles** related to chemicals and chemical management
- **National Implementation Plans**, explaining what they could do to abide by this convention.

The **PTS Group** was divided according to the use of the chemical:

- Pesticides
- Industrial byproducts: not the pollutants per se, but, e.g., the burning of other products

And there is a separate group, called the **Heavy Metal Group**, i.e. that of the metals mostly used for mining, as well as mercury (for mining gold), that can be used in different ways and can produce different kinds of contamination.

Another part is the **identification of problems** in order to support the countries, based on the survey that was sent out to the countries<sup>4</sup>, thanks to which these priority needs can be identified and from which a clearer picture of the country's priority needs is to be drawn, including, as regards this paper, eventual support for the Central American countries' legal reform, particularly in Nicaragua for the law on Pesticides

The Database has the following basic features:

- It covers use, production, exportation of products
- Products are identified by their scientific names,
- Substances are grouped according to: their amount, contaminated side aspects, areas, good- and bad production practices, etc.

There is a bioanalysis of each product so as to be able to later take actions. Feedlots, for example, are to be assessed, so as to decide, for example, the proper removal of the stockpiles.

Being it that the Legal Frameworks do not differentiate sufficiently different kinds of waste, the first step to be taken is to make that classification. Another problem and another initiative that is being thought of is the harmonization of custom rules related to the illicit traffic of pesticides and chemicals in Central America.

## **PROJECT APPROACH - SYNERGIES SOUGHT**

The **approach** chosen by the OAS/DSD for the MERCOSUR/Central America project consists of using the experiences accumulated by a subregional group of countries in a given thematic sphere as an input for other nations which experience similar problems.

In this case, the MERCOSUR countries –Argentina, Brazil, Paraguay, and Uruguay— are achieving remarkable success in the areas of chemical substance management, trade, and security harmonization. One case in point is the Agreement for the Facilitation of Dangerous Goods Transportation formalized on 5<sup>th</sup> August, 1994, based on Art. 13 of the Asuncion Treaty (March 26th, 1991), Decisión N.4/91 of the Common Market Council, Resolution N. 39/94 of the Common Market Group, and SGT Recommendation N. 1/94 N.5 on Road Transportation.

In turn, such work is based on, and entails the implementation of, international agreements, mainly the Basel and Rotterdam Conventions (on control of hazardous wastes and their disposal, and Prior Informed Consent, respectively), and the requirements of the International Maritime Organization, the Civil Aviation International Organization, the World Bank, the OECD, UNITAR, and particularly *Greencustoms*, an umbrella initiative sponsored by the World Customs Organization (WCO), Interpol, CITES, the Basel Convention, the Convention on Biological Diversity (CBD), the Organization for the Prohibition of Chemical Weapons (OPCW), UNEP DTIE's Ozon Action Programme, the Ozone Secretariat, UNEC DEL C. <sup>5</sup>

In other words, **by replicating or adapting MERCOSUR successful experiences, the Central American countries will indirectly benefit from the experiences and successful achievements of such non-MERCOSUR international organizations and programmes, as well as of worldwide private-public initiatives** that are also encouraged by *Greencustoms*. <sup>6</sup> I dare anticipate that implementation of MERCOSUR models would be kind of a “*seal of approval*” that facilitates access by the Central American Subregion to assistance from such other international bodies. <sup>7</sup>

The MERCOSUR countries have advanced towards the formalization of a common **Custom Code**. Although approved by the Common Market Council, the Code has not



yet been ratified by the necessary number of countries. However, it is a significant step and can be a model for Central America to adapt and implement. Just to give an example, the Code provides that goods introduced into the customs territory that create dangers for public safety, health or life of human, animal or vegetable life, or the environment, can be returned to its place of origin, be sent to a different custom site, or destroyed under the Rules of Implementation (article 120).

The MERCOSUR work covers a wide range of chemical substance areas. Just the *Agreement for the Facilitation of Dangerous Goods Transportation* in the MERCOSUR covers 600 pages in the Spanish version. In turn, each agreement gives rise to numerous regulations, protocols, and resolutions. This is a significant point to be remarked, because one of the crucial and arduous tasks to be pursued is that of **gathering and systematizing** the whole array of MERCOSUR rules and decisions. Only by developing a full inventory of the MERCOSUR regulations will this project's assistance to Central America be possible. One should also bear in mind that chemical rules compilation and systematization are an obvious need for the MERCOSUR, given the proliferation of legal instruments of that sort. In particular, incorporation of chemicals subject to the procedures of the Rotterdam and Stockholm Conventions has been formally proposed.<sup>8</sup>

**The Central American region has been selected for potential use of the MERCOSUR achievements** mainly because (a) chemical trade –including illegal trade-- is pervasive in such area; and (b) the level of customs harmonization and control is, up to now, insufficient, the end result being a serious issue for the region. In Guatemala, for example, there are no rules on transport or labelling, which favors illegal pesticide traffic.

Needless to mention, use –and misuse- of chemicals affect various important areas of OAS and Latin American countries interests, such as environmental protection, sustainable development, food safety, groundwater contamination, international trade, human health, etc. Just mentioning such spheres gives us an idea of the importance of a coordinated effort in the area of chemicals.

Such work should be facilitated by the existence, since October 10, 2004, of a Basel Convention Coordinating Center in Uruguay, following successful operations on a pilot basis since 1995. The Basel Convention Coordinating Centre coordinates the Basel Convention Regional Centres in Latin America and the Caribbean (Argentina, El Salvador, and Trinidad and Tobago) on training and technology transfer.<sup>9</sup> Since Argentina is a Member of MERCOSUR and El Salvador is the host country for another regional center, the Coordinating Center in Uruguay (also a Member State of MERCOSUR) might facilitate the functioning of the OAS/DSD project in the sphere of training and technology transfer.

Nonetheless, **the Central American countries are involved in a serious effort** in the context of the CCAD (Central American Commission for Environment and Development), and have agreed on the need for customs personnel training on dangerous materials management in the framework of the Basel and Rotterdam Conventions. Other training areas are those of chemicals covered by the Stockholm Convention; legal, administrative and technical strengthening; standard procedures for the implementation of the Convention (including monitoring and control for labelling and verification of dangerous in-transit loads); inter-institutional coordination, and information transfer.

The following table shows a listing of major initiatives being carried out nowadays in Central America<sup>10</sup>:

Country	Existing National Monitoring Programs/Datasets Monitoring Capacity/Capability Regional/Global Programs or Laboratories	Monitoring Capacity/Capability	Programs/Datasets Regional/Global Programs or Datasets	Laboratories
Costa Rica	Monitoring system for pesticide intoxications			Laboratory for Pesticide Residue Analysis (LAREP), Central American Institute for Studies on Toxic Substances (IRET) Tier 4

Nicaragua	Pesticide-pollution studies (Mrex) on hydric basins			
Panama	DDT-generated erythrocytical and macrophagic activity <ul style="list-style-type: none"> <li>• Quality control of foods presumably contaminated by POPs</li> <li>□ Risk evaluation for exposure to POPs in specific areas</li> </ul>	There are a number of laboratories with well trained staff in Panama capable of conducting testing for PTS.		Instituto de Investigación Agropecuaria de Panamá Laboratorio de Análisis de Residuos de Plaguicidas Tier 4

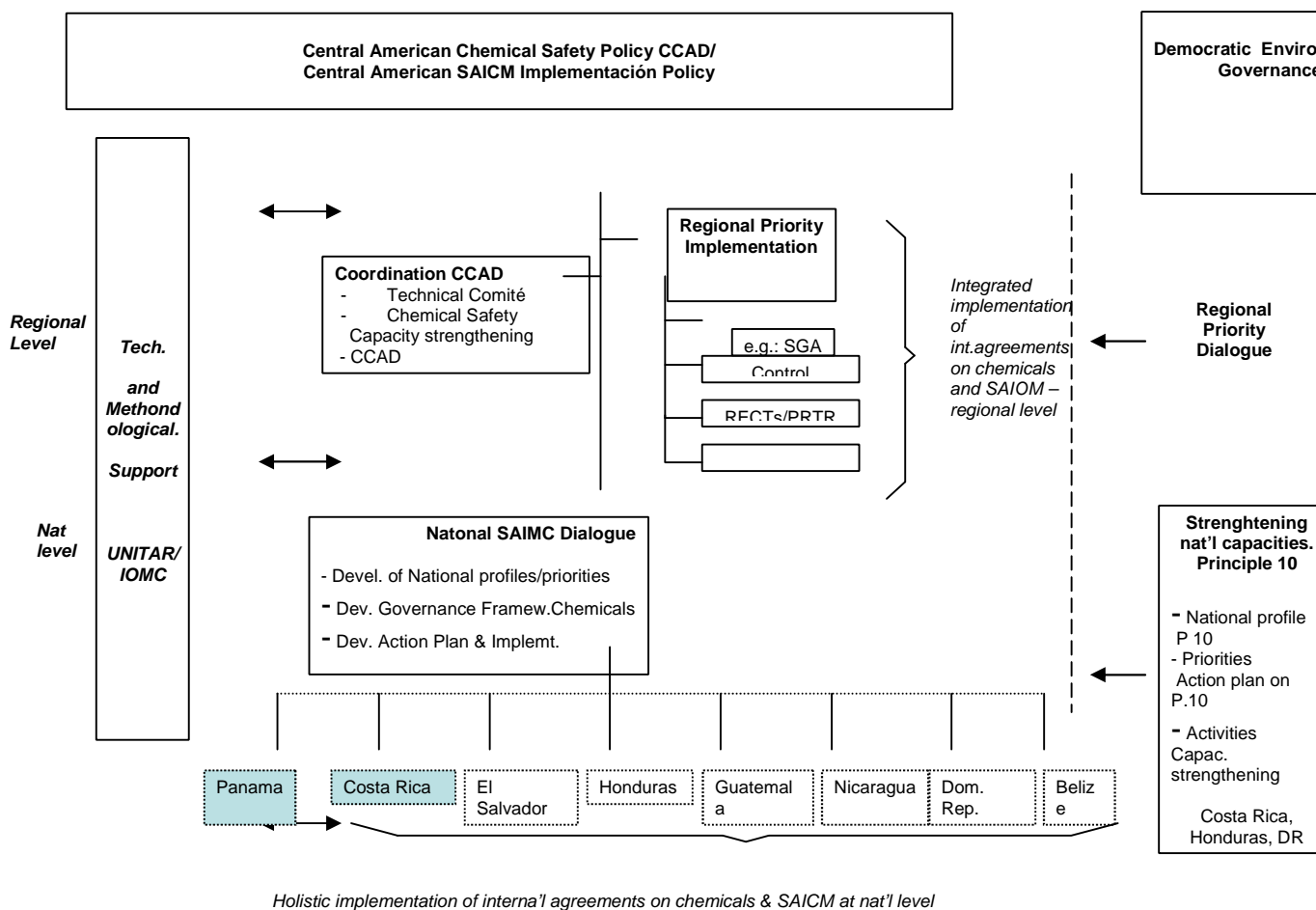
### Multi-country projects<sup>11</sup>:

PCB Inventories at the national level (CRCB) 2004 – 2006 648 000 US\$ financed by US EPA, Finland, Basel Convention
National Plan of Action for PCB at the national level (CRCB)
Proposal of a Regional Strategy for the Sound Management of PCB in Central America (CRCB)
Final Disposal of PCB (CRCB) 8 – 10 mill. US\$ financed by GEF
Aspectos Ocupacionales y Ambientales de la Exposición a Plaguicidas en el Istmo Centroamericano (PLAGSALUD) (PAHO, DANIDA) 1994 - 2003
Strategy for the Sound Management of used Acid-lead Batteries in C.A., Venezuela, Colombia and the Caribbean
Inventory and final disposal of POPs (CRCB)
Red de Intercambio de información de Productos Químicos CIEN C.A. and México (EPA, USAID, UNEP) EPA, UNEP, CCAD, USAID <a href="http://www.epa.gov/cien/partners_centamer.html">http://www.epa.gov/cien/partners_centamer.html</a>
Reduction of Pesticides Drainage to the Caribbean Sea Panama, Costa Rica, Nicaragua, Colombia Environment Affairs Ministries, UNEP
Capacity building on Integrated Crop and Pest Management in Guatemala (Croplife) 2 projects
Programa Regional de Acción y Demostración de alternativas sostenibles para el control de vectores de la Malaria sin el uso de DDT en México y C.A. UNEP, GEF, PAHO, FMAM Environment Affairs and Health Ministries, CCAD
Subregional plan for integral management of potentially dangerous substances – Central America, Belize and the Dominican Republic – RESSCAD XX <sup>12</sup>
Support for the Strengthening of Capacities in Environmental Management of Persistent Toxic Substances (STP) in the Americas - OAS Hemispheric project <sup>13</sup>
<b>Health and Work Programme in Central America (SALTRA)<sup>14</sup> – A South-South-North cooperation programme. A long-term effort (12 years; 1<sup>st</sup> Phase: 2004-2007).</b>

The roles of the **Regional Centers** and **Coordinators** (please see below) have been recognized. El Salvador, for instance, has proposed a framework for the operation of the Regional Center of the Basel Convention for Central America and Mexico, involving Belize, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua and Panama. The following information stems from a report of the Regional Center for the Basel Convention, San Salvador, November 6, 2006<sup>15</sup>

- Projects already executed, 1999-2005
  - Regional capacities
  - \$700,000 PCBs Inventory
  - \$ 100,000 Used Batteries
- Projects being managed:
  - \$8-10 millions for PCBs management and final disposal, GEF.
  - \$2 million for toxic wastes management, Finland
  - Physical and virtual show in III EXPOAMBIENTE MESOAMERICANA, 2007.
- Emissions and Emission-Transfer Registry/CAFTA
- Advanced procedures for institutional contributions from donors
- Annual sponsoring by corporations and institutions
- Contributions in kind/cash from Mesoamerican countries

The following chart shows the implementation scheme for international agreements on chemicals in Central America, which is *per se* another positive achievement in the Region. It makes use of the Strategic Approach to International Chemicals Management (SAICM), policy framework for international action on chemical hazards Adopted by the International Conference on Chemicals Management (ICCM) held on 6 February 2006 in Dubai, United Arab Emirates:<sup>16</sup>



In spite of these achievements, a number of **gaps** have been detected, and filling them will be one of the tasks for this project.

In parallel, the Organization's experts have already started to work in –so to say– the opposite end, i.e. gathering information for a database on **PTS** (Persistent Toxic Substances)<sup>17</sup>, for the whole region (and the Caribbean). This vital project is being implemented since October last year, and my research has included the pilot country reports produced by such OAS specialists.

Systematic and complete information-gathering for the project should also cover other aspects of this effort, such as:

- Status of a Regional Initiative with the Caribbean on Pesticides
- Status of a regional Chemical Security Policy
- Legal reform in the countries in need for it
- Approaches for the Persistent Organic Pollutants (POPs)<sup>18</sup>, which are still to be fully identified in the Hemisphere
- Identification of by-products of Persistent Toxic Substances<sup>19</sup>, which vary from country to country
- Plans for specific issues, such as removal of stockpiles, use of non-polluting agricultural fertilizers, feedlot contamination hazards, good and bad production practices, etc.
- Current and projected OAS support for the above efforts

**Information gathering and information classification and systematization are, thus, key components of the Project.** The idea is that of providing information where it is still incomplete or, for some countries or in some areas, simply nonexistent, or disparate, which impairs any rule-implementation attempts.

## **MY VIEW OF THE PROJECT STRUCTURE**

Therefore, the project, in my view, would involve:

### **PART I - INFORMATION GATHERING**

- a) Identification of *problems of the Central American region* in the spheres of chemical security and implementation of the Basel Convention standards, and achievements of the MERCOSUR States in the realm of customs harmonization for the above-identified areas.

Such identification work covers:

- a. Specific country issues
- b. Issues common to all of the nations of the region
  
- a'. Legal problems
- b'. Technical problems (e.g. need for bioanalysis)
- c'. Assistance needs (technical, budgetary)

- b) *MERCOSUR achievements* in the spheres of chemicals mentioned in (a), above
  - a. Thorough inventory of legal instruments. Enforceable / Programmatic ones
  - b. MERCOSUR-area achievements in the chemical substance areas involved and successful experiences that appear to be candidates for replication in Central America
- c) International instruments being implemented or in need of implementation in Central America. Identification of those that have been ratified by each country, by status of implementation

## **PART II - CONCLUSIONS**

- a) Conclusions are to be drawn from the information gathered in Part I, aimed at (i) identifying those MERCOSUR achievements viable in Central America as regards chemical security and implementation of the Basel Convention standards in such sphere, and (ii) reviewing the achievements of the MERCOSUR States in the customs harmonization area.
- b) Suggestions for concrete recommendations for (i) the countries and regional bodies themselves, and (ii) the OAS, as far as potential support by the Organization is concerned, in the above-referred field.

*The way I conceive this initiative, it is as an ongoing, dynamic effort with intensive use of tools such as expert progress reports, surveys, desk- and mission work, and continuous updates, monitoring and assessments.*

## **PROJECT JUSTIFICATION**

**Central American countries have expressed serious concerns on chemical substance-related environmental issues<sup>20</sup>**, particularly those connected with:

- Lack of harmonized customs codes and rules (*please see below*).
- Agricultural chemical inputs, hydrocarbons, PCB, solvents, drug precursors, dangerous chemical wastes, ammonia, chlorine, LPG, industrial- and domestic-use acids and bases, cleaning products, dioxines and furanes, CFC, halons.
- Hazards from pesticides, since agriculture is a fundamental social and economic activity in the region.<sup>21</sup>
- Control- and coordination gaps, as a source of water-source polluting accidents and spills.
- Want of regulatory reforms in the areas of transport of hazardous substances.
- Misuse of corrosives (even though many industrial companies have ISO-14000 environmental management systems).

There is also a need for:

- Information systems,
  - Gap-filling rules on monitoring of use, stockpiling, feedlot pollution, product lifecycles, and management of chemicals.
- Adequate labelling systems and enforcement of such rules are spheres of utmost concern.

Figures are eloquent: Some 70 000 different chemicals are available on the world market, with around 1500 new ones being introduced every year<sup>22</sup>. Many pesticides that have been banned or whose use has been severely restricted in industrialized countries are still marketed and used in developing regions, including Central America.

To quote a paper by Jamilette Miranda (“Neurotoxicity after poisonings with organophosphate pesticides in Nicaragua” - Department of Public Health Sciences, Karolinska Institute, Stockholm, Sweden, 2003),

*The use of pesticides in developing countries is around one fourth of world production (1), but poisonings are far more frequent and 99% of the more than 200,000 annual deaths in the world due to acute pesticide poisonings occur in the developing world (2). Pesticide exposure in developing countries is more widespread and higher than in industrialised countries (3). Pesticide regulations in developing countries are less strict and less widely enforced. In addition, industrialised countries export many restricted and prohibited pesticides to developing countries, (4-12). Many pesticides*



*classified by the World Health Organisation as highly or extremely toxic are in widespread use, among these organophosphate pesticides (OPs).*

As to Nicaragua, for example,

*Extensive exposure to pesticides in developing countries like Nicaragua is a public health concern. During the last four decades pesticide poisonings and pesticide-related illness had been an important problem in Nicaragua ... Organophosphate insecticides are the major cause of these poisonings ... Poisoning incidence rates in Nicaragua are among the highest in the world. In the same geographical region that produced the cases studied in this thesis incidence of poisoning was estimated to be 7.5/100 person years of pesticide use among individuals between 10 and 79 of age (20). Underreporting of poisonings was estimated to be around 65% based on the contrast between information on poisoning episodes obtained from the surveyed population and the official poisoning registry ... A recent national survey estimated almost 68,000 symptomatic poisoning episodes in a one-year (ibidem).*

As documented by Erika Rosenthal,

*Between 1992 and 2000, pesticide imports in Central America more than doubled, from 18,000 to 45,000 tons... Nearly all the major agrochemical companies posted increased sales in the region. ... WHO Class Ia and Ib pesticides (classified as extremely and highly hazardous respectively) represent approximately one third of all pesticides imported into the Subregion, undermining the adoption of IPM.<sup>23</sup>*

### **Customs efforts**

**At a regional level**, the Process of Central American Integration shows significant – although still incomplete—progress in the **customs** area. The following are major accomplishments from ministerial meetings and Regular and Extraordinary Summits of the regional Chiefs of State and Government:<sup>24</sup>

- Customs Facilitation, through the Central American Uniform Code (CAUCA) and its regulations (RECAUCA), as well as the Regulations on International Customs Transit Regime, and a Single Customs Procedure Manual, which is being implemented in integrated and peripheric customs and will provide uniform procedures.

In March, 2004, Guatemala and El Salvador started customs facilitation processes in their border posts through simplified procedures for goods and persons. Similar moves were initiated in April, 2004 by El Salvador and Honduras, and by Guatemala and Honduras, and in May, 2004 by Honduras and Nicaragua.

The establishment of a Central American Customs Union includes the elimination of customs border posts, which requires the strengthening of periferic customs in the customs common territory. In addition, a pilot plan has been established, whereby customs delegations of neighbouring countries are present in a number of national customs offices.

- Customs Merchandise Valuation – The Council of Ministers for Economic Integration (COMIECO) approved the Central American Regulation for that area, designed to apply Article IV of the GATT in the region.<sup>25</sup>
- Tariff Harmonization, covering 94.6 percent of an universe of 6,194 items.
- Free mobilization of goods and services – Mainly applicable for Central American-source goods, save those included in Annex A of the Central American Economic Integration Treaty. Free mobilization as provided for by the Customs Union will be achieved through the elimination of Annex A.
  - Registries, involving mutual recognition thereof for a number of goods.
  - Sanitary and Phitosanitary measures harmonization – COMIECO approved a listing of 469 products exempt from import authorizations and export certificates.
  - Standardization measures harmonization – 22 technical regulations have been developed; 9 of them have been notified to the WTO.

Environmental management policies and systems have been harmonized, and common/concerted positions have been adopted in regional and global fora. The Technical Committees of the Council of Ministers of Environmental Affairs have been strengthened. Protocols on biosafety, genetic-biochemical resources and associated traditional recognition have been proposed for national ratification. The Environmental Dialogue was enhanced through the new Permanent Civil Society Forum. Environment and Safety, and Environment and Sustainable Energy Joint Agendas have been signed by the relevant Minister Councils. Works on the World Bank and GEG-supported Honduras-Nicaragua Binational Biospheric Reserve were initiated in furtherance of the Central American Convention on Biodiversity and Regionally Important Protected Areas.<sup>26</sup>

Particular mention deserves the 2006 OAS/DSD Project “*Support for the Strengthening of Capabilities in Environmental Management in the Americas*”. The project is being financed by the CIDA and should culminate in January, 2008.<sup>27</sup>

**An illustrative case of the sort of issues and accomplishments of the Central American region at large is that of Costa Rica**, a country that has become a Party of the leading international instruments and where, nonetheless, the need for institutional and legal strengthening and reform and rule harmonization makes itself felt.

Costa Rica has adhered to FAO, OECD, ILO, ONUDI, UNEP and WHO, which in 1995 established an inter-organizations Programme for Rational Management of Chemicals (IOMC) aimed at the Reduction of Risk from Exposure to Chemicals<sup>28</sup>, and to the Stockholm, Basel, Rotterdam, Vienna and other Conventions. The country has incorporated in its national policies the obligations stemming from most of such agreements and has created a National Group responsible for developing a National Profile in this area, under the guidance of the Ministry for Environment and Energy and with the help of Environment Canada, UNITAR and the European Community. Such Profile illustrates Costa Rica's views on the scope and priority of the existing chemical substance management problems it faces, namely: Chemicals management policies and guidelines; Information management; Lifecycle and risk evaluation; Registries; Coordination and holistic management; "risk culture" and social risk acceptance; Hazardous wastes; Infrastructure and resources; Exports.

The case of Costa Rica can be deemed representative of the status of and the issues faced by most countries in the region, particularly because, as aforementioned, Costa Rica's implementation of international guidelines is exemplary.<sup>29</sup>

### **Customs Harmonization—The model of MERCOSUR**

In connection with the support the OAS intends to provide the Central American region in the spheres of chemical security and implementation of the Basel Convention, the Organization proposes a study of the achievements of the MERCOSUR countries. Such approach is based on the fact that the Southern Market is an already-functioning system, which should ease and quicken the transition of Central American countries to customs harmonization and help deal with the region's most pressing issues, particularly licit and illicit chemical substance traffic, and inadequate labelling.

The Treaty of Asuncion (1991)<sup>30</sup> committed Argentina, Brazil, Paraguay and Uruguay to create a customs union and, eventually, a common market. As a customs union, Mercosur is taking part in preferential negotiations with the non-Mercosur members of the Latin American Integration Association, the rest of the western hemisphere in the Free Trade Area of the Americas process, and the European Union. Negotiations with the EU were launched on the premise that Mercosur aims to become a customs unions,

a step forwarded by the Ouro Preto Protocol of 1994. The Common External Tariff (CET) started in January, 1995. Such dates show the scale of the experience accumulated by the MERCOSUR. Besides, experts remark that a number of obstacles faced by the MERCOSUR countries in the implementation of the Customs Code provisions –e.g. the establishment of common safeguard procedures and common rules to deal with unfair trade practices by nonmembers, or the need to maintain trade policy flexibility -- should be easier to overcome in a smaller and more homogeneous region such as Central America. The experience of MERCOSUR on these problems should be a useful background for the C.A. countries. In other words, the Central American “Mercosur-style” version could be better than the original, eventually helping the MERCOSUR itself to improve its own mechanisms in the light of what the C.A. nations are able to accomplish.

The MERCOSUR countries have advanced to the formalization of a common Custom Code<sup>31</sup>. Despite having been approved by the Common Market Council, the Code has not been ratified by the necessary number of countries, but can be a model for Central America. It provides, for example, that goods introduced into the customs territory and create dangers for public safety, health or life of human beings, animals, vegetables, or the environment, can be returned to its place of origin, sent to a different custom site, or destroyed under the Rules of Implementation (article 120). However, Central American countries might wish to consider, from the start, a number of conceptual matters associated with the MERCOSUR Code, including the definition of “customs territory” as different from “political territory”, the legal nature of the Code (is it a framework or a treaty?), etc.<sup>32</sup> This would help a smooth adaptation of lessons learned in the MERCOSUR area to the specific needs of Central America.

The MERCOSUR work covers a range of chemical-issue areas. Just its *Agreement for the Facilitation of Dangerous Goods Transportation* covers 600 pages in the Spanish version. And each and every agreement gives rise to numerous regulations, protocols, and resolutions. This is a significant point to be remarked, because one of the crucial and arduous tasks to be pursued is that of **gathering and systematizing** the whole array of MERCOSUR rules and decisions. Only by having a complete outlook of the MERCOSUR legal framework will assistance to the Central American States be

possible. The vast array of MERCOSUR legal instruments is both a challenge and an opportunity for the OAS to help, not only the Central American countries, but also the MERCOSUR itself, where chemical rules compilation and systematization are an obvious need, given the proliferation of legal instruments of that sort. In particular, incorporation of chemicals subject to the procedures of the Rotterdam and Stockholm Conventions has been formally proposed (Report 5.2.C Act N° 4/01 SGT N° 6 “Environment”).

In the **environmental** sphere, in furtherance of the 1992 Rio de Janeiro Declaration on Environment and Development, the MERCOSUR States (Argentina, Brasil, Paraguay, and Uruguay) adopted the MERCOSUR Framework Agreement on the Environment (Asuncion, 22<sup>nd</sup> June, 2001), which includes a series of commitments clearly applicable to Central America; including the following ones:<sup>33</sup>

- The Party States will strive for a) protection of the environment and effective development of the environment; b) civil society participation in environmental decision-making; environmental-costs internalization; d) priority and holistic treatment of environmental problems causes and sources;
- The Agreement aims at articulating economic, social and environmental dimensions
- The Parties will cooperate in the fulfillment of environmental international agreements they had ratified. This includes adoption of common environmental protection policies,. Promotion of sustainable development, joint communications on issues of common interest, and information sharing

A thorough paper by the *Hemispheric Working Group on Trade and Environment* describes the MERCOSUR 2001 Framework Agreement on the Environment as “innovative, far-reaching”, claims that it might provide a number of substantive starting points, and remarks that:

*The Mercosur Framework Agreement on the Environment* Linkages between trade and the environment were recognised early in the process of building the *Mercosur*, and a ‘*Sub-Grupo No.6*’ now exists on the environment, as one of the recognised technical working bodies. The Council (Consejo Mercado Común), in June 2001, approved the *Mercosur Framework Agreement on the Environment* which was

added to the *Treaty of Asuncion* of the *Mercosur*.ix A comprehensive treaty, the 2001 *Mercosur Framework Agreement on the Environment*, at Chapter 2, Article 4, establishes a shared objective of “sustainable development and environmental protection through the development of economic, social and environmental dimensions, contributing to a better quality of environment and life for the people.”x This objective establishes the accord as an integrated instrument. The text of the agreement provides for upward harmonisation of environmental management systems and increased co-operation on shared ecosystems, in addition to mechanisms for social participation and the **protection of health**. At Chapter 3, it commits member states to cooperation on the development of instruments for environmental management including quality standards, environmental impact assessment methods, environmental monitoring and costs, **environmental information systems and certification processes**. At Chapter 4, Art. 8 to 11, there are provisions for the settlement of any disputes (by reference to the existing Mercosur dispute settlement process) and other general mechanisms for implementation of the Framework Agreement. The Annex provides a framework for the future development of protocols in three areas: sustainable management of natural resources (such as protected areas, biological diversity, **biosafety**, wildlife management, forests, and hydrological resources); quality of life and environmental management (**such as hazardous waste management**, urban planning, renewable energy, and **improvement of soil and atmosphere/air quality**); and environmental policy (such as environmental impact assessment, economic instruments, environmental information exchange, environmental awareness programs). Though the regime has much work to do to ensure that the promise of the 2001 *Framework Agreement on the Environment* is realised, the elements are there, and key civil society actors have expressed cautious optimism in this linkage at a sub-regional level.xi It is interesting to note that the 2001 *Framework Agreement on the Environment* was generated by the consideration of environmental issues from within the structures of the customs union. In this instance, it appears that the international economic negotiations took environmental priorities into account, then **created a place for environmental cooperation as part of the general sub-regional economic integration process for convenience and to ensure continued political will**.<sup>34</sup> (*Highlights added, M.C.Bosch. Please see Annex IV for the full text of this paper*).

Optimal nacional environment management policies

- Environmental national legislation harmonization
- Fostering environmentally healthy and safe work conditions
- Adoption of policies, productive processes and services that do not contribute to the degradation of the environment
- Harmonization of legal and institutional guidelines to prevent, monitor and mitigate environmental impacts in the Party States, particularly in border areas
- Timely information on environmental disasters and emergencies that can harm the other Parties, including operational support

### **Implementation in Central America of the models of MERCOSUR/other international instruments**

The OAS/CCAD has produced a prioritized inventory of Central American issues in the above-discussed areas<sup>35</sup>. It responds to trade-related capacity building development needs in environmental management. The project, “Supporting Trade-related Capacity Building in Environmental Management” is based on a process conducted by the OAS Department of Sustainable Development (OAS/DSD) and aims to address challenges of OAS Member States on trade-related capacities in environmental management for the Sound Management of Persistent Toxic Substances (PTS). The following are its main conclusions<sup>36</sup>:

**-Overarching priority:** International conventions enforcement by the countries.

Intensive efforts should be devoted to enforcement of:

- The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, the most comprehensive global environmental treaty on hazardous and other wastes. It has 180 Parties and aims to protect human health and the environment against the adverse effects resulting from the generation, management, cross-border movements and disposal of hazardous and other wastes.<sup>37</sup>
- The 2004 Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, supported by FAO and UNEP. It aims to provide the developing countries the benefits from chemicals and pesticides while ensuring that their

development is environmentally sustainable. Where trade is permitted, requirements for labelling and providing information on potential health and environmental effects will promote the safer use of chemicals.<sup>38</sup>

- The 1989 Montreal Protocol, as amended, stipulates use and production reduction of ozone-depleting compounds. It is revised regularly, and contains a timetable for the phase-out of eight of such substances or substance groups.<sup>39</sup>
- The 1985 Vienna Convention for the Protection of the Ozone Layer<sup>40</sup>, designed to take "appropriate measures...to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the Ozone Layer".

**-Cross-cutting activity:** Exchange of information amongst countries.

**-Regional priorities:** >Regional Policy on Chemical Security; >Information Exchange and Capacity Building; >Creation of laboratory networks; >Coordination between Customs for the control of illegal traffic and registry of products.

**-National priorities:** >Contaminated sites cadaster; >Inventory of stockpiles; >Activities to prevent mercury contamination; >Registry Systems for PTS according to use; >Final disposal of PTS.

Practical steps to accomplish the above would start with a OAS drafting of the whole array of model harmonization instruments. Some of them are international in nature and would likely be feasible in the framework of the existing treaties and conventions. Other needs, such as the establishment of coordination bodies might require national legislation.

One important step should be the adoption of 10-digit (rather than 6-digit) tariff codes, a move that has been pioneered in the region by Costa Rica for refrigerants listed under the Montreal Protocol<sup>41</sup>. As digits are added to item headings, the product definition grows more specific, and such symbols can be used to denote special import tariff treatment. Ban of imports of contaminants, for example, would be facilitated by this code-structure reform. Such codes are based on a Harmonized Commodity Description and Coding System ( "Harmonized System" or "HS", a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It is used



by more than 177 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98 % of the merchandise in international trade is classified in terms of the HS. The HS contributes to the harmonization of Customs and trade procedures, and the non-documentary trade data interchange in connection with such procedures, thus reducing the costs related to international trade. Among other uses, it helps monitor controlled goods. The International Monetary Fund describes it as a universal economic language and code for goods, and an indispensable tool for international trade.<sup>42</sup>

- Such move is all the more important in the framework of free-trade and economic integration initiatives in the region. One of the dire problems of the Central American countries is the absence of strong monitoring mechanisms for illegal trade of hazardous chemicals

The dialogue with the countries should stress that in the WTO context –as apparent from the preamble of its Agreement<sup>43</sup>, coherence (through common tools, such as codes) is instrumental for growth and trade – goals strongly valued by the Central American nations.

In turn, the UNEP, in its December, 2002 *Regionally Based Assessment of Toxic Substances* for Central America and the Caribbean<sup>44</sup>, highlights as major chemical issues prioritization thereof, development of human resources, risk assessment and risk communication, enhancement of laboratory capacity, enhancement of clean technologies, and regulatory development and enforcement.

This lengthy report makes it very clear that

*Monitoring capacity of PTSs across the Region varies between countries. In particular, there are no facilities in the Region for routine monitoring of dioxins and furans. Internationally recognized, accredited referencelaboratories are few. A few Central American countries are equipped with national laboratory accreditation bodies. Legislation and regulation of import, export, transport, use, production, emission, storage and disposal of PTSs are deficient and scattered between and within countries of the Region. Pesticide regulation is ahead of regulation of other PTSs. Ratification of relevant international conventions and harmonization of legislation within the Region has taken place to some extent.*

and also that

*Regulatory development, enforcement and compilanse... is another area with a need for major improvements, including creation and harmonization of effective*

*legal regulation and its implementation concerning import, export, transport, use, production, emission, storage and disposal of PTSs; ratification of relevant international conventions; harmonization within the Region and with international treaties and conventions; strengthening the weak inspection and enforcement infrastructure; definition and enforcement of allowable concentrations of PTSs in the environment and workplaces; legal framework for PTS monitoring; coordination between official agencies involved in PTS management within the countries and within the Region...*

and that

*The Region lacks data on environmental concentrations of a number of pollutants. In particular, flow data are nonexistent. The Caribbean coast is a critical region. A dense tanker traffic and offshore oil exploration contribute to the hydrocarbon contamination. Rivers transport high quantities of pesticides to the seawater. Combustion of leaded gasoline, diesel and other fuels and wastes, and aerial spraying of pesticides release contaminants directly to the atmosphere. No regional data are available on groundwater transport of PTSs. Cetaceans, migratory birds, fish and plankton are releasers and receptors of PTSs.*

Again, stress must be made in the fact that formal ratification of international rules and standards does not guarantee actual implementation and enforcement of such rules. It can even create the illusion that problems have been solved. This reality is illustrated by a chronicle in EL NUEVO DIARIO, Managua, Nicaragua, January 22, 2007:

According to the environmentalist Kamilo Lara, ***“Nicaragua has the best possible body of environmental laws; however, political or economic interests made it unenforceable...referring to the situation in the Western region of Nicaragua, faced with massive intoxication by plaguicides in water for human consumption”***.<sup>4546</sup>

## MERCOSUR ACHIEVEMENTS AND THEIR REPLICABILITY IN CENTRAL AMERICA

I would like to start by referring to a few basic regulations and principles of the Southern Market that evidence the positive attitude of its founding Member States towards mutual cooperation beyond the Market territorial frontiers.

Particular relevance deserves the June, 2001 MERCOSUR Framework Agreement on the Environment (CMC Decision 02/01), of which I highlight the following provisions and tenets:

- Mutual cooperation for the protection of the environment and sustainable use of natural resources; participation of the civil society; cooperation among the Parties to support/promote the implementation of their environmental international commitments, and identifying themselves with the U.N. Agenda 21 on Environment and Development; as well as the need for a legal framework for environment and development (PREAMBLE)
- Some treaty thematic areas relevant for the OAS/DSD project are:
  - Urban and domestic wastes
  - Hazardous substances and products
  - Protection of the atmosphere and air quality
  - Environmental emergencies

The Southern Market has also signed (May 6, 2004) Decision 01/04 which encompasses the Rules of Origin of MERCOSUR (CMC Decision 01/04). In addition the CMC Decision 25/94 has incorporated the Customs Code of MERCOSUR.

### MERCOSUR – Central America

The idea of creating synergies between the MERCOSUR and Central America has been considered for some time now. Already in 1995 Martín Arocena advocated it in “Common Market of the South (MERCOSUR)”.<sup>47</sup> An Abstract of the paper by the Inter-American Development Bank makes an enlightening point on the principle that MERCOSUR was never thought of as a self-contained entity:

*“MERCOSUR was conceived to facilitate the insertion of its member countries into the world economy .... In that respect it is clearly different from preceding integration agreements which sought to expand markets on the regional level for local industries that arose during the import-substitution period, while maintaining high levels of protection against competition from third countries”<sup>48</sup>*

This project of cooperation with Central America should therefore be conceived as a natural implementation of such basic idea.

In April 1998, MERCOSUR and the Central American Common Market (CACM) signed a Trade and Investment framework agreement towards integration. In November 2004, MERCOSUR and the Central American Integration System (SICA) signed an agenda towards the development of trade disciplines. On December 17, 2004, MERCOSUR and SICA initiated the dialogue towards a Trade Agreement. Such already existing mechanisms would certainly facilitate the workings of the OAS/DSD project.

An interesting academic effort in this regard is “*El Marco Legal e Institucional para el Manejo Seguro que Químicos Tóxicos Persistentes (PTS) en Chile y Nicaragua*” (Center for International Environmental Law, Erika Rosenthal, 2007). The autor explores the possibility of using the experience of Chile, an associated Member of MERCOSUR, in the sphere of chemicals, to help solve problems faced by a Central American country, Nicaragua. This pilot approach could be expanded by means of similar comparisons and transfer of other models from the MERCOSUR area to the Central American subregion.

Some of the suggestions included in the Chile/Nicaragua paper are particularly worth considering.<sup>49</sup>

- Promote access to information through the development of Registries of Emissions and Transfer of Contaminants (RETC). Explore possibilities for development of a RETC pilot project in a Central American country, such as Costa Rica. Generate capabilities in the non-government organizations for monitoring and supervising the observance of the legal framework for control of chemicals in Chile and Nicaragua, and for management of information in the Registry of Emissions and Transfer of Contaminants (RETC) that is being developed in Chile. (It should be remarked that Mexico is the only Latin American country with a RETC in existence, which entails the requirement of reporting emissions and discharges of the 104 toxic substances listed, including the 12 POPs from certain industrial facilities under the Mexican Federal jurisdiction as a condition for annual renewal of the environmental licence.<sup>1</sup> The information gathered is made public through a web page.<sup>2</sup>)

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<sup>1</sup> In Mexico, the annual renewal of the environmental licence is known as “Cédula de Operación Anual” (COA, “Annual Operation Certificate”). See, generally, M. Rodríguez and G. Espinoza, *Gestión ambiental en América Latina y el Caribe : evolución, tendencias y principales prácticas*, Inter-American Development Bank (2002), available in

<<http://infoagro.net/shared/docs/a6/Gesti%C3%B3n%20Ambiental%20ALC.pdf>>.

Para más información véase: Secretariat of the Commission for Environmental Cooperation of North America, “Public Access to Government-held Environmental Information: Report on North American Law, Policy and Practice” (Second Edition), *North American Environmental Law and Policy* Vol. 8, available at: <[http://www.cec.org/files/PDF/LAWPOLICY/NAELP10\\_en.pdf](http://www.cec.org/files/PDF/LAWPOLICY/NAELP10_en.pdf)>. See also Secretariat of the Commission for Environmental Cooperation of North America, *Taking Stock: 2003 North American Pollutant Releases and Transfers* (CEC, July 2006), available at <[http://www.cec.org/files/PDF/POLLUTANTS/TS03\\_en.pdf](http://www.cec.org/files/PDF/POLLUTANTS/TS03_en.pdf)>.

<sup>2</sup> REGULATIONS FOR THE GENERAL LAW OF ECOLOGICAL BALANCE AND PROTECTION OF THE ENVIRONMENT ON REGISTRY OF EMISSIONS AND TRANSFER OF CONTAMINANTS, Arts. 10 and 25. New Regulations Published in the Diario Oficial de la Federación on 3rd June, 2004. See also the web page of SEMARNAT “Registro de Emisiones y Transferencia de Contaminantes”, available at <<http://www.semarnat.gob.mx/informacionambiental/gestionambiental/calidaddelaire/Pages/retc.aspx>>.

- Initiate a dialogue in the workshops to be carried out by the OAS in Central America and the Andean Region concerning the new European legislation on industrial chemicals control, known as REACH (Registry, Evaluation and Authorization of Chemicals). REACH will become effective in May, 2007, and will entail new challenges and opportunities for the Latin American countries in the realm of chemical substance management. Latin American companies willing to export to the European market will have to comply with the REACH requirements. Besides, REACH will compel the chemical industry to generate new data on the toxicity of their chemicals, including the products and processes where such chemicals are used. Such new data will be available to all Governments and may be a very valuable input for safe management of chemicals in Latin America.
- Promote the promulgation of new legal frameworks and/or regulatory reforms as needed for identification and assessment of contaminated sites, procedures for monitoring the discharge of contaminants in the site and for site remediation, and the establishment of objective legal liability among the various parties responsible for contamination and remediation.<sup>3</sup>
- Contribute to the development of legal mechanisms, including those of economic nature, to promote the use of chemical alternatives to PBC, even by the SME sector.<sup>4</sup>
- Analyze possibilities for reform of the laws and regulations governing the registry of pesticides so as to include the criteria listed in Annex D of the Stockholm Convention. Such criteria include persistence, bioaccumulation, potential for long-distance transport of such products in the environment, and evidences of adverse effects for human health or the environment, or data on toxicity or ecotoxicity that indicate potential damages to human health or the environment.<sup>5</sup>
- Promote the promulgation of a new legal framework establishing extended liability for the producer for the stockpiles of expired and obsolete pesticides, as well as pesticide containers. Regional model laws for such initiatives are available from Brazil and Peru.<sup>6</sup>

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<sup>3</sup> See, for example, the draft Decree of the Peruvian MINISTRY OF ENERGY AND MINES. *Decreto Supremo 2006-EM*. Proposal for Maximum Allowable Limits for Soil Contaminants for the Power Subsector, Lima. This draft involves setting maximum contaminant limits for PBC in soils, as well as criteria for remediation of contaminated sites.

<sup>4</sup> See, for example, *Presupuestos mínimos para la gestión y eliminación de PCBs*. Nacional Law 25670, sanctioned 23<sup>rd</sup> October, 2002. Boletín Oficial, 18<sup>th</sup> November, 2002. [Argentina]

<sup>5</sup> STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS (POPs), Annex I, "Information Requirements and Selection Criteria" (2001).

<sup>6</sup> See, PRESIDÊNCIA DA REPÚBLICA, PODER EXECUTIVO. *Decreto No. 4074*, de 04 de janeiro de 2003. Publicado ao Diário Oficial da União, de 08 de janeiro de 20002. [Alterado pelo Decreto nº 5549 de 22/09/2005](#). See also: Ley Para Reforzar Las Acciones de Control Post Registro de Plaguicidas Químicos de Uso Agrícola 1-5-2004. [Peru]

- Support the promulgation and adoption of harmonized customs codes, with specific 10-digit codes for the toxic organic chemicals and their integration in the national customs legislation. The Central American Common Market countries are working in the improvement of the regulations of the Central American Customs Code (RECAUCA)<sup>7</sup>, which includes a proposal for specific harmonized 10-digit codes for the chemicals listed in the Stockholm Convention, the Protocol of Montreal and other relevant multilateral agreements. (It is to be remarked that Costa Rica adopted 10-digit specific codes for the refrigerants listed under the Protocol of Montreal.) Chile is an associated member of MERCOSUR and can adopt the MERCOSUR harmonized codes for the chemicals listed in the relevant multilateral agreements.
- Promote the adoption of legal frameworks for toxic residues, based on the Chilean and Mexican models<sup>8</sup> that incorporate the concepts of source reduction of generation of residues, establishment of liability from cradle to tomb, and licensing requirements for generators, carriers, and addressees.
- Support the development of a draft law governing the registration of industrial chemicals. The absence of a clear legal framework for industrial chemicals toxicological and ecotoxicological assessment and registration is a remarkable feature in the region.
- Support for regional initiatives for environmentally safe disposal of PBC in equipments being used, and environmentally safe management of contaminated liquids and equipments, including the development of alternative nonthermal capabilities for the treatment of PBC-containing residues. During its period of coordination of the MERCOSUR working group on environment, Argentine prioritized such idea. It is also to be remarked that this is a discussion item under the environmental cooperation framework connected with the CAFTA environmental agreement.
- Support the CCAD initiative to adopt a regional chemical safety policy. Nicaragua already has a National Policy for Integral Management of Hazardous Substances and Residues, that can serve as a point of departure for regional discussion.<sup>9</sup>
- Support a pilot policy in Nicaragua to reform and enhance the legal framework for chemicals management responding to the loopholes identified in the National Implementation Plan for the Stockholm Convention, the goal consisting of promulgating a legal framework on chemical safety involving monitoring both of industrial and agricultural chemicals and clearly defining the responsibilities of each authority, so as to promote quality and effectiveness of the regulatory framework. The Nicaraguan

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<sup>7</sup> For more information, see the web page of the CCAD [www.sica.int/busqueda/busqueda\\_archivo.aspx?Archivo=dis1\\_11170\\_2\\_31102006.htm](http://www.sica.int/busqueda/busqueda_archivo.aspx?Archivo=dis1_11170_2_31102006.htm). The regulations are available at [www.camarasal.com/leyespdf/RECAUCA%2002.pdf](http://www.camarasal.com/leyespdf/RECAUCA%2002.pdf)

<sup>8</sup> See: SECRETARIA DE MEDIO AMBIENTE Y RECURSOS NATURALES. *Ley General para la Prevención y Gestión Integral de los Residuos*. Latest reform published in the DOF on 22<sup>nd</sup> May, 2006 la [México] See also: MINISTERIO DE SALUD. *Decreto Supremo 148. APRUEBA REGLAMENTO SOBRE MANEJO DE RESIDUOS PELIGROSOS* del 12 de Junio de 2003. [Chile]

<sup>9</sup> Política Nacional Para la Gestión Integral de Sustancias y Residuos Peligrosos. Decree No. 91-2005, approved 21<sup>st</sup> November, 2005. Published in La Gaceta No. 230, 28<sup>th</sup> November, 2005. Available at <http://legislacion.asamblea.gob.ni/Normaweb.nsf/d0c69e2c91d9955906256a400077164a/c9dff3cf611820c5062570f1005a72fe?OpenDocument>

experience will be a valuable input for enhanced discussion and work on chemical safety that is taking place at a regional level through the CCAD with the involvement of all of the countries of the region.

# **CONCLUSIONS OF THIS THESIS WORK**

- 1. Several acute problems make themselves felt in the Central American countries in various aspects of management of traded hazardous chemicals. Effective implementation of international agreements adhered to by C.A. countries is perhaps the root feature of the whole set of problems. The countries of the subregion have adopted all of the basic international legal instruments that matter, but implementation efforts have not yet been fully successful.**
- 2. The pioneer work already done in the MERCOSUR area can be a valuable input for Central America. The OAS Department of Sustainable Development, given its expertise and mission, is uniquely appropriate to facilitate such task. The MERCOSUR, in turn, has been conceived as a prototype of “open regionalism”, ready to help other subregions overcome their problems. It “*created a place for environmental cooperation as part of the general sub-regional economic integration process*” (see Annex IV of this paper) -- an approach that is worth considering for Central America.**
- 3. Preparatory work has already started for the OAS/DSD MERCOSUR/Central America project, in the areas of developing a data base and inventories. Complete problem identification by means of survey tools is also in process.**
- 4. Country responses and scholar work confirm both the seriousness of the issues involved and the likelihood of “country ownership” of the actions to be adopted.**
- 5. This project is, by its nature, an ongoing effort requiring sound planning in all relevant areas, including monitoring, financing, research and human resources.**





# **ANNEXES**



Organización de los Estados Americanos

Organização dos Estados Americanos

Organisation des États américains

## **ANNEX 1 – OAS COUNTRY QUESTIONNAIRES<sup>50</sup>**

### **PRELIMINARY QUESTIONNAIRE ABOUT THE MANAGEMENT OF PERSISTENT TOXIC SUBSTANCES IN THE COUNTRIES OF THE AMERICAN HEMISPHERE**

#### **Project**

**SUPPORTING TRADE-RELATED CAPACITY BUILDING IN ENVIRONMENTAL MANAGEMENT**

**Department of Sustainable Development**

**ORGANIZATION OF AMERICAN STATES**

1.	Do you believe that your country would benefit of participating to the creation and update of a regional database for the management of Persistent Toxic Substances (PTS)?
2.	What are the main activities of the agencies that are primarily responsible for the management of PTS? Does any articulation among agencies and programs, projects etc. exist in your country? Is there any exchange of information among ministries, agencies, institutions, academia, private sector and NGOs? If the answer is yes, what is the usual way to exchange information? (Web-sites; on line data-bank; hard-copies, etc.). Is there any exchange with other countries in the sub-region (Caribbean Common Market)? Please, describe the situation.

<p>3. Do you believe that the situation of PTS in your country has changed since the publication of its National Profile/NIP? How much and in what aspects has it changed?</p>
<p>4. Which of the intentionally produced Persistent Organic Pollutants (POPs) are not currently prohibited for all uses in your country? Has your country identified specific issues concerning the management of POPs wastes?</p>
<p>5. Has your country done an inventory of sites contaminated by hazardous chemicals? If the answer is no, is there interest to carry it out? Are there any plans or ongoing initiatives?</p>
<p>6. Has your country done an inventory of obsolete pesticides stockpiles? If the answer is no, is there interest to carry it out? Are there any plans or ongoing initiatives?</p>

<p>7. Please list in numerical order the following activities according to your country priorities:</p> <p>#.... PCB Inventory</p> <p># ....Inventory of sites contaminated by PTS</p> <p>#.....Inventory of obsolete pesticide stockpiles</p> <p>#.....Measures to prevent mercury contamination</p> <p>#.....Regional information for the sound management of the PTS: data, best available practices examples, etc.</p> <p>#..... Inventory of POPs, including PCB inventory</p> <p style="text-align: center;">Please add in numerical order any other priority activities for your country not reported in the list above.</p>
<p>8. Please list any actions, which have been adopted or planned in your country, related to PCB.</p>
<p>9. Is there any strategy for capacity-building and information divulgation in your country for the understanding and reduction of and human health and environment risk related to exposition to PTS?</p>
<p>10. Which actions do you think would be important to implement at regional level for the sound management of hazardous chemicals?</p>
<p>11. Please inform about possible political and institutional problems and/or conflicts (both for governmental and private sectors) related to the production/importation/exportation and</p>

use of PTS.
12. Do you have any further comments about the management of PTS in your country?
13. Has any new law, regulation or technical standard regarding the implementation of the Stockholm Convention been adopted since the Convention came into force for your country?
14. Describe at least three priority actions (or best available practices) carried out in your country, related with the hazardous chemicals management.
15. What are the strengths and the weaknesses of your country for the PTS management?
16. Please list any domestic law and regulation that applies to mercury, lead or cadmium, and/or national policies and programs to address heavy metal contamination.

**QUESTIONNAIRE ON PERSISTENT TOXIC SUBSTANCES**  
**Part VI. – Open Space Combustion Process Activities**

**1.-Indicate the quantity (ton/year) of incinerated biomass in:**

<b>Types of biomass incineration</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Forest fires			% ton/year m <sup>3</sup> /year tj/year
Meadow and heather fires			% ton/year m <sup>3</sup> /year tj/year
Burning of contaminated agricultural waste in fields			% ton/year m <sup>3</sup> /year tj/year
Burning of non-contaminated agricultural waste in fields			% ton/year m <sup>3</sup> /year tj/year
Total biomass incinerated in burnings/fires/forest fires			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**2.-Indicate the quantity (ton/year) burnt, based on:**

<b>Types of burnings</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Rubbish dumps fires			% ton/year m <sup>3</sup> /year tj/year
Non-intentional fires of houses, factories			% ton/year m <sup>3</sup> /year tj/year
Uncontrolled domestic fires			% ton/year m <sup>3</sup> /year tj/year
Accidental vehicle fires			% ton/year m <sup>3</sup> /year

			tj/year
Wood burning in open spaces			
Total burnings of various types			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

## QUESTIONNAIRE ON STP GENERATION

### Part I. – Waste Incineration Activities

**1.-Indicate the quantity (ton/year) of municipal solid wastes incinerated:**

Technologies used in the incineration of municipal solid wastes	Presence	Quantity	Unit
Technology without atmospheric contamination control			%
Combustion with minimum atmospheric contamination control			%
Combustion with an atmospheric contamination control system			%
Combustion with state of the art technology			%
Total municipal solid wastes incinerated			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**2.-Indicate the quantity (ton/year) of dangerous solid wastes incinerated in compliance with the corresponding technology:**

Technologies used in the incineration of dangerous solid wastes	Presence	Quantity	Unit
Technology without atmospheric contamination control			%
Combustion with minimum atmospheric contamination control			%
Combustion with an atmospheric contamination control system			%
Combustion with state of the art technology			%
Total dangerous solid wastes incinerated			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**3.-Indicate the quantity (ton/year) of incinerated hospital solid wastes, as per:**

Technologies used in the incineration of hospital solid wastes	Presence	Quantity	Unit
Technology without atmospheric contamination			%



control			
Combustion with minimum atmospheric contamination control			%
Combustion with an atmospheric contamination control system			%
Combustion with state of the art technology			%
Total hospital solid waste incinerated			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**4. Indicate the quantity (ton/year) of sewage mud incinerated, by using:**

<b>Technologies used in the incineration of sewage mud.</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Outdated ovens without atmospheric contamination control systems			%
New ovens with atmospheric contamination control systems			%
Ovens with state of the art technology			%
Total sewage mud			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**5. Indicate the quantity (ton/year) of wood waste and biomass incinerated by using:**

<b>Technologies used in the incineration of wood and biomass wastes</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Outdated ovens without atmospheric contamination control systems			%
New ovens with atmospheric contamination control systems			%
Ovens with state of the art technology			%
Total incinerated mud			
Total wood and biomass wastes			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**6. Indicate the quantity (ton/year) of animal carcasses incinerated by using:**

<b>Technologies used in the incineration of wood and biomass waste</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Outdated ovens without atmospheric contamination control systems			%

New ovens with atmospheric contamination control systems			%
Ovens with state of the art technology			%
Total incinerated mud			%
Total animal carcasses incinerated			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

## QUESTIONNAIRE ON PERSISTENT TOXIC SUBSTANCES

### Part VII. –Production Activities in the Chemical Industry

**1.-Indicate the quantity (ton/year) of pentachlorophenol produced in the chemical industry, by:**

Technologies used in the production of pentachlorophenol	Presence	Quantity	Unit
European/American production (phenol chlorination with Cl <sub>2</sub> )			%
Chinese production (thermolysis HCH)			%
Kraft process, with mixed technology			%
Sodium pentachlorophenate (PCP-Na)			%
Total production of PCP			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**2.-Indicate the quantity (ton/year) of chloroanilo produced in the chemical industry from:**

Technologies used in the production of chloroanilo	Presence	Quantity	Unit
p-chloroanilo by phenol chlorination			%
p-chloroanilo by hydroquinone			%
o-chloroanilo by phenol chlorination			%
Dyes with chloroanilo base, old process			%
Total production of chloroanilo			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**3.-Indicate the quantity (ton/year) of chlorobenzenes in the chemical industry produced by:**

Technologies used in chlorobenzenes	Presence	Quantity	Unit
p-dichlorobenzenes			%
o-dichlorobenzenes			%

Total chlorobenzenes			ton/year
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**Observations/Notes:**-----Insert your comments or notes in this field -----

**4.-Indicate the quantity (ton/year) of chlor-alkali produced in the chemical industry, based on :**

Technologies used in chlor-alkali	Presence	Quantity	Unit
Production of chlor-alkali using graphites			%
Total chlor-alkali			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field

**5.-Indicate the quantity (ton/year) of 1,2- dichloroethane/ vinyl-chloride / polyvinyl chloride monomere produced in the chemical industry, using:**

Technologies used in ECD/VCM/PVC in the chemical industry	Presence	Quantity	Unit
DCE/VCM/PVC old technology			%
Modern facilities, ECD/ VCM/PVC			%
Modern facilities, with PVC (polyvinyl chloride)			ton/year
Total ECD/VCM/PVC			

ECD/VCM/PVC: 1,2-dichloroethane / chloride monomere / polyvinyl chloride

**Observations/Notes:**-----Insert your comments or notes in this field -----

## QUESTIONNAIRE ON PERSISTENT TOXIC SUBSTANCES

### Part II. – Ferrous and non Ferrous Metal Production Activities

**1.-Indicate the quantity (ton/year) of iron produced through the corresponding technology:**

Technologies used in the production of iron	Presence	Quantity	Unit
Outdated ovens without atmospheric contamination control systems			% ton/year m <sup>3</sup> /year tj/year
New ovens with atmospheric contamination			%

control systems			ton/year m <sup>3</sup> /year tj/year
Ovens with state-of-the-art technology			% ton/year m <sup>3</sup> /year tj/year
Total iron produced			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**2.-Indicate the quantity (ton/year) of coke produced through the corresponding technology:**

<b>Technologies used in the production of coke</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Without gas depuration			% ton/year m <sup>3</sup> /year tj/year
Atmospheric contamination control technology			% ton/year m <sup>3</sup> /year tj/year
Total coke produced			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**3.-Indicate the quantity (ton/year) of iron and steel produced through the corresponding technology:**

<b>Technologies used in the production of iron and steel</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
With dirty pre-treated scrap metal and limited control			% ton/year m <sup>3</sup> /year tj/year
With clean scrap metal and post-combustion high tech			% ton/year m <sup>3</sup> /year tj/year
HOB oven with clean scrap metal with post-combustion technology			% ton/year m <sup>3</sup> /year tj/year
High tech			% ton/year m <sup>3</sup> /year

			tj/year
Total production of iron and steel			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**4. Indicate the quantity (ton/year) of metals melted through the corresponding technology:**

<b>Technologies used in metal melting</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
With a cold air cupola or rotating drum without a contamination control system			% ton/year m <sup>3</sup> /year tj/year
With a rotating drum, cloth filter			% ton/year m <sup>3</sup> /year tj/year
With a cold air cupola			% % ton/year m <sup>3</sup> /year tj/year
With a hot air cupola			% % ton/year m <sup>3</sup> /year tj/year
Total melted			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**5. Indicate the quantity (ton/year) of galvanization by hot immersion, by using:**

<b>Technologies used in galvanization by hot immersion</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Facility without an atmospheric contamination control system			% ton/year m <sup>3</sup> /year tj/year
Facility with an atmospheric contamination control system			% ton/year m <sup>3</sup> /year tj/year
Facility with high tech			% ton/year m <sup>3</sup> /year tj/year
Total galvanized			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**6. Indicate the quantity (ton/year) of copper produced by using:**

<b>Technologies used in the production of copper</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Facility with basic technology			% ton/year m <sup>3</sup> /year tj/year
Facility with well controlled technology			% ton/year m <sup>3</sup> /year tj/year
Facility with high tech technology			% ton/year m <sup>3</sup> /year tj/year
Melting and molding of copper and alloys			% ton/year m <sup>3</sup> /year tj/year
Facility with primary copper and high tech technology, with secondary materials			% ton/year m <sup>3</sup> /year tj/year
Primary copper melting facility			% ton/year m <sup>3</sup> /year tj/year
Total copper produced			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**7. Indicate the quantity (ton/year) of aluminium produced according to the:**

<b>Technologies used in the production of aluminium</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Processing of aluminium scrap with basic technology			% ton/year m <sup>3</sup> /year tj/year
Processing of aluminium scrap with high technology			% ton/year m <sup>3</sup> /year tj/year
Facility with high tech with sleeve filter, lime injection			% ton/year

			m <sup>3</sup> /year tj/year
Facility with high tech technology			% ton/year m <sup>3</sup> /year tj/year
Basic facility with drying of shavings and scrapings,			% ton/year m <sup>3</sup> /year tj/year
Facility with rotating oven, post combustion, sleeve filter			% ton/year m <sup>3</sup> /year tj/year
Pure aluminium facility			ton/year
Pure aluminium facility			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**8. Indicate the quantity (ton/year) of lead produced through:**

Technologies used in the production of lead	Presence	Quantity	Unit
Production of lead from PVC battery scrap			% ton/year m <sup>3</sup> /year tj/year
Production of lead from free PVC/ Cl <sub>2</sub> scrap			% ton/year m <sup>3</sup> /year tj/year
Production of lead from free PVC/Cl <sub>2</sub> in ovens with high tech			% ton/year m <sup>3</sup> /year tj/year
Production of primary lead			% ton/year m <sup>3</sup> /year tj/year
Total lead produced			

**Observations/Notes:**-----Insert your comments or notes in this field -----

**9. Indicate the quantity (ton/year) of zinc produced by means of:**

Technologies used in the production of zinc	Presence	Quantity	Unit
Ovens without dust control			% ton/year m <sup>3</sup> /year tj/year

Hot/rotary briquetting ovens			% ton/year m <sup>3</sup> /year tj/year
Ovens with high tech			% ton/year m <sup>3</sup> /year tj/year
Zinc fusion			ton/year
Primary zinc production			
Total zinc produced			

**Observations/Notes:**-----Insert your comments or notes in this field -----

**10. Indicate the quantity (ton/year) of bronze and brass produced, by:**

<b>Technologies used in the production of bronze and brass</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Thermic elimination of oils and shavings			% ton/year m <sup>3</sup> /year tj/year
Simple melting oven			% ton/year m <sup>3</sup> /year tj/year
Mixed scrap, with induction oven			% ton/year m <sup>3</sup> /year tj/year
Ovens with state-of-the-art technology			% ton/year m <sup>3</sup> /year tj/year
Total bronze and brass produced			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**11. Indicate the quantity (ton/year) of magnesium produced through:**

<b>Technologies used in the production of</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
<b>Technologies used in production of magnesium</b>			% ton/year m <sup>3</sup> /year tj/year
Through thermotreatment of MgO/C in Cl <sub>2</sub> without treatment of effluents			% ton/year



			m <sup>3</sup> /year tj/year
Through thermotreatment of MgO/C in C <sub>12</sub> with environmental control system			% ton/year m <sup>3</sup> /year tj/year
Through thermic reduction			% ton/year m <sup>3</sup> /year tj/year
Total magnesium produced			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**12. Indicate the quantity (ton/year) of thermically-produced non ferrous metals from:**

<b>Technologies used in the production of thermically-produced non ferrous metals</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Simple contaminated scrap or no control system for atmospheric contamination			% ton/year m <sup>3</sup> /year tj/year
Clean scrap, with environmental control system			% ton/year m <sup>3</sup> /year tj/year
Total scrap produced			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**13. Indicate the milling quantity (ton/year) in:**

<b>Technologies used in milling</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Metal scrapping plants			% ton/year m <sup>3</sup> /year tj/year
Total milling			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**14. Indicate the quantity (ton/year) of thermic recovery of cable copper through:**

<b>Technologies used in thermic recovery of cable copper</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Open-air cable burning			%

			ton/year m <sup>3</sup> /year tj/year
Basic oven with post-combustion and humid depurator			% ton/year m <sup>3</sup> /year tj/year
Electric engines and metallic element burning by post-combustion			% ton/year m <sup>3</sup> /year tj/year
Total thermic recovery of cables.			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

#### Part IV.- Mineral Products Production Activities

##### 1. Indicate the quantity (ton/year) of cement production, by:

Technologies used in the production of cement	Presence	Quantity	Unit
Vertical ovens			%
Humid outdated ovens, ESP temperature >300° C			%
Humid ovens, temperature of ESP/CF <200° C and all types of dry ovens with precalcinators/preheaters, temperature <200°C			%
Total cement production			ton/year

ESP/CF: Electrostatic precipitator / Cloth filter

**Observations/Notes:**----- Introduce in this field your comments or notes -----

##### 2. Indicate the quantity (ton/year) of lime production, by:

Technologies used in the production of lime	Presence	Quantity	Unit
Cyclone/ without dust control, fuel			%
Good oven dust retention			%
Total lime production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

##### 3. Indicate the quantity (ton/year) of brick production by:

Technologies used in the production of lime	Presence	Quantity	Unit
Cyclone/ without dust control, fuel			%
Good oven dust retention			%
Total lime production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**4. Indicate the quantity (ton/year) of glass production based on:**

Technologies used in the production of glass	Presence	Quantity	Unit
Cyclone/ without dust control, contaminated fuel			%
Good dust retention			%
Total brick production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**5. Indicate the quantity (ton/year) of ceramics production, by:**

Technologies used in the production of ceramics	Presence	Quantity	Unit
Cyclone/ without dust control, contaminated fuel			%
Good dust retention			%
Total ceramics production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**6. Indicate the quantity (ton/year) of asphalt mix production, by:**

Technologies used in the production of asphalt mix	Presence	Quantity	Unit
Mixing plant without gas treatment			%
Mixing plant with cloth filter, humid depurator			%
Total production of asphalt mix			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**7. Indicate the quantity (ton/year) of bituminous schists, by:**

Technologies used in the production of bituminose schists	Presence	Quantity	Unit
Thermic fractioning			%
Bituminous schists pyrolysis			%
Total production of bituminous schists			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**Part IV.- Mineral Products Production Activities**

**1. Indicate the quantity (ton/year) of cement production, by:**

Technologies used in the production of cement	Presence	Quantity	Unit
Vertical ovens			%
Humid outdated ovens, ESP temperature >300° C			%
Humid ovens, temperature of ESP/CF <200° C and all types of dry ovens with			%

precalcinators/preheaters, temperature <200°C			
Total cement production			ton/year

ESP/CF: Electrostatic precipitator / Cloth filter

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**2. Indicate the quantity (ton/year) of lime production, by:**

Technologies used in the production of lime	Presence	Quantity	Unit
Cyclone/ without dust control, fuel			%
Good oven dust retention			%
Total lime production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**3. Indicate the quantity (ton/year) of brick production by:**

Technologies used in the production of lime	Presence	Quantity	Unit
Cyclone/ without dust control, fuel			%
Good oven dust retention			%
Total lime production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**4. Indicate the quantity (ton/year) of glass production based on:**

Technologies used in the production of glass	Presence	Quantity	Unit
Cyclone/ without dust control, contaminated fuel			%
Good dust retention			%
Total brick production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**5. Indicate the quantity (ton/year) of ceramics production, by:**

Technologies used in the production of ceramics	Presence	Quantity	Unit
Cyclone/ without dust control, contaminated fuel			%
Good dust retention			%
Total ceramics production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**6. Indicate the quantity (ton/year) of asphalt mix production, by:**

Technologies used in the production of asphalt mix	Presence	Quantity	Unit
Mixing plant without gas treatment			%
Mixing plant with cloth filter, humid depurator			%

Total production of asphalt mix			ton/year
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**Observations/Notes:**----- Introduce in this field your comments or notes -----

**7. Indicate the quantity (ton/year) of bituminous schists, by:**

Technologies used in the production of bituminose schists	Presence	Quantity	Unit
Thermic fractioning			%
Bituminous schists pyrolysis			%
Total production of bituminous schists			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**Part V. –Transport Activities**

**1.-Indicate the quantity (ton/year) of fuels used in 4-cycle engines with the following technologies:**

Technologies used on 4-cycle engine fuels	Presence	Quantity	Unit
Leaded fuel			% ton/year m <sup>3</sup> /year tj/year
Unleaded fuel, without catalyzer			% % ton/year m <sup>3</sup> /year tj/year
Unleaded fuel, with catalyzer			% ton/year m <sup>3</sup> /year tj/year
Total fuel used in 4-cycle engines			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**2.-Indicate the quantity (ton/year) of fuel used in 2-cycle engines with the following technologies :**

Technologies used on 2-cycle engine fuels	Presence	Quantity	Unit
Leaded fuel			% ton/year m <sup>3</sup> /year tj/year
Unleaded fuel, without catalyzer			% ton/year m <sup>3</sup> /year

			tj/year
Unleaded fuel, with catalyzer			% ton/year m <sup>3</sup> /year tj/year
Total fuel used in 2-cycle engines			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**3.-Indicate the quantity (ton/year) of fuel (diesel oil) used for diesel engines:**

Technologies used on diesel engine fuels	Presence	Quantity	Unit
Engines, all kinds of oils			% ton/year m <sup>3</sup> /year tj/year
Total fuel used in diesel engines			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**4.-Indicate the quantity (ton/year) of fuel used in engines that run on fuel oil using:**

Technologies used on fuels for fuel oil engines	Presence	Quantity	Unit
Diesel engines			% ton/year m <sup>3</sup> /year tj/year
Total fuel oil used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**QUESTIONNAIRE ON PERSISTENT TOXIC SUBSTANCES**

**Part VIII. – Miscellaneous Activities**

**1.-Indicate the quantity (ton/year) of biomass drying, by the following categories:**

Technologies used in biomass drying, by the following categories:	Presence	Quantity	Unit
Clean wood			% ton/year m <sup>3</sup> /year tj/year
Green fodder			% ton/year

			m <sup>3</sup> /year tj/year
Biomass treated with PCP or other components			% ton/year m <sup>3</sup> /year tj/year
Total biomass drying			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**2.-Indicate the quantity (ton/year) of food products treated in smokeries by means of :**

<b>Technologies used in smokeries</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Treated wood and waste combustion			% ton/year m <sup>3</sup> /year tj/year
Clean fuel with no post-combustion			% ton/year m <sup>3</sup> /year tj/year
Clean fuel with post-combustion			% ton/year m <sup>3</sup> /year tj/year
Total smokery-treated products			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**3.-Indicate the quantity (ton/year) of dry cleaning wastes (residues) used in :**

<b>Technologies used in dry cleaning of products</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Heavy textiles, treated with PCP			% ton/year m <sup>3</sup> /year tj/year
Non-treated textiles			% ton/year m <sup>3</sup> /year tj/year
Total dry cleaning wastes			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**4. Indicate the quantity (ton/year) of tobacco consumption at national level:**

Technologies used in the production of tobacco for consumer purposes	Presence	Quantity	Unit
<i>Puro</i> cigars, by units			% ton/year m <sup>3</sup> /year tj/year
Cigars, by units			% ton/year m <sup>3</sup> /year tj/year
Total production of tobacco for consumption			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**QUESTIONNAIRE ON PERSISTENT TOXIC SUBSTANCES**

**Part III. – Energy and Heating Generating Activities**

**1.-Indicate the quantity (ton/year) of fossil fuel burnt in:**

Technologies used in burnt fossil fuel in	Presence	Quantity	Unit
Boilers which burn wastes / fossil fuel			% ton/year m <sup>3</sup> /year tj/year
Boilers which burn coal			% ton/year m <sup>3</sup> /year tj/year
Boilers which burn heavy oil			% ton/year m <sup>3</sup> /year tj/year
Generation facilities which burn bituminous schists			% ton/year m <sup>3</sup> /year tj/year
Boilers which burn light oil / natural gas			% ton/year m <sup>3</sup> /year tj/year
Total fossil fuels burnt			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----



**2.-Indicate the quantity (ton/year) of biomass used in electrical power stations:**

<b>Technologies used on biomass used in electrical power stations</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Biomass-fed boilers			% ton/year m <sup>3</sup> /year tj/year
Wood-fed boilers			% ton/year m <sup>3</sup> /year tj/year
Total biomass used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**3.-Indicate the quantity (ton/year) of biogas, by sanitary filling combustion, by means of:**

<b>Technologies used in biogas by sanitary filling combustion</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Boilers which burn biogas, engines, flame torches			% ton/year m <sup>3</sup> /year tj/year
Total biogas used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**4.-Indicate the quantity (ton/year) of biomass, by home use combustion, using:**

<b>Technologies used in</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Heaters fueled by contaminated wood / biomass			% ton/year m <sup>3</sup> /year tj/year
Heaters fueled by non contaminated wood / biomass			% ton/year m <sup>3</sup> /year tj/year
Total biomass used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field

**5.- Indicate the quantity (ton/year) of fossil fuel used in domestic heating :**

<b>Technologies used on fossil fuel used in domestic heating</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Heaters which burn coal with high levels of chlorine			% ton/year m <sup>3</sup> /year tj/year
Heaters which burn coal			% ton/year m <sup>3</sup> /year tj/year
Heaters which burn oil			% ton/year m <sup>3</sup> /year tj/year
Heaters which burn natural gas			% ton/year m <sup>3</sup> /year tj/year
Total fossil fuel used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**Part III. – Energy and Heating Generating Activities**

**1.-Indicate the quantity (ton/year) of fossil fuel burnt in:**

<b>Technologies used in burnt fossil fuel in</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Boilers which burn wastes / fossil fuel			% ton/year m <sup>3</sup> /year tj/year
Boilers which burn coal			% ton/year m <sup>3</sup> /year tj/year
Boilers which burn heavy oil			% ton/year m <sup>3</sup> /year tj/year
Generation facilities which burn bituminous schists			% ton/year m <sup>3</sup> /year tj/year

Boilers which burn light oil / natural gas			% ton/year m <sup>3</sup> /year tj/year
Total fossil fuels burnt			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**2.-Indicate the quantity (ton/year) of biomass used in electrical power stations:**

Technologies used on biomass used in electrical power stations	Presence	Quantity	Unit
Biomass-fed boilers			% ton/year m <sup>3</sup> /year tj/year
Wood-fed boilers			% ton/year m <sup>3</sup> /year tj/year
Total biomass used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**3.-Indicate the quantity (ton/year) of biogas, by sanitary filling combustion, by means of:**

Technologies used in biogas by sanitary filling combustion	Presence	Quantity	Unit
Boilers which burn biogas, engines, flame torches			% ton/year m <sup>3</sup> /year tj/year
Total biogas used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**4.-Indicate the quantity (ton/year) of biomass, by home use combustion, using:**

Technologies used in	Presence	Quantity	Unit
Heaters fueled by contaminated wood / biomass			% ton/year m <sup>3</sup> /year tj/year
Heaters fueled by non contaminated wood /			%

biomass			ton/year m <sup>3</sup> /year tj/year
Total biomass used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field

**5.- Indicate the quantity (ton/year) of fossil fuel used in domestic heating :**

<b>Technologies used on fossil fuel used in domestic heating</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Heaters which burn coal with high levels of chlorine			% ton/year m <sup>3</sup> /year tj/year
Heaters which burn coal			% ton/year m <sup>3</sup> /year tj/year
Heaters which burn oil			% ton/year m <sup>3</sup> /year tj/year
Heaters which burn natural gas			% ton/year m <sup>3</sup> /year tj/year
Total fossil fuel used			ton/year

**Observations/Notes:**-----Insert your comments or notes in this field -----

**Part VI.-Chemical and Consumer Goods Production Activities**

**1.-Indicate the quantity (ton/year) of paste and paper produced in facilities with:**

<b>Technologies used in the production of paste and paper</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Boilers per ton of pulp			% ton/year m <sup>3</sup> /year tj/year
Black liquor boilers, mud burning and wood			% ton/year m <sup>3</sup> /year tj/year
Bark boilers			% ton/year

			m <sup>3</sup> /year tj/year
Total paste and paper production			ton/year

**Observations/Notes:**----- Introduce in this field your comments or notes -----

**2.-Indicate the quantity (ton/year) of watery discharges and products, by:**

<b>Technologies used in water discharge and products</b>	<b>Presence</b>	<b>Quantity</b>	<b>Unit</b>
Kraft process, gas chlorine, contaminated fibers			% ton/year m <sup>3</sup> /year tj/year
Kraft process, with outdated technology Cl <sub>2</sub>			% ton/year m <sup>3</sup> /year tj/year
Kraft process, with mixed technology			% ton/year m <sup>3</sup> /year tj/year
Papers/ sulphite paste, outdated technology			% ton/year m <sup>3</sup> /year tj/year
Papers/ sulphite paste,new technology			% ton/year m <sup>3</sup> /year tj/year
Sulphite papers, new technology (Cl <sub>2</sub> , TLC)			% ton/year m <sup>3</sup> /year tj/year
Recycled papers and pulp			% ton/year m <sup>3</sup> /year tj/year
Recycled pulp			% ton/year m <sup>3</sup> /year tj/year
Total watery discharges and products			ton/year

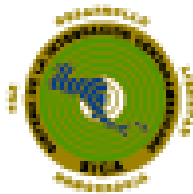
**Observations/Notes:**----- Introduce in this field your comments or notes -----

## ANNEX II

### **SAMPLE DSD/OAS-COORGANIZED REGIONAL WORKSHOP ACTIVITY IN THE AREA OF SOUND MANAGEMENT OF CHEMICALS**



[Organization of American States](#)



Sistema Integración Centroamericana



Ministerio de Ambiente y  
Recursos Naturales,  
Nicaragua

## REGIONAL WORKSHOP

### SOUND MANAGEMENT OF CHEMICAL SUBSTANCES<sup>51</sup>

Venue: ..., Nicaragua

Date:

Participants: National Coordinators - CIDA/OAS Project  
Representatives of SICA/CCAD  
Representatives of MARENA  
Representatives of DSD/OAS  
International Experts  
Representatives of Funding and Cooperation Agencies  
Regional International Organization for Plant protection and Animal Health **OIRSA**  
Regional Center of the Basel Convention for Central America and Mexico.  
**(CRCB-CAM)**  
**Regional and international experts**

#### **Background:**

The agricultural industry is of vital importance to the seven countries that make up the Central American Isthmus. For this reason, the use of synthetic chemical pesticides in support of this industry and other activities which concern public health has been of great importance. Together with other nations, the Central American countries the biggest importers of pesticides. The ratio of use of these substances has grown rapidly, which, together with the use of other known dangerous products, has caused serious problems which compromise the sustainability of the agricultural systems, the biodiversity, and the quality of life.

The Department of Sustainable Development of the Organization of American Status SDD/OAS, through the Central American Integration System, has decided to support the efforts made by the countries of the Isthmus to prevent environmental and human

health damages caused by inadequate use of pesticides, in view of establishing a Regional Chemical Security Policy.

**Objectives :**

- Discuss regional priority topics involving use of pesticides and other persistent toxic substances
- Information and experience -sharing amongst the countries
- Advance in the outline of a Regional Policy on Chemical Security

**Expected Outcomes :**

- 1) Regional cooperation agreements on:
  - Transfer of data related to persistent toxic substances trade amongst Central American countries
  - Options to eliminate/stop the illicit traffic of persistent toxic substances
  - Replication of successful experiences on the topics discussed, in the countries of Central America and knowledge transfer mechanisms among the countries
- 2) Agreements to advance in the definition of the regional policy on Chemical Security
- 3) Identification of methodologies to incorporate gender equity in the management of persistent toxic substances

**DRAFT AGENDA**

FIRST DAY

Workshop inauguration: OAS, MARENA, CCAD

***Morning session*** TOPIC: Legal and institutional framework on pesticides in the Central American countries

- Law on Pesticides, Nicaragua
- National Policy on Management of Dangerous Wastes and Residues, El Salvador
- The National Policy on Chemical Security, CCAD
- National Committee on Chemical Substances and Dangerous Residues Management, Honduras, Costa Rica, Nicaragua
- Jurisdictions of different institutions in the framework of chemical security
- Options to increase the human resources of the institutions involved
- Status of the Regional Center for the Basel Convention

**Discussion** (among other issues: opportunities to harmonize legislation at regional level and future progress in the Region's Policy on Chemical Security )

*Afternoon Session* TOPIC: A Globally Harmonized System

- Labelling
- WCO HS Codes and data on agrochemical product-related trade

**Discussion**

SECOND DAY

*Morning session* TOPIC : Customs regulation and illicit chemical substance traffic

- Uniform Central American Customs Code (CAUCA) and its Regulations
- The Mercosur example of the Common Custom Code
- Options to eliminate/stop illicit traffic, Center for the Basel Convention
- Chemical Substance Register
- Customs Interconnected System
- Capacity creation

**Discussion**

*Afternoon session* TOPIC: Information management

Information-sharing mechanisms

- STP and Heavy Metals Portal – OAS
- Information Sharing Network on Chemical Products CIEN
- Options to adjustment of measures akin to those implemented in Europe with the REACH programme
- RETC
- Information mechanisms able to reach the local level

THIRD DAY

*Morning* Workshop conclusions and drafting of a plan for the activities to be performed

Workshop closure



## **ANNEX III**

### **The International Convention on the Harmonized Commodity Description and Coding System**<sup>52</sup>

#### **General information**

The Harmonized Commodity Description and Coding System, generally referred to as “Harmonized System” or simply “HS”, is a multipurpose international product nomenclature developed by the World Customs Organization (WCO). It comprises about 5,000 commodity groups, each identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. The system is used by more than 177 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. Over 98 % of the merchandise in international trade is classified in terms of the HS. The HS contributes to the harmonization of Customs and trade procedures, and the non-documentary trade data interchange in connection with such procedures, thus reducing the costs related to international trade. It is also extensively used by governments, international organizations and the private sector for many other purposes such as internal taxes, trade policies, monitoring of controlled goods, rules of origin, freight tariffs, transport statistics, price monitoring, quota controls, compilation of national accounts, and economic research and analysis. The HS is thus a universal economic language and code for goods, and an indispensable tool for international trade. The Harmonized System is governed by “The International Convention on the Harmonized Commodity Description and Coding System”. The official interpretation of the HS is given in the Explanatory Notes (4 volumes in English and French) published by the WCO. The Explanatory Notes are also available on CD-ROM, as part of a commodity database giving the HS classification of more than 200,000 commodities actually traded internationally.

The maintenance of the HS is a WCO priority. This activity includes measures to secure uniform interpretation of the HS and its periodic updating in light of developments in technology and changes in trade patterns. The WCO manages this process through the Harmonized System Committee (representing the Contracting Parties to the HS Convention), which examines policy matters, takes decisions on classification questions, settles disputes and prepares amendments to the Explanatory Notes. The HS Committee also prepares amendments updating the HS every 4 – 6 years. Decisions concerning the interpretation and application of the Harmonized System, such as classification decisions and amendments to the Explanatory Notes or to the Compendium of Classification Opinions, become effective two months after the approval by the HS Committee. These are reflected in the amending supplements of the relevant WCO publications and can also be found on this web site.

If you wish to obtain more information about the Harmonized System, please go to “WCO Publications” on this web site.

#### **List of countries, territories or customs or economic unions applying the HS**

Albania .....	x
Algeria .....	+
Antigua & Barbuda .....	x
Argentina .....	+
Australia .....	+
Austria .....	+
Azerbaijan .....	x

Bahamas .....	X
Bahrain .....	+
Bangladesh .....	+
Barbados.....	X
Belarus.....	+
Belgium.....	+
Belize .....	X
Benin.....	X
Bermuda.....	X
Bolivia.....	X
Botswana .....	+
Brazil .....	+
Brunei Darussalam.....	X
Bulgaria.....	+
Burkina Faso.....	+
Cameroon .....	+
Canada.....	+
Cape Verde .....	X
Central African Rep. ....	+
Chad .....	+
Chile .....	X
China .....	+
Colombia .....	X
Comoros .....	X
Congo (Dem. Rep. of) .....	+
Congo (Rep. of).....	X
Cook Islands .....	X
Costa Rica .....	X
Côte d'Ivoire .....	+
Croatia .....	+
Cuba .....	+
Cyprus .....	+
Czech Republic .....	+
Denmark .....	+
Djibouti .....	X
Dominica .....	X
Dominican Rep. ....	X
Ecuador .....	X
Egypt .....	+
El Salvador .....	X
Equatorial Guinea .....	X
Estonia .....	+
Ethiopia .....	+
Fiji .....	+
Finland .....	+
France .....	+
Gabon .....	X
Gambia .....	X
Germany .....	+
Ghana .....	X
Greece .....	+
Grenada .....	X
Guatemala .....	X
Guinea .....	+
Guinea Bissau.....	X

Guyana .....	X
Haiti .....	+
Honduras .....	X
Hong Kong .....	X
Hungary .....	+
Iceland .....	+
India .....	+
Indonesia .....	+
Iran .....	+
Ireland .....	+
Israel .....	+
Italy .....	+
Jamaica .....	X
Japan .....	+
Jordan .....	+
Kazakhstan.....	X
Kenya .....	+
Kiribati .....	X
Korea (Rep.) .....	+
Kuwait .....	X
Latvia .....	+
Lebanon .....	+
Lesotho .....	+
Liberia.....	X
Libyan Arab Jamahiriya .....	+
Liechtenstein .....	X
Lithuania .....	+
Luxembourg .....	+
Macao .....	X
Madagascar .....	+
Malawi .....	+
Malaysia .....	+
Mali .....	+
Malta .....	+
Mauritius .....	+
Mexico .....	+
Mongolia .....	+
Morocco .....	+
Mozambique .....	X
Myanmar .....	+
Namibia .....	X
Netherlands .....	+
Nepal .....	X
New Caledonia (French Terr.) .	X
New Zealand .....	+
Nicaragua .....	X
Niger .....	+
Nigeria .....	+
Niue .....	X
Norway .....	+
Pakistan .....	+
Panama .....	+
Papua New Guinea .....	X
Paraguay .....	X
Peru .....	+

Philippines .....	+
Poland .....	+
Polynesia (French Terr.) .....	x
Portugal .....	+
Qatar .....	x
Romania .....	+
Russia .....	+
Rwanda .....	+
Saint Kitts and Nevis .....	x
Saint Lucia .....	x
Saint Pierre and Miquelon (French Terr.) .....	x
Saint Vincent and the Grenadines .....	x
Saudi Arabia .....	+
Senegal .....	+
Sierra Leone .....	x
Singapore .....	x
Slovakia .....	+
Slovenia .....	+
Solomon Islands .....	x
South Africa .....	+
Spain .....	+
Sri Lanka .....	+
Sudan .....	+
Suriname.....	x
Swaziland .....	+
Sweden .....	+
Switzerland .....	+
Syrian Arab Rep. ....	x
Tanzania .....	x
Thailand .....	+
The Former Yugoslav Republic of Macedonia .....	+
Togo .....	+
Tonga .....	x
Trinidad and Tobago .....	x
Tunisia .....	+
Turkey .....	+
Tuvalu .....	x
Uganda .....	+
Ukraine .....	x
United Arab Emirates .....	x
United Kingdom .....	+
United States .....	+
Uruguay .....	x
Uzbekistan .....	+
Vanuatu .....	x
Venezuela .....	+
Viet Nam .....	+
Wallis and Futuna (French Terr.) .....	x
Yemen .....	x
Zambia .....	+
Zimbabwe .....	+

EC ..... +  
 Andean Community (CAN)..... +x  
 Caribbean Community  
 (CARICOM)..... +x  
 Common Wealth of the Independent  
 States (CIS) ..... +x  
 Economic and Monetary  
 Community of Central Africa  
 (CEMAC) (former CACEU) ..... +x  
 Economic Community of Western  
 African States (ECOWAS)..... +x  
 Golf Co-operation Council  
 (GCC) ..... +x  
 Latin American Integration  
 Association (LAIA)..... +x  
 Southern Cone Common  
 Market (MERCOSUR) ..... +x

Notes :

+ Acceptance (i.e., Contracting Party to the Harmonized System Convention).

x Indicates application only.

+x Some Members are Contracting Parties to the Harmonized System Convention.

#### **INTERNATIONAL CONVENTION ON THE HARMONIZED COMMODITY DESCRIPTION AND CODING SYSTEM**

*(done at Brussels on 14 June 1983)*

(As amended by the Protocol of Amendment to the International Convention on the Harmonized Commodity Description and Coding System of 24 June 1986)

#### **PREAMBLE**

The Contracting Parties to this Convention, established under the auspices of the  
 Customs Co-operation Council,  
 Desiring to facilitate international trade,  
 Desiring to facilitate the collection, comparison and analysis of statistics, in particular  
 those on international trade,  
 Desiring to reduce the expense incurred by redescribing, reclassifying and recoding  
 goods as they move from one classification system to another in the course of  
 international trade and to facilitate the standardization of trade documentation and the  
 transmission of data,  
 Considering that changes in technology and the patterns of international trade require  
 extensive modifications to the Convention on Nomenclature for the Classification of  
 Goods in Customs Tariffs, done at Brussels on 15 December 1950,  
 Considering also that the degree of detail required for Customs and statistical purposes  
 by Governments and trade interests has increased far beyond that provided by the  
 Nomenclature annexed to the above-mentioned Convention,  
 Considering the importance of accurate and comparable data for the purposes of  
 international trade negotiations,  
 Considering that the Harmonized System is intended to be used for the purposes of  
 freight tariffs and transport statistics of the various modes of transport,  
 Considering that the Harmonized System is intended to be incorporated into  
 commercial commodity description and coding systems to the greatest extent possible,  
 Considering that the Harmonized System is intended to promote as close a correlation  
 as possible between import and export trade statistics and production statistics,  
 Considering that a close correlation should be maintained between the Harmonized  
 System and the Standard International Trade Classification (SITC) of the United  
 Nations,

Considering the desirability of meeting the aforementioned needs through a combined tariff/statistical nomenclature, suitable for use by the various interests concerned with international trade,

Considering the importance of ensuring that the Harmonized System is kept up-to-date in the light of changes in technology or in patterns of international trade,

Having taken into consideration the work accomplished in this sphere by the Harmonized System Committee set up by the Customs Co-operation Council,

Considering that while the above-mentioned Nomenclature Convention has proved an effective instrument in the attainment of some of these objectives, the best way to achieve the desired results in this respect is to conclude a new international Convention,

Have agreed as follows :

## **ARTICLE 1**

### *Definitions*

For the purpose of this Convention :

(a) the "Harmonized Commodity Description and Coding System", hereinafter referred to as the "Harmonized System", means the Nomenclature comprising the headings and subheadings and their related numerical codes, the Section, Chapter and Subheading Notes and the General Rules for the interpretation of the Harmonized System, set out in the Annex to this Convention;

(b) "Customs tariff nomenclature" means the nomenclature established under the legislation of a Contracting Party for the purposes of levying duties of Customs on imported goods;

(c) "statistical nomenclatures" means goods nomenclatures established by a Contracting Party for the collection of data for import and export trade statistics;

(d) "combined tariff/statistical nomenclature" means a nomenclature, integrating Customs tariff and statistical nomenclatures, legally required by a Contracting Party for the declaration of goods at importation;

(e) "the Convention establishing the Council" means the Convention establishing a Customs Co-operation Council, done at Brussels on 15 December 1950;

(f) "the Council" means the Customs Co-operation Council referred to in paragraph (e) above;

(g) "the Secretary General" means the Secretary General of the Council;

(h) the term "ratification" means ratification, acceptance or approval.

## **ARTICLE 2**

### *The Annex*

The Annex to this Convention shall form an integral part thereof, and any reference to the Convention shall include a reference to the Annex.

## **ARTICLE 3**

### *Obligations of Contracting Parties*

1. Subject to the exceptions enumerated in Article 4 :

(a) Each Contracting Party undertakes, except as provided in subparagraph (c) of this paragraph, that from the date on which this Convention enters into force in respect of it, its Customs tariff and statistical nomenclatures shall be in conformity with the Harmonized System. It thus undertakes that, in respect of its Customs tariff and statistical nomenclatures :

(i) it shall use all the headings and subheadings of the Harmonized System without addition or modification, together with their related numerical codes;

(ii) it shall apply the General Rules for the interpretation of the Harmonized System and all the Section, Chapter and Subheading Notes, and shall not modify the scope of the Sections, Chapters, headings or subheadings of the Harmonized System; and

(iii) it shall follow the numerical sequence of the Harmonized System;

(b) Each Contracting Party shall also make publicly available its import and export trade statistics in conformity with the six-digit codes of the Harmonized System,

or, on the initiative of the Contracting Party, beyond that level, to the extent that publication is not precluded for exceptional reasons such as commercial confidentiality or national security;

(c) Nothing in this Article shall require a Contracting Party to use the subheadings of the Harmonized System in its Customs tariff nomenclature provided that it meets the obligations at (a) (i), (a) (ii) and (a) (iii) above in a combined tariff/statistical nomenclature.

2. In complying with the undertakings at paragraph 1 (a) of this Article, each Contracting Party may make such textual adaptations as may be necessary to give effect to the Harmonized System in its domestic law.

3. Nothing in this Article shall prevent a Contracting Party from establishing, in its Customs tariff or statistical nomenclatures, subdivisions classifying goods beyond the level of the Harmonized System, provided that any such subdivision is added and coded at a level beyond that of the six-digit numerical code set out in the Annex to this Convention.

#### **ARTICLE 4**

##### *Partial application by developing countries*

1. Any developing country Contracting Party may delay its application of some or all of the subheadings of the Harmonized System for such period as may be necessary, having regard to its pattern of international trade or its administrative resources.

2. A developing country Contracting Party which elects to apply the Harmonized System partially under the provisions of this Article agrees to make its best efforts towards the application of the full six-digit Harmonized System within five years of the date on which this Convention enters into force in respect of it or within such further period as it may consider necessary having regard to the provisions of paragraph 1 of this Article.

3. A developing country Contracting Party which elects to apply the Harmonized System partially under the provisions of this Article shall apply all or none of the two-dash subheadings of any one one-dash subheading or all or none of the one-dash subheadings of any one heading. In such cases of partial application, the sixth digit or the fifth and sixth digits of that part of the Harmonized System code not applied shall be replaced by "0" or "00" respectively.

4. A developing country which elects to apply the Harmonized System partially under the provisions of this Article shall on becoming a Contracting Party notify the Secretary General of those subheadings which it will not apply on the date when this Convention enters into force in respect of it and shall also notify the Secretary General of those subheadings which it applies thereafter.

5. Any developing country which elects to apply the Harmonized System partially under the provisions of this Article may on becoming a Contracting Party notify the Secretary General that it formally undertakes to apply the full six-digit Harmonized System within three years of the date when this Convention enters into force in respect of it.

6. Any developing country Contracting Party which partially applies the Harmonized System under the provisions of this Article shall be relieved from its obligations under Article 3 in relation to the subheadings not applied.

#### **ARTICLE 5**

##### *Technical assistance for developing countries*

Developed country Contracting Parties shall furnish to developing countries that so request, technical assistance on mutually agreed terms in respect of, inter alia, training of personnel, transposing their existing nomenclatures to the Harmonized System and advice on keeping their systems so transposed up-to-date with amendments to the Harmonized System or on applying the provisions of this Convention.

#### **ARTICLE 6**

##### *Harmonized System Committee*

1. There shall be established under this Convention a Committee to be known as the Harmonized System Committee, composed of representatives from each of the

Contracting Parties.

2. It shall normally meet at least twice each year.

3. Its meetings shall be convened by the Secretary General and, unless the Contracting Parties otherwise decide, shall be held at the Headquarters of the Council.

4. In the Harmonized System Committee each Contracting Party shall have the right to one vote; nevertheless, for the purposes of this Convention and without prejudice to any future Convention, where a Customs or Economic Union as well as one or more of its Member States are Contracting Parties such Contracting Parties shall together exercise only one vote. Similarly, where all the Member States of a Customs or Economic Union which is eligible to become a Contracting Party under the provisions of Article 11 (b) become Contracting Parties, they shall together exercise only one vote.

5. The Harmonized System Committee shall elect its own Chairman and one or more Vice-Chairmen.

6. It shall draw up its own Rules of Procedure by decision taken by not less than two-thirds

of the votes attributed to its members. The Rules of Procedure so drawn up shall be approved by the Council.

7. It shall invite such intergovernmental or other international organizations as it may consider appropriate to participate as observers in its work.

8. It shall set up Sub-Committees or Working Parties as needed, having regard, in particular, to the provisions of paragraph 1 (a) of Article 7, and it shall determine the membership, voting rights and Rules of Procedure for such Sub-Committees or Working Parties.

#### **ARTICLE 7**

##### *Functions of the Committee*

1. The Harmonized System Committee, having regard to the provisions of Article 8, shall have the following functions :

(a) to propose such amendments to this Convention as may be considered desirable, having regard, in particular, to the needs of users and to changes in technology or in patterns of international trade;

(b) to prepare Explanatory Notes, Classification Opinions or other advice as guides to the interpretation of the Harmonized System;

(c) to prepare recommendations to secure uniformity in the interpretation and application of the Harmonized System;

(d) to collate and circulate information concerning the application of the Harmonized System;

(e) on its own initiative or on request, to furnish information or guidance on any matters concerning the classification of goods in the Harmonized System to Contracting Parties, to Members of the Council and to such intergovernmental or other international organizations as the Committee may consider appropriate;

(f) to present Reports to each Session of the Council concerning its activities, including proposed amendments, Explanatory Notes, Classification Opinions and other advice;

(g) to exercise such other powers and functions in relation to the Harmonized System as the Council or the Contracting Parties may deem necessary.

2. Administrative decisions of the Harmonized System Committee having budgetary implications shall be subject to approval by the Council.

#### **ARTICLE 8**

##### *Role of the Council*

1. The Council shall examine proposals for amendment of this Convention, prepared by the Harmonized System Committee, and recommend them to the Contracting Parties under the procedure of Article 16 unless any Council Member which is a Contracting Party to this Convention requests that the proposals or any part thereof be referred to the Committee for re-examination.

2. The Explanatory Notes, Classification Opinions, other advice on the interpretation of



the Harmonized System and recommendations to secure uniformity in the interpretation and application of the Harmonized System, prepared during a session of the Harmonized System Committee under the provisions of paragraph 1 of Article 7, shall be deemed to be approved by the Council if, not later than the end of the second month following the month during which that session was closed, no Contracting Party to this Convention has notified the Secretary General that it requests that such matter be referred to the Council.

3. Where a matter is referred to the Council under the provisions of paragraph 2 of this Article, the Council shall approve such Explanatory Notes, Classification Opinions, other advice or recommendations, unless any Council Member which is a Contracting Party to this Convention requests that they be referred in whole or part to the Committee for re-examination.

#### **ARTICLE 9**

##### *Rates of Customs duty*

The Contracting Parties do not assume by this Convention any obligation in relation to rates of Customs duty.

#### **ARTICLE 10**

##### *Settlement of disputes*

1. Any dispute between Contracting Parties concerning the interpretation or application of this Convention shall, so far as possible, be settled by negotiation between them.

2. Any dispute which is not so settled shall be referred by the Parties to the dispute to the Harmonized System Committee which shall thereupon consider the dispute and make recommendations for its settlement.

3. If the Harmonized System Committee is unable to settle the dispute, it shall refer the matter to the Council which shall make recommendations in conformity with Article III (e) of the Convention establishing the Council.

4. The Parties to the dispute may agree in advance to accept the recommendations of the Committee or the Council as binding.

#### **ARTICLE 11**

##### *Eligibility to become a Contracting Party*

The following are eligible to become Contracting Parties to this Convention :

(a) Member States of the Council;

(b) Customs or Economic Unions to which competence has been transferred to enter into treaties in respect of some or all of the matters governed by this Convention; and

(c) Any other State to which an invitation to that effect has been addressed by the Secretary General at the direction of the Council.

#### **ARTICLE 12**

##### *Procedure for becoming a Contracting Party*

1. Any eligible State or Customs or Economic Union may become a Contracting Party to this Convention :

(a) by signing it without reservation of ratification;

(b) by depositing an instrument of ratification after having signed the Convention subject to ratification; or

(c) by acceding to it after the Convention has ceased to be open for signature.

2. This Convention shall be open for signature until 31 December 1986 at the Headquarters of the Council in Brussels by the States and Customs or Economic Unions referred to in Article 11. Thereafter, it shall be open for their accession.

3. The instruments of ratification or accession shall be deposited with the Secretary General.

#### **ARTICLE 13**

##### *Entry into force*

1. This Convention shall enter into force on the earliest first of January which falls at least three months after a minimum of seventeen States or Customs or Economic Unions referred to in Article 11 above have signed it without reservation of ratification

or have deposited their instruments of ratification or accession, but not before 1 January 1988.

2. For any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention after the minimum number specified in paragraph 1 of this Article is reached, this Convention shall enter into force on the first of January which falls at least twelve months but not more than twenty-four months after it has signed the Convention without reservation of ratification or has deposited its instrument of ratification or accession, unless it specifies an earlier date. However, the date of entry into force under the provisions of this paragraph shall not be earlier than the date of entry into force provided for in paragraph 1 of this Article.

#### **ARTICLE 14**

##### *Application by dependent territories*

1. Any State may, at the time of becoming a Contracting Party to this Convention, or at any time thereafter, declare by notification given to the Secretary General that the Convention shall extend to all or any of the territories for whose international relations it is responsible, named in its notification. Such notification shall take effect on the first of January which falls at least twelve months but not more than twenty-four months after the date of the receipt thereof by the Secretary General, unless an earlier date is specified in the notification. However, this Convention shall not apply to such territories before it has entered into force for the State concerned.

2. This Convention shall cease to have effect for a named territory on the date when the Contracting Party ceases to be responsible for the international relations of that territory or on such earlier date as may be notified to the Secretary General under the procedure of Article 15.

#### **ARTICLE 15**

##### *Denunciation*

This Convention is of unlimited duration. Nevertheless any Contracting Party may denounce it and such denunciation shall take effect one year after the receipt of the instrument of denunciation by the Secretary General, unless a later date is specified therein.

#### **ARTICLE 16**

##### *Amendment procedure*

1. The Council may recommend amendments to this Convention to the Contracting Parties.

2. Any Contracting Party may notify the Secretary General of an objection to a recommended amendment and may subsequently withdraw such objection within the period specified in paragraph 3 of this Article.

3. Any recommended amendment shall be deemed to be accepted six months after the date of its notification by the Secretary General provided that there is no objection outstanding at the end of this period.

4. Accepted amendments shall enter into force for all Contracting Parties on one of the following dates :

(a) where the recommended amendment is notified before 1 April, the date shall be the first of January of the second year following the date of such notification,

or (b) where the recommended amendment is notified on or after 1 April, the date shall be the first of January of the third year following the date of such notification.

5. The statistical nomenclatures of each Contracting Party and its Customs tariff nomenclature or, in the case provided for under paragraph 1 (c) of Article 3, its combined tariff/statistical nomenclature, shall be brought into conformity with the amended Harmonized System on the date specified in paragraph 4 of this Article.

6. Any State or Customs or Economic Union signing without reservation of ratification, ratifying or acceding to this Convention shall be deemed to have accepted any amendments thereto which, at the date when it becomes a Contracting Party, have entered into force or have been accepted under the provisions of paragraph 3 of this Article.

## **ARTICLE 17**

### *Rights of Contracting Parties in respect of the Harmonized System*

On any matter affecting the Harmonized System, paragraph 4 of Article 6, Article 8 and paragraph 2 of Article 16 shall confer rights on a Contracting Party :

- (a) in respect of all parts of the Harmonized System which it applies under the provisions of this Convention; or
- (b) until the date when this Convention enters into force in respect of it in accordance with the provisions of Article 13, in respect of all parts of the Harmonized System which it is obligated to apply at that date under the provisions of this Convention; or
- (c) in respect of all parts of the Harmonized System, provided that it has formally undertaken to apply the full six-digit Harmonized System within the period of three years referred to in paragraph 5 of Article 4 and until the expiration of that period.

## **ARTICLE 18**

### *Reservations*

No reservations to this Convention shall be permitted.

## **ARTICLE 19**

### *Notifications by the Secretary General*

The Secretary General shall notify Contracting Parties, other signatory States, Member States of the Council which are not Contracting Parties to this Convention, and the Secretary General of the United Nations, of the following :

- (a) Notifications under Article 4;
- (b) Signatures, ratifications and accessions as referred to in Article 12;
- (c) The date on which the Convention shall enter into force in accordance with Article 13;
- (d) Notifications under Article 14;
- (e) Denunciations under Article 15;
- (f) Amendments to the Convention recommended under Article 16;
- (g) Objections in respect of recommended amendments under Article 16, and, where appropriate, their withdrawal; and
- (h) Amendments accepted under Article 16, and the date of their entry into force.

## **ARTICLE 20**

### *Registration with the United Nations*

This Convention shall be registered with the Secretariat of the United Nations in accordance with the provisions of Article 102 of the Charter of the United Nations at the request of the Secretary General of the Council.

In witness thereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Brussels on the 14th day of June 1983 in the English and French languages, both texts being equally authentic, in a single original which shall be deposited with the Secretary General of the Council who shall transmit certified copies thereof to all the States and Customs or Economic Unions referred to in Article 11.

## **ANNEX IV**

### ***A New Mechanism for Hemispheric Cooperation on Environmental Sustainability and Trade?***

*DRAFT CONCEPT PAPER FOR CONSULTATION.*

*Developed by Members of the Hemispheric Working Group on Trade and Environment:*

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## **1. Introduction**

The launching of the FTAA (Free Trade Area of the Americas) process opened the doors for mutually supportive environmental, social and trade policies, and for the participation of civil society. The FTAA is being negotiated in the context of a broader Summit of the Americas process, which holds the potential to advance sustainable development. The original 1994 'Summit of the Americas' agenda aimed to create a partnership between the economies and countries of the Americas for environmental protection, economic growth, democratic reform and social justice. A key component of sustainable development is environmental management. Just as the Americas Environment Ministers who met in Montreal in April, 2001, committed to maximize the potential for mutually supportive policies on economic integration and environmental protection,<sup>i</sup> so did the Declaration of the Third Summit of the Americas, in April, 2001, Quebec City, address the environment as part of 'creating prosperity' in the Western Hemisphere. These advances are embedded in a context of increasingly serious environment and development challenges in the Americas, and resulting advancements in environmental law and policy on various levels.<sup>ii</sup> In particular, an active forum of Environment Ministers of LAC (Latin America and the Caribbean) has been meeting for several years under the auspices of the United Nations Environment Programme Regional Office for Latin America and the Caribbean, with Canadian and American observers.<sup>iii</sup> Modeled on the 1992 Rio 'Earth Summit' Agenda 21, a hemispheric sustainable development agenda was also declared by the 34 governments in the 1996 Santa Cruz Summit of the Americas in Bolivia. Unlike in Rio, no legally binding environmental accords were opened for signature in Santa Cruz, but various sectoral environmental initiatives have been launched, including the *Red Inter-Americana de Recursos Hidricos* (RIRH), *Iniciativa Energia Renovable en las Americas* (EREA), and the *Inter-American Biodiversity Information Network* (IABIN).<sup>iv</sup>

Governments of the Americas have agreed in principle that... "[d]evelopment strategies need to include sustainability as an essential requirement for the balanced, interdependent, and integral

attainment of economic, social, and environmental goals.”<sup>v</sup> Creating the appropriate hemispheric legal and policy framework to promote sustainability would be simply a fundamental starting point.

## **2. The Americas: Two Regions, Five Sub-Regions, One Hemisphere.**

To develop such an agenda, it is first necessary to look at the actual ‘architecture’ of international economic, development and environmental cooperation in the Americas, and how it has changed recently. Traditional international relations theory divides the Western Hemisphere into sharply defined breaks between North and Latin America (with an addition of ‘the Caribbean’ in *voce sotto*). However, in practice, the Free Trade Area of the Americas is being deliberately<sup>vi</sup> built upon advances achieved in five sub-regional trade agreements; the Mercosur, the Andean Community (ANCOM), the Caribbean Community (CARICOM), the Central American Common Market (CACM), and the North American Free Trade Agreement (NAFTA). As policy makers grapple with the question of trade and environment in the FTAA process, they would do well to consider models from the whole range of sub-regional mechanisms.<sup>vii</sup> While *North American Agreement for Environmental Cooperation* is a wellknown example, the newer and perhaps furtherreaching *Framework Agreement on the Environment* in the Mercosur, as well as the *Central American Alliance for Sustainable Development*, the efforts of the Andean *Consejo de Autoridades Ambientales de la Comunidad Andina*, or certain aspects of the *CARICOM*, also present innovations worthy of examination. A new kind of hemispheric thinking, based on consideration of at least five sub-regional models for trade and sustainability policy linkages, is necessary to recommend strategic directions for the high priority international nexus of trade and sustainable development in the Western Hemisphere.

## **3. A Survey of Models for Hemispheric Environmental Cooperation**

The FTAA is different from all sub-regional environmental cooperation processes in three ways. First, the 34 Parties are already linked by a complex web of occasionally in-effectual but historically established hemispheric and sub-regional intergovernmental organisations and legal instruments. Any proposals will not be starting from scratch, and cannot expect to create scratch, then start, either. Second, in terms of procedure, a special political context exists in connection with advancing FTAA negotiations, where parallel hemispheric environment and development measures might be welcomed as part of the package. Finally, trade liberalisation itself is a debated issue in the public mind of many countries today, and a well-informed civil society movement is developing in the Americas parallel to the ever-stronger protest voice. It will be necessary to put forward a focused trade and sustainability agenda with appropriate financial and political support in order to convince these groups to support a new hemispheric process. To do so, an examination of sub-regional models is useful.

Environmental management regimes exist in the five sub-regions of the Americas through a series of sub-regional agreements aimed at preserving the environment and promoting sustainable development. Common challenges include the need for coordination of environmental laws, standards, certification, capacity building or awareness programs, coping with forest fires, transboundary air and water pollution, desertification, and floods, as well as efforts for joint ecosystem management, wildlife protection or conservation of biodiversity.<sup>viii</sup> Sub-regional environmental regimes in the Americas are integrated to varying degrees into the relevant trade agreements or common markets, or into other broader political processes. Institutional arrangements also vary greatly. Early examples address common concerns requiring trans-boundary environmental management and simply coordinate among relevant environmental authorities. Others have mandates that include forming new institutions, maintaining reporting relationships within a common market coordination mechanism, independent mechanisms for fact-finding or dispute settlement, or access to the overall community dispute settlement system aspects, and provisions for cooperation on a variety of common concerns.

*The Mercosur Framework Agreement on the Environment* Linkages between trade and the environment were recognised early in the process of building the *Mercosur*, and a ‘*Sub-Grupo No.6*’ now exists on the environment, as one of the recognised technical working bodies. The Council (Consejo Mercado Común), in June 2001, approved the *Mercosur Framework Agreement on the Environment* which was added to the *Treaty of Asuncion* of the *Mercosur*.<sup>ix</sup> A comprehensive treaty, the 2001 *Mercosur Framework Agreement on the Environment*, at Chapter 2, Article 4, establishes a shared objective of “sustainable development and environmental protection through the development of economic, social and environmental dimensions, contributing to a better quality of environment and life for the people.”<sup>x</sup> This objective establishes the accord as an integrated instrument. The text of the agreement provides for upward harmonisation of environmental management systems and increased co-operation on shared ecosystems, in addition to mechanisms for social participation and the protection of health. At Chapter 3, it commits member states to cooperation on the development of instruments for environmental management including quality standards, environmental impact assessment methods, environmental monitoring and costs, environmental information systems and certification processes. At Chapter 4, Art. 8 to 11, there are provisions for the settlement of any disputes (by reference to the existing Mercosur dispute settlement process) and other general mechanisms for implementation of the Framework Agreement. The Annex provides a framework for the future development of protocols in three areas: sustainable management of natural resources (such as protected areas, biological diversity, biosafety, wildlife management, forests, and hydrological resources); quality of life and environmental management (such as hazardous waste management, urban planning, renewable energy, and improvement of soil and atmosphere/air quality); and environmental policy (such as environmental impact assessment, economic instruments, environmental information exchange, environmental awareness programs). Though the regime has much work to do to ensure that the promise of the 2001 *Framework Agreement on the Environment* is realised, the elements are there, and key civil society actors have expressed cautious optimism in this linkage at a sub-regional level.<sup>xi</sup> It is interesting to note that the 2001 *Framework Agreement on the Environment* was generated by the consideration of environmental issues from within the structures of the customs union. In this instance, it appears that the international economic negotiations took environmental priorities into account, then created a place for environmental cooperation as part of the general sub-regional economic integration process for convenience and to ensure continued political will.

#### *The CARICOM and environmental regimes:*

Caribbean structures for environmental cooperation include the UNEP Regional Seas Programme, a global initiative which encourages nations to cooperate under a framework “regional sea convention,” with subsequent affiliated protocols on specific areas of the marine environment.<sup>xii</sup> A Caribbean Environment Programme (CEP) exists and is facilitated by the Caribbean Regional Coordinating Unit (*CAR/RCU*) located in Kingston, Jamaica. Created in 1986, *CAR/RCU* serves as Secretariat to CEP, and has a coordinating rather than implementing role. The objectives of the Secretariat are to provide assistance to all countries of the region, strengthen national and subregional institutions, co-ordinate international assistance, and stimulate technical co-operation among countries. So, on a regional level the 1983 Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (*Cartagena Convention*) has also led to a Protocol concerning Co-operation in Combating Oil Spills in the Wider Caribbean Region to the Cartagena Convention (*Oil Spills Protocol*), the Specially Protected Areas and Wildlife (SPAW) Protocol which entered into force in 2000, and *the Land-Based Sources of Marine Pollution (LBS) Protocol*. While a new unit has been developed at the CARICOM secretariat to promote increased cooperation on environmental issues, the Caribbean has traditionally kept the common market negotiations fully separate from environmental legal frameworks. This is partly due to their membership in many global arrangements, and the fact that support for environmental cooperation often comes from abroad, just as many environmental problems are caused by forces beyond the control of the islanders.

### *The Andean Community (CAN) and its Comité Andino de Autoridades Ambientales:*

In 1998 a *Comite Andino de Autoridades Ambientales* (CAAAM) was created, the functions of which include, amongst others, the elaboration of strategies for the management of natural resources, and support to the General Secretariat regarding the design of an Environmental Action Plan for the Andean Community. As of 2001, the CAAAM met twice and, together with the General Secretariat, is creating a biodiversity strategy for the CAN.<sup>xiii</sup> Decision 391 of the Andean Community, of 1996<sup>xiv</sup>, empowers the national authority and indigenous Afro-American and local communities in each country as the custodians of traditional knowledge and resources, to grant prior informed consent to potential users in return for equitable returns.<sup>xv</sup> The biodiversity strategy integrates a joint Andean Declaration on phytosanitary measures, which includes provisions on biosafety. This implies that environmental cooperation measures are being developed as part of the Andean integration processes, not separate.

### *Central or Mesoamerica, and the Central American Alliance for Sustainable Development:*

The environment became a significant international issue in Central America in 1989, following the signature of the 1989 *Central American Convention for the Protection of the Environment* (CPC), and the subsequent creation of the *Central American Commission for the Environment and Development* (CCAD). In 1992, the CCAD coordinated the development of a joint position ("Agenda 2000") for the region at UNCED. After UNCED, CCAD supported the creation of the Central American Inter-Parliamentary Commission on the Environment. This Commission, consisting of members of parliament from the seven Central American countries, was instrumental in getting member countries to sign a regional Forests Convention that is now being implemented by the regional Central American Forest Council created exclusively for this purpose. The Alliance for Sustainable Development (ALIDES) was created in 1994, generating a conceptual and operational framework for sub-regional and national goals and strategies. The ALIDES is a comprehensive subregional initiative that addresses political, moral, economic, social, and environmental issues which might otherwise have fallen to trade negotiators to resolve. National Councils on Sustainable Development were established, and act as instruments for implementation. ALIDES was seen as a potential foundation from which to strengthen environmental protection and other development priorities. It was a starting point for the 1994 CONCAUSA (CONvenio CentroAmérica - USA), a partnership for sustainable development which provided funding to the region for a list of concrete commitments including environmental measures such as the conservation of biodiversity, development of renewable energy, environmental legislation standards and eco-friendly industrial processes. The Plan Puebla Panama also brings new energy to sustainable development for a broader Mesoamerican cooperation with several south Mexican states on infrastructure, natural resource management and development.

### *North America, the North American Agreement for Environmental Cooperation and other aspects of the NAFTA*

Environmental provisions in NAFTA itself also include innovative commitments. In Chapter 11, parties agree not to try to attract investment by relaxing or ignoring domestic health, safety or environmental regulations. As explained in an earlier IISD Statement, other parts of Chapter 11 designed to ensure that foreign NAFTA investors will be safe from harassment by host governments have been defined in unintended ways and used to attack environmental laws in all three countries. In Chapter 7 dealing with sanitary and phyto-sanitary (SPS) measures and in Chapter 9, dealing with other standards-related measures (SRM), NAFTA outlines how parties should establish their respective levels of protection, set the standards which achieve those levels of protection, and base those standards on science. Finally, in Chapter 104, NAFTA lists seven international environmental agreements, including the Montreal Protocol, the Basel Convention and CITES, and establishes their paramountcy over the NAFTA in case of disagreement. In addition, well-documented NAFTA Labour and Environment Side Agreements exist between the three countries, clearly designated as separate, non-trade agreements. The environmental agreement (the NAAEC) created the North American Commission for Environmental Cooperation

(NACEC), which promotes environmental cooperation among the three countries, and by which dispute settlement provisions can be invoked if a country persistently fails to enforce environmental laws that have conferred a trade benefit. The NACEC itself does not set standards in the various countries, though part of its mandate is to help harmonize them upward. Rather, its role in such disputes is to see that enforcement of existing laws takes place. It is also charged with, among other things, monitoring the environmental effects of NAFTA.

#### *Bi-lateral Environmental Accords:*

Many bi-lateral trade, environment and investment accords exist in the Americas. In terms of the environment – trade linkage, three bilateral trade agreements illustrate innovative mechanisms which to some degree integrate economic and environmental provisions. The *Chile-Canada Environmental Side Agreement* bears special mention in this respect. As a new accord, created in order to ensure compatibility with the provisions of NAFTA for Chile in the event of its accession, the agreement includes several innovative mechanisms which address earlier policy concerns. Differences between the NAAEC and the Chile-Canada Environmental Side Agreement relate to the introduction of a gradual compliance/enforcement agenda, the simplification of the institutional set-up of the environmental agreement, and the exclusion of trade sanctions in the Chile-Canada Agreement. In future agreements amongst countries of the region these differences can serve as important precedents. Another interesting example for innovative bilateral accords, is a technical assistance program that has been established under the framework of the NAFTA between Mexican authorities and the US Environmental Protection Agency to provide an Integrated Border Environmental Plan and an action agenda of collaborative projects with strong social and environmental components to improve health, working conditions and polluted areas on the border with the maquiladora factories.<sup>xvi</sup> A new accord has also been signed between Canada and Costa Rica, with a focus on access to environmental information, and capacity building for environmental policy or law makers. These new bilateral agreements, as they are more flexible, have room for innovation in integrated social, environmental and economic legal instruments that they employ. They bear observation for models that could be useful for much larger processes.

#### **4. Setting Processes in Place: Innovative Models for Openness.**

Public involvement generated through transparent and participatory processes means higher quality, more diverse exchanges of expertise, data and ideas leading to better informed decisions, more effective domestic implementation, and broader legitimacy in trade and environment decision-making.<sup>xvii</sup> As shown in the *Aarhus Convention*, three key aspects of openness are access to information, access to mechanisms for civil society participation, and access to justice.<sup>xviii</sup>

Processes of democratisation, empowerment and capacity-building in good governance at all levels are a precondition of openness in the Americas. Indeed, increased information and participation for civil society, across the Americas, is not a new or revolutionary idea. Inter-American events were among the first efforts of some governments to officially include certain sectors of civil society, such as private enterprise, in multilateral conferences.<sup>xix</sup> However, international trade debates, until 2001, were completely closed, since governments often had to make commitments that went against the interests of a particular industry who favoured protectionist policies, and essentially legitimate fears existed in the trade community of ‘protectionist special interests’ gaining too great a voice in the processes which are meant to remain ‘isolated and free from political pressure.’<sup>xx</sup> But a distinction must be made between public interest organizations, civil society, and private vested interests or protectionist groups, and the cooperation of the first is essential for a trade agreement to succeed in a democratic and participatory society. The recent decision to release the draft text of the FTAA generates greatly increased transparency.

Some of the best models of innovative mechanisms for increased transparency and public participation are found in the sub-regional environmental accords (REAs) to which many countries in the Americas are accountable. Three examples in particular come to mind.



First, as mentioned above, the NAAEC is a particularly good model for openness in a regional environmental agreement, testing various innovative mechanisms with some degree of success which has granted it some legitimacy in the eyes of civil society organisations in North America. This is based on a firm mandate. The preamble of the Agreement recognises the importance of the civil society participation in the conservation, protection and improvement of the environment. Regarding access to the information process, the agreement establishes a series of provisions related with the general public access to information at all levels. According to Art. 2, the parties should periodically produce reports about the state of the environment that have to be made public and administrative and legal procedures are contemplated to guarantee access. Similar provisions are in place regarding public participation, one of this mechanisms is established in Art. 9, mandating that the Council hold public meetings in all its ordinary sessions and consult with non governmental organisations, including independent experts, in decision making process. The agreement contemplates the possibility for a fact finding record to be undertaken, even if solicited by civil society groups, in Art. 14 and 15, and grants highly controversial access to justice for investors in Chapter 11.

The Mercosur 2001 *Framework Agreement on the Environment* has two mechanisms or provisions to promote increased openness. Public participation is an objective pursued expressly, and it can be argued that specific actions on civil society participation may yet be agreed in the protocols to the accord. Indeed, a close examination reveals specific preamble commitments on access to information and participation of civil society, though while the above-mentioned provisions for access to justice are present, these appear only for the use of States. In Chapter 1, Art. 3, governments commit to the promotion of effective civil society participation in addressing environmental issues. Specific new provisions also offer certain hope. In Chapter 3, Art. 6, the actors named to implement the accord include member States with the participation of appropriate national organisations *and civil society organisations*; activities include, at Article 6 a) to increase information exchanges concerning environmental laws, regulations, procedures, policies and practice, including their social, cultural, economic and health aspects, particularly those which might affect trade or competitiveness." The transparency system contemplated sets systems in place which, while bureaucratic in character, will depend upon the way they are operationalised. Institutions and much else are delegated to the future protocols and member governments. The work of the Economic and Social Council also provides mechanisms for direct participation by civil society organisations and technical experts, in particular through informal consultations held before every meeting of Technical Working Group (Sub-Grupo No. 6).

Finally, the Caribbean Community is far ahead on its formal mechanisms for participation of civil society. First, in 1997 a *Civil Society Charter* was ratified, which recognises the need for participation for a wide range of actors. This Charter is now being revisited by the CARICOM, to strengthen existing mechanisms of consultation between government and civil society. They plan that new mechanisms will be identified and seek a commitment to ongoing collaboration at national and regional levels. A range of issues deemed critical to the future development of the Caribbean Community are discussed at a Caribbean Community (CARICOM) Forum. Some of the proposed issues relate to the reform of the Region's education system and its relationship to employment, productivity and technology acquisition; recapturing/retaining migrating skills; instruments at the regional and national level to promote domestic savings, and focusing on the Caribbean as a "zone of peace". These would be elements in the search for a "New Model of Economic Development" for the Caribbean.<sup>xxi</sup>

## **5. Recommendations for a Hemispheric Sustainability Agenda**

The survey of existing institutional mechanisms for environmental cooperation in the Americas raises a number of leading questions. At present, most of the sub-regional processes have given less priority to international legal structures for environmental or social cooperation, preferring to leave these issues mainly to be addressed by domestic instruments. However, if the accords lead to deeper integration between the economies of these nations, will not political expediency force at

least parallel, if not integrated and institutionalized structures for environmental and social policy coordination, even if it is simply mutual recognition of health and environmental standards? What about the harmonisation or mutual recognition of enforcement mechanisms? Will these provisions always be added as an 'afterthought' or can they be part of the agendasetting process? The diversity of economic, social and environmental realities in the Region seems to favour a discussion on some basic definitions regarding key sustainability concepts as well as potential priorities for cooperation in the Region. How are social and environmental variables interlinked? Whereas almost all of the sub-regional agreements include some type of environmental cooperation, there is a range of topics that have been dealt with. Can priority areas be identified? Is there some common denominator that can be established?

The intricacies of the new arrangement with 34 countries on very different levels of development promise interesting policy debates if the FTAA follows the dominant trend, and recognises sustainable development as one of its goals.

Current studies and research advance these recommendations and leading questions for a constructive approach to trade and sustainability interface in the Americas:<sup>xxii</sup>

#### **a) Consider the long-term sustainability aspects of a potential FTAA:**

A long term goal of a trade agreement is sustainable development for the hemisphere's communities. This could be recognised in the preamble to the final text of the FTAA, as a way to diffuse opposition and ensure policy coherence in later legal interpretation. To avoid future policy inconsistency in the FTAA, proposals can also be discussed for interpretative texts concerning potential relationships between trade, development and environment measures, or specific references in the FTAA which recognise an exemption for trade measures being taken pursuant to existing or new environment and development accords. To help define the areas in need of such measures, sustainability reviews can be conducted *ex-ante* (prior to the conclusion of the FTAA agreement), through the use of sustainability impact assessment (SIA). The SIA analysis can also identify useful parallel measures for trade policy, help develop proposals for liberalisation sequencing options which would mitigate or lower any negative environmental effects, and strengthen the sustainable development benefits of liberalisation. Leading countries could launch processes to conduct preliminary, participatory sustainability reviews of the proposed FTAA, seeking coordinated approaches in each sub-region as appropriate. This could be done with support from the IDB, ECLAC and OAS (regional institutions which provided in-depth analysis of the region's trade structures prior to the launch of the FTAA). In particular, SIAs research can focus on the specific environmental or social implications of each of the nine FTAA negotiating groups (agriculture, investment, market access, intellectual property, services and other issues). The SIAs could compile comparative data and develop a matrix which builds upon recent work at the UNEP, OECD, various national governments, the North American Commission for Environmental Cooperation, as well as work by NGOs and research organisations.<sup>xxiii</sup> Civil society organisations could also participate as partners in all aspects of the sustainability reviews, and their ongoing or future efforts to carry out such reviews in the context of the FTAA should be supported by private foundations. In this context, governments should seek joint decisions on trade measures for environmental purposes, or methods for the mitigation of sustainability impacts of trade liberalization.

#### **b) A New Americas Ecological Cooperation Mechanism?**

The Americas is a contiguous geographic and cultural area with common migratory species and linked ecosystems. The region could benefit from a coherent ecological cooperation agenda and increased resources or capacity building for the implementation of their international or domestic environmental commitments. A new, cooperative stand-alone Americas Environmental Accord (AEA) could be negotiated, with a clear, coherent agenda and new, additional, effective financing measures to ensure implementation. The innovative, far-reaching 2001 *Mercosur Framework Agreement on the Environment* might provide a number of substantive starting points: □ What is

the shared objective of the AEA? Sustainable development and environmental protection in the western hemisphere might be useful as a goal.

- The AEA can provide for increased cooperation on environmental management systems and shared ecosystems, in addition to mechanisms for social participation and the protection of health.
- The AEA can commit member states to cooperation on the development of instruments for environmental management including quality standards, environmental impact assessment methods, environmental monitoring and costs, environmental information systems and certification processes.
- The AEA can have provisions for the settlement of any disputes (establishing a fair, open dispute settlement process) and other general mechanisms for implementation of the accord.
- An Annex to the AEA can provide a framework for the future development of protocols in key areas identified by governments. Ideas include sustainable management of natural resources (such as protected areas, biological diversity, biosafety, wildlife management, forests, and hydrological resources); quality of life and environmental management (such as hazardous waste management, urban planning, renewable energy, and improvement of soil and atmosphere/air quality); and environmental policy (such as environmental impact assessment, economic instruments, environmental information exchange, environmental awareness programs).

Additional agenda items, drawn from other subregional models, include:

- Compiling and developing methodologies for the collection of aggregated, empirical data on environmental conditions, making it available to citizens and environmental policy makers;
- Supporting domestic implementation of environmental laws, by providing analysis, mechanisms for capacity building, policy linkage and even accountability through streamlined procedures for challenges of non-enforcement;
- The creation and strengthening of instruments for access to environmental information, monitoring, and capacity building, coordination of policy on new biological technologies, sciences and traditional knowledge;
- Providing a space for countries in a region to join forces on joint efforts to address natural disasters such as forest fires, transboundary air and water pollution, desertification and floods.
- Providing, where common agendas exist, regional negotiating mechanisms in multilateral environmental agreements and cooperative MEA implementation (this includes clearinghouses, experts networks, technology transfer and financing mechanisms).
- The AEA could be structured to build on existing regulatory frameworks to achieve their goals, simply creating administrative units within agencies to implement the accord.

### **c) Open Spaces for Continuous Trade and Sustainability Dialogue:**

It is essential to build a strong hemispheric civil society voice with the capacity to participate effectively in shaping trade and integration policy. Two sets of concerns exist on a hemispheric level in this respect. First, it is feared that civil society voices are of uneven strength in the FTAA process, and that increased openness might lead to unbalanced participation from some countries. When the participation of civil society exclusively reflects social and ecological concerns of the more developed partners, civil society participation might simply be used as a tool to fight so-called social / ecological dumping by less developed partners, instead of promoting their sustainable development needs. Second, while opportunities can be created by accords or mandated by governments, it is the responsibility of civil society and other groups to take them up. Often, these groups and marginalized communities lack the very capacity, analysis and resources to take advantage of spaces for dialogue. This leaves formal channels under-utilised, particularly in environmental regimes, and means disparities in regional and sub-regional representation which could hinder the development of effective processes on the hemispheric level. Based on the above survey of existing mechanisms for openness in sub-regional accords, three recommendations can be made:

- Civil society 'Peoples Summits' parallel the FTAA Trade Ministerial meetings and other grassroots mechanisms are developing. With this kind of new energy, the Americas integration process has much greater chances of obtaining the support and participation of the broader public,

but more is needed. A civil society Charter, supported by implementation mechanisms, could be developed.

□ Under auspices of leading institutions, experts networks are being created in order to foment the exchange of information, participation and cooperation between different regional actors on trade and sustainable development issues. A centre or institution could be created with a mandate to undertake capacity building, increase information analysis and flow, and provide technical support on hemispheric sustainable development issues. Policy and grant-makers would need to support the creation of such a non-advocacy mechanism that can facilitate comprehensive policy dialogues among the different interests, sub-regional perspectives and sectors.

□ The first step could be to open a place for a broad dialogue on hemispheric trade and environment issues, with the Environment Ministers Forum of Latin America and the Caribbean as a foundation institution and technical support from other IGOs on the Americas. In partnership with the existing Hemispheric Working Group on Trade and the Environment, a Standing Conference or some kind of Public Advisory Committee could be constituted, which would provide a place for dialogue between senior officials from governments, regional and hemispheric institutions, and the NGOs, academic institutions and private sector voices. It must be legitimate, nonbureaucratic and inclusive. It should aim at building consensus on a focused trade and sustainability agenda that would be built upon hemispheric trade and environmental policy frameworks. Its activities would include information sharing, networking, policy analysis and outreach, and terms of reference could be elaborated in cooperation with leading actors in the debates.

## **6. Conclusions: Inspiration for a Networked New Start?**

These three sets of ideas are broad, and address the hemispheric economic integration process as a whole, building from the progressive goals of the 1994 Miami Summit of the Americas, the 1996 Santa Cruz de la Sierra Summit of the Americas, the 1998 Santiago Summit of the Americas, and the 2001 Quebec City Summit of the Americas. It is essential to consider a few additional points.

In the FTAA negotiations to date, environment and development issues have too often been viewed through the prism of their potential disruptive effects on trade relations. Hence, there has not been sufficient scope for analyzing and discussing the fuller set of trade and sustainable development linkages. While this shortcoming is critical, not just from an environmental perspective but for the trade community as well, to achieve broad-based support for any new trade agreement it is clear that environmental concerns will also have to be addressed in a sensitive, step by step policy discussion. For governments of the Americas to have a hemispheric cooperation agenda which fosters rather than frustrating sustainability objectives, countries with extremely diverse development trajectories and economic conditions must be satisfied. Any work programme to lay the foundations for an effective AEA must build upon the efforts of existing institutions with hemispheric, sub-regional or regional scopes. This must be done with a strong emphasis on the majority, Latin American and Caribbean priorities, addressing current fears and concerns, and based on hemispheric approaches to these issues. It will be essential to avoid last minute negotiations, which could unnecessarily alienate key players.

The opportunity, and the challenge, is clear. An Americas Environmental Accord is necessary and possible. Whatever its form, this must be a strong, adequately resourced mechanism for hemispheric cooperation on environmental sustainability, and it must be woven into the broad, flexible networks of existing sub-regional, regional and hemispheric institutions and environmental accords, many of which constitute regimes in their own rights. It must link with and advise trade liberalisation processes so that they can better support sustainable development. And it must find innovative ways of including all actors for an Americas integration process which is legitimate, visionary and sustainable.

i See [http://www.ec.gc.ca/press/2001/010330\\_f\\_e.htm](http://www.ec.gc.ca/press/2001/010330_f_e.htm)

ii See Cordonier Segger, M-C. et al. (2001) Ecological Rules and Sustainability in the Americas, Winnipeg: IISD(International Institute for Sustainable Development), which divided current international environmental regimes in

the Americas into 1) Species-specific accords - those which protect particular migratory or transboundary species and populations, 2) Natural resources accords- those which ensure that the productive capacity of certain natural resources is respected, restored or managed, 3) Ecosystem areas accords - those which encourage conservation of a particular ecosystem, habitat or heritage area, and 4) Ecological cooperation accords – those new comprehensive environmental agreements formed as part of a broader integration package. Many use trade measures for environmental purposes (TMEPs), and in several, TMEPs may be vital to agreement ratification rates or incentives for implementation.

iii See Notes from 08 October 2000, 5<sup>th</sup> Inter-sessional meeting of the Latin America and Caribbean Environment Ministers Forum. Doc. UNEP/LAC-IC.5/8, Anexo I, Parte 1 *Proceso de preparacion regional para Rio +5*, from the *Comite Tecnico Interagencial del Foro de Ministros de Medio Ambiente de America Latina y el Caribe*. iv OAS, CIDI / CIDS (1999),

v *Santa Cruz de la Sierra Declaration*, Bolivia, 1996., Art.2.’

vi San José Declaration of the Trade Ministers, 1998

vii Coming from the environmental field the authors focus on this element of sustainable development. Comments and complementary information from the social, cultural or other perspectives are not only welcome but would be extremely useful.

viii See Cordonier Segger, M-C. et al. (2000) *Trade Rules and Sustainability in the Americas*, Winnipeg: IISD (International Institute for Sustainable Development).

ix *Acuerdo Marco sobre Medio Ambiente del MERCOSUR*, Approved Text from the XX Reunión del Consejo Mercado Común, 22 June 2001, Asunción, MERCOSUR/CMC/DEC.Nº 2/01. To be annexed, upon ratification by member states, to *El Tratado de Asunción, el Tratado de Ouro Preto*, la Resolución Nº 38/95 del Grupo Mercado Común y la Recomendación Nº 01/01 del SGT Nº 6 "Medio Ambiente". According to reports of a meeting of the SGT No 6 in August 2001 in Montevideo, by August there was still no ratification of the treaty in any of the member countries – see [www.fundacionecos.org](http://www.fundacionecos.org).

x See *Acuerdo Marco sobre Medio Ambiente del MERCOSUR*, Approved Text from the XX Reunión del Consejo Mercado Común, 22 de junio de 2001 en Asunción MERCOSUR/CMC/DEC.Nº 2/01. at Art. 4 where it the objective is stated to be “desarrollo sustentable y la protección del medio ambiente, mediante la articulación de las dimensiones económicas, sociales y ambientales, contribuyendo a una mejor calidad del ambiente y de la vida de la población.”

xi See Lechner Reynal, M.(2001) *The Mercosur Framework Agreement on the Environment*”, (2001) ICTSD (International Centre for Trade and Sustainable Development): Bridges Fall Edition

xii See <http://www.cep.unep.org/>

xiii See [www.comunidadandina.org/](http://www.comunidadandina.org/) and ICTSD (1999) for a further explanation of the activities of the CAAAM and the Environmental Action Plan.

xiv For a full text of this Decision see [www.comunidadandina.org](http://www.comunidadandina.org)

xv See Prakash, S. (1999) According to the 1992 *Convention on Biological Diversity* (CBD), access to resources is subject to the prior informed consent (PIC) of the provider of such resources. This means that any company or individual seeking access to genetic resources must first seek and receive the consent of the custodian of these resources, before procuring any genetic resources from the provider's jurisdiction. Therefore, access must be granted on mutually agreed terms, as defined by the seeker and provider.

xvi See Esty, D.C. (1994) *Greening the GATT: Trade, Environment and the Future*, Washington: Institute for International Economics, pp.376-378).

xvii International Institute for Sustainable Development (1994), p 29.

xviii See Economic Commission for Europe Committee on Environmental Policy Fourth Ministerial Conference "Environment For Europe", Aarhus, Denmark, 23-25 June 1998 *Convention On Access To Information, Public Participation In Decision-Making And Access To Justice In Environmental Matters*.

xix See Charnovitz, S. (1997) Two Centuries of Participation: NGOs and International Conferences, *Michigan Journal of International Law*, Vol. 18, No. 2, Winter 1997

xx See Murillos R., C. (1998) Costa Rican Vice-Minister of Trade, In: *Trade And Environment, Opening the Dialogue*, National Audubon Society and Intel, San Jose

xxi Online: CARICOM <<http://www.caricom.org>>, see also <<http://www.caricom.org/chartercivilsoc.html>>.

xxii Based on: The Trade Rules and Sustainability in the Americas project of the IISD, ICTSD and UNEP - initiated in 1998, with a view to providing policy advice for the Summit of the Americas process and the potential FTAA in 2005. It sought to apply the Winnipeg Principles for Trade and Sustainable Development to the process of western hemispheric integration, and specifically to the FTAA process, by comparing examples from the existing sub-regional trade regimes. Other examples of innovative research in this area include: The Yale Centre for Environmental Law, the CINPE (Centro Internacional de Política Económica para el Desarrollo Sostenible) and the Centro de Investigación y Planificación del Medio Ambiente (CIPMA) ’s work on a two-year project entitled “FTAA and the environment”, assessing in a preliminary way environmental implications from the FTAA; a recent symposium, hosted by the Miami-based North-South Centre, the International Centre for Trade and Sustainable Development (ICTSD) and other partners, which developed a series of recommendations for environmentally sound trade expansion in the Americas.

xxiii See for example UNEP (2001), WWF and CIPMA(2001), OECD (2000), CEC (1996) and CEC (1999) and respective websites: [www.unep.org](http://www.unep.org); [www.wwf.org](http://www.wwf.org); [www.oecd.org](http://www.oecd.org); [www.cec.org](http://www.cec.org); [www.cipma.cl](http://www.cipma.cl)

## ANNEX V

### AN ILLUSTRATION OF HARMONIZED LABELLING FOR TOXIC SUBSTANCES

Source: Globally Harmonized System for Classification and Labeling of Chemical Products (SGA). 1<sup>st</sup> revised edit., United Nations, New York and Geneva, 2005

**Elementos que deben figurar en las etiquetas de peligro para sustancias peligrosas para el medio ambiente acuático**

#### **AGUDA**

**Categoría 1 Categoría 2 Categoría 3**

**Símbolo** Medio ambiente *Sin símbolo Sin símbolo*

#### **Palabra de advertencia**

Atención *Sin palabra de advertencia Sin palabra de advertencia*

#### **Indicación de Peligro**

Muy tóxico para los organismos acuáticos

Tóxico para los organismos acuáticos

Nocivo para los organismos acuáticos

#### **CRÓNICA**

**Categoría 1 Categoría 2 Categoría 3 Categoría 4**

**Símbolo** Medio ambiente Medio ambiente *Sin símbolo Sin símbolo*

#### **Palabra de advertencia**

Atención *Sin palabra de advertencia*

*Sin palabra de advertencia*

*Sin palabra de Advertencia*

#### **Indicación de peligro**

Muy tóxico para los organismos acuáticos, con efectos nocivos duraderos

Tóxico para los organismos acuáticos, con efectos nocivos duraderos

Nocivo para los organismos acuáticos, con efectos nocivos duraderos

Puede ser nocivo para los organismos acuáticos, con efectos nocivos

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## **ENDNOTES**

- <sup>1</sup> See DSD Executive Report for the project, OAS/DSD, June, 2007.
- <sup>2</sup> The Report remarks that “[o]ne relevant conclusion of the meeting of the Environmental Law Experts Evaluation Group, held at the OAS headquarters in March 2007, was the lack of or scarce information in the entire region on the economic incidence of chemicals management on poverty”, a conclusion that reaffirms the importance of sound chemical management for human welfare including nonhealth-related aspects.
- <sup>3</sup> Source: DSD document G:\CHEMICALS\CONSULTANTS\DRAFT TOR Michelle Williams 2.doc
- <sup>4</sup> See Attachments.
- <sup>5</sup> [www.greencustoms.org](http://www.greencustoms.org)
- <sup>6</sup> See, for instance, <http://www.greencustoms.org/news.htm#ulanbator>
- <sup>7</sup> In support of such personal forecast I can mention the UNEP Governing Council Decision GCSS.VII.I on "International Environmental Governance" encouraging initiatives to enhance collaboration, synergies and linkages between conventions on issues of common interest. Also The [Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal](#), that has a mandate to strengthen co-operation and synergies with the partner organizations under the Green Customs Initiative. Many of the organizations working in the framework of *Greencustoms* have signed memoranda of understanding (MoU) to fulfill such mutual collaboration mandate. And by decision SC-2/15 of the Conference of the Parties to the [Stockholm Convention](#), decision RC-3/8 adopted by the Conference of the Parties to the Rotterdam Convention and decision VIII/8 of the Conference of the Parties to the [Basel Convention](#) it was agreed to establish a working group prepare joint recommendations on cooperation and coordination for submission to the Conference of the Parties of both conventions and that of the Rotterdam Convention (see <http://www.pic.int/home.php?type=s&id=68&sid=68>)
- <sup>8</sup> Report 5.2.C Act N° 4/01 SGT N° 6 - “Environment”.
- <sup>9</sup> See <http://www.basel.int/press/Urug30-01-04.doc>
- <sup>10</sup> Source: UNEP/POPS/COP.2/INF/10 Existing human health and environmental monitoring programmes. Prepared by the Secretariat to the Stockholm Convention on Persistent Organic Pollutants
- <sup>11</sup> Source: CCAD. Regional Card-Central America – DSD document, undated.
- <sup>12</sup> Report of a conference chaired by Dr. María Inés Esquivel, Coordinator, Panama. Available in DSD files.
- <sup>13</sup> Paper by María Amparo Vallejos, El Salvador, May 2007. Available in DSD files.
- <sup>14</sup> Presentation by Dra. Patricia Monge - IRET/UNA, Costa Rica; Dra. Aurora Aragón- CISTA/UNAN-León, Nicaragua; Dra. Catharina Wesseling - IRET/UNA, Costa Rica. Available in DSD files
- <sup>15</sup> Available in DSD files.
- <sup>16</sup> For implementation of SAIM in El Salvador, see the report by Dr. María Inés Esquivel, National Coordinator, San Salvador, May, 2007 (DSD files).
- <sup>17</sup> Some PTS can bioaccumulate in living organisms. Some can be added to the list of POPs, others continue to be used and pose a threat to human health and the environment.
- <sup>18</sup> POPs are a set of chemicals that are toxic, persist in the environment for long periods of time, and biomagnify as they move up through the food chain. POPs have been linked to adverse effects on human health and animals, such as cancer, damage to the nervous system, reproductive disorders, and disruption of the immune system. Because they circulate globally via the atmosphere, oceans, and other pathways, POPs released in one part of the world can travel to regions far from their source of origin. For sources of information on POPs see <http://www.chem.unep.ch/pops/newlayout/prodocas.htm>
- <sup>19</sup> See endnote 3.
- <sup>20</sup> In their responses to the attachment Hemisphere-wide questionnaire.
- <sup>21</sup> A point stressed in the draft agenda of the coming OAS/SIC/MARENA Workshop on Sound Management of Chemical Substances (OAS/DSD paper).
- <sup>22</sup> Bulletin of the World Health Organization, vol.82 no.11 Geneva, Switzerland, Nov., 2004. *A Dialogue on Chemicals and Children*, Roberto Bertollini; Marc Danzon. Citing: *Environmental outlook*. Brussels: Organisation for Economic Co-operation and Development; 2001.
- <sup>23</sup> Pesticide Action Work North America – Free Trade and Pesticides in Central America [http://www.panna.org/resources/gpc/gpc\\_200212.12.3.03.dv.html](http://www.panna.org/resources/gpc/gpc_200212.12.3.03.dv.html)

<sup>24</sup> “*Avances en el Proceso de Integración Centroamericano Presentado por Presidencia Pro Tempore del SICA, durante La Reunión de la Troika Europea y Centroamérica*” (Prepared by the General Secretariat of SICA). [http://www.sica.int/busqueda/busqueda\\_archivo.aspx?Archivo=dis1\\_11170\\_2\\_31102006.htm](http://www.sica.int/busqueda/busqueda_archivo.aspx?Archivo=dis1_11170_2_31102006.htm)

<sup>25</sup> See, e.g. [ied.utsa.edu/itc/itt3/aug05/feature.html](http://ied.utsa.edu/itc/itt3/aug05/feature.html)

<sup>26</sup> Ibidem.

<sup>27</sup> The CIDA has a consistent policy in such area ([http://www.sdn.org.gy/undp-docs/odag/II\\_cida.html](http://www.sdn.org.gy/undp-docs/odag/II_cida.html)) and has financed a project to promote and support integration of the Caribbean community in a manner that improves economic development and social welfare on a sustainable basis.

<sup>28</sup> Chemistry International, <http://www.iupac.org/publications/ci/2000/january/ipcs.html>

<sup>29</sup> Other aspects of Costa Rica’s progress in that sphere in “El Marco Legal e Institucional para el Manejo Seguro que Químicos Tóxicos Persistentes (PTS) en Chile y Nicaragua”, Center for International Environmental Law, E. Rosenthal, 2007.

<sup>30</sup> Text in <http://www.sice.oas.org/Trade/MRCSRS/Decisions/dec2594p.asp>

<sup>31</sup> Whole text (in Portuguese) in <http://www.sice.oas.org/Trade/MRCSRS/Decisions/dec2594p.asp>

<sup>32</sup> The MERCOSUR Customs Code,

[http://www.mercosur.int/msweb/SM/Normas/Resoluciones/ES/2006/GMC\\_2006\\_RES\\_040\\_ES\\_C%F3di goAduanero.pdf](http://www.mercosur.int/msweb/SM/Normas/Resoluciones/ES/2006/GMC_2006_RES_040_ES_C%F3di goAduanero.pdf), provides that the MERCOSUR customs legislation will be applied to the entire territory of the Party States and to the enclaves granted to such States. Then the Code defines “customs territory” as that part of the aforementioned space where a single tariff and economic restrictions regime is applied to the country’s exports and imports”. Hence, both concepts are not identical, and a number of discussions have arisen among scholars.

<sup>33</sup> CMC Decision 02/01, [http://ctrc.sice.oas.org/Mercosur/bkgrd\\_e.asp](http://ctrc.sice.oas.org/Mercosur/bkgrd_e.asp)

<sup>34</sup> **A New Mechanism for Hemispheric Cooperation on Environmental Sustainability and Trade?**

Developed by Members of the Hemispheric Working Group on Trade and Environment: Marie-Claire Cordonier Segger (Project Director, Americas Portfolio, IISD), Maria Lechner Reynal, (Executive Director, Fundacion ECOS), Nicola Borregaard (Coordinator Economy and Environment, CIPMA), Ana Karina González (Coordinator Trade and Environment, CEMDA), Marie-Claire. Fundación ECOS, Punta del Este, Uruguay- [http://www.iisd.org/pdf/2002/trade\\_aea\\_draft\\_proposal.pdf](http://www.iisd.org/pdf/2002/trade_aea_draft_proposal.pdf)

<sup>35</sup> See, i.a. <http://www.oas.org/dsd/Quimicos/Default.htm>

<sup>36</sup> Regional Card – Central America – DSD files, 2007.

<sup>37</sup> See the Basel Convention site in <http://www.basel.int/>

<sup>38</sup> See the Rotterdam Convention site in <http://www.pic.int/>

<sup>39</sup> See [www.unep.ch/ozone/mp-text](http://www.unep.ch/ozone/mp-text).

<sup>40</sup> Text in [www.unep.ch/ozone/vc-text.shtml](http://www.unep.ch/ozone/vc-text.shtml)

<sup>41</sup> See endnote 6, above.

<sup>42</sup> See Annex III for the text of the 1983 HS Convention. For further reading, see the International Fund document <http://www.imf.org/external/np/leg/tlaw/2007/eng/ith.pdf>, as well as

<http://www.cbsa.gc.ca/general/publications/hcdcs-e.html> and

[http://strategis.ic.gc.ca/sc\\_mrkti/cid/engdoc/about\\_product\\_codes.html](http://strategis.ic.gc.ca/sc_mrkti/cid/engdoc/about_product_codes.html).

<sup>43</sup> See [http://www.wto.org/English/docs\\_e/legal\\_e/legal\\_e.htm](http://www.wto.org/English/docs_e/legal_e/legal_e.htm)

<sup>44</sup> <http://www.chem.unep.ch> - UNEP Chemicals, UNEP Technology, Industry and Economics Division, Available from: *UNEP Chemicals 11-13, chemin des Anémones CH-1219 Châtelaine, GE, Switzerland*

<sup>45</sup> My translation from Spanish. The full text of the chronicle (“Alerta en 14 comunidades de León por contaminación” in <http://www.elnuevodiario.com.ni/2007/01/22/nacionales/39392>). The text of the landmark Nicaraguan law on contaminants (in Spanish) attached to this paper.

<sup>46</sup> In turn, the Nicaraguan Center for Human Rights (CENIDH) denounces “a year of non-enforcement by the Government of social protection of people affected by agrotoxics” (my translation) <http://www.cenidh.org/noticiadetalle.php?idboletin=75>

<sup>47</sup> In Weintraub y Jatar editors, *Integrating the Hemisphere Perspectives from Latin America and the Caribbean*. Washington, D.C.: Inter-American Development Bank, Economic and Social Development Department. September, 1995, Working Paper Series No. 204.

<sup>48</sup> <http://www.iadb.org/int/intpub/wpapers/204.htm>

<sup>49</sup> Translated from Spanish into English by Ma. C. Bosch Freire, for DSD, July, 2007.

<sup>50</sup> Translated from Spanish into English by Ma. C. Bosch Freire, for DSD, July, 2007.

<sup>51</sup> Ibidem. (Non-final original version)

<sup>52</sup> Source: <http://www.imf.org/external/np/leg/tlaw/2007/eng/ith.pdf>