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**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal**

Eighth meeting

Nairobi, 27 November–1 December 2006

Items 6 (g) and 6 (h) of the provisional agenda**

**Implementation of the decisions adopted by the Conference
of the Parties at its seventh meeting: Financial matters**

**Implementation of the decisions adopted by the Conference
of the Parties at its seventh meeting: Resource mobilization
and sustainable financing**

**Terms upon which programme support costs are charged for
the administration of the Basel Convention Trust Funds**

Note by the Secretariat

The third meeting of the Expanded Bureau of the seventh meeting of the Conference of the Parties was presented with a note prepared by the Secretariat on the terms upon which programme support costs are charged for the administration of the Basel Convention Trust Funds. Given the relevance of some of the information contained in the note for the consideration of the study on the examination of Article 14 of the Basel Convention, the note which is attached to the present document is submitted to the eighth meeting of the Conference of the Parties for its information.

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English only

**Third meeting of the Expanded Bureau
of the seventh meeting of the Conference
of the Parties to the Basel Convention**
Geneva, 6-7 October 2006
Item 6 of the provisional agenda^{*}
Other matters

Terms upon which programme support costs are charged for the administration of the Basel Convention Trust Funds

Note by the Secretariat

I. Introduction

1. At present UNEP levies a 13 per cent charge on all expenditures from the Basel Convention Trust Fund and the Basel Convention Technical Cooperation Trust Fund. From the funds generated from this charge, UNEP provides three administrative posts to support the operations of the Secretariat, (i.e. one Administrative Officer, one Administrative Assistant and one Finance and Budget Assistant¹); and other services such as: fund and human resources administration; protocol (e.g. visa issuance); travel arrangements; IT services; security etc. It is noted that UNEP has indicated that it may no longer continue to provide some of the ancillary services from the 13% programme support costs, and the Basel Convention may be charged, separately and additionally, for such services in the future.

2. Decision 1/7 adopted by the first meeting of the Conference of the Parties “invite[d] the Secretary-General of the United Nations to establish a Trust Fund for the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal and a technical cooperation trust fund to support developing countries in need of technical assistance in the implementation of the Basel Convention, in accordance with the financial regulations and rules of the United Nations, the general procedures governing the operations of the Environment Fund of the United Nations Environment Programme and the terms of reference for the administration of these Trust Funds to receive the contributions of the Parties for the implementation of the Convention”.

* UNEP/SBC/BUREAU/7/3/1.
1 Commencing November 2004

3. The Terms of Reference for the Administration of the Basel Convention Trust Funds, adopted by the same decision, provided, *inter alia*, that “the Executive Director [of UNEP] shall deduct from the income of both Trust Funds an administration support charge equal to 13 per cent of other expenditures recorded during any accounting period in order to meet the cost of administration activities financed from both Trust Funds and provided services relating to personnel, accounting, audit etc.”. The terms of the charge to be levied by UNEP was based upon a note from the Executive Director of UNEP to the meeting advising that “United Nations rules covering the administration of trust funds require that an administrative support charge of 13 per cent of all other expenditures charged to the fund be levied by the administering organisation. This 13 per cent charge is to enable the organisation concerned to generate the resources necessary to cover the costs of administering the activities financed from the fund, including personnel, accounting audit and general administration. The General Assembly of the United Nations has insisted that those costs should not be borne by the Regular Budget of the United Nations, nor by the Secretariat budgets of any United Nations body”.

4. Further to decision V/35, adopted by the fifth meeting of the Conference of the Parties, requesting the Secretariat to prepare an updated version of the terms of reference for the administration of the Trust Funds, decision VI/41 of the sixth meeting of the Conference of the Parties adopted the revised terms of reference from the financial period beginning 1 January 2003. Paragraph 24 of the revised terms of reference provides that “Programme support costs 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 paragraph 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”.

5. The twentieth session of the UNEP Governing Council requested, by its decision GC 20/35, adopted in February 1999, “the Executive Director to implement appropriate actions directed towards reducing the cost of programme-support services provided to trust funds and related activities with a view to containing such cost within the programme support charges levied. These actions should include, *inter alia*: (a) that the full 13 per cent support charge continues to be levied on all trust fund expenditure and is also levied on directly related expenditure financed from voluntary additional contributions, such as counterpart contributions, in support of conventions and other trust fund activities”.

II. Implementation

6. For the biennium 2003-2004, the total amount levied by UNEP for programme support costs for the Basel Convention Trust Fund was USD 1,064,043, and for the Basel Convention Technical Cooperation Trust Fund, USD 170,329. The total amount charged for both trust funds was USD 1,234,372. The costs of the two posts provided by UNEP at the time (Administrative Officer and Administrative Assistant), under the auspices of programme support, was USD 490,134. The remaining amount of USD 744,238 levied by UNEP was charged for the other programme support services set out in paragraph 1 above. However no information was available to the Secretariat as to how this was specifically allocated.

7. For the biennium 2005-2006, UNEP agreed to provide one extra post, i.e. Finance and Budget Assistant, to the Secretariat under the auspices of programme support. As at 28 September 2006, the Secretariat is only able to report on the total amount of programme support costs levied by UNEP in 2005, these are as follows: USD 436,810 was levied on the Basel Convention Trust Fund, and USD 96,849 was levied on the Basel Convention Technical Cooperation Trust Fund. The total amount charged for both trust funds was USD 533,659. The total costs of the three administrative posts provided by UNEP under the auspices of programme support for 2005 was USD 329,387. The remaining amount of USD 204,272 was charged for the other programme support services provided by UNEP as set out in paragraph 1 above.

III. Action/Guidance requested from the Expanded Bureau

8. Given the limited funds available in the Basel Convention Trust Funds, particularly in the Basel Convention Technical Cooperation Trust Fund, the Secretariat has sought to explore options to maximise the benefits from the contributions to the Trust Funds. On 6 December 2004, the Executive Secretary of the Basel Convention wrote to the Executive Director of UNEP seeking guidance and support in reducing the programme support costs levied on contributions made to support the Basel

Convention Regional Centres' activities in 2005 and 2006 to 8%. This letter has, to date, met with no response.

9. The Secretariat seeks the guidance of the Expanded Bureau in the following respects:

A. Generally

10. Within the context of the United Nations reform, the Secretary-General has, in his report entitled "Investing in the United Nations: for a stronger Organisation worldwide" proposed that "A new policy be introduced in July 2006, replacing four existing administrative instructions, to govern the streamlined management of trust funds. Key objectives would include simplified rules and procedures, the introduction of a single, consistent and flexible trust fund category, and the establishment of a new standard for support costs, *lower than the current 13 per cent*, to bring it more in line with the fee structure in force in the United Nations funds and programmes"². Subsequent to making this proposal the Secretary General advised "with respect to trust fund matters under proposal 17, the administrative instructions are under preparation and are expected to be finalised later in the year. Consultations with programme managers are continuing on which elements are required in the revised rules and procedures to ensure adequate financial control as well as to improve the administration and management of voluntary contributions, including the provision of adequate support costs for the management of those contributions, and to simplify and standardise the procedures"³. At present, the Secretariat has yet to be informed of any new administrative instruction in this regard.

11. A reduction to the programme support costs chargeable has, to date, been agreed on an *ad hoc* basis. The United Nations and the European Commission arrived at a new schedule on indirect programme support charges, in 1999, in light of the European Commission's constraints vis-à-vis the normal 13 per cent UN programme support cost and on the understanding that additional programme support costs could be built into a project in the form of direct costs. Accordingly, it was agreed that a maximum of 7 per cent indirect programme support costs would be applicable to the contributions of the European Commission to the United Nations.

12. Furthermore, an agreement was reached between the Standing Committee of the Convention on International Trade in Endangered Species of Wild Fauna and Flora ("CITES Standing Committee") and UNEP as to the use of programme support costs levied on voluntary contributions to the CITES Trust Funds. On the understanding that the CITES Standing Committee would not raise further objections to the introduction of 13 per cent programme support cost charges with respect to voluntary contributions, it was agreed by UNEP, at the forty-fifth meeting of the CITES Standing Committee, that "since overall PSC charged to the CITES Trust Fund seem to be sufficient to cover all costs related to administrative support of CITES substantive programme of work, the Executive Director of UNEP will be prepared to allocate the funds received as PSC levied on voluntary contributions in support of the CITES Trust Fund for funding of substantive backstopping of CITES projects of the CITES Secretariat"⁴.

13. Conversely, following an invitation by the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol, at its third meeting, UNEP agreed to serve as its Treasurer at zero cost to the fund. In a letter submitted to the thirty-eighth meeting of the Executive Committee, the Executive Director of UNEP informed the Executive Committee that UNEP's role as Treasurer could no longer be performed free of charge. To this end, the fortieth meeting of the Executive Committee decided to amend paragraph 3.1 of Article III of the agreement between the Executive Committee and UNEP to read as follows "UNEP in its capacity as Treasurer shall be reimbursed for costs incurred for services it will provide pursuant to this Agreement. Modalities for the provision of services and reimbursement of costs shall be agreed upon by the Executive Committee of the Multilateral Fund and the United Nations Environment Programme". UNEP was requested to substantiate its request for an annual fee of US\$ 500,000 for acting as Treasurer of the Fund, before the forty-second meeting of the Executive Committee agreed to this request. Thus, in its capacity as Treasurer of the Multilateral Fund, UNEP has had to justify the basis upon which it sought to charge for its services in administering the trust fund before a fee was levied. With regard to the fund for the Secretariat operational costs it is

² A/60/692, pg. 45, Proposal 17

³ A/60/846 para. 15

⁴ SC45 Summary Report of the forty-fifth meeting of the Standing Committee of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 19-22 June 2001

noted that 13% programme support cost is charged only for personnel budget components with no charge for the other budget components of the fund.

14. As such arrangements are concluded on an *ad hoc* basis, there is neither consistency nor parity in the manner in which UNEP charges programme support costs for the administration of trust funds of MEAs and of contributions from donors.

15. In addition, it is recalled that the scope of the Basel Convention 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”, and chapter 33.11 of Agenda 21, adopted by the United Nations Conference on Environment and Development in 1992, set amongst its objectives “to seek full use and continuing qualitative improvement of funding mechanisms to be utilized for the implementation of Agenda 21”. Accordingly, there is significant persuasion for the application of the CITES precedent for the Basel Convention Technical Cooperation Trust Fund if it can be evidenced that the programme support costs charged to the Basel Convention Trust Fund is sufficient to cover the costs incurred by UNEP for services it provide to the Basel Convention.

16. It is noted that the eighth meeting of the Conference of the Parties to the Convention on Migratory Species has, by its resolution 8.3, “invite[d] the Executive Director of UNEP to consider, on a case-by-case basis, to reduce the Programme Support Costs on voluntary contributions paid to the new CMS Trust Fund Voluntary Contributions for the implementation of activities”. Furthermore, the twelfth meeting of the CITES Conference of the Parties, by its resolution 12.1, requested the Standing Committee to develop future budget containment strategies which includes “negotiat[ing] a reduction in the programme support costs from 13 per cent with the Executive Director of UNEP”.

17. The Expanded Bureau may consider recommending that the eighth meeting of the Conference of the Parties provide a mandate to the Secretariat and/or Expanded Bureau to negotiate new terms upon which programme support costs may be charged for the administration of the Basel Convention Trust Funds, particularly in light of the purpose for which the Basel Convention Technical Cooperation Trust Fund was established and the actual expenditures incurred for programme support services.

B. If there are unexpended funds

18. In the absence of an agreed basis upon which to account for unexpended charges levied for programme support, the general policy of the United Nations applies. The United Nations Secretary-General’s bulletin of 1 March 1982⁵ on the Establishment and Management of Trust Funds provides that “reimbursement for programme support costs (previously referred to as “overheads”) shall be provided for in respect of all activities financed from trust funds. The amount of reimbursement shall be calculated at the standard percentage rate approved by the General Assembly. To the extent that the activities of a trust fund do not warrant the levy of full support costs, the Assistant Secretary-General for Financial Services may make exceptions to this provision”.

19. Accordingly, there is a basis upon which it could be argued that if programme support costs levied by UNEP are in excess of the actual expenditures incurred by UNEP in services provided to the Convention, the unspent amount could be reinstated to the Trust Funds.

20. The Expanded Bureau is invited to consider the foregoing information, and may wish to request that UNEP provide, for the consideration of the eighth meeting of the Conference of the Parties, a breakdown of expenditures incurred by UNEP for services it provides to the Convention for biennium 2005-2006.

⁵ ST/SGB/188