

V/32. Enlargement of the scope of the Technical Cooperation Trust Fund

The Conference,

Recalling its decisions I/14, II/2, III/3 and IV/20 concerning the emergency fund,

Recalling its decisions I/5, II/1, III/2 and IV/19 concerning the adoption of a protocol on liability and compensation,

Recalling its decisions I/7 and IV/22 concerning the Technical Cooperation Trust Fund of the Basel Convention,

Referring to its decision V/29 on the adoption of the Protocol on Liability and Compensation,

1. Decides on an interim basis to enlarge the scope of the Technical Cooperation Trust Fund of the Basel Convention to assist the Contracting Parties which are developing countries or countries with economies in transition in cases of emergency and compensation for damage resulting from

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incidents arising from transboundary movements of hazardous wastes and other wastes and their disposal;

2. Decides that the Secretariat of the Basel Convention may, upon request, use the funds referred to in paragraph 8 to 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 covered by the Basel Convention in order:

(a) To estimate the magnitude of damage occurred or damage that may occur and the measures needed to prevent damage;

(b) To take appropriate emergency measures to prevent or mitigate the damage;

(c) To help find those Parties and other entities in a position to give the assistance needed;

3. Also decides that, where damage occurs that is covered by the Liability and Compensation Protocol, the Secretariat of the Basel Convention may, upon request by a Contracting Party which is a developing country or a Contracting Party which is a country with economy in transition, use the funds referred to in paragraph 8 to provide compensation 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, and that the present paragraph will become operational on the date the Protocol enters into force;

4. Also decides that the Secretariat of the Basel Convention may, upon request, use the funds referred to in paragraph 8 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;

5. Further decides that the Parties shall evaluate the information made available by the Secretariat on:

(a) Functioning of this interim arrangement;

(b) The number of incidents arising from transboundary movements of hazardous wastes and other wastes and their disposal;

(c) With regard to each incident, the nature of the damage, the costs of preventive measures and measures of reinstatement;

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(d) With regard to each incident, the extent to which damage was not compensated;

6. Requests the Secretariat to provide to the Parties the information referred to in the previous paragraph as it becomes available and in any case not later than one year after the adoption of the present decision;

7. Notes that the evaluation referred to in paragraph 5 shall be done in order to enable the Conference of the Parties at its sixth meeting to decide on the need to maintain, improve, change this interim arrangement or propose additional measures:

(a) To provide for the costs of preventive measures and measures of reinstatement for damage from accidents arising from transboundary movements of hazardous wastes and other waste under the Convention or during the disposal of the wastes;

(b) To provide for compensation when the person liable is or remains unknown, disappears or cannot be found, or is or may become financially incapable of meeting his or her obligation, or the liable person is exempted from liability in conformity with Article 4, paragraph 5 of the Protocol, and with regard to illegal traffic;

8. Urges Parties to provide contributions to the Technical Cooperation Trust Fund to support the activities referred to in paragraphs 2, 3 and 4 and agrees that a contributor may specify that its contributions be used for purposes specified in paragraphs 2, 3 or 4;

9. Requests the Expanded Bureau, in consultation with interested Parties and stakeholders, to prepare and issue interim guidelines as soon as possible for the Secretariat to implement the tasks assigned to it by the present decision and agrees that the guidelines will be submitted to the Conference of the Parties at its sixth meeting for adoption; that these guidelines will include provisions for the recovery, from sources such as liable parties and providers of financial assurance, of funds paid by the Technical Cooperation Trust Fund under paragraphs 2 and 3; that such recovered funds may be used for purposes set forth in paragraphs 2, 3 and 4, while respecting the original earmarking where appropriate;

10. Urges Parties to cooperate and provide advisory services, technical support and equipment for the purpose of responding to damage involving the transboundary movement of hazardous wastes and other wastes and their disposal;

11. Urges each Party which has not yet done so to establish a national system for responding promptly and effectively to incidents

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occurring during transboundary movement of hazardous wastes and their disposal;

12. Decides that the Secretariat shall present through the Expanded Bureau a report for the Conference of the Parties at its sixth meeting on implementation of the present decision.