



United Nations Environment Programme

برنامج الأمم المتحدة للبيئة • 联合国环境规划署
PROGRAMME DES NATIONS UNIES POUR L'ENVIRONNEMENT • PROGRAMA DE LAS NACIONES UNIDAS PARA EL MEDIO AMBIENTE
ПРОГРАММА ОРГАНИЗАЦИИ ОБЪЕДИНЕННЫХ НАЦИЙ ПО ОКРУЖАЮЩЕЙ СРЕДЕ

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**Speech delivered by Dr. Mostafa K. Tolba,
former Executive Director of UNEP and Guest of Honour
at the Ministerial Segment
of the 5th Conference of the Parties to the Basel Convention
Basel, Switzerland, 9 December 1999**

Mr. Federal Counsellor Mr. Moritz Leuenberger; my friend Mr. Philippe Roch, President of the COP; my dear friend, Dr. Klaus Töpfer, Executive Director of UNEP, Mr. Per Bakken; Your Excellencies the Ministers and Heads of Delegations; Distinguished delegates, Ladies and Gentlemen

Let me start by expressing deep gratitude to the Executive Director of UNEP for his invitation to be here today. I am honoured to be with you on this occasion, the 10th Anniversary of the adoption of the Basel Convention on the Transboundary Movement of Hazardous Wastes and their Disposal. I wish to express my deep thanks to the Swiss authorities for the kind reception on my arrival at Basel. I am really grateful for the very kind words extended to me this morning.

Looking back to March 1989 - ten and a half years ago - I cannot but remember the sleepless nights here in Basel before reaching the agreed text of the Convention. And I take this opportunity to specifically mention three persons without whose support and unstinting commitment we would have never reached agreement.

First, our distinguished friend Flavio Cotti, former President of the Swiss Federation and at that time Swiss Federal Counsellor of the Interior with Environment in his portfolio. Mr. Cotti was committed from day one of the negotiations to achieving the goal. After all it was Switzerland and Hungary who presented the UNEP Governing Council in June 1987 with a draft decision to start negotiations on the Transboundary Movement of Hazardous Wastes. The other two individuals who were great support to negotiators and to myself all through the eighteen months of negotiations were Alain Clerc, the Swiss Chairman of the Negotiating Group and Iwona Rummel-Bulska, the then Chief of UNEP's Environmental Law Unit and later, until recently, Executive Secretary of the Basel Convention.

But the story of managing hazardous wastes did not start in 1987. It started six years earlier in November 1981 in Uruguay. At that time you, the governments, nominated your high level legal experts to convene in Montevideo under UNEP auspices to chart its programme in environmental law. The high level group identified three issues needing urgent action: the development of principles, guidelines or legally binding Conventions. The three issues were: Marine pollution

from land based sources; protection of the stratospheric ozone layer; and transport, handling and disposal of hazardous wastes.

You all know where we are with the other two topics. And I also assume you know that we are certainly most advanced with the Ozone Layer. Two reasons for that:

1. Setting specific measurable targets for action by Parties to the Montreal Protocol.
2. Establishing a special financial mechanism to assist developing countries in meeting their obligations under the Protocol.

I turn now to the subject of our Ceremony: the Basel Convention.

You have certainly moved far ahead from where we were ten years ago.

One of the most burning issues at the Basel Ministerial Conference in 1989 was the ban on movement of hazardous wastes from developed to developing countries has been resolved.

You have the ban, not only as a decision of the Parties, but as an amendment to the Convention.

Regional and sub-regional centres for training and technology transfer are established and functioning. Your technical working group performed magnificently by any measure and produced outstanding technical guidelines.

The Secretariat of the Convention produced two excellent compilations containing a good deal of detailed statistics on generation, export and import of hazardous wastes and on actions taken in response to various articles of the Convention.

For all this you should be warmly congratulated. Yet, I am still worried, and I am sure you all are, as is rightly stated in the draft declaration before you. I am worried that the generation of hazardous waste is still growing rather than falling back, thus defeating a main objective of the Convention.

I am even more worried to read in one of the documents before you, seven and a half years after the Convention entered into force - "In view of the national definitions of hazardous wastes and the difficulties in obtaining accurate and comparable data, figures presented in the Secretariat Compilations are to be considered with great caution".

What does this mean. It simply means what a British politician remarked more than ten years ago

"We do not know how much hazardous waste is produced.... who produces it, what it is. And what happens to it". This remark still prevails. There is still the same veil of silence over the generation and disposal of hazardous wastes. This must change and this should be the first priority for the Parties in the next decade of the life of the Convention. We all need to know what is there in reliable validated figures. It is up to you to decide how to do it. But it has to be done.

Your draft declaration and attached draft decision are excellent guides for the work of your subsidiary bodies and the Convention Secretariat in the next ten years. Yet, when it comes to protecting the environment and hence our health and our very survival, I am always looking for specifics.

So, let me share with you some specifics. Certainly nothing new, it is all in the treaty and in the decisions of your Conference.

1. Harmonizing the national definitions of hazardous waste and establishing agreed means of verifying data collected at the national level.
2. From there you decide what level of reduction in the generation and transboundary movement of hazardous wastes you want to see over a specific period of time. It is only then that you can achieve these two main objectives of the Convention:
3. Identify the reasons behind the lack of reporting according to articles 13 and 16. The reports before you show that out of the 132 Parties and EC anything between 20 and less than 50 are reporting in the response to the various requirements of the Convention. The proposed mechanism for compliance, implementation and enforcement may help. But, unfortunately, this is a problem manifest with all environmental treaties. The issue needs more discussions among all these treaties, probably through their bureaus or their Presidents. Certainly the action reported on in the document on the subject before you is a very good first step in the right direction.

Nearly one third of the States members of the international community are still not Party to the Basel Convention including the biggest power in the world which produces and exports large amounts of hazardous wastes.

The tables before you show that the U.S. export figures of hazardous wastes increased by 50 per cent between 1993 and 1995. This cannot continue. And the Convention's impact will certainly be incomplete as long as the U.S. is not a party. I fail to find an explanation for this when the U.S. delegation over the eighteen months of negotiations regularly pressed for assurance that the Convention provisions are not inconsistent with U.S. national laws and regulations.

5. You amended the Convention to meet the legitimate concerns of developing countries. You banned movement of hazardous wastes from OECD to non OECD countries. You took a decision to this effect in 1994. You adopted the required amendment in 1997. Two years later there are only fifteen ratifications. The amendment, as you know, needs sixty two before it enters into force. Does this mean we will only be there towards the end of the next decade? I don't think that this is what you want.

Hence, an urgent priority should be that the President, the expanded bureau, and the Executive Director of UNEP should use all their weight to get the required ratifications over the next one or two years at most.

6. I could not agree more with the emphasis in your draft declaration on the minimization of generation of hazardous wastes and their environmentally sound management. But this needs two things:

transfer of cleaner technology and cleaner production methods, and transfer of financial resources to effect this. This will involve proper use of the regional centres in close relation with the UNEP/UNIDO cleaner production centres; it will involve clear mechanisms for the transfer of technology and it will involve working mechanisms for the receipt and distribution of known financial resources.

7. Your draft declaration and draft decision are also very correct in stressing the need for cooperation between the Basel Convention Secretariat and those of other relevant Conventions and Units in UNEP.

8. Illegal traffic in hazardous waste - considered in the Basel Convention to be criminal. Shouldn't there be some concrete cases that are investigated, brought to trial and publicized?

9. Within the overall guidance of the Conference of the Parties, your subsidiary bodies need to set themselves specific targets over specific periods of time - yard sticks to measure progress or lack of it.

10. Protocol on Liability and Compensation. Article 12 - Resolution 3 - General Assembly Resolution in 1989. To tell you the truth, it took much longer to negotiate than I expected – 10 full years. But the subject is complex and sensitive. Yet I believe you must adopt the Protocol at this session; otherwise the opportunity will be lost for a long time.

Ladies and Gentlemen,

Let me close by repeating what I said earlier - you have come very far from where we were ten years ago - but the road ahead is still long. Our ultimate goal, when we deal with environmental issues, is to show that national boundaries do not obscure the fact that all people in North and South, East and West, are united. We are all trustees of the earth for the unborn. I am not a dreamer. I know this is an aspiration quite distant from today's reality. But, I am still optimistic that we will reach there one day, and soon.

Thank you.