

## Introduction

Illegal ODS-trade is a main concern for the NOU to consider when developing a National Compliance Action Plan (NCAP). Controlling illegal trade requires investments in customs resources, including training, equipment, and the availability of intelligence. Cooperation between enforcement authorities in exporting, importing and transit countries is crucial.

## Key elements in legislation

### Reliable system to control and monitor import and export of ODS

All Parties have to establish an import - export licensing system by Feb. 10, 2000. For Article 5 countries HCFC and HBFC should be included by Jan. 1, 2005 and methyl bromide by 2002 (Montreal Amendment). Nevertheless, all Parties should have a reliable system regardless of whether they already ratified the Montreal Amendment. The licensing system should include at a minimum:

- Import, export and production of all ODS in bulk, and import of ODS-using equipment
- Ban on trade with non-Parties

### Control of Supply

Control of supply of ODS to eliminate an already established use of ODS can be achieved by:

- Quota system: Gradually limiting the quantities of imported / produced ODS
- Control of the end use: prohibit ODS use by certain dates in specified applications
- Sales ban on specific ODS
- Control of imported products/equipment which contain, are made with or rely on ODS

### Control of Demand

Actions targeting the end users to balance with control of supply and help to avoid creating a market for illegal substances:

- Prohibit installations of new ODS equipment for certain applications on short notice
- Provide economic incentives and disincentives as supporting measures and, possibly as a source for funding government units in charge of ozone protection activities. The suggested approach that seems to be the most successful includes lowering taxation of import of ODS substitutes and equipment working with ODS substitutes
- Control emissions of ODS refrigerants

### Ensure enforcement

#### Offence punishable - Proper penalties

- The legislation should recognise illegal production, import and export of ODS as an offence punishable under national laws, with proper penalties. In several countries special penalties for breaking this legislation, more severe than those just resulting from customs law, have been implemented
- The licensing system should secure essential information to track transboundary shipments of ODS and support accurate national reporting on compliance.

### Multi-agency Approach: Environment + Control + Investigation

Closer co-ordination and definition of responsibilities between the various enforcement and environment agencies and departments are necessary to ensure enforcement.

- Determine responsibilities for training, detection, prosecution, etc.
- Enhance communication mechanisms among enforcement officials
- Multi-agency approach (e.g. task forces)
- Illegal material: regulations should state which agency has the responsibility for taking the disposal decision and bearing the cost. The costs should not fall on the agency that seizes the goods, to avoid creating negative incentives.

## Investigation

- Intelligence led policing and risk assessment techniques enable to assess the probability that goods being processed through customs control have not been legally entered or declared, and enable the optimal use of limited resources.
- Develop statistics to assess the size of illegal cases and the seriousness of offences
- Provide training for all enforcement agencies officers (including prosecutors / judges)

## Create the right environment

Law enforcement agency requirements should receive human and financial resources needed for the task, including employment of basic detection material and risk assessment techniques

## Awareness raising

- Educate the public, users and producers about the importance of ozone layer protection

## Involve all stakeholders

- Involve all stakeholders including NGOs and industry in development of laws to ensure a realistic structure, coverage and time frame and to enhance enforcement
- Industry and NGOs should be encouraged to share information on import, export, and key sources to help track down illegal trade.

## Increase customs capacity

To stop the illegal movement at the border, measures to increase customs capacity are:

- List ODS under separate HS codes, including specific customs codes for ODS-containing mixtures
- Develop and apply rigorously the licensing system for import, exports and transit
- Furnish customs offices with sufficient authority for intelligence, investigation, and detection equipment and support them through relevant training programmes.
- Establish registers of traders in ODS to facilitate work of enforcement agencies
- Combine real-time data on imports with automatic alerts when goods cross the border
- Appoint special investigative agents and/or station environment officials at the country's main entry points who can work together with customs officials

## International

### Enable enforcement agencies to co-operate to enforce MEAs

- Adaptation & Development of Existing Law complementary to MEA purposes
- Establish a standard for international co-operation
- Multi-agency approach, both nationally and internationally (e.g. task forces)

### Timely, accurate exchange of information and intelligence

Being part of WCO legal instruments creates a legal basis for international exchange of information / intelligence on Customs offences. Conditions for international cooperation are:

- Central contact points in each country, as part of an active network
- Preparedness to share information, exchange experiences (information centers)
- Willingness to provide mutual support
- Info exchange procedure via Internet to allow cross-checking of import/export activity
- Yearly regional workshops

## Sources used to compile this Fact Sheet and for more information:

### UNEP publications:

- Policy Handbook
- Update of Regulations to control ODS, 2000
- OzonAction Newsletter Special Supplement 6
- UNEP/OzL.Pro/WG.1/22/4 Report of the Ozone Secretariat on illegal trade, 2002
- Enforcement of and Compliance with MEAs, '99
- UNEP training manual for customs officers, '01

### Websites:

- UNEP DTIE OzonAction Programme: [www.uneptie.org/ozonaction](http://www.uneptie.org/ozonaction)
- WCO: [www.wcoomd.org](http://www.wcoomd.org)
- Ozone Secretariat: [www.unep.ch/ozone](http://www.unep.ch/ozone)
- SEI: [www.sei.se/atmosphere](http://www.sei.se/atmosphere)
- Interpol: [www.interpol.int/](http://www.interpol.int/)