



Distr.
GENERAL

UNEP/CHW.6/40
10 February 2003

ORIGINAL: ENGLISH

CONFERENCE OF THE PARTIES TO THE BASEL
CONVENTION ON THE CONTROL OF
TRANSBOUNDARY MOVEMENTS OF
HAZARDOUS WASTES AND
THEIR DISPOSAL
Sixth meeting
Geneva, 9-13 December 2002

**REPORT OF THE CONFERENCE OF THE PARTIES TO THE BASEL CONVENTION
ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS
OF HAZARDOUS WASTES AND THEIR DISPOSAL**

PART ONE. PREPARATORY SEGMENT

I. OPENING OF THE MEETING (Item 1)

1. The sixth meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was held at the Palais de Nations, Geneva, from 9 to 13 December 2002. The meeting was called to order at 10 a.m. on Monday, 9 December 2002, by Ms. Sachiko Kuwabara-Yamamoto, Executive Secretary of the Basel Convention.
2. Following an opening ceremony, which included a video presentation on the background and status of the Basel Convention, Mr. Philippe Roch, President of the Expanded Bureau of the fifth meeting of the Conference of the Parties, welcomed the participants to the sixth meeting. The officers of the fifth meeting of the Conference of the Parties presided over the meeting until the election of new officers.
3. Mr. Roch stated that many important decisions and achievements since the fifth meeting had laid the groundwork for the tasks ahead of the current meeting. The Ministerial Declaration on Environmentally Sound Management had brought forth the draft strategic plan which, when fine-tuned and approved by the Parties, would provide strong guidance for implementation of the Convention through 2010. The Basel Protocol on Liability and Compensation, when it entered into force with the required number of ratifications, would provide a simple and unbureaucratic way of ensuring that companies dealing in hazardous wastes had taken on adequate financial protection. The Basel Convention Regional Centres, once legally established, would play a central role in executing the strategic plan. In that respect, the secretariat's in-depth analysis of the Regional Centres showed the need to support their effectiveness as channels for action under the Convention.
4. With regard to partnership-building, Mr. Roch announced the initiative on mobile telephones of the Government of Switzerland to promote partnerships with industry, as well as funding of a new position in the secretariat for that purpose, noting that the industrial sector held vast knowledge and technical and financial resources which could be drawn upon to find solutions for environmentally sound waste

management. The Basel Convention's increasing focus on waste prevention and management, together with its partnership-building initiatives, were consistent with the greater cooperation between multilateral environmental agreements that had been encouraged at the World Summit on Sustainable Development.

5. In closing, Mr. Roch called on Parties to provide financial support and technical input to the secretariat, thanked outgoing Expanded Bureau members and working group chairs for their efforts, commended the secretariat for its dedication and hard work, and wished participants a successful meeting.

6. The meeting was then addressed by Ms. Sachiko Kuwabara-Yamamoto, Executive Secretary of the secretariat of the Basel Convention. Noting widespread support for the Basel Convention within the international community, she welcomed 17 new Parties that had ratified the Convention since the fifth meeting of the Conference of the Parties, and noted that 5 more were in the process of ratification. She noted a slower but steady progress in ratifications of the Ban Amendment (see decision III/1), expressed concern at the lack of ratifications of the Protocol on Liability and Compensation, and called on the Parties to work with the secretariat to improve the situation.

7. With regard to activities under the Convention, a great deal of progress had been made, as exemplified by the proposed technical guidelines and mechanisms for implementation and compliance, notably the draft strategic plan, as well as achievements at the regional level. It was essential to build on those achievements and maintain momentum, particularly by making a strong commitment to the Convention's Regional Centres. The Executive Secretary stressed that the Centres would not survive if the current Conference of the Parties failed to demonstrate concrete support for their work.

8. The period leading up to the current Conference of the Parties had also been used to pursue and strengthen cooperative relationships with other United Nations bodies, specialized agencies, multilateral environmental agreements, industry and non-governmental organizations. In fact, in view of the importance of the matter, the Expanded Bureau had agreed that "Partnership for implementation of the Convention" should be the theme of the current Conference.

9. Noting that the World Summit on Sustainable Development had stressed the importance of hazardous waste management, particularly in developing countries, the Executive Secretary said that the Basel Convention should help developing countries achieve environmentally sound waste management. That meant seeing the recovery and disposal of hazardous and other wastes in the context of the integrated life-cycle management of materials, with particular emphasis on waste minimization. The Basel Declaration was providing the road map to achieve environmentally sound management, and the secretariat would continue to work within the framework of its comprehensive approach to minimizing the quantity and hazardousness of wastes.

10. The Executive Secretary thanked a number of Governments for their support to the voluntary trust fund for developing and other countries in need of technical assistance, and for sponsoring junior programme officers and a senior position within the secretariat for partnership with industry, and wished participants a fruitful Conference of the Parties.

11. A statement was then made by Mr. Vijay Samnotra, speaking on behalf of Mr. Klaus Töpfer, Executive Director of the United Nations Environment Programme (UNEP). He expressed UNEP's great pride in the Basel Convention, and commended it for its positive measures to propel the international environmental agenda forward. He invited Parties to work cooperatively to develop the strategic plan for the implementation of the Basel Convention, and commended the good cooperation that existed between the secretariats of the Basel Convention and the Stockholm Convention on Persistent Organic Pollutants. UNEP appreciated the implementing activities of the Basel Convention's Regional Centres, which should also play a supportive role in the implementation of related multilateral environmental agreements.

12. He highlighted the fact that the success of multilateral environmental agreements was judged by the degree of compliance with convention obligations. He therefore urged participants to complete the negotiation of a compliance mechanism, with a view to adopting it at the current meeting. With regard to coordination of the multilateral environmental agreements, he said that UNEP would focus on enhancing its

programmatic and administrative service role towards the agreements it served. As part of that process, UNEP would continue to consult with the secretariat of the Basel Convention, in full consideration of the autonomous nature of the Convention.

13. In closing, the representative of UNEP said that he was sure that the decisions taken at the current meeting, though not easy, would be recognized by future historians as having contributed to the emergence of the new world of sustainable development.

14. Following the opening statements, the meeting proceeded to elect the incoming President and other officers of the Expanded Bureau for the sixth meeting of the Conference of the Parties.

II. ELECTION OF THE PRESIDENT AND OTHER OFFICERS (Item 2)

15. The following officers were elected to the Bureau of the sixth meeting of the Conference of the Parties:

President:	Mr. Ioan Jelev (Romania)
Vice-President:	Mr. Ephraim Mathebula (South Africa) Mr. Andreas Jaron (Germany) Mr. Toshiyuki Taga (Japan)
Rapporteur:	Ms. Maria Cecilia Rozas (Peru)

16. Following his election, Mr. Jelev congratulated the outgoing President for his guidance at the fifth meeting of the Conference of the Parties. He expressed his thanks to the delegates for putting trust in him and electing him President of the sixth meeting of the Conference of the Parties. He promised to do his best to achieve results and requested full cooperation from all the delegates to that end.

III. ADOPTION OF THE AGENDA (Item 3)

17. At the opening plenary session, the Conference adopted the following agenda, based on the provisional agenda which had been circulated in document UNEP/CHW.6/1 and its Corr.1.

Preparatory segment

1. Opening of the meeting:
 - (a) Opening statement by the President of the fifth meeting of the Conference of the Parties;
 - (b) Statement by the Executive Secretary;
 - (c) Statement by the representative of the Executive Director of UNEP.
2. Election of the President and other officers.
3. Adoption of the agenda.
4. Organization of the meeting.
5. Credentials of representatives.
6. Consideration of the implementation of the Basel Convention:

- (a) Basel Declaration on Environmentally Sound Management and the 10-year strategic plan for the implementation of the Basel Convention;
 - (b) Basel Convention Regional Centres for Training and Technology Transfer;
 - (c) Capacity-building activities within the Convention;
 - (d) Legal matters:
 - (i) Mechanism for promoting implementation of and compliance with the obligations set out by the Basel Convention;
 - (ii) Emergency fund/financial mechanism;
 - (iii) Analysis of the dispute settlements mechanism under article 20 of the Basel Convention;
 - (iv) Protocol on liability and compensation for damage resulting from transboundary movements of hazardous wastes and their disposal;
 - (v) Prevention and monitoring of illegal traffic in hazardous wastes and other wastes;
 - (vi) Bilateral, multilateral or regional agreements or arrangements;
 - (vii) Proposed work programme of the Legal Working Group;
 - (e) Technical matters:
 - (i) Review or adjustment of the lists of wastes and issues related to Annex IX;
 - (ii) Preparation of technical guidelines;
 - (iii) Development of work on hazardous characteristics;
 - (iv) Proposed work programme of the Technical Working Group;
 - (f) Reporting on articles 13 and 16 of the Basel Convention;
 - (g) Cooperation and partnership:
 - (i) Cooperation with the United Nations, multilateral environmental agreements, specialized agencies, regional systems and organization and others;
 - (ii) Partnership with environmental non-governmental organizations and with the industry and business sectors.
7. Amendment of the Basel Convention and its annexes:
- (a) Implementation of decision III/1 (Amendment of the Basel Convention), including analysis of issues regarding Annex VII;
 - (b) Proposed amendments to Annexes VIII and IX of the Convention.
8. Institutional, financial and procedural arrangements:
- (a) Institutional arrangements;

- (b) Financial matters;
 - (c) Competent authorities and focal points.
9. Other matters.

High-level segment

10. Opening of the high-level segment:
- (a) Welcome by the President of the Conference;
 - (b) Statement by the Executive Director of the United Nations Environment Programme;
 - (c) Statement by the President of the fifth meeting of the Conference of the Parties to the Basel Convention.
11. Statements by heads of delegation.
12. Review of and possible action on the outcome of the World Summit on Sustainable Development.
13. Adoption of the decisions and the report.
14. Other matters.
15. Closure of the meeting.

IV. ORGANIZATION OF THE MEETING (Item 4)

A. Attendance

18. The following Parties to the Basel Convention were represented: Albania, Algeria, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Comoros, Costa Rica, Côte D'Ivoire, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Egypt, El Salvador, Estonia, Ethiopia, European Community, Finland, France, Gambia, Georgia, Germany, Guatemala, Guinea, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kenya, Kuwait, Kyrgyzstan, Lebanon, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Lucia, Samoa, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Yugoslavia and Zambia.

19. The following States not party to the Convention participated as observers: Afghanistan, Angola, Ghana, Haiti, Holy See, Jamaica and United States of America.

20. Observers from the following United Nations bodies, specialized agencies, intergovernmental organizations and secretariats of conventions were also present: Comision Permanente Del Pacifico, Intergovernmental Forum on Chemical Safety/Information Exchange Network on Capacity-building for the Sound Management of Chemicals, International Labour Organization, International Maritime Organization, Office of the High Commissioner for Human Rights, Organisation for Economic Cooperation and Development, South Pacific Regional Environment Programme and United Nations Environment Programme.

21. The following non-governmental, private sector and business organizations also participated as observers: Association of Plastics Manufacturers in Europe, Basel Action Network, Bureau of International Recycling, Center for International Environmental Law, EKOKEM OYAB (Finland), Environment Bureau, City of Kitakyushu, (Japan), FFACT Management Consultants (Belgium), GEDDEN - Environmental Management Information System (Canada), Graduate Institute of International Studies (Switzerland), Institute of Environment and Resources (Taiwan, Province of China), International Council on Mining and Metals, International Lead Management Centre, International Precious Metals Institute, LG Electronics Inc., Matsushita Electric Industrial Co., Ltd/Panasonic, Mitsubishi Electric Telecom Europe, S.A., Motorola, Inc., Municipal Development Partinership, NEC Electronics Europe Ltd., Nokia Corporation, Orebro University, Sweden, Samsung Electronics Co., Sony Ericsson Mobile Communications, Sustainable Business Associates, Swico Inc. (United States), Swiss Federal Institute of Technology, Swiss Federal Laboratories for Materials Testing and Research and World Wide Fund for Nature.

22. Representatives from the Basel Convention Regional Centres in Argentina, China, Egypt, El Salvador, Indonesia, Nigeria, Russian Federation, Senegal, Slovak Republic, South Africa, Trinidad and Tobago and Uruguay were also present.

B. Organization of work

23. At the 1st session, on 9 December, the Conference of the Parties adopted a programme of work circulated in an informal paper by the secretariat.

C. High-level segment

24. The Conference of the Parties held a high-level segment on 12 and 13 December 2002. The report of that segment is contained in part two of the present report.

V. CREDENTIALS OF REPRESENTATIVES (Item 5)

25. At the 10th session, on 13 December, the Chair read out the names of Parties whose credentials had been found to be in order. He requested any Party that had not yet submitted its credentials to do so without further delay.

VI. CONSIDERATION OF THE IMPLEMENTATION OF THE BASEL CONVENTION (Item 6)

A. Basel Declaration on Environmentally Sound Management and the 10-year strategic plan for the implementation of the Basel Convention

B. Basel Convention Regional Centres for training and technology transfer

26. The Conference of the Parties began its consideration of sub-items 6 (a) and (b) jointly at its 1st session, on 9 December. Introducing the items, the Executive Secretary drew attention to documents UNEP/CHW.6/2 and UNEP/CHW.6/3 and Add.1. She noted that the report contained in the annex to document UNEP/CHW.6/2 described the activities carried out in the period 2000-2002 to implement decision V/33 on environmentally sound management. She invited the Conference to take note of the progress made and to consider the further implementation of the Basel Declaration through the strategic plan.

27. Drawing attention to document UNEP/CHW.6/4 and Add.1, the Executive Secretary noted that document UNEP/CHW.6/4 contained a draft decision for the legal establishment of the Regional Centres. She mentioned that the adoption of the decision was an essential step to clarify the legal status of the Regional Centres and to enhance their operation and management. Document UNEP/CHW.6/5 contained a progress report on the activities carried out by the Regional Centres. She invited the Conference to consider the progress on the establishment of the Regional Centre in Senegal and the proposal by the Islamic Republic of Iran on the establishment of the Regional Centre for West and Central Asia in Tehran. She suggested that the Conference might wish to consider the feasibility study contained in document UNEP/CHW.6/INF/16 for the establishment of a Pacific Regional Centre for joint implementation of the Basel Convention and the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region. The Regional Centre would be integrated with the South Pacific Regional Environmental Programme (SPREP). She further noted that the Government of India had submitted a draft proposal on the establishment of a Regional Centre for South Asia and invited the delegation of India to report to the current conference on the progress made in that regard.

28. Several representatives drew attention to the importance of the strategic plan as the main vehicle for implementation of the Basel Declaration. Some suggested that the draft strategic plan could benefit from greater focus, and in particular that it needed to identify concrete projects to be undertaken as well as the necessary financial resources. Other representatives, drawing attention to the fundamental linkage between the strategic plan and the functioning of the Regional Centres, emphasized capacity-building, technology transfer and the need for a regionally specific approach. A number of representatives stressed the importance of having regionally based priorities. Other representatives suggested that the strategic plan should have a flexible approach, and that it should take into account the particular needs of transit States, while another said that it should also pay attention to the needs of small landlocked developing countries.

29. The representative of Denmark, speaking on behalf of the European Community and its member States, noted that the European Community had prepared a paper setting out its understanding of the strategic plan, which was being circulated informally for consideration by the Conference.

30. Based on the proposal by the President the meeting agreed to establish an informal open-ended working group, chaired by Australia and Senegal, to discuss the issues relating to the strategic plan and Basel Convention Regional Centres. In the light of the comments made by the floor, he suggested that the Working Group should concentrate in particular on the questions of concrete projects prioritization, and financing.

31. At its 4th session, on 10 December, the Conference heard a report on the progress made by the Working Group on the Strategic Plan and Regional Centres from Senegal, Co-chair of the Working Group. The Working Group had first discussed the Regional Centres, using documents UNEP/CHW.6/4 and Add.1 and UNEP/CHW.6/INF/5. A small drafting group was formed to develop potential evaluation criteria for project proposals that would be considered by the Group.

32. At the 11th session, on 13 December, Australia, Co-chair of the Working-Group on the Strategic Plan and Regional Centres, presented a conference room paper containing the report of the Working Group and related draft decisions.

33. Regarding the establishment and functioning of the Basel Convention Regional Centres for training and technology transfer, the Co-chair outlined two draft decisions agreed upon by the Working Group.

34. The Conference adopted the draft decisions contained in the report of the Working Group as decision VI/3 on the establishment and functioning of the Basel Convention Regional Centres for training and technology transfer, and decision VI/4 on business plans for the Basel Convention Regional Centres, contained in the annex to the present report.

35. Regarding the draft strategic plan for the implementation of the Basel Convention (to 2010), the Co-chair outlined two draft decisions agreed upon by the Working Group. He noted that the understanding of the Working Group was that project proposals to be submitted as part of the activities contained in the action table would be eligible for support from the funds allocated to implement the strategic plan in the period 2003-2004. One representative in the Working Group had emphasized the importance of paying particular attention to least developed countries when implementing activities under field (e) of the action table. However, the Working Group could not agree to amend a direct quotation from the Basel Declaration. With those understandings, the Working Group had agreed to forward the draft decisions to the Conference for its consideration and eventual adoption.

36. The representative of Peru, subsequently supported by Colombia, stated that she had proposed in the Working Group the inclusion in the sixth cluster of the action table that was part of the strategic plan of an additional initiative on "Development of guidelines to enable more effective monitoring of the transboundary movements of hazardous wastes from the port of export to their final destination for treatment, recycling, recovery and/or disposal." Such guidelines should include mechanisms to improve collaboration and sharing of information among all stakeholders during the transboundary movements. While the proposal had received the support of a number of other delegations in the Working Group, the decision had been taken not to consider detailed revisions of the action table. She requested that the proposed initiative be considered at the first meeting of the Open-ended Working Group.

37. With regard to project proposals, it was noted that any relevant entity from the public or private sector could submit such proposals but that it was necessary to pass them through the relevant Party or Regional Centre for forwarding through the secretariat to the Open-ended Working Group.

38. The Conference adopted the draft decisions contained in the report of the Working Group as decision VI/1 on the strategic plan for the implementation of the Basel Convention (to 2010), and decision VI/2 on project proposals under the strategic plan for the implementation of the Basel Convention, contained in the annex to the present report.

39. At the 11th session, on 13 December, the Conference considered a conference room paper containing a proposed draft decision on the Basel Declaration on Environmentally Sound Management and adopted the draft decision as decision VI/5, contained in the annex to the present report.

Establishment of a Basel Convention Regional Centre in Senegal

40. At the 7th session, on 11 December, the Executive Secretary drew the attention of the meeting to document UNEP/CHW.6/6 on the establishment of a Regional Centre in Senegal. Several representatives expressed support for the draft decision.

41. The Conference adopted the draft decision contained in document UNEP/CHW.6/6, as decision VI/6 on the establishment of the Regional Centre for French-speaking Countries in Africa, in Dakar, Senegal, contained in the annex to the present report.

42. The representative of France informed the meeting that France had an interest in the development of activities of the Basel Convention Regional Centre in Dakar and would be ready to support such activities from 2004.

Proposal to establish a Basel Convention Regional Centre in the Islamic Republic of Iran

43. The Executive Secretary drew the attention of the meeting to document UNEP/CHW.6/INF/8 and a related conference room paper. The representative of the Islamic Republic of Iran noted that the proposed decision would authorize completion of the feasibility study and thus allow the Parties to take a decision on the basis of more complete information at their next Conference. Several representatives expressed support for the draft decision, noting that it followed a thorough step-by-step process. One representative emphasized that in order to follow past practice it would be necessary for the Parties to have sufficiently detailed and studied information on the proposal before they could take a decision.

44. The Conference adopted the draft decision proposed by the Islamic Republic of Iran, as amended, as decision VI/7 on the establishment of a Regional Centre in the Islamic Republic of Iran, contained in the annex to the present report.

Establishment of a Pacific Regional Centre for the Basel and Waigani Conventions

45. The Executive Secretary drew the attention of the meeting to document UNEP/CHW.6/INF/16 and a related conference room paper. The representative of New Zealand, speaking on behalf of a group of Parties in support of the draft decision, noted that the proposal had been endorsed by Ministers from the countries of the region. As the aims and operations of the Basel and Waigani Conventions were complementary and enjoyed overlapping membership, the establishment of a Pacific Regional Centre for their joint implementation would produce greater efficiency and efficacy in the region with regard to implementing the Basel and Waigani Conventions. One representative noted that it was important that the process of considering and establishing a Regional Centre must be done at a deliberate and reasoned pace that allowed for sufficient study of the issues involved.

46. The Conference adopted the draft decision proposed by Australia, New Zealand, Papua New Guinea and Samoa, as amended, as decision VI/8 on the establishment of a Pacific Regional Centre for the joint implementation of the Basel and Waigani Conventions, integrated with SPREP, contained in annex I to the present report.

Proposal on the Basel Convention Regional Centre of the Arab States for Training and Transfer of Technology

47. The representative of Egypt, speaking on behalf of a group of Arab States in Africa and Asia Parties to the Basel Convention, introduced a draft decision on the Regional Centre of the Arabic-speaking States contained in a conference room paper. He noted that the proposed change in the name of the Centre would better reflect that it was more than language that united the Parties participating in the Centre.

48. The Conference adopted the draft decision as decision VI/9 on the Basel Convention Regional Centre for the Arab States for training and technology transfer, contained in the annex to the present report.

Proposal of India to establish a Basel Convention Regional Centre for South Asia in New Delhi

49. The representative of India reported on activities that had occurred since the last meeting of the Working Group for Implementation with regard to consideration of India's offer to develop a Regional Centre for South Asia in New Delhi. One representative did not support the establishment of a Basel Convention Regional Centre for South Asia in New Delhi.

Implementation of the environment initiative of the New Partnership for Africa's Development related to hazardous waste and other wastes

50. The representative of Uganda, speaking on behalf of the African Group, introduced a draft decision contained in a conference room paper, noting that the African Ministerial Conference on the Environment had endorsed the proposal.

51. The Conference adopted the draft decision contained in the conference room paper as decision VI/10 on implementation of the environment initiative of the New Partnership for Africa's Development related to hazardous waste and other wastes, contained in annex I to the present report.

C. Capacity-building activities within the Convention

52. The Conference considered sub-item 6 (c) at its 6th session, on 11 December. Introducing the item, the Executive Secretary drew the attention of the Conference to documents UNEP/CHW.6/5, containing a progress report on the Basel Convention Regional Centres, and UNEP/CHW.6/8, containing a draft decision on capacity-building within the Basel Convention.

53. In response to a question, the Executive Secretary confirmed that it was intended that the Regional Centres would extend their activities in the areas of capacity-building and technology transfer, which would, however, require addition resources.

54. Several representatives drew attention to a presentation that had been made in the course of the Conference by the Information Exchange Network on Capacity-building for the Sound Management of Chemicals (INFOCAP), describing INFOCAP as an essential tool for capacity-building over entire product life-cycles, including final disposal.

55. The representative of Mexico requested that in document UNEP/CHW.6/5, the "geographical scope" of the Regional Centre in El Salvador should be understood to read "Central America and Mexico."

56. The Conference adopted the draft decision contained in document UNEP/CHW.6/8 as decision VI/11 on capacity-building, contained the annex to the present report.

D. Legal matters

Mechanism for promoting implementation of and compliance with the obligations set out by the Basel Convention

57. Sub-item 6 (d) (i) was considered at the 2nd session, on 9 December. Introducing the sub-item, the Executive Secretary drew attention to document UNEP/CHW.6/9. Pursuant to decision V/16 adopted by the fifth meeting of the Conference of the Parties to the Basel Convention, the Legal Working Group had been requested to prepare a draft decision for adoption at the sixth meeting of the Conference of the Parties, establishing a mechanism for promoting implementation and compliance with their obligations under the Basel Convention. The issue of monitoring the implementation of and compliance with the Basel Convention had been debated at the first, second, third, fourth and fifth sessions of the Legal Working Group. The draft decision could not be finalized in the Legal Working Group and several paragraphs remained in square brackets.

58. Informal consultations had been held on the mechanism for promoting implementation of and compliance with the Basel Convention on 7 and 8 December 2002, chaired by the United Kingdom of Great Britain and Northern Ireland. The informal consultations had resulted in a draft text, presented by the Chairman of the informal consultations as his own proposal, contained in a conference room paper before the Conference.

59. The Chair of the informal consultations introduced his text to the Plenary. He noted that the informal consultations had been very constructive and substantial progress had been achieved, but there were still some unresolved issues. The Chair identified three main areas of non-agreement. The first area was the status of the members of the proposed Compliance Committee. The second area was the procedures for specific submission on non-compliance. The third area was the recommendation to the Conference of the Parties on additional measures. In addition, the Chair noted that there also remained non-agreement on the decision-making procedure of the Committee.

60. Several representatives noted the progress made during the informal consultations, and stressed that the Parties were near agreement. One representative stressed that the informal consultations had resulted in an agreement to use the phrase “compliance” rather than “non-compliance” and felt that changes should be made accordingly to the text proposed by the Chairman.
61. The President proposed the establishment of a working group on the mechanism for promoting implementation of and compliance with the Basel Convention to discuss outstanding issues based on the Chairman’s text, chaired by the United Kingdom. Several representatives and one observer supported such a proposal. Several representatives, however, expressed the view that it would be very difficult for smaller delegations to participate in yet another working group, and requested that the Working Group on Implementation and Compliance should not meet until the following day.
62. Based on the proposal of the President, the meeting agreed to establish a Working Group, chaired by the United Kingdom, to consider the outstanding issues relating to the mechanism for promoting implementation of and compliance with the Basel Convention based on the Chairman’s text, to begin work on 10 December.
63. At the 8th session, on 12 December, the Chair of the Working Group on Implementation and Compliance (United Kingdom) presented a conference room paper containing a revised text of the annex in document UNEP/CHW.6/9 on a mechanism for promoting compliance and implementation of the Basel Convention that had been agreed to by the Working Group. On behalf of the Working Group, he recommended its adoption by the Conference.
64. Many representatives expressed support for the compromise text of the mechanism, describing it as the best possible compromise and thanked the Chair for his excellent leadership in the Working Group. Several representatives expressed the view that the mechanism for promoting implementation and compliance would be a credible, practical and effective mechanism that would assist the successful implementation of the Basel Convention, noting, in particular, the emphasis placed in the mechanism on facilitative procedures. One representative hoped that the mechanism would be effective in addressing issues relating to the illegal traffic of hazardous wastes. The Conference adopted the draft decision contained in document UNEP/CHW.6/9, as amended in the related conference room paper, as decision VI/12 on the mechanism for promoting implementation and compliance, contained in the annex to the present report.
65. The representative of the Netherlands made the following statement:
- “The fact that we joined the consensus, should not be explained as that the Netherlands considers the mechanism, as it has been adopted now, satisfactory. We do think that it is positive that a mechanism now has been established and that we can start working on facilitating, promoting, monitoring and ? hopefully ? securing the implementation of and compliance with the obligations under the Convention. I therefore sincerely would like to thank all those involved in reaching this consensus, especially the Chair of the Working Group on Compliance, Mr. Alistair McGlone. However, a stronger and broader mechanism would be more appropriate in our view. We do not consider the compliance mechanism adopted here to be a precedent for future compliance mechanisms in other regional or multilateral environmental agreements. Finally, Mr. Chairman, the Netherlands would like to point out that the Conference of the Parties always has the possibility to review the effectiveness of this mechanism. In doing so, it should have in mind in particular the need to avoid cases of repeated or continued shortcomings in compliance with the obligations under the Convention.”
66. At the 12th session, on 13 December, the Conference of the Parties held a discussion on an interim procedure for electing members of the Committee for administering the mechanism for promoting implementation and compliance, for which it had before it a conference room paper containing a proposal submitted by the Bureau. In response to a question from a representative , who felt that the draft decision contradicted the related provision in the decision already adopted by the Conference of the Parties establishing the mechanism, the secretariat explained that the draft decision was intended as an administrative mechanism whereby the Open-ended Working Group would elect the members on behalf of

the Conference of the Parties. This was not intended to be a permanent arrangement, but was necessary for the first election since Parties needed time to consult on nominations. Nominations could not therefore be agreed upon during the current meeting and yet could not wait for the next meeting of the Conference of the Parties. The representative expressed the wish to have reflected in the report of the meeting a statement to the effect that both decisions had the same legal effect, since some countries had acted on one of them, and some on the other.

67. Another representative felt that the Parties should submit their nominations to the secretariat two rather than four months before the meeting of the Open-ended Working Group.

68. The Conference of the Parties adopted the draft decision, as amended, as decision VI/13 on an interim procedure for electing the members of the committee for administering the mechanism for promoting implementation and compliance, contained in the annex to the present report.

Emergency fund/financial mechanism

69. Sub-item 6 (d) (ii) was taken up at the 4th session, on 10 December. The Executive Secretary introduced the sub-item and presented document UNEP/CHW.6/10. Pursuant to decision V/32, calling for enlargement of the scope of the Technical Cooperation Trust Fund, the secretariat had prepared draft interim guidelines presented in the annex to the document for using the Trust Fund to assist Parties that were developing countries or countries with economies in transition in cases of emergency and for compensation of damage resulting from incidents involving transboundary movements of hazardous and other wastes covered by the Basel Convention.

70. The interim guidelines had been developed in consultation with interested Parties and stakeholders, and had been considered on several occasions by the Expanded Bureau and by the Legal Working Group, with amendments being made at each new consideration. The draft decision contained in document UNEP/CHW.6/10 for the adoption of the interim guidelines had been adopted by the Working Group for Implementation, and the interim guidelines themselves were being presented to the current Conference as amended by the Legal Working Group at its fifth session. The Executive Secretary informed the meeting that \$305,321 had been received for the Trust Fund since the fifth meeting of the Conference of the Parties.

71. Referring to the text of the draft decision, one representative pointed out that the final paragraph contained in square brackets and referring to amendment of the terms of reference of the trust funds for the Basel Convention, appeared in an upcoming draft decision on the financial mechanism, and could therefore be removed from the current decision.

72. Some representatives expressed the need to clarify some ambiguous wording in the interim guidelines. One representative had made some editorial suggestions along those lines to the secretariat in writing. Another representative offered to share his country's experience with emergency trust funds, to assist with legal questions of definition of terms.

73. Following the discussion, the Conference adopted the draft decision contained in document UNEP/CHW.6/10 as decision VI/14 on Interim Guidelines for the Implementation of Decision V/32, contained in the annex to the present report, simultaneously adopting the Interim Guidelines (UNEP/CHW.6/10, annex), as amended during the meeting.

Analysis of the dispute settlements mechanism under article 20 of the Basel Convention

74. At the 11th session, on 13 December, the President introduced document UNEP/CHW.6/11 and drew the attention of the meeting to a draft decision contained in the document. The Conference decided that the issue should not be included on the agenda of the Open-ended Working Group.

Protocol on liability and compensation for damage resulting from transboundary movements of hazardous wastes and their disposal

75. The Conference took up sub-item 6 (d) (iv) at its 5th session, on 11 December. Introducing the sub-item, the Executive Secretary drew attention to document UNEP/CHW.6/12. At its first session, in May 2002, the Working Group for Implementation had approved a draft decision on the issue, which was contained in the document. The draft decision called on Parties to ratify the Basel Protocol in time to hold the first meeting of the Parties to the Protocol in conjunction with the seventh meeting of the Conference of the Parties to the Basel Convention. It also provided for a questionnaire to be sent by the secretariat to obtain answers, views and comments from Parties with regard to ratification; approved the secretariat's work plan for facilitation of ratification and implementation of the Protocol, and requested the Open-ended Working Group, with the support of the secretariat, to undertake the necessary preparations for the first meeting of the Parties to the Basel Protocol. The Executive Secretary outlined the financial implications of the regional workshops to be held as part of the work programme referred to in the draft decision. Each workshop was estimated to cost \$50,000, for a total of \$250,000.

76. Some representatives supported the draft decision as it had been adopted by the Working Group for Implementation, arguing that it contained a very reasonable approach toward facilitating ratification and implementation of the Protocol.

77. One representative wished to remind Parties that ratification of protocols under a Convention remained the sovereign right of individual States.

78. The Conference resumed its consideration of the sub-item at the 6th session, on 11 December. Following the discussion, the Conference adopted the draft decision contained in document UNEP/CHW.6/12 as decision VI/15, on the Basel Protocol on Liability and Compensation for Damage resulting from the Transboundary Movements of Hazardous Wastes and their Disposal, contained the annex to the present report.

Prevention and monitoring of illegal traffic in hazardous wastes and other wastes

79. Sub-item 6 (d) (v) was considered at the 4th session, on 10 December. Introducing the sub-item, the Executive Secretary drew attention to document UNEP/CHW.6/13. She described the process by which Parties had contributed to developing the draft guidance elements for detection, prevention and control of illegal traffic in hazardous wastes. The draft decision for adoption of the guidance elements presented in the document also contained a request to the secretariat to work with the Basel Convention Regional Centres to assist Parties, particularly in developing countries, with implementation. The financial implications of the draft decision were estimated at \$30,000, based on requests for assistance that had been received from eight Parties. The draft guidance elements had been adopted at the second joint meeting of the Technical Working Group and endorsed by the Working Group for Implementation.

80. Several representatives expressed support and appreciation for the guidance elements. One representative said that they would be vital in assisting developing countries to build capacity for the prevention and monitoring of illegal traffic in hazardous and other wastes. Another representative pointed out that the issue of transboundary movement of substances harmful to the environment was addressed in several other environmental conventions, and that it was important for the secretariats of those conventions to cooperate and share their experiences in that area.

81. Following the discussion, the Conference adopted the draft decision contained in document UNEP/CHW.6/13 as decision VI/16 on the Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes, contained in the annex to the present report, simultaneously adopting the Guidance Elements (UNEP/CHW.6/13, annex), as amended during the meeting. The text of the guidance elements is submitted without formal editing.

82. One representative said that information was crucial in fulfilling the purpose sought by the Guidance Elements. It was essential for all interested parties to be informed on the fate of ships and cargo seized for illegal traffic in hazardous and other wastes before any movement of said ships and cargo took place.

83. The representative of Turkey appealed to the secretariat of the Basel Convention for assistance in the resolution of disputes resulting from illegal trafficking of wastes in general of hazardous wastes in particular. Calling for interaction with the States Parties concerned, she mentioned three specific cases affecting Turkey: one case involved a vessel in poor physical condition containing chromium-rich flying ash that had been exported out of Spain in 2000; the second case concerned a vessel imported from France as scrap but which was contaminated with asbestos; and the third concerned more than 350 barrels of toxic chemicals originating from Italy which had washed ashore along Turkey's Black Sea coast since 1988.

84. The representative of France stated that the vessel concerned in the second of the cases raised by Turkey had been purchased by a Turkish company following the failure of the previous owner to pay port fees. Moreover, the vessel was in fact seaworthy under international maritime law. The authorities of France and Turkey would work together to resolve the case, which illustrated the need for procedures dealing with the transboundary movement of ships destined for dismantling. In that spirit, France had suggested that a joint working group comprising the International Labour Organization (ILO), the International Maritime Organization (IMO) and the Basel Convention should be established to look at the entire range of problems pertaining to end-of-life ships. France welcomed the proposed adoption of technical guidelines on the dismantling of ships as a first step in that regard.

85. In response to the statement by the representative of France, the representative of Turkey recalled that in all prior contacts and discussions, the position of France had been that, according to the Basel Convention, the level of waste was not sufficient to consider the ship as hazardous waste.

86. The representative of Italy, speaking in response to the representative of Turkey, announced a formal commitment on the part of the Government of Italy to help the Government of Turkey to solve the problem, which problem arose out of a shipment of toxic wastes to Romania in 1987, prior to the entry into force of the Basel Convention. The Government of Italy confirmed its engagement in reaching an agreement with the competent Turkish authorities on resolving the problem.

Bilateral, multilateral or regional agreements or arrangements

87. The Conference considered sub-item 6 (d) (vi) at its 4th session, on 10 December. Introducing the sub-item, the Executive Secretary drew attention to documents UNEP/CHW.6/14 and UNEP/CHW.6/15. With regard to document UNEP/CHW.6/14, she noted that the annex to the document listed the agreements currently in force, in accordance with the decision of the Working Group for Implementation at its meeting in May 2002.

88. Some representatives suggested corrections that needed to be made to the list of agreements and arrangements in the annex to the document, and the secretariat undertook to amend the list accordingly. In particular, the representative of Germany pointed out the omission of an arrangement under which that country would import hazardous waste from Kosovo for disposal. In response, the representative of Yugoslavia expressed the view that that agreement did not fall in the category of bilateral agreements under the Basel Convention. The secretariat confirmed that it had twice sought advice from the United Nations Office of Legal Affairs in New York on the matter, and suggested that the list might be adopted as it stood, with the secretariat submitting the conflicting views of Germany and Yugoslavia to the Office of Legal Affairs in order to determine whether that particular arrangement should be included. Another representative suggested that in the light of the global effects of hazardous wastes, there should be some limits on bilateral agreements.

89. Following the discussion, the Conference adopted the draft decision contained in document UNEP/CHW.6/14 as decision VI/17 on bilateral, multilateral or regional agreements or arrangements, as amended during the meeting, contained in the annex to the present report.

90. At the 5th session, on 11 December, the Conference took up consideration of document UNEP/CHW.6/15 on draft guidance elements for bilateral, multilateral or regional agreements or arrangements.

91. Some representatives felt that it was necessary for the guidance elements to make it very clear that any bilateral, multilateral or regional agreements or arrangements were subject to the obligations contained in article 4 of the Convention regarding the export and import of hazardous waste to and from all Parties and non-parties. Others believed that too many complex issues remained unresolved, and that further discussion was required before the guidance elements could be finalized. One representative suggested that the draft guidance elements should not be finalized until the Ban Amendment had entered into force.

92. Noting that the issue had been under discussion for many years, and did not seem ripe for a decision at the current Conference, the President of the Conference proposed that the issue should be referred back to the Open-ended Working Group, to be discussed and analysed at greater length, with a report to be made to the seventh meeting of the Conference of the Parties.

93. Following the discussion, the secretariat suggested wording for a draft decision to the effect that the issue of draft guidance elements for bilateral, multilateral or regional agreements or arrangements would be placed on the agenda of the Open-ended Working Group, which would report back to the seventh meeting of the Conference of the Parties. The draft decision would also invite countries to forward their comments on the issue to the secretariat, to be transmitted to the first meeting of the Open-ended Working Group.

94. The Conference adopted, on the basis of the text read out by the secretariat, decision VI/18 on draft guidance elements for bilateral, multilateral or regional agreements or arrangements, contained in the annex to the present report.

E. Technical matters

Review or adjustment of the lists of wastes and issues related to Annex IX

95. The Conference considered sub-item 6 (e) (i) at its 5th session, on 11 December. The Conference had before it document UNEP/CHW.6/19 on issues related to Annex IX of the Basel Convention, containing a draft decision that would result in the adoption of a questionnaire on national classification and control procedures. The draft decision had been adopted by the Technical Working Group and approved by the Working Group for Implementation.

96. Several representatives spoke in favour of adopting the draft decision without further modification, while a number of representatives suggested, and some agreed, that in the interests of clarity the note used in the questionnaire on ratification and accession to the Basel Protocol to the effect that the questions are voluntary and Parties have the full freedom to respond to all, to some or to none of the questions, should also be included in reference to the questionnaire on national classification and control procedures.

97. The Conference adopted the draft decision contained in document UNEP/CHW.6/19, as amended, as decision VI/19 on issues related to Annex IX, contained in the annex to the present report.

98. Proposed amendments to Annexes VIII and IX of the Convention were considered by the Conference under agenda sub-item 7 (b) (see paras. 139-147 below).

Preparation of technical guidelines

99. The Conference took up sub-item 6 (e) (ii) at its 2nd session, on 9 December. The Executive Secretary introduced the sub-item and drew attention to documents presenting technical guidelines for the environmentally sound management of biomedical and health-care wastes (UNEP/CHW.6/20 and Corr.1), for the identification and environmentally sound management of plastic wastes and for their disposal (UNEP/CHW.6/21), for the environmentally sound management of waste lead-acid batteries (UNEP/CHW.6/22), and for the environmentally sound management of the full and partial dismantling of

ships (UNEP/CHW.6/23), together with documents UNEP/CHW.6/24 on the preparation of technical guidelines for the environmentally sound management of persistent organic pollutants as wastes, UNEP/CHW.6/INF/6 on draft technical guidelines for the recycling/reclamation of metals and metal compounds (R4), and a related conference room paper.

100. Noting that the Technical Working Group had examined the issues in detail and reached consensus on the texts before the Conference, the President expressed appreciation for the work done by the Working Group, in particular by Parties that had taken the lead during the process, and for the work of representatives of industry and non-governmental organizations.

101. All the representatives that took the floor expressed support for adopting the proposed technical guidelines. Many noted their intention to apply the guidelines as soon as practicable.

102. Some representatives noted that the secretariat would need to translate the guidelines into all six United Nations languages and circulate them extensively. Others suggested that some technical editing might be needed to streamline and unify the decisions for the Conference of the Parties. One representative noted that the application of the guidelines should be tailored to national circumstances. One hoped that updates to particular standards could be communicated as quickly and as effectively as possible and that provisions could be made to provide developing countries with the capacity to employ the guidelines as fully and effectively as possible.

103. The representative of the interim secretariat for the Stockholm Convention drew attention to provisions within the Stockholm Convention that sought to minimize or eliminate the release of persistent organic pollutants, including dioxins and furans, from the incineration of medical wastes. He noted that in the future, it would be important to harmonize the provisions in the Basel Convention on the environmentally sound management of biomedical and health-care wastes with the provisions in the Stockholm Convention on measures to eliminate or minimize particular releases of dioxins and furans. An observer also drew attention to what she viewed as the potential incompatibility between the proposed Basel Convention guidelines and the provisions of the Stockholm Convention. The Executive Secretary noted the comments and welcomed the opportunity to work with the interim secretariat for the Stockholm Convention, and through it the Intergovernmental Negotiating Committee of the Stockholm Convention, on issues of mutual concern.

104. A representative of IMO noted that document UNEP/CHW.6/23 on technical guidelines for the environmentally sound management of the full and partial dismantling of ships recognized the pioneering work undertaken by IMO in that area. He informed the Conference that the draft IMO guidelines on ship recycling, which IMO viewed as complementary to the proposed Basel Convention guidelines, had introduced the concept of a “green passport”, a document that would record all materials potentially hazardous to human health or the environment utilized in the construction and during the life-time of a ship. Those guidelines were expected to be adopted by the IMO Assembly the following year. IMO would continue to work with the Basel Convention and ILO to deal with the matter of ship recycling or dismantling. An observer welcomed the information provided by IMO, noting the importance of the environmentally sound management of wastes throughout the life cycle of ships. The Executive Secretary welcomed the remarks by the representative of IMO.

105. At the 2nd session, on 9 December, the Conference adopted the draft decision contained in document UNEP/CHW.6/20 as decision VI/20 on Technical Guidelines for the Environmentally Sound Management of Biomedical and Health-care Wastes (Y1; Y3), contained in the annex to the present report, simultaneously adopting the Technical Guidelines (UNEP/CHW.6/20, annex).

106. At the same session, the Conference also adopted the draft decision contained in document UNEP/CHW.6/21 as decision VI/21 on Technical Guidelines for the Identification and Environmentally Sound Management of Plastic Wastes and for their Disposal, contained in the annex to the present report, simultaneously adopting the Technical Guidelines (UNEP/CHW.6/21, annex).

107. At the same session, the Conference also adopted the draft decision contained in document UNEP/CHW.6/22 as decision VI/22 on Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries, contained in the annex to the present report, simultaneously adopting the Technical Guidelines (UNEP/CHW.6/22, annex).

108. At the same session, the Conference also adopted the draft decision contained in document UNEP/CHW.6/24, as decision VI/23 on the preparation of technical guidelines for the environmentally sound management of persistent organic pollutants as wastes, contained in the annex to the present report.

109. Having commenced its consideration of the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships at the 2nd session, and after further consideration at the 4th session, the Conference also adopted the draft decision contained in document UNEP/CHW.6/23, as amended by a proposal by the European Community and by a proposal by India, as decision VI/24 on Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships, contained in the annex to the present report, simultaneously adopting the Technical Guidelines (see UNEP/CHW.6/23). Document UNEP/CHW.6/17 on legal aspects of full and partial dismantling of ships was also considered and provisions contained in the document were inserted in the decision adopting the Technical Guidelines. At the 5th session, on 11 December, the Conference agreed, on the basis of a proposal by Denmark on behalf of the European Community, to include an additional preambular paragraph to the resolution concerning the expertise of ILO in safe ship-breaking from a labour perspective.

110. A representative of ILO informed the Conference that ILO was developing guidelines on the health and safety aspects of ship-breaking. Once these were completed, there would be an opportunity to examine the relevant guidelines developed by ILO, IMO and the Parties to the Basel Convention with a view to considering the possibility of developing a single, unified set of guidelines.

111. One representative noted that the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships remained extremely complex. That complexity could make the guidelines very difficult to implement in the near term in particular locations. He appealed to the Parties and the Open-ended Working Group to work diligently in the future to develop a more streamlined and simplified set of guidelines to enhance their successful application in all countries. The Conference decided to take the suggestion on board, and to cooperate with International Maritime Organization (IMO) and ILO on the streamlining of the three guidelines after their adoption.

Development of work on hazardous characteristics

112. The Conference took up sub-item 6 (e) (iii) at its 2nd session, on 9 December. Drawing attention to documents UNEP/CHW.6/25 and UNEP/CHW.6/26, the Executive Secretary introduced the sub-item explaining that, as the relevant studies had not yet been completed, the decisions proposed that substantive work on the issues should continue.

113. The conference adopted the draft decision contained in document UNEP/CHW.6/25, as amended by a proposal by the European Community contained in a conference room paper, as decision VI/25 on progress of work on hazardous characteristic H6.2 (Infectious substances) of Annex III to the Convention, contained in the annex to the present report.

114. At the same session, the Conference also adopted the draft decision contained in document UNEP/CHW.6/26, as decision VI/26 on the Interim Guidelines on Hazardous Characteristic H12 (Ecotoxic) of Annex III to the Convention, contained in the annex to the present report, simultaneously adopting the Interim Guidelines (UNEP/CHW.6/25, annex).

Proposed work programme of the Technical Working Group

115. The Conference took up sub-item 6 (e) (iv) at the 2nd session, on 9 December. The Executive Secretary introduced the sub-item, drawing attention to documents UNEP/CHW.6/27 and UNEP/CHW.6/28, and noting that in considering the 2003-2004 work programme, the Conference might wish to take into

account ongoing discussions concerning the strategic plan and possible reorganization of the subsidiary bodies. Taking into account the decision of the Parties to establish an Open-ended Working Group that would replace the existing subsidiary bodies of the Basel Convention (see decision VI/37), no action was taken on the draft decision.

F. Reporting on articles 13 and 16 of the Basel Convention

116. The Conference considered the item at its 4th session, on 10 December. Introducing the item, the Executive Secretary drew attention to document UNEP/CHW.6/29. She noted that decision V/14 had mandated the secretariat to review and simplify the questionnaire on transmission of Information. An informal working group had reviewed the questionnaire during the sixteenth session of the Technical Working Group, in April 2000, and a draft revised version had been prepared with assistance from the Government of Finland, together with a manual. It had been agreed that the draft revised questionnaire should be used by Parties for the year 1999 and onwards. Some Parties had also expressed a desire for a pre-filled part I of the questionnaire, which the secretariat had created and sent to all Basel Convention focal points for feedback. The Technical Working Group, at its eighteenth session, had agreed that the draft questionnaire with the pre-filling feature, and its manual, should be used by Parties to report information from the year 2000 onwards. The draft questionnaire and its manual had been submitted to the Working Group for Implementation, which in turn had submitted a draft decision on them for consideration by the current Conference of the Parties. One representative drew attention to a minor editorial correction to be made. He also suggested that the list of Parties that had reported should be updated periodically and further added that the list of Parties which had not reported, as well as those which had, should be published.

117. One representative, stating that his country did report regularly all of the information that was required under article 13 of the Convention, requested that the secretariat communicate updates to information to Parties as rapidly as possible, particularly with regard to import or export bans.

118. A number of representatives noted that some developing country Parties were experiencing difficulties in reporting in accordance with the requirements of the Convention. It was suggested that the secretariat might organize training in reporting, or alternatively that the issue of reporting should be taken up in the context of activities under the strategic plan.

119. The Conference adopted the draft decision contained in document UNEP/CHW.6/29, as amended, as decision VI/27 on implementation of decision V/14 on transmission of information, contained in the annex to the present report, simultaneously adopting the revised questionnaire on transmission of information (UNEP/CHW.6/29, annex).

120. The Executive Secretary then drew attention to document UNEP/CHW.6/30. She informed the meeting that Portugal had notified the Conference that it had implemented decision II/12, and had requested that Portugal should be considered as included in paragraph 8 (b) of document UNEP/CHW.6/30 as a Party. The Conference adopted the draft decision contained in document UNEP/CHW.6/30, as decision VI/28 on the consolidated report on implementation of decision II/2 of the Basel Convention, contained in the annex to the present report.

G. Cooperation and partnership

Cooperation with the United Nations, multilateral environmental agreements, specialized agencies, regional systems and organizations and others

121. The Conference considered sub-item 6 (g) (i) at its 5th session, on 11 December. The Executive Secretary drew attention to document UNEP/CHW.6/31 and its Corr. 1, which contained a draft decision on the issue of cooperation and partnership. She also drew attention to the proposal by the Working Group on the Strategic Plan and Regional Centres, presented in a conference room paper, that an additional paragraph 3 should be added in the section of the draft decision dealing with cooperation with the Stockholm Convention on Persistent Organic Pollutants. She also drew attention to a new document on environment and trade issues (UNEP/CHW.6/31/Add.1 and Corr.1) and the draft resolution contained therein. She

informed the meeting that since 1998 the secretariat had regularly been invited to participate in the meetings of the World Trade Organization's Committee on Trade and Environment. In particular, the secretariat had been invited to take part in a multilateral environmental agreement session in November 2002, aimed at an exchange of views on sharing of information and the criteria for observer status at the World Trade Organization (WTO).

122. A number of representatives suggested that the issue of cooperation with WTO should be kept separate from that of cooperation with the United Nations, multilateral environmental agreements, specialized agencies, regional systems and others.

123. The representative of Denmark, speaking on behalf of the European Community and its member States, suggested an additional amendment concerning the creation of a joint working group with IMO and ILO.

124. The Conference adopted the draft decision contained in document UNEP/CHW.6/31, as amended, as decision VI/29 on international cooperation, contained in the annex to the present report.

125. Also at the 5th session, an observer from the *Comisión Permanente del Pacífico Sur* provided information to the meeting on the work of that organization in protecting the marine environment, and drew attention to the establishment of a cooperation agreement between the Basel Convention and the *Comisión Permanente*.

126. Also at the 5th session, the representative of Canada presented a draft decision, contained in a conference room paper, to replace the one in document UNEP/CHW.6/31/Add.1. The Conference adopted the draft decision proposed by Canada as decision VI/30 on cooperation with the World Trade Organization, contained in the annex to the present report.

Partnership with environmental non-governmental organizations and with the industry and business sectors

127. At the 3rd session, on 10 December, the representative of Switzerland presented an informal paper on partnership with industry for the environmentally sound management of end-of-life mobile telephones. A draft decision contained in the paper recognized the upcoming official announcement by mobile telephone manufacturers expressing their wish to enter into a sustainable partnership with the Basel Convention, as part of an initiative to set up a pilot project that could lead to other similar projects.

128. At the 11th session, on 13 December, the representative of Switzerland introduced a conference room paper containing a draft decision on a sustainable partnership on the environmentally sound management of end-of-life mobile telephones. He recalled that the President of the fifth meeting of the Conference of the Parties had launched an initiative to set up a pilot project on such a partnership with industry. The initiative was supported by Mr. Klaus Töpfer, Executive Director of UNEP, and the secretariat of the Basel Convention. The draft decision was supported by Argentina, Burkina Faso, Bolivia, Burundi, Canada, Democratic Republic of the Congo, European Community and its member States, Ghana, India, Japan, Malaysia, Mauritius, Pakistan, Republic of Korea, Romania, South Africa, Sri Lanka, Turkey, Uruguay and Venezuela. In the discussion that followed, some representatives expressed their hope that the proposal would be the first of many. An announcement by the mobile telephone manufacturers, expressing their wish and willingness to enter into a sustainable partnership with the Basel Convention on the environmentally sound management of end-of-life mobile telephones, was attached to the decision.

129. The Conference adopted the draft decision contained in the conference room paper, as amended, as decision VI/31 on a sustainable partnership on the environmentally sound management of end-of-life mobile telephones, contained in the annex to the present note.

130. At the 5th session, on 11 December, the Executive Secretary drew the attention of the Conference to documents UNEP/CHW.6/32 and Add.1 on partnership with environmental non-governmental organizations

and with the industry and business sectors, and elements of a framework for cooperation with industry respectively.

131. At the 7th session, on 11 December, Denmark, on behalf of the European Community and its member States, introduced a conference room paper containing a proposal for amending and merging the draft decision on partnership with environmental non-governmental organizations and with the industry and business sectors contained in document UNEP/CHW.6/32, with the draft decision on partnership with industry contained in document UNEP/CHW/6/32/Add.1.

132. At the 11th session, on 13 December, the representative of Denmark, on behalf of the European Community and its member States, introduced a conference room paper containing a revised version of the proposed draft decision. Noting that the new proposal reflected the results of consultations with a number of interested Parties, she highlighted revisions in the paper from previous versions that had been considered by the Conference. She noted that in the original proposal it had been suggested to set up an advisory committee, but in order to avoid setting up a new body, it was now suggested that the work should be carried out by the secretariat in consultation with the Open-ended Working Group.

133. The Conference adopted the draft decision contained in the conference room paper, as amended, as decision VI/32 on partnership with environmental non-governmental organizations and with the industry and business sectors, contained in the annex to the present report.

VII. AMENDMENT OF THE BASEL CONVENTION AND ITS ANNEXES (Item 7)

A. Implementation of decision III/1 (Amendment of the Basel Convention), including an alysis of issues regarding Annex VII

134. Introducing the sub-item 7 (a) at the 4th session, on 10 December, the Executive Secretary drew attention to document UNEP/CHW.6/33. She informed the meeting that Egypt had notified the secretariat that it had accepted decision III/1, and had initiated a process of domestic ratification of the Amendment. Denmark, on behalf of the European Union and its member States, drew attention to a conference room paper in which it had proposed amendments to the draft decision contained in document UNEP/CHW.6/33. Two representatives informed the Conference that they had not had time to review the proposal by the European Union, and requested that the discussion should be postponed until the following day. Based on the requests, the President postponed further discussions on document UNEP/CHW.6/33.

135. At the 7th session, on 11 December, the Conference adopted the draft decision contained in document UNEP/CHW.6/33, as amended in the related conference room paper, as decision VI/33 on the implementation of decision III/1, contained in the annex to the present report.

136. In her introduction of the item at the 4th session, the Executive Secretary also drew attention to documents UNEP/CHW.6/34 and UNEP/CHW.6/INF/10 concerning analysis of the issues related to Annex VII. Many representatives noted the decision of the fifth meeting of the Conference of the Parties to keep Annex VII membership closed until the Ban Amendment (decision III/1) had entered into force. Noting that there were continuing data problems, they requested that no further work should be done on issues relating to Annex VII until the seventh meeting of the Conference of the Parties so that available limited resources could be devoted to other issues. In contrast, many representatives stressed that a full study of issues relating to Annex VII would be valuable for States that had not yet ratified the Ban Amendment, and aid them in their ratification process, ensuring that decision III/1 entered into force as soon as possible. Many Parties expressed a desire to be part of an internal a working group to further elaborate on issues related to Annex VII. The Conference decided to establish a Working Group open to all Parties and chaired by Switzerland to redraft the decision.

137. The representative of Switzerland, as Chair of the Working Group on issues relating to Annex VII, reported on the outcome of the Group's deliberations, which was before the Conference in the form of a draft decision contained in a conference room paper. He drew attention in particular to the deadline for

conclusion of the analysis incorporated in the draft decision, namely the seventh meeting of the Conference of the Parties. He noted that the Working Group had recommended that the conclusion of the analysis should be paid for out of the normal "Consultancy" line of the budget, and that a cost ceiling of \$20,000-\$30,000 should be set aside for it.

138. The Conference adopted the draft decision contained in document UNEP/CHW.6/34, as amended in the related conference room paper, as decision VI/34 on analysis of issues related to Annex VII, contained in the annex to the present report.

B. Proposed amendments to Annexes VIII and IX of the Convention

139. The Conference considered sub-item 7 (b) at its 5th session in conjunction with sub-item 6 (e) (i) on review or adjustment of the lists of wastes and issues related to Annex IX (see paras. 105-108 above). Introducing the items, the Executive Secretary referred to documents UNEP/CHW.6/18, UNEP/CHW.6/19, UNEP/CHW.6/INF/9 and UNEP/CHW.6/INF/14. She noted that document UNEP/CHW.6/18 contained a draft decision on amendments to Annexes VIII and IX of the Basel Convention, while document UNEP/CHW.6/19 contained a draft decision on issues related to the purpose of Annex IX, together with a questionnaire concerning the national classification and control procedures for the importation of wastes contained in Annex IX (list B wastes). That decision was adopted during consideration of item 6 (e) (i) as decision VI/19. Both draft decisions had been adopted by the Technical Working Group at its twentieth session, and approved by the Working Group for Implementation at its first meeting.

140. The representative of Germany, speaking on behalf of the European Community and its member States, presented an amendment to the draft decision contained in document UNEP/CHW.6/18 on amendments to Annexes VIII and IX of the Basel Convention. The purpose of the proposal was to attempt to harmonize the listing systems for transfer of waste, so that they would fit in with the listing system of the Basel Convention.

141. The representative of the Russian Federation presented objections to the proposed new list entries on end-of-life motor vehicles, and on waste textile floor coverings and carpets. Despite further clarifications by Germany, no consensus was reached at the 5th session of the Conference. The President suggested that both Parties should meet informally to try to find mutually acceptable text, and report back to the 6th session of the Conference.

142. With regard to bituminous waste, the representative of Germany also wished to include an informative paragraph in the report of the meeting on a quick test to detect polycyclic aromatic hydrocarbons (PAH) in bituminous waste. The representative later provided information to the secretariat that one quick test was available in the form of a spray can, where an aerosol could be sprayed over the surface of the bituminous waste and allowed to dry for a minute, with a yellow colour appearing when the material contained PAH, including benzo[a]pyrene. When the colour was absent or very light, a special ultraviolet lamp could be used. Pictures of the test, the lamp and the aerosol were available on the Internet at www.paq.marker.nl, in the Dutch language only, although instructions were also available in English.

143. Concerning the proposed amendments affecting bituminous materials, the representative of Brazil said that Brazil would not oppose the proposal by Germany, because of its intention to contribute in a constructive way. However, the representative wished to have the following statement included in the report:

"Brazil has transmitted to the secretariat its legislation, which states that all types of bituminous materials are hazardous and their import is prohibited. As all Parties are aware, according to articles 4 and 13 of the Basel Convention, Brazilian legislation on bituminous material shall be respected by all Parties."

144. The representative of France stated that, with regard to paragraph 5 of the draft decision contained in document UNEP/CHW.6/18, it was the hope of the Government of France that the issue of conformity of the language versions of the lists of wastes contained in the annexes to the Basel Convention would be addressed and resolved, if possible, preferably before the seventh meeting of the Conference of the Parties.

145. The Conference adopted the draft decision contained in document UNEP/CHW.6/18, as amended in a related conference room paper and as proposed by Germany and the Russian Federation, as decision VI/35 on the review or adjustment of the lists of wastes contained in Annexes VIII and IX of the Basel Convention, contained in the annex to the present report, thereby adopting the proposed amendments to Annexes VIII and IX to the Basel Convention.

146. The Conference took note of the following reservations and comments of India in respect of the decision:

“New entry B1250 of Annex IX – Waste end-of-life motor vehicles

“Since end-of-life motor vehicles could be in working condition and move on their own, it would not be proper to treat them as wastes. In case it is decided to do so, the analogy should not be extended to ships since IMO has already clarified that ships in working condition and moving on their own power to a ship-breaking yard cannot be treated as waste.

“New entry B3035 of Annex IX – Waste textile floor coverings, et.

“The information submitted by Germany regarding composition of this item shows presence of polyvinyl chloride (PVC). Since no *de minimis* value has been agreed upon with respect to PVC, it would be improper to include this item in Annex IX given that India’s proposal to place PVC coated cable scrap in Annex IX could not be decided upon on the ground that hazardous characterization of PVC has not been completed. In case it is decided to accept the above proposal, a similar treatment should be extended to India’s proposal in respect of placement of PVC coated cables as scrap in Annex IX.”

147. The Conference took note of the following reservation/comment of the Russian Federation in respect of the decision:

“Under Russian Federation legislation, artificial fibre wastes are classified as wastes whose international transport is subject to control. The Russian Federation will provide additional information on this matter to the secretariat of the Basel Convention and to the European Commission in accordance with the established procedure.”

VIII. INSTITUTIONAL, FINANCIAL AND PROCEDURAL ARRANGEMENTS (Item 8)

A. Institutional arrangements

148. The Conference initially considered items 8 (a) and (b) jointly at its 2nd session, on 9 December. Introducing the items, the Executive Secretary drew attention to documents UNEP/CHW.6/35 and Add.1, UNEP/CHW.6/36 and Corr.1 and UNEP/CHW.6/INF/3. On institutional arrangements, the Executive Secretary noted that the issue of reviewing, streamlining and reducing the number of subsidiary bodies of the Basel Convention had been raised at the first session of the Working Group for Implementation, in May 2002. At that meeting, the Working Group had requested the secretariat to prepare an exploratory paper on proposed institutional improvements, based on written submissions from Parties to be provided to the secretariat before 31 July 2002. Based on submissions from three Parties, the proposal from the secretariat was presented in document UNEP/CHW.6/35.

149. On financial matters, the Executive Secretary noted that the budget had remained at the same level since the fourth meeting of the Conference of the Parties and urged the Parties to consider specifically three issues relating to financial matters. First, the figure for the core budget for the years 2002-2004. Secondly, how much financial support would be required in connection with the strategic plan, and from what sources such support should come. Thirdly, should the Conference decide to establish two new positions relating to the compliance mechanism and to project development and the financial mechanism, to decide on funding for those positions, and from what sources such support should come.

150. On institutional arrangements, many representatives thanked the secretariat for preparing document UNEP/CHW.6/35 and expressed support for institutional reform aimed at streamlining the organizational structure and reducing duplication of work, as well as the overall work load on Parties and the secretariat, by reducing the number of subsidiary bodies so as to allow the Convention to make the best use of time and scarce resources.

151. Among the options outlined in document UNEP/CHW.6/35, many expressed support in general terms for option two. It was noted that option two was the option that best facilitated broad participation by developing countries and countries with economies in transition in all areas of work under the Convention in a cost-efficient manner. Some representatives stated that they could not support option three, as outlined in document UNEP/CHW.6/35.

152. One representative stated that it was not the number of subsidiary bodies that was the problem, but the number of meetings. Some representatives stressed that, while document UNEP/CHW.6/35 proposed that future meetings under option two should be conducted in three languages, it was necessary that all formal meetings under the Convention were carried out in all six official United Nations languages. One representative drew attention to budgetary constraints and stressed that any institutional changes must be made within budgetary limits. Another representative stressed that translation issues had large budgetary implications which must be considered, as must travel costs for developing countries and countries with economies in transition. One representative emphasized that the Bureau should operate in a more open manner.

153. The meeting agreed to establish a Working Group, chaired by the Bahamas and the Netherlands, to discuss issues relating to institutional arrangements and financial matters, to begin its work immediately.

154. At the 12th session, on 13 December, the Conference of the Parties considered a draft decision on institutional arrangements for the reorganization of the subsidiary bodies of the Convention, for which the meeting had before it a revised conference room paper containing a draft decision which had been considered in the Working Group on Institutional Arrangements and Financial Matters and amended in accordance with the discussions in the Group. At its 13th session, the Conference adopted the draft decision on institutional arrangements as decision VI/36, contained in the annex to the present report.

155. At the 13th session, on 13 December, the President introduced a conference room paper containing a draft decision on the work programme of the Open-ended Working Group. Amendments were proposed to the work programme, contained in the appendix to the decision. One representative proposed that the issue of ensuring consistency among the various language versions of the lists of wastes in the annexes to the Basel Convention should be included under task III (technical activities). Two other representatives proposed that reference should be made to the proposed joint working group of IMO, ILO and the secretariat of the Basel Convention under the activities related to task II (legal activities). They further proposed that the analysis referred to under the same task should contribute to the progress in the discussions on the issue of ship dismantling at the seventh meeting of the Conference of the Parties. The Conference adopted decision VI/37 on the work programme of the Open-ended Working Group, as amended, contained in the annex to the present report.

B. Financial matters

156. At the 13th meeting, on 13 December, the Co-Chair (Bahamas) of the Working Group on Institutional Arrangements and Financial Matters informed the Conference of the Parties that agreement had been reached during informal consultations within a small drafting group on most of the text of the draft decision on financial matters. However, due to time constraints, the Working Group had not re-convened to consider the revised text. The text before the meeting contained a zero-growth budget, with zero growth also for contributions by the Parties. The budget included an extraordinary provision by UNEP for a one-time payment aimed at balancing the budget of the Basel Convention for 2003-2004. The budget also provided for funding for servicing of all meetings in the six official languages of the United Nations. Funding from the Reserve Fund balance for the activities agreed under the strategic plan for implementation of the Basel Convention was included. However, since the programmes required approval by the Open-ended Working

Group, which would not hold its first meeting until April or May 2003, funding was provided at 50 per cent of the originally proposed level for 2003.

157. With regard to the United Nations scale of assessments for contributions to the Basel Convention Trust Fund, the representative of Brazil, reporting on behalf of the small drafting group, informed that the consultations had arrived at a text that reflected a delicate balance. This involved an agreement that the decision of the Conference of the Parties would provide that the United Nations scale of assessments would be applied for contributions for 2003-2004. The decision would be followed immediately by a statement by the President of the sixth meeting of the Conference of the Parties, stating his understanding that, during the intervening period this should not affect developing countries and countries with economies in transition. Two new paragraphs had been added to the draft decision, as paragraphs 24 and 25, inviting Parties to submit their views on the scale of assessments and requesting the secretariat to compile those views into a report for the seventh meeting of the Conference of the Parties.

158. Following the discussion, agreement was reached to delete the second set of square brackets in paragraph 7 of the terms of reference. The statement to be made by the President which immediately followed adoption of the decision was amended to read:

“The United Nations scale of assessments will apply to contributions to the Basel Convention Trust Fund for 2003-2004. With reference to paragraph 7 of the terms of reference and paragraph 23 of the budget decision, and as a result of the discussions, it was understood that in this interim period, the difference in contributions between the new scale and the scale agreed at the fifth meeting of the Conference of the Parties should not affect developing countries and countries with economies in transition.”

159. One representative requested the secretariat to provide clarification on the contribution by UNEP under line 5999. He stated that he had understood that UNEP would be willing to contribute somewhat less than the figure included in the budget document. He also requested the secretariat to confirm that the amount could be reflected in the Basel Convention Trust Fund, rather than the Technical Cooperation Trust Fund.

160. The Executive Secretary referred the matter to the representative of the United Nations Office at Nairobi, who stated that the contribution could be placed in either of the trust funds related to the Basel Convention, depending on the use to which the funds would be put.

161. The representative of Canada suggested that the Executive Secretary should seek the necessary clarification from UNEP and be entrusted with making the necessary modification to the budget. The representative who had requested clarification on the contribution by UNEP considered that suggestion an interesting one, and suggested that in the event that UNEP responded that the contribution could only be made to the Technical Cooperation Trust Fund, then his Government felt that a reduction should be made under line 3300 in respect of travel and daily subsistence allowances for meetings and conferences in the budget of the Trust Fund for the Basel Convention, and that the related expenditure should be reflected under the Technical Cooperation Trust Fund. The position of his Government was also that the small increase in the overall budget could be accepted by Germany only if the cost of travel and allowances was reflected under the Technical Cooperation Trust Fund.

162. With that understanding, and after some discussion, the Conference of the Parties adopted decision VI/41 on financial matters, comprising the text of the decision, appendices I to IV containing the terms of reference for the administration of the Basel Convention Trust Funds, the budget of the Basel Convention Trust Fund, the scale of contributions to the Basel Convention Trust Fund and the budget of the Technical Cooperation Trust Fund, followed by the related statement by the President of the sixth meeting of the Conference of the Parties and statements by representatives and a signatory, contained in the annex to the present report.

163. One observer from a non-Party stated that, although not Party to the Basel Convention, it wished to place on record that it shared the sentiments of Canada concerning the applicability of the scale of assessments to all countries (see statement of Canada contained in decision VI/41).

164. The representative of Argentina made the following statement and requested that it be reproduced in the report of the meeting:

“The Government of Argentina reserves the right to seek an amendment to the scale of assessments on the basis of the decision to be taken by the competent organs of the United Nations in terms of a reduction in the percentage assigned to Argentina for the years 2003 and beyond.”

165. At the request of one party, it was noted that the list of Parties present at the adoption, decision VI/38 included the following Parties.¹ Egypt represented and spoke in the name of the Group of 77 and China. One observer from a non-party was also present (United States of America).

C. Competent authorities and focal points

166. Introducing the sub-item at the 4th session, on 10 December, the Executive Secretary drew attention to documents UNEP/CHW.6/37 and UNEP/CHW.6/INF/4. The Executive Secretary also drew attention to the fact that the Working Group for Implementation had approved in May 2002 a proposed decision for transmission to the sixth meeting of the Conference of the Parties as contained in paragraph 7 of document UNEP/CHW.6/37. Based on the approval by the Working Group for Implementation, the Conference adopted decision VI/38 on competent authorities and focal points, contained the annex to the present report.

IX. OTHER MATTERS (Item 9)

167. The Conference considered item 9 on other matters at its 6th session, on 11 December. Introducing the item, the Executive Secretary drew the attention of the Conference to document UNEP/CHW.6/38, containing the history of the secretariat's development of the proposed logo. As requested by the Legal Working Group, the secretariat had consulted with a number of other environmental conventions, and had found that in almost all cases, those conventions' logos had been selected by their secretariats.

168. The Conference adopted the draft decision contained in document UNEP/CHW.6/38, as decision VI/39 on the logo of the Basel Convention, including guidelines for the use of the logo, contained in the annex to the present report.

PART TWO. HIGH-LEVEL SEGMENT

X. OPENING OF THE HIGH-LEVEL SEGMENT (Item 10)

169. The high-level segment of the sixth meeting of the Conference of the Parties was opened at 10.00 a.m. on Thursday, 12 December, by Mr. Ioan Jelev, President of the sixth meeting of the Conference of the Parties, who welcomed participants and made an opening statement. Opening statements were also made by Mr. Klaus Töpfer, Executive Director of UNEP, on behalf of Mr. Kofi Annan, Secretary-General of the United Nations and Mr. Philippe Roch, State Secretary, Director of the Swiss Agency for the Environment, Forests and Landscape and outgoing President of the fifth meeting of the Conference of the Parties.

¹ Argentina, Bangladesh, Brazil, Cambodia, Canada, China, Egypt, France, Germany, India, Japan, Malta, Mexico, Mozambique, Netherlands, New Zealand, Peru, Romania, Saint Lucia, Senegal, Switzerland and Uruguay.

A. Welcome by the President of the Conference

170. In his opening statement, the President of the sixth meeting of the Conference of the Parties thanked the outgoing President of the fifth meeting of the Conference of the Parties, the Co-chairs of the Working Groups, Expanded Bureau members and the secretariat for their hard work. He also thanked the Ministers, heads of delegations, and Mr. Klaus Töpfer, Executive Director of UNEP, for attending the meeting, and highlighted the 30th anniversary of UNEP, saying how instrumental Mr. Töpfer had been in promoting the Basel Convention throughout its ten-year life. He said that the Convention, though young, was dynamic and had several achievements attached to its name. The fact that it had 152 Parties, with 3 new countries scheduled to become Parties before the end of the year, was a clear sign of its healthy development.

171. In his statement, Mr. Töpfer thanked the Expanded Bureau, the secretariat, Parties and partners for their concerted, dedicated efforts towards making the Basel Convention a strong, dynamic and successful convention. Recent events such as the oil spill off the Spanish coast and the World Summit on Sustainable Development had been reminders of both the vulnerability of the new globalized economy and society, and the unethical nature of a situation where the poorest countries of the world stored the most hazardous wastes. While there was reason to be proud of the financial resources provided under the Basel Convention, more funds were needed, particularly to enable developing countries, least developed countries and small island developing States to implement the Convention. Capacity-building was imperative now, to protect human health and the environment by preventing disasters later. The Regional Centres had a vital role to play in capacity-building, and could become the main levers for helping to implement not only the Basel Convention, but also related conventions. Cooperation between partners at all levels was the key to success. The ground-breaking arrangement with mobile telephone manufacturers was an example of successful partnership with industry, and boded well for the life-cycle management of electronic waste. He urged Parties to ratify the Ban Amendment and the Basel Protocol on Liability and Compensation to make them both more than paper tigers. In closing, he said that the achievements of the sixth meeting of the Conference of the Parties would send a clear signal to the outside world that the Basel Convention was a living instrument that developed through action.

172. Mr. Roch, State Secretary, Director of the Swiss Agency for the Environment, Forests and Landscape, offered his best wishes to the President of the sixth meeting of the Conference of the Parties, saying that he did so because, as the President of the fifth meeting, he knew how demanding the position was. He said that, as he had listened to the address by Mr. Töpfer, he had found that one item after another of his own planned speech were being covered by Mr. Töpfer, leaving him with just three concepts that he wished to stress.

173. The first was strategy. The emphasis that the World Summit on Sustainable Development had placed upon the problems of the chemicals sector had given a clear signal of the necessity for a global response to the chemicals challenge. The second was partnership. The Convention needed to work in partnership with the private sector, since it could not achieve its objectives without having recourse to the resources and expertise of industry. The present day's signing of an agreement with manufacturers of mobile telephones was a precursor for other agreements that would become possible in the future. And the third was liability. Some lingering uncertainties around the issue of liability had been removed by the present week's work, and he urged Parties to sign and ratify the Basel Protocol on Liability and Compensation.

XI. STATEMENTS BY HEADS OF DELEGATION (Item 11)

174. In their statements during the high-level segment, ministers and other representatives expressed their appreciation to the secretariat for their excellent organization of the meeting.

175. Attention was drawn to the satisfactory achievements of the Convention in its first decade, while at the same time emphasizing that much remained to be done. Committed and concrete actions were needed on a continual basis if the world was to reduce the production of hazardous waste, ensure the environmentally sound management of wastes that remained, reduce and control the transboundary movement of wastes, combat and eliminate illegal transport and dumping, and prevent accidents involving hazardous and other wastes from harming human health and the environment. At the same time, there were a number of complex

challenges ahead for the Basel Convention, such as globalization and new potential sources of hazardous waste. There was a need for flexibility in future initiatives, not as an excuse to detract from the goals of the Convention, but rather to allow all Parties to participate more fully in its implementation.

176. Many representatives urged broader ratification of the Convention in order to achieve a truly worldwide instrument to deal with hazardous wastes as well as ratification of the Ban Amendment. One representative warned against potential watering-down of the Ban Amendment as a result of deferring finalization of guidance elements for bilateral, multilateral and regional agreements and arrangements to the seventh meeting of the Conference of the Parties.

177. Many representatives reported on progress in their countries towards the implementation of the Convention, including ratification of the Convention and its Amendments, the promulgation and enforcement of more effective laws, regulations, licensing requirements and government policies, institutional strengthening, capacity-building, application of technical guidelines, measures to promote or require environmentally sound management of particular types of wastes, measures to reduce the production, import, export, illegal dumping or mismanagement of wastes, public awareness campaigns, instances of regional, subregional and bilateral cooperation, and partnerships with, and increased participation by, the private sector and civil society.

178. The representative of Ghana announced that her country's Parliament had approved the country's accession to the Basel Convention. It was expected that the instruments of accession would be submitted by the end of January 2003. Jamaica informed the Conference that it would soon present instruments for acceding to the Basel Convention and the Protocol on Liability and Compensation.

179. The representative of the Czech Republic, a candidate country for accession to the European Union, noted that its domestic legislation on hazardous wastes had been aligned with the relevant European Union legislation.

180. Several representatives thanked specific donor countries for assistance in the development and assistance of specific efforts, particularly those associated with the Regional Centres, domestic capacity-building and implementation. Others noted fruitful collaboration with and assistance from intergovernmental organizations, including UNEP, the World Bank, the Global Environment Facility (GEF), the Food and Agriculture Organization of the United Nations (FAO), the United Nations Industrial Development Organization (UNIDO) and the World Health Organization (WHO), as well as regional organizations such as the New Partnership for Africa's Development (NEPAD), the African Ministerial Conference on the Environment (AMCEN) and the Pan-European East-West Environmental Partnership for Sustainable Development.

181. Attention was drawn to the importance of waste minimization and environmentally sound management of hazardous waste as elements of sustainable development, particularly in the aftermath of the World Summit on Sustainable Development, and in the context of its Plan of Implementation. In that regard, some stressed the importance of chapter 19 of Agenda 21 and of the Plan of Implementation of the World Summit, and their close links to the Basel Convention. It was also stated that the World Summit had given the Basel Convention a mandate to act as a tool for sustainable economic development and protection of the environment. The World Summit had also changed the focus from goal-setting to the achievement of real and concrete results. It was essential for the Basel Convention to follow that shift and build on its momentum. Others emphasized the importance of synergy between the Basel Convention and the various chemical conventions and initiatives, including the Montreal Protocol on Substances that Deplete the Ozone Layer, the Rotterdam Convention on the Prior Informed Consent Procedure and the Stockholm Convention on Persistent Organic Pollutants. Some representatives highlighted the importance of incorporating the Rio principles adopted at the United Nations Conference on Environment and Development into the implementation of all major environmental agreements.

182. Another area where further work was needed was that of the legal framework. The Basel Protocol on Liability and Compensation adopted at the fifth meeting of the Conference of the Parties had been an historic achievement, but it still needed many more signatories. The mechanism for promoting implementation and

compliance, too, was an important area for additional work and many representatives were pleased that a solution had been found at the current meeting, noting that the mechanism might best be regarded as a tool for Parties to assist one another to comply with and implement their obligations under the Convention. Some representatives urged that the mechanism for promoting compliance should be provided with sufficient financial resources to enable it to function effectively.

183. Nearly all the speakers pointed to the importance of the strategic plan for the coming ten years, noting that it set important priorities for concrete action. Many expressed the view that the period had to see a genuine reduction in the generation and transboundary movement of hazardous wastes. Many saw a need for increased capacity-building in all areas, together with the need for more financial and technical assistance to assist developing countries, least developed countries, countries with economies in transition and small island developing States to carry out the strategic plan and other activities involved in implementing the Convention. A number of representatives pointed out that control of transboundary movement of hazardous wastes and their disposal was capital-intensive, requiring well-trained personnel. Particularly in Africa, developing countries were struggling with heavy debt burdens and needed financial and technical assistance to enable them to discharge their responsibilities under the Basel Convention.

184. Many representatives stressed the importance of the work of the Basel Convention Regional Centres in providing effective support for the implementation of the strategic plan as well as their role in facilitating training, institutional strengthening, capacity-building and appropriate technology transfer. It was essential that the Centres should cooperate with Governments, industry and non-governmental organizations to promote environmentally sound management of hazardous wastes, waste minimization and technology transfer, and information exchange. One representative called for more Regional Centres, while another thought that existing national centres should be formalized. It was also important for the Regional Centres to contribute to creating synergies with the Rotterdam and Stockholm Conventions and for them to work in cooperation with existing structures such as NEPAD and AMCEN. The cost-efficiency and effectiveness of the centres would increase if they were the focus of implementation activities for all multilateral environmental agreements relating to hazardous wastes and chemicals.

185. Many speakers felt that because the work of the Centres was so important, it was essential for sufficient resources to be made available to them by the donor countries. Mention was made by other representatives of the importance of exploring the possibility of finding external financing, in order to fund projects of high priority at the national and regional levels.

186. Support was expressed for the development of the new technical guidelines on the environmentally sound management of biomedical and health-care wastes, of plastic wastes and for their disposal, of waste lead-acid batteries, and of the full and partial dismantling of ships. Some noted their implementation of other guidelines in the past and their intention to apply these as soon as practicable.

187. Attention was drawn to the special needs of Africa, which was used by the developed countries as a dumping-ground for their hazardous wastes. It was pointed out how unfair it was that those with the least resources to deal with them should be faced with the greatest problems of hazardous wastes, and that the peoples of Africa had to choose between "poverty or poison."

188. Countries that had long coast lines, were bordered by several others, or were crossed or bordered by major communication or sea routes faced special threats from the illegal entry of hazardous wastes and other materials, illegal dumping of hazardous waste at sea, and other activities that required additional attention and assistance from the Parties. The need to better combat illegal transport and dumping of wastes, using better technology and improving monitoring, training, capacity-building, and international, regional and subregional cooperation was stressed.

189. Particular attention was drawn by the representative of Spain to the problems resulting from the recent sinking of the vessel Prestige, and its severe environmental and economic costs to Spain. It was argued that there was a need to reduce the transboundary transport of hazardous wastes by sea, and clarifying rights and responsibilities of transit countries in concert with IMO. It was further stressed that countries that were

affected by hazardous wastes coming from accidents at sea should not be financially responsible for clean-up costs.

190. It was suggested that since the focus following the Basel Declaration was on the prevention of generation of hazardous wastes, which stemmed mainly from industrial production processes, strategies for cleaner production processes had to be developed more energetically. Efforts to promote cleaner technology as a way to avoid the production of wastes should be encouraged, as should methods to recapture, recycle or reuse those wastes that could not be avoided. One representative drew attention to an initiative in his country to extend producer responsibility, aimed at reducing the generation of hazardous materials. Cleaner production processes would also contribute to the environmentally sound management of waste within national territory, minimizing transboundary movement. Some representatives said that, in certain cases – such as those involving obsolete stocks – the industrialized countries has a moral duty to assist the developing countries by taking back such wastes and arranging for their disposal.

191. The agreement signed during the current Conference with the manufacturers of mobile telephones was praised as an example of the end of life-cycle management approach that it was necessary to develop, in partnership with industry. A similar agreement would be useful for electronic waste, notably end-of-life computers, which was an emerging problem to be addressed by the Basel Convention, since such waste contained heavy metals and toxic substances. Other similar agreements were called for with other specific industries including those in the oil extraction, waste oil and shipping sectors. There was also a need to focus on areas of particular importance to developing countries, such as lead-acid batteries, asbestos, expired pesticides and biomedical waste, with one representative noting that some countries required assistance with those types of waste, even when generated locally.

192. Domestic public participation and the roles of non-governmental organizations and the public in addressing issues relating to hazardous wastes were also of great importance. There was a need to involve the private sector in new partnerships and initiatives and to create new types of incentive aimed at reducing the creation of hazardous waste and improving its management.

193. A special challenge faced by developing countries was related to illegal dumping of non-domestic wastes, growing stockpiles of obsolete and unwanted pesticides and chemicals, and large quantities of undesired imports of near obsolete products, vehicles and ships, containing hazardous substances. A global solution to issues central to the Basel Convention would require addressing those concerns.

194. One speaker noted his country's use of "gross domestic happiness" as the standard for measuring the quality of domestic economic output and political governance, suggesting it as an alternative standard for measures focused on traditional and often environmentally detrimental standards of gross production.

195. Statements were also made by observers attending the Conference of the Parties from non-governmental organizations. An environmental non-governmental organization noted that fulfilling the goals of the Basel Convention would be indispensable for achieving sustainable development, and drew particular attention to the need to reduce the generation of hazardous wastes, in particular calling on countries of the Organisation for Economic Cooperation and Development to set reference years and target years for domestic reduction of wastes. A human rights non-governmental organization noted its support for the Basel Convention and its associated agreements and mechanisms, and called for greater ratification and implementation by Governments. The need to provide additional resources to the Regional Centres and increased capacity-building in developing countries were also stressed, arguing that non-governmental organizations can play important roles during implementation. An industry and business organization noted the need for increased efforts to address poverty through sustainable development, and stressed the role of the Basel Convention in promoting sustainable development in partnership with business and industry.

XII. REVIEW AND POSSIBLE ACTION ON THE OUTCOME OF THE WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT (Item 12)

196. Introducing the item, the Executive Secretary drew attention to document UNEP/CHW.6/39, saying that the secretariat sought the informed advice of Parties on how the Basel Convention could best contribute to the follow-up to the World Summit on Sustainable Development.

197. A number of representatives, including the representative of South Africa which had hosted the Summit, spoke on the issue, underlining two major features of the Summit: that it had established many time-bound activities, and that it had called for further action in the form of partnerships.

198. The Conference adopted the draft decision contained in document UNEP/CHW.6/39, as amended, as decision VI/40 on follow-up to the World Summit on Sustainable Development, contained in the annex to the present report.

XIII. ADOPTION OF THE DECISIONS AND THE REPORT (Item 13)

199. The President proposed, and the meeting agreed, that the decisions adopted during the preparatory segment should not be considered separately but adopted en bloc. The report of the sixth meeting of the Conference of the Parties including the decisions contained in the annex to the present report, was adopted at the final session, on 13 December 2002, on the basis of the draft report that had been circulated in documents UNEP/CHW.6/L.1 and Add.1, as amended during the meeting, and on the understanding that the finalization of the report would be entrusted to the secretariat.

XIV. OTHER MATTERS (Item 14)

200. A high-level roundtable discussion and a number of side events were held at the margins of the meeting of the Conference of the Parties, some of which were highlighted in the plenary by representatives and regional groups for inclusion in the report.

High-level roundtable on environmentally sound management of electrical and electronic wastes

201. The high-level roundtable discussion on the environmentally sound management of electrical and electronic wastes was held on 12 December. The ministers, United Nations senior officials and leaders of industry participating in the roundtable recognized the importance of environmentally sound management and the control of transboundary movement of electrical and electronic wastes in order to avoid adverse impacts on health and the environment. They emphasized the need for concrete actions to be taken by all stakeholders – including Governments, manufacturers, service providers and consumers – in order to ensure proper collection, treatment, recycling of valuable materials, and disposal of end-of-life electrical and electronic equipment. In view of the inadequacy of addressing those issues through end-of-pipeline solutions, the participants made a strong appeal to all stakeholders to work together towards minimizing the quantity and hazards associated with end-of-life electrical and electronic equipment, in particular through the life-cycle approach.

202. In line with the development and adoption of the strategic plan for the implementation of the Basel Convention, the issue of electrical and electronic wastes had been identified as one of the priority waste streams to be tackled by the Parties to the Basel Convention. Towards that end, concrete programmes should be developed and implemented, in particular under the concerted and coordinated efforts of all stakeholders, including the Basel Convention Regional Centres, intergovernmental organizations, industry and environmental non-governmental organizations. Special attention should be given to the needs of developing countries in addressing the problem of electrical and electronic wastes.

Environmentally sound management of used oil in Africa

203. A side event organized by the African Group on for partnership for the environmentally sound management of used oil in Africa was held on 10 December 2002. The African Group took note of the Rabat Declaration of 2001 and the Continental Workshop conducted in Cape Town, South Africa, in October 2002, on used oil management in Africa. The Group also noted with concern the current disposal practices for used oil in the region, which was threatening the environment and human health.

204. Within the context of sustainable development, the African Group representative requested the secretariat of the Basel Convention and its Regional Centres to develop a close partnership with major oil companies operating in the region, to put in place environmentally sound management practices for used oil in order to protect the environment and human health in Africa, similar to the partnership announced during the sixth meeting of the Conference of the Parties on end-of-life mobile telephones.

Environmentally sound management of used lead-acid batteries in Central America and the Caribbean

205. A side event on partnerships for the environmentally sound management of used lead-acid batteries in Central America and the Caribbean was held on 11 December, with participation from the Regional Centres for the Caribbean and for Central America, the United Nations Conference of Trade and Development (UNCTAD), the International Lead Management Centre and the Group of Latin American and Caribbean Countries and the secretariat of the Basel Convention. It was recognized that examples of best practices in the packaging and transport, recycling, manufacturing and distribution of new and used lead-acid batteries existed in the region, and that with financial and other assistance the problems associated with used lead-acid batteries could be addressed by the region.

206. It was agreed that further action to address the environmentally sound management of used lead-acid batteries in a subregional context was urgently needed, including the development of appropriate legal frameworks to support transboundary movement and ensure environmentally sound recycling, as well as training in the formal and informal sectors and public awareness programmes.

Environmentally sound management of hazardous waste in urban areas

207. A side event on the environmentally sound management of hazardous waste in urban areas was held on 13 December. The event proved very useful in identifying needs and gaps in networking among municipal authorities. A number of recommendations had been agreed during the side event, including the need to enhance collaboration between local authorities for the environmentally sound management of hazardous wastes in urban areas with a view to addressing issues such as information sharing, policy development, technology transfer and awareness-raising. The need for programmes and activities in pilot cities and municipalities on the issue of hazardous waste management was also noted by country representatives. Public and private stakeholders, the Basel Convention Regional Centres and relevant United Nations organizations were invited to participate in and contribute to the ongoing and future efforts to manage hazardous wastes in urban areas in an environmentally sound manner.

XV. CLOSURE OF THE MEETING (Item 15)

208. After a brief exchange of courtesies, the President declared the meeting closed at 2.00 a.m. on Saturday, 14 December 2002.

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CONFERENCE OF THE PARTIES TO THE BASEL CONVENTION**

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VI/1. Strategic plan for the implementation of the Basel Convention (to 2010)

The Conference of the Parties,

Recalling the Basel Declaration on Environmentally Sound Management and reaffirming the objectives set therein,

Noting with appreciation the contribution of Parties and other stakeholders in support of the preparation of the strategic plan for the implementation of the Basel Convention,

Having considered the strategic text and the action table constituting the strategic plan for the implementation of the Basel Convention to 2010,

Aware of the need to concentrate efforts and resources to support activities in 2003-2004 to ensure an early implementation of the strategic plan,

Aware also of the need to take into account regional specificities and the importance of the Basel Convention Regional Centres in the implementation of the strategic plan,

1. Agrees that the strategic text and the action table contained in document UNEP/CHW.6/3 constitutes the strategic plan for the implementation of the Basel Convention to 2010;
2. Also agrees that the strategic plan for the implementation of the Basel Convention contained in document UNEP/CHW.6/3 constitutes the major instrument to give further effect to the Basel Declaration on Environmentally Sound Management;
3. Adopts the strategic text of the strategic plan, as amended by the sixth meeting of the Conference of the Parties;
4. Also adopts the action table, to be reviewed, and amended as necessary, for submission to the seventh meeting of the Conference of the Parties, for its decision;
5. Requests the Open-ended Working Group to review, and amend as necessary, the action table in the light of experience gained in the implementation of the activities in 2003-2004;
6. Agrees to take into account regional and national diversities and specificities, including developing countries and least developed countries, in the development and implementation of the strategic plan;
7. Also agrees to mobilize resources to implement the strategic plan for 2003-2004 and to develop a financial strategy for the period 2005-2010;
8. Requests the secretariat to cooperate with Parties in the development of financial plans to support the strategic plan, including plans for Parties to access Global Environmental Facility and other multilateral and bilateral funding;
9. Also requests the secretariat to cooperate closely with the Parties, the Basel Convention Regional Centres and other stakeholders in the development and implementation of those activities contained in the strategic plan for which financial support is agreed upon by the Parties;
10. Appeals to Parties and other stakeholders to provide financial and other resources, including in-kind support, for the implementation of the strategic plan;
11. Also appeals to recipient Parties and regions to consider including in their development assistance priorities projects that implement the strategic plan;

12. Encourages Parties and other stakeholders to promote the implementation of the strategic plan and to cooperate among themselves in that regard;

13. Requests the secretariat to report to the Conference of the Parties at its seventh meeting on progress in the implementation of the strategic plan and, as appropriate, to the relevant subsidiary bodies on a regular basis.

VI/2. Project proposals under the strategic plan for the implementation of the Basel Convention

The Conference of the Parties,

Considering the strategic plan for the implementation of the Basel Convention,

Referring to its decision VI/3 adopting the strategic text and the action table constituting the strategic plan,

Emphasizing the need to initiate early implementation of the strategic plan for the period 2003-2004,

1. Requests the secretariat to organize and compile the project proposals submitted by Parties or the Basel Convention Regional Centres for submission to the Open-ended Working Group for consideration;

2. Requests the Open-ended Working Group to consider the proposals submitted and choose those that qualify for funding, in accordance with the criteria set out in the appendix to the present decision.

Appendix

CRITERIA FOR SELECTION OF PROJECT PROPOSALS FOR IMPLEMENTATION OF THE BASEL DECLARATION THROUGH THE STRATEGIC PLAN

1. The following criteria have been established in order to assist in selecting suitable projects to be taken forward to deliver the aims of the Basel Declaration through the strategic plan.

2. The criteria are set out in two groups:

Group 1: Criteria which are relevant for all project proposals.

Group 2: Those criteria which are intended to assist selection of project proposals of particular priority interest.

Group 1: Relevant criteria

Projects must:

- Be consistent with the vision and aims of the strategic plan.
- Be exemplary or useful for others with similar problems.
- Have clearly defined aims and methods.
- Be likely to succeed.
- Deliver practical and concrete outcomes.
- Deliver either short or long term benefits.
- Have realistic costs and delivery time scale.
- Include provision for supervision, monitoring and reporting.

Group 2: Value criteria

Projects should:

- Have the potential to realize the aims of the Basel Convention and the Basel Convention Regional Centres with clear indicators on the effectiveness of their impacts.
- Have commonality within or between different regions.
- Be innovative.
- Be consistent with regional needs.
- Show benefits to or synergies with the objectives or activities of other multilateral environmental agreements.
- Provide partnership with stakeholders.
- Have demonstrably significant need.
- Implement and adapt existing guidelines as needed.
- Generate self-sustaining outcomes.
- Provide other relevant information.

3. To be acceptable, the projects must meet all the group 1 relevant criteria. For the purposes of prioritization, the projects should meet one or more of the group 2 value criteria.

4. Projects should be distributed equitably according to regional and national diversities and specificities as appropriate.

VI/3. Establishment and functioning of the Basel Convention Regional Centres for Training and Technology Transfer

The Conference of the Parties,

Recalling paragraph 17 of decision V/5 of the fifth meeting of the Conference of the Parties to the Basel Convention,

Taking note with appreciation of the result of the process of consultation undertaken by the secretariat with the host countries and the Regional Centres,

Welcoming the financial and/or support in kind provided by host Governments, donor countries, industry, United Nations and other relevant international organizations and bodies such as the United Nations Conference on Trade and Development, the World Health Organization and the United Nations Environment Programme for the functioning of these Centres,

1. Takes note of the conclusions and recommendations of the Consultative Meeting of the Basel Convention Regional Centres, held in Cairo, contained in annex 3 of the report of the Consultative Meeting, towards the establishment of the Basel Convention Regional Centres (see UNEP/CHW/WGI/1/5);

2. Adopts the core functions of the Basel Convention Regional Centres, as contained in appendix I to the present decision and the roles and functions of the Coordinating Centres, as contained in appendix II to the present decision;

3. Adopts the following core set of elements for inclusion in the Framework Agreement to be signed between the secretariat of the Basel Convention (on behalf of the Conference of the Parties) and the representative of the host countries' Governments:

- (a) Identification of the Parties entering into the agreement;
- (b) Overall purpose for entering into the agreement;

- (c) Legislative authority on which the agreement is based;
- (d) Official name and address of the Regional Centre;
- (e) Legal status of the Centre (for example, separate national legal entity with a regional role or intergovernmental institution and authority under which the Centre was established and operates);
- (f) Countries consenting to be served by the Centre;
- (g) Management/governance arrangements (for example, national committee/body to mobilize and coordinate the national inputs into the Centre; steering committee attended by the representatives of the countries served by the Centre to determine the business plan of the Centre and oversee the plan's implementation; terms of reference of these bodies; rules and procedures governing the meetings organized by the Centre);
- (h) The possible involvement of donors with respect to financial and technical assistance to support the Centre;
- (i) Effective cooperation and coordination with the secretariat of the Basel Convention and among the Regional Centres;
- (j) Reporting channels;
- (k) Contributions of host countries in kind, cash and services towards the operation of the Centre and, if possible, contributions of the countries served by the Centre;
- (l) Contributions from the Technical Cooperation Trust Fund to assist developing countries and other countries in need of technical assistance in the implementation of the Basel Convention and other voluntary contributions towards the financing of the core functions of the Centre and operational and other associated costs related to the core functions of the Centre;
- (m) Matching funds (contributions in cash, kind or services) to be raised by the Centre;
- (n) Working language(s) of the Centre;
- (o) Exemption by the host country from taxation and other levies on the resources (including equipment) provided from the funds under the control of the Contracting Parties according to its national legislation, whenever possible;
- (p) In the case of an intergovernmental institution, the terms and conditions of the 1946 Convention on the Privileges and Immunities of the United Nations shall apply as appropriate;
- (q) Reporting on substantive activities undertaken by the Centre and financial reporting on the funds raised by the Centre and the expenditures of the Centre to the secretariat of the Basel Convention;
- (r) Arrangements to settle any disputes between the signatories of the agreement;
- (s) Duration of the agreement;
- (t) Provisions for the periodic external review, extension, termination or amendment of the agreement; and
- (u) A business plan for the period 2003-2004 for the Regional Centre, approved by the countries served by the Centre, shall be prepared before the signature of the Framework Agreement.

4. Endorses the mechanism of establishing the Basel Convention Regional Centres by signing the Framework Agreement;

5. Mandates the secretariat of the Basel Convention to negotiate and sign in the name of the Conference of the Parties, the Framework Agreement with the representative of the Government of the country hosting or willing to host the Centre and with whom consultations have been completed by the secretariat and selected by the Conference of the Parties and, where necessary, with the regional or international organizations which will perform the functions of the Basel Convention Regional Centres. The negotiation and signature of the Framework Agreement shall be completed without delay in order to formalize the establishment of the Centres approved by the Conference of the Parties.

6. Requests the secretariat to submit the concluded Framework Agreements to the Conference of the Parties at its seventh meeting;

7. Endorses the role of the Basel Convention Regional Centres in carrying out the implementation of the Basel Declaration and the priority actions of the strategic plan for the implementation of the Basel Convention, using contributions from the Trust Fund for the Basel Convention, as agreed periodically by the Conference of the Parties;

8. Requests the secretariat to prepare, based on the reports received from the Centres, a document on the implementation of the present decision and progress and difficulties encountered in the activities of the Centres, to be presented to the Conference of the Parties at its seventh meeting with a view to assessing the adequacy of the arrangements for the functioning of the Centres, including financial mechanisms;

9. Urges all Parties and non-parties in a position to do so, as well as international organizations, including development banks, non-governmental organizations and the private sector, to make financial contributions directly to the Technical Cooperation Trust Fund or in kind contributions, or contributions on a bilateral level, to allow all the Centres to become fully operational;

10. Requests the secretariat to explore, in collaboration with the Regional Centres, possibilities for the establishment of partnerships with industry and other stakeholders in the work of the Regional Centres in order to ensure the long-term sustainability of their operation;

11. Requests the secretariat to establish, pursue and reinforce its closer collaboration with relevant United Nations and other international and regional agencies and conventions in the work of the Regional Centres, in particular with the United Nations Environment Programme offices and programmes, including its Division of Technology, Industry and Economics, International Environmental Technology Centre, Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, National Cleaner Production Centres, and Chemicals Branch, the United Nations Industrial Development Organization, the United Nations Institute for Training and Research, the World Health Organization, the Food and Agriculture Organization of the United Nations, the United Nations regional economic commissions, the World Customs Organization, the International Criminal Police Organization – Interpol General Secretariat, the secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Ozone Secretariat and the regional organizations for the protection of the marine environment, to explore new areas of cooperation.

Appendix I

CORE FUNCTIONS OF THE BASEL CONVENTION REGIONAL CENTRES

The role of the Centres is to assist developing countries and countries with economies in transition, within their own region, through capacity-building for environmentally sound management, to achieve the fulfilment of the objectives of the Convention.

The description of the core functions of the Centres is as follows:

1. Training;
2. Technology transfer;
3. Information;
4. Consulting;
5. Awareness-raising.

The explanations of the core functions of the Centres are as follows:

(a) Developing and conducting training programmes, workshops, seminars and associated projects in the field of the environmentally sound management of hazardous wastes, transfer of environmentally sound technology and minimization of the generation of hazardous wastes, with specific emphasis on training of trainers and the promotion of ratification and implementation of the Convention and its instruments;

(b) Identifying, developing and strengthening mechanisms for the transfer of technology in the field of environmentally sound management of hazardous wastes or their minimization in the region;

(c) Gathering, assessing and disseminating information in the field of hazardous wastes and other wastes to Parties of the region and to the secretariat;

(d) Collecting information on new or proven environmentally sound technologies and know-how relating to environmentally sound management and minimization of the generation of hazardous wastes and other wastes and disseminating these to Parties of the region at their request;

(e) Establishing and maintaining regular exchange of information relevant to the provisions of the Basel Convention, and networking at the national and regional levels;

(f) Organizing meetings, symposiums and missions in the field, useful for carrying out these objectives in the region;

(g) Providing assistance and advice to the Parties and non-parties of the region at their request, on matters relevant to the environmentally sound management or minimization of hazardous wastes, the implementation of the provisions of the Basel Convention and other related matters;

(h) Promoting public awareness;

(i) Encouraging the best approaches, practices and methodologies for environmentally sound management and minimization of the generation of hazardous wastes and other wastes, for example, through case studies and pilot projects;

(j) Cooperating with the United Nations and its bodies, in particular the United Nations Environment Programme and the specialized agencies, and with other relevant intergovernmental organizations, industry and non-governmental organizations, and, where appropriate, with any other institution, in order to coordinate activities and develop and implement joint projects related to the

provisions of the Basel Convention and develop synergies where appropriate with other multilateral environmental agreements;

(k) Developing, within the general financial strategy approved by the Parties, the Centres' own strategy for financial sustainability;

(l) Cooperating in mobilization of human, financial and material means in order to meet the urgent needs at the request of the Party(ies) of the region faced with incidents or accidents which cannot be solved with the means of the individual Party(ies) concerned;

(m) Performing any other functions assigned to it by the decisions of the Conference of the Parties of the Basel Convention or by Parties of the region consistent with such decisions.

Appendix II

ROLES AND FUNCTIONS OF THE COORDINATING CENTRES OF THE BASEL CONVENTION IN ADDITION TO THE CORE FUNCTIONS OF THE BASEL CONVENTION REGIONAL CENTRES CONTAINED IN APPENDIX I

1. Ensuring interaction, including exchange of information, between the secretariat of the Basel Convention and the Regional Centres, among the subregional centres, Parties and other related institutions;
2. Conveying regional consultation to identify priorities and formulate strategies;
3. Supporting and coordinating common tasks of the subregional centres in the field of policies, information, communication, technical and financial assessment;
4. Defining and executing programmes of regional scope in coordination with the subregional centres;
5. Identifying, promoting and strengthening the synergies and mechanisms of cooperation among the subregional centres and other stakeholders in environmentally sound management and the minimization of generation of hazardous waste and technology transfer in and outside the region;
6. Keeping a compilation system for information and making such information accessible to stakeholders.

VI/4. Business plans of the Basel Convention Regional Centres

The Conference of the Parties,

Welcoming the activities undertaken by the Basel Convention Regional Centres and the secretariat regarding the preparation and review of the Centres' business plans for the biennium 2003-2004,

1. Requests the secretariat to provide further assistance to the Regional Centres in finalizing their business plans, as contained in document UNEP/CHW.6/INF/5, based on consultations with countries to be served by the respective Centre and in their implementation;

2. Invites Governments, international organizations, financial institutions, the private sector and local authorities to support the implementation of the business plans through the Trust Fund to Assist Developing Countries and Other Countries in Need of Technical Assistance in the Implementation of the Basel Convention or through direct arrangements with the Regional Centres;

3. Authorizes the secretariat to facilitate access to the financial resources that could be allocated to projects presented and to be formulated by the Basel Convention Regional Centres in their role in carrying out the implementation of the Basel Declaration on Environmentally Sound Management and the priority actions of the strategic plan for the implementation of the Basel Convention, using contributions from the Trust Fund for the Basel Convention, as periodically agreed upon by the Conference of the Parties;

4. Urges the Regional Centres and their constituencies to intensify their fund-raising activities in order to make the operations of the Centres self-sustained;

5. Requests the secretariat to report to the Conference of the Parties at its seventh meeting on the progress in the implementation of the business plans.

VI/5. Basel Declaration on Environmentally Sound Management

The Conference of the Parties,

Recalling its decision V/1, by which it adopted the Basel Declaration on Environmentally Sound Management, and its decision V/33 constituting the agenda for the next decade on environmentally sound management,

Noting with appreciation the progress made in the concrete implementation of the Basel Declaration on Environmentally Sound Management,

Welcoming the assistance provided by Parties and others to support the implementation of the Basel Declaration on Environmentally Sound Management,

Welcoming also the preparation of the 10-year strategic plan for the implementation of the Basel Convention,

Acknowledging the fact that the Basel Declaration on Environmentally Sound Management constitutes both the framework and the foundation for the preparation and further development of the strategic plan for the Basel Convention,

Recognizing the convergence of the activities to be carried out as part of the strategic plan with those undertaken in the context of the Basel Declaration,

Considering the report prepared by the secretariat on the implementation of decision V/33 on environmentally sound management (UNEP/CHW.6/2),

1. Agrees that the activities carried out as part of the strategic plan, as reviewed and adopted by the sixth meeting of the Conference of the Parties, shall support the further implementation of the Basel Declaration on Environmentally Sound Management and its enabling decision V/33;

2. Requests the secretariat to report to the Open-ended Working Group on the progress in the implementation of the Basel Declaration and to prepare a consolidated report for the consideration of the Conference of the Parties at its seventh meeting;

3. Decides that periodic review of the implementation of the Basel Declaration and its relationship with the development and implementation of the strategic plan shall be undertaken by the Open-ended Working Group with a view to providing guidance to the secretariat and reporting on issues, problems or obstacles to the Conference of the Parties at its seventh meeting;

4. Requests the Open-ended Working Group of the Conference of the Parties to provide guidance to the secretariat on the implementation of the Basel Declaration on Environmentally Sound Management.

VI/6. Establishment of a Basel Convention Regional in Senegal

The Conference of the Parties,

Taking note of the progress in the establishment of the Basel Convention Regional Centre for French-speaking Countries in Africa,

Taking note also of the request by the Government of Senegal for the formal selection of the host institution of the Regional Centre in Dakar,

Selects Dakar, Senegal, to host the Basel Convention Regional Centre for French-speaking Countries in Africa.

VI/7. Proposal to establish a Basel Convention Regional Centre in the Islamic Republic of Iran

The Conference of the Parties,

Recalling its decision III/19 on the establishment of regional or subregional centres for training and technology transfer regarding the management of hazardous wastes and other wastes and the minimization of their generation,

Taking note of the proposal for the establishment of the Basel Convention Regional Centre for West and Central Asia in Tehran, submitted by the Islamic Republic of Iran,

Taking note also of a preliminary feasibility study submitted by the Government of the Islamic Republic of Iran for the establishment of the Centre,

1. Welcomes the offer of the Government of the Islamic Republic of Iran to host the Basel Convention Regional Centre for West and Central Asia for training and technology transfer for the management of hazardous wastes and other wastes and the minimization of their generation;
2. Invites the Government of the Islamic Republic of Iran to develop further and complete the feasibility study in consultation with the countries in the region and the Basel Convention Regional Centres located in China, Egypt, Indonesia and the Russian Federation with a view to defining the relationship between the proposed Centre and those Centres;
3. Also invites the Government of the Islamic Republic of Iran to undertake activities to ascertain the needs of the region and the capacity of the proposed Centre to address such needs;
4. Requests the Government of the Islamic Republic of Iran, in consultation with the secretariat, to submit to the Conference of the Parties for consideration at its seventh meeting a final proposal for the establishment of the Centre, taking into account the agreed basic elements of the Framework Agreement and the core functions of the Basel Convention Regional Centres.

VI/8. Establishment of a Pacific Regional Centre for the Joint Implementation of the Basel Convention and the Waigani Conventions

The Conference of the Parties,

Noting that the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region are mutually supportive,

Noting also that the first meeting of the Conference of the Parties to the Waigani Convention recognized that the Waigani Convention complements and strengthens the implementation of the Basel Convention at the regional level,

Noting further that the Environment Ministers from the Pacific region endorsed the principle of a joint centre for both Conventions, integrated within the South Pacific Regional Environment Programme for training and technology transfer,

Taking note the request of Environment Ministers from the Pacific region to put forward a proposal for a joint regional training centre at the sixth meeting of the Conference of the Parties to the Basel Convention;

Taking note also of the conclusion of the study concerning the feasibility of establishing a Regional Centre as the joint training centre, presented by the South Pacific Regional Environment Programme to the sixth meeting of the Conference of the Parties to the Basel Convention,

1. Welcomes the establishment in principle of a Joint Pacific Regional Centre for the countries in the Pacific region, within the South Pacific Regional Environment Programme and operating under the joint authority of the Parties to the Basel and Waigani Conventions, for training and technology transfer for the management of hazardous wastes and other wastes and the minimization of their generation;

2. Requests the secretariat of the Basel Convention to negotiate a memorandum of understanding with the the South Pacific Regional Environment Programme, acting as the secretariat of the Waigani Convention and also in its own right, for the operation of the Joint Pacific Regional Centre. The memorandum of understanding shall define, inter alia, the work programme of the Joint Pacific Regional Centre, the sources of financing of agreed activities, as well as the role of the secretariats in guiding, coordinating, monitoring and evaluating the work of the Joint Pacific Regional Centre;

3. Requests the secretariat of the Basel Convention, in collaboration with the South Pacific Regional Environment Programme, acting as the secretariat of the Waigani Convention, to promote both the ratification of the Basel Convention and its related instruments and the Waigani Convention within the Pacific Region;

4. Requests the secretariat of the Basel Convention to report to the seventh meeting of the Conference of the Parties on the progress made on the establishment of the Joint Pacific Regional Centre and its work.

VI/9. Basel Convention Regional Centre for the Arab States

The Conference of the Parties,

Recognizing that the following Arab States in Africa and Asia, which are Party to the Basel Convention, have confirmed their membership in the Basel Convention Regional Centre for the Arabic-speaking States for Training and Transfer of Technology, based in Cairo: Algeria, Bahrain, Comoros, Egypt, Jordan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia,

Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen,

1. Decides to change the name of the Centre to the Basel Convention Regional Centre for the Arab States for Training and Technology Transfer;
2. Confirms its support for the Regional Centre for the Arab States, in Cairo, which assists Parties in their implementation of the Basel Convention and achievement of the proper environmental control of hazardous substances;
3. Calls on the secretariat of the Basel Convention and on the donor countries contributing towards the support of the Centre to strengthen its technical and financial capacities and help the Parties concerned to implement the Convention and achieve sound environmental control over hazardous wastes.

VI/10. Implementation of the environment initiative of the New Partnership for Africa's Development related to hazardous waste and other wastes

The Conference of the Parties,

Taking note of the draft strategy for the environment initiative of the New Partnership for Africa's Development (UNEP/CHW.6/INF/7), submitted to the Conference of the Parties by the President of the African Ministerial Conference on the Environment,

Aware of the need to take into account regional priorities in the implementation of the strategic plan for the implementation of the Basel Convention,

Welcoming the proposal of the African Ministerial Conference on the Environment to utilize the Basel Convention Regional Centres in Africa towards the implementation of the environment initiative of the New Partnership for Africa's Development related to the management of hazardous waste and other wastes,

1. Endorses the role of the Basel Convention Regional Centres in Africa in carrying out the implementation of the New Partnership for Africa's Development environment initiative programmes related to the environmentally sound management of hazardous waste and other wastes.
2. Mandates the secretariat of the Basel Convention and the Basel Convention Regional Centres in Africa to cooperate closely with the secretariat of the African Ministerial Conference on the Environment, the secretariat of the New Partnership for Africa's Development and other stakeholders in the development and implementation of activities contained in the Partnership's environment initiative that support the further implementation of the Basel Declaration on Environmentally Sound Management and the Basel Convention strategic plan.

VI/11. Capacity-building

The Conference of the Parties,

Noting the concerted efforts undertaken to provide assistance in capacity-building, training and information to implement the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, its amendments and protocol,

Welcoming the assistance provided by Parties and others to support concrete activities,

Recognizing the need and usefulness for developing and implementing concrete activities that are mutually supportive or complementary in support of the Basel Declaration on Environmentally Sound Management,

1. Requests the secretariat to continue, subject to availability of funds, promoting public awareness on the Basel Convention through conferences, workshops, preparation of audio, audio-visual and printed materials, enhancement of the Basel Convention web site and participation in trade fairs and exhibitions at global, regional or national levels;
2. Also requests the secretariat to continue developing training programmes and organizing national and regional training activities, as appropriate, on the implementation of the Basel Convention, in collaboration with the United Nations Environment Programme and other intergovernmental organizations as well as the private sector and non-governmental organizations;
3. Reiterates the importance for Parties to provide financial resources to the Technical Cooperation Trust Fund to Assist Developing Countries and Other Countries in Need of Technical Assistance in the Implementation of the Basel Convention to assist developing countries and countries with economies in transition that are Parties to the Convention in implementing the Basel Convention and in managing hazardous and other wastes in an environmentally sound manner;
4. Invites Parties, non-Parties, intergovernmental organizations, members of the industry and business sectors and non-governmental organizations to provide financial resources or assistance in kind, to assist countries in need of such assistance in the development of specific capacity-building projects, training, information and awareness-raising activities;
5. Requests the secretariat to report, through the Open-ended Working Group, to the Conference of the Parties at its seventh meeting on the implementation of the present decision.

VI/12. Establishment of a mechanism for promoting implementation and compliance

The Conference of the Parties,

Bearing in mind the provisions of the Basel Convention,

Taking note of decision V/16, in which the Conference of the Parties requested the Legal Working Group to prepare a draft decision establishing a mechanism for promoting the implementation of and compliance with the obligations set out under the Basel Convention,

Also noting the requirement for environmentally sound management of hazardous and other wastes as defined by the Convention,

Seeking to promote the identification, as early as possible, of implementation and compliance difficulties encountered by Parties,

Desiring to improve its understanding of the root causes of such difficulties,

Seeking to promote the adoption of and recommendations on the most appropriate and effective solutions for resolving those difficulties,

Seeking also to assist Parties to develop and implement the most appropriate and effective solutions for resolving those difficulties,

1. Decides, pursuant to article 15, paragraph 5 (e) of the Basel Convention to adopt the terms of reference for the mechanism for promoting implementation and compliance set out in the appendix to the present decision.

Appendix

MECHANISM FOR PROMOTING IMPLEMENTATION AND COMPLIANCE

Terms of reference

Objectives

1. The objective of the mechanism is to assist Parties to comply with their obligations under the Convention and to facilitate, promote, monitor and aim to secure the implementation of and compliance with the obligations under the Convention.

Nature of the mechanism

2. The mechanism shall be non-confrontational, transparent, cost-effective and preventive in nature, simple, flexible, non-binding and oriented in the direction of helping parties to implement the provisions of the Basel Convention. It will pay particular attention to the special needs of developing countries and countries with economies in transition, and is intended to promote cooperation between all Parties. The mechanism should complement work performed by other Convention bodies and by the Basel Convention Regional Centres.

Composition and tenure

3. A Committee for administrating this mechanism (“the Committee”) is hereby established. It shall consist of 15 Members nominated by the Parties, serving in accordance with paragraph 4, and based on equitable geographical representation of the five regional groups of the United Nations, elected by the Conference of the Parties.

4. If a Member of the Committee resigns or is otherwise unable to complete his or her term of office or to perform his or her functions, the Party who nominated that member shall nominate an alternate to serve for the remainder of the mandate.

5. Members of the Committee will serve objectively and in the best interest of the Convention. They shall have expertise relating to the subject matter of the Convention in areas including scientific, technical, socio-economic and/or legal fields.

6. At the meeting at which the decision establishing the mechanism is adopted, the Conference of the Parties shall elect five members, one from each region, for one term, and ten members, two from each region, for two terms. The Conference of the Parties shall, at each ordinary meeting thereafter, elect for two full terms new members to replace those members whose period of office has expired, or is about to expire. Members shall not serve for more than two consecutive terms. For the purposes of the present terms of reference “term” means the period that begins at the end of one ordinary meeting of the Conference of the Parties and ends at the end of the next ordinary meeting of the Parties.

7. The Committee shall elect its officers – a Chair, three Vice-chairs and a Rapporteur – based on equitable geographical representation of the five regional groups of the United Nations.

8. The Committee shall meet at least once between each regular meeting of the Conference of the Parties, and in conjunction with meetings of other Convention bodies. The secretariat shall arrange for and service the meetings of the Committee.

Procedures for specific submissions

9. Submissions may be made to the Committee by:

(a) A Party that concludes that, despite its best efforts, it is or will be unable to fully implement or comply with its obligations under the Convention;

(b) A Party that has concerns or is affected by a failure to comply with and/or implement the Convention's obligations by another Party with whom it is directly involved under the Convention. A Party intending to make a submission under this subparagraph shall inform the Party whose compliance is in question, and both Parties should then try to resolve the matter through consultations;

(c) The secretariat, if, while acting pursuant to its functions under articles 13 and 16, it becomes aware of possible difficulties of any Party in complying with its reporting obligations under article 13, paragraph 3 of the Convention, provided that the matter has not been resolved within three months by consultation with the Party concerned.

10. Any submission, except one made under paragraph 9 (c), shall be addressed in writing to the secretariat, and shall set out:

(a) The matter of concern;

(b) The relevant provisions of the Convention; and

(c) Where paragraph 9 (b) applies, information substantiating the submission.

11. Where a submission is made under paragraph 9 (a), the secretariat shall forward the submission, within two weeks of its receiving the submission, to the Committee for consideration at its next meeting.

12. The Party whose compliance is in question may present responses and/or comments at every step of the proceedings described in this decision.

13. In cases of a submission other than by a Party with respect to its own compliance, the secretariat shall send, within two weeks of its receiving the submission, a copy to the Party whose compliance with the Convention is in question and to the Committee for consideration at its next meeting.

14. Without prejudice to paragraph 12, additional information provided in response by the Party whose compliance is in question should be forwarded to the secretariat within three months of the date of the receipt of the submission by the Party in question, unless the circumstances of a particular case require an extended period of time. Such information will be immediately transmitted to the members of the Committee for consideration at its next meeting. Where a submission has been made pursuant to paragraph 9 (b), the information shall also be forwarded by the secretariat to the Party that made the submission.

15. Where a Party is identified in a submission or itself makes a submission, it shall be invited to participate in the consideration of the submission by the Committee. Such a Party, however, shall not take part in the elaboration and adoption of the conclusions or recommendations by the Committee. Conclusions and recommendations shall be shared with the Party concerned for consideration and an opportunity to comment. Any such comments shall be forwarded with the report of the Committee to the Conference of the Parties.

16. Meetings dealing with specific submissions relating to the compliance of an individual Party shall not be open to other Parties or the public, unless the Committee and the Party whose compliance is in question agree otherwise.

17. Under the compliance mechanism, a Party may also consider and use relevant and appropriate information provided by civil society on compliance difficulties.

18. The Committee may decide not to proceed with a submission which it considers is:

- (a) *de minimis*, or
- (b) manifestly ill-founded.

Facilitation procedure

19. The Committee shall consider any submission made to it in accordance with paragraph 10 with a view to determining the facts and root causes of the matter of concern and, assist in its resolution. As part of this process, the Committee may provide a Party, after coordination with that Party, with advice, non-binding recommendations and information relating to, inter alia;

- (a) Establishing and/or strengthening its domestic/regional regulatory regimes;
- (b) Facilitation of assistance in particular to developing countries and countries with economies in transition, including on how to access financial and technical support, including technology transfer and capacity-building;
- (c) Elaborating, as appropriate and with the cooperation of the Party or Parties faced with the compliance problems, voluntary compliance action plans, and review their implementation. A voluntary compliance action plan may include benchmarks, objectives and indicators of the plan, as well as an indicative timeline for its implementation;
- (d) Any follow-up arrangements for progress reporting to the Committee, including through the national reporting procedure under article 13.

Advice, non-binding recommendations and information other than those listed in subparagraphs (a) to (d) above should be provided in agreement with that Party.

Recommendation to the Conference of the Parties on additional measures

20. If, after undertaking the facilitation procedure in paragraph 19 above and taking into account the cause, type, degree and frequency of compliance difficulties, as well as the capacity of the Party whose compliance is in question, the Committee considers it necessary in the light of paragraphs 1 and 2 to pursue further measures to address a Party's compliance difficulties, it may recommend to the Conference of the Parties that it consider:

- (a) Further support under the Convention for the Party concerned, including prioritization of technical assistance and capacity-building and access to financial resources; or
- (b) Issuing a cautionary statement and providing advice regarding future compliance in order to help Parties to implement the provisions of the Basel Convention and to promote cooperation between all Parties.

Any such action shall be consistent with article 15 of the Convention.

General review

21. The Committee shall, as directed by the Conference of Parties, review general issues of compliance and implementation under the Convention relating to, inter alia:

- (a) Ensuring the environmentally sound management and disposal of hazardous and other wastes;

- (b) Training customs and other personnel;
- (c) Accessing technical and financial support, particularly for developing countries, including technology transfer and capacity-building;
- (d) Establishing and developing means of detecting and eradicating illegal traffic, including investigating, sampling and testing;
- (e) Monitoring, assessing and facilitating reporting under article 13 of the Convention; and
- (f) The implementation of, and compliance with, specified obligations under the Convention.

Consultation and information

22. In carrying out its functions, the Committee may, inter alia:

- (a) Request further information from all Parties, through the secretariat, on general issues of compliance and implementation under its consideration;
- (b) Consult with other bodies of the Convention;
- (c) Request further information from any sources and draw upon outside expertise, as it considers necessary and appropriate, either with the consent of the Party concerned or as directed by the Conference of the Parties;
- (d) Undertake, with the agreement of a Party(ies), information gathering in its or their territory for the purpose of fulfilling the functions of the Committee;
- (e) Consult with the secretariat and draw upon its experience and knowledge base compiled under article 16 of the Convention and request through the secretariat information, where appropriate in the form of a report, on matters under the Committee's consideration; and
- (f) Review the national reports of Parties provided under article 13 of the Convention.

Reporting

23. The Committee shall report to each ordinary meeting of the Conference of the Parties on the work it has carried out to fulfil its functions under paragraphs 19 and 20 for the information and/or the consideration of the Conference of the Parties.

24. The Committee shall also report to each ordinary meeting of the Conference of the Parties on any conclusions and/or recommendations it has developed under paragraph 21 and on its suggestions for any future work that may be required on general issues of compliance and implementation, for the consideration and approval of the Conference of the Parties.

Decision-making

25. The Committee shall make every effort to reach agreement on all matters of substance by consensus. Where this is not possible, the report and recommendations shall reflect the views of all the Committee members. If all efforts to reach consensus have been exhausted and no agreement has been reached, any decision shall, as a last resort, be taken by a two-third majority of the members present and voting or by eight members, whichever is the greater. Ten members of the Committee shall constitute a quorum.

Confidentiality

26. The Committee, any Party or others involved in its deliberations shall protect the confidentiality of information received in confidence.

Relationship with provisions of the Convention

27. The present mechanism shall be without prejudice to the provisions of article 20 on settlement of disputes.

28. In performing its functions under paragraphs 19, 20 and 21, the Committee shall take into account any specific procedures provided for under the Convention concerning failures to meet Convention obligations.

VI/13. Interim procedure for electing the members of the committee for administering the mechanism for promoting implementation and compliance

The Conference of the Parties,

Bearing in mind decision VI/12 of the sixth meeting of the Conference of the Parties on the establishment of the mechanism for promoting implementation and compliance,

Noting in particular that the Committee for administering the mechanism shall consist of 15 members nominated by the Parties and based on equitable geographical representation of the five regional groups of the United Nations,

Noting also that paragraph 6 of the appendix to decision VI/12 requires the election of five members, one from each region, for one term, and ten members, two from each region, for two terms,

Recognizing the necessity to allow further time for such election,

1. Calls upon the Parties to nominate candidates meeting the requirements of paragraph 5 of the appendix to decision VI/12 for membership of the Committee;

2. Requests the Parties to submit their nominations to the secretariat two months before the first meeting of the Open-ended Working Group;

3. Further requests the secretariat to distribute the nominations together with the provisional agenda and supporting documents for that meeting;

4. Decides that the Open-ended Working Group shall elect the members of the Committee on behalf of the Conference of the Parties.

VI/14. Interim guidelines for the implementation of decision V/32 on enlargement of the scope of the Trust Fund to Assist Developing and Other Countries in Need of Technical Assistance in the Implementation of the Basel Convention

The Conference of the Parties,

Taking note of article 15, paragraph 1, of the Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal,

Recalling its decision V/32 concerning the enlargement, on an interim basis, of the scope of the Trust Fund to Assist Developing and Other Countries in Need of Technical Assistance to Implement the Basel Convention (Technical Cooperation Trust Fund),

Recalling also its decision V/18 on the emergency fund,

Taking note of article 15, paragraph 2, of the Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal,

1. Approves the Interim Guidelines for the Implementation of Decision V/32, Enlargement of the scope of the Technical Cooperation Trust Fund, contained in the appendix to the present decision;
2. Invites developing countries and countries with economies in transition which are Parties to the Basel Convention to submit to the secretariat project proposals for development of capacity-building, transfer of technology and putting in place measures to prevent accidents and damage to the environment caused by transboundary movements of hazardous wastes and other wastes and their disposal, including for development of emergency response and contingency plans;
3. Requests the secretariat to continue working on gathering information related to:
 - (a) The number of incidents arising from transboundary movements of hazardous wastes and their disposal; and
 - (b) With regard to each incident, the extent to which damage was not compensated by the current mechanism;
4. Encourages Parties and the secretariat to keep working at of the Conference of the Parties on the improvement of the existing mechanism or, if necessary, on the establishment of a new mechanism.

Appendix

INTERIM GUIDELINES FOR THE IMPLEMENTATION OF DECISION V/32 ON "ENLARGEMENT OF THE SCOPE OF THE TECHNICAL COOPERATION TRUST FUND"

PART 1

EMERGENCY ASSISTANCE

I. WHO CAN APPLY FOR EMERGENCY ASSISTANCE

Only States which are developing countries or a country with economy in transition and Party to the Basel Convention may request emergency assistance.

The list used for determining which countries are developing countries and countries with economies in transition will be taken from the Organization for Economic Cooperation and Development (OECD).

II. LEGAL FRAMEWORK

Introduction

The Enlarged Technical Cooperation Trust Fund operates within the framework of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, as well as of the recently adopted Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal.

Decision V/32 makes reference in its preamble to the adoption of the Protocol on Liability and Compensation. Therefore, the present Guidelines were prepared following the definitions (e.g. for damage, preventive measures), the scope of application and other relevant rules of the Protocol. These Interim Guidelines do not consider legal

questions in detail. These questions vary according to the type of request submitted and the circumstances of the incident. The statements in the Guidelines are therefore without prejudice to the position of the secretariat of the Basel Convention or of contributors concerning individual requests. The Guidelines should not be seen as an interpretation of decision V/32, the Basel Protocol or the Basel Convention.

Enlargement of the Scope of the Technical Cooperation Trust Fund

According to decision V/32, entitled "Enlargement of the Scope of the Technical Cooperation Trust Fund", the secretariat of the Basel Convention may, upon request, assist a Party to the Convention which is a developing country or a country with economy in transition in case of an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal, including illegal traffic as defined in the Convention.

Furthermore, paragraph 8 of decision V/32 urges Parties to provide contributions to the Technical Cooperation Trust Fund to support emergency assistance. A contributor may specify that its contribution be used for specific purposes.

Transboundary movement

"Transboundary movement" means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement.

The Guidelines are applicable for a transboundary movement from the point where the wastes are loaded on the means of transport in an area under the national jurisdiction of a State of export.

However, according to Article 3.1 of the Protocol, a State of export may, by way of a notification to the Depository, decide that the starting point is the point at which the shipment leaves the territory or territorial sea of that State of export.

The end of the scope is the point of disposal in the State of import, which will depend on the type of disposal operation, as outlined below.

Disposal

"Disposal" means any operation specified in Annex IV to the Basel Convention.

The Guidelines shall apply:

(a) In relation to movements destined for one of the operations specified in Annex IV to the Convention other than D13, D14, D15, R12 or R13, until the time at which the notification of completion or disposal pursuant to Article 6, paragraph 9, of the Convention has occurred or, where such notification has not been made, completion of disposal has occurred; and

(b) In relation to movements destined for the operations specified in D13, D14, D15, R12 or R13 of Annex IV to the Convention, until the completion of the subsequent disposal operation specified in D1 to D12 and R1 to R11 of Annex IV to the Convention.

Geographical Scope

The Guidelines apply to emergency measures, which are to be taken to prevent or mitigate damage in an area under the national jurisdiction of a Party to the Convention.

The Guidelines also apply to emergency measures to prevent or mitigate loss of life, personal injury and damage to property in areas beyond national jurisdiction.

Hazardous wastes and other wastes

These Interim Guidelines apply to emergency assistance which can be given in case of incidents involving hazardous wastes and other wastes within the meaning of Article 1 of the Basel Convention.

Incidents and illegal traffic

Emergency measures can be taken in the case of an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal, including illegal traffic in those wastes.

"Incident" defined by Article 2, paragraph 2(h) of the Protocol is any occurrence, or series of occurrences having the same origin, that causes damage or creates a grave and imminent threat of causing damage.

"Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9, paragraph 1 of the Basel Convention.

Damage

The secretariat can only respond to a request for emergency assistance in order to prevent or mitigate the following damage defined by the Basel Protocol:

Loss of life or personal injury;

Loss of or damage to property other than property held by the person liable in accordance with the Basel Protocol;

Loss of income directly deriving from an economic interest in any use of the environment, incurred as a result of impairment of the environment and;

The cost of preventive measures, including any loss or damage caused by such damage to the extent that damage arises out of or results from hazardous properties of the wastes involved in the transboundary movement and disposal of hazardous wastes and other wastes.

III. APPLYING FOR EMERGENCY ASSISTANCE***Role of the secretariat of the Basel Convention***

The secretariat of the Basel Convention will advise on the preparation and submission of requests for emergency assistance. Applicants may also consult the secretariat on all related matters, such as the taking of preventive measures or engaging of experts for purposes of assessment.

To whom should the request be addressed

Using the form drawn up by the secretariat, requests should be submitted to the Executive Secretary of the secretariat of the Basel Convention:

UNEP - SBC
 15, chemin des Anémones
 1219 Châtelaine (Geneva)
 Tel: +41 22 917 82 18
 Fax: +41 22 797 34 54
 E-Mail: sbc@unep.ch

In extremely urgent cases, the Duty System of the Joint UNEP/OCHA Environment Unit can be utilized 24 hours, 365 days a year:

Telephone: +41 22 917 1142 / 1172 / 1172
Fax: +41 22 917 0023 / 907 0257
Telex: 414242 DHA CH
E-Mail: info@dha.unicc.org
24 hours Emergency Hotline: +41 22 917 20 10

How should the request be presented?

The request for emergency assistance should be submitted in written form (letter, fax, electronic mail). It can be submitted by using the request form proposed by the secretariat (attached). The request format can also be found on the World Wide Web at

<http://www.basel.int/index.html>

Which information should the request contain?

Each request should contain the following basic information, if known by the requesting authority:

Name, address and bank details of requesting authority;
Date, place and specific details of the incident;

Description of hazardous wastes or other wastes involved (name, origin, physical form, major constituents, typical contaminants, volume/quantity, waste code);

Name of States involved in the transboundary movement (e.g. country of origin, transit or destination);

Name and address of persons involved in the transboundary movement (e.g. exporter, importer, notifier, carrier, disposer) and of insurance, if any;

Measures which have been taken in response to the incident, including the request for assistance from other countries involved in the incident;

Type and extent of damage that occurred or is likely to occur; (e.g. dilution factors, dispersion problems, rate of spread, etc.);

Preventive measures that are necessary in order to prevent or mitigate damage;

What kind of emergency assistance is required.

IV. IMPLEMENTATION OF EMERGENCY ASSISTANCE

General provisions

- The Party which requests emergency assistance will first try to solve the problems with its own means;
- If there is a national system for emergency assistance in response to incidents, measures under the national system will first be taken. If these measures are not sufficient the request for assistance may be made;
- If the citizens or companies of the Party to the Convention in which the incident happened have been responsible for causing the incident, the Party should take actions to compel these persons or companies to participate in the prevention of the damage or its mitigation. If this is not

possible, the Party should take the required actions itself, and later take legal action to recuperate the funds received from the Technical Cooperation Trust Fund. Parties can assign their rights to legal action to the secretariat to recover the money paid out by the Trust Fund;

- The amount received in such legal action should serve to reimburse the Technical Cooperation Trust Fund for the amount taken from the Fund to provide assistance.

Procedure

Requests submitted to the secretariat are dealt with promptly. On the basis of the present Interim Guidelines, the Executive Secretary in consultation with the Expanded Bureau, using a quick procedure, may provide assistance to a Party to the Convention from the Technical Cooperation Trust Fund.

The Executive Secretary will also consult with contributors, especially in cases where contributions to the Trust Fund are earmarked with conditions.

Upon receiving a request for emergency assistance, the secretariat shall consult with experts, through the national focal point, in order to clarify the urgency, the imminence of the threat or the type of measures necessary to be taken for that specific incident.

All decisions taken should be reported to the Expanded Bureau, Working Groups and to the next meeting of the Conference of the Parties.

Task Force

All activities of emergency assistance shall be coordinated by the Executive Secretary. Whenever necessary, the Executive Secretary shall establish a task force for her support, which will handle all required tasks of emergency assistance.

Policy of attribution of emergency assistance

Each request shall be considered on the basis of its own merits, in light of the particular circumstances of the case.

In order to promote transparency, accountability and consistency, the secretariat will ensure that the general criteria in these Interim Guidelines are followed when assessing requests for emergency assistance.

General criteria

The following general criteria apply to all requests:

- An incident falling within the scope of these Guidelines must have occurred;
- There must be a grave and imminent threat that (further) damage will be caused by the incident;
- Any request must relate to measures which are deemed urgent, necessary, reasonable and justifiable as jointly agreed by the affected Party and by the secretariat.
- The request is admissible only if and to the extent the damage arises out of or results from hazardous properties of the hazardous wastes and other wastes involved in the incident;
- The developing country or country with economy in transition requires assistance in order to be capable of effectively preventing or mitigating the damage.

What kind of emergency assistance can be provided?

According to decision V/32, the secretariat may assist a Party which has suffered an incident:

- To estimate the magnitude of damage that has occurred or damage that may occur and the measures needed to mitigate and prevent (further) damage (hereinafter referred to as "rapid assessment");
- To take appropriate emergency measures to prevent or mitigate the damage (hereinafter referred to as "emergency measures");
- To help find those Parties and other entities in a position to give the assistance needed (hereinafter referred to as "broker activities").

In doing so, the secretariat will, among other things,

- Liaise with the government of the affected Party and provide the Expanded Bureau with an assessment of the situation on the ground;
- Serve as a focal point for coordination of activities and dissemination of information; and
- Provide logistical support, upon approval by the Expanded Bureau, for the delivery of assistance.

The secretariat will also serve as the point of contact with local authorities, media, donor countries and agencies and other organizations present in the field (e.g. Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Office for the Coordination of Humanitarian Affairs (OCHA), Pan American Health Organization (PAHO)) and provide regular updates on the evolving situation.

Rapid assessment

In the case of an incident, the secretariat shall, within the capacity and the means available to it, assist a Party to assess the damage and the necessity and urgency of emergency measures if so required. The assessment can be done by national experts, consultants or staff of an international organization, who are appointed by the Executive Secretary.

Which information shall the rapid assessment provide?

In order to provide a sound basis for decision on further action, the report of the rapid assessment of the incident will respond to the following questions:

- Details of incident and estimation of the magnitude of the damage that has occurred;
- The gravity of (further) damage that may occur, and degree of imminence and threat that such damage may occur;
- Detailed recommendations as to measures needed to prevent or mitigate damage, and reasonable costs of such measures;
- Those capacities lacking in the requesting country to allow it to respond to the incident.

Emergency measures

According to decision V/32, the secretariat may assist a Party that has suffered an incident to take appropriate "measures to prevent or mitigate damage". Article 2 paragraph 2 (e) of the Protocol contains a definition of

"preventive measures", meaning any reasonable measures taken by any person in response to an incident, to prevent, minimize, or mitigate loss or damage, or to effect environmental clean-up.

To be distinguished from the preventive measures in the context of the Protocol are the "measures of reinstatement", which aim at reinstating or restoring damaged or destroyed parts of the environment. Measures of reinstatement do not fall within the scope of emergency measures.

When deciding upon the taking of emergency measures, the Executive Secretary shall take particularly into account:

- The gravity of damage that may occur;
- The degree of imminence and threat that such damage may occur;
- The nature and cost of urgent and necessary reasonable measures;
- Which assistance is required by the requesting country;
- Availability of bilateral assistance;
- Availability of funds; and
- Conditions imposed by donors.

Broker activities

According to decision V/32, the secretariat shall help find those Parties and other entities in a position to give the assistance needed. The secretariat will act as a broker between the country that is the victim of an incident and potential donors (financial or in-kind). Furthermore, the secretariat shall maintain a list of and establish contact with entities, such as other international organizations involved in the field of emergency response, research institutions, private companies, non-governmental organizations or public institutions, with expertise in the relevant fields of emergency response.

The secretariat should encourage and facilitate, where appropriate, bilateral or multilateral assistance arrangements among and between Parties. A first attempt will be made to broker bilateral assistance, whenever that assistance will be possible or appropriate.

Service provided by UNEP/OCHA

The mandate of UNEP/OCHA is to improve the international response to environmental emergencies by serving as a clearing-house for information and a switchboard for disaster notification, and alerting and acting as a broker between affected and donor countries.

The secretariat should use the services provided by the Joint UNEP/OCHA Environment Unit in offering its emergency assistance. These services could include rapid assessment through international experts, the implementation of emergency measures, and the broker function between the affected country and donor countries that are ready and willing to assist.

The secretariat will seek the support of the Joint UNEP/OCHA Environment Unit in particular through its global network of National Focal Points, consisting of governmental organizations responsible for environmental emergencies at the national level, and its other partners worldwide, for the provision of emergency assistance.

The secretariat will invite the Joint UNEP/OCHA Environment Unit to cooperate in the preparation of framework contracts with interested national experts in order to create a "stand-by situation", ensuring the immediate operability of an expert in an emergency situation without bureaucratic delay.

These stand-by contracts will be consultancy contracts prepared in advance for the stand-by period (e.g. for one/two year(s)). The framework contracts will be at no cost to the organization during the stand-by period, if no actual operation is undertaken.

Experts shall be selected according to expertise, language and geographical criteria. The experts shall be selected by the Executive Secretary of the secretariat of the Basel Convention and nominated to the UNEP/OCHA Joint Environment Unit.

A Memorandum of Understanding has been signed between the secretariat of the Basel Convention and the UNEP/OCHA Environmental Unit, identifying the areas and the methodology for cooperation.

Transparency and accountability

The secretariat will submit periodic reports on its decisions related to emergency assistance to the Expanded Bureau for its review. The reports shall contain all factual and financial information (accounting) required to give a clear picture of the requests for assistance considered and approved. A consolidated report will be submitted to the meetings of the Conference of the Parties.

V. FINANCIAL RULES

Earmarking of contributions

Contributions made for emergency assistance to the Technical Cooperation Trust Fund shall be used within the terms of paragraph 2 of decision V/32. These contributions to the Technical Cooperation Trust Fund can be earmarked for general emergency assistance or may be earmarked for concrete activities. Whenever contributions are earmarked for specific activities, they will be used accordingly. In the event of an emergency, contributions earmarked for emergency assistance would be used first, followed by contributions which have not been earmarked.

Relevant rules

The contribution to and the attribution of expenditures from the Technical Cooperation Trust Fund for emergency assistance are subject to the financial regulations of the United Nations Environment Programme.

The operation of emergency assistance under the Trust Fund is governed by the Terms of Reference for the Administration of the Trust Fund for the Basel Convention, as laid down in Annex II to decision I/7 of the first meeting of the Conference of the Parties to the Basel Convention.

Payments

Payments from the Technical Cooperation Trust Fund for emergency assistance are discretionary and subject to the availability of resources and will be made by the Executive Secretary in consultation with the Expanded Bureau, using a quick procedure. If the total amount of requests exceeds the total amount of emergency assistance available in the Fund, the Executive Secretary shall decide on which requests should be given priority, based on the present criteria and guidelines, and inform the Expanded Bureau if demands exceed available funding. The assistance provided to each requesting authority may be reduced proportionately or as deemed necessary.

Developing countries or countries with economies in transition which have ratified the Basel Protocol on Liability and Compensation or are in an advanced stage of the process of ratification will have priority in receiving assistance.

In-kind contributions may also be made (for example, for provision of experts or equipment).

With respect to each incident, the Executive Secretary should not use more than 30 per cent of the amount of funds available in the Fund at any given time. The Fund should also have a reserve of 30 per cent for the next possible case and 10 per cent should never be used, except with express approval of the Expanded

Bureau. These limits can be waived by the Expanded Bureau in exceptional circumstances. These limits shall also not apply to earmarked contributions.

Possible recourse action

The policy of the secretariat shall be to take recourse action whenever appropriate and the Executive Secretary should in each case consider whether it would be possible to recover any amounts paid by it for emergency assistance. The decision whether or not to take such action should be made on a case by case basis, in the light of the prospect of success within the legal system in question. The Executive Secretary should in each case cooperate with the Party which requested assistance, in order to recover the amounts paid by it for emergency assistance.

The entry into force of the Basel Protocol on Liability and Compensation will be a significant step in facilitating recourse action. There will be no funding available if the recovery for emergency action is obtained under the Protocol. The secretariat shall seek cooperation with major international insurance companies in order to explore ways of recovery of amounts paid, as well as the possibility of advance or interim payments by the insurance.

Each Party which receives financial assistance will be required to take appropriate actions to sue the liable company or persons for the recovery of the funds spent from the Fund, where this is possible under the relevant national law. Other Parties will be requested to offer, in accordance with their respective legal regime, any assistance necessary to overcome procedural barriers to suing in another jurisdiction. The secretariat will also render assistance in this regard.

A recipient Party may assign its right to a legal action to the secretariat or to another Party to recover the money utilized from the Trust Fund.

The amount recovered in such legal action should serve to reimburse the Technical Cooperation Trust Fund for the amount taken from the Fund to provide assistance.

Transparency and accountability

The secretariat will submit periodical reports on its decisions related to payment for compensation to the Expanded Bureau for its review. The reports shall contain all factual and financial information (accounting) required to give a clear picture of the projects considered. A consolidated report will be submitted to the meetings of the Conference of the Parties.

VI. CONTINGENCY/EMERGENCY PLANS

Each Party should have, or should develop and implement, a participatory contingency or emergency plan.

Parties that have prepared operating procedures for response to disasters (natural or man-made) or emergency plans should provide copies to the secretariat so that it is apprised of the procedure to follow in those countries.

The emergency assistance will not be denied for non-existence of such contingency or emergency plans, but the development of such plans should be encouraged and the secretariat could be requested to offer assistance in the development of these plans.

Prevention should be the policy of both the Parties and the secretariat.

PART 2

COMPENSATION FOR DAMAGE TO AND REINSTATEMENT OF THE ENVIRONMENT

I. WHO CAN APPLY FOR COMPENSATION FOR DAMAGE AND REINSTATEMENT

Compensation can be provided upon request of a Contracting Party to the Protocol, which is a developing country or a country with economy in transition. The secretariat will use the lists produced by the OECD Development Assistance Committee to determine whether a country is a developing country or a country with an economy in transition (Annex I - DAC List of Aid Recipients).

Private persons, institutions or companies may be compensated if so requested by a developing country or a country with economy in transition concerned. A private person, institution or company shall apply for compensation for damage to and reinstatement of the environment with the Competent Authority of the developing country or the country with economy in transition, where the damage was incurred. If considered adequate by the Competent Authority concerned, it shall submit the request to the secretariat. Competent Authorities shall establish procedures for application from private persons, institutions or companies, which shall be reported to the secretariat.

Where there is more than one claimant with respect to a single incident, the relevant Contracting Party is encouraged to collate the individual claims and transmit them to the secretariat. If one or more of the requests for compensation are granted, upon receipt of the funds from the secretariat the relevant Party shall be responsible for transmitting payment to the individual claimant or claimants.

II. LEGAL FRAMEWORK

Introduction

The Guidelines should not be seen as an interpretation of decision V/32, the Basel Convention or Protocol but rather, as an interim measure until a review of the Guidelines by the Conference of the Parties can be made.

The Enlarged Technical Cooperation Trust Fund operates within the framework of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal as well as of the Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal. Therefore, the Guidelines Part 2 follow the provisions of the Basel Convention and of its Protocol.

Operation with entry into force of Protocol

Part 2 of the Guidelines, relating to compensation for damage to and reinstatement of the environment, will become operational on the date the Protocol enters into force. Article 29 of the Protocol provides for entry into force 90 days after the date of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.

Compensation under the Protocol on Liability and Compensation

Under Article 4 of the Protocol on Liability and Compensation, the notifier (exporter or importer) or disposer has strict liability for damage due to an incident occurring during a transboundary movement of hazardous wastes and their disposal, including illegal traffic.

Financial limits to liability under Article 4 of the Protocol are in accordance with Article 12 and Annex B of the Protocol. There is no financial limit where damage was caused or contributed by the liable person's lack of compliance with the provisions implementing the Convention or by his wrongful intentional, reckless or negligent acts or omissions (Article 5 of the Protocol).

The person liable under Article 4 of the Protocol shall establish and maintain during the period of the time limit of liability, insurance, bonds or other financial guarantees covering their liability under Article 4 of the Protocol for amounts not less than the minimum limits specified in paragraph 2 of Annex B of the Protocol and not more than the maximum limits stipulated under the relevant national law.

Compensation under the Enlarged Technical Cooperation Trust Fund

Compensation under the Fund may be paid for damage to and reinstatement of the environment up to the limits provided for in the Protocol, where such compensation and reinstatement is not adequate under the Protocol.

Compensation under the Protocol may be considered inadequate, e.g., in the following situations:

- The notifier (exporter or importer) or disposer is exempt from liability under Article 4.5 of the Protocol[1], because the damage was:
 - (a) The result of an act of armed conflict, hostilities, civil war or insurrection;
 - (b) The result of a natural phenomenon of exceptional, inevitable, unforeseeable and irresistible character;
 - (c) Wholly the result of compliance with a compulsory measure of a public authority of the States where the damage occurred;
 - (d) Wholly the result of the wrongful intentional conduct of a third party, including the person who suffered the damage.
- The liable person is financially incapable of meeting his obligations under the Protocol on Liability and Compensation in full and any financial security that may be provided by Article 14 of the Protocol does not cover or is insufficient to satisfy adequate compensation.

Pursuant to decision V/32, the secretariat may respond to a request by a developing country or a country with an economy in transition that is a Contracting Party to the Protocol for compensation for damage to and reinstatement of the environment in those cases where, due to an incident, such damage is covered by the Liability and Compensation Protocol and the compensation provided under the Protocol is not adequate (i.e. they have already applied for / received compensation from the Protocol).

Recoverable damages can include:

- (a) The costs of measures of reinstatement of the impaired environment, limited to the costs of measures actually taken or to be undertaken;
- (b) The costs of preventive measures, including any loss or damage caused by such measures, as far as they aim at preventing damage to the environment or reinstating the environment according to the above paragraph (a).

“Measures of reinstatement” means any reasonable measures aiming to assess, reinstate or restore damaged or destroyed components of the environment.

“Incident” defined by Article 2, paragraph 2(h) of the Protocol, is any occurrence, or series of occurrences having the same origin, that causes damage or creates a grave and imminent threat of causing damage.

Compensation can only be provided to the extent that the damage arises out of or results from hazardous properties of the wastes involved in the transboundary movement and disposal of hazardous wastes and other wastes subject to the Convention.

Maximum Cap for Compensation

The aggregate amount payable for compensation for damage to and reinstatement of the environment shall in respect of any one incident be limited by applying *mutatis mutandis* paragraph 2 of Annex B to the Protocol.

The limit of the amount of compensation through the Trust Fund will be reviewed simultaneously with the review of Annex B of the Protocol.

Reduction in the case of wrongful intentional conduct or negligence

The secretariat may reduce the amount of or provide no compensation from the Technical Cooperation Trust Fund if the damage to the environment resulted wholly or partially either from the wrongful intentional conduct or negligence of the person who suffered the damage or a person for whom he is responsible under domestic law. Such behaviour has the same meaning as in "by his own fault" as specified in Article 9 of the Protocol.

Bilateral, Multilateral or Regional Agreements or Arrangements

These Guidelines shall not apply to damage due to an incident occurring during a transboundary movement of hazardous waste and other wastes and their disposal pursuant to a bilateral, multilateral or regional agreement or arrangement concluded and notified in accordance with Article 11 of the Convention, if:

- (a) The damage occurred in an area under the national jurisdiction of any of the Parties to the agreement or arrangement;
- (b) There exists a liability and compensation regime, which is in force and is applicable to the damage resulting from such a transboundary movement or disposal provided it fully meets, or exceeds the objective of the Protocol by providing a high level of protection to persons who have suffered damage;
- (c) The Party to the Article 11 agreement or arrangement in which the damage has occurred has previously notified the Depositary of the non-application of the Protocol to any damage occurring in an area under its national jurisdiction due to an incident resulting from movements or disposals pursuant to the Article 11 agreement or arrangement in question; and
- (d) The Parties to the Article 11 agreement or arrangement have not declared that the Protocol shall be applicable.

Non-Contracting Parties

When the State of import, but not the State of export, is a contracting Party to the Basel Convention and Protocol, the Guidelines shall apply only with respect to damage arising from an incident which takes place after the moment at which the disposer has taken possession of the hazardous wastes. When the State of export, but not the State of import, is a Contracting Party to the Basel Convention and Protocol, the Guidelines shall apply only with respect to damage arising from an incident which takes place prior to the moment at which the disposer takes possession of the hazardous wastes and other wastes. When neither the State of export nor the State of import is a Contracting Party, the Guidelines shall not apply.

The Guidelines shall also apply to damage suffered in an area under the national jurisdiction of a State of transit which is not a Contracting Party, provided that such State appears in Annex A of the Protocol on Liability and Compensation and has acceded to a multilateral or regional agreement concerning transboundary movements of hazardous waste which is in force. Subparagraph (d) of paragraph 2 of Article 3 of the Protocol on Liability and Compensation will apply *mutatis mutandis*.

Transboundary movement

“Transboundary movement” means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the jurisdiction of any State, provided that at least two States are involved in the movement.

The Guidelines are applicable for a transboundary movement, as defined in the Basel Convention, from the point where the wastes are loaded onto the means of transport in an area under the national jurisdiction of a State of export.

There shall be no compensation when a Contracting Party to the Protocol has by way of notification to the Depository excluded the application of the Protocol, in respect of all transboundary movements for which it is the State of export, for such incidents which occur in an area under its national jurisdiction, as regards damage in its area of national jurisdiction.

The Guidelines shall apply:

(a) In relation to movements destined for one of the operations specified in Annex IV to the Convention other than D13, D14, D15, R12 or R13, until the time at which the notification of completion or disposal pursuant to Article 6, paragraph 9, of the Convention has occurred, or, where such notification has not been made, completion of disposal has occurred; and

(b) In relation to movements destined for the operations specified in D13, D14, D15, R12 or R13 of Annex IV to the Convention, until the completion of the subsequent disposal operation specified in D1 to D12 and R1 to R11 of Annex IV to the Convention.

The Guidelines shall also apply to re-imports under Articles 8 and 9 sub-paragraph 2 (a) or Article 9, paragraph 4, of the Convention.

Disposal

“Disposal” means any operation specified in Annex IV to the Basel Convention.

Geographical Scope

The Guidelines apply to damage to and reinstatement of the environment which occurred in an area under the national jurisdiction of a Contracting Party to the Protocol, which is a developing country or a country with economy in transition. The secretariat will use the lists produced by the OECD Development Assistance Committee to determine whether a country is a developing country or a country with economy in transition (Annex I - DAC List of Aid Recipients).

In addition, as far as compensation for the costs of preventive measures is concerned, such compensation may also be provided for damage suffered in areas beyond any national jurisdiction.

The Guidelines shall also apply to damage suffered in an area under the national jurisdiction of a State of transit which is not a Contracting Party, provided that such State appears in Annex A of the Protocol on Liability and Compensation and has acceded to a multilateral or regional agreement concerning transboundary movements of hazardous waste which is in force. Subparagraph (d) of paragraph 2 of Article 3 of the Protocol on Liability and Compensation will apply, *mutatis mutandis*.

Hazardous wastes and other wastes

These Guidelines apply to compensation for damage to and reinstatement of the environment which results from the transboundary movement and disposal of hazardous wastes and other wastes as defined in Article 1 of the Basel Convention.

The Guidelines shall apply to damage resulting from an incident occurring during a transboundary movement of wastes falling under Article 1, subparagraph 1(b), of the Convention only if those wastes have been notified in accordance with Article 3 of the Convention by the State of export or import, or both, and the damage arises in an area under the national jurisdiction of a State, including a State of transit, that has defined or considers those wastes as hazardous provided that the requirements of Article 3 of the Convention have been met.

Incidents and illegal traffic

Compensation for damage to and reinstatement of the environment can be provided in the case of an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal including illegal traffic in those wastes.

“Illegal traffic” means any transboundary movement of hazardous wastes or other wastes as specified in Article 9, paragraph 1, of the Basel Convention.

General Criteria

The following criteria shall apply to all requests:

- (a) An incident falling within the scope of these Guidelines must have occurred;
- (b) The costs of measures of reinstatement of the impaired environment, limited to the costs of measures actually taken or to be undertaken;
- (c) Any expense must relate to measures which are deemed concurrently by the affected Party and the secretariat necessary, reasonable and justifiable;
- (d) A request for compensation from the Technical Cooperation Trust Fund can only be considered if the damage was caused through the hazardous properties of the hazardous wastes or other wastes involved in the movement;
- (e) There must be a causal link between the expense/loss/damage for which compensation is requested and the incident occurring during the transboundary movement of hazardous wastes;
- (f) The person who requests compensation must have suffered a quantifiable economic loss;
- (g) The person who requests compensation has to prove the amount of the loss or damage by producing appropriate documents or other evidence.

Thus, a request will only be considered to the extent that the amount of the loss or damage is actually demonstrated. Certain flexibility is nevertheless exercised in respect of the requirement to present documents, taking into account the particular circumstances of the case.

In determining the amount of compensation, the efforts by the claimant to mitigate damages shall be taken into account.

III. COMPENSATION FOR DAMAGE TO AND REINSTATEMENT OF THE ENVIRONMENT

As noted in Section I above, pursuant to decision V/32, the secretariat may respond to a request for compensation for damage to and reinstatement of the environment.

Measures of Reinstatement

Funds may be provided from the expanded Technical Cooperation Trust Fund to cover the costs of measures taken to reinstate the environment. To be admissible for consideration, such measures should fulfil the following criteria:

- The cost of the measures should be reasonable;
- The cost of the measures should not be disproportionate to the results achieved or the results which could reasonably be expected; and
- The measures should be appropriate and offer a reasonable prospect of success.

The measures should be reasonable from an objective point of view in light of the information available when the specific measures are taken.

Compensation assistance may be provided only for measures actually undertaken or to be undertaken. Post-incident environmental studies can be carried out to establish the precise nature and extent of damage to the environment caused by the incident as well as the need for reinstatement measures. The Fund may contribute to the reasonable cost of such studies, provided that the studies concern damage falling within the definition of “damage to and reinstatement of the environment”.

The secretariat shall be involved at as early a stage as possible in the selection of experts and the determination of the mandate of these experts.

The studies should be practical and deliver the required data. Their scale should not be out of proportion to the extent of the contamination and the predictable effects.

Preventive Measures

“Preventive measures” means any reasonable measures taken by any person in response to an incident, to prevent, minimize or mitigate damage to and the necessity of reinstatement of the environment, or to effect environmental clean-up.

Measures shall only be considered as preventive under the current Guidelines to the extent that they aim at preventing damage to the environment or reduce necessary measures of reinstatement. If the measures have another purpose, the costs incurred shall not be considered under these Guidelines. If they are undertaken for both the purpose of preventing damage to the environment and another purpose, and it is not possible to establish with any certainty their primary purpose, the costs will be apportioned between preventive measures and measures of another nature.

Clean-up operations

Requests for costs are not accepted when it could have been foreseen that the measures taken would be ineffective. On the other hand, the fact that the measures proved to be ineffective is not in itself a reason for rejection of a claim for the costs incurred. The costs incurred, and the relationship between the costs and the benefits expected, should be reasonable.

Reinstatement of the environment includes clean-up measures on land and sea

Requests for compensation for costs of clean-up operations may include the cost of personnel (for example wages, travel expenses) and the hire or purchase of equipment and materials. They may also include costs of repairing and cleaning the clean-up equipment.

If the equipment used was purchased for a particular incident, deductions are made for the residual value when the amount of compensation is assessed.

If materials or equipment have been purchased and maintained so that they are immediately available if an incident occurs, compensation is paid for a reasonable part of the purchase price of the materials and equipment actually used.

Disposal of Collected Wastes

Clean-up operations may result in considerable quantities of hazardous wastes and other wastes collected. Reasonable costs for disposing of the collected wastes can be compensated.

Fixed Costs

Clean-up operations may be carried out by public authorities, which use permanently employed personnel, or vessels, vehicles and equipment owned by those authorities. The authorities may then incur additional costs, e.g. expenses which arise solely as a result of the incident and which would not have been incurred had the incident and related operations not taken place. Reasonable additional costs may be compensated.

IV. APPLYING FOR COMPENSATION FOR DAMAGE TO AND REINSTATEMENT OF THE ENVIRONMENT

Role of the secretariat of the Basel Convention

The secretariat of the Basel Convention may advise and assist, if requested, on the preparation and submission of requests for compensation for damage to and reinstatement of the environment.

To whom should the request be addressed?

Requests should be addressed to the Executive Secretary of the secretariat of the Basel Convention:

UNEP - SBC
15, chemin des Anémones
1219 Chatelaine/Geneva
Tel: +41 22 917 82 18
Fax: +41 22 797 34 54
E-Mail: sbc@unep.ch

How should the request be presented?

The request for compensation for damage and reinstatement should be submitted in written form (letter, fax, electronic mail). A request should be presented clearly and with sufficient detail for the secretariat to assess the amount of the damage on the basis of the facts and the supporting documentation presented. Each item of compensation should be substantiated by an invoice, or other relevant supporting documentation, such as work sheets, explanatory notes, accounts and photographs. It is the responsibility of the applicant to submit exhaustive supportive documentation.

The secretariat may appoint, to the extent possible under available resources, technical advisers to investigate the technical merits of the request. A request can only be considered promptly if the applicant cooperates fully and provides all relevant information deemed necessary for the assessment of the request.

The speed with which the requests are dealt with depends largely on how long it takes for the applicant to provide the secretariat with the required information. It is therefore advisable to follow the present Guidelines as closely as possible.

The request can be presented in any of the six official languages of the United Nations. Because the working languages of the United Nations are English, French and Spanish, consideration of the request will proceed more quickly if the request or request summary is presented in one of these languages.

Within what period should a request be submitted?

Requests should be submitted as soon as possible after the damage has occurred. Requests shall only be admissible if submitted within five years from the date the applicant knew or ought reasonably to have known of the damage and, in any case, within 10 years from the date of the incident or within the lifetime of these Guidelines, whichever is the earlier.

If court action is being brought by the applicant, he may submit his request within that period and will notify the secretariat that court action has been brought. The secretariat will, unless in the circumstances it is unreasonable to do so, await the outcome of the national court action before considering the request. In its consideration, the secretariat shall use the assessment of damage carried out by the national court(s) in question.

Which information should the request contain?

Each request should contain the following basic information:

- Name, address and bank details of requesting authority;
- Name, address and bank details of person who has suffered the damage, if different from requesting authority;
- Date, place and specific details of the incident;
- Description of hazardous wastes or other wastes involved (name, origin, physical form, major constituents, typical contaminants, volume/quantity, waste code);
- Name of States involved in the transboundary movement (e.g. country of origin, transit or destination);
- Name and address of persons involved in the transboundary movement (e.g. exporter, importer, notifier, carrier, disposer) and of insurance, if any;
- Type and extent of damage to and reinstatement of the environment that occurred or will occur;
- Measures of reinstatement and preventive measures that were/will be necessary;
- Amount of compensation requested for damage to and reinstatement of the environment requested.

Documentation regarding measures of reinstatement and preventive measures (clean-up operations)

It is necessary that supporting documentation shows how the expenses are linked with actions taken at work sites. Major expenditures may be incurred for the use of equipment, personnel or vehicles, as well as for the disposal of the wastes. Some of those actions can be carried out by government, others may be subject of contractual arrangements or can be carried out by private persons or organizations. The request should contain a comprehensive record of all operations and expenditures resulting from that incident.

The request should be itemized as follows:

- Delineation of the area affected, describing the extent of damage to the environment suffered and identifying those areas most heavily affected;
- Analytical and other evidence linking the damage with the incident that occurred (e.g. chemical analysis of samples of hazardous wastes);
- Summary of events, including a description and justification of the work carried out, together with an explanation of why the various working methods were selected;
- Description and costing (personnel, equipment, travel, transport) of work carried out at each site;
- Cost of storage and disposal of recovered hazardous wastes in question;
- Daily records of the operations in progress, which are treated as a document on prevention matters;
- Any remaining value at the end of the operations of equipment and materials purchased; and
- Age of equipment not purchased, but used in the incident.

V. IMPLEMENTATION OF COMPENSATION FOR DAMAGE AND REINSTATEMENT

Procedure

Requests submitted to the secretariat are dealt with promptly and circumspectly. On the basis of the present Guidelines, it is the sole responsibility of the Executive Secretary to decide on which requests shall be given priority in the attribution of compensation for damage and reinstatement.

Prior to making the final decision, the Executive Secretary will consult with the Bureau and, in cases where contributions to the Trust Fund are earmarked with conditions, with the contributors. Upon receiving a request for compensation for damage and reinstatement, the secretariat could consult with the "technical advisers" mentioned in the section "How should the request be presented" above, in order to clarify the measures of prevention and reinstatement which were/are necessary to be taken for that specific incident.

VI. FINANCIAL RULES

Earmarking of contributions

Contributions made to the Technical Cooperation Trust Fund for compensation may only be used for compensation for damage to and reinstatement of the environment.

Such contributions to the Technical Cooperation Trust Fund can be earmarked for compensation for damage to and reinstatement of the environment in general or can be earmarked for specific activities. Whenever contributions are earmarked for specific activities, they will be used accordingly unless the Contributors consent otherwise to divert the earmarked contribution for this purpose.

In the event of an incident, contributions earmarked for specific activities will be used first, followed by contributions for "Compensation for damage to and reinstatement of the environment" which have not been specifically earmarked.

Relevant rules

The contribution to and the attribution of expenditures from the Technical Cooperation Trust Fund for compensation for damage and reinstatement are subject to the financial regulations of the United Nations Environment Programme.

The operation of compensation for damage to and reinstatement of the environment under the Enlarged Technical Cooperation Trust Fund is governed by the Terms of Reference for the Administration of the Trust Fund for the Basel Convention, as laid down in Annex II to decision I/7 of the first meeting of the Conference of the Parties to the Basel Convention.

Payments

The attribution of payments from the Technical Cooperation Trust Fund is discretionary and subject to the availability of resources and shall be made by the Executive Secretary in consultation with the Expanded Bureau, using a quick procedure. If the total amount of requests exceeds the total amount of compensation available in the Fund, the Executive Secretary shall decide on which requests should be given priority based on the present criteria and Guidelines and inform the Expanded Bureau that the resources available in the Fund are exceeded by demand.

In such a case, the compensation provided to each requesting person may be reduced proportionately or as deemed necessary. If there is a risk that such situation may arise in the future, the Executive Secretary may have to restrict payments to a fixed percentage, in order to ensure that all applicants considered are given equal treatment.

Without approval of the Expanded Bureau, with respect to each incident the Executive Secretary should not use more than 30 per cent of the amount of funds not earmarked for specific activities available in the Fund at any given time, and the minimum reserve of 10 per cent should never be used except with express approval of the Expanded Bureau. These limits shall not apply to earmarked contributions.

Transparency and accountability

The secretariat will submit periodical reports on its decisions related to the projects considered, whether approved or not, to the Expanded Bureau for its consideration and review. The reports shall contain all relevant factual and financial information (accounting). A consolidated report will be submitted to the meetings of the Conference of the Parties.

Possible recourse action

The policy of the secretariat shall be to take recourse action, whenever appropriate against any liable person, whenever appropriate, and the Executive Secretary should in each case consider whether it would be possible to recover any amounts paid from the Enlarged Technical Cooperation Trust Fund for compensation. The decision whether or not to take such action should be made on a case by case basis, in the light of the prospect of success and the provisions of the relevant national law. The Executive Secretary should in each case cooperate with the Party which requested assistance in order to recover the amounts paid by it for compensation for damage to and reinstatement of the environment.

Each Party, which has received financial assistance will be required to take appropriate actions to sue the liable company or persons for the recovery of the funds spent from the Fund, where this is possible under the relevant national law. Other Parties will be requested to offer any assistance, in accordance with the respective legal regime, necessary to overcome procedural barriers to suing in another jurisdiction.

If appropriate, the secretariat shall also take steps to recover monies paid for compensation if the claimant is subsequently successful in a private legal action with respect to the same incident and damage.

Cooperation with Private Sector/Insurance Industry

The entry into force of the Basel Protocol on Liability and Compensation will be a significant step in seeking any recourse. The secretariat shall seek cooperation with major international insurance companies in order to explore ways of recovery of amounts paid as well as the possibility of advance or interim payments by the insurance.

PART 3

DEVELOPMENT OF CAPACITY-BUILDING, TRANSFER OF TECHNOLOGY AND PUTTING IN PLACE MEASURES TO PREVENT ACCIDENTS AND DAMAGE TO THE ENVIRONMENT CAUSED BY THE TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTES AND OTHER WASTES AND THEIR DISPOSAL

I. WHO CAN APPLY FOR ASSISTANCE

Only Parties to the Basel Convention which are a developing country or country with an economy in transition can request assistance. The secretariat will use the lists produced by the OECD Development Assistance Committee's to determine whether a country is a developing country or a country with an economy in transition (Annex I - DAC List of Aid Recipients).

II. LEGAL FRAMEWORK

The Enlarged Technical Cooperation Trust Fund operates within the framework of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal as well as of the Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal.

According to paragraph 4 of decision V/32, the secretariat may, upon request, use funds of the Enlarged Technical Cooperation Trust Fund to assist a Party to the Convention which is a developing country or a country with economy in transition in developing its capacity-building and transfer of technology and in putting in place measures to prevent accidents and damage to the environment caused by the transboundary movement of hazardous wastes and other wastes and their disposal.

Project Areas

The secretariat can support various projects aimed at developing capacity-building and transfer of technology and in putting in place measures to prevent accidents and damage to the environment caused by the transboundary movement of hazardous wastes and other wastes and their disposal.

Hence, technical cooperation under these Guidelines aims both at measures of risk reduction to prevent accidents, as well as emergency preparedness to prevent damage, once an incident has occurred.

Measures to Prevent Accidents and Damage to the Environment

(a) Safety, Risk Reduction and Accident Prevention

This project area includes projects which primarily aim at enhancing safety and reducing the risks of accidents during the transboundary movement of hazardous wastes and other wastes and their disposal. Proposed activities could relate to measures preventing accidents during transport, storage and disposal of hazardous wastes or other wastes subject to a transboundary movement. It also comprises measures to enhance compliance with international rules and standards in the field of packaging, labelling and transport, as well as implementation of internationally recognized practices. If appropriate, funding could also be provided for administration/ coordination activities such as seed money for proposal development and identification of potential partners.

(b) Emergency Response and Contingency Planning

This area comprises projects aiming at enhancing effectiveness of emergency response, including preventive measures, at the national, regional or local level. For example, it includes projects aiming at developing and implementing emergency or contingency plans by authorities in cooperation with the private sector. Such projects should take into account the related work of all international organizations involved. If appropriate,

funding could also be provided for administrative/coordination activities such as seed money for proposal development and identification of potential partners.

III. SUBMITTING PROPOSALS

Regional Centres for Training and Technology Transfer

The Basel Convention Regional Centre in the region could assist, upon request, in the development and submission of proposals. Parties are encouraged to cooperate with the respective Regional Centre throughout the whole project cycle, including project design, implementation, monitoring and evaluation.

Role of the secretariat of the Basel Convention

The secretariat of the Basel Convention may advise and assist, if requested, on the preparation and submission of proposals for technical cooperation for the prevention of accidents and damage.

Proposal format

Requests should be presented as UNEP project proposals. Project implementation, monitoring and evaluation shall be carried out according to existing rules and practices of UNEP, or as otherwise decided by the Conference of the Parties.

To whom should the proposal be addressed?

Proposals should be addressed to the Executive Secretary of the secretariat of the Basel Convention:

UNEP - SBC
15, chemin des Anémones
1219 Chatelaine/Geneva
Tel: +41 22 917 82 18
Fax: +41 22 797 34 54
E-Mail: sbc@unep.ch

IV. DECISION-MAKING PROCEDURE

Selection of Projects

On the basis of the present Guidelines, it is the sole responsibility of the Executive Secretary to decide which proposals should be given priority.

The selection of the projects is discretionary and subject to the availability of resources and shall be made by the Executive Secretary in consultation with the Expanded Bureau, using a quick procedure. In case contributions to the Technical Cooperation Trust Fund are earmarked with conditions, the Executive Secretary will consult with the contributors.

Risk Assessment

In order to assist in determining which requests will be given priority, a risk assessment should be included in the proposal, including on the likely impact and severity of any incident in a particular area. The secretariat could, if necessary, proceed with its own risk assessment. Factors to be considered should include, e.g.:

- Frequency of transport or disposal;
- Hazard of the wastes;
- Type of hazard;

- The dispersibility of the hazardous wastes involved;
 - Whether the area in which the accident might happen is deserving of special consideration (e.g. World Heritage Site, Ramsar wetland site or catchment, risk to livelihood of communities, etc.);
 - What technical capacity would be needed in a given place to prevent accidents and damage;
 - What technology would need to be transferred to a given place to prevent accidents and damage.

By carrying out the assessment, the secretariat could judge the likely impact and severity of any incident in a particular area.

V. FINANCIAL RULES

Earmarking of contributions

Where contributions made to the Technical Cooperation Trust Fund are earmarked for developing capacity-building and transfer of technology and putting in place measures to prevent accidents and damage to the environment caused by the transboundary movement of hazardous wastes and other wastes and their disposal they shall be used accordingly.

Such contributions to the Technical Cooperation Trust Fund can be earmarked in general or can be earmarked for specific activities. Whenever contributions are earmarked for specific activities, they will be used accordingly.

If a request is made, contributions earmarked for specific activities would be used first, followed by contributions which have not been specifically earmarked.

Relevant rules

The contribution to and the attribution of expenditures from the Technical Cooperation Trust Fund are subject to the financial regulations of the United Nations Environment Programme. The operations for the third part of these Guidelines are governed by the Terms of Reference for the Administration of the Trust Fund for the Basel Convention, as laid down in Annex II to decision I/7 of the first meeting of the Conference of the Parties to the Basel Convention.

Payments

The attribution of payments from the Technical Cooperation Trust Fund is subject to the availability of resources. The Executive Secretary shall decide on which requests should given priority based on the present criteria and Guidelines, and in consultation with relevant donors.

Without approval of the Expanded Bureau, with respect to each request, the Executive Secretary should not use more than 30 per cent of the amount of funds contributed for the purpose of this third part of the Guidelines that are not earmarked for specific activities, and available in the Fund. Also, the minimum reserve of 10 per cent should never be used, except with express approval of the Expanded Bureau.

Transparency and accountability

The secretariat will submit periodical reports on its decisions related to the projects considered, whether approved or not, to the Expanded Bureau for its review. The reports shall contain all factual and financial information (accounting) required to give a clear picture of the projects considered. A consolidated report will be submitted to the meetings of the Conference of the Parties.

Appendix

Texts containing Definitions
taken from the Basel Convention on the Control of
Transboundary Movements of Hazardous Wastes and Their Disposal

and

The Protocol on Liability and Compensation for Damage Resulting from
Transboundary Movements of Hazardous Wastes and Their Disposal

Text of the Basel Convention

Article 2

Definitions

For the purposes of this Convention:

1. "Wastes" are substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law;
2. "Management" means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;
3. "Transboundary movement" means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement;
4. "Disposal" means any operations specified in Annex IV to this Convention;
5. "Approved site or facility" means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility are located;
6. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6;
7. "Focal point" means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 16;
8. "Environmentally sound management of hazardous wastes or other wastes" means taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes;
9. "Area under the national jurisdiction of a State" means any land, marine area or air space within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;
10. "State of export" means a Party from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;

11. "State of import" means a Party to which a transboundary movement of hazardous wastes or other wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;
12. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;
13. "States concerned" means Parties which are States of export or import, or transit States, whether or not Parties;
14. "Person" means any natural or legal person;
15. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;
16. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;
17. "Carrier" means any person who carries out the transport of hazardous wastes or other wastes;
18. "Generator" means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;
19. "Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;
20. "Political and/or economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;
21. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

**Protocol on Liability and Compensation for Damage Resulting from
Transboundary Movements of Hazardous Wastes and Their Disposal**

Article 2

Definitions

1. The definitions of terms contained in the Convention apply to the Protocol, unless expressly provided otherwise in the Protocol.
2. For the purposes of the Protocol:
 - (a) "The Convention" means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - (b) "Hazardous wastes and other wastes" means hazardous wastes and other wastes within the meaning of Article 1 of the Convention;
 - (c) "Damage" means:
 - (i) Loss of life or personal injury;

- (ii) Loss of or damage to property other than property held by the person liable in accordance with the present Protocol;
 - (iii) Loss of income directly deriving from an economic interest in any use of the environment, incurred as a result of impairment of the environment, taking into account savings and costs;
 - (iv) The costs of measures of reinstatement of the impaired environment, limited to the costs of measures actually taken or to be undertaken; and
 - (v) The costs of preventive measures, including any loss or damage caused by such measures, to the extent that the damage arises out of or results from hazardous properties of the wastes involved in the transboundary movement and disposal of hazardous wastes and other wastes subject to the Convention.
- (d) "Measures of reinstatement" means any reasonable measures aiming to assess, reinstate or restore damaged or destroyed components of the environment. Domestic law may indicate who will be entitled to take such measures;
- (e) "Preventive measures" means any reasonable measures taken by any person in response to an incident, to prevent, minimize, or mitigate loss or damage, or to effect environmental clean-up;
- (f) "Contracting Party" means a Party to the Protocol;
- (g) "Protocol" means the present Protocol;
- (h) "Incident" means any occurrence, or series of occurrences having the same origin that causes damage or creates a grave and imminent threat of causing damage;
- (i) "Regional economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by the Protocol and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;
- (j) "Unit of account" means the Special Drawing Right as defined by the International Monetary Fund.

VI/15. Basel Protocol on Liability and Compensation

The Conference of the Parties,

Recalling its decision V/29, by which it adopted the Basel Protocol on Liability and Compensation for Damage resulting from the Transboundary Movements of Hazardous Wastes and their Disposal, and its decision V/31 on the relationship of the Protocol with the Basel Convention,

I. Ratification, acceptance or approval of instruments of accession

1. Calls on Parties to the Basel Convention to expedite the process of ratification, acceptance or approval of or accession to the Basel Protocol, to enable the Protocol to enter into force at the earliest opportunity, with a view to allowing the first meeting of the Parties to the Basel Protocol to be convened in conjunction with the seventh ordinary meeting of the Conference of the Parties to the Basel Convention;
2. Further calls on States that are not Parties to the Basel Convention to ratify, accept, approve or accede to it and to the Protocol;
3. Invites Parties to provide to the secretariat by 1 July 2003 their answers, views and comments to the questionnaire contained in appendix I to the present decision;
4. Requests the secretariat to prepare a summary and a compilation of the submissions received and present them to the Open-ended Working Group for consideration;

II. Facilitation of ratification and implementation of the Basel Protocol

5. Approves the work plan for the facilitation of ratification and implementation of the Basel Protocol prepared by the secretariat and contained in appendix II to the present decision;
6. Requests the Open-ended Working Group to undertake, with the support of the secretariat, the preparations necessary for the first meeting of the Parties of the Basel Protocol.

Appendix I

QUESTIONNAIRE FOR THE PARTIES ON THE RATIFICATION OF AND ACCESSION TO THE PROTOCOL ON LIABILITY AND COMPENSATION FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

1. Please select from the following the most appropriate description of the current position of your Government:
 - (a) No steps have been taken towards ratification/accession. If so, in general terms, could you elaborate on why no action has been taken.
 - (b) No formal steps have been taken towards ratification/accession but the Protocol has been examined by respective national authorities in order to determine what actions may be needed to initiate ratification/accession. In general terms, can any preliminary outcomes be shared with other Parties to the Convention?
 - (c) The Protocol has been examined by respective national authorities and recommended for ratification/accession.

(d) The Protocol has been examined by respective national authorities and not recommended for ratification/accession. If possible and in general terms, please specify the reasons why it was not recommended for ratification/accession.

2. What difficulties/obstacles have been encountered in the process of ratification/accession?
3. Please provide any other observations.

Note: The questions are voluntary and Parties have the full freedom to respond to all, to some or to none of the questions.

Appendix II

WORK PLAN FOR THE FACILITATION OF RATIFICATION/ACCESSION AND IMPLEMENTATION OF THE BASEL PROTOCOL

I. Open-ended Working Group

Analyse, based on a compilation of submissions received from Parties, the obstacles and difficulties faced by the Parties in the process of ratification/accession to the Basel Protocol.

II. Secretariat

1. Organization with voluntary financial contributions, in cooperation with the Basel Convention Regional Centres, of five workshops (one workshop for each United Nations regional group) for addressing various aspects and obstacles to the process of ratification of or accession to the Basel Protocol.
2. Provision of legal and technical assistance, upon request and within available resources, to Parties in their process of ratification/accession.
3. Provision of legal and technical assistance to countries not Party to the Basel Convention, in order to facilitate accession to or approval or acceptance of both the Basel Convention and the Basel Protocol.
4. Preparation, in consultation with Parties and other stakeholders, of a detailed instruction manual for the implementation of the Basel Protocol.

VI/16. Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes

The Conference of the Parties,

Recalling its decision V/23 on the prevention and monitoring of illegal traffic in hazardous wastes and other wastes,

Welcoming the efforts made by the secretariat and the assistance offered by Australia and Canada in the preparation of the Guidance Elements for the Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes,

1. Approves the Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes contained in the appendix to the present decision;
2. Requests the secretariat, in collaboration with the Basel Convention Regional Centres, to assist Parties, particularly developing countries, in implementing the Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes at the national level, including the development of national contingency plans.

Appendix**Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes**

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GUIDANCE ELEMENTS FOR DETECTION, PREVENTION AND CONTROL OF ILLEGAL TRAFFIC IN HAZARDOUS WASTES

INTRODUCTION

Purpose of these guidance elements

1. Decision IV/12 recognised that the issue of illegal traffic remained a high priority with particular emphasis on cases involving alleged illegal traffic. The Decision requested the Technical Working Group and the Consultative Sub-group of Legal and Technical Experts, at their joint meeting, to develop recommended procedures to assist Parties in preventing, identifying and managing illegal traffic.
2. Decision V/23 extended the mandate of the Technical Working Group and requested the Legal Working Group to give further consideration to the issue of illegal traffic in hazardous wastes and other wastes, to develop recommended procedures to address alleged cases of illegal traffic and to assist Parties in preventing, identifying, monitoring and managing illegal traffic. This work should take into account the draft guidance elements for the detection, prevention and control of illegal traffic in hazardous wastes, approved at a joint meeting in Pretoria in November 1998.
3. The purpose of the document is to be a practical guide to assist enforcement of national law implementing the Basel Convention.
4. Its intended audience includes Party Governments, ministries, federal and state authorities and agencies, law enforcement authorities and competent authorities.
5. Various readers will be interested in paragraphs dealing with matters related to their particular sphere of concern.
6. Representatives of Governments and ministries will be mainly interested in those paragraphs providing guidance for developing their national legislation or institution arrangements (e.g. paragraphs 13 to 16; 38 to 45; 49-50 and Appendix 1). Police officers will be more interested in reading paragraphs which could be useful to their particular mandate and activity (e.g. paragraphs 46 to 48; 52 to 56; 84 to 90). Customs officers will find it useful to read those paragraphs dealing with techniques of inspection of consignments on how to determine whether the material is or is not a hazardous waste.
7. These guidance elements are intended to set out the recommended procedures requested in Decisions IV/12 and V/23.

Objectives

8. These guidelines focus on enforcement at the domestic level. By reference to the Convention documents and other resources they also provide guidance for Parties who have yet to develop implementing legislation.

Background

9. Ensuring enforcement of law implementing Multilateral Environmental Agreements (MEAs) is a widely recognised problem because enforcing national legislation and procedures across international boundaries is difficult and complex. Nevertheless, there is much useful experience of enforcement of law implementing MEAs amongst countries.
10. By decision SS VII/4, the Seventh Special Session of the Governing Council/Global Ministerial Environment Forum of UNEP, adopted the Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements.

11. The process of adoption of these Guidelines has highlighted the need for Parties to have the flexibility to design domestic implementation measures that are suited to their national circumstances and attributes.

Developing a national capacity to identify and manage illegal traffic

12. In order to implement the Basel Convention effectively, it is important to develop and/or maintain national capacity for identifying, controlling and managing illegal traffic. The secretariat of the Basel Convention will continue to support measures designed to enhance national and local capacity to comply with the agreements. These include technical and financial assistance, training and technology transfer. The private sector should also be encouraged to take a role.

13. As there are a number of complex legal and technical aspects to effective management of illegal traffic, a multifaceted approach to combating illegal traffic will be required.

National legislation

14. A key element in preventing and managing illegal traffic is an effective national regulatory environment. States should develop and implement a participatory approach to determining domestic needs and to setting priorities to encourage a culture of compliance. States should also provide for effective participation by civil society, including industry and non-governmental organizations when developing legislation and strengthen domestic institutions, including the judiciary.

15. Building an effective legal and institutional framework for enforcement and awareness raising, taking into account interlinkages between obligations in various MEAs, should be considered by Parties.

16. The secretariat of the Basel Convention will continue to offer legal assistance to Parties that request it.

17. Those Parties in need of assistance for developing their national legislation, in addition to contacting the secretariat of the Basel Convention, could contact the UNEP Division for Policy Development and Law; UNEP regional offices; the Basel Convention Regional Centres; the secretariats of regional conventions (e.g. Bamako, Waigani); national representatives of UNDP, or they could use bilateral assistance from other parties, etc. It is also useful to consult three documents adopted by the Conference of the Parties to the Basel Convention: Model National Legislation; the Manual for the Implementation of the Basel Convention and the Instruction Manual.

Definitions

18. There are different interpretations for terms such as "compliance", "enforcement" and "environmental crime" in international practice and law. These definitions are currently the subject of considerable debate in the international area.

19. The Basel Convention contains a number of definitions that are relevant to managing illegal traffic. They include, for example, "wastes", "transboundary movement", "disposal", "environmentally sound management", "area under the national jurisdiction of a State", "state of import", "state of export", "state of transit", "person", "exporter", "importer", "carrier" and "generator" and "disposer". These all have a bearing on how intelligence is gathered and how illegal traffic is detected and monitored. Moreover, different Parties implement their Basel obligations under different forms of national legislation, which all carry their own definitions. These may be broader than those laid out by the Basel Convention.

20. Hazardous wastes are defined, in Article 1.1(a) of the Basel Convention, as wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics listed in Annex III. Annex I of the Basel Convention lists the categories of wastes to be controlled. Annexes VIII and IX of the Basel Convention are an elaboration and clarification of the provisions of Article 1.1(a) and provide useful clarification of the scope of Annex I.

21. Annex III lists the hazardous characteristics of Basel Convention wastes. The seventh session of the Technical Working Group noted that the United Nations Committee of Experts on the Transport of Dangerous Goods *Recommendations on the Transport of Dangerous Goods, English revised edition 1993* had defined test procedures that elaborated the interpretation of H1, H3, H4.1, H4.2, H4.3, H5.1, H5.2, H6.1 and H8. However, it also noted that these were relevant only to the transport of the wastes, not their disposal. Annex III notes that many countries have developed national tests which can be applied to materials listed in Annex I, in order to decide if these materials exhibit any of the characteristics listed in Annex III. Decision V/24 requested the Technical Working Group to finalise its work on hazard characteristics H6.2, H11, H12 and H13, and to initiate work on H10.

22. Hazardous wastes are also defined, in Article 1.1(b) of the Basel Convention, as wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit. Article 3 states that each Party shall, within six months of becoming a Party, inform the secretariat of the wastes that, under its national legislation, are covered under Article 1.1(b). Parties shall also inform the secretariat of any significant changes to the information provided. The secretariat shall inform all Parties of the information it has received. Parties shall be responsible for making this information available to their exporters.

23. Interpretation of these definitions is complex and cases of illegal traffic may stem from differing interpretations of hazardous waste definitions. This may be further complicated by problems in translation from one language to another.

Summary of the provisions of the Basel Convention concerning Illegal Traffic and of the Decisions of the Conference of the Parties

24. Illegal traffic is the subject of Article 9 of the Basel Convention. Article 9.1 defines illegal traffic as any transboundary movement of hazardous wastes or other wastes:

- (a) without notification pursuant to the provisions of this Convention to all States concerned; or
- (b) without the consent pursuant to the provisions of this Convention of a State concerned; or
- (c) with consent obtained from States concerned through falsification, misrepresentation or fraud;

or

- (d) that does not conform in a material way with the documents; or

(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law.

25. Article 9.2 specifies what must be done if a transboundary movement is deemed to be illegal traffic as the result of conduct on the part of the exporter or generator. The State of export shall ensure that the wastes in question are:

(a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,

- (b) are otherwise disposed of in accordance with the provisions of this Convention,

within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time States concerned may agree to. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

26. Article 9.3 specifies what must be done if a transboundary movement is deemed to be illegal traffic as the result of conduct on the part of the importer or disposer. The State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary,

by itself. This shall be done within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree on. To this end, the Parties concerned shall cooperate, as necessary, in the disposal of the wastes in an environmentally sound manner.

27. Article 9.4 specifies what must be done if responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer. The Parties concerned or other Parties, as appropriate, shall cooperate to ensure that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.

28. Article 9.5 requires each Party to introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall cooperate with a view to achieving the objectives under this Article.

29. The prevention and control of illegal traffic in hazardous wastes and other waste has been an important issue for the Basel Convention ever since it entered into force in 1992.

30. All five meetings of the Conference of the Parties debated the issue of illegal traffic and adopted resolutions on this issue.

31. The main provisions of the 5 decisions adopted by the Conferences of the Parties on the issue of illegal traffic are:

- urge the Parties to the Basel Convention who have not yet done so, to promulgate laws that consider illegal traffic in hazardous wastes a criminal act;
- request the Parties to incorporate in their legal system, appropriate sanctions or penalties for the illegal traffic in hazardous wastes and other wastes, to take appropriate measures to ensure the effective implementation of this legislation and inform the secretariat of the Basel Convention accordingly;
- encourage Parties to build up these enforcement capacities, inter alia, through cooperation with international bodies such as Interpol, WCO and the International Network for Environmental Complaints, in the development of training and networking for enforcement personnel involved in the presentation of illegal traffic;
- request all governments to promote the interministerial coordination within the respective government to prevent and penalize illegal traffic in hazardous wastes and other wastes;
- note that the classification and characterization of wastes represent an essential tool to assist in the identification and prevention of illegal traffic;
- invite Parties to promote consistency when addressing the issue of illegal traffic in the relevant United Nations bodies, while avoiding duplication;
- invite Parties to use approved forms in their reports related to confirmed cases of illegal traffic to the secretariat;
- appeal to Parties to bring any confirmed case or, after consultation and agreement with the other Parties involved, alleged case of illegal traffic to the attention of the secretariat of the Basel Convention, with all the necessary information to enable the secretariat to take appropriate action, including support for any efforts by the Parties to solve the issues, such as the provision of appropriate expertise;

- request the Parties and the secretariat to take the necessary preventive measures, in particular through the dissemination of information on the Basel Convention and through working closely with the World Customs Organization, to include, as a matter of priority, the wastes under the scope of the Convention in the Harmonized System;
- request the Parties, with the assistance of the secretariat, to organize training courses and develop training manuals, at national and regional levels, for customs officers and police forces, in cooperation with the World Customs Organization, the International Criminal Police Organization and other appropriate bodies, including the United Nations regional commissions and secretariats of regional agreements dealing with similar issues.

32. The secretariat of the Basel Convention was requested by the decisions adopted by five meetings of the Conference of the Parties to:

- work closely with the United Nations Committee of Experts on the Transport of Dangerous Goods to harmonize classification and labelling systems for hazardous wastes and dangerous goods;
- continue its cooperation with various regional commissions and secretariats of regional conventions and protocols, non-governmental organizations, the industrial sector and the private sector, as well as the World Customs Organization and the International Criminal Police Organization, in order to achieve better control and monitoring of cases or alleged cases of illegal traffic in hazardous wastes and other wastes;
- assist Parties in capacity building, including the development of an appropriate infrastructure, with a view to preventing and penalizing cases of illegal traffic in hazardous wastes and other wastes and to ensuring the involvement of national authorities and focal points for the Basel Convention in the prevention and monitoring of illegal traffic in hazardous wastes and other wastes.

33. Appendix 1 contains all the provisions of the Basel Convention related to illegal traffic and all the provisions of the 5 decisions adopted by the Conference of the Parties of the Basel Convention in relation to the issue of illegal traffic.

34. The issue of illegal traffic was considered one of the priorities for the next 10 years by the Ministerial Declaration adopted by the fifth meeting of the Conference of the Parties to the Basel Convention.

35. The five parts of the guidance elements for the detection, prevention and control of illegal traffic in hazardous waste should be considered in their entirety including all appendices, each part bringing specific suggestions for the same general goal.

36. Appendix 2 contains case studies/examples of successful actions of Parties.

37. Decision V/23 requested the Legal Working Group and Technical Working Group to give further consideration to the issue of illegal traffic in hazardous wastes and other wastes, to develop recommended procedures to address alleged cases of illegal traffic and to assist Parties in preventing, identifying, monitoring and managing illegal traffic. This work should take into account the draft guidance elements for the detection, prevention and control of illegal traffic in hazardous wastes, approved in Pretoria in November 1998.

38. These Draft Guidance Elements were prepared by the secretariat using suggestions from Parties.

PART 1. NATIONAL CAPACITY BUILDING AND INTERNATIONAL COOPERATION

National Capacity Building

1a. Competent Authority/Focal Point

39. Article 5 of the Basel Convention requires Parties to designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit. Parties must inform the secretariat, within one month of the date of decision, of any changes in these arrangements.

40. National competent authorities have the main obligation to prevent, manage and punish illegal traffic of hazardous wastes. The secretariat should continue to organize training activities for competent authorities.

1b. Administrative procedures

41. Effective and transparent administrative procedures are another key agent in preventing and managing illegal cases of hazardous wastes.

1c. National inventories

42. National authorities should adopt a common approach for compiling statistics (including from the export/importing companies) on the legal and illegal transboundary movements of hazardous wastes. Such an approach should incorporate both the Basel Convention and the Harmonised System of classification.

43. National inventories should be maintained on a yearly basis and should be used as a policy tool against illegal traffic, and to implement pragmatic and focused preventive and coercive measures against illegal traffic.

1d. Promotion of compliance

44. Competent authorities should develop compliance and enforcement strategies covering the four main components of compliance. These are education and information dissemination, permitting, detecting offences and investigations and enforcement action.

a. Education and information dissemination

45. This component focuses on behaviour modification and includes dissemination of information to shippers and exporters, responding to inquiries about the scope of the Convention and ensuring easy access for industry to guidance documents and promotional material. Another important thrust concerns proactive activities which seek to find solutions for waste disposal in country or to improve industry practice. These activities may include regular advertisements, production of guidance documents for dissemination to industry, initiating and participating in workshops, workgroups and discussions to assist where possible in establishing appropriate domestic solutions to waste disposal and encouraging companies to implement waste minimisation practices, cleaner production techniques and best practice technologies and methodologies.

b. Permitting

46. This component is about ensuring that any system of permits has in place checks and balances. It aims to ensure clarity of requirements, crossing-checking of information, minimum standard requirements for public notices and tailoring of permit conditions to particular circumstances. Activities may include revision of forms to make requirements clear, ensuring the security of permit numbers, establishing procedures to cross check actual movements, as reported in Customs data, against those specified in permits. The permits should clearly specify the obligations of the exporters.

c. Detecting offences

47. This component involves ad hoc inspections of shipments, taking of samples by inspectors, targeting particular types of export/import movements for compliance checks, checking of Customs data and provision of intelligence to Customs, targeting high-risk situations and initiating specific enforcement activities. Activities include ensuring a regular supply of information from Customs and establishing protocols for reviewing Customs data on a regular basis and responding to data that needs further action, targeting high-risk shipments for inspection and developing training courses for inspectors and Customs personnel.

d. Investigations and enforcement actions

48. This component consists of referral of possible breaches of the laws implementing the Convention to law-enforcement agencies. Activities may include developing standard operating procedures to assist in conducting investigation and developing comprehensive investigative procedures which do not risk compromising an investigation.

49. As enforcement of law becomes increasingly diverse and complex more demands are being made of all sectors of the community to ensure compliance with the law. This can be achieved proactively through education or reactively through investigation and subsequently, possible prosecution. Non-governmental organizations and community groups can make important contributions to enforcement and competent authorities should ensure that they can work effectively with them.

1e. Training of enforcement personnel

50. Training of personnel involved in preventing, identifying and managing illegal traffic is central to effective control. Where there is a breach of a law an investigation is often necessary. Given the complexities inherent in such an investigation it is essential that the investigator be equipped with appropriate competencies and knowledge in order to fulfil the role effectively and efficiently. A basic training manual jointly prepared by the SBC, Interpol and WCO will be attached to this Guidance as Appendix 5.

1f. Technical expertise/facilities

51. Lack of technical expertise/facilities is an obstacle to effective prevention, monitoring and management of illegal traffic in hazardous wastes. The secretariat shall develop Guidelines on the development of incident, accident and contingency preparedness plan for hazardous wastes. Regional and sub-regional mechanism for Dump Watch alert system are encourage.

52. Where use of a national laboratory or facility is not feasible a regional solution should be sought. Regional training centres could play a key role in addressing this issue. Advice may be sought from the secretariat of the Basel Convention, which may refer inquiries to relevant experts. The International Network on Compliance and Enforcement (INECE) can also help.

1g. Enforcement/intelligence capacity

53. When developing strategies for preventing and managing illegal traffic in hazardous wastes, Parties could use any existing draft guidelines for compliance and enforcement. In particular, recommendations on transparency of approach, strengthening treaty reporting requirements, site monitoring, compliance incentives, building national capacity and education and awareness raising would provide a sound basis for such work.

54. Data gathering and information analysis is also a very important tool. In particular, close monitoring of hazardous waste import and export statistics, should be based on waste trade patterns and the modus operandi of confirmed illegal shipments to form an overall picture. For example, much of the data on illegal traffic in hazardous wastes is related to contaminated waste (i.e. wastes mixed with hazardous substances) or

non-recyclable wastes. Past experience indicates that illegally imported or exported waste is often declared as non-hazardous scrap (e.g. mixed metal scrap and plastic scrap) and tends to be exported by small trading firms or agents with no waste recycling facilities, rather than original waste generators. Prior to the arrival of the waste at its destination, the waste is likely to have changed hands several times. Consequently, illegal traffic is generally suspected where the origin or exporter of a shipment is difficult to determine.

55. Some countries have been liaising with their major waste trade partners to share operational experience and refine the criteria for selecting shipments for inspection. Cooperation between competent authorities is also useful in determining the legal status of a shipment.

56. Heavy cargo traffic at many international ports and the time taken to conduct random screening and inspection, mean that sometimes illegal traffic is not detected prior to departure. Where an illegal shipment is suspected, competent authorities can exchange information on the name of the vessel, the contained number(s) and the date of departure so that the waste can be intercepted on its arrival at its destination. This type of cooperation can benefit both parties, as it allows time for shipping documents to be scrutinised and for inspections to be organized. It is also relevant to all modes of transport including sea, road, rail, river and air.

57. Competent authorities should use a risk management approach to setting compliance and enforcement priorities, to ensure that their resources are targeted effectively. A typical approach would involve five steps, namely:

1. Establish the context
2. Identify the risks
3. Analyse the risks
4. Assess the risks and set priorities
5. Treat the risks
6. Following-up the process

58. Guidelines for such a risk management approach are provided in Appendix 4.

1h. Effective licensing and monitoring of facilities

59. The Basel Convention provides that each Party shall prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other waste unless such persons are authorised or allowed to perform such types of operation. In order to meet this obligation all parties must have effective licensing and monitoring systems in place.

1i. Effective inter-agency cooperation etc.

60. National environmental agencies generally work with local, national and international authorities to enforce controls on transboundary movements of hazardous waste. Customs agencies and competent authorities are key partners in detecting, intercepting and inspecting suspect hazardous waste shipments at critical control points.

61. International and national environmental agencies should collaborate with competent authorities, local police, transport companies, recycling industries, NGOs, etc. in detecting, investigating and managing illegal waste traffic. A high level of cooperation is crucial in managing and monitoring the waste if it is to be safely and quickly returned to its place of origin.

62. Illegal hazardous waste shipments can often be detected by reviewing information contained in shipping manifests. Information received from partner agencies is also useful in building profiles for targeting illegal waste traders. For example, companies previously involved in illegal or problematic shipments are targeted for inspection as are shipments with profiles describe above. Often such shipments are identified in cooperation with overseas control authorities, and provide an effective additional check to random inspections.

International Cooperation

a. Levels of international cooperation

63. International cooperation for detection, prevention and control of illegal traffic in hazardous wastes can occur on the following levels:

- interaction of competent authorities
- use of international intelligence networks by enforcement/intelligence officers
- role of/cooperation with other international organizations such as the World Customs Organization (WCO), Interpol, etc.

64. The interaction between the competent authorities of the country of export, country of import and countries of transit is necessary and could help in detecting, preventing and controlling the illegal traffic of hazardous wastes. Formal and informal communication could be used, including e-mail messages which facilitate quick interaction.

65. The World Customs Organization initiated in July 2000 a network called Customs Enforcement Network (CEN). The aim of this network is to link all customs administrations for enforcement purposes and provide them with a common database and reference system. Any national customs administration should be connected to CEN through its National Contact Point. By using the CEN network, national customs administration can have immediate and direct access to the database of all previous cases of illegal traffic of hazardous wastes.

66. Another source of intelligence and useful information about past cases of illegal traffic of hazardous wastes and modus operandi could be obtained from Interpol through National Central Bureaus.

67. Such profiles will need to be continually updated if regulatory authorities are to keep abreast of developments in illegal traffic trends.

b. Role of the secretariat of the Basel Convention

68. The secretariat of the Basel Convention is rapidly improving its ability to facilitate international cooperation in the prevention, identification and management of illegal traffic in hazardous waste. In particular, the secretariat has identified a large number of relevant international organizations that could cooperate in joint activities aimed at better controlling and monitoring alleged or confirmed cases of illegal traffic. These include Interpol, World Customs Organization, UN Commission on Crime Prevention and Criminal Justice, UNEP, UNDP, IAEA/World Atom, the Secretariat of Climate Change, CITES, Ozone Secretariat, the UN High Commissioner for Human Rights, the Food and Agriculture Organization of the United Nations (FAO), the European Commission, the International Maritime Organization (IMO), the Organization for Economic Cooperation and Development (OECD), the Organization for the Prohibition of Chemical Weapons (OPCW).

69. The secretariat intends to develop Memoranda of Understanding or similar agreements with most, if not all, these organizations. These agreements will outline each party's area of responsibility and modalities for cooperation.

70. Future cooperative efforts will be focused on achieving practical and concrete results in the following priority areas:

- (i) identifying opportunities for combating illegal traffic;
- (ii) information exchange;
- (iii) improving data collection and analysis;

- (iv) updating criminal profiling;
- (v) improving methodologies for compliance and enforcement;
- (vi) identifying and resolving deficiencies in existing national legislation;
- (vii) training in compliance and enforcement;
- (viii) awareness raising and information dissemination.

PART 2. PREVENTION

71. It is very important for Parties prohibiting the import of various wastes to ensure that this information is transmitted to other Parties via the secretariat as required by Article 4.1(a) and Article 13 of the Convention.
72. Article 3.1 of the Basel Convention requires each Party, within six months of becoming a Party to the Convention, to inform the secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.
73. Article 3.4 requires Parties to be responsible for making the information transmitted to them by the secretariat available to their exporters.
74. In cases where national legislation is defective or where there is information or technical obstacles to compliance, there are a range of measures that might enhance the capacity of Parties to comply, such as legal and technical assistance which could be requested through the Basel secretariat.
75. Prevention can encompass detection, investigation, management of the intercepted cargo and legal action.

2a. Problems relating to transit

76. The Basel Convention defines "State of transit" as any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place. The definition of "transboundary movement" includes movement through an area under the national jurisdiction of another State, including any land, marine area or air space within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to protection of human health and the environment. Article 4.12 states that nothing in the Convention shall affect in any way the sovereignty of States over their territorial sea, and the jurisdiction which States have in their exclusive economic zones, and the exercise by ships and aircraft of all States of navigational rights and freedoms.
77. The Convention allows a State to require notification and consent for transits of hazardous wastes which are planned to cross its territorial sea or exclusive economic zone. In practice, however, most Parties are understood to require notification and consent only when a ship enters a port under their jurisdiction. This is because during a visit to a port there is always a risk that wastes may be unloaded, even if this was not planned, and then abandoned. However, some Parties only require notification and consent if it is planned that the wastes be unloaded and then loaded again.
78. Because there is a risk associated with unloading of the wastes, some Parties require notification and consent if the ship enters a roadstead instead of a port. At international law a roadstead is an area of water which is normally used for the loading, unloading and anchoring of ships. The definition of a port would not include a roadstead: in referring to ports Article 11 of the UN Law of the Sea Convention (UNCLOS) does not expressly include roadsteads. Rather, the provision includes "permanent harbour works which form an integral part of the harbour system" but expressly excludes off-shore installations and artificial islands. Article 12 of UNCLOS provides for roadsteads to be considered part of the territorial sea and not part of internal waters.

79. It is recommended that Competent Authorities should follow the notification and consent procedure for all transboundary movements involving entry into a port or roadstead, unless they are aware that the wastes are not proposed to be unloaded and the particular State of transit does not require notification under those circumstances. It is recommended that Parties which require notification and consent for transits through their territorial sea or exclusive economic zone should advise other Parties, through the secretariat, of their requirements.

80. Similar principles apply to proposed transits through airspace and airports.

81. Written consent from a State of transit is required for each movement that passes through it. International canals and free ports present special problems where a central system of control should be instituted.

2b. Cooperation with Customs and other regulatory authorities

82. Cooperation with Customs and other regulatory authorities is central to preventing illegal traffic. Work currently being undertaken on the Harmonised System (HS) of the World Customs Organization will provide a much greater understanding of the extent of the illegal traffic problem and will allow greater scope for identifying and targeting problem areas. Customs authorities are key players in detecting and intercepting illegal traffic. However, the current Harmonised System Code does not allow for the identification of hazardous wastes and other wastes, making the task of customs authorities even more difficult in the task of identifying illegal traffic. For this reason, competent authorities, in cooperation with Customs, have begun to develop procedures for aligning Basel Convention wastes with categories in the Harmonised System. Only through close cooperation between customs authorities and national environmental agencies, will customs authorities be able to become effective agents in the battle against illegal traffic in hazardous wastes.

83. In particular, it would be useful to develop a table relating Annexes VIII and IX of the Convention to the Harmonised Customs Codes. This would assist Parties in identifying priority areas requiring review. These could then be brought to the attention of the World Customs Organization.

84. There is today wide agreement about the importance of strengthening linkages among MEAs that will allow greater compliance verification and problem identification. Cooperation between secretariats, government agencies and non-governmental experts in on-site monitoring as a measure for increasing transparency is developing.

2c. Identification of waste streams at source

85. Export countries should develop strategies for identifying hazardous waste streams at the point of exit. This could be achieved by identifying regular hazardous waste exporters, maintaining tight administrative control at the notification stage, promoting enhanced cooperation and information exchange amongst relevant national authorities, and tightening legal provisions relating to the 'duty to reimport' under their national laws in accordance with Article 8 of the Basel Convention.

86. For some wastes, however, it may be best to identify waste streams at source. For example, hazardous electronic scrap is likely to be shipped under a general customs code such as "mixed metal scrap". It is very difficult to identify electronic scrap among the numerous entries for this code. However, companies that collect and dispose of electronic scrap will advertise their services, and it should be possible to check what each company is doing with the waste it collects.

2d. Packaging, labelling, sampling and analysis

87. The Basel Convention obliges each Party to ensure that all hazardous wastes and other wastes that are to be transported are packed, labelled and transported in conformity with generally accepted and recognised international rules and standards. Accepted international standards have been established under the UN Dangerous Goods Codes and ISO 14000 and all packaging, labelling and transportation procedures should conform to these standards.

88. Improper packaging and labelling may be indicative of illegal traffic, and any shipment that does not conform to the above standards should be investigated.

89. Sampling and analysis is dealt with in Appendix 3.

2e. Promoting awareness

90. Some cases of illegal traffic are due to lack of information and for this reason a key strategy for prevention will be international and national awareness raising campaigns. This might include activities such as training courses, seminars, advertising, information papers and guidance documents targeted at those involved in the import and export of hazardous waste. Ensuring clear and enforceable regulations is also an effective prevention measure.

91. For intentional cases, publicity of prosecuted illegal cases may be an effective deterrent if detection and enforcement measures are successful. Other options for prevention might be advertising, strengthening detection and enforcement measures, closing loopholes in legislation and raising penalties to a level that will act as an effective deterrent.

2f. Guidance documents by national authorities

92. Guidance documents targeted at importers and exporters are essential for preventing inadvertent breaches of legislation. In areas of uncertainty such as determining waste from non-waste, whether or not a waste is hazardous, and what constitutes environmentally sound management, guidance documents can be useful in clarifying the Convention's rules. They also provide a transparent and consistent basis for determining how the Convention will be interpreted. For hazardous waste importers and exporters, such guidance provides clarification on issues that could potentially lead to illegal activity and leads to greater certainty in planning and administration.

93. Guidance documents are also useful for providing a simple explanation of the rules that need to be followed. Often legislation is difficult to interpret and contains ambiguities that could lead to potential inadvertent breaches. Providing simple explanation and clarification of legislative instruments promotes an environment of transparency, cooperation, awareness and trust and can therefore be a useful tool in preventing illegal traffic.

2g. Inspection: overt and covert

94. In preventing illegal activity, it is important to know how and why breaches occur. It is also useful to know whether there are patterns or linkages of non-compliance that may point to potential or further illegal activity and whether there are obstacles or loopholes that act as disincentives to compliance. Strategies to promote transparency, cooperation amongst parties, public awareness and opportunities for a wide range of stakeholders to contribute to identifying problems and possible solutions should be encouraged.

95. It is important and necessary that each Party shall designate one or more competent authorities to work together to address illegal traffic and share enforcement information through a confidential network.

96. Data gathering and analysis can take place at many stages, especially where the activity has been observed by intelligence gathering operations as potentially illegal. This may then trigger requests to customs authorities to investigate as the next paragraph suggests.

97. Typically, investigation of alleged illegal traffic is triggered by the detection of suspect material by customs officials or competent authorities in the country of import. Generally such shipments are not accompanied by the relevant documentation or the documentation provided does not correspond to description of the material being transported. Such cases tend to be intentional and are generally more difficult to resolve than unintentional breaches of the Convention involving companies that routinely comply with established regulations.

98. Intelligence about intentions of identified illegal traffic is crucial for preventing, monitoring and detecting illegal activities. Where unintentional breaches are detected, the reasons for non-compliance can be assessed and procedures refined or education programmes targeted to reduce the likelihood of a recurrence. Intentional breaches can point to loopholes in national legislation or procedures that may need amended or may point to wider organized criminal activity that may require further monitoring.

99. Once an illegal shipment is detected, further investigation is necessary to confirm who is responsible for the illegal activities and whether or not prosecution is likely to be successful. Collection of evidence is crucial for successful prosecution, and should be conducted strictly in accordance with established procedures.

100. Proper procedure for evidence collection and witness interviewing are vital if a successful prosecution is to take place under the relevant jurisdiction.

101. In some cases it would be more convenient to inspect a transboundary shipment when it arrives at the importer's facility rather than at the border crossing. In this case the inspectors may wish to follow up their inspection of transboundary shipment by also inspecting equipment and processes at the inspector's facility to assess if they are consistent with the recycling and/or disposal operation(s) indicated in their licences/permits. Non-tariff requirements could be established so that at the border the environmental inspectors could verify the documents related to hazardous wastes.

102. In other cases, taking into account intelligence information, the inspection could also be undertaken at an export facility.

103. In all circumstances, the inspection procedure will begin with collection of all documents related to the generation of hazardous wastes, related to plans of export/import, related to recycling activities, disposal facilities and any other documents which might be useful (record information about exporter, carrier, importer, etc.).

104. After the documents are gathered and checked, a visual inspection of the hazardous waste is necessary, including storage facilities. People undertaking inspections should always take appropriate precautions. For example, closed shoes with steel caps should normally be worn in cargo-handling areas. Care should be taken when opening containers in case cargoes have shifted in transit. Respiratory protection and gloves should be worn if there is a risk of exposure to hazardous dusts.

105. Last, but not least, sampling might be necessary, for determining precisely what are the characteristics of the hazardous wastes. Sampling should always be done in accordance with the guidance in Appendix 3. As with visual inspections, appropriate safety precautions must always be taken.

106. In all cases of inspection, if there are signs of violation, the inspectors should remember that the purpose of inspection is to collect evidence to determine if a violation of the law was made. Subsequently, if this is the case the appropriate procedures of investigation should be followed.

2h. Dealing with ambiguity

107. Ambiguities can be of a legal, technical and/or practical nature and important ones must be resolved before an illegal shipment can be confirmed.

108. Legal ambiguities stem from different interpretations about what is or is not covered by the Convention. These are further complicated by national definitions of hazardous wastes. Consequently, despite clarification and refinement of the Basel lists, a certain level of ambiguity will always remain. Ultimately Parties will need to resolve these matters through existing mechanisms established under the Convention, or through lengthy and costly legal proceedings in the Courts.

109. Technical ambiguities are related to determining the physical properties of a material. These relate to questions of whether a material is considered to be a waste or whether a waste is considered hazardous. Currently, these ambiguities are resolved by the Basel Convention Technical Working Group which considers applications for placement or removal from the Basel annexes. Open debate within this forum provides the opportunity for Parties to state their case and have their proposal examined by experts in a number of countries.

110. Ambiguities may also arise from disputes over sampling and analytical methods (see Appendix 3, Sampling and analysis).

111. Practical ambiguities relate to problems such as identifying a party or parties responsible for an illegal shipment, the ability of an aggrieved party to recover costs, differences in opinion about concepts such as temporary storage and determining the responsibility of concerned parties in meeting the Basel Convention obligations on the cooperative resolution of illegal traffic.

112. In establishing certainty, it is useful to consult Part 3 of these Guidelines, especially paragraphs 127 to 135.

2i. *International cooperation at all levels*

113. International cooperation amongst key players and at all levels is central to prevention and management of illegal traffic. These include national competent authorities, the secretariat of the Basel Convention, the secretariats of other environmental conventions, UNEP, Interpol, World Customs Organization, etc.

114. In addition, Parties should promote, as appropriate, strategies to bring their actions as well as actions of other relevant participants in the open for appropriate scrutiny by Parties, and as appropriate, other groups in the international system. The public should have access to information about the Convention, including reports on national compliance pursuant to Article 13 of the Basel Convention and opportunities to assist in monitoring compliance.

115. Parties should consider making provision for measures designed to enhance national and local capacity, to comply with the Basel Convention requirements. These include such measures as technical and financial assistance, training and supplying necessary equipment. The private sector should be encouraged to assist in enhancing the national capacity to comply. Economic or other incentives should be considered to facilitate effective implementation of the Basel Convention.

116. Cooperation amongst the secretariats of relevant international Conventions, non-government and government experts, business and industrial association, recycling industries, universities, technical institutes, research centres, NGOs and individuals should be initiated in order to prevent and reduce illegal traffic.

2j. *Insurance and bonds*

Insurance

117. Article 6(11) of the Basel Convention provides that any transboundary movement of hazardous wastes or other wastes shall be covered by an insurance policy, bond or other guarantee as may be required by the state of import or any state of transit, which is a Party. It does not stipulate the level of or type of insurance that is required.

118. There are many insurance options that competent authorities can consider when determining insurance scheme. For example, insured legal liability to third parties covers claims in respect of personal injury or damage to property. It can also cover the cost of removing, nullifying or cleaning up any contamination or pollution, which is caused by a "sudden and accidental" event (insurance policies commonly exclude liability caused by or arising out of contamination or pollution unless caused by a sudden, identifiable, unintended, unexpected and

accidental event). Competent authorities could choose to accept this double exclusion or they could require a less restrictive (but more expensive) type of insurance such as environment impairment liability insurance. This may cover any disposal, release, dispersal, discharge or seepage, even if it is not "sudden and accidental".

119. Geographical exclusions and conditions are also common in policies. Competent authorities may wish to consider not accepting such exclusions if the excluded countries include the proposed state of import, export or transit.

120. A common feature of insurance policies however, is that they generally do not cover cases where shipments are deemed illegal. Where an accident occurs as a result of an illegal shipment, it may be difficult to apportion liability and even more difficult to enforce laws that will ensure adequate environmental clean up. In cases where an illegal shipment has resulted from an inadvertent error, financial guarantees or bonds, in addition to insurance, may minimize the exporting country's risk of having to meet the cost of environmental damage.

121. An analysis of the amount required for insurance, bonds or other guarantees in relation to the quantity and quality of hazardous wastes described in the shipping or movement documents could also provide useful for the detection or prevention of illegal traffic.

Financial Guarantees and Bonds

122. Article 8 of the Basel Convention requires States of export to ensure that wastes are taken back, by the exporter, if a transboundary movement cannot be completed in accordance with the terms of the contract. To ensure that exporters are able to do this, competent authorities may require financial guarantees and bonds. The amount of money involved should be calculated so that all likely costs of a forced return and disposal of the wastes are covered. Financial guarantees and bonds may not be required if the competent authority is satisfied that the exporter has sufficient assets to be able to meet these costs.

123. The major benefit of financial guarantees and bonds over insurance is that financial payouts are assured regardless of the legal status of the shipment. In short, they ensure that the risk lies with those responsible for shipping the waste.

124. Multiple financial guarantees or bonds may be required by all States concerned, that is the States of export, import and transit. It is not normally appropriate for one State to rely on another State's financial guarantee because for example, the State of import may wish to call on a financial guarantee in circumstances outside the scope of the financial guarantee held by the State of export.

Protocol on liability and compensation for damage resulting from transboundary movements of hazardous wastes and their disposal

125. The Protocol on liability and compensation adopted by the fifth meeting of the Conference of the Parties in December 1999, although not yet in force, contains important provisions which could nevertheless be taken into consideration as a useful guide by the Parties.

PART 3. MANAGING ALLEGED AND CONFIRMED CASES

126. There are many challenges that face regulators in their efforts to effectively manage alleged cases of illegal traffic. One of the most difficult amongst them is determining whether the alleged case constitutes illegal traffic. Another key issue is determining who is responsible until illegal traffic has been confirmed. And once liability has been apportioned, the question of how to bring the perpetrator or perpetrators to justice poses further problems that can be extremely difficult to resolve.

127. Given the multiple jurisdictions and different legal systems that are often involved, resolving these challenges can be a complex and lengthy process. In many cases, national legislation is unable to effectively deal with inter-jurisdictional matters, making incidents of illegal traffic extremely difficult, if not impossible, to resolve within the 30-day time period contemplated in Article 9 of the Convention. However, with

effective cooperation of all authorities involved, cases of illegal traffic can be successfully resolved with minimal impact on the environment.

3a. *Determining whether illegal traffic has occurred*

128. Once suspected illegal shipments are detected, further investigation must be carried out to confirm whether or not it is illegal traffic. Through intelligence received from various national and international sources, waste shipments may be intercepted for inspection at key control points such as container terminals. In later stages, investigations will be aimed at determining those responsible for undertaking the alleged illegal activities and whether or not prosecutions will be likely to succeed. As evidence is collected both locally and internationally, cooperation between relevant competent authorities is central to illegal traffic management. All legal requirements (provisions of the Basel Convention, national laws and regulations) should be taken into account when determining whether or not a transboundary shipment of hazardous wastes is illegal.

129. Identification of hazardous waste in one country may not necessarily provide a basis for enforcement in another. Even where there is general agreement, Parties' rights under Article 3 of the Convention, to define non-Basel waste as hazardous wastes under national legislation, may make prosecution difficult. This highlights the importance of the Basel Convention's notification and consent procedures and the requirement under Article 3 to inform the secretariat of any non-Basel hazardous wastes defined under national legislation.

130. There may also be a time lag between the arrival of the wastes in the state of import and notification of the State of export of illegal traffic. Within 30 days from the time the state of export has been informed of the illegal traffic, the State of export or the generator shall take back the waste in question. The States concerned could agree to extend the period of 30 days. If it is impracticable to take back the wastes, the State of export or the generator shall dispose of the waste in accordance with the provisions of the Basel Convention. Nevertheless, Parties' obligations to cooperate to resolve illegal traffic incidents should ensure that the material is returned to the country of origin and dealt with in an environmentally sound manner as soon as possible.

131. The tendency for countries to reject extra-territorial application of national laws in criminal cases makes it difficult for the exporting country to pursue prosecution of illegal traders based solely on allegations of the country of import. The country of export has to have legal authority to require reimportation and the country of import has the right to insist on the duty of the Party of export to take back the illegal waste.

3b. *Determining who was the exporter of the waste*

132. Under the Basel Convention, exporter means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported. National legislation reflecting elements of the Convention, could provide that the exporter may be the generator, broker, carrier or other person with responsibility for the waste.

133. Considerable time may be spent determining the person or persons responsible for an illegal shipment. Complications increase with complexity in relationships between companies especially where foreign companies are involved. For example, the use of subsidiary companies, foreign brokers and agents and the sale of wastes to foreign companies prior to physical transfer of the waste can introduce complexities that obscure the identity of the exporter. Additional questions may arise if the exporter is an overseas-based company without a presence or agent in the States of export. In the absence of adequate legislative provisions to ensure legal liability is enforceable, the country of export must accept responsibility for making arrangements for the return of the waste. It is therefore in a party's interest to ensure that all loopholes in its national legislation are eliminated.

3c. *Determining how to return the waste*

134. Although the provisions of the Basel Convention require the State of export to ensure that the wastes in question are taken back by the exporter or the generator or, if necessary, by itself into State of export within 30 days from the time of receiving information about the illegal traffic or such other period of time as States concerned may agree when the illegal traffic operation is the result of conduct on the part of the

exporter or generator, the past experience showed that complications could occur, such as ownership of the waste

135. Where there is a dispute between parties as to the legal ownership of the waste, the time taken to resolve the dispute could be lengthy, thus delaying the speedy return of the waste as required by the Basel Convention.

136. The domestic law of some countries requires a successful conviction before steps can be taken to reimport an illegal shipment. In such cases, if the company involved in the illegal shipment does not voluntarily agree to reimport the waste, the time taken to resolve the illegal traffic incident is likely to be lengthy.

137. Because of the difficulties mentioned in the above paragraphs, unfortunately, once an illegal shipment of hazardous or contaminated waste has been intercepted, the country of import has been obliged to adopt measures for arranging the return of the waste to the country of origin. To facilitate early return of the waste in accordance with the requirements of the Basel Convention, effective cooperation and liaison between the competent authority of the importing state and other relevant states should be a priority.

3d. *Whether the exporter followed the requirements of the Basel Convention*

138. The country of export may take all reasonable steps to ensure that an illegal shipment is reimported and disposed of in accordance with the Convention. Nevertheless, it is possible that the Convention could once again be breached, either fraudulently or unintentionally, in the course of reimportation. In such cases, the reimport of the material would also be considered to be illegal traffic. Once confirmed, steps should be taken to investigate the breach and the perpetrators brought to justice.

3e. *Seizure of the material*

139. If the waste (in particular recyclable material that has economic value) is still legally owned by the exporting or importing company, but this company refuses to comply with requests to return the waste, government authorities may face legal difficulties in seizing or moving wastes that they do not own. Difficulties encountered by governments in seizing or moving waste be addressed through provisions in national law.

3f. *Temporary storage*

140. It is important that the material is safely stored during an illegal traffic investigation. In particular, consideration should be given to protecting human health and the environment, safeguarding the chain of evidence and avoiding any counter-claims by companies relating to damage to their material.

141. Once an alleged illegal shipment of wastes has been identified, sampling and analysis is carried out to determine whether or not the material is hazardous. As the quality of sampling and analysis is central to legal proceedings and, later, whether or not a prosecution is likely to succeed, it is crucial that correct procedures are followed and evidence is not compromised. To ensure that highest quality results are obtained, the considerations in Appendix 3 should be taken into account in investigations of alleged illegal traffic.

3g. *Dealing with abandoned waste*

142. Cases of abandoned illegal shipments of hazardous wastes are increasing. It is therefore important to institute national legal and technical provisions and mechanisms for dealing with each case. For example old ships are being abandoned in the ports of developing countries or are dumped in the territorial waters of developing countries.

3h. Notification to the SBC and concerned Parties

143. Article 16,(1)(i) of the Basel Convention gave the secretariat the mandate to assist Parties upon request in identification of cases of illegal traffic and to circulate immediately to the Parties concerned, any information it has received regarding illegal traffic.

144. Ensuring that all relevant countries are aware of alleged illegal shipments is crucial in preventing illegal traffic. Notification, either by the secretariat for the Parties, or directly between Parties, encourages governments, companies, NGOs and other stakeholders to work together to develop effective prevention strategies and provides an incentive to quickly and effectively resolve illegal traffic incidents, to the extent that is consistent with legal requirements and enforcement practice.

3i. Differences in interpretations of the countries involved

145. On-going negotiation by relevant countries is crucial in resolving cases of illegal traffic where the countries of export and import disagree on the status of the shipment. Where agreement cannot be reached, despite the genuine effort of both Parties, it might be necessary to resort to the procedure for settlement of disputes described in Article 20 of the Convention.

PART 4. USE OF ELECTRONIC INFORMATION

4a. Domestic Examples

146. Opportunities for increasing the automated administration of national legislation are increasing all the time. This includes both the collection of notification information from companies regarding proposed exports, imports and transits, the issuance of permits electronically, and the development of software for the electronic tracking of shipments. Some considerations experience include not only hardware and software capability within the administering agency, but also parallel and compatible electronic systems within industry and among trading partners.

147. Automated administration would likely require a large electronic database of information for example that is drawn from notification and movement documents. Other software uses could include systems that query these databases and can quickly provide information to officers in the field via a secure website which limits access to authorized individuals. These systems allow for direct access to the database, and at the same time, reports can be generated, shared and transmitted electronically. These are all technologies that Parties to the Conventions may have already implemented, or could consider developing.

148. For communication with regulated companies, one possibility is an internet based system of electronic data exchange (EDE). With such a system, it is possible to deposit notifications and movement documents directly into a database using either of the following methods:

- regulates fill out electronic forms over the internet; or
- regulates transfer bulk notification and movement document information from their databases using an e-mail attachment.

149. Given that not all regulates have the same level of technological capacity, an electronic system should also allow interface with traditional paper-based systems.

150. The systems outlined above support the generation and collection of data. The collected data can then be used to monitor regulatees' regulatory compliance. Additionally, the same or similar databases may be used to support intelligence and enforcement activities. Details regarding these activities may be considered to be confidential for security reasons. One possibility is the use of electronic libraries that contain case assessments.

4b. International Examples

151. In the international setting, there are also automated customs, trade and investigative processes that can incorporate electronic information and allow customs and law enforcement officers to track shipments and possession of wastes and to detect illegal shipments or dumping. For example, the World Customs Organization has a Customs Enforcement Network which has international accessibility restricted to authorized customs enforcement officers.

152. Bar codes and global positioning systems represent other electronic technologies with applicability to transboundary movements of hazardous wastes, particularly during their transportation. Partnerships among regulatory and enforcement authorities, and the affected industry (e.g. transportation) can be important aspects of the effective operation of such initiatives. These technologies can expedite customs clearance at international borders and also flag shipments which do not comply.

Appendix 1

**Provisions of the Basel Convention and
decisions adopted by the Conferences of the Parties to the Basel Convention**

Article 4

General Obligations

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.

(b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.

(c) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes.

2. Each Party shall take the appropriate measures to:

[.....]

(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting;

(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;

(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;

(h) Cooperate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and

other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic.

3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.
4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.
5. A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party.
6. The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement.
7. Furthermore, each Party shall:

[.....]

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

Article 6

Transboundary Movement between Parties

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.
2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.
3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:
 - (a) The notifier has received the written consent of the State of import; and
 - (b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.
4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require

prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:

(a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply *mutatis mutandis* to the exporter and State of export, respectively;

(b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply *mutatis mutandis* to the importer or disposer and State of import, respectively; or

(c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.

6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.

7. The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

8. The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months.

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

10. The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties.

11. Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party.

Article 7

Transboundary Movement from a Party through States which are not Parties

Paragraph 1 of Article 6 of the Convention shall apply *mutatis mutandis* to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

Article 8

Duty to Re-import

When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree. To this end, the State of export and any Party of transit shall not oppose, hinder or prevent the return of those wastes to the State of export.

Article 9

Illegal Traffic

1. For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:
 - (a) without notification pursuant to the provisions of this Convention to all States concerned; or
 - (b) without the consent pursuant to the provisions of this Convention of a State concerned; or
 - (c) with consent obtained from States concerned through falsification, misrepresentation or fraud; or
 - (d) that does not conform in a material way with the documents; or
 - (e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law, shall be deemed to be illegal traffic.

2. In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:
 - (a) taken back by the exporter or the generator or, if necessary, by itself into the State of export, or, if impracticable,
 - (b) are otherwise disposed of in accordance with the provisions of this Convention,

within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall cooperate, as necessary, in the disposal of the wastes in an environmentally sound manner.

4. In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through cooperation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate.
5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall cooperate with a view to achieving the objects of this Article.

Article 13

Transmission of Information

1. The Parties shall inform each other, through the Secretariat, of:
 - (a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;
 - (b) Changes in their national definition of hazardous wastes, pursuant to Article 3; and, as soon as possible,
 - (c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;
 - (d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;
 - (e) Any other information required pursuant to paragraph 4 of this Article.

Article 16

Secretariat

1. The functions of the Secretariat shall be:
[.....]
 - (i) to assist Parties upon request in identification of cases of illegal traffic and to circulate immediately to the Parties concerned, any information it has received regarding illegal traffic.

Decisions adopted by the Conferences of the Parties to the Basel Convention

I/15. ILLEGAL TRAFFIC IN HAZARDOUS WASTES

The Conference

Expressing its concern at the problem of illegal traffic in hazardous wastes, in particular to developing countries,

Conscious of the negative consequences of the illegal traffic on human health and the environment,

Convinced that the prevention of illegal traffic requires close cooperation among States, with the support of the secretariat of the Basel Convention and all interested organizations,

1. Welcomes the United Nations Environment Programme (UNEP) and Economic and Social Commission for Asia and the Pacific (ESCAP) joint project currently being implemented on monitoring and assessment of illegal traffic in toxic and dangerous products and wastes in that region;
2. Requests the secretariat to present an analytical report on the results of the UNEP-ESCAP joint project to the Second Meeting of the Conference of the Parties to the Basel Convention;
3. Also requests the secretariat to cooperate with other regional commissions in order to achieve the goal of prevention of illegal traffic in hazardous wastes;
4. Urges the Parties to the Basel Convention that have not yet done so to promulgate laws that consider illegal traffic in hazardous wastes a criminal act;
5. Calls upon Parties in a position to do so to cooperate with the secretariat to enable it to provide assistance to other Parties for the identification of cases of illegal traffic in accordance with Article 16, paragraph 1(i) of the Basel Convention;
6. Requests the Open-ended Ad Hoc Committee to study ways and means of enhancing the monitoring and prevention of illegal traffic in hazardous wastes and other wastes and to report its findings to the Conference of the Parties at its second meeting.

II/4. ILLEGAL TRAFFIC IN HAZARDOUS WASTES AND OTHER WASTES

The Conference

Expressing its concern at the problems of illegal traffic in hazardous wastes and other wastes, in particular to developing countries and to the countries in transition,

Recalling Decision I/15 of the First Meeting of the Conference of the Parties,

Having considered the report of the secretariat contained in document UNEP/CHW.2/8,

Having further considered the Open-ended Ad Hoc Committee recommendations contained in its Decision I/6 on "Illegal Traffic in Hazardous Wastes and other Wastes,"

1. Requests the Parties to promulgate or develop stringent national legislation on the control of transboundary movements of hazardous wastes taking into account the elements contained in document UNEP/CHW/C.1/1/7;
2. Further requests the Parties to incorporate in their legal systems, appropriate sanctions or penalties for the illegal traffic in hazardous wastes and other wastes;
3. Requests the regional commissions and secretariats of regional conventions and protocols to take an effective role in the monitoring and prevention of illegal traffic in hazardous wastes and other wastes and to coordinate their efforts and activities in this regard with the secretariat of the Basel Convention;
4. Requests all governments to promote the interministerial coordination within the respective government to prevent and penalize illegal traffic in hazardous wastes and other wastes;
5. Requests the secretariat of the Basel Convention to:
 - (a) Assist Parties in developing national legislation to deal with illegal traffic and hazardous wastes and other wastes;

(b) Assist Parties in capacity-building including the development of an appropriate infrastructure with a view of the prevention and penalization of illegal traffic in hazardous wastes and other wastes and to ensure the involvement of national authorities and focal points for the Basel Convention in the prevention and monitoring of illegal traffic in hazardous wastes and other wastes;

(c) Liaise with the various regional commissions and secretariats of regional conventions and protocols with a view to promoting the development of compatible regional mechanisms and systems;

(d) Promote the implementation of the appropriate parts of chapter 20 of Agenda 21 related to the illegal traffic in hazardous wastes, in particular its section D. In this regard a report should be presented to the relevant substantive session of the United Nations Commission on Sustainable Development;

(e) Continue its cooperation with the Customs Cooperation Council Secretariat with a view to ensure better control of import and export of hazardous wastes and other wastes and in particular to identify hazardous wastes and other wastes subjected to the Basel Convention in the Harmonized System;

(f) Include, in cooperation with the governments concerned, the Customs Cooperation Council and the International Maritime Organization, the training of customs and ports officers in relation to the import and export of hazardous wastes and other wastes in its programme of training activities;

(g) Receive, collate and disseminate information on illegal traffic in hazardous wastes and other wastes promptly and systematically with a view to ensuring that hazardous waste detected and rejected by one country is not dumped in another;

(h) Explore the possibility of cooperation with Interpol in cases of illegal traffic in hazardous wastes and other wastes;

(i) Establish a well-defined reporting system on cases of illegal traffic in hazardous wastes and other wastes, which would:

- (i) Request Parties to report to the secretariat on any cases of illegal traffic in hazardous wastes and other wastes as defined by the Basel Convention and the actions taken to monitor and prevent such cases, and
- (ii) Include a submission by the secretariat to the Conference of the Parties to the Basel Convention of reports, based on information received from the Parties, on cases of illegal traffic in hazardous wastes and other wastes and the publication of these reports;
- (iii) Enhance its cooperation in the prevention and monitoring of illegal traffic in hazardous wastes and other wastes with non-governmental organizations, industry and the private sector;
- (iv) Submit a report on the above-mentioned activities to the third meeting of the Conference of the Parties to the Basel Convention.

III/5. ILLEGAL TRAFFIC IN HAZARDOUS WASTES AND OTHER WASTES

The Conference

Recalling decision II/4 of the second meeting of the Conference of the Parties,

1. Decides that a form be developed for use by Parties to report cases of confirmed illegal traffic;
2. Requests the Technical Working Group to review and revise the draft form developed by the secretariat of the Basel Convention and attached to this document as Appendix;

3. Requests Parties to review the draft form and submit comments for consideration by the Technical Working Group;
4. Requests Parties to cooperate with each other and the secretariat of the Basel Convention on alleged cases of illegal traffic;
5. Requests the Parties to:
 - (a) promulgate or develop stringent legislation on the control of transboundary movements of hazardous wastes and incorporate in this legal system appropriate sanctions or penalties for the illegal traffic in hazardous wastes and other wastes, to take appropriate measures to ensure the effective implementation of this legislation and inform the secretariat of the Basel Convention thereon;
 - (b) provide the secretariat of the Basel Convention with replies regarding the reported cases on illegal traffic;
 - (c) extend cooperation with Interpol with a view to presenting to future meetings of the Contracting Parties detailed reports on activities undertaken by the secretariat of the Basel Convention and Interpol to prevent illegal traffic in hazardous wastes and to provide detailed reports to the Bureau and the meetings of the Contracting Parties on any cases of illegal traffic, their sources, actions undertaken by the governments during the discovery of cases and follow-up activities by the Contracting Parties.
6. Requests the secretariat of the Basel Convention to:
 - (a) assist Parties in developing national legislation to deal with illegal traffic in hazardous wastes;
 - (b) assist Parties in capacity-building including the development of an appropriate infrastructure with a view to preventing and penalizing cases of illegal traffic in hazardous wastes and other wastes and to ensuring the involvement of national authorities and focal points for the Basel Convention in the prevention and monitoring of illegal traffic in hazardous wastes and other wastes;
 - (c) continue its cooperation with the various regional commissions and secretariats of regional conventions and protocols, NGOs, industry, private sector, as well as the World Customs Organization (WCO) and Interpol in order to achieve a better control and monitoring of cases or alleged cases of illegal traffic in hazardous wastes and other wastes;
 - (d) organize training courses for customs officers, port authorities, judiciary personnel and police forces in cooperation with WCO, Interpol and other appropriate bodies, including UN regional commissions and secretariats of regional agreements dealing with similar aspects.

IV/12. ILLEGAL TRAFFIC IN HAZARDOUS WASTES AND OTHER WASTES

The Conference

1. Welcomes the work of the Technical Working Group on confirmed cases of illegal traffic and recognizes that the issue of illegal traffic remains a high priority with particular emphasis on cases involving alleged illegal traffic;
 - (a) Appeals to Parties to bring any case or, if appropriate, alleged case of illegal traffic to the attention of the secretariat and to provide the secretariat with all necessary information to enable it to take any appropriate action, including preventive measures through initial dissemination of information to Parties concerned;
 - (b) Welcomes steps taken by Parties to submit information on how Parties may have dealt with illegal traffic, including alleged cases of illegal traffic, with regard to difficulties they could be facing when seeking compliance with the provisions of the Basel Convention;

- (c) Recognizes that illegal traffic can take many different forms and be of different magnitudes ranging from, for example, falsification of documents to large-scale organized activities;
 - (d) Requests Parties to cooperate with each other and the secretariat on alleged cases of illegal traffic;
 - (e) Assigns the Consultative Sub-group of Legal and Technical Experts the task of developing procedures to address alleged cases of illegal traffic;
 - (f) Adopts the draft Form for Confirmed Cases of Illegal Traffic for use by Parties in confirmed cases of illegal traffic;
 - (g) Invites Parties to use this form in their reports related to confirmed cases of illegal traffic to the secretariat;
 - (h) Requests the secretariat to report to the fifth meeting of the Conference of the Parties, through the Open-ended Ad Hoc Committee for the Implementation of the Basel Convention, as appropriate, on information received by Parties on cases of illegal traffic;
2. Welcomes the convening of meetings and conferences on the prevention of illegal traffic approved by decision III/28 and urges Parties to promote the effective participation of developing countries in these meetings;
3. Urges Parties to fulfil their obligations under Article 9, paragraph 5 of the Basel Convention, in particular:
- (a) To promulgate, update and/or develop stringent legislation on the control of transboundary movements of hazardous wastes;
 - (b) To incorporate in their national legislation appropriate sanctions or penalties for illegal traffic in hazardous wastes and other wastes covered by the Basel Convention;
4. (a) Notes that the classification and characterization of wastes represent essential tools to assist in the identification and prevention of illegal traffic;
- (b) Requests the secretariat of the Basel Convention, bearing in mind decisions I/18 and II/23, to work closely with the United Nations Committee of Experts on the Transport of Dangerous Goods towards the development of an appropriate classification and labelling system;
 - (c) Requests the secretariat to continue its cooperation with various regional commissions and secretariats of regional conventions and protocols, non-governmental organizations, industry and the private sector, as well as the World Customs Organization and Interpol, in order to achieve better control and monitoring of cases or alleged cases of illegal traffic in hazardous wastes and other wastes;
 - (d) Requests the secretariat to organize training courses for customs officers and police forces in cooperation with the World Customs Organization, Interpol and other appropriate bodies, including United Nations regional commissions and secretariats of regional agreements dealing with similar aspects;
 - (e) Requests the secretariat to assist Parties in capacity building, including the development of an appropriate infrastructure, with a view to preventing and penalizing cases of illegal traffic in hazardous wastes and other wastes and to ensuring the involvement of national authorities and focal points for the Basel Convention in the prevention and monitoring of illegal traffic in hazardous wastes and other wastes;
 - (f) Encourages Parties to build up their enforcement capacities, *inter alia*, through cooperation with international bodies such as Interpol and the International Network for Environmental Complaints, in the development of training and networking for enforcement personnel involved in the prevention of illegal traffic;

(g) Invites Parties to promote consistency when addressing the issue of illegal traffic in the relevant United Nations bodies, while avoiding duplication;

5. Requests the Technical Working Group and the Consultative Sub-group of Legal and Technical Experts, at their joint meeting, keeping in mind the discussions within the Ad Hoc Working Group of Legal and Technical Experts to Consider and Develop a Draft Protocol on Liability and Compensation, to develop recommended procedures to assist Parties in preventing, identifying and managing illegal traffic.

V/23. PREVENTION AND MONITORING OF ILLEGAL TRAFFIC IN HAZARDOUS WASTES AND OTHER WASTES

The Conference

1. Extends the mandate of the Technical Working Group and requests the Legal Working Group to give further consideration to the issue of illegal traffic in hazardous wastes and other wastes, to develop recommended procedures to address alleged cases of illegal traffic and to assist Parties in preventing, identifying, monitoring and managing illegal traffic, taking into account the draft guidance elements for the detection, prevention and control of illegal traffic in hazardous wastes, approved by the Technical Working Group and the Consultative Subgroup of Legal and Technical Experts at their first joint meeting, in Pretoria, in November 1998;

2. Appeals to Parties to bring any confirmed case or, after consultation and agreement with the other Parties involved, alleged case of illegal traffic to the attention of the secretariat of the Basel Convention, with all the necessary information to enable the secretariat to take appropriate action, including support for any efforts by the Parties to solve the issues, such as the provision of appropriate expertise;

3. Invites Parties to use the approved form in their reports to the secretariat related to confirmed cases of illegal traffic;

4. Requests the secretariat to continue its cooperation with various regional commissions and secretariats of regional conventions and protocols, non-governmental organization, the industry sector and the private sector, as well as the World Customs Organization and the International Criminal Police Organization, in order to achieve a better control and monitoring of cases or alleged cases of illegal traffic in hazardous wastes and other wastes;

5. Requests the Parties and the secretariat to take the necessary preventive measures, in particular through the dissemination of information on the Basel Convention and through working closely with the World Customs Organization, to include, as a matter of priority, the wastes under the scope of the Convention in the Harmonized System;

6. Requests the secretariat, bearing in mind the provisions of decision IV/12, to work closely with the United Nations Committee of Experts on the Transport of Dangerous Goods to harmonize classification and labelling systems for hazardous wastes and dangerous goods;

7. Requests the Parties, with the assistance of the secretariat, to organize training courses and develop training manuals, at the national and regional levels, for customs officers and police forces, in cooperation with the World Customs Organization, the International Criminal Police Organization and other appropriate bodies, including United Nations regional commissions and secretariats of regional agreements dealing with similar issues.

BASEL DECLARATION ON ENVIRONMENTALLY SOUND MANAGEMENT

We, the Ministers and other heads of delegation from the Parties to the Basel Convention and from other States,

Having met in Basel, Switzerland, from 6 to 10 December 1999, on the occasion of the fifth meeting of the Conference of the Parties to the Basel Convention and the tenth anniversary of the adoption of the Basel Convention,

[.....]

6. Recognize the need to focus our activities within the next decade on specific actions to promote the implementation of the Convention and its amendments worldwide, at all levels, and, to this end, agree to enhance and strengthen our efforts and cooperation to achieve environmentally sound management in the following fields:

[.....]

- (a) Prevention and monitoring of illegal traffic;

Appendix 2

Case studies/examples of successful actions of Parties

Three cases from Australia

1. FIRST CASE FROM AUSTRALIA

CONFIRMED CASES OF ILLEGAL TRAFFIC

A. TRANSMITTING AUTHORITY

Name:	<u>Environment Australia</u>		
Address:	<u>GPO Box 787 CANBERRA</u>	Party	
	ACT 2601	Competent Authority	?
Tel:	61 2 6274 1411	Focal Point	?
Fax:	<u>61 2 6274 1164</u>	National Authority	?
E-mail:	<u>hwa@ea.gov.au</u>		

Date of transmission: _____

B. REPORTING BODY

Name:	<u>"As Above"</u>		
Address:	_____	Party ²	?
	_____	Observer State	?
Tel:	_____	NGO	?
Fax:	_____	Company	?
E-mail:	_____	Individual	?

² Please specify if different from Transmitting Authority.

C. DESCRIPTION OF THE ILLEGAL ACT**C.1. Act(s) found to be illegal traffic (please include information on which Basel Convention provisions has (have) been contravened)****Description:**

On 13 December 1996, 84,000kgs of used lead acid batteries were exported from Australia destined for recycling/recovery operations in Manila, Philippines. The export contravened Articles 6.1 and 6.3 of the Basel Convention because the requirements for notification and consent were not observed. The export also contravened section 40 of the Australian *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, which prohibits the export of hazardous waste without a permit.

C.2. Name of States affected by the illegal traffic (i.e. country of origin, transit or destination):

Country of Origin: Australia

Countries of Transit: Singapore

Country of Destination: Philippines

C.3. Brief description of the waste(s) subject to the illegal act, including modes of transport, place of discovery, environmental conditions of the location:

Description of the waste: Scrap drained/dry whole intact lead batteries ("Rains").

Modes of Transport: The waste was loaded into shipping containers, transported by road, loaded onto a ship at the Port of Burnie, Tasmania, Australia and offloaded at Manila in the Philippines.

Place of Discovery: The illegal export was discovered in Australia during a routine check of Australian Customs records.

Date of discovery of the wastes: April 1997

C.4. Date of the infraction:

Infraction: Day Month Year
 13 / 12 / 96

D. WASTE IDENTIFICATION**D.1. Description of the waste:**

Name of the Waste: Waste lead-acid batteries, whole or crushed (Annex VIII entry A1020).

Origin of the Waste: Tasmania, Australia.

Physical form: Solid.

Major constituents: Lead, plastic.
Typical contaminants: Not known.

Volume/Quantity of wastes: 84,000kgs.

Waste Code:	Y number(s) Y31	UN Class 6.1	
	H number(s) 6.1,11,12	UN number	
	IWIC	OECD	HS
	EWC		

D.2. Sampling and testing:

No sampling or testing was done on the waste.

Results:

D.3. Other relevant information (e.g. containment appearance, etc.):

None

E. DETECTION OF ILLEGAL TRAFFIC, TYPES OF DAMAGES, REMEDIAL ACTIONS AND DISPOSAL

E.1. Detection of illegal traffic:

By whom: Environment Australia
Where: Australia
When: April 1997

E.2. Damages:

Details of type and extent of known damages: _____

There were no damages reported from the illegal traffic.

E.3. Remedial actions:

Type of action(s): _____

No remedial actions were necessary.

Date: _____

Cost: _____

Allocation: _____

E.4. Final disposal of wastes subject to illegal traffic (i.e. measures taken, State of disposal, etc.)

The waste was disposed of by recycling/reclamation of metals and metal compounds in the State of import, by Philippine Recyclers Inc at Manila, Philippines.

F. PUNISHMENT

F.1. State of conviction: Australia

F.2. Date of conviction:

Conviction: Day Month Year
 25 / 05 / 1999

F.3. Description of punishment by the authority in the State of conviction:

The exporting company pleaded guilty to negligently contravening Section 40(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* by exporting a hazardous waste without an export permit. An executive officer of the company pleaded guilty to contravening Section 40B(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* by being negligent as to whether the contravention of section 40(1) would occur, being in a position to influence the conduct of the company and failing to take all reasonable steps to prevent the contravention. The exporting company was convicted and fined AUD2,000. The executive officer was convicted and fined AUD500.

As this matter was the first prosecution under the amendments to the Act, which entered into force on 12 December 1996, the Magistrate made a number of general remarks in relation to the offences prior to passing sentence. Of particular note were his comments that this was not a matter where there had been a deliberate plot to export the battery waste or a conscious decision not to apply for a permit. Rather, the commission of this offence was the unintentional consequence of a series of events which had been occurring over a number of months. The Magistrate noted that the plea of guilty was in respect of a negligent export of lead battery waste without a permit, rather than a deliberate act.

If more space required, please use additional sheet(s)

Authority completing the Form shall forward a copy to all Competent Authorities or Focal Points in the State(s) concerned as appropriate.

2 SECOND CASE FROM AUSTRALIA

On 1 September 1997, a shipment of approximately 60 tonnes of waste, mainly computer scrap, was exported from Sydney, Australia, bound for Hong Kong. On 22 September 1997, the Hong Kong authorities, after being notified by Greenpeace Australia of the hazardous nature of the goods, refused to allow the scrap entry. The containers were subsequently returned to Sydney, together with another two containers, also consigned to Hong Kong, that were removed from another vessel before it left Brisbane, Australia, on 1 October 1997.

The shipments contravened Articles 6.1 and 6.3 of the Basel Convention because the requirements for notification and consent were not observed. The export also contravened section 40 of the Australian Hazardous Waste (Regulation of Exports and Imports) Act 1989 ('Act'), which prohibits the export of hazardous waste without a permit. The suspected contravention of the Act was the subject of a joint investigation by the Australian Federal Police (AFP) and the Department of the Environment and Heritage.

The investigation found that the computer scrap had been collected by an Australian company concerned with the collection and re-sale of most kinds of metal and electrical scrap. In August 1997, the Australian company sold the scrap to a foreign company for AUD26,693. The Australian company then stuffed the containers and transported them to the docks. During the process of stuffing the containers, Greenpeace Australia became aware of the possible hazardous nature of the goods.

The problem during the investigation centred upon which company was responsible for the illegal export of the goods. The investigation found that the terms of the contract between the Australian company and the foreign company were Free on Board (FOB) and under commercial law this in effect made the foreign company the owner and exporter of the waste. However, there was no basis for criminal proceedings against the foreign company because an offence against section 40 of the Act can only be committed by a person who acts knowingly or recklessly. It could not be shown that anyone associated with the foreign company knew or ought to have known that the containers contained hazardous waste.

It could be argued that the Australian company was the exporter of the scrap for the purposes of section 40, having sold the scrap and packed it into the containers knowing that it was to be shipped to Hong Kong. Nevertheless, the investigation found that the prospects for a successful prosecution were not good, partly because the only individual who clearly knew precisely what was in the containers had died during the investigation, and partly because it was uncertain whether a company could be an exporter for the purpose of section 40 unless it was also the exporter for the purpose of commercial law. The Australian company was wound up while the investigation proceeded.

The Act is currently being amended to close this loophole by making it illegal for Australian companies to sell hazardous waste to foreign companies unless an export permit is in place.

The hazardous waste was disposed of in Australia, under Australian law, at the expense of the Australian Federal Government and at a total cost of AUD94,426. There are provisions in the Act under which the Government may seek to recover these costs from the foreign company.

3 THIRD CASE FROM AUSTRALIA

An alleged import of waste oil from a South Pacific island country was detected in October 1999 when the oil was transported from an Australian port to a storage facility without the waste transport certificates that were required by the local environment agency.

Investigations by the Australian Federal Police confirmed that 20,000 litres of waste oil had been imported on 12 October 1999 in an isotainer that was owned/leased by an Australian oil company. The oil was owned by a mining company based in the South Pacific island country. This company was unable to dispose of the oil in their previous manner, through a local liquid soap manufacturer, because that manufacturer had closed due to civil unrest.

Enquiries subsequently found that a previous import of 16,800 litres of waste oil had occurred on 17 June 1999. This oil had been treated by a local recycling facility before disposal to a power generating plant.

The Director of Public Prosecutions determined that *prima facie* case existed against the Australian oil company but prosecution would not be in the public interest after considering that:

- (a) the imports were designed to ensure the disposal of the waste oil in a more environmentally friendly manner in the light of the civil unrest in the South Pacific island country at the time;
- (b) no waste oil was spilled or caused any damage as a result of the import; and
- (c) the two imports were isolated incidents occurring four months apart and were not part of a continuing course of conduct.

A letter of caution was formally issued to the Australian oil company.

Case from the United Kingdom of Great Britain and Northern Ireland

! Please specify if different from Transmitting Authority:

**(Form for)
CONFIRMED CASES OF ILLEGAL TRAFFIC**

A. TRANSMITTING AUTHORITY

Name: Department for Environment, Food and Rural Affairs
Address: Waste Policy Division,
Ashdown House
123 Victoria Street
London, SW1 6DE

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E-mail: waste_policy@defra.gsi.gov.uk

Date of transmission: 3 September 2001

B. REPORTING BODY

Name: As above
Address:

Tel:
Fax:
E-mail:

C. DESCRIPTION OF THE ILLEGAL ACT

C.1. Act(s) found to be illegal traffic (please include information on which Basel Convention provisions has (have) been contravened)

Description:

Shipment of hazardous waste from Sweden to the UK without notification to the relevant Competent Authorities. This contravened Article 9(1)(a) of the Basel Convention and Article 26(1)(a) of Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community.

C.2. Name of States affected by the illegal traffic (i.e. country of origin, transit or

destination):

Sweden (country of origin) and the United Kingdom (country of destination)

C.3. Brief description of the waste(s) subject to the illegal act, including modes of transport, place of discovery, environmental conditions of the location:

Waste rags, gloves, overalls and liquid solvents, including acetone. The waste arrived in 45 gallon drums at a solvent recovery facility in Morecambe, Lancashire. An employee at the site contacted the Environment Agency as the load was not accompanied by all the necessary paperwork. The waste was inspected by Agency officers and some of the drums were found to be damaged, there was a strong smell of solvents coming from the drums and wood and rags were visible in a number of drums without lids. The load was poorly secured and was not clearly labelled. Further examination of the load revealed rags, overalls, gloves and liquid solvents. The paperwork with the drums indicated a further load which were eventually traced (again 45-gallon drums) to the docks at Immingham. These drums were crudely packaged in shrink-wrapped polythene and there was no waste description, or hazard warning labels.

Date of discovery of the wastes:

1 December 1999

C.4. Date of the infraction:

1 December 1999

D. WASTE IDENTIFICATION**D.1. Description of the waste:**

Name of the Waste: Acetone and waste cloths contaminated with resins and polymers.

Origin of the Waste: Malmö, Sweden

Physical form: Liquids, sludges and contaminated solids

Major constituents: Contaminated rags, packaging, protective clothing, polymers and resins.

Typical contaminants: Resins and Polymers.

Volume/Quantity of wastes: 13500 Kg

Waste Code: Y number(s) Y13 UN Class 3

H number(s) _H3 _____ UN number: 1993

IWIC Q16/D9/P13/C42/H3/A243 OECD _____ HS _____

EWC: 080102

D.2. Sampling and testing:

On 13 December 1999 seven samples of liquid solvent waste were submitted by the Environment Agency to Lancashire County Council Laboratory for analysis. These samples were obtained by Environment Agency officers on 10 December 1999.

Results:

The samples were found to contain concentrations of acetone varying from 4.1% to 67%. Flash point analysis carried out on the waste sampled varied from -10 degrees centigrade to 55 degrees centigrade.

D.3. Other relevant information (e.g. containment appearance, etc.):

The waste was poorly packaged in 45 gallon drums some of which had missing lids and sealing bungs. The waste gave off strong solvent odours and was a potentially explosive cocktail of substances.

Only a small amount of the total quantity of waste would have been suitable for solvent recovery, whilst the majority of the waste would have required final disposal.

E. DETECTION OF ILLEGAL TRAFFIC, TYPES OF DAMAGES, REMEDIAL ACTIONS AND DISPOSAL

E.1. Detection of illegal traffic:

By whom: Employee of the solvent recovery site at Morecambe, Lancashire, UK.

Where: Solvent recovery site, Morecambe, Lancashire, UK.

When: 1 December 1999

E.2. Damages:

Details of type and extent of known damages: None

E.3. Remedial actions:

Type of action(s):

Date:

Cost:

Allocation:

E.4. Final disposal of wastes subject to illegal traffic (i.e. measures taken, State of disposal, etc.)

The Environment Agency arranged for the waste to be shipped back to Sweden at Stirling Lloyd's cost. TFS notification no. GB 004528

F. PUNISHMENT

F.1. State of conviction:

United Kingdom

F.2. Date of conviction:

Conviction: 17 November 2000

F.3. Description of punishment by the authority in the State of conviction:

Stirling Lloyd Contracts Limited were fined £1500 for the illegal shipment and were ordered to pay £4594.80 costs to the Environment Agency.

If more space required, please use additional sheet(s)

Authority completing the Form shall forward a copy to all Competent Authorities or Focal Points in the State(s) concerned as appropriate.

Adopted by the fourth meeting of the
Conference of the Parties to the Basel Convention
February 1998

Appendix 3

Sampling and analysis

A. Quality of Investigations

1. It is important that investigation officers are familiar with sampling and analysis procedures before proceeding with investigations. Improper collection of evidence may compromise the likelihood of a successful prosecution. Consequently, investigation officers should be trained in determining the chain of custody, retaining samples and security procedures that the sampling team and laboratory intend to follow.
2. Experienced government agencies that regularly deal with environmental crime will have the relevant background and expertise to carry out investigations to a high standard. However, if a less experienced local officer, the person in charge of the investigation, is taking samples will need to ensure that appropriate chains of custody procedures are followed.

B. Quality of Analysis

3. Similarly, it cannot be assumed that laboratories will necessarily follow appropriate procedures once samples have been taken. This is especially true for laboratories or personnel that are relatively inexperienced in collecting and analysing samples for use in criminal proceedings. Consequently, it is important to work with accredited or certified laboratories that are familiar with the relevant procedures.

C. Sampling Procedures

4. A number of questions may be asked to ensure proper handling of samples, as follows:
 - (a) Does the chain of custody form follow the samples from the time they are taken until the time they are delivered to the laboratory for analysis?
 - (b) If sampling exceeds one day or samples require storage prior to delivery to the laboratory, investigators should determine what the samples are intended to be used for and what security procedures are in place to protect existing samples. Procedures should ensure secure overnight storage for all samples which are to be used as evidence in criminal cases. For example if the samples are to be stored in a locked vehicle, then the vehicle should be garaged in secure conditions. Where samples are being taken to determine clean-up costs for civil cases, secured storage is not required. They should also determine whether there are any other storage or packaging requirements relevant to the material being sampled and check how the samples will be packaged. For example the samples may need to be stored at a certain temperature, in a dark place and/or away from moisture until analysis is carried out to ensure their integrity. Ensure that all packaging and storage requirements are met.
 - (c) Is a chain of custody procedure or other record generated when the laboratory receives the samples?
 - (d) How does the laboratory store the samples prior to analysis?
 - (e) Will the samples be handled by multiple personnel during the course of analysis? If so, what records are maintained to track samples and procedures?
 - (f) What happens to the samples after analysis? Does the laboratory retain the samples? If so, how long are the samples retained and are the samples secure?

D. Capability of Laboratory

5.
 - (a) Are approved testing methods used to analyse samples and are the correct methods used for the specific circumstance?
 - (b) Are appropriate quality assurance/quality control procedures strictly applied?

(c) Does the laboratory have a track record in providing high quality services for criminal investigation? The experience and reputation of the laboratory undertaking the analysis will have a direct bearing on the quality of the analysis. Certification or accreditation should be a minimum requirement for all cases involving criminal investigations. To this end, consideration should be given to establishing a regional network of accredited laboratories that can be used for this purpose.

(d) Does the laboratory understand the objectives of the investigation?

E. Capability of Inspectors

6. A number of questions may be asked to ensure laboratory capability, as follows:

(a) Does the investigator understand the correct analytical procedures to be followed and what information is required? As with sampling, it is important to furnish scientific personnel with as much relevant case history as possible prior to analysis to maximise the accuracy of the results.

(b) Can the investigator accurately interpret the results? If not, has he/she clarified any areas of confusion? It is important to obtain early clarification of results in areas where there may be confusion or a lack of understanding.

(c) Has the investigators asked the laboratory to retain the samples for the requisite period of time?

F. Treatment of video and photographic evidence

7. As a general rule, photographic or videotaped evidence is not recommended for recording sampling or analysis procedures. However, should photographic or videotaped evidence be required, the following measures should be taken:

(a) personnel undertaking sampling or analysis should not be videotaped or photographed.

(b) the sample area and sample jars should be videotaped or photographed before and after sampling takes place as a record that correct procedures have been followed.

(c) where a videotaped record of sampling and analysis procedures is undertaken, a new video cassette should be used, the sound turned off and the original tape retained by the investigator in charge.

(d) where a photographic record of sampling and analysis procedures is undertaken, a full record of the photographic evidence should be kept including photo sequence numbers, a description of the photograph and the time and date of photography. As with videotaped evidence, films should be retained by the investigator in charge.

(e) should the company under investigation request the right to videotape or photograph sampling procedures, permission should not be granted where there is a risk of interference with the sampling being undertaken.

G. Treatment of original documents

8. The sampling team and other technical staff involved in investigations should be informed that all original documents must be stored in a secure location until the investigator notified them that the documents are no longer required. These documents include chain of custody forms, field notes and reports.

9. Likewise, the laboratory responsible for analysing the samples should be requested to maintain all original documents relating to the analysis until otherwise informed. These documents include laboratory notes, chromatograms and final reports.

H. Treatment in the Laboratory

10. Treatment in the laboratory includes the following operations:

- (a) Sample pre-treatment: homogenisation, subsampling, extraction, clean-up, purification, irradiation, etc.
- (b) Component separation, chemical and physico-chemicals.
- (c) Components measure: detection, identification, quantification.

I. Results and Data

11. Reliability of analytical data means that it is precise and true. Precision is achieved when random errors are minimised. Accuracy is reached when systematic errors are eliminated.

Note: At some later date Appendix 3 might benefit from some worked examples. Such examples could be added after the guidance elements have been adopted and used in practice.

Appendix 4

Guidelines for Risk Management Approach

Step 1: Establish the context

1. The political, social, economic, legal and physical environments in which the competent authority operates must be considered in establishing the context. The following questions may be asked:

- What legislation is being enforced?
- What does the legislation seek to control?
- What, broadly, is the nature, size and complexity of the business or community activity concerned?
- What are the major threats of non-compliance?
- What are the major outcomes expected/desired?
- Who has an interest in ensuring compliance with the legislation?
- Who must comply with the legislation?
- What is their interest in the matters the legislation is protecting?
- What must individuals or organizations external to the competent authority do, in order to comply with the legislation?
- What problems or obstacles have been identified?

Step 2: Identify the risks

2. For the purposes of compliance and enforcement, risk means the risks, or incidents, of failure to comply with the legislation. This step is concerned with identifying the potential or actual incident. The consequences and likely occurrence of these non-compliance risks or incidents will be analysed in step 3. The following questions may be asked:

- What is the source of each non-compliance risk or incident?
- When is an incident of failure to comply with the Convention likely to occur?
- What is the compliance rate at present for similar activities?
- Are there any geographical regions in which breaches of the Convention are particularly prevalent?
- Why might an individual or organization not comply with the Convention?
 - ignorance of existence of the Convention

- knowledge of the Convention but insufficient awareness of provisions
 - wilful non-compliance
 - lack of clarity of Convention/processes/regulations
 - ignorance/inadvertence/recklessness/negligence
- What advantages might be gained by failing to comply with the Convention?
 - What is the nature of penalties vis-à-vis potential advantages from non-compliance?
 - Are individuals or organizations aware of their responsibilities under the Convention?
 - Have any individual, or classes, of people or organizations displayed a particular tendency not to comply with the Convention in the past?
 - What problems might arise from excessive or inadequate enforcement activity?

Step 3: Analyse the risks

3. In this step the level of risk will be determined. The level of risk is determined by the relationship between the likelihood that a person or organization will fail to comply with the Convention and the consequences of that failure. The consequence of a failure to comply should be considered from three perspectives:

- the consequences for the environment,
- consequences for the community, present and future, and
- consequences for the Government

4. The level of risk may be determined by answering the following questions:

- What is the potential likelihood of the non-compliance risks or incidents occurring?
- What is the compliance rate at present for similar activities?
- Are there any geographical regions in which breaches of the legislation are particularly likely to occur?
- What advantages might be gained by failing to comply with the legislation?
- What is the nature of penalties vis-à-vis potential advantages from non-compliance?
- Are individuals or organizations aware of their responsibilities under the legislation?
- Have any individual, or classes, of people or organizations displayed a particular tendency not to comply with the legislation in the past?
- What are the potential consequences of each non-compliance risk or incident, should it occur?
- What environmental damage may result from the failure to comply with the legislation?
- Are there any classes of illegal activities that are likely to damage the environment more than others?
- Are there any geographic regions where damage as a result of failure to comply with the legislation may be particularly severe?
- Are there any protected elements of the environment (e.g. particular species, objects and/or places, or cultural values) which are particularly vulnerable to illegal actions (or failures to act)?
- Are there any matters covered by the legislation that have a high public profile in which there is a high degree of community or political interest?
- What are the current controls which may detect or prevent potential non-compliance risks or incidents?

Step 4: Assess risk and set priorities

5. This step involves deciding whether a given risk (assessed in Step 3 as severe, high, etc.) is acceptable or unacceptable. An assessment of the acceptability of the risk involves, takes into account cost impact, benefits and opportunities presented by the risk. Thresholds may be appropriate in some cases, to determine how much effort is warranted in relation to each area of level of risk.

6. In order to set priorities and assess the risk, the following key questions should be answered:

- What is the acceptable level of risk (for the environment, for the community and for the Government)?
- Are there any matters covered by the legislation that have a high public profile or in which there is a high degree of community or political interest?
- What level or priority is the risk (severe, high, etc.)?

Step 5: Treat the risks

7. This step involved deciding what measures need to be taken to minimise identified risks and their impacts. Promoting compliance with legislation will reduce the risks and incidents; certain measures may be necessary to promote compliance. The information identified in the previous steps will help identify which strategies are the most appropriate under a given set of circumstances.

- What are the current controls which may detect or prevent potential non-compliance risks or incidents?
- How may these be improved?
- What other strategies may promote compliance and enforcement activities?

8. Possible strategies include:

- Compliance assistance
- Education and awareness
- Technical assistance
- Partnership arrangements
- Monitoring and investigation
- Addressing contraventions
- Enforcement options
- Remedial actions
- Managing key partnerships
- Ensuring other agencies can be relied upon for some of the compliance and enforcement functions.

Monitoring and review

9. Periodic review is necessary to ensure changing circumstances do not alter risk priorities.

Note: At some later date Appendix 4 might benefit from some worked examples. Such examples could be added after the guidance elements have been adopted and used in practice.

VI/17. Bilateral, multilateral or regional agreements or arrangements

The Conference of the Parties,

Recalling its decision V/20 on bilateral, multilateral or regional agreements or arrangements,

Taking note of the bilateral, multilateral or regional agreements or arrangements concluded before or after the entry into force of the Convention, as reported under article 11 of the Basel Convention,

1. Requests the Parties that, in accordance with article 11, have entered into bilateral, multilateral or regional agreements or arrangements and have not yet reported on the conformity of such agreements or arrangements with the said article, to report through the secretariat to the Open-ended Working Group, taking into account the list of questions contained in the annex to decision II/10;

2. Requests the secretariat continuously to update the list of bilateral, multilateral or regional agreements or arrangements currently in force, as reported to the secretariat, and to distribute that list on a regular basis to the Parties and non-Parties, and to post the list on the web site of the secretariat.

VI/18. Draft guidance elements for bilateral, multilateral or regional agreements or arrangements

The Conference of the Parties,

1. Requests the Open-ended Working Group to consider the draft guidance elements for bilateral, multilateral or regional agreements or arrangements and report back to the seventh meeting of the Conference of the Parties;

2. Requests Parties and Signatories to present to the secretariat their comments and views on the issue;

3. Requests the secretariat to present a compilation of those comments and views to the Open-ended Working Group.

VI/19. Annex IX to the Basel Convention

The Conference of the Parties,

Recalling paragraph 1 (a) of article 1 to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, stipulating that wastes subject to transboundary movement that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III, shall be hazardous wastes for the purpose of the Convention,

Recalling also paragraph 1 (b) of article 1, stipulating that wastes subject to transboundary movement that are not covered under paragraph 1 (a) of the same article but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit, shall be hazardous wastes for the purpose of the Convention,

Recalling further article 3 of the Convention on the national definitions of hazardous wastes in which each Party shall, within six months of becoming Party to the Convention, inform the secretariat of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes,

Taking note of certain general obligations stipulated in article 4 of the Convention, namely subparagraphs 1 (a) and (b) on prohibition of import of hazardous wastes and requirements for reporting

under article 13; subparagraphs 1 (c) and 2 (f) on prohibition of export and notification requirements; subparagraph 9 (b) on transboundary movement of wastes as raw material for recycling or recovery industries in the State of import; and paragraph 11 on additional requirements,

Taking note also of subparagraphs 2 (b), (c) and (d) of article 13 to the Convention containing certain reporting obligations, and subparagraph 5 (c) of article 15 to the Convention on the authority of the Conference of the Parties to consider and undertake any additional action that may be required for the achievement of the purposes of the Convention,

Taking note further of other control systems for the transboundary movement of hazardous and other wastes,

Recalling decision IV/9 amending Annex I and adding two additional Annexes to the Convention (Annex VIII and Annex IX) in order to facilitate the application of the Basel Convention by characterizing wastes listed in Annex VIII as hazardous wastes pursuant to article 1, subparagraph 1 (a), of the Convention, and characterizing wastes listed in Annex IX as wastes not covered by article 1, subparagraph 1 (a), of the Convention,

Recalling also its decision V/26 on the work programme of the Technical Working Group,

Recognizing the substantial progress made by the Technical Working Group in clarifying the scope of the Convention and facilitating its application through its work on the review of lists of wastes contained in Annex VIII or Annex IX and on the characterization of wastes subject to its control system,

Aware of the practical difficulties encountered by Parties in the use of Annex IX and uncertainties in regard to its status and scope,

Convinced that effective control of hazardous and other wastes subject to transboundary movement is essential to protect human health and the environment from the dangers posed by these wastes,

Convinced also that a pragmatic and clear way forward is necessary to assist Parties in the application of the control system of the Basel Convention,

Noting that the draft information paper on issues related to Annex IX attached to the present decision as appendix I may provide helpful guidance to Parties on issues related to Annex IX, bearing in mind that the Convention remains the ultimate authority in case of conflict,

Taking note of the questionnaire concerning the national classification and control procedures for the import of wastes contained in Annex IX (list B wastes) prepared by the Technical Working Group,

1. Decides to adopt the questionnaire concerning the national classification and control procedures for the import of wastes contained in Annex IX (list B wastes) attached to the present decision as appendix II;
2. Requests the secretariat to distribute the questionnaire to all Parties and Signatories;
3. Invites Parties to fill out the present questionnaire and to submit it initially in advance of the first session of the Open-ended Working Group and subsequently whenever they have updates to the information in the questionnaire;
4. Requests the secretariat to prepare a compilation of the replies received, to have the questionnaire and the compilation posted on the web site of the Basel Convention (www.basel.int), and to make the information available to all Parties and others on a regular basis, in the six United Nations official languages;
5. Also requests the secretariat to assist any Party if needed to complete the questionnaire;

6. Further requests the secretariat to inform the Open-ended Working Group of information received, including difficulties with issues related to the questionnaire;
7. Requests the Open-ended Working Group as necessary and appropriate, to further elaborate the draft information paper on issues related to Annex IX on the basis of the replies received.

Appendix I

Draft information paper on issues related to Annex IX

I. INTRODUCTION

1. Uncertainties as to the purpose, use or status of Annex IX to the Basel Convention were revealed and exemplified through the submissions to the Technical Working Group of applications to review or adjust the lists of wastes contained in Annex VIII or Annex IX of the Convention.

II. BACKGROUND

2. At its 15th session in April 1999, the Technical Working Group considered, inter alia, the application from India (Ministry of Environment and Forests) concerning copper oxide mill-scale. India provided the meeting with the motivation on their submission, in particular referring to the importance of removing copper oxide mill-scale from Annex IX (entry B1240) to avoid ambiguities as to its classification. This material is inert and does not exhibit any Annex III hazardous characteristics. However, the removal of copper oxide mill-scale from Annex IX would provide uncertainties as to the status of this material when traded as wastes. The general understanding of the experts was that the material under consideration was not hazardous. Also, they emphasized that classifying a material on Annex IX (list B) does not mean that the material is always considered a waste. However, if this material is considered a waste it will be classified as B1240 under Annex IX. Noting that the explanations provided for removing copper oxide mill-scale from Annex IX raised issues in regard to the use of Annex IX, it was suggested that an information paper could be prepared relating to the purpose of the list of wastes in Annex IX.
3. While assigning priorities in its work programme, the sixteenth session of the Technical Working Group, in April 2000, identified task I, activity 1 (d) (Preparation of elements of an information paper on the purpose of Annex IX), as one of its priorities. At its seventeenth session, in October 2000, the Technical Working Group requested the secretariat to submit an information paper on the purpose of Annex IX to its next meeting, using the elements prepared by the secretariat in document UNEP/CHW/TWG/17/14 on complementary elements on the work programme of the Technical Working Group). At its eighteenth session, in June 2001, the Technical Working Group took into account the information paper prepared by the secretariat. At the meeting, Finland, Germany and Switzerland presented an informal paper on the purpose of Annex IX which contained additional elements to assist Parties to make progress on the issue. The Technical Working Group at its nineteenth session, in January 2002, requested the secretariat to revise and up-date its information paper taking into account the comments already made, to be submitted at a future date.
4. Attachment 1 to the present paper refers to the development of lists of wastes contained in Annexes VIII and IX to the Convention. Attachment 2 contains guidance elements on issues related to Annex IX.

III. SUMMARY OF THE MAIN DISCUSSION POINTS

5. The main discussion points raised by experts at the Technical Working Group were:
 - (a) Use of Annex IX to control import of certain wastes not characterized as hazardous under paragraph 1 (a) of article 1, but considered to pose environmental or health problems in the State of import;

(b) Relationship of Annex IX with the provisions of paragraph 1(b) of article 1 to the Convention to control the transboundary movements of wastes defined or considered hazardous by the national legislation of the State of export, import or transit;

(c) Differing procedures for controlling a waste under domestic legislation or for the same waste when subject to a transboundary movement;

(d) Trade flows implications of different classification or control requirements for the same waste material.

Attachment 1

Development of lists of wastes contained in Annexes VIII and IX to the Convention

1. The first meeting of the Conference of the Parties, in December 1992, recognized the uncertainties in regard to the identification of and control procedures for wastes destined for recovery operations. Further to this, the second meeting of the Conference of the Parties (1994) and meetings of the Technical Working Group developed activities for improving the hazardous characterization of wastes and their classification in the Basel Convention. At its seventh session (1995), the Technical Working Group identified the development of lists of hazardous wastes and the applicable procedure for their review, together with providing clearer definition of the classes described in Annex III to the Convention, as two possible ways forward in facilitating the implementation of the Convention. (For more information on this process, refer to the position paper on Hazard Characterization and Classification of Wastes within the Framework of the Basel Convention, SBC N° 98/002.)

2. From the eighth session of the Technical Working Group (June 1995), priority was given to work on the hazardous characterization and classification of wastes as two parallel but complementary processes to provide clearer understanding of which wastes are hazardous and subject to control under the Basel Convention. The adoption at the second meeting of the Conference of the Parties of decision II/12 made that work even more critical, requiring a fast track approach to identifying wastes that everyone would agree are hazardous without the need to refer back to Annex III (e.g., use of Annex III to demonstrate that a waste is or is not hazardous).

3. The issue of developing a list of wastes not covered by the Convention was raised at the Informal Advisory Meeting of Technical Experts (Denmark, May 1995) with a view to:

(a) Provide guidance on types of wastes not subject to the Convention;

(b) Facilitate the identification of wastes which need further work to determine their hazardousness.

4. The priorities of the ninth (December 1995) and subsequent meetings of the Technical Working Group were driven to a large extent by the adoption of decision III/1 on amendment to the Basel Convention at the third meeting of the Conference of the Parties (1995). Principally, it was important to identify those wastes which would fall under the Ban Amendment and those which would not. Efficient and effective work on this complex issue was required to complete the tasks before the fourth meeting of the Conference of the Parties.

5. While developing the preliminary lists of wastes not covered by the Basel Convention, the following criteria were used:

(a) The wastes to be included do not belong to any categories of Annex I; or

(b) They belong to a category of Annex I, but, normally, do not exhibit any of the hazardous characteristics of Annex III.

6. The main goal of the Technical Working Group until the fourth meeting of the Conference of the Parties was to establish a logical framework or system that would bring clarity and certainty in classifying wastes or in evaluating their hazardousness. The proposed framework of such a system was conceived at the informal meeting of technical experts to the Basel Convention on hazard characterization (January 1996) and consisted of the following elements:

- (a) List A: wastes subject to the Basel Convention and the Amendment;
- (b) List B: wastes not subject to the Amendment;
- (c) List C: wastes where uncertainties prevailed as to their classification on list A or B³;
- (d) A review mechanism to keep lists dynamic managed by the Technical Working Group.

A number of criteria were discussed regarding the fast-track approach for developing lists of wastes; in particular, priority should be given to listing of wastes or constituents identified in Annex I and that are significant to trade, and have (or do not have) Annex III hazardous characteristics. In March 1996, another informal meeting of technical experts on characterization took on the job of concretizing the proposed logical framework for the development of lists.

7. During the development of lists of wastes between the third and fourth meetings of the Conference of the Parties, three types of concerns were expressed regarding the use of Annex III, namely:

- (a) A procedure to resort systematically to the use of Annex III to demonstrate that a waste on list A is not hazardous would end up by leaving a heavy burden on developing countries to control such wastes, countries that often would not have the capacity to undertake testing or other similar activities;
- (b) Development of lists should be done with no prejudice to article 1, paragraph 1 (a) of the Convention, and an exporter or a generator has always the possibility to resort to Annex III criteria to prove that a waste on list A is not hazardous;
- (c) International standardized tests to characterize potential hazards (Annex III) posed to people or the environment by certain types of wastes do not exist.

8. From April 1996 to February 1997, the tenth, eleventh and twelfth sessions of the Technical Working Group completed the development of consolidated lists of wastes and development of the applicable procedure for their review.

9. The issue of mirror entries on lists A and B was raised at the Technical Working Group meetings. The main purpose of these mirror entries is to clarify the situation. For instance, a number of entries on list A are general while their mirror entries on list B specify exceptions. However, concerns were expressed about list B mirror entries that are not specific.

10. In its decision IV/9 on amendment and adoption of annexes to the Convention, the fourth meeting of the Conference of the Parties (February 1998) adopted an amendment to Annex I consisting of adding the following paragraphs at the end of the annex:

³Wastes on list C could be wastes for which specific consideration is required although not necessarily identifiable in Annex I.

“(a) To facilitate the application of this Convention, and subject to paragraphs (b), (c) and (d), wastes listed in Annex VIII are characterized as hazardous pursuant to article 1, paragraph 1 (a), of this Convention, and wastes listed in Annex IX are not covered by article 1, paragraph 1 (a), of this Convention;

“(b) Designation of a waste on Annex VIII does not preclude, in a particular case, the use of Annex III to demonstrate that a waste is not hazardous pursuant to article 1, paragraph 1 (a), of this Convention;

“(c) Designation of a waste on Annex IX does not preclude, in a particular case, characterization of such waste as hazardous pursuant to article 1, paragraph 1 (a), of this Convention if it contains Annex I material to an extent causing it to exhibit an Annex III characteristic;

“(d) Annexes VIII and IX do not affect the application of article 1, paragraph 1 (a), of this Convention for the purpose of characterization of wastes.”

The amendment to Annex I and adoption of Annexes VIII and IX became effective in November 1998 in accordance with paragraphs 2 (c) and 3 of article 18 of the Basel Convention (as specified in a communication from the Depository dated 6 May 1998).

Specificities of Annex IX

11. In its decision IV/9, the Conference of the Parties recognized that list A of Annex VIII and list B of Annex IX are not intended to be exhaustive. Hence, concerns were expressed by some Parties at further Technical Working Group meetings of the adequacy of putting forward applications for wastes which are considered by many countries to be non-hazardous. Some experts argued that Annex IX is more or less a mirror of the wastes contained in Annex VIII to give clarity, but was not intended to be an exhaustive list of non-hazardous wastes.

12. In its decision IV/9, the Conference of the Parties considered that Annex I and Annex III will remain the factors to characterize wastes as hazardous for the purpose of the Basel Convention. It also considered that list A of Annex VIII and list B of Annex IX developed by the Technical Working Group provided an expeditious way to facilitate the implementation of the Convention, including article 4A (part of the Ban Amendment contained in decision III/1), by establishing wastes that are and wastes that are not covered by article 1, paragraph 1 (a) of the Convention, and that these lists should have equal status.

13. At the seventeenth session of the Technical Working Group, in October 2000, the Latin American and Caribbean Group made a declaration, in which the Group expressed concerns regarding the effects of decisions taken on the revision or amendment of lists of wastes and the effects such decisions would have on transboundary movements of wastes. In particular, the Group referred to the use of Annex IX for considering wastes that cannot be identified in Annex I to the Convention and for which the exporter would be released from the obligation to notify the State of import.

Attachment 2

Guidance elements on issues related to Annex IX

A. General elements

(a) The wastes contained in Annexes VIII (list A) and IX (list B) respectively are an elaboration and clarification of the provisions of paragraph 1 (a) of article 1 to the Convention by reference to Annexes I and III;

(b) The lists of wastes contained in Annexes VIII (list A) and IX (list B) are not for the purpose of deciding whether or not a material is a waste and are not meant to be exhaustive. They are subject to amendments or adjustments;

(c) Listing of a waste in Annex IX (list B) does not preclude the use of Annex III to demonstrate that a waste is hazardous.

B. Supplementary elements and factual information regarding classification of wastes under the Basel Convention

1. HAZARDOUS WASTES SUBJECT TO TRANSBOUNDARY MOVEMENTS

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III (paragraph 1 (a) of article 1);

(b) Wastes covered under paragraph 1 (a) of article 1 are subject to the control procedures of the Convention;

(c) Wastes that are not covered under paragraph 1 (a) of article 1 but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit (paragraph 1 (b) of article 1);

(d) Wastes covered under paragraph 1 (b) of article 1 are subject to the control procedure of the Convention;

(e) Waste characterized as hazardous pursuant to paragraphs 1 (a) and (b) of article 1 destined for operations in accordance with section A (D-operations) of Annex IV fall under the Ban Amendment⁴;

(f) Wastes characterized as hazardous pursuant to paragraph 1 (a) of article 1 destined for operations in accordance with section B (R-operations) of Annex IV fall under the Ban Amendment.^a

(g) Wastes defined as, or considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit (paragraph 1 (b) of article 1) destined for operations in accordance with section B, (R-operations) of Annex IV do not fall under the Ban Amendment;^a

(h) Pursuant to paragraph 1 (b) of article 4, Parties shall prohibit or shall not permit the export of hazardous wastes (i.e., wastes classified as hazardous under paragraphs 1 (a) and (b) of article 1) and other wastes to the Parties which have prohibited the import of such wastes.

2. ANNEX VIII (LIST A)

(a) Wastes contained in Annex VIII are characterized as hazardous under paragraph 1 (a) of article 1 of the Basel Convention;

(b) The designation of a waste on Annex VIII does not preclude the use of Annex III to demonstrate that a waste is not hazardous;

(c) Wastes listed in Annex VIII destined for operations according to Annex IV, section A (D-operations) and Annex IV, section B (R-operations) do fall under the Ban Amendment^a, unless they do not exhibit an Annex III characteristic;

(d) A waste although considered hazardous may not be listed in Annex VIII because there is no relevant Y-entry for this material or compound. In such cases, paragraph 1 (b) of article 1 may be applied to classify such a waste as hazardous at the national level.

^a

After entry into force of the Ban Amendment contained in Decision III/1.

3. ANNEX IX (LIST B)

(a) Wastes contained in Annex IX will not be wastes covered by paragraph 1 (a) of article 1 of the Basel Convention unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic;

(b) Wastes contained in Annex IX may fall under paragraph 1 (b) of article 1 of the Convention (nationally defined or considered as hazardous waste);

(c) Wastes contained in Annex IX destined for operations according to Annex IV, section A (D-operations) fall under the Ban Amendment^a, if they are covered under paragraph 1 (b) of article 1 (or if they contain an Annex I material to an extent causing them to exhibit an Annex III characteristic);

(d) Wastes contained in Annex IX destined for operations according to Annex IV, section B (R-operations) do not fall under the Ban Amendment^a, unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic.

Appendix II

Questionnaire concerning the national classification and control procedures for the import of wastes contained in Annex IX (list B wastes)

A. Purpose and goal of the questionnaire

The Technical Working Group recognizes that there are a number of difficulties related to Annex IX of the Basel Convention. The main issue concerns the legal interpretation, purpose, use, and implementation of Annex IX. The difficulties arise from the control of transboundary movements of wastes listed in Annex IX, in particular from the import of such wastes.

The attached questionnaire was developed at the request of the Technical Working Group at its nineteenth session, in January 2002, by the secretariat of the Basel Convention with the assistance of the European Commission, Germany and Switzerland. Its purpose is to clarify the questions concerning Annex IX by using a pragmatic approach.

The questionnaire is intended to be sent to the focal points of the Basel Convention with a request for filling in the questionnaire.

The secretariat of the Basel Convention should compile the information collected from the submission of the questionnaire. As a result, up-to-date information about national classifications of wastes listed in Annex IX of the Basel Convention and the required import control procedures of all responding countries will be available⁵.

The information collected should further assist in clarifying issues concerning Annex IX and in daily operations in the practical context of transboundary movements of wastes contained in Annex IX.

B. Information and instructions for filling in the questionnaire

Box 1: Lists the wastes contained in Annex IX (list B) of the Basel Convention, with their code (**Box1.a**) and waste description (**Box1.b**).

⁵ Pursuant to article 3 of the Basel Convention, each Party to the Convention shall inform the secretariat of the wastes other than those listed in Annexes I and II considered or defined as hazardous under its national legislation and the secretariat will make this information available to the Parties. The information collected by the questionnaire should assist the secretariat in this task.

Note: Wastes contained in Annex IX are not hazardous wastes covered by paragraph 1 (a), article 1 of the Basel Convention, unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic.

Box 2: Provide information on national classification and control procedure for imports of the Annex IX wastes (list B) applied in your country.

Box 2.a: Is the specific waste in this line defined as or considered to be hazardous waste by the domestic legislation of your country? If yes, the waste in question is based on paragraph 1 (b), article 1 of the Basel Convention defined as hazardous waste for the purpose of the Convention (a so-called “article 1(1) b hazardous waste”). As a consequence the regulations of the Basel Convention must be applied for transboundary movements.

-> *If this is the case mark box 2.a*

Box 2.b: Indicate if there is no control procedure for the import in your country of the specific waste? If there is no control procedure, the waste is not controlled during a transboundary movement and follows the system applicable to normal commercial transactions.

-> *If this is the case mark box 2.b*

Box 2.c: Indicate if the import in your country of the specific waste in this line is subject to the Prior Informed Consent (PIC) procedure? This means imports must be notified and are only possible with the consent of the export, transit and import country/ies. (Normally such wastes are nationally defined or considered in your country as “article 1(1)b hazardous waste” (see also explanation for Box2.a).

-> *If this is the case mark box 2.c*

- However it may be, that:

a) the specific waste in this line is not considered in your country as an “article 1(1)b hazardous waste”, but nevertheless based on your national regulation imports are controlled.

-> *If this is the case mark box 2.c*

b) the specific waste in this line is not considered as an “article 1(1)b hazardous waste” in your country, but nevertheless based on your national regulation imports are prohibited.

-> *If this is the case don't mark box 2.c, but mark box 2.d*

Box 2.d: Is the import in your country of the specific waste in this line prohibited?

-> *If this is the case mark box 2.d*

-> *Please mark the appropriate box(es) for each waste with a “x”.*

Box 3.: Please fill in the name of your Country.

Box 4.: Please fill in any additional comments or information you deem necessary (e.g., import prohibited due to lack of recycling capacity).

Questionnaire

Cover sheet - general information:

-> Please fill in the following:

Country:	Address:
Contact person:	Remarks:
Telephone no:	E-mail:
Fax no:	Date when questionnaire completed D/M/Y:

To request an electronic version of this questionnaire, to return the completed questionnaire, or for further information, clarification or assistance, please contact:

Mr. Ibrahim Shafii
 Secretariat of the Basel Convention (SBC)
 15, chemin des Anémones
 1219 Châtelaine, Geneva
 Switzerland
 Tel: (41 22) 917 8636; Fax: (41 22) 797 3454
 E-mail: ibrahim.shafii@unep.ch

1. Annex IX of the Basel Convention (List B)		2. National classification and control procedure for the import of wastes listed in Annex IX (list B) of the Basel Convention				3. Country:
1.a Code	1.b Waste	2.a Art. 1(1)b waste	2.b No control procedure	2.c PIC - Procedure	2.d Import prohibited	4. Comments and information
B1	Metal and metal-bearing wastes					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - precious metals (gold, silver, the platinum group, but not mercury)					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Iron and steel scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Copper scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Nickel scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Aluminum scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Zinc scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Tin scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Tungsten scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Molybdenum scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Tantalum scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Magnesium scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Cobalt scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Bismuth scrap					

1. Annex IX of the Basel Convention (List B)		2. National classification and control procedure for the import of wastes listed in Annex IX (list B) of the Basel Convention				3. Country:
1.a Code	1.b Waste	2.a Art. 1(1)b waste	2.b No control procedure	2.c PIC - Procedure	2.d Import prohibited	4. Comments and information
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Titanium scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Zirconium scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Manganese scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Germanium scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Vanadium scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Scrap of hafnium, indium, niobium, rhenium and gallium					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Thorium scrap					
B1010	Metal and metal-alloy wastes in metallic, non-dispersible form: - Rare earths scrap					
B1020	Clean uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc.), of: - Antimony scrap					
B1020	Clean uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc.), of: - Beryllium scrap					
B1020	Clean uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc.), of: - Cadmium scrap					
B1020	Clean uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc.), of: - Lead scrap (but excluding lead-acid batteries)					

1. Annex IX of the Basel Convention (List B)		2. National classification and control procedure for the import of wastes listed in Annex IX (list B) of the Basel Convention				3. Country:
1.a Code	1.b Waste	2.a Art. 1(1)b waste	2.b No control procedure	2.c PIC - Procedure	2.d Import prohibited	4. Comments and information
B1020	Clean uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc.), of: - Selenium scrap					
B1020	Clean uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc.), of: - Tellurium scrap					
.....						
.....						
up to						
.....						
.....						
B4020	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives, not listed on list A, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g., water-based, or glues based on casein starch, dextrin, cellulose ethers, polyvinyl alcohols (note the related entry on List A A3050)					
B4030	Used single-use cameras, with batteries not included on list A					

Note: The questions are voluntary and Parties have full freedom to respond to all, to some or to none of the questions.

VI/20. Technical Guidelines for the Environmentally Sound Management of Biomedical and Health care Wastes (Y1; Y3)

The Conference of the Parties,

Welcoming the adoption by the Technical Working Group of the Technical Guidelines on the Environmentally Sound Management of Biomedical and Health-care Wastes,

Noting with appreciation the leading role played by Germany with support from Parties and others in the preparation of the Technical Guidelines,

Noting also the different concepts and approaches used at the international level concerning the definition and classification of biomedical and health-care wastes, especially in the case of infectious wastes,

1. Adopts the Technical Guidelines on the Environmentally Sound Management of Biomedical and Health-care Wastes (UNEP/CHW.6/20, annex II);
2. Invites Parties and others to use the Technical Guidelines and to report to the Conference of the Parties at its seventh meeting, through the secretariat, on their experience and any difficulties or obstacles encountered in the application of the Guidelines, with a view to improving them as necessary and required;
3. Requests the secretariat to continue its cooperation with the World Health Organization and the United Nations Committee of Experts on the Transport of Dangerous Goods on matters concerning or related to the environmentally sound management of biomedical and health-care wastes.

VI/21. Technical Guidelines for the Identification and Environmentally Sound Management of Plastic Wastes and for their Disposal

The Conference of the Parties,

Welcoming the adoption by the Technical Working Group of the Technical Guidelines for the Identification and Environmentally Sound Management of Plastic Wastes and for their Disposal,

Noting with appreciation the roles played by Parties, non-governmental organizations and industry in the preparation of the Technical Guidelines,

1. Adopts the Technical Guidelines for the Identification and Environmentally Sound Management of Plastic Wastes and for their Disposal (UNEP/CHW.6/21, annex);
2. Requests the secretariat to disseminate the Technical Guidelines to Parties, non-governmental organizations and industry in all United Nations languages as appropriate;
3. Invites Parties and others to use the Technical Guidelines and to report to the Conference of the Parties at its seventh meeting, through the secretariat, on their experience and any difficulties or obstacles encountered in the application of the Guidelines, with a view to improving them as necessary and required.

VI/22. Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries

The Conference of the Parties,

Welcoming the adoption by the Technical Working Group of the Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries,

Noting with appreciation the leading role played by Brazil in the preparation of the Technical Guidelines,

1. Adopts the Technical Guidelines for the Environmentally Sound Management of Waste Lead-acid Batteries (UNEP/CHW.6/22);
2. Requests the secretariat to disseminate the Technical Guidelines to Parties, non-governmental organizations and industry in all United Nations languages as appropriate;
3. Invites Parties and others to use the Technical Guidelines and to report to the Conference of the Parties at its next meeting, through the secretariat, on their experience and any difficulties or obstacles encountered in the application of the Guidelines, with a view to improving them as necessary and required.

VI/23. Preparation of technical guidelines on the environmentally sound management of persistent organic pollutants as waste

The Conference of the Parties,

Recalling its decision V/26 on the work programme of the Technical Working Group,

Welcoming the progress in the preparation of technical guidelines on the environmentally sound management of persistent organic pollutants as waste and the effective cooperation taking place with the interim Secretariat of the Stockholm Convention on Persistent Organic Pollutants,

Also welcoming the initiative taken by Canada to revise the technical guidelines on polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) and polybrominated biphenyls (PBBs),

1. Encourages the Open-ended Working Group to complete the preparation of the technical guidelines in 2003 for adoption by the Open-ended Working Group on an interim basis;
2. Requests the Open-ended Working Group to finalize the technical guidelines and submit them for consideration and eventual adoption by the Conference of the Parties at its seventh meeting;
3. Also requests the Open-ended Working Group to consider any measures necessary to finalize the preparation of the technical guidelines;
4. Further requests the Open-ended Working Group to continue and reinforce its cooperation with the appropriate subsidiary bodies of the Stockholm Convention on Persistent Organic Pollutants to ensure consistency in implementation and mutual support between the Basel and Stockholm Conventions.

VI/24. Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships

The Conference of the Parties,

Recalling its decision V/28 on the dismantling of ships,

Taking note of the outcome of the consideration of environmentally sound management of the full and partial dismantling of ships by both the Technical Working Group and the Legal Working Group,

Noting the need to improve the standard of ship dismantling worldwide,

Welcoming the finalization and adoption by the Technical Working Group of the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships,

Noting with appreciation the leading roles of Norway, the Netherlands and India with support from others,

Recognizing the importance of the implementation of the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships,

Recognizing also the longstanding expertise of the International Maritime Organization on technical matters in the field of maritime safety, efficiency of navigation and prevention and control of marine pollution from ships, and the International Labour Organization's specialization in formulating a step-wise approach towards safe ship-breaking from a labour perspective,

Also recognizing that incentive mechanisms should be developed by Governments and other international bodies to stimulate the environmentally sound management of ships,

1. Adopts the Technical Guidelines for the Environmentally Sound Management of the Full and Partial Dismantling of Ships (UNEP/CHW.6/23, annex);
2. Requests the secretariat to disseminate the Technical Guidelines to Parties, non-governmental organizations and industry in all United Nations languages as appropriate;
3. Invites Parties and others to use the Technical Guidelines and to report to the Conference of the Parties at its seventh meeting, through the secretariat, on their experience and any difficulties or obstacles encountered in the application of the Guidelines, with a view to improving them as necessary and required;
4. Decides to place the legal aspects of the full and partial dismantling of ships on the agenda of the Open-ended Working Group;
5. Requests the Open-ended Working Group to present its recommendations on the legal aspects of the full and partial dismantling of ships to the Conference of the Parties at its seventh meeting;
6. Encourages Parties and others, including authorities of dismantling nations as well as recycling yards, ship owners and flag States, to apply the Technical Guidelines;
7. Encourages the International Maritime Organization to consider establishing the necessary incentives for ship owners to request ship dismantling in accordance with the Technical Guidelines;
8. Requests the secretariat to report on the effect of the application of the Technical Guidelines to the seventh meeting of the Conference of the Parties.

VI/25. Hazardous characteristic H6.2 (Infectious substances)

The Conference of the Parties,

Welcoming the contribution of the United Kingdom of Great Britain and Northern Ireland and others in the preparation of the draft paper on hazardous characteristic H6.2 of Annex III to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

1. Takes note of the draft paper on hazardous characteristic H6.2;
2. Requests the Open-ended Working Group to continue to review the paper, based on the work of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods;
3. Requests the secretariat to continue its consultations with relevant bodies, in particular the World Health Organization and the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods;
4. Invites Parties and others to consider using the draft paper and to report to the Conference of the Parties, through the secretariat, their experiences of its use.

VI/26. Interim Guidelines on Hazardous Characteristic H12 –(Ecotoxic)

The Conference of the Parties,

Welcoming the finalization of the Interim Guideline on Hazardous Characteristic H12 (Ecotoxic), of Annex III to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

Noting with appreciation the efforts and leadership exercised by Denmark in the development of the Interim Guidelines,

1. Adopts the Interim Guidelines on Hazardous Characteristic H12 (Ecotoxic) (UNEP/CHW.6/26, annex);
2. Invites Parties to monitor the use of the Interim Guidelines, with a view to improving or updating them as necessary;
3. Requests the secretariat to publish the Interim Guidelines in the official languages of the United Nations and to facilitate their dissemination.

VI/27. Implementation of decision V/14 on transmission of information

The Conference of the Parties,

Recalling its decision V/14 on transmission of information and its decision V/15 on information management and dissemination and the development of the information system on hazardous wastes and their management,

Taking note of the revised questionnaire on transmission of information (UNEP/CHW.6/29, annex) with its pre-filling feature and the manual to assist Parties in completing the revised questionnaire,

Welcoming the efforts made by the secretariat, in consultation with Parties, to revise the questionnaire and to prepare the manual,

Welcoming the assistance provided by Finland in the preparation of the revised questionnaire and its manual,

Taking note of the database designed for processing and dissemination of data and information reported by Parties,

Taking note also of the compilation documents and country fact sheets prepared by the secretariat, based on the information reported by Parties for the years 1998 and 1999 in accordance with articles 13 and 16 of the Convention,

Taking note further of the progress of work within the Member countries of the Organisation for Economic Cooperation and Development on the development of waste prevention indicators,

1. Adopts the revised questionnaire on transmission of information with its pre-filling feature and manual;
2. Requests the Parties to use the revised questionnaire and its manual to report data and information to the secretariat in accordance with articles 13 and 16 of the Convention;
3. Requests the secretariat to provide training to developing countries and other countries that are in need of assistance to meet their reporting obligations by organizing workshops through the Basel Convention Regional Centres or by other appropriate means;
4. Urges Parties that have not yet done so to report on articles 13 and 16 for the calendar year 2000, and earlier years, as soon as possible using the revised questionnaire, bearing in mind that, in accordance with the provisions of article 13, Parties are requested to transmit, before the end of each calendar year, a report on the previous calendar year;
5. Recalls that such information has to be provided by Parties to the secretariat for the calendar year 2001 before the end of the calendar year 2002;
6. Invites Parties to assist the secretariat in providing training as referred to in operative paragraph 3 above;
7. Requests the secretariat to make the database on articles 13 and 16 available on the web site of the secretariat;
8. Also requests the secretariat to analyse the information collected from the questionnaire on transmission of information to identify cases where notification in accordance with article 3, paragraphs 1 and 2 of the Convention would be necessary;
9. Further requests the secretariat to prepare the compilation documents and country fact sheets for the years 2000 and 2001 and to make such information available on a regular basis to the Parties and to non-Parties;
10. Requests the secretariat to continue to explore the possibilities of developing indicators on hazardous wastes, which shall take into account the different socio-economic conditions of Parties, to facilitate decision-making and to report thereon to the Conference of the Parties at its seventh meeting.

VI/28. Consolidated report on implementation of decision II/12 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

The Conference of the Parties,

Recalling its decision V/2 on the report of the Parties and Signatories on the implementation of decision II/12,

Taking note of the consolidated report prepared by the secretariat of the Basel Convention on the implementation of decisions II/12 and III/1, as contained in *Country Fact Sheets 1999, Basel Convention Series No. 01/04*,

1. Encourages Parties which have not done so, to report on their implementation of decision II/12 in their report under article 13 of the Convention, in the light of the importance of that decision for the implementation of the Basel Convention;

2. Requests the secretariat, through the Open-ended Working Group, to submit a further consolidated report to the Conference of the Parties at its seventh meeting.

VI/29. International cooperation

The Conference of the Parties,

Recalling its decisions V/8, V/9, V/10, V/11 and V/12 on cooperation between the Basel Convention and other intergovernmental bodies,

Noting the increased level of activities undertaken by the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to cooperate with the relevant bodies, secretariats and organizations of the United Nations system, with regional conventions, commissions, secretariats and institutions, other multilateral environmental agreements and intergovernmental bodies,

Noting also the effective and substantial progress made in the strengthening of cooperation and improved coordination and coherence of activities between the secretariat of the Basel Convention and, in particular, the interim secretariat of the Stockholm Convention on Persistent Organic Pollutants as well as with the interim secretariat of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, in the domains of capacity-building, training, science and information for the environmentally sound management of waste pesticides, polychlorinated biphenyls (PCBs), dioxins and furans,

Noting further the effective and fruitful cooperation with the International Maritime Organization and the International Labour Organization in the domain of the environmentally sound dismantling of ships,

Welcoming the signature of the memorandum of understanding with the secretariats of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Montreal Protocol on Substances that Deplete the Ozone Layer on cooperation in the field of prevention and monitoring of illegal traffic,

Welcoming also the development of a strategic partnership with other organizations and in particular with the United Nations Environment Programme Chemicals Branch, the Food and Agriculture Organization of the United Nations and the United Nations Industrial Development Organization in the area of environmentally sound technologies for the disposal of persistent organic pollutants as wastes,

Encouraging further cooperation between the secretariat of the Basel Convention and the secretariat of the World Customs Organization to make progress on the one hand with submission of recommendations to the World Customs Organization for ascribing codes to wastes subject to the Basel Convention within the Third Harmonized System Review Cycle, effective from 1 January 2007, and on the other hand in joint enforcement activities,

Welcoming the cooperation and development of programmatic activities with the World Health Organization on the environmentally sound management of biomedical and health-care wastes, and on matters pertaining to the characterization of such wastes,

Welcoming also the work of the Organisation for Economic Cooperation and Development towards harmonization of the provisions of its decision C(2001)107/FINAL concerning the revision of its decision C(92)39/FINAL on the control of transboundary movements of wastes destined for recovery operations, with the provisions of the Basel Convention,

Recognizing the need for the secretariat to continue participating in the work of the United Nations Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals,

Welcoming further the initiatives taken by the secretariat to improve cooperation, coordination and coherence of activities with those of the United Nations Environment Programme and the regional seas conventions and action plans,

Noting the cooperation between the secretariat of the Basel Convention and the interim secretariat of the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa and the secretariat of the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region, to facilitate and reinforce regional delivery of the Basel Convention and coherence among these closely related legal instruments,

Taking note of the tasks contained in the work programme of the Open-ended Working Group of relevance to the environmentally sound management of persistent organic pollutants, dismantling of ships, classification of wastes for transport purposes, identification of wastes controlled by the Basel Convention in the Third Harmonized System Review Cycle of the World Customs Organization, and to the area of harmonization of control procedures and forms,

I. Stockholm Convention on Persistent Organic Pollutants

1. Requests the secretariat, under the guidance of the Open-ended Working Group, to continue its cooperation with the interim secretariat of the Stockholm Convention on Persistent Organic Pollutants and other relevant intergovernmental organizations on the issue of persistent organic pollutants as wastes with a view to:

(a) Assisting in building the capacities of developing countries and other countries in need of such assistance to manage persistent organic pollutants as waste and other stockpiles of obsolete stocks of pesticides, including prevention of their accumulation, in an environmentally sound manner;

(b) Undertaking joint activities to improve coordination and coherence between chemical and waste programme activities, in particular by making use of the Basel Convention Regional Centres as regional delivery mechanisms;

2. Also requests the secretariat to keep the Open-ended Working Group regularly informed of progress on issues concerning or related to persistent organic pollutants;

3. Further requests the secretariat to cooperate with the interim secretariat of the Stockholm Convention in the implementation of decisions INC-6/9 and INC-6/10 of the Intergovernmental Negotiating Committee of the Stockholm Convention, on feasibility and case studies on regional and subregional centres respectively adopted in June 2002, as contained in appendix I to the present decision, and to the report on progress to the seventh meeting of the Conference of the Parties.

II. Rotterdam Convention

4. Requests the secretariat to continue its cooperation with the interim secretariat of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals in International Trade;

III. Other multilateral environmental agreements

5. Requests the secretariat to continue its effective cooperation with the secretariats of the Convention on International Trade in Endangered Species of Wild Fauna and Flora and the Montreal Protocol on Substances that Deplete the Ozone Layer, as well as with the United Nations Environment Programme in conducting joint training activities for enforcement officers;

IV. International Maritime Organization

6. Requests the secretariat, under the guidance of the Open-ended Working Group, to continue its cooperation with the International Maritime Organization on compliance and implementation and on issues concerning or related to the environmentally sound management of the dismantling of ships, in particular in regard to exploring the development of an inter-agency technical assistance project on ship dismantling together with the International Labour Organization and the International Maritime Organization; and to strengthen cooperation at the regional level with the United Nations Environment Programme and the International Maritime Organization on matters pertaining to the environmentally sound management of wastes to complement activities carried out at port reception facilities or related to marine litter or debris; and further to create a joint working group with the International Maritime Organization and the International Labour Organization as a means of achieving a common understanding of the problems and character of the required solutions, including the responsibility of ship owners and flag States and the roles of various other stakeholders,

V. Food and Agriculture Organization

7. Requests the secretariat to continue and reinforce its cooperation with the Food and Agriculture Organization of the United Nations on matters pertaining to the disposal and prevention of accumulation of obsolete stocks of pesticides;

VI. World Customs Organization

8. Requests the secretariat to move forward, under the guidance of the Open-ended Working Group, with the issue of identification of the wastes covered by the Basel Convention in the Third Harmonized System Review Cycle;

9. Also requests the secretariat to pursue its efforts and cooperation with the World Customs Organization and other relevant organizations in the field of prevention and monitoring of illegal traffic and in providing training to enforcement personnel;

VII. World Health Organization

10. Further requests the secretariat to continue its cooperation with the World Health Organization as well as with the United Nations Committee on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals in the domain of environmentally sound

management of biomedical and health care-wastes, taking into account the specific needs of some Parties for transport and disposal of these wastes;

VIII. Organisation for Economic Cooperation and Development

11. Requests the secretariat to continue participating in the work of the subsidiary bodies of the Organisation for Economic Cooperation and Development, as appropriate, with a view to improving coherence between the Basel Convention and that organization's decisions on transboundary movements of wastes and in regard to work of relevance to waste prevention and minimization, and to waste pesticides;

IX. Cooperation with other organizations and secretariats

12. Requests the secretariat to continue and further strengthen its cooperation in critical areas for the effective and concrete implementation of the Basel Convention, the Basel Protocol and Amendments with relevant organizations, including the following:

- (a) International Atomic Energy Agency;
- (b) United Nations Conference on Trade and Development;
- (c) Organization for the Prohibition of Chemical Weapons;
- (d) International Criminal Police Organization;
- (e) United Nations International Drug Control Programme;
- (f) Centre for International Crime Prevention;
- (g) Environmental Crime Prevention Programme;
- (h) United Nations Commission on Sustainable Development;
- (i) United Nations Office for the Coordination of Humanitarian Affairs;
- (j) United Nations Commission on Human Rights;
- (k) United Nations regional economic commissions;
- (l) United Nations Office of Legal Affairs/Division of Ocean Affairs and Law of the Sea;
- (m) Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972;
- (n) Regional seas conventions and action plans;⁶
- (o) African Union, as interim secretariat of the Bamako Convention;
- (p) South Pacific Regional Environment Programme, as secretariat of the Waigani Convention;
- (q) World Trade Organization.

⁶ Listed in appendix II to the present decision.

X. United Nations Environment Programme

13. Requests the secretariat to continue cooperating with and providing technical and other guidance to the United Nations Environment Programme, as appropriate and taking into account its limited financial resources, in particular in regard to its activities in Africa, on post-conflict assessment activities, coordination of environmental agreements and compliance and enforcement as well as in regard to environment and trade initiatives, with a view to improving coordination and coherence of activities;

XI. General

14. Requests the secretariat to report on cooperation with the bodies listed under paragraphs 1 to 12 above, to the Conference of the Parties at its seventh meeting.

Appendix I

Decision related to the Basel Convention Regional Centres, adopted at the sixth meeting of the INC of the Stockholm Convention

Decision INC-6/9: Feasibility study on regional and subregional centres

The Intergovernmental Negotiating Committee

1. Requests the secretariat to undertake, in consultation with the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, as appropriate, a feasibility study on regional and subregional centres for capacity-building and transfer of technology. The study shall include:

(a) An identification of the needs of countries in the area of capacity-building and transfer of technology that might be facilitated by regional and subregional centres;

(b) An assessment of the capacity of all relevant regional and subregional centres, in particular, but not limited to Basel Convention regional centres, to facilitate capacity-building and transfer of technology. Such an assessment shall include, but not be limited to, a review of mandates, functions, performance, institutional arrangements and the needs identified in paragraph 1 (a) above;

(c) An assessment of the gaps and limitations of existing arrangements, including the availability of technology to be transferred, and the means to address these constraints;

(d) A review of the experiences gained by other international agreements in capacity-building and transfer of technology;

(e) An identification and analysis of the potential synergies between the Stockholm Convention on Persistent Organic Pollutants and other multilateral environmental agreements regarding the provision of capacity-building and transfer of technology;

2. Further requests the secretariat to communicate terms of reference for the feasibility study to Governments for comments prior to its commencement, and to present the intermediate or final report of the study to the Intergovernmental Negotiating Committee at its seventh session. The final report should be presented no later than 31 December 2003, unless otherwise decided by the Intergovernmental Negotiating Committee at its seventh session.

Decision INC-6/10: Case studies on regional and subregional centres

The Intergovernmental Negotiating Committee

1. Requests the secretariat to develop and conduct, in cooperation with the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and the Basel Convention regional centres, as appropriate, one or more case studies of regional and subregional centres for the purpose of facilitating capacity-building and transfer of technology in accordance with article 12 of the Stockholm Convention on Persistent Organic Pollutants and with a view to contributing to the feasibility study provided for in decision INC-6/9 on the feasibility study on regional and subregional centres;
2. Invites Governments, intergovernmental organizations, non-governmental organizations, the private sector and international financial institutions to provide information to the secretariat on how they might contribute to the case studies. Such information should be submitted to the secretariat by 31 October 2002;
3. Requests the secretariat to report to the Intergovernmental Negotiating Committee at its seventh session on progress made in implementing the case studies;
4. Agrees that implementation of the case studies should be subject to the availability of extrabudgetary resources, and invites developed countries and other countries in accordance with their capabilities, intergovernmental organizations, non-governmental organizations, the private sector and international financial institutions who are in a position to do so, to contribute resources.

Appendix II

Regional Seas Conventions and Action Plans

1. Convention for the Protection of the Marine and Coastal Environment of the West and Central African Region (Barcelona)
2. Abidjan Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan)
3. Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region (Nairobi)
4. Kuwait Regional Convention for Cooperation on the Protection of the Marine Environment from Pollution
5. Regional Convention for the Conservation of the Red Sea and the Gulf of Aden Environment (Jeddah)
6. South Asia Cooperative Environment Programme (SACEP)
7. East Asian Seas Action Plan
8. Action Plan for the Protection, Management and Development of the Marine and Coastal environment of the Northwest Pacific Region (UNEP/DEC serves as interim Secretariat) (NOWPAP)
9. Convention for the Protection of the Natural Resources and Environment of the South Pacific Region (Noumea)
10. Convention for the Protection of the Marine Environment and Coastal Area of the South-East Pacific (Lima)
11. Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena)
12. Convention for the Protection of the Black Sea Against Pollution (Bucharest)
13. Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki)
14. Convention for the Protection of the Marine Environment of the North-East Atlantic (Paris) (OSPAR)
15. Programme for the Protection of the Arctic Marine Environment (PAME)
16. Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)
17. Caspian Environment Programme
18. Northeast Pacific Regional Action Plan

VI/30. Cooperation with the World Trade Organization

The Conference of the Parties,

Recalling its decision V/12 on cooperation with United Nations bodies, specialized agencies, regional systems and organizations and others,

Noting that the secretariats of the Basel Convention and the World Trade Organization have developed an informal institutional dialogue over several years, a process that started under the General Agreement on Tariffs and Trade until 1994, before the existence of the World Trade Organization,

Noting also that, more recently, an informal dialogue has been taking place between multilateral environmental agreements, including the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, and the World Trade Organization to enhance synergies, particularly in relation to trade and environment,

Recognizing that implementation of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal requires consideration all trade related aspects of the transboundary movement of hazardous wastes, including the monitoring of international trade and prevention of illegal trade of hazardous wastes, as well as the export and import licensing systems for hazardous wastes. These trade measures are designed to protect, by strict control, human health and the environment against the adverse effects that may result from the generation and management of hazardous wastes and other wastes,

Mindful of the need to strengthen cooperation between the Basel Convention and the World Trade Organization within their respective mandates,

Welcoming the enhanced cooperation between the secretariats of the Basel Convention and of the World Trade Organization,

1. Requests the secretariat of the Basel Convention to:
 - (a) Seek observer status in the Committee on Trade and Environment meeting in special session, and to advise the Parties to the Basel Convention when the request has been submitted to and granted by the World Trade Organization;
 - (b) Report to the Parties to the Basel Convention on any meetings it attends at the World Trade Organization and any substantive contacts with the World Trade Organization secretariat and its committee secretariats;
 - (c) Monitor developments in the World Trade Organization Committee on Trade and Environment meeting in special session and report to the Parties thereon;
2. Also requests the secretariat of the Basel Convention, when called upon to provide general information to the World Trade Organization on trade provisions of the Basel Convention, to consult with the Parties to the Basel Convention before providing that information. If the Secretariat of the Basel Convention is requested to provide interpretation on the trade provisions of the Convention, it will refer such requests to the Conference of the Parties.

VI/31. Sustainable partnership for the environmentally sound management of end-of-life mobile telephone

The Conference of the Parties,

Recalling its decision V/13 on cooperation with environmental non-governmental organizations and with the industry and business sectors and its decision V/33 on environmentally sound management,

Having regard to the Basel Declaration on Environmentally Sound Management,

Having considered decision its VI/32 on partnership with environmental non-governmental organizations and with the industry and business sectors

Taking note with appreciation of the initiative taken by the Swiss presidency of the fifth meeting of the Conference of the Parties to establish a sustainable partnership on the environmentally sound management of end-of-life mobile 'phones,

Taking note also of the mobile 'phones destined for disposal at the end of their life,

Welcoming the announcement by manufacturers of mobile 'phones contained in the appendix to the present decision, expressing their wish and willingness to enter into a partnership with the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal for the environmentally sound management of end-of-life mobile 'phones,

Acknowledging that such a partnership will require the necessary support, expertise and, where appropriate, leadership of other stakeholders (such as network providers),

1. Requests the Parties to consider the environmentally sound management of end-of-life mobile 'phones as a very important activity;
2. Decides to establish a small group of experts from Parties and/or Signatories interested in the initiative on a sustainable partnership on the environmentally sound management of end-of-life mobile 'phones together with representatives of the mobile 'phone manufacturers and a representative of the secretariat. As appropriate, other stakeholders⁷ will be invited by the group to participate actively in its work;
3. Further decides that the group will work under the guidance of the Open-Ended Working Group;
4. Requests the Parties to nominate candidates for the group no later than 31 January 2003 and announce these to the secretariat;
5. Mandates the group to:
 - (a) Elaborate draft terms of reference for the group, including its working structure (such as for subgroups);
 - (b) Develop, in cooperation with the secretariat, a draft concrete work programme setting priorities and identifying specific programmes for the environmentally sound management of end-of-life mobile 'phones, taking into account the fields of common interest for cooperative work identified in the announcement by the mobile 'phone manufacturers;

⁷ Such as other United Nations bodies and agencies, network providers, operators and recyclers.

- (c) Work intersessionally;
- (d) Set priorities based on the work programme;
- (e) Work in a transparent way by making information or reports of meetings available to Parties, Signatories, non-governmental organizations and other stakeholders;
- (f) Elect a contact person for the group and ensure that intersessional input or comments from Parties, Signatories, non-governmental organizations and other stakeholders will also be brought to the attention of the group;

6. Mandates the Open-ended Working Group at its first meeting to:

- (a) Adopt the terms of reference of the group;
- (b) Adopt the work programme;

7. Mandates the secretariat to:

- (a) Coordinate the establishment of the group and organize a first meeting;
- (b) When the terms of reference and the work programme have been adopted in cooperation with the group, to initiate the first projects for the environmentally sound management of end-of-life mobile 'phones within funds available and, where appropriate, involving the Basel Convention Regional Centres. Such a project or projects could, if so decided by the Conference, be a project/projects identified in the activities of the strategic plan;
- (c) To report regularly to the Open-ended Working Group and finally to the seventh meeting of the Conference of the Parties on the progress made.

Appendix

SUSTAINABLE PARTNERSHIP⁸ ON THE ENVIRONMENTALLY SOUND MANAGEMENT OF END-OF-LIFE MOBILE PHONES

On the occasion of the sixth meeting of the Conference of the Parties to the Basel Convention and having regard to the Basel Declaration on Environmentally Sound Management,

We, the manufacturers of mobile phones,

Recognizing that we have a role to play, in partnership with the secretariat of the Basel Convention, in identifying good management practices and providing guidance related to the sound management of end-of-life mobile phones;

Subject to the necessary support, expertise and, where appropriate, leadership of other stakeholders (in particular network providers), which are critical to the success of any programme that addresses end-of-life product recovery; and

⁸ Partnership is to be understood in the context of the Basel Declaration. It is a cooperation between different stakeholders (private and public) to work together towards a common goal; it has no legal implication.

Having regard to the guidelines on cooperation between the United Nations and the business Community, which encourage business partners to advance and adhere to the principles of the United Nations Secretary-General's Global Compact;

Declare our intention to:

Contribute towards meeting the goals and objectives of the Basel Convention and the Basel Declaration on Environmentally Sound Management;

Promote the sound management of end-of-life mobile phones with the aim of protecting human health and the environment;

Take all reasonable steps for ensuring responsible design and manufacturing and contribute towards products' stewardship;

Enter into a sustainable partnership with the Basel Convention in cooperation with other stakeholders⁹ to develop and promote the environmentally sound management of end-of-life mobile phones;

Participate in working group(s) including the aforementioned stakeholders as appropriate, whose purpose is to define responsibilities, elaborate a work programme and to consider the following:

- Initiatives (regulatory, voluntary, economic) for reused phones that re-enter the market to ensure high quality and standards that satisfy the product requirements of manufacturers, network providers and operators alike;
- Rules that govern transboundary movements of mobile phones to be reused;
- Advise on any programmes, legislation and/or regulations for an effective collection of end-of-life mobile phones;
- Rules that apply to transboundary movement of end-of-life mobile phones to be sent for refurbishing, recycling and recovery;
- Guidance on environmentally sound practices for recycling and recovery;
- Elaboration of the role of the Basel Convention Regional Centres to assist countries in developing legislation, establishing potential recycling companies, raising awareness, disseminating information and capacity-building;

To this end we will play an active role in developing a work programme with other stakeholders and join in the effort to take appropriate actions to achieve environmentally sound management of end-of-life mobile phones.

Geneva, 12 December 2002
(Signed)

⁹ Such as other United Nations bodies and agencies, network providers, operators and recyclers.

Yong-Hwa Lee
for LG

Peter Hine
for Matsushita (Panasonic)

Kazuyuki Katori
for Mitsubishi

Y.C. Heng
for Motorola

Tsuneo Idei
for NEC

Tapio Takalo
for Nokia

Ron Dikhoff
for Philips

Sang-Bai Lee
for Samsung

Hans-Peter Grässle
for Siemens

Per Hendar
for Sony Ericsson

Witnessed by:

Klaus Töpfer
Under-Secretary-General
Executive Director
UNEP

Philippe Roch
President COP-5
State Secretary
Switzerland

Sachiko Kuwabara-Yamamoto
Executive Secretary
Secretariat of the
Basel Convention

VI/32. Partnership with environmental non-governmental organizations and with the industry and business sectors

The Conference of the Parties,

Recalling its decision V/13 on cooperation with environmental non-governmental organizations and with the industry and business sectors,

Taking note of the activities undertaken by the secretariat to develop partnership with the industry and business sectors and with environmental non-governmental organizations and other organizations,

Welcoming the outcome of the World Summit on Sustainable Development in respect to partnership,

Welcoming also the contribution of Switzerland to assist the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in increasing effective cooperation and partnership with industry,

Welcoming further the increased participation of industry organizations as well as environmental and development non-governmental organizations in concrete project activities for the environmentally sound management of hazardous and other wastes,

Recalling the Basel Declaration on Environmentally Sound Management, and referring to the strategic plan for the implementation of the Basel Convention,

Convinced that the active involvement and support of industry and business organizations and non-governmental organizations is necessary to achieve the aims of the Basel Convention,

Noting the draft elements for cooperation with industry as contained in the appendix to the present decision,

1. Encourages industry or business organizations, as well as environmental and development non-governmental organizations, to get involved in concrete activities at the regional and national levels in support of the aims of the Basel Convention;

2. Invites, in the spirit of the Basel Declaration on Environmentally Sound Management, relevant industry and business organizations as well as individual companies and non-governmental organizations, to get involved in supporting environmentally sound management projects, in particular at the regional level using for that purpose the Basel Convention Regional Centres;

3. Requests the secretariat to prepare, for adoption by the Open-Ended Working Group, a work programme for cooperation with the industry and business sectors and non-governmental organizations with the aim of developing strategic partnership in domains of relevance to the implementation of the Basel Convention and its amendments and protocols, taking into account activities for 2003-2004 supporting the aims of the Basel Declaration on Environmentally Sound Management, and to report on progress to the Conference of the Parties at its seventh meeting;

4. Requests the secretariat to initiate and implement the work programme in consultation with the Open-Ended Working Group,

5. Also requests the secretariat to develop further the draft elements of a framework for cooperation with industry contained in the appendix to the present decision for adoption by the Open-ended Working Group, taking into account the “Guiding Principles for Partnerships for Sustainable Development” proposed by the Vice Chairs at the fourth session of the Commission on Sustainable Development acting as the preparatory committee for the World Summit on Sustainable Development, held in Bali in May/June 2002 (the Bali guidelines);

6. Further Requests the secretariat to circulate the draft elements to the relevant industry sectors with a view to seeking their views and input on their operationalization;

7. Requests the secretariat to report on progress on developing cooperation with the industry and business sectors and non-governmental organizations to the Open-ended Working Group and to the seventh meeting of the Conference of the Parties;

8. Invites Parties, Signatories and other Governments to promote partnership with the industry and business sectors and non-governmental organizations;

9. Encourages the Basel Convention Regional Centres to consider opportunities for partnership with the industry and business sectors and non-governmental organizations, and to promote such partnership.

Appendix

DRAFT ELEMENTS OF A FRAMEWORK FOR COOPERATION WITH INDUSTRY

The following non-exclusive elements could form part of the work programme for cooperation with industry:

(a) Identification of key stakeholders in selected industry and business sectors dealing with or having a responsibility in the environmentally sound management of hazardous and other waste streams (such as corporate foundations, industry associations, multi-national companies, and companies operating at the national level);

(b) Initiation of scoping dialogue with the key stakeholders of selected industry sectors in the context of the life-cycle approach of materials;

(c) Development of strategic partnership in the priority fields identified in the Basel Declaration on Environmentally Sound Management and in the strategic plan for the implementation of the Basel

Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, taking into account regional specificities;

(d) Development and implementation of joint activities with stake holders of selected industry sectors to improve environmental performance of companies dealing with or having a responsibility in the environmentally sound management of hazardous and other waste streams, encompassing minimization of those wastes, strengthening capacity-building, and access to sound technologies or processes;

(e) Involvement of the Basel Convention Regional Centres in providing training, with support from industry sector, to small- and medium-sized enterprises in the domains of environmentally sound management and prevention and minimization of hazardous wastes and other wastes.

VI/33. Implementation of decision III/1 on Amendment of the Basel Convention

The Conference of the Parties,

Recalling its decision V/3 on the implementation of decision III/1 on Amendment to the Basel Convention,

Taking note of the progress made by Parties in implementing decision III/1,

1. Welcomes the ratification or acceptance by several Parties of the Amendment contained in decision III/1;
2. Strongly appeals to Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal to expedite the process of ratification, acceptance, approval of or accession to, the Amendment to facilitate its entry into force at the earliest opportunity;
3. Also strongly appeals to States that are not Parties to the Basel Convention to expedite the process of ratification, acceptance and approval of, or accession to, the Basel Convention and its amendments,
4. Requests the secretariat to respond to any request from a State for information or advice relating to the process of ratification, acceptance, approval of, or accession to, the Basel Convention and its amendments.

VI/34. Analysis of issues related to Annex VII

The Conference of the Parties,

Recalling that the purpose of the analysis of issues related to Annex VII is to explore, in a transparent, objective and comprehensive manner, health, environmental, social, economic and other issues that are considered important to the Conference of the Parties and to assist Parties to ratify the Ban Amendment contained in decision III/1 on amendment to the Basel Convention,

Recalling also that the phase II analysis shall be restricted to investigate the eight elements of evaluation already identified,

Recalling further its decision V/4 on reporting on the implementation of decision IV/8 (decision regarding Annex VII),

Reaffirming its decision to leave Annex VII unchanged until the amendment contained in its decision III/1 enters into force,

Noting that some progress has been made in the development of the analysis of issues related to Annex VII,

Determined to finalize the analysis at the latest by the seventh meeting of the Conference of the Parties,

1. Requests the secretariat to finalize the work on phase II of the analysis at the latest in time for the seventh meeting of the Conference of the Parties and in doing so to make full use of existing information and obtain such further information as necessary;
2. Also requests the secretariat to present the first draft of the analysis to a meeting of the Open-ended Working Group in 2003, and to present the final version of the analysis in due time for consideration by the last meeting of that body before presenting it for a final decision by the seventh meeting of the Conference of the Parties;
3. Further requests the secretariat to support Parties, upon request, to ratify the Ban Amendment, contained in decision III/1;
4. Invites Parties and others to provide the secretariat with relevant materials or documentation that would assist the secretariat in its work;
5. Requests the Open-ended Working Group to continue overseeing the development of work and provide guidance to the secretariat to ensure its timely finalization;
6. Also requests the Open-ended Working Group to present its final report on the analysis of issues related to Annex VII to the Conference of the Parties at its seventh meeting.

VI/35. Review or adjustment of lists of wastes contained in Annexes VIII and IX to the Basel Convention

The Conference of the Parties,

Referring to its decision V/24 on the classification and hazard characterization of wastes,

Taking note of the procedure for the review or adjustment of lists of wastes contained in Annexes VIII and IX of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted by the Technical Working Group,

Taking note also of the applications submitted by Parties to amend the lists of wastes contained in Annexes VIII and IX,

1. Adopts the procedure for the review or adjustment of the lists of wastes contained in Annexes VIII and IX of the Basel Convention, as contained in the appendix to the present decision;
2. Invites Parties that are submitting applications for the review or adjustment of lists of wastes in Annexes VIII and IX, to state whether the applications are a formal proposal for amendment of the Annexes to the Basel Convention in accordance with articles 17 and 18 of the Convention;
3. Adopts the following amendments to Annexes VIII and IX of the Basel Convention:

(a) Entry B2060 in Annex IX: Replace the existing wording by: “Spent activated carbon not containing any Annex I constituents to an extent they exhibit Annex III characteristics, for example, carbon resulting from the treatment of potable water and processes of the food industry and vitamin production (note the related entry on list A, A4160”;

(b) New entry B1250 in Annex IX: “Waste end-of-life motor vehicles, containing neither liquids nor other hazardous components”;

(c) Entry B1010 in Annex IX: Insert “chromium scrap” as a new bullet point;

(d) New entry B3035 in Annex IX: “Waste textile floor coverings, carpets”;

(e) New entry B1031 in Annex IX: “Molybdenum, tungsten, titanium, tantalum, niobium and rhenium metal and metal alloy wastes in metallic dispersible form (metal powder), excluding such wastes as specified in list A under entry A1050, Galvanic sludges”;

(f) New entry A3200 in Annex VIII: “Bituminous material (asphalt waste) from road construction and maintenance, containing tar (note the related entry on list B, B2130)”;

(g) New entry B2130 in Annex IX: “Bituminous material (asphalt waste) from road construction and maintenance, not containing tar^a(note the related entry on list A, A3200);

(h) New entry B3065 in Annex IX: “Waste edible fats and oils of animal or vegetable origin (e.g, frying oils), provided they do not exhibit an Annex III characteristic”;

(i) Entry B3010 in Annex IX: Replace the existing wording in entry B3010:

- “• Perfluoroalkoxy alkane (PFA)
- “• Perfluoroalkoxy alkane (MFA)”

with the following new wording:

- “• Perfluoro alkoxyl alkane
- Tetrafluoroethylene/per fluoro vinyl ether (PFA)
- Tetrafluoroethylene/per fluoro methylvinyl ether (MFA)”

4. Notes that the applications submitted by India concerning the classification of PVC-coated cable scrap will be placed on the agenda of the Open-ended Working Group;

5. Requests the Open-ended Working Group to consider issues related to the official translation of the lists of wastes contained in the Annexes to the Basel Convention and to provide guidance as appropriate.

^a The concentration level of Benzol[a]pyrene should not be 50 mg/kg or more.

Appendix

PROCEDURE FOR THE REVIEW OR ADJUSTMENT OF LISTS OF WASTES CONTAINED IN ANNEXES VIII AND IX OF THE BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

1. Applications.

- (a) Applications must be submitted to the secretariat using the form below. Any Party, observer State, non-governmental organization, private company or individual has the right to fill out the application form with the proposed placement of wastes under Annex VIII or Annex IX, or with a proposal for removing wastes from Annex VIII, Annex IX or working list C. Any application submitted to the secretariat shall be by or through a Party or observer State.
- (b) A Party submitting an application shall clearly state whether or not the application is a formal proposal for amendment to the annexes to the Basel Convention in accordance with articles 17 and 18 of the Convention.
- (c) Competent authorities and focal points are requested to make available any information in addition to the form to all focal points of the Basel Convention and to advise the secretariat that this has been done. If a competent authority or focal point is unable to make available any annexes or attachments to all focal points of the Basel Convention, it may request the secretariat to undertake that function.

2. Procedure for transmission of the form.

- (a) The applicant must present the application form with any additional information to a national authority for the Basel Convention.
- (b) The competent authority and/or focal point should consider the application form with any additional information and only forward it to the secretariat of the Basel Convention if it is properly completed and if the completed application provides sufficient information for the Open-ended Working Group to reach a decision.
- (c) The Open-ended Working Group will consider the application at its following meeting, provided it is received by the secretariat within the time frame stipulated in paragraph 3 (a) below.

3. Time frame for application.

- (a) The application form for placement or removal of wastes has to be submitted to the secretariat of the Basel Convention at least three months prior to the meeting of the Open-ended Working Group. Any information in addition to the form should also be submitted within that time frame.
- (b) In exceptional circumstances, a Party may submit the application form for placement or removal of wastes two months before the meeting of the Open-ended Working Group, if such proposal(s) cannot be sent to the secretariat within the three-month deadline. The Open-ended Working Group will endeavour to consider such application(s) at its following meeting.

4. Procedure before consideration in the Open-ended Working Group.

- (a) After receiving an application, the secretariat will place the application on the Internet web site of the Basel Convention within 30 days (www.basel.int).

- (b) The secretariat will send an e-mail to all focal points announcing that the application is available. Those Parties which have no access to Internet or e-mail facilities will be sent the application by mail or facsimile.
- (c) The secretariat will invite the Parties to comment on the application within 20 days directly to the applicant (by mail, facsimile or e-mail).
- (d) The applicant will make, as necessary, an addendum to the application containing answers to the questions within 20 days.
- (e) The secretariat will make the addendum available to the Parties at least 20 days before the meeting.
- (f) In the exceptional cases mentioned in paragraph 3 (b) above, the time frames stipulated in paragraphs 4 (a) and (d) above are reduced to 10 days.

5. Action by the Open-ended Working Group.

- (a) The Open-ended Working Group will consider and review the applications for placement or removal of wastes in Annexes VIII and IX. The applications must be based on sound scientific assessment in accordance with article 1, paragraph 1 (a), of the Basel Convention.
- (b) The Open-ended Working Group should arrive at a decision by consensus.
- (c) The decisions of the Open-ended Working Group on the placement or removal of wastes on lists contained in Annexes VIII and IX shall be transmitted in a report of the Open-ended Working Group through the secretariat to the following meeting of the Conference of the Parties. In cases where no formal proposal for amendment to the Annexes to the Basel Convention has been made by a Party when submitting an application, the Open-ended Working Group should invite other Parties to submit such a formal proposal to the Conference of the Parties in accordance with articles 17 and 18 of the Convention.

6. Effective review procedure

Costs of review should be kept to a minimum. Restricting the summary of cases to eight additional pages would help save costs, although a Party wishing to provide more information could do so at its own cost.

7. Reporting

The secretariat of the Basel Convention should provide a report to Parties on the status of lists of wastes in Annexes VIII and IX of the Basel Convention on a regular basis, and when changes have entered into force.

SUMMARY OF REASONS FOR PROPOSED PLACEMENT

NB: A detailed case study (no more than eight additional pages) should be attached, taking into consideration the category(ies) in Annex I to the Basel Convention under which the waste falls and with evidence demonstrating that the waste does or does not exhibit any of the hazardous characteristics in Annex III to the Convention (guidance document to be drafted). Additional material may be submitted in the form of annexes or attachments. All such annexes or attachments must be listed in the application form, together with instructions on how to obtain the documents.

E. NAME OF APPLICANT

Name: _____
 Address: _____ Party ?
 _____ Observer State ?
 Tel: _____ NGO ?
 Fax: _____ Company ?
 E-mail: _____ Individual ?

 (Signature)

 (Stamp)

F. AUTHORITY TRANSMITTING APPLICATION

Name: _____
 Address: _____
 _____ (Signature)

Tel: _____
 Fax: _____
 E-mail: _____
 _____ (Stamp)

Date of transmission: _____

This application form may include up to 8 additional pages.

VI/36. Institutional arrangements

The Conference of the Parties,

Recalling its decisions I/2, I/5, II/27, III/28 and V/34, by which it established the subsidiary bodies of the Convention,

Recognizing that the work of the subsidiary bodies should be made more efficient, in accordance with the issues presented in document UNEP/CHW.6/35,

Having considered the experience of the work of the revised subsidiary bodies,

1. Decides that the subsidiary bodies of the Convention shall be organized in the following manner:

- (a) Expanded Bureau; and
- (b) Open-ended Working Group;

2. Decides also that the Expanded Bureau will be composed of 13 members: five members of the present Bureau; five members of the previous Bureau; the two Co-chairs of the Open-ended Working Group; and the Chair of the Committee administering the mechanism for promoting implementation and compliance with the Basel Convention, having due regard to the principle of equitable geographic representation. Should a national of one Party occupy more than one position in the Expanded Bureau, the relevant regional group may nominate a representative of another Party to fill the additional position;

3. Decides further that, within the policy agreed by the Conference of the Parties, the Expanded Bureau will have the following mandate:

- (a) To provide administrative and general operational directions to the secretariat between the meetings of the Conference of the Parties;
- (b) To provide guidance and advice to the secretariat on the preparation of agendas and other requirements for the organization of meetings and on any other matters brought to it by the secretariat in the exercise of its functions;
- (c) To perform functions requested by the Conference of the Parties or the Open-ended Working Group, especially administrative tasks, taking into account the approved budget;
- (d) To report to the Conference of the Parties on the activities it has carried out between meetings of the Conference of the Parties.

4. Decides that Bureau members have the responsibility to advise members of their region on substantive issues to be discussed within the Bureau, and to report back to their regions on the results of those discussions;

5. Decides also that the Open-ended Working Group will take over the roles currently performed by the Working Group for Implementation, the Legal Working Group and the Technical Working Group;

6. Decides further that the Open-ended Working Group will be composed of the representatives of all interested Parties and will be open to observers;

7. Decides that the Open-ended Working Group will have two co-chairs, one with technical and one with legal/implementation expertise, two vice-chairs, one with technical and one with

legal/implementation expertise and one rapporteur, having due regard to the principle of equitable geographical representation;

8. Decides also that the Open-ended Working Group will have the following mandate:

(a) To assist the Conference of the Parties in developing and keeping under continuous review the implementation of the Convention's work plan, specific operational policies and decisions taken by the Conference of the Parties for the implementation of the Convention, as specified in article 15;

(b) To consider and advise the Conference of the Parties on issues relating to policy, technical, scientific, legal, institutional, administration, finance, budgetary and other aspects of the implementation of the Convention within the approved budget, including identification of the specific needs of different regions and subregions for training and technology transfer and to consider ways and means of ensuring the establishment and functioning of the Basel Convention Regional Centres for Training and Technology Transfer;

(c) To prepare its work plan for consideration by the Conference of the Parties;

(d) To report to the Conference of the Parties on the activities it has carried out between meetings of the Conference of the Parties;

9. Decides further that the Open-ended Working Group will meet up to three times interessionally for up to a maximum of eighteen days in total, unless otherwise decided by the Conference of the Parties, in accordance with the approved budget and its work plan.

10. Decides that the meetings of the Open-Ended Working Group will be conducted in all six official United Nations languages.

11. Decides also the tentative meeting schedule for the Open-ended Working Group is as follows:

First meeting:	April/May 2003 with focus on technical issues
Second meeting:	September/October 2003 with focus on legal/implementations issues
Third meeting:	March/April 2004
Seventh meeting of the Conference of the Parties:	September/October 2004

12. Requests the secretariat to prepare agendas and related documentation well in advance and ensure as far as possible that the meetings are scheduled without overlaps with meetings of other multilateral environmental agreements.

13. Invites Parties to examine the functioning of the subsidiary bodies and to submit comments to the secretariat by 31 May 2004 and requests the secretariat to prepare a paper for consideration at the seventh meeting of the Conference of the Parties.

VI/37. Work programme of the Open-ended Working Group

The Conference of the Parties,

Recalling its decision V/26 on the work programme of the Technical Working Group, its decision V/22 on the work programme of the Legal Working Group and its decision V/34, paragraphs 4 and 6, on the establishment and work programme of the Working Group for Implementation,

Noting with appreciation the substantial progress made, in particular in clarifying issues related to Annex IX, in the preparation of technical guidelines and in the development of work on hazardous characterization,

Noting also the progress made by the Legal Working Group in the implementation of the tasks assigned to it by the fifth meeting of the Conference of the Parties,

Commending those Parties, Signatories and others for their continuing effective support that resulted in delivering documents considered essential to meet the environmentally sound management objectives of the Convention,

1. Adopts the work programme of the Open-ended Working Group for 2003-2004 as contained in the appendix to the present decision;

2. Requests the Open-ended Working Group, at its first session, to arrange its work programme, taking into account the priorities established by the Conference of the Parties.

Appendix**WORK PROGRAMME OF THE OPEN-ENDED WORKING GROUP****I. Technical Activities**

Tasks	Activities
I. Classification and hazardous characterization of waste	<p>1. Classification</p> <ul style="list-style-type: none"> • Review or adjustment of lists of wastes contained in Annexes VIII and IX; • Issues related to the questionnaire concerning the national classification and control procedures for the import of wastes in Annex IX; further elaborate the paper on issues related to Annex IX. <p>2. Hazardous characterization</p> <ul style="list-style-type: none"> • Finalization of work on the hazardous characteristics H 6.2, H10; H11 and H13; • Initiation of work on the hazardous characteristics not yet covered by the Technical Working Group. <p>3. Review of available and forthcoming scientific information concerning the evaluation of the potential environmental health effects of the disposal of PVC wastes and PVC-coated cables.</p>
II. Technical guidelines on environmentally sound management	<p>1. Preparation or completion of the technical guidelines on:</p> <ul style="list-style-type: none"> • The environmentally sound management of persistent organic pollutants as wastes including the finalization of the revision of the technical guidelines on PCBs/PCTs/PBBs; • Recycling/reclamation of metals and metal compounds (R4); • Wastes resulting from surface treatment of metals and plastics (Y17); <p>2. Further possible technical guidelines on:</p> <ul style="list-style-type: none"> • Monitoring and closure plans for facilities (guidance to operators); • Ozone-depleting substances. <p>3. Undertake periodic review of the technical guidelines and update them as necessary.</p> <p>4. Initiate an assessment of the implementation of the existing technical guidelines on environmentally sound management with a view to identifying practical difficulties and obstacles to their effective implementation.</p>
III. Harmonized Commodity Description and Coding System (HS) of the World Customs Organization (WCO)	<p>1. Continue work, through the secretariat, with WCO on the issue of relationship of the lists of wastes of the Basel Convention with the HS codes. The secretariat to liaise with the UN Committee of Experts on the Transport of Dangerous Goods, WHO, IMO and OECD on this matter.</p>

Tasks	Activities
	<p>2. Propose a framework and action for ensuring proper reflection of the wastes covered by the Basel Convention in the HS.</p> <p>3. Address the issue of conformity of the language versions of the lists of wastes contained in the annexes to the Basel Convention.</p>
<p>IV. Annex II to the Basel Convention</p>	<p>Initiate work on the scope of Annex II.</p>
<p>V. Stockholm Convention on Persistent Organic Pollutants and Rotterdam Convention on Prior Informed Consent</p>	<p>Work related to:</p> <p>1. Cooperation pertaining to article 6 of the Stockholm Convention (subparagraph 1-d) (Environmentally sound management of persistent organic pollutants as wastes).</p> <p>2. Providing guidance to the secretariat of the Basel Convention on matters pertaining to coordination among intergovernmental bodies responsible for or involved in persistent organic pollutants, to improve coordination and coherence.</p> <p>3. The issue of stockpiling for the purpose of disposal/destruction, or for recycling.</p> <p>4. Consideration of a work programme on dioxins and dibenzofurans.</p> <p>5. Classification of waste pesticides destined for reformulation, together with details of recovery operations of concern.</p>
<p>VI. Work on harmonization and coordination</p>	<p>1. Harmonization of lists of wastes and related procedures concerning transboundary movements of hazardous and other wastes at the world level. Provide guidance to the secretariat of the Basel Convention on technical implications and modalities required to aim at achieving compatibility among the different international and regional systems dealing with the control of transboundary movements of hazardous and other wastes. The secretariat of the Basel Convention to cooperate closely with OECD on this matter.</p> <p>2. Keep under review work under way at intergovernmental forums (e.g., UN Committee of Experts on the Transport of Dangerous Goods, WHO, ILO, OECD) on the global harmonization of systems of classification and labelling of chemicals.</p> <p>3. Keep under review possible linkages with the Montreal Protocol on Substances that Deplete the Ozone Layer, in particular on matters related to disposal or destruction technologies.</p>
<p>VII. Dismantling of ships</p>	<p>Provide guidance to the secretariat on the development of a technical assistance project in cooperation with IMO and ILO.</p>
<p>VIII. Capacity-building</p>	<p>Provide technical guidance, as necessary, to the Basel Convention Regional Centres for Training and Technology Transfer to assist in their establishment or operation.</p>

II. Legal Activities

Tasks	Activities
I. Emergency mechanism/enlargement of the scope of the Technical Cooperation Trust Fund	Analyse the functioning of the emergency mechanism with a view to making adequate proposals for improvements.
II. Legal implications of full and partial dismantling of ships	<p>1. Cooperate with proposed joint working group comprising IMO, ILO and the secretariat of the Basel Convention together with other relevant bodies such as the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 and the United Nations Convention on the Law of the Sea, on legal matters pertaining to the full and partial dismantling of ships.</p> <p>2. Analyse legal matters relating to the issue of the full and partial dismantling of ships, in order to contribute to the discussions of the joint working group and report to the Conference of the Parties, at its seventh meeting, on how those discussions have progressed.</p>
III. Protocol on Liability and Compensation	<p>1. Analyse, based on a compilation of the submissions from Parties, the obstacles and difficulties faced by the Parties in their process of ratification of or accession to the Protocol.</p> <p>2. Analyse the financial limits set out in paragraph 2 of Annex B of the Protocol on Liability and Compensation.</p> <p>3. Undertake any other necessary tasks related to the preparation of the first meeting of the Parties to the Protocol.</p>
IV. Prevention and monitoring of illegal traffic	<p>1. Review and update the guidance elements on illegal traffic.</p> <p>2. Provide legal guidance to the secretariat of the Basel Convention on matters pertaining to the prevention and monitoring of illegal traffic of hazardous wastes and other wastes covered by the Basel Convention, including its cooperation with other international organizations.</p>
V. Other legal tasks	Provide legal advice to the Basel Convention Regional Centres in order to ensure that all Centres follow a coherent approach in their activities.

III. Activities related to implementation and general activities

Tasks	Activities
I. Budget and financial matters	Consider matters related to the budget of the Basel Convention and other financial matters.
II. Bilateral, multilateral and regional agreements and arrangements	Consider matters related to bilateral, multilateral and regional agreements or arrangements, including consideration of the draft guidance elements for bilateral, multilateral or regional agreements or arrangements.
III. Reports under article 13	Examine reports submitted by the Parties in accordance with the requirements of article 13 of the Basel Convention.
IV. Basel Convention Regional Centres	Analyse reports and issues related to the activities of the Regional Centres.
V. Information system	Examine, as required, issues related to the information system of the Basel Convention and the development of the secretariat web site.
VI. Basel Declaration on Environmentally Sound Management and the strategic plan	<ol style="list-style-type: none"> 1. Review the priority activities of the strategic plan for the implementation of the Basel Convention and their financing. 2. Provide guidance to the secretariat on the implementation of the Basel Declaration on Environmentally Sound Management and the strategic plan 3. Identify activities of relevance to the implementation of the Basel Declaration, taking into account the strategic plan for the Basel Convention.
VII. Issues regarding Annex VII	Oversee the development of the analysis of issues relating to Annex VII and provide guidance to the secretariat, as necessary, and report to the seventh meeting of the Conference of the Parties on progress. The purpose of the analysis is to explore, in a transparent, objective and comprehensive manner, health, environmental, social, economic and other issues that are considered important to the Conference of the Parties and to assist Parties to ratify the Ban Amendment.
VIII. Preparation of draft decisions	Prepare draft decisions for consideration by the Conference of the Parties.
IX. Other tasks	To perform any other tasks as may be entrusted to it by the Conference of the Parties.

VI/38. Competent authorities and focal points

The Conference of the Parties,

Recalling its decision V/19 on competent authorities and focal points,

1. Calls on Parties to designate competent authorities and focal points for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, if they have not done so,

and to submit the relevant information to the secretariat, including any modifications or additions as they occur;

2. Invites non-parties and interested organizations to identify contact persons for the Convention, if they have not done so, and submit the relevant information to the secretariat, including any modifications or additions as they occur;

3. Requests the secretariat to continue to keep the list of competent authorities, focal points and contact persons up to date and to post it on the Convention's web site to facilitate communications concerning matters related to the Convention.

VI/39. Logo of the Basel Convention

The Conference of the Parties,

1. Adopts the logo of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes, as described in appendix I to the present decision;

2. Mandates the secretariat to register the logo of the Basel Convention for copyright protection;

3. Adopts the policy guidelines, as contained in appendix II to the present decision, for the use of the logo.

Appendix I

Logo of the Convention



Appendix II

Policy guidelines for the use of the logo of the Basel Convention

1. The use of the logo of the Basel Convention by the United Nations and United Nations Environment Programme for official documents and publications, shall be made consistent with United Nations administrative instruction ST/AI/189/Add.21 of 15 January 1979 entitled "Use of the United Nations emblem on documents and publications".
2. The use of the logo of the Basel Convention by non-commercial entities shall be subject to the prior written agreement of the secretariat of the Basel Convention.
3. The use of the logo of the Basel Convention by the business community or by commercial entities shall be subject to the prior written agreement of the secretariat of the Basel Convention approved by the Expanded Bureau. The secretariat shall be guided on its policy in entering in such agreements by the Guidelines on Cooperation between the United Nations and the Business Community issued by the Secretary-General of the United Nations on 17 July 2000.

VI/40. Follow-up to the World Summit on Sustainable Development

The Conference of the Parties,

Taking note with appreciation of the participation of the secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in the World Summit for Sustainable Development, held in Johannesburg, South Africa, from 26 August to 4 September 2002,

Welcoming the adoption at the World Summit of a Plan of Implementation for the next ten years,

Noting with satisfaction that the Plan of Implementation of the World Summit, in particular its paragraph 22 which is reproduced in the appendix to the present decision, fully recognizes and supports the work, decisions, plans and actions for the implementation of the Basel Convention, including the Basel Declaration on Environmentally Sound Management and the strategic plan for the implementation of the Basel Convention,

Welcoming also the large support given by the World Summit to the concept of type two partnerships between Governments, business and civil society,

Mindful of the call of the Plan of implementation of for coherence and cooperation between the international regimes for waste, hazardous waste and chemicals,

Recognizing that the outcome of the World Summit is of particular relevance to the objectives and goals of the Basel Convention, including:

(a) Broadened and strengthened understanding of sustainable development, particularly the important linkages between poverty, the environment and the use of natural resources;

(b) Governmental agreement to and reaffirmation of a wide range of concrete commitments and targets for action to achieve more effective implementation of sustainable development objectives;

(c) Development of a 10-year framework of programmes to accelerate the shift towards sustainable consumption and production;

(d) Renewed commitment to the sound management of chemicals and hazardous wastes and other wastes throughout their life cycle;

- (e) Call for the promotion of the ratification and implementation of relevant international instruments on chemicals and hazardous waste;
- (f) Support for regional initiatives for sustainable development in developing areas in the world, including:
 - (i) Undertaking of initiatives by 2004 aimed at implementing the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities to reduce, prevent and control waste and pollution and their health-related impacts in small island developing States,
 - (ii) Support to Africa's efforts to implement the objectives of the New Partnership for Africa's Development,

Recognizing also the need expressed by the World Summit for the United Nations Environment Programme, the United Nations Human Settlements Programme, the United Nations Development Programme and the United Nations Conference on Trade and Development, within their mandates, to strengthen their contribution to sustainable development programmes and the implementation of the Plan of Implementation of the World Summit and Agenda 21, particularly in the area of capacity-building,

Taking into account its decisions V/8, V/9, V/10, V/11, V/12, and V/13 on cooperation between the Basel Convention and the United Nations Environment Programme, the United Nations specialized agencies, regional systems and organizations and others, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the World Customs Organization, the Organisation for Economic Cooperation and Development, environmental non-governmental organizations and the industry and business sectors,

1. Requests the secretariat to identify those areas of relevance to the Basel Convention and the Basel Declaration on Environmentally Sound Management covered in the Plan of Implementation of the World Summit on Sustainable Development with a view to exploring cooperation with Parties and other stakeholders to support the Plan;
2. Also requests the secretariat to identify the most efficient ways of cooperating with the relevant stakeholders, in particular the United Nations Environment Programme, the United Nations Human Settlements Programme, the United Nations Development Programme and the United Nations Conference on Trade and Development as well as the private sector and non-governmental organizations, with a view to enhancing its contribution to those areas referred to in paragraph 1 above;
3. Further requests the secretariat to propose to the Open-ended Working Group a way forward in implementing concrete activities in this field within available resources;
4. Requests the secretariat to report on the progress made in the implementation of the present decision to the Conference of the Parties at its seventh meeting, through the Open-ended Working Group.

Appendix

WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT - PLAN OF IMPLEMENTATION

III. Changing unsustainable patterns of consumption and production

22. Renew the commitment, as advanced in Agenda 21, to sound management of chemicals throughout their life cycle and of hazardous wastes for sustainable development and for the protection of human health and the environment, inter alia, aiming to achieve by 2020 that chemicals are used and

produced in ways that lead to the minimization of significant adverse effects on human health and the environment, using transparent science-based risk assessment procedures and science-based risk management procedures, taking into account the precautionary approach, as set out in principle 15 of the Rio Declaration on Environment and Development, and support developing countries in strengthening their capacity for the sound management of chemicals and hazardous wastes by providing technical and financial assistance. This would include actions at all levels to:

- a) Promote the ratification and implementation of relevant international instruments on chemicals and hazardous waste, including the Rotterdam Convention on Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade so that it can enter into force by 2003 and the Stockholm Convention on Persistent Organic Pollutants so that it can enter into force by 2004, and encourage and improve coordination as well as supporting developing countries in their implementation;
- b) Further develop a strategic approach to international chemicals management based on the Bahia Declaration and Priorities for Action beyond 2000 of the Intergovernmental Forum on Chemical Safety (IFCS) by 2005, and urge that the United Nations Environment Programme (UNEP), IFCS, other international organizations dealing with chemical management, and other relevant international organizations and actors closely cooperate in this regard, as appropriate;
- c) Encourage countries to implement the new globally harmonized system for the classification and labelling of chemicals as soon as possible with a view to having the system fully operational by 2008;
- d) Encourage partnerships to promote activities aimed at enhancing environmentally sound management of chemicals and hazardous wastes, implementing multilateral environmental agreements, raising awareness of issues relating to chemicals and hazardous waste, and encouraging the collection and use of additional scientific data;
- e) Promote efforts to prevent international illegal trafficking of hazardous chemicals and hazardous wastes and to prevent damage resulting from the transboundary movement and disposal of hazardous wastes in a manner consistent with obligations under relevant international instruments, such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal;
- f) Encourage development of coherent and integrated information on chemicals, such as through national pollutant release and transfer registers;
- g) Promote reduction of the risks posed by heavy metals that are harmful to human health and the environment, including through a review of relevant studies, such as the UNEP global assessment of mercury and its compounds.

VI/41. Financial matters

The Conference of the Parties,

Recalling its decision V/35 on financial matters,

Having noted the comprehensive information provided on the Trust Funds of the Basel Convention by the secretariat,

Recognizing the continued management by the secretariat of the finances of the Basel Convention Trust Funds,

Taking note of the financial report on the Trust Funds for 2002 (UNEP/CHW.6/INF/3),

Noting the increase in the number of Parties to the Convention, the need for greater assistance to be provided financially and in other forms to the Parties to achieve more effective implementation, and the necessity to implement the various decisions, including the strategic plan for the implementation of the Basel Convention,

Recognizing that voluntary contributions are an essential complement for the effective implementation of the Basel Convention,

Noting the need to manage financial arrangements supporting the Basel Convention in a way that is fully transparent;

1. Approves the budget of the Trust Fund for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (Basel Convention Trust Fund) in the amount of 4,201,854 United States dollars for 2003 and 4,201,854 United States dollars for 2004, as contained in appendix II to the present decision;
2. Authorizes the Executive Secretary to utilize an amount not exceeding 1,200,000 United States dollars in the year 2003 and 1,200,000 United States dollars in the year 2004 from the reserve and fund balance of the Basel Convention Trust Fund to meet expenditure in the approved budget;
3. Notes that, as a result of utilization authorized in paragraph 2 above, the reserve and fund balance will be drawn down by an amount not exceeding 15 per cent, reduced by the income from interest and contributions from others than Parties;
4. Decides that the total amount of the contributions to be paid by the Parties is 3,001,854 United States dollars for 2003 and 3,001,854 United States dollars for 2004, as set out in appendix II to the present decision;
5. Also decides that the contributions of individual Parties shall be as listed in appendix III to the present decision;
6. Further decides to establish a working capital reserve and to maintain the level of a working capital reserve at 15 per cent of the estimated annual planned expenditures at any time;
7. Decides that the Executive Secretary may make transfers of up to 20 per cent from one main appropriation line of the approved budget to other main appropriation lines ;
8. Authorizes the Executive Secretary, in addition to the approved budget, on an exceptional basis to utilize an amount not exceeding 1,200,000 United States dollars in the period 2003-2004 from the reserve and fund balance of the Basel Convention Trust Fund for the purpose of putting into effect activities to implement the strategic plan in 2003-2004;
9. Agrees to review at its seventh meeting, on the basis of a document to be prepared by the secretariat, a plan for working towards a reduction in the reserve and fund balance and identify the optimal means of balancing the Convention's operating funds and expenditures;
10. Expresses its concern over the delays in payment of the agreed contributions by Parties, contrary to the provisions of the terms of reference for the administration of the Trust Fund for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, as contained in paragraph 8 of appendix I to the present decision;
11. Urges all Parties to pay their contributions promptly and in full and further urges Parties that have not done so to pay their contributions for prior years as soon as possible;
12. Takes note of the budget for the Trust Fund to Assist Developing Countries and Other Countries in Need of Technical Assistance in the Implementation of the Basel Convention (Technical Cooperation Trust Fund) in the amount of 4,556,160 United States dollars for 2003 and 5,347,160 United States dollars for 2004, as contained in appendix IV to the present decision;

13. Invites voluntary contributions to the Technical Cooperation Trust Fund and to the Basel Convention Trust Fund from Parties and non-Parties, as well as from other sources;
14. Invites Parties to notify the secretariat of the Basel Convention of all contributions made to the Basel Convention Trust Funds at the time such payments are made;
15. Decides that the Trust Funds for the Basel Convention shall be further continued until 31 December 2006 and requests the Executive Director of the United Nations Environment Programme to extend the two Trust Funds to the Basel Convention for 2005-2006, subject to the approval of the Governing Council of the United Nations Environment Programme;
16. Requests the secretariat of the Basel Convention to ensure the implementation of the decisions adopted by the Conference of the Parties as approved, within the budgets and the availability of financial resources in the Trust Funds;
17. Also requests the secretariat to report annually to the Open-ended Working Group and to the Expanded Bureau on all sources of income received, including the reserve and fund balance and interest, as well as actual provisional and projected expenditure and commitments, and further requests the Executive Secretary to report on all expenditures against the agreed budget lines;
18. Requests the Executive Secretary to report to the Open-ended Working Group and the Expanded Bureau on the use of the funds referred to in paragraph 8 above on an annual basis;
19. Requests the Open-ended Working Group to consider, on the basis of comments provided by Parties to the secretariat by 28 February 2003, how to improve the format for reporting in accordance with paragraph 17 above;
20. Also requests the Open-ended Working Group and the Expanded Bureau to keep under review the financial information provided by the secretariat, including the timeliness and transparency of that information;
21. Approves that the scope of the Technical Cooperation Trust Fund shall be enlarged as provided for in decision V/32 on the enlargement of the scope of the Technical Cooperation Trust Fund;
22. Approves the revised terms of reference for the administration of the trust funds for the Basel Convention as contained in appendix I to the present decision, from the financial period beginning on 1 January 2003;
23. Further approves modification of the scale of assessments for the Basel Convention Trust Fund by substituting 25 per cent by 22 per cent in accordance with United Nations General Assembly resolution 55/5 B to F of 23 December 2000;
24. Invites Parties to submit to the secretariat their views in writing on the scale of assessments for the Basel Convention Trust Fund, before 31 May 2004;
25. Requests the secretariat to compile a paper in this regard to be considered by the Parties at the seventh meeting of the Conference of the Parties.

Appendix I

TERMS OF REFERENCE FOR THE ADMINISTRATION OF THE TRUST FUNDS FOR THE BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL

1. The scope of the Trust Fund for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (hereinafter referred to as the Basel Convention Trust Fund) is to provide financial support for the ordinary expenditure of the secretariat of the Basel Convention.
2. The scope of the Trust Fund to Assist Developing Countries and Other Countries in Need of Technical Assistance in the implementation of the Basel Convention (hereinafter referred to as the Technical Cooperation Trust Fund) is to provide financial support in particular for:
 - (a) Technical assistance, training and capacity-building;
 - (b) Basel Convention Regional Centres;
 - (c) Appropriate participation of the representatives of developing countries Parties and of Parties with economies in transition;
 - (d) Cases of emergency and compensation for damage resulting from incidences arising from transboundary movements of hazardous wastes and other wastes and their disposal.
3. The financial period of both Trust Funds will be a biennium consisting of two consecutive calendar years.
4. The trust funds shall be administered by the Executive Director of the United Nations Environment Programme (UNEP), with the approval of the Governing Council of UNEP, pursuant to the Financial Regulations and Rules of the United Nations.

Contributions

5. The appropriations for the Basel Convention Trust Fund shall be replenished by:
 - (a) Contributions made by the Parties to the Convention, by reference to the table attached as an appendix to the budget, including additional contributions and contributions from any new Parties, which are to be added to the table;
 - (b) Contributions from States not party to the Convention, other governmental, intergovernmental and non-governmental organizations and other sources.
6. The appropriations of the Technical Cooperation Trust Fund for this period shall be financed from voluntary contributions made by the Parties and the non-parties to the Convention, intergovernmental and non-governmental organizations and other sources.
7. The contributions referred to in paragraph 5 (a) above are to be based on the United Nations scale of assessments for the apportionment of the expenses of the United Nations.
8. All contributions are due to be paid in the year immediately preceding the year to which the contributions relate.
9. All contributions shall be paid in United States dollars or their equivalent in a convertible currency into a bank account to be designated by the Executive Director, in consultation with the Executive Secretary of the Convention secretariat.

10. The secretariat shall acknowledge all pledges and contributions and shall inform the Parties once a year of the status of pledges and payments of contributions.

11. Contributions from States that become Parties after the beginning of the financial period shall be made *pro rata temporis* for the balance of the financial period.

12. Contributions not immediately required for the purpose of either trust fund shall be invested at the discretion of the United Nations and any interest so earned shall be credited to the funds.

Budget

13. The budget estimates covering the income and expenditure for each of the calendar years constituting the financial period to which they relate, prepared in United States dollars, shall be submitted for approval at the regular meeting of the Conference of the Parties to the Convention at least 90 days prior to the meeting for submission to the Conference of the Parties.

14. The estimates for each of the calendar years covered by a financial period shall be specified according to objects of expenditure and shall be accompanied by such information as may be required by, or on behalf of, the contributors and such further information as the Executive Director of UNEP may deem useful and advisable.

15. The decision of the Conference of the Parties on the budget, including contributions thereto, shall be made by consensus prior to the commencement of the financial period it covers.

16. Adoption of the budget by the Conference of the Parties shall constitute authority to incur obligations and make payments for purposes for which the appropriations were approved and up to the amount so approved. Commitments against the resources of the trust funds may be made only if they are covered by the necessary income. No commitments shall be made in advance of the receipt of contributions.

17. The Executive Secretary may make transfers within each of the main appropriation lines of the approved budget. The Executive Secretary may also make transfers between such appropriation lines up to limits, which the Conference of the Parties may set as appropriate.

Funds

18. The Basel Convention Trust Fund shall be managed by the Executive Secretary of the secretariat of the Basel Convention. All resources under paragraphs 5 (a) and 5 (b) above shall be credited to the Basel Convention Trust Fund and all expenditures included in the approved budget shall be charged to the Fund.

19. Within the Trust Fund there shall be maintained a working capital reserve at a level to be determined from time to time by the Conference of the Parties by consensus. The purpose of the working capital reserve shall be to ensure continuity of operations in the event of a temporary shortfall of cash. Drawdowns from the working capital reserve shall be restored from contributions as soon as possible.

20. The Technical Cooperation Trust Fund shall be managed by the Executive Secretary of the secretariat of the Basel Convention and shall receive voluntary contributions under paragraph 6 above.

21. At the end of a calendar year of a financial period, the Executive Director shall transfer any uncommitted balance of appropriations to the following calendar year.

Accounts and audit

22. All funds governed by the present terms of reference shall be subjected to the internal and external audit process of the United Nations.

23. At the end of each calendar year of a fiscal period, the Executive Director shall submit to the Parties the certified accounts for the year and a report of activities under the Convention. The Executive Director shall submit the accounts for the two-year financial period audited by the Board of Auditors of the United Nations as soon as practicable.

Programme support costs

24. Programme support cost will be charged by UNEP for the services provided to the Conference of the Parties, its subsidiary bodies and the Convention secretariat from the funds referred to in paragraphs 5 (a) and (b) and 6 above under such terms as may from time to time be agreed upon between the Conference of the Parties and UNEP, or in the absence of such agreement, in accordance with the general policy of the United Nations.

General provisions

25. In the event that the Parties wish both trust funds to be further extended, the Executive Director of UNEP shall be so requested by the Parties at least six months earlier. Such extension of both trust funds shall be subject to the approval of the UNEP Governing Council.

26. Any amendments to the present terms of reference shall be adopted by the Conference of the Parties by consensus.

	Budget		
	2002	2003	2004
1327 Committee on Compliance (English only, in conjunction with OEWG)	-	3,000	3,000
1399 Sub-total Administrative Support and Conference Servicing Costs	1,149,900	1,604,900	1,604,900
<i>1600 Travel on Official Business</i>			
1601 Official Travel	180,000	200,000	200,000
1699 Total, Travel On Official Business	180,000	200,000	200,000
1999 TOTAL STAFF COMPONENT	2,729,400	3,267,400	3,289,400
20 SUB-CONTRACT COMPONENT			
<i>210C Sub-contracts Component</i>			
2101 Information System	50,000	50,000	50,000
2199 Sub-total sub-contracts - non-commercial	50,000	50,000	50,000
2999 TOTAL SUB-CONTRACT COMPONENT	50,000	50,000	50,000
30 MEETINGS AND CONFERENCES COMPONENT			
<i>330C Travel and DSA Costs of Participants</i>			
3301 Conference of the Parties	-	-	-
3302 Open-ended Working Group 1 (25 travels)	-	87,500	-
3303 Open-ended Working Group 2 (25 travels)	75,000	87,500	-
3304 Open-ended Working Group 3 (50 travels)	75,000	-	175,000
3305 Expanded Bureau (some 14 travels)	90,555	51,555	51,555
3399 Sub-total Meetings and Conferences	240,555	226,555	226,555
3999 TOTAL MEETINGS AND CONFERENCES COMPONENT	240,555	226,555	226,555
40 EQUIPMENT AND PREMISES COMPONENT			
<i>410C Expendable Equipment</i>			
4101 Office Supplies, library acquisitions and computer software	31,000	24,500	24,500
4199 Sub-total, Expendable Equipment	31,000	24,500	24,500
<i>420C Non Expendable Equipment</i>			
4201 Computer Equipment, printers, furniture, multimedia and others	28,000	28,000	28,000
4299 Sub-total, Non Expendable Equipment	28,000	28,000	28,000
<i>430C Premises</i>			
4301 Office space fees, building maintenance, security, utilities and insurance	129,000	60,000	60,000
4399 Total, Premises	129,000	60,000	60,000
4999 TOTAL, EQUIPMENT AND PREMISES COMPONENT	188,000	112,500	112,500
50 MISCELLANEOUS COMPONENT			
<i>510C Operation, Rental and Maintenance of Equipment</i>			
5101 Computers, Printers, photocopiers and other	51,300	51,300	51,300
5199 Sub-total, Maintenance of Equipment	51,300	51,300	51,300

	Budget		
	2002	2003	2004
<i>520C Reporting costs</i>			
5201 Newsletters, publications and other media	99,800	55,000	55,000
5299Sub-total, Reporting costs	349,800	55,000	55,000
<i>530C Sundry</i>			
5301 Communications, freight and other (with carry over to COP year)	99,900	67,500	67,500
5399Sub-total Sundry	99,900	67,500	67,500
<i>540C Hospitality</i>			
5401 Hospitality	9,500	9,500	9,500
5499Sub-total Hospitality	9,500	9,500	9,500
5999TOTAL, MISCELLANEOUS COMPONENT	510,500	183,300	183,300
99SUB – TOTAL OPERATIONAL COSTS	3,718,455	3,839,755	3,861,755
Less UNEP Contribution ***		(118,300)	(140,300)
99TOTAL OPERATIONAL COSTS	3,718,455	3,718,455	3,718,455
13% Programme Support Costs	483,399	483,399	483,399
TOTAL BUDGET OF THE TRUST FUND	4,201,854	4,201,854	4,201,854
Deduction from the Reserve and Fund Balance ****	1,200,000	1,200,000	1,200,000
TO BE COVERED BY CONTRIBUTIONS BY PARTIES	3,001,854	3,001,854	3,001,854
Proposed implementation of the Strategic plan. Amount is deducted from the Reserve and Fund Balance without direct impact on contribution by Parties.	-	353,982	707,965
13 % Programme Support Cost	-	46,018	92,035
Sub-total	-	400,000	800,000
Total reduction from the Reserve and Fund balance of BC Trust Fund.	1,200,000	1,600,000	2,000,000

* Review of the existing post is taking place. Grade of asterixed posts has been proposed for reclassification in higher grade in line with the revised functions within existing budget. Reclassification to be effective in 2004 subject to approval of the Executive Director of UNEP.

** Provided fully by UNEP from 13% Programme Support Cost (PSC).

*** UNEP will contribute USD 118,300 in 2003 and USD 140,300 in 2004, should the overall level of expenditure reach the total approved budget level.

**** The reduction in the reserve and fund balance will be reduced by interest for period 2003 -2004 and by contributions from other than Parties.

Appendix III**Trust Fund for the Basel Convention on Transboundary Movements on Hazardous Wastes and Their Disposal (BC)****Scale of Contribution for the biennium 2003 - 2004 in United States dollars (USD)**

A	B	C	D	E	F
	PARTIES	United Nations scale of assessments 2003 *	Scale for the Trust Fund with 22% ceiling and countries that contribute less than 0.1 per cent to the UN, not paying	Annual contributions as per 2003 (USD)	Annual contributions as per 2004 (USD)
No.		(per cent)	(per cent)		
1	Albania	0.00300	0.00000	-	-
2	Algeria	0.07000	0.00000	-	-
3	Andorra	0.00400	0.00000	-	-
4	Antigua and Barbuda	0.00200	0.00000	-	-
5	Argentina	1.14900	1.50199	45,088	45,088
6	Armenia	0.00200	0.00000	-	-
7	Australia	1.62700	2.12684	63,845	63,845
8	Austria	0.94700	1.23794	37,161	37,161
9	Azerbaijan	0.00400	0.00000	-	-
10	Bahamas	0.01200	0.00000	-	-
11	Bahrain	0.01800	0.00000	-	-
12	Bangladesh	0.01000	0.00000	-	-
13	Barbados	0.00900	0.00000	-	-
14	Belarus	0.01900	0.00000	-	-
15	Belgium	1.12900	1.47585	44,303	44,303
16	Belize	0.00100	0.00000	-	-
17	Benin	0.00200	0.00000	-	-
18	Bhutan	0.00100	0.00000	-	-
19	Bolivia	0.00800	0.00000	-	-
20	Bosnia & Herzegovina	0.00400	0.00000	-	-
21	Botswana	0.01000	0.00000	-	-
22	Brazil	2.39000	3.12425	93,785	93,785
23	Bulgaria	0.01300	0.00000	-	-
24	Burkina Faso	0.00200	0.00000	-	-
25	Burundi	0.00100	0.00000	-	-
26	Canada	2.55800	3.34386	100,378	100,378
27	Cambodia	0.00200	0.00000	-	-
28	Cameroon	0.00900	0.00000	-	-
29	Cape Verde	0.00100	0.00000	-	-
30	Chile	0.21200	0.27713	8,319	8,319
31	China	1.53200	2.00266	60,117	60,117
32	Colombia	0.20100	0.26275	7,887	7,887
33	Comoros	0.00100	0.00000	-	-
34	Costa Rica	0.02000	0.00000	-	-
35	Cote d'Ivoire	0.00900	0.00000	-	-
36	Croatia	0.03900	0.00000	-	-
37	Cuba	0.03000	0.00000	-	-

A	B	C	D	E	F
	PARTIES	United Nations scale of assessments 2003 *	Scale for the Trust Fund with 22% ceiling and countries that contribute less than 0.1 per cent to the UN, not paying	Annual contributions as per 2003 (USD)	Annual contributions as per 2004 (USD)
No.		(per cent)	(per cent)		
38	Cyprus	0.03800	0.00000	-	-
39	Czech Republic	0.20300	0.26537	7,966	7,966
40	Democratic Republic of the Congo	0.00400	0.00000	-	-
41	Denmark	0.74900	0.97911	29,391	29,391
42	<i>Djibouti</i>	<i>0.00100</i>	<i>0.00000</i>	-	-
43	Dominica	0.00100	0.00000	-	-
44	<i>Dominican Republic</i>	<i>0.02300</i>	<i>0.00000</i>	-	-
45	Ecuador	0.02500	0.00000	-	-
46	Egypt	0.08100	0.00000	-	-
47	El Salvador	0.01800	0.00000	-	-
48	Estonia	0.01000	0.00000	-	-
49	<i>Ethiopia</i>	<i>0.00400</i>	<i>0.00000</i>	-	-
50	Finland	0.52200	0.68237	20,484	20,484
51	France	6.46600	8.45247	253,731	253,731
52	Gambia	0.00100	0.00000	-	-
53	Georgia	0.00500	0.00000	-	-
54	Germany	9.76900	12.77021	383,343	383,343
55	Greece	0.53900	0.70459	21,151	21,151
56	Guatemala	0.02700	0.00000	-	-
57	Guinea	0.00300	0.00000	-	-
58	<i>Guyana</i>	<i>0.00100</i>	<i>0.00000</i>	-	-
59	Honduras	0.00500	0.00000	-	-
60	Hungary	0.12000	0.15687	4,709	4,709
61	Iceland	0.03300	0.00000	-	-
62	India	0.34100	0.44576	13,381	13,381
63	Indonesia	0.20000	0.26144	7,848	7,848
64	Iran (Islamic Republic of)	0.27200	0.35556	10,673	10,673
65	Ireland	0.29400	0.38432	11,537	11,537
66	Israel	0.41500	0.54250	16,285	16,285
67	Italy	5.06475	6.62073	198,745	198,745
68	Japan	19.51575	22.00000	660,408	660,408
69	Jordan	0.00800	0.00000	-	-
70	<i>Kenya</i>	<i>0.00800</i>	<i>0.00000</i>	-	-
71	<i>Kiribati</i>	<i>0.00100</i>	<i>0.00000</i>	-	-
72	Kuwait	0.14700	0.19216	5,768	5,768
73	Kyrgyzstan	0.00100	0.00000	-	-
74	Latvia	0.01000	0.00000	-	-
75	Lebanon	0.01200	0.00000	-	-
76	<i>Lesotho</i>	<i>0.00100</i>	<i>0.00000</i>	-	-
77	<i>Libyan Arab Jamahiriya</i>	<i>0.06700</i>	<i>0.00000</i>	-	-
78	Liechtenstein	0.00600	0.00000	-	-
79	Lithuania	0.01700	0.00000	-	-
80	Luxembourg	0.08000	0.00000	-	-
81	Madagascar	0.00300	0.00000	-	-
82	Malawi	0.00200	0.00000	-	-

A	B PARTIES	C United Nations scale of assessments 2003 *	D Scale for the Trust Fund with 22% ceiling and countries that contribute less than 0.1 per cent to the UN, not paying	E Annual contributions as per 2003 (USD)	F Annual contributions as per 2004 (USD)
No.		(per cent)	(per cent)		
83	Malaysia	0.23500	0.30720	9,222	9,222
84	Maldives	0.00100	0.00000	-	-
85	Mali	0.00200	0.00000	-	-
86	Malta	0.01500	0.00000	-	-
87	Mauritania	0.00100	0.00000	-	-
88	Mauritius	0.01100	0.00000	-	-
89	Mexico	1.08600	1.41964	42,615	42,615
90	Micronesia (Federated States of)	0.00100	0.00000	-	-
91	Monaco	0.00400	0.00000	-	-
92	Mongolia	0.00100	0.00000	-	-
93	Morocco	0.04400	0.00000	-	-
94	Mozambique	0.00100	0.00000	-	-
95	Namibia	0.00700	0.00000	-	-
96	Nauru	0.00100	0.00000	-	-
97	Nepal	0.00400	0.00000	-	-
98	Netherlands	1.73800	2.27194	68,200	68,200
99	New Zealand	0.24100	0.31504	9,457	9,457
100	Nicaragua	0.00100	0.00000	-	-
101	Niger	0.00100	0.00000	-	-
102	Nigeria	0.06800	0.00000	-	-
103	Norway	0.64600	0.84446	25,350	25,350
104	Oman	0.06100	0.00000	-	-
105	Pakistan	0.06100	0.00000	-	-
106	Panama	0.01800	0.00000	-	-
107	Papua New Guinea	0.00600	0.00000	-	-
108	Paraguay	0.01600	0.00000	-	-
109	Peru	0.11800	0.15425	4,630	4,630
110	Philippines	0.10000	0.13072	3,924	3,924
111	Poland	0.37800	0.49413	14,833	14,833
112	Portugal	0.46200	0.60393	18,129	18,129
113	Qatar	0.03400	0.00000	-	-
114	Republic of Korea	1.85100	2.41966	72,635	72,635
115	Republic of Moldova	0.00200	0.00000	-	-
116	Romania	0.00580	0.00000	-	-
117	Russian Federation	1.20000	1.56866	47,089	47,089
118	Saint Kitts and Nevis	0.00100	0.00000	-	-
119	Saint Lucia	0.00200	0.00000	-	-
120	Saint Vincent and the Grenadines	0.00100	0.00000	-	-
121	Saudi Arabia	0.55400	0.72420	21,739	21,739
122	Samoa	0.00100	0.00000	-	-
123	Senegal	0.00500	0.00000	-	-
124	Seychelles	0.00200	0.00000	-	-
125	Singapore	0.39300	0.51374	15,422	15,422
126	Slovakia	0.04300	0.00000	-	-
127	Slovenia	0.08100	0.00000	-	-

A	B	C	D	E	F
	PARTIES	United Nations scale of assessments 2003 *	Scale for the Trust Fund with 22% ceiling and countries that contribute less than 0.1 per cent to the UN, not paying	Annual contributions as per 2003 (USD)	Annual contributions as per 2004 (USD)
No.		(per cent)	(per cent)		
128	South Africa	0.40800	0.53334	16,010	16,010
129	Spain	2.51875	3.29255	98,838	98,838
130	Sri Lanka	0.01600	0.00000	-	-
131	Sweden	1.02675	1.34219	40,290	40,290
132	Switzerland	1.27400	1.66540	49,993	49,993
133	Syrian Arab Republic	0.08000	0.00000	-	-
134	Thailand	0.29400	0.38432	11,537	11,537
135	The former Yugoslav Republic of Macedonia	0.00600	0.00000	-	-
136	Trinidad and Tobago	0.01600	0.00000	-	-
137	Tunisia	0.03000	0.00000	-	0
138	Turkey	0.44000	0.57518	17,266	17,266
139	Turkmenistan	0.00300	0.00000	-	-
140	Uganda	0.00500	0.00000	-	-
141	Ukraine	0.05300	0.00000	-	-
142	United Arab Emirates	0.20200	0.26406	7,927	7,927
143	United Kingdom of Great Britain and Northern Ireland	5.53600	7.23676	217,237	217,237
144	United Republic of Tanzania	0.00400	0.00000	-	-
145	Uruguay	0.08000	0.00000	-	-
146	Uzbekistan	0.01100	0.00000	-	-
147	Venezuela	0.20800	0.27190	8,162	8,162
148	Viet Nam	0.01600	0.00000	-	-
149	Yemen	0.00600	0.00000	-	-
150	<i>Yugoslavia</i>	<i>0.02000</i>	<i>0.00000</i>	-	-
151	Zambia	0.00200	0.00000	-	0
152	European Community	2.50000	2.50000	75,046	75,046
	TOTAL	81.42480	100.00000	3,001,854	3,001,854

New Parties after fifth meeting of the Conference of the Parties are printed in italics.

* United Nations General Assembly Fiftyfifth session Agenda item 122
Report symbol: A/55/521/Add.1

Appendix IV**Budget****Technical Cooperation Trust Fund (BD)
Years 2003 –2004**

	COP 5 budget	COP 6 budget	
	2002	2003	2004
10 PERSONNEL COMPONENT			
<i>Consultants</i>			
1201 Compliance mechanism - Experts and advisers	-	25,000	25,000
Sub-total, Consultants	-	25,000	25,000
<i>1600 Travel on Official Business</i>			
1601 Official Travel - Compliance mechanism, Information gathering missions	-	10,000	10,000
1699 Total, Travel On Official Business	-	10,000	10,000
1999 TOTAL STAFF COMPONENT	-	35,000	35,000
20 SUB-CONTRACT COMPONENT			
2100 Sub-contracts Component			
2101 Development and maintenance of web portals for information system of BCRC's	-	100,000	100,000
2102 Assistance in Development of Information Systems for national reporting and HW management (40 Countries)	260,000	200,000	200,000
2103 Projects for the implementation of the Strategic Plan	-	250,000	250,000
2150 Interim financial mechanism for the liability and compensation	-	500,000	500,000
2999 TOTAL SUB-CONTRACT COMPONENT	260,000	1,050,000	1,050,000
3100 Training			
3101 Technical Assistance and Technical Matters (Inputs from BCRC business plans) (In 2002 budget B/L called: Technical assistance to 10 Countries)	272,500	375,000	375,000
3102 Capacity Building (Inputs from BCRC business plans)	100,000	935,000	935,000
3199 Sub-total training	472,500	1,310,000	1,310,000
3200 Group training			
3201 Regional / Sub-Regional Workshops and Seminars on Implementation of the Strategic Plan (5 meetings per biennium, 50 participants)	157,500	250,000	250,000
3202 Basel Convention Regional Centres (Inventories and National Legislations (12 Centres))	400,000	485,000	485,000
3203 Workshops for Customs and Enforcement Officers on Prevention of Illegal Traffic, implementation plans of HW management.	-	340,000	340,000
3299 Sub-total Group training	557,500	1,075,000	1,075,000

	COP 5 budget	COP 6 budget	
	2002	2003	2004
3300 Meetings & Conferences			
3301 Conference of Parties (1 meeting per biennium)	200,000	-	770,000
3302 Open-ended Working Group 1	105,000	220,500	-
3303 Open-ended Working Group 2	200,000	220,500	-
3304 Open-ended Working Group 3	200,000	-	371,000
3307 Committee on Compliance Mechanism	-	65,000	65,000
3308 Partnership with industry (1 meeting per annum, 4 travels per meeting)	-	14,000	14,000
3309 Committee on Compliance (1 meeting per annum, 12 travels per meeting)	-	42,000	42,000
3399 Sub-total meetings and conferences	705,000	562,000	1,262,000
3999 TOTAL MEETINGS AND CONFERENCES COMPONENT	1,735,000	2,947,000	3,647,000
99 TOTAL OPERATIONAL COSTS	1,995,000	4,032,000	4,732,000
13% Programme Support Costs	259,350	524,160	615,160
TOTAL BUDGET OF THE TRUST FUND	2,254,350	4,556,160	5,347,160

Conclusion of the President on the United Nations scale of assessments

The United Nations scale of assessments will apply to contributions to the Basel Convention Trust Fund for 2003 – 2004. With reference to paragraph 7 of the terms of reference and paragraph 23 of decision VI/39 on financial matters, and as a result of the discussions, it was understood that, in the interim period, the difference in contributions between the new scale and the scale agreed at fifth meeting of the Conference of the Parties should not affect developing countries and countries with economies in transition.

Statements

Canada

‘It is the view of my delegation that the United Nations scale, as adopted in New York, is the result of an agreement among all United Nations members. While it may be modified to reflect differences in membership, it should not be applied in different ways to different categories of countries. It is also the firm belief of my delegation that the Basel Convention is for the protection of the environment, to the benefit of all countries. It requires the support of all, developed and developing countries alike.

Finally, it is unfortunate that this issue overtook the positive outcomes of this meeting. Namely, the fact that the Parties have agreed to provide for translation and interpretation in the six official UN languages for the Open-ended Working Group. Unfortunately, the Parties will simply remember the difficult discussions related to the scale of assessments.

Group of 77 and China

The Group of 77 and China would like to thank the President of the Conference for the conclusion just read by him and which reflects the understanding of the Parties in relation to the decision on institutional and financial arrangements, and will be happy to cooperate with all Parties during the seventh meeting of the Conference of the Parties and give due consideration to the compilation of a paper, which will contain the views of the Parties on the scale of assessments for the Basel Convention Trust Fund as stated in paragraph 24 and 25 of the decision referred to above in order to enable the next Conference to decide on the future scale of assessments for the Basel Trust Fund.
