

evant information]. The narrative on general factors and considerations notes, *inter alia*, that: a range of interrelated factors — legal, economic, social and political — contribute to the emergence and development of the movement of toxic wastes and dangerous products between industrialized and developing countries; during the 1970s increasing public awareness of the harmful effects of expanding production of toxic wastes led a number of industrialized countries to introduce more stringent legislation in that area; despite stronger legislation, waste production has continued to increase. With regard to countries of the Organization for Economic Cooperation and Development (OECD) the SR highlighted several points including that during the 1980s the combined annual production of waste in OECD countries was on the order of 300 million tons; the same OECD countries produce more than 95 per cent of all dangerous wastes and the biggest waste exporters are Germany, the Netherlands, the United States, the United Kingdom and Australia.

Other points covered in the report included: in response to the increasing difficulties and expense associated with the disposal of toxic wastes and dangerous products for industrialized countries, companies sought outlets in the poorest countries, where neither appropriate regulations, an adequate infrastructure nor the human or financial resources existed to allow them to determine the nature of the imported products; in some cases the products were brought into the country, dumped and stored in contravention of the national legislation, either through the use of falsified documents or by bribing officials in the country of origin, the transit country or the country of final destination; during the 1980s Africa was the most frequently targeted continent; in 1995, an amendment to the Basel Convention instituted a prohibition on the export of hazardous wastes, including those destined for recycling, from OECD to non-OECD countries; and, in 1991, the African countries adopted the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement of Hazardous Wastes within Africa but, as of the end of 1997, the Convention had not yet entered into force.

Information received by the SR indicated that despite the prohibitions imposed by the majority of the developing countries on the import of toxic wastes and dangerous products, exports from the industrialized countries have increased, leading to a proliferation of “legal” exporting of wastes for “recycling”. The SR stated that the “legal” transboundary movement of wastes conceals operations to dump hazardous wastes for disposal or permanent storage, the wastes are sent to poor countries lacking the infrastructure for appropriate treatment, and are usually dumped in overpopulated areas in poor regions or near towns. A sharp increase in the trade in wastes for recycling or reuse was noted. In some cases, the recycling operations are fictitious and a pretext for the illicit transport of hazardous wastes that enter a country as “goods” or “products” for reuse to generate energy, for construction or as fertilizer. The report notes that waste traders frequently sell incineration plants to the poorest coun-

tries on the basis that these plants produce free energy from wastes, even though in the industrialized countries they are subject to stringent regulations and even moratoria on their operation, prior to phasing-out.

In terms of other concerns and practices, reference is also made to: increasing quantities of lead battery scrap reportedly being exported to developing countries for recycling as stricter regulations to safeguard the environment and worker health and safety are introduced in the industrialized countries; the fact that a number of products that have been withdrawn from sale or strictly regulated in industrialized countries continue to be freely exported to developing countries, e.g. certain pesticides and pharmaceuticals, asbestos and plastic materials containing dangerous substances; and, the fact that the liberalization and deregulation of international markets, including financial markets, have aided the movement of toxic wastes from the developed to the developing countries by facilitating access to credit and removing licensing conditions and other restrictions previously imposed on waste exporters.

The report notes: at the international level, there are no effective regulatory or monitoring mechanisms; illicit practices benefit from the vague language and ambiguous provisions of the international conventions; the lack of any monitoring or control mechanism, in conjunction with the loopholes in the conventions, allow arrangements to be made at the very fringes of the law and recourse to fraudulent practices is assured of impunity in the absence of administrative sanctions and/or civil or criminal proceedings. Commentary on conditions at the national level noted: the promulgation of legislation at the national level and the international conventions notwithstanding, trade in dangerous wastes is continually developing, assuming ever more elaborate forms as states acquire appropriate legislation; there has been a shift towards economically weak countries and towards areas of tension and conflict where the government, judicial authorities and administrative structures are unable to control the trade and prosecute offenders; in at least one case, humanitarian assistance was used as a cover for dumping toxic products in a country in difficulties; in other cases the traffic in toxic products was reportedly to be closely linked to arms, nuclear materials and drugs trafficking; and the dumping of toxic wastes and dangerous products is becoming an internal problem in particular countries as companies, aided by the complicity or negligence of the central, federal or regional authorities, tended to store wastes in areas and towns inhabited by poor or economically disadvantaged populations or groups that are subject to discrimination in its various forms.

With these and other points in mind, the SR stated that the facts and incidents relating to the illicit movement and clandestine dumping of toxic wastes and products, generally in developing countries or in regions settled by poor or disadvantaged populations or groups suffering from discrimination, were underpinned by fraudulent practices and accompanied by violations of various cate-