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**Conference of the Parties to the Basel Convention  
on the Control of Transboundary Movements of  
Hazardous Wastes and Their Disposal**  
Seventh meeting  
Geneva, 25-29 October 2004  
Item 6 of the provisional agenda\*

**Compilation of draft decisions forwarded by the Open-ended  
Working Group to the Conference of the Parties for  
consideration and possible adoption**

**Note by the Secretariat**

Attached in the annex to the present note is a compilation of draft decisions forwarded by the Open-ended Working Group to the Conference of the Parties for its consideration and possible adoption. Please note that the compiled decisions were previously issued as annex II to the report of the third session of the Open-ended Working Group (UNEP/CHW/OEWG/3/34).

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\* UNEP/CHW.7/1.

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## Annex

### **Draft decisions forwarded by the Open-ended Working Group to the Conference of the Parties for consideration and possible adoption**

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## VII/[ ]: Strategic Plan for the Implementation of the Basel Convention

*The Conference of the Parties,*

*Recalling* its decisions VI/1 and VI/2, by which it adopted the Strategic Plan for the implementation of the Basel Convention to 2010 as the major instrument to give further effect to the Basel Declaration on Environmentally Sound Management,

*Noting* with appreciation the report by the Secretariat on progress in the implementation of the Strategic Plan,

*Welcoming* the progress made in the implementation of the projects proposals approved under the Strategic Plan,

*Recalling* that the Open-ended Working Group should review, and amend as necessary, the action table in the light of experience gained in the implementation of the activities in 2003-2004,

*Noting* that a sustainable and adequate financial basis is essential for the implementation of priority actions of the strategic plan up to 2010,

1. *Agrees* that Parties and the Basel Convention regional centres, in partnership with other stakeholders, should continue to promote the implementation of the Strategic Plan;
2. *Requests* the Secretariat to assist the Parties and the Basel Convention regional centres in the preparation of projects for consideration and approval by the Open-ended Working Group for implementation in 2005–2006;
3. *Requests* the Secretariat to continue to assist the Parties, the Basel Convention regional centres and other stakeholders in the development and implementation of priority activities contained in the Strategic Plan under the guidance of the Open-ended Working Group and in the preparation of partnership programmes to support the Strategic Plan;
4. *Strongly encourages* the recipient Parties to consider including in their development assistance priorities projects that implement the Strategic Plan for the implementation of the Basel Convention and to request Parties, the Basel Convention regional centres and the Secretariat to help those Parties to approach donors for assistance in mobilizing available financial resources to this end;
5. *Requests* the Open-ended Working Group to develop an appropriate resource mobilization strategy to strengthen the financial basis for implementing the Strategic Plan, including gaining access to multilateral financial institutions, such as the Global Environmental Facility and the World Bank, and regional funding institutions;
6. *Requests* the Secretariat to report to the Conference of the Parties at its eighth meeting on progress in the implementation of the Strategic Plan and, as appropriate, to the Open-ended Working Group on experience gained and obstacles encountered.

**VII/[...]: Capacity-building for implementation of the Strategic Plan**

*The Conference of the Parties,*

*Recalling* its decision VI/11 on capacity-building and its decision V/5 on the regional centres for training and technology transfer,

*Welcoming* the specific activities carried out by the Basel Convention regional centres and Parties in close cooperation with the Secretariat of the Basel Convention to implement the Strategic Plan,

*Emphasizing* the importance of aiming at the mutually supportive implementation of related multilateral environmental agreements in the context of the life-cycle management approach of chemicals and wastes,

*Recognizing* in particular the need for close collaboration with the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants with regard to the life-cycle management of persistent organic and inorganic pollutants and hazardous chemicals,

*Bearing in mind* that capacity-building, information exchange, awareness-raising and education in all sectors of society are of paramount importance for achieving the aims of the Basel Convention,

1. *Requests* the Secretariat to continue to cooperate with the Basel Convention regional centres, Parties, non-Parties, international organizations, the industry sector and non-governmental organizations, to enhance the worldwide knowledge and the practical implementation of the Basel Convention through awareness-raising and capacity-building activities, subject to the availability of funds;

2. *Further requests the* Secretariat to continue to collaborate closely with UNEP Chemicals, the secretariats of the Rotterdam Convention and the Stockholm Convention and other partners, including the Basel Convention regional centres, with regard to the organization of joint training and capacity-building activities;

3. *Encourages* the Secretariat, in cooperation with the Basel Convention regional centres, to continue to develop capacity-building activities such as workshops, project activities, training materials and decision supportive tools, in close consultation and partnership with key partners from Governments, specialized agencies, the industry sector, universities and non-governmental organizations, with a view to addressing the needs of Parties for the environmentally sound management of priority waste streams, including, but not limited to, electronic wastes, lead and used lead-acid batteries, used oils, obsolete stocks of pesticides, PCBs, dioxins and furans, asbestos and materials resulting from the dismantling of ships, biomedical and healthcare wastes;

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. *Also invites* Parties to inform the Secretariat of their capacity-building activities and awareness and educational materials related to the implementation of the Basel Convention, to enable it to disseminate such information to other Parties and stakeholders;

6. *Also requests* the Secretariat to submit a report on the activities related to capacity-building to the Conference of the Parties at its eighth meeting.

**VII/[...]: Basel Convention regional centres: report on progress**

*The Conference of the Parties,*

*Recalling* its decision VI/3 on the establishment and functioning of the Basel Convention regional centres for training and technology transfer,

*Recalling* also its decision VI/4 on the business plans of the Basel Convention regional centres,

*Recalling in addition* its decisions VI/1 and VI/2 and Open-ended Working Group decisions OEWG-I/1 and OEWG-II/1,

*Welcoming* progress in the conclusion of the framework agreements, implementation of the business plans and projects proposals under the Strategic Plan,

*Recognizing* the need for funding for the programme of activities of the Basel Convention regional centres,

1. *Requests* the Basel Convention regional centres and the Secretariat to ensure effective implementation of the project proposals contained in their business plans;
2. *Requests* the Secretariat and the Basel Convention regional centres and the Parties served by them to develop a strategy for funding of the centres and the activities that they undertake;
3. *Urges* all Parties and signatories in a position to do so, as well as international organizations, including development banks, non-governmental organizations, the private sector and individuals, to make financial contributions to the Technical Cooperation Trust Fund of the Basel Convention or contributions directly to the Basel Convention regional centres on a bilateral basis, to allow the centres to continue to implement the Strategic Plan;
4. [*Urges* host Governments of the Basel Convention regional centres and countries served by the centres as appropriate to provide adequate funding, on a voluntary basis, to enable each centre to meet its core operational costs;]
5. *Requests* the Basel Convention regional centres to revise and update the new business plans for 2005–2006;
6. *Invites* the Basel Convention regional centres to continue to carry out the capacity-building activities and technology transfer and projects on a regional basis for all the countries which they serve.

**VII/[...]: Implementation of the Environment Initiative of the New Partnership for Africa's Development as it relates to hazardous wastes and other wastes**

*The Conference of the Parties,*

*Recalling* the mandate of the Conference of the Parties in its decision VI/10 that the Secretariat of the Basel Convention and the Basel Convention regional centres in Africa cooperate with the secretariats of the African Ministerial Conference on the Environment and the New Partnership for Africa's Development,

*Also recalling* the endorsement by the African Ministerial Conference on the Environment of the utilization of the Basel Convention regional centres in Africa for the implementation of the Environment Initiative of the New Partnership for Africa's Development with respect to the management of hazardous wastes and other wastes,

*Noting* the recommendation of the New Partnership for Africa's Development to enhance capacity-building of regional centres in Africa, including the Basel Convention regional centres

in Egypt, Nigeria, Senegal and South Africa, for the management of hazardous wastes in the context of building synergies with the Stockholm Convention on Persistent Organic Pollutants and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,

*Noting also* that several programme activities proposed by a wide range of stakeholders that support the further implementation in Africa of the Basel Declaration on Environmentally Sound Management and the Strategic Plan for the Implementation of the Basel Convention have been selected as priority activities in the context of the Action Plan of the Environment Initiative of the New Partnership for Africa's Development,

1. *Requests* the Secretariat to continue its collaboration with the secretariat of the African Ministerial Conference on the Environment and the secretariat of the New Partnership for Africa's Development with a view to strengthening the development of concerted approaches for the further implementation in Africa of the Basel Declaration on Environmentally Sound Management and the Strategic Plan for the implementation of the Basel Convention;

2. *Encourages* Parties and other stakeholders to contribute financially and with other means to activities concerning the implementation of the Basel Convention in Africa as prioritized in the Action Plan of the Environment Initiative of the New Partnership for Africa's Development;

3. *Also requests* the Secretariat to continue its efforts to obtain financial support for the projects submitted to and endorsed by the African Ministerial Conference on the Environment;

4. *Further requests* the Secretariat to report on progress in the implementation of decision VI/10 to the Conference of the Parties at its eighth meeting.

#### **VII/[...]: Implementation of decision III/1 on amendment of the Basel Convention**

*The Conference of the Parties,*

*Recalling* its decision VI/33 on the implementation of decision III/1, "Amendment to the Basel Convention",

*Taking note* of the progress made by Parties in implementing decision III/1,

1. *Welcomes* the ratification, acceptance, formal confirmation or approval by several Parties of the amendment contained in decision III/1;

2. *Strongly appeals* to Parties to the Convention to expedite the process of ratification, acceptance, formal confirmation, 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 Party to the Basel Convention to expedite the process of ratification, acceptance or approval of, or accession to, the Basel Convention and its amendments;

4. *Requests* the Secretariat to respond to any requests from States or political and/or economic integration organizations for advice relating to the process of ratification, acceptance, formal confirmation or approval of, or accession to, the Basel Convention and its amendments.

**VII/[...]: Analysis of issues related to Annex VII**

*The Conference of the Parties,*

*Recalling* its decision VI/34, in which it, among other things, entrusted the Open-ended Working Group with overseeing the development of work and requested it to present its final report on the analysis of issues related to Annex VII to the Conference of the Parties for a final decision at its seventh meeting,

*Reaffirming* its decision to leave Annex VII unchanged until the amendment contained in its decision III/1 enters into force,

1. *Takes note* of the final report of the Open-ended Working Group on the analysis of issues related to Annex VII, as contained in document UNEP/CHW.7/12;
2. *Invites* Parties to the Convention that have not yet ratified or acceded to the amendment contained in decision III/1 to consider doing so to facilitate its entry into force at the earliest opportunity;
3. *Also invites* States that have not become party to the Basel Convention to consider doing so.

**VII/[...]: Designation of competent authorities and focal points**

*The Conference of the Parties,*

*Recalling* decision VI/38 on competent authorities and focal points,

1. *Calls on Parties* to designate competent authorities and focal points for the Convention, if they have not done so, and to submit such designations to the Secretariat, including any modifications or additions as they occur;
2. *Urges* Parties to provide up-to-date contact details of competent authorities and focal points to the Secretariat to ensure the efficient transmission of information;
3. *Requests* Parties that have designated multiple competent authorities to make sufficient information available regarding the functions and geographical area covered by each of its competent authorities;
4. *Invites* non-Parties and interested organizations to identify contact persons for the Convention, if they have not done so, and to submit the relevant information to the Secretariat, including any modifications or additions as they occur;
5. *Requests* the Secretariat to continue to maintain the list of competent authorities and focal points and *to* post it on the Secretariat's web site to facilitate communications concerning matters related to the Convention.

**VII/[...]: Basel Protocol on Liability and Compensation**

*The Conference of the Parties,*

*Recalling* its decision VI/15 on the Basel Protocol on Liability and Compensation,

*Also recalling* Open-ended Working Group decision OEWG-II/2 on the Basel Protocol on Liability and Compensation,

*Noting* the importance of the workshops called for in that decision as a means of promoting the exchange of information on the difficulties faced by Parties with respect to ratification of and accession to the Basel Protocol on Liability and Compensation, with a view to enhancing such ratification and accession,

*Also noting* with appreciation the kind financial support provided by the Government of Switzerland towards the organization of two workshops,

*Welcoming* with appreciation the efforts made by the Secretariat, the Basel Convention regional centres and the host countries in organizing workshops,

*Taking note* of the work undertaken to date by the Secretariat,

*Welcoming* with appreciation the assistance offered by the Government of Switzerland in the preparation of the instruction manual,

1. *Calls upon* all Parties and organizations that are in a position to do so to make financial or in-kind contributions for the organization of workshops for addressing various aspects of and obstacles to the process of ratification of or accession to the Basel Protocol as called for in decision VI/15;

2. *Requests* the Secretariat to continue its work on organizing workshops to address aspects of and obstacles to the process of ratification of or accession to the Basel Protocol;

3. *Also requests* the Secretariat to continue consultations with relevant institutions and to report thereon to the Open-ended Working Group regarding the options that may be available with respect to the requirement of insurance, bonds or other financial guarantees and the financial limits established under the Protocol;

4. *Further requests* the Secretariat to provide legal and technical assistance to Parties who require such assistance for the implementation of the Protocol;

5. *Approves* the instruction manual contained in the annex to the present decision;

6. *Also requests* the Secretariat to publish the instruction manual in all official United Nations languages and to disseminate it widely;

7. *Invites* Parties to use the instruction manual, to report to the Secretariat on their experience in the use of the instruction manual and to submit to the Secretariat, on an on-going basis, copies of domestic laws and regulations implementing the Basel Protocol as well as case studies on the application of the Protocol;

8. *Further requests* the Secretariat to update the instruction manual on a regular basis by the addition, as annexes to the instruction manual, of copies of domestic laws and regulations and case studies relating to the implementation of the Basel Protocol submitted by Parties.



## Annex to decision VII/[...] on the Basel Protocol on Liability and Compensation

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## **1. Introduction**

### **1.1 History of the Protocol**

The Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal was adopted at the Fifth Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, on 10 December 1999. The Protocol negotiations began in 1993 in response to the concerns of developing countries about the lack of funds and technologies for coping with illegal dumping or accidental spills.

The Protocol addresses who is financially responsible in the event of an incident. Each phase of a transboundary movement, from the point at which the wastes are loaded on the means of transport for their export, international transit, import, and final disposal, is considered.

### **1.2 Goals of the Protocol**

The main objective of the Protocol is to provide for a comprehensive regime for liability as well as adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes, including incidents occurring because of illegal traffic in those wastes.

This comprehensive regime contains two subsidiary objectives:

#### **1.2.1 The preventive objective**

According to article 14 of the Protocol the person liable under article 4 shall establish and maintain during the period of liability, insurance, bonds or other financial guarantees covering their liability for amounts not less than the minimum limits specified in paragraph 2 of Annex B.

Financial guarantees to cover the liability for transboundary movements of hazardous wastes are only available, if certain safety standards for the operation are in place. No insurance company would be ready to insure hazardous activities where no safety measures have been undertaken to minimise the risk. That demonstrates the preventive effect of the Protocol.

#### **1.2.2 The compensation objective**

The second subsidiary objective is the compensation objective. That means that if, despite all required safety measures being taken, damage occurs, the Protocol will provide for appropriate compensation.

### **1.3 Key elements of the Protocol**

The Protocol shall apply to damage due to an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal, including illegal traffic, 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 until the time at which the notification of the completion of disposal of the wastes has occurred.

The exporter of waste shall be strictly liable for damage until the disposer has taken possession of the waste. Thereafter the disposer shall be strictly liable for damage. The strict liability is limited according Annex B of the Protocol.

“Damage” under the Protocol means:

- Loss of life or personal injury;
- Loss of or damage to property other than property held by the person liable in accordance with the present 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, taking in account savings and costs.
- The cost of measures of reinstatement, including any loss or damage caused by such measures.

A claim must be brought within ten years from the date of the incident, or within five years from the date the claimant knew or ought reasonably to have known of the damage provided that this is no more than ten years from the date of the incident.

Exporters and disposers have to establish insurance, bonds or other financial guarantees covering their liability.

The Protocol will be enforced in domestic courts. Worthy of note is the fact that the Protocol, an international legal instrument, establishes specific rules for operation within the domestic legal arena, thus fettering the discretion of the domestic courts in respect of certain matters. Thus, it is essential that States fulfil their obligation, which is expressly provided in the Protocol, to make provision in their domestic regulatory and legislative regimes to implement the Protocol.

## **2. The Provisions of the Protocol in detail**

This chapter explains the provisions of the operative part of the Protocol. The chapter does not include any commentary on the final clauses.

For each provision where the Protocol requires implementation in the domestic legal arena, this is identified below. It will, however, be for each Party to determine whether there is need for specific action to be taken to give effect to the provision, whether there already exists adequate provision in the relevant domestic law or whether, in accordance with its domestic legal tradition, the Protocol is self-executing and can be applied directly by the judiciary.

### **Article 1: Objective**

#### (a) Text of article

The objective of the Protocol is to provide for a comprehensive regime for liability and for adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes and their disposal including illegal traffic in those wastes.

#### (b) Does the article require domestic implementation?

No.

#### (c) Implementation (practical aspects)

N/A.

### **Article 2: Definitions**

#### (a) Text of article

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.

(b) Does the article require domestic implementation?

No, except to ensure that the definitions are considered by the Courts when interpreting the provisions of the Protocol.

(c) Implementation (practical aspects)

N/A.

(d) Other information

The Protocol defines "incident" as any occurrence, or series of occurrences having the same origin that causes damage or creates a grave and imminent threat of causing damage (h). To be covered by the Protocol, the damage does not have to result from an accident; damage caused by normal operations are incidents in terms of the Protocol.

Current rates for the Special Drawing Right may be found at [website].

(e) *Example:*

*Example: A restaurant specialised for weekend-visitors in a Tourist region is affected by a bad smell of a disposal site. No guests will dine at the restaurant. The restaurant itself had not been damaged by the incident. The remaining guests have not fallen ill by the incident. But the owner or operator of the restaurant had suffered a loss of income, which must be compensated.*

*Example: Wild growing plants or flowers are destroyed. The costs of growing new plants or flowers in the affected area have to be compensated. A spill of waste causes the killing of fishes in rivers. The costs of the abandoning of new fish of the same species have to be compensated.*

*Example: When hazardous wastes were dumped in a river and become a threat to the fresh water supply of a village. The measure to remove the waste out of the river is a preventive measure in terms of the Protocol, because it prevents or minimises further damage.*

*Example: A neighbouring cornfield of a disposal site for waste resulting from a transboundary movement had been polluted or contaminated by hazardous substances (ii). The property is directly affected.*

*Example: The unloading of a ship causes an accidental pollution of a river because a part of the shipment fell in the river (accidental pollution)*

*A disposal site is leaking for several years and causes a gradual pollution of a neighbouring property. Both scenarios are incidents in terms of the Protocol.*

### **Article 3: Scope of application**

(a) Text of article

1. The Protocol shall apply to damage due to an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal, including illegal traffic, 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. Any Contracting Party may by way of notification to the Depositary exclude 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 Secretariat shall inform all Contracting Parties of notifications received in accordance with this Article.

2. The Protocol 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 of 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 completion of the subsequent disposal operation specified in D1 to D12 and R1 to R11 of Annex IV to the Convention.

3. (a) The Protocol shall apply only to damage suffered in an area under the national jurisdiction of a Contracting Party arising from an incident as referred to in paragraph 1;

(b) When the State of import, but not the State of export, is a Contracting Party, the Protocol shall apply only with respect to damage arising from an incident as referred to in paragraph 1 which takes place after the moment at which the disposer has taken possession of the hazardous wastes and other wastes. When the State of export, but not the State of import, is a Contracting Party, the Protocol shall apply only with respect to damage arising from an incident as referred to in paragraph 1 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 Protocol shall not apply;

(c) Notwithstanding subparagraph (a), the Protocol shall also apply to the damages specified in Article 2, subparagraphs 2 (c) (i), (ii) and (v), of the Protocol occurring in areas beyond any national jurisdiction;

(d) Notwithstanding subparagraph (a), the Protocol shall, in relation to rights under the Protocol, also apply to damages 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 and has acceded to a multilateral or regional agreement concerning transboundary movements of hazardous waste which is in force. Subparagraph (b) will apply *mutatis mutandis*.

4. Notwithstanding paragraph 1, in case of re-importation under Article 8 or Article 9, subparagraph 2 (a), and Article 9, paragraph 4, of the Convention, the provisions of the Protocol shall apply until the hazardous wastes and other wastes reach the original State of export.

5. Nothing in the Protocol shall affect in any way the sovereignty of States over their territorial seas and their jurisdiction and the right in their respective exclusive economic zones and continental shelves in accordance with international law.

6. Notwithstanding paragraph 1 and subject to paragraph 2 of this Article:

(a) The Protocol shall not apply to damage that has arisen from a transboundary movement of hazardous wastes and other wastes that has commenced before the entry into force of the Protocol for the Contracting Party concerned;

(b) The Protocol 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. In this case strict liability shall be channelled in accordance with Article 4 of the Protocol.

7. (a) The Protocol shall not apply to damage due to an incident occurring during a transboundary movement of hazardous wastes 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:

(i) The damage occurred in an area under the national jurisdiction of any of the Parties to the agreement or arrangement;

(ii) 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;

(iii) 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 referred to in this subparagraph; and

(iv) The Parties to the Article 11 agreement or arrangement have not declared that the Protocol shall be applicable;

(b) In order to promote transparency, a Contracting Party that has notified the Depositary of the non-application of the Protocol shall notify the Secretariat of the applicable liability and compensation regime referred to in subparagraph (a) (ii) and include a description of the regime.

The Secretariat shall submit to the Meeting of the Parties, on a regular basis, summary reports on the notifications received;

(c) After a notification pursuant to subparagraph (a) (iii) is made, actions for compensation for damage to which subparagraph (a) (i) applies may not be made under the Protocol.

8. The exclusion set out in paragraph 7 of this Article shall neither affect any of the rights or obligations under the Protocol of a Contracting Party which is not party to the agreement or arrangement mentioned above, nor shall it affect rights of States of transit which are not Contracting Parties.

9. Article 3, paragraph 2, shall not affect the application of Article 16 to all Contracting Parties.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

Article 3(6)(b): The Protocol will only apply to wastes that are not listed in Annex I to the Convention, but which are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit, if that Party has transmitted a notification of its national definition pursuant to Article 3 of the Convention. Information transmitted pursuant to the annual reporting obligations under Article 13(3) does not fulfil the reporting obligation under Article 3 of the Convention.

Article 3(7): Where there is an Article 11 agreement, the Party must notify the Depository and the Secretariat. The notification to the Secretariat must include a description of the applicable liability and compensation regime, which may not necessarily be a part of the Article 11 agreement or arrangement. Thus, for example, the applicable liability regime may be a domestic legal mechanism that meets the requirements of Article 7a(ii).

(d) Other information

The Protocol applies in principle to all disposal operations (Annex IV Convention), except:

D13 Blending or mixing prior to submission to any of the operations in Section A,

D14 Repackaging prior to submission to any of the operations in Section A;

D15 Storage pending any of the operations in Section A;

R12 Exchange of wastes for submission to any of the operations numbered R1-R11;

R13 Accumulation of material intended for any operation in Section B.

For those operations (typical recycling operations) the Protocol applies until the completion of the subsequent disposal operation specified in D1 to D12 and R1 to R11 of Annex IV of the Convention.

Agreements according to Article 11 of the Convention are agreements or arrangements regarding transboundary movements of hazardous wastes or other wastes provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by the Convention. These agreements address the transboundary movement of wastes but not the liability for damages arising from an incident occurring during a transboundary movement of wastes.



**Article 4: Strict liability**

## (a) Text of article

1. The person who notifies in accordance with Article 6 of the Convention, shall be liable for damage until the disposer has taken possession of the hazardous wastes and other wastes. Thereafter the disposer shall be liable for damage. If the State of export is the notifier or if no notification has taken place, the exporter shall be liable for damage until the disposer has taken possession of the hazardous wastes and other wastes. With respect to Article 3, subparagraph 6 (b), of the Protocol, Article 6, paragraph 5, of the Convention shall apply *mutatis mutandis*. Thereafter the disposer shall be liable for damage.

2. Without prejudice to paragraph 1, with respect to wastes under Article 1, subparagraph 1 (b), of the Convention that have been notified as hazardous by the State of import in accordance with Article 3 of the Convention but not by the State of export, the importer shall be liable until the disposer has taken possession of the wastes, if the State of import is the notifier or if no notification has taken place. Thereafter the disposer shall be liable for damage.

3. Should the hazardous wastes and other wastes be re-imported in accordance with Article 8 of the Convention, the person who notified shall be liable for damage from the time the hazardous wastes leave the disposal site, until the wastes are taken into possession by the exporter, if applicable, or by the alternate disposer.

4. Should the hazardous wastes and other wastes be re-imported under Article 9, subparagraph 2 (a), or Article 9, paragraph 4, of the Convention, subject to Article 3 of the Protocol, the person who re-imports shall be held liable for damage until the wastes are taken into possession by the exporter if applicable, or by the alternate disposer.

5. No liability in accordance with this Article shall attach to the person referred to in paragraphs 1 and 2 of this Article, if that person proves that 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 State where the damage occurred; or
- (d) Wholly the result of the wrongful intentional conduct of a third party, including the person who suffered the damage.

6. If two or more persons are liable according to this Article, the claimant shall have the right to seek full compensation for the damage from any or all of the persons liable.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

N/A.

**Article 5: Fault based liability**

## (a) Text of article

Without prejudice to Article 4, any person shall be liable for damage caused or contributed to by his lack of compliance with the provisions implementing the Convention or by his wrongful

intentional, reckless or negligent acts or omissions. This Article shall not affect the domestic law of the Contracting Parties governing liability of servants and agents.

(b) Does the article require domestic implementation?

To the extent not already provided under domestic law, for example, under criminal or tort law, Contracting Parties must ensure that there is provision in the domestic legal system for the liability of a person in the circumstances provided.

Parties may also wish to review their domestic provisions regarding liability of servants and agents to ascertain how these will operate in parallel to this provision of the Protocol.

(c) Implementation (practical aspects)

To implement this provision, Contracting Parties must ensure that this provision can be applied by the competent domestic courts. All matters of procedure such as, for example, standards of proof, burden of proof, etc. shall be governed by the law of the competent domestic court (see Article 19)

(d) Other information

It should be noted that liability under article 5 is, unlike the strict liability under Article 4, unlimited.

*(d) Example:*

*A lorry, which is transporting hazardous waste imported from the territory of one Contracting Party to that of another Contracting Party, overturns as a result of a driving error caused by the negligent act of the driver. The accident damages the crops in a farmer's field. The farmer who suffered the damage has two options with respect to whom to claim against. He can claim against the notifier who is strictly liable for the damage under Article 4 (option 1). He can also claim against the driver of the lorry who is liable under Article 5 (option 2). Option 1 has the advantage that the liability will be covered by insurance (Article 14), but the liability is limited. Option 2 has the advantage that the liability is unlimited, but there is no financial guarantee available.*

## **Article 6: Preventive measures**

(a) Text of article

1. Subject to any requirement of domestic law any person in operational control of hazardous wastes and other wastes at the time of an incident shall take all reasonable measures to mitigate damage arising therefrom.
2. Notwithstanding any other provision in the Protocol, any person in possession and/or control of hazardous wastes and other wastes for the sole purpose of taking preventive measures, provided that this person acted reasonably and in accordance with any domestic law regarding preventive measures, is not thereby subject to liability under the Protocol.

(b) Does the article require domestic implementation?

This will be a matter for interpretation by the courts or relevant domestic enforcement body.

(c) Implementation (practical aspects)

Parties may wish to review their domestic laws regarding preventive measures to confirm which actions are excluded from liability under article 6(2) of the Protocol.

**Article 7: Combined cause of the damage**

## (a) Text of article

1. Where damage is caused by wastes covered by the Protocol and wastes not covered by the Protocol, a person otherwise liable shall only be liable according to the Protocol in proportion to the contribution made by the wastes covered by the Protocol to the damage.

2. The proportion of the contribution to the damage of the wastes referred to in paragraph 1 shall be determined with regard to the volume and properties of the wastes involved, and the type of damage occurring.

3. In respect of damage where it is not possible to distinguish between the contribution made by wastes covered by the Protocol and wastes not covered by the Protocol, all damage shall be considered to be covered by the Protocol.

## (b) Does the article require domestic implementation?

No.

## (c) Implementation (practical aspects)

Parties will have to provide that the domestic courts will have or will have to organise the technical capacity to analyse and determine the proportions of damage caused by wastes covered by the Protocol to address circumstances where there is a combined cause of damage.

**Article 8: Right of recourse**

## (a) Text of article

1. Any person liable under the Protocol shall be entitled to a right of recourse in accordance with the rules of procedure of the competent court:

(a) Against any other person also liable under the Protocol; and

(b) As expressly provided for in contractual arrangements.

2. Nothing in the Protocol shall prejudice any rights of recourse to which the person liable might be entitled pursuant to the law of the competent court.

## (b) Does the article require domestic implementation?

This procedure leaves it to the domestic law to provide for the extent and scope of the right of recourse. Accordingly, no additional action needs to be taken by a Party beyond ensuring that there is a court competent to hear a suit brought by a person liable under the Protocol. The normal domestic rules of procedure apply.

## (c) Implementation (practical aspects)

N/A.

## (d) Other information

This right of recourse is mainly relevant for two scenarios:

Scenario 1. When two or more persons are liable according to Article 4 of the Protocol, the claimant has the right to seek full compensation for the damage from any or all of the persons liable (Art. 4(6)). Here it is evident that if the claimant had received full compensation from one of several liable persons, the person who had paid first for the damage will use the right of

recourse against the other remaining persons liable under article 4 of the Protocol in order to recover a part of the compensation paid.

Scenario 2: For the same damage one person is strictly liable according to Article 4 of the Protocol and one person is liable on the basis of fault according to Article 5 of the Protocol. The claimant seeks and gets full compensation from the strictly liable person. Afterwards the strictly liable person is entitled to use his right of recourse against the fault-based liable person.

#### **Article 9: Contributory fault**

(a) Text of article

Compensation may be reduced or disallowed if the person who suffered the damage, or a person for whom he is responsible under the domestic law, by his own fault, has caused or contributed to the damage having regard to all circumstances.

(b) Does the article require domestic implementation?

No. This will be a matter for determination by the courts or relevant domestic enforcement body.

(c) Implementation (practical aspects)

N/A.

#### **Article 10: Implementation**

(a) Text of article

1. The Contracting Parties shall adopt the legislative, regulatory and administrative measures necessary to implement the Protocol.

2. In order to promote transparency, Contracting Parties shall inform the Secretariat of measures to implement the Protocol, including any limits of liability established pursuant to paragraph 1 of Annex B.

3. The provisions of the Protocol shall be applied without discrimination based on nationality, domicile or residence.

(b) Does the article require domestic implementation?

Measures requiring domestic implementation are identified in the context of each article.

(c) Implementation (practical aspects)

Parties must inform the Secretariat of the legislative, regulatory and administrative measure that they have taken to implement the Protocol.

(d) Other information

#### **Article 11: Conflicts with other liability and compensation agreements**

(a) Text of article

Whenever the provisions of the Protocol and the provisions of a bilateral, multilateral or regional agreement apply to liability and compensation for damage caused by an incident arising during the same portion of a transboundary movement, the Protocol shall not apply provided the other agreement is in force for the Party or Parties concerned and had been opened for signature when the Protocol was opened for signature, even if the agreement was amended afterwards.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

N/A.

(d) Other information

The present Article must be clearly distinguished from Article 3(7)(a)(ii). Article 3(7)(a)(ii) addresses agreements and arrangements under Article 11 of the Convention regarding transboundary movements of hazardous wastes or other wastes in general, while Article 11 of the Protocol is focused on agreements regarding liability and compensation.

#### **Article 12: Financial limits**

(a) Text of article

1. Financial limits for the liability under Article 4 of the Protocol are specified in Annex B to the Protocol. Such limits shall not include any interest or costs awarded by the competent court.
2. There shall be no financial limit on liability under Article 5.

(b) Does the article require domestic implementation?

Yes. See discussion of Annex B below.

(c) Implementation (practical aspects)

See discussion of Annex B below.

(d) Other information

It is significant that fault based liability under Article 5 is unlimited.

The financial limits that are listed in Annex B of the Protocol are based on the weight of the shipments, rather than the hazardous qualities of the waste. This approach had been criticised by several Parties to the Convention. Article 23 of the Protocol would have allowed amendment of these limits at the sixth meeting of the Conference of the Parties to the Convention (“COP 6”). However, after long discussions before and during the COP 6, Parties could not agree on an alternative system and, accordingly, COP 6 decided to maintain Annex B as it stands and to leave the limits unchanged.

#### **Article 13: Time limit of liability**

(a) Text of article

1. Claims for compensation under the Protocol shall not be admissible unless they are brought within ten years from the date of the incident.
2. Claims for compensation under the Protocol shall not be admissible unless they are brought within five years from the date the claimant knew or ought reasonably to have known of the damage provided that the time limits established pursuant to paragraph 1 of this Article are not exceeded.
3. Where the incident consists of a series of occurrences having the same origin, time limits established pursuant to this Article shall run from the date of the last of such occurrences. Where

the incident consists of a continuous occurrence, such time limits shall run from the end of that continuous occurrence.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

Parties may wish to review and clarify their domestic provisions regarding limitation periods, to ensure that there is a clear distinction between the time limits under the Protocol and those established under domestic law. The Protocol doesn't foresee a harmonisation between domestic and international law. Different time limits under different regimes (international and domestic) are possible).

#### **Article 14: Insurance and other financial guarantees**

(a) Text of article

1. The persons liable under Article 4 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. States may fulfil their obligation under this paragraph by a declaration of self-insurance. Nothing in this paragraph shall prevent the use of deductibles or co-payments as between the insurer and the insured, but the failure of the insured to pay any deductible or co-payment shall not be a defence against the person who has suffered the damage.

2. With regard to the liability of the notifier, or exporter under Article 4, paragraph 1, or of the importer under Article 4, paragraph 2, insurance, bonds or other financial guarantees referred to in paragraph 1 of this Article shall only be drawn upon in order to provide compensation for damage covered by Article 2 of the Protocol.

3. A document reflecting the coverage of the liability of the notifier or exporter under Article 4, paragraph 1, or of the importer under Article 4, paragraph 2, of the Protocol shall accompany the notification referred to in Article 6 of the Convention. Proof of coverage of the liability of the disposer shall be delivered to the competent authorities of the State of import.

4. Any claim under the Protocol may be asserted directly against any person providing insurance, bonds or other financial guarantees. The insurer or the person providing the financial guarantee shall have the right to require the person liable under Article 4 to be joined in the proceedings. Insurers and persons providing financial guarantees may invoke the defences which the person liable under Article 4 would be entitled to invoke.

5. Notwithstanding paragraph 4, a Contracting Party shall, by notification to the Depositary at the time of signature, ratification, or approval of, or accession to the Protocol, indicate if it does not provide for a right to bring a direct action pursuant to paragraph 4. The Secretariat shall maintain a record of the Contracting Parties who have given notification pursuant to this paragraph.

(b) Does the article require domestic implementation?

Article 14(3): This provision requires the establishment of a regulatory mechanism to verify that a document reflecting the coverage of the liability will accompany the notification referred to in Article 6 of the Convention.

(c) Implementation (practical aspects)

Article 14(4) and (5): If a Party chooses to exclude the right to claim directly against the person providing the insurance or financial guarantee, it must decide this at the time of signature, ratification, approval, or accession to the Protocol. This decision must be indicated in the

notification to the Depository. While there is no specific requirement to notify the Secretariat of this decision, as the Secretariat will maintain the record of such notifications, it would be useful if this information were also transmitted to the Secretariat.

**Article 15: Financial mechanism**

(a) Text of article

1. Where compensation under the Protocol does not cover the costs of damage, additional and supplementary measures aimed at ensuring adequate and prompt compensation may be taken using existing mechanisms.

2. The Meeting of the Parties shall keep under review the need for and possibility of improving existing mechanisms or establishing a new mechanism.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

N/A.

(d) Other information

Article 15 refers to mechanisms under the Basel Convention and its Protocols, not domestic mechanisms.

By decision V/32 (Enlargement of the scope of the technical co-operation trust fund), the Conference of the Parties to the Convention at its fifth meeting, decided to enlarge the scope of the Technical Co-operation 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 to provide compensation for damage resulting from incidents arising from transboundary movements of hazardous wastes and other wastes and their disposal.

By December 2002, US\$ 305,321 had been received for the Trust Fund for this purpose. The sixth Conference of the Parties to the Convention adopted the interim Guidelines (UNEP/CHW.6/10, annex) for the implementation of Decision V /32.

Part 2 of the Guidelines (Compensation for damage to and reinstatement of the environment) is relevant in the context of article 15 of the Protocol. These Guidelines establish rules and procedures for the management of the Enlarged Technical Co-operation Trust Fund.

According to these Guidelines, 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 means by which a request should be made, and the matters that should be addressed in a request, are addressed in detail in the Guidelines. Part 2 of the Guidelines will become operational on the date that the Protocol enters into force.

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.

**Article 16: State responsibility**

(a) Text of article

The Protocol shall not affect the rights and obligations of the Contracting Parties under the rules of general international law with respect to State responsibility.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

N/A.

(d) Other information

During the negotiations of the expert group, a number of States wished to introduce rules on State responsibility into the Protocol. In view of the difficulties to establish such rules, the experts agreed to the current text. It means that the rules of general international law with respect to State responsibility will not be affected by the Protocol.

#### **Article 17: Competent courts**

(a) Text of article

1. Claims for compensation under the Protocol may be brought in the courts of a Contracting Party only where either:

- (a) The damage was suffered; or
- (b) The incident occurred; or
- (c) The defendant has his habitual residence, or has his principal place of business.

2. Each Contracting Party shall ensure that its courts possess the necessary competence to entertain such claims for compensation.

(b) Does the article require domestic implementation?

Parties must ensure the existence of necessary (procedural) legal framework in the domestic law, so that the courts possess the necessary competence to entertain claims brought under the Protocol for compensation.

(c) Implementation (practical aspects)

Parties may wish to organise training programs for the judiciary, members of the legal profession, and those who would be charged with investigating an incident, to ensure they are prepared to apply the Protocol. Such entities must also be aware that the claims brought under the Protocol may only be based upon the jurisdictional grounds stated in Article 17(1); claims asserting jurisdiction on other grounds may not be based upon the Protocol.

#### **Article 18: Related actions**

(a) Text of article

1. Where related actions are brought in the courts of different Parties, any court other than the court first seized may, while the actions are pending at first instance, stay its proceedings.

2. A court may, on the application of one of the Parties, decline jurisdiction if the law of that court permits the consolidation of related actions and another court has jurisdiction over both actions.

3. For the purpose of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgements resulting from separate proceedings.



(b) Does the article require domestic implementation?

No. It will be for the domestic Courts to interpret and implement this provision.

(c) Implementation (practical aspects)

N/A.

**Article 19: Applicable Law**

(a) Text of article

All matters of substance or procedure regarding claims before the competent court which are not specifically regulated in the Protocol shall be governed by the law of that court including any rules of such law relating to conflict of laws.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

N/A.

**Article 20: Relation between the Protocol and the law of the competent court**

(a) Text of article

1. Subject to paragraph 2, nothing in the Protocol shall be construed as limiting or derogating from any rights of persons who have suffered damage, or as limiting the protection or reinstatement of the environment which may be provided under domestic law.

2. No claims for compensation for damage based on the strict liability of the notifier or the exporter liable under Article 4, paragraph 1, or the importer liable under Article 4, paragraph 2, of the Protocol, shall be made otherwise than in accordance with the Protocol.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

N/A.

(d) Other information

Article 20 makes it clear that within the jurisdiction of a Contracting Party, claims may be brought under the provisions of the Protocol as well as under the provisions of domestic law. The claimant has the free choice (Paragraph 1). However once the claimant decides to bring a claim based on the strict liability under Article 4 of the Protocol, then the claim can only be made in accordance with the Protocol (Paragraph 2).

**Article 21: Mutual recognition and enforcement of judgements**

(a) Text of article

1. Any judgement of a court having jurisdiction in accordance with Article 17 of the Protocol, which is enforceable in the State of origin and is no longer subject to ordinary forms of

review, shall be recognized in any Contracting Party as soon as the formalities required in that Party have been completed, except:

- (a) Where the judgement was obtained by fraud;
- (b) Where the defendant was not given reasonable notice and a fair opportunity to present his case;
- (c) Where the judgement is irreconcilable with an earlier judgement validly pronounced in another Contracting Party with regard to the same cause of action and the same parties; or
- (d) Where the judgement is contrary to the public policy of the Contracting Party in which its recognition is sought.

2. A judgement recognized under paragraph 1 of this Article shall be enforceable in each Contracting Party as soon as the formalities required in that Party have been completed. The formalities shall not permit the merits of the case to be re-opened.

- (b) Does the article require domestic implementation?

It will be for the domestic Courts to interpret and to apply this provision directly.

- (c) Implementation (practical aspects)

N/A.

#### **Article 22: Relationship of the Protocol with the Basel Convention**

- (a) Text of article

Except as otherwise provided in the Protocol, the provisions of the Convention relating to its Protocols shall apply to the Protocol.

- (b) Does the article require domestic implementation?

No.

- (c) Implementation (practical aspects)

N/A.

- (d) Other information

Article 15(5)(d) of the Convention permits the Conference of the Parties to consider and adopt protocols as required. Article 17(4) of the Convention stipulates that the procedure of the amendment of the Convention shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption. At the fifth Conference of the Parties to the Convention, all the Parties of the Convention unanimously adopted the Protocol.

#### **Article 23: Amendment of Annex B**

- (a) Text of article

1. At its sixth meeting, the Conference of the Parties to the Basel Convention may amend paragraph 2 of Annex B following the procedure set out in Article 18 of the Basel Convention.

- 2. Such an amendment may be made before the Protocol enters into force.

(b) Does the article require domestic implementation?

No.

(c) Implementation (practical aspects)

N/A.

(d) Other information

At its sixth meeting the Conference of the Parties to the Basel Convention decided to leave paragraph 2 of Annex B unchanged. The reasoning behind this decision is explained in the remarks under Article 12.

### **Annex B: Financial Limits**

(a) Text of Annex

1. Financial limits for the liability under Article 4 of the Protocol shall be determined by domestic law.

2. The limits of liability shall:

(a) For the notifier, exporter or importer, for any one incident, be not less than:

(i) 1 million units of account for shipments up to and including 5 tonnes;

(ii) 2 million units of account for shipments exceeding 5 tonnes, up to and including 25 tonnes;

(iii) 4 million units of account for shipments exceeding 25 tonnes, up to and including 50 tonnes;

(iv) 6 million units of account for shipments exceeding 50 tonnes, up to and including to 1,000 tonnes;

(v) 10 million units of account for shipments exceeding 1,000 tonnes, up to and including 10,000 tonnes;

(vi) Plus an additional 1,000 units of account for each additional tonne up to a maximum of 30 million units of account;

(b) For the disposer, for any one incident, be not less than 2 million units of account for any one incident.

(b) Does the article require domestic implementation?

Yes.

(c) Implementation (practical aspects)

(d) Other information

The current rate of one unit account to US\$ may be found at [website].

## **3. Roles and responsibilities under the Protocol**

### **3.1. Parties**

Decisions to be taken:

Parties to the Convention intending to become Parties to the Protocol have to take the following decisions:

The decision to become Party to the Protocol. (Art. 28). This decision will be based mainly on political considerations.

The decision to accept the limits of liability listed in Annex B or to increase these limits based on the domestic law (see more under paragraph 4 hereafter).

The decision whether to exclude the application of the Protocol in respect of all transboundary movements for which the Party is the state of export, for such incidents which occur in an area under its national jurisdiction, as regards damage in an area of national jurisdiction (Art. 3 paragraph 1).

*The exclusion could make sense, where a sufficient liability regime for the same categories of damages in domestic law is already in place.*

1. The decision whether not to apply the Protocol to damage due to an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal pursuant to a bilateral, multilateral or regional arrangement concluded and notified in accordance with Article 11 of the Convention (Art. 3 paragraph 7a).  
*The application of the Protocol can be excluded, when there exists a article 11 of the Convention- arrangement and the Parties to this arrangement provide (e.g. in their domestic law) for a liability and compensation regime, which fully meets or exceeds the objective of the Protocol (Art. 3 paragraph 7 (iii)).*
2. Parties have to decide at the time of signature, ratification, or approval of, or accession to the Protocol if *they* wish to indicate that the Party does not provide for a right to bring a direct action against any person providing insurance pursuant to article 14 paragraph 4 (Art. 14 paragraph 5).  
*This decision should take into account the domestic legal system. If the domestic legal regime already provides for such a right, then the exclusion of (opting out from) the direct claim against the insurer would not make sense.*

#### **Actions to be undertaken:**

According to Article 10, paragraph 1, of the Protocol the Contracting Parties shall adopt the legislative, regulatory and administrative measures necessary to implement the Protocol. These measures shall be:

1. Establishment of a legal instrument to provide that a document reflecting the coverage of the liability of the notifier or exporter under article 4, paragraph 1, or of the importer under article 4 paragraph 2, of the Protocol will accompany the notification referred to in Article 6 of the Convention.
2. Establishment of a mechanism to verify that a document reflecting the coverage of the liability will accompany the notification referred to in Article 6 of the Convention (Art. 14, paragraph 3).
3. Inform the Secretariat of measures taken to implement the Protocol, including any limits of liability established pursuant to paragraph 1 of Annex B.

4. If needed, establishment of the necessary legal framework in the domestic law that the courts possess the necessary competence to entertain claims for compensation (Article 17, paragraph 2).
5. If desired, notification to the Depository about the exclusion of the application of the Protocol, in respect of all transboundary movements for which the Contracting Party 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 (Article 3, paragraph 1 Prot.).
6. If desired, notification to the Depository of the Article 11 agreement or arrangement and 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.
7. Where appropriate, establishment of a legal instrument (regulation, directive, decision) to fix the limits of liability pursuant to paragraph 1 of Annex B to the Protocol).
8. Where appropriate, putting judges and courts in a position to apply the Protocol: E.g. organise the necessary training programs for the judiciary.

### **3.2 Obligation of generators, exporters or importers**

Pursuant to Article 14(1) the person who notifies in accordance with Article 6 of the Convention (generator, exporter or importer) 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. That means that the financial guarantees have to be maintained at least for 10 years after the disposer has taken possession of the hazardous wastes and other wastes (Article 4(1)).

### **3.3 Obligation of disposers**

The disposer 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 2 million units of account (Article 4(1); Annex B paragraph 2 (b)).

The disposer has to deliver the proof of coverage of the liability to the competent authorities of the State of import (Article 14(3)).

## **4. The setting of the financial limits determined by domestic law**

Pursuant to Annex B paragraph one of the Protocol the financial limits for the liability under article 4 of the Protocol shall be determined by domestic law. They shall not be less than the levels listed in paragraph 2a of Annex B.

It is upon the Parties to decide whether they adopt the limits listed in the annex or whether they fix the limits at a higher level. Therefore, Parties have to assess the possible amount of damage which could be caused by the transboundary movement of hazardous waste. When they conclude that the limits of Annex B are sufficient to cover possible damage, no further action is needed. When they believe that the proposed limits will not allow covering the damage, Parties should then set higher limits of liability in their domestic law. Otherwise they risk that damages that occur can not fully get compensated.

However, it is important to highlight that the setting of higher limits in the domestic law is independent of the question of coverage of the limits of liability by insurance and other financial guarantees (Article 14). The provision on the compulsory coverage of the limits of liability (Article 14) requires always only the coverage of the amounts listed in Annex B (Article 14(1)).

## 5. Recommendations for Parties how to provide the coverage of the liability for generators, exporters, importers and disposers

Parties to the Convention who wish to become Party to the Protocol should start a dialogue with the national insurance industry and with the financial sector to clarify which insurance and other financial guarantees to cover the liability are available and which are the relevant conditions for the industry concerned. Based on this information, Parties can give information and advice to the exporters and to the disposers how to cover their liability. This dialogue with the relevant insurance industry and with the financial sector is extremely important. The Protocol can only then be successfully implemented when the industry has concrete solutions available to cover the liability under the Protocol.

Recent surveys in Switzerland about the insurability of environmental risk of industrial activities have shown that the liability for loss of life or personal injury can be covered by traditional insurance products. Such insurance contracts are available and the insurance premiums are affordable.

The second category of damages, the liability for damage to the environment, is a lot more difficult to cover. For the time being the insurance companies in Switzerland are not ready to offer insurance to cover the liability for damages to the environment. They claim that the criterion to value such damages are still lacking.

If this is the case, alternative solutions like bonds, bank guarantees or other financial guarantees to cover such types of damages have to be offered to the industry. Although such solutions can be very costly, the provisions of the Protocol require that the liability for all types of damages mentioned in Article 2 has to be covered.

However, the provisions of the Protocol do not give a precise answer to the question as to whether the liability for all kinds of damages have to be covered for the full amount of the limits of the liability, listed in Annex B, paragraph 2.

Would it be sufficient, if the liability for damage to persons and to property would be covered to the full amount of the financial limits, while the liability for damages to the environment would have to be covered a percentage of the amount?

*Example: An incident with a transboundary movement of hazardous waste (4 tonnes) causes a damage to property of 800'000 units of account and a damage to the environment of 100000 units of account. The liability of the notifier is covered for damage to persons and property by insurance of 1 million of account and by a bank guarantee of 200000 units of account. To compensate the damage the insurance pays 800'000 million and the bank pays 100000 units of account for the damage to the environment.*

In principle, a solution whereby a coverage of the liability for damage to persons and to property is provided to the full amount of the financial limits and to a reasonable percentage of this amount for damage to the environment should be acceptable.

To conclude, it is important to state that solutions to cover the liability of the industry concerned by insurance products and other financial instruments have to be available and affordable for the relevant industry. Otherwise, Parties will not be ready to ratify the Protocol.

Question of duration of cover also – 10 years ? Implications for costs ?

## 6. Recommendations for Parties to provide for a sufficient system of the judiciary to entertain claims for compensation

As mentioned above the Protocol will be applied directly by the courts and the judges. It is therefore important that the judiciary of a Party to the Protocol is in a position to entertain claims for compensation. Additional training for the judiciary may be necessary. Training organised by the Regional Training Centres of the Basel Convention could be a way to enable the judiciary to master the complex issue of liability within a transboundary context.

## 7. Relationship between the Protocol and the Basel Convention

According to the Convention, 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 States concerned of any proposed transboundary movement of hazardous wastes and other wastes (Article 6, paragraph 1, Convention).

The Protocol requires that a document reflecting the coverage of the liability of the notifier or exporter shall accompany the notification referred to in Article 6 of the Convention. This is one of the most important links between the two instruments because it combines an obligation under the Convention with an obligation under the Protocol.

However it is also important to recall that the definitions of the terms contained in the Convention will also apply to the Protocol, unless expressly provided otherwise in the Protocol (Article 2 paragraph 1 Protocol).

## 8. Similarities and differences between the Basel Protocol and other Protocols on Liability for activities dangerous to the environment

### 8.1 The UN/ECE-Protocol on Civil Liability and compensation for Damage caused by the transboundary effects of Industrial Accidents on transboundary waters:

This new international instrument, which was adopted in May 2003 in Kiev (Ukraine), shares many similarities with the Basel Protocol:

The Kiev-Protocol negotiations were based on the structure of the Basel Protocol.

Accordingly, many provisions of both treaties are similar. Both instruments establish a regime of strict liability for certain categories of persons (operators, notifiers, exporters, disposers) and they require the coverage of such liability with financial guarantees.

However, the instruments are quite different under other aspects:

The UN/ECE Protocol is focused on hazardous activities in fixed installations that could, in the case of an accident, have an impact on transboundary watercourses; on the other hand, the Basel Protocol is focused on the transboundary movement of hazardous wastes and other wastes and establishes a liability regime for ongoing transboundary operations.

### 8.2 The Cartagena Protocol on Biosafety to the Convention on Biological Diversity

Article 27 of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity stipulates in article 27 that the Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first meeting, adopt a process with respect to the appropriate elaboration of international rules and procedures in the field of liability and redress for damage resulting from transboundary movements of living modified organisms, analysing and taking due account of the ongoing processes in international law on these matters, and shall endeavour to complete this process within four years.

The Cartagena Protocol will enter into force the 11 September 2003. The first meeting of the Parties will be held in February 2004. The elaboration of rules and procedures in the field of liability and redress will have certain parallels with the Basel Protocol because the Cartagena Protocol is, like the Basel Protocol, focusing on the transboundary movement of potentially hazardous material, which will be deliberately transported across the border. However, the specific character of living modified organism with the specific potential threat biodiversity will probably lead to a rather different liability regulation.

## **9. Advantages of being a Party to the Protocol**

The main aims of the Protocol is preventing the damage or providing full compensation for environmental damage, personal injury and damage to goods and property which result from the transboundary movements of hazardous wastes and their disposal.

The advantage of being a Party to the Protocol will be that all transboundary movements of hazardous wastes from the point where the wastes are loaded on the means of transport in an area of the national jurisdiction of a State of export until the disposal in the State of import will be covered by liability provisions in case of an accident.

This new prerequisite for a transboundary movement of hazardous wastes will create a strong incentive to manage the whole movement in an environmentally sound manner in order to avoid damages (preventive effect).

The Protocol will provide for prompt compensation for victims if despite all safety measures an accident had occurred.

Particularly for countries that are not used to practise a liability regime in a transboundary context, the implementation of this new instrument could be a good start towards applying legal instruments to the benefit of the environment and of the sustainable development.

It is also a good occasion to apply the polluter-pays-principle at an international level.

## **10. Closing remarks**

The prospective Parties to the Protocol are at different levels in terms of their capacity to implement the Protocol. Donors and international organisations have a role to play in supporting the implementation of the Protocol.

Ultimately, the effective implementation of the Protocol depends on the prospective Parties themselves and their will to implement and to apply the terms of the Protocol. The path towards full implementation is not an easy one but, in the end, it will be full of rewards and advantages.

When the Protocol will be in force, it will be an international legal instrument for a more responsible management of transboundary movements of hazardous wastes and other wastes and their disposal and for the restoration or compensation of the damage which might be caused in unforeseen accidents.

This manual is intended to provide greater understanding of the Protocol and greater uniformity in its application, to assist prospective Parties in its effective implementation and to contribute to the Protocol's entry into force.



**VII/[...]: Guidance elements for bilateral, multilateral or regional agreements or arrangements**

*The Conference of the Parties,*

*Recalling* decisions VI/12 and VI/18,

*Noting* decision OEWG-II/3 of the Open-ended Working Group on guidance elements for bilateral, multilateral and regional agreements or arrangements,

1. *Agrees* to cease work on the guidance elements for bilateral, multilateral and regional agreements or arrangements;
2. *Requests* the Secretariat to assist Parties that require assistance in addressing any specific problems that they have related to bilateral, multilateral and regional agreements or arrangements, within the means available to the Secretariat;
3. *Requests* Parties to supply any texts of such agreements or arrangements to the Secretariat pursuant to article 11;
4. *Requests* the Secretariat to place texts of such agreements or arrangements on the Basel Convention web site.

**VII/[ ]: Amendment to rule 29 of the rules of procedure**

*The Conference of the Parties,*

*Bearing in mind* the importance of transparency and promoting awareness and understanding of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal,

*Recognizing* the importance of the participation of non-governmental institutions and persons towards the achievement of the aims of the Basel Convention,

*Decides* to amend rule 29 of the rules of procedure for meetings of the Conference of the Parties to read as follows:

- “1. Meetings of the Conference of the Parties shall be held in public, unless the Conference of the Parties decides otherwise;
2. Meetings of working groups established by the Conference of the Parties, other than drafting and informal working groups, shall be held in public unless the body concerned decides otherwise.”

**VII/[ ]: 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,*

*Recalling* decision V/32 concerning the enlargement, on an interim basis, of the scope of the Technical Cooperation Trust Fund,

*Recalling also* decision VI/14 concerning the 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,

*Referring* to decision V/29 on the adoption of the Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and their Disposal and, in particular, article 15, paragraph 1, of the Protocol on Liability and Compensation,

*Referring* to decision VI/41 on financial matters,

*Taking note* of article 15, paragraph 2, of the Protocol on Liability and Compensation,

*Observing* that requests for emergency assistance under paragraph 2 of decision V/32 and part 1 of the interim guidelines for the implementation of decision V/32 have not been submitted by Parties,

1. *Invites* developing countries and countries with economies in transition that are Parties to the Basel Convention to submit project proposals pursuant to part 3 of the interim guidelines for the implementation of decision V/32, for the development of capacity-building, transfer of technology and putting in place of measures to prevent accidents and damage to the environment caused by transboundary movements of hazardous wastes and other wastes and their disposal, including for the development of emergency response and contingency plans;

2. *Urges* Parties to provide contributions to the Technical Cooperation Trust Fund to support the activities referred to in Parts 1, 2 and 3 of the interim guidelines and agrees that a contributor may specify that its contributions be used for purposes specified in parts 1, 2 or 3 of the interim guidelines;

3. *Requests* the Secretariat to continue collating information related to incidents, as defined under article 2, paragraph 2 (h), of the Protocol on Liability and Compensation, specifically:

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

(b) With regard to each incident, the extent to which damage was not compensated by the existing mechanism for providing assistance in cases of emergency and compensation for damage resulting from incidents arising from transboundary movements of hazardous wastes and other wastes and their disposal;

4. *Encourages* Parties and the Secretariat to keep under review the possibilities for improving the existing mechanism or, if necessary, on the establishment of a new mechanism for providing assistance in cases of emergency and compensation for damage resulting from incidents arising from transboundary movements of hazardous wastes and other wastes and their disposal as provided in paragraph 4 of decision VI/14.

## **VII/[ ]: Illegal traffic**

*The Conference of the Parties,*

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

*Also recalling* its decision VI/16, in which it adopted in the appendix to the decision guidance elements for the detection, prevention and control of illegal traffic in hazardous wastes and called for the preparation of an appendix to the guidance elements in the form of a training manual for personnel involved in preventing, identifying and managing such illegal traffic,

*Welcoming* the Training Manual for the Enforcement of Laws Implementing the Basel Convention: Guidance for Safe and Effective Detection, Investigation and Prosecution of Illegal Traffic in Hazardous and Other Wastes, as contained in document UNEP/CHW.7/24,

1. *Agrees* to include the text of the training manual as contained in document UNEP/CHW.7/24 as appendix 5 to the Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes;
2. *Requests* the Secretariat to make the guidance elements, including their appendices, available on the Convention web site in all official United Nations languages;
3. *Requests* the Open-ended Working Group to continue to review and update, as appropriate, the Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes;
4. *Requests* the Secretariat, in collaboration with the Basel Convention regional centres, to continue to assist Parties, particularly developing countries, in implementing the guidance elements at the national level, including the development of national contingency plans;
5. *Requests* the Secretariat to continue its efforts to organize further training seminars to assist Parties, particularly developing countries, in implementing the guidance elements;
6. *Calls upon* all Parties and organizations in a position to do so to make financial or in-kind contributions for the organization of such training seminars.

#### **VII[...]: Transmission of information, including implementation of decision II/12**

*The Conference of the Parties,*

*Recalling* its decisions VI/27 and VI/28,

*Noting* the compilation documents and country fact sheets prepared by the Secretariat based on the information reported by Parties for the years 2000 and 2001 in accordance with articles 13 and 16 of the Convention,

*Further noting* the consolidated report prepared by the Secretariat on the implementation of decisions II/12 and III/1 as contained in the country fact sheets published in 2004,

*Acknowledging* the efforts made by Parties to report for the years 2000 and 2001,

*Also noting* with appreciation the progress made by the Finnish Environment Institute in the development of the reporting database,

*Stressing* the importance of reporting to the Secretariat correct, complete and comparable data on the generation and transboundary movement of hazardous wastes and other wastes,

*Recognizing* the importance of developing indicators on hazardous wastes and other wastes taking into account the different social and economic condition of Parties,

1. *Urges* Parties that have not yet done so to report on articles 13 and 16 for the calendar year 2002 and for the previous years, as soon as possible, using the revised questionnaire that was adopted by the Conference of the Parties at its sixth meeting, bearing in mind that, in accordance with the provisions of article 13, paragraph 3, Parties are requested to transmit, before the end of each calendar year, a report on the previous calendar year;
2. *Requests* that such information be provided by Parties to the Secretariat for the calendar year 2003 before the end of the calendar year 2004;
3. *Encourages* Parties to continue to report on their implementation of decision II/12 in their report under article 13 of the Convention;

4. *Requests* the Secretariat to prepare compilation documents and country fact sheets for the years 2002 and 2003 and to make such information available on a regular basis to the Parties and non-Parties;

5. *Also requests* the Secretariat to prepare a further consolidated report of the implementation of decision II/12 and to report thereon to the Conference of the Parties at its eighth meeting;

6. *Further requests* the Secretariat to continue to provide training to developing countries and other countries that are in need of assistance to meet their reporting obligation by organizing workshops through the Basel Convention regional centres or by other appropriate means;

7. *Requests* the Secretariat to initiate the preparatory work that will be necessary to make the reporting database available on its web site;

8. *Requests* the Parties to fill in the data gaps which may exist in their previously reported datasets on generation and transboundary movement of hazardous wastes and other wastes for the year 1999 and onwards, to facilitate the development of indicators;

9. *Requests* the Secretariat to submit a progress report on the initiation of the work of developing a set of indicators to the Open-ended Working Group in 2005;

10. *Invites* Parties and others to assist the Secretariat in developing such indicators.

#### **VII/[...]: National definitions of hazardous wastes**

*The Conference of the Parties,*

*Noting* the standardized draft format for reporting under article 3 of the Basel Convention,

*Welcoming* the efforts made by Germany, in consultation with Parties, to assist the Secretariat in developing the standardized draft reporting format,

*Mindful* of the importance of transmitting the notification of national definitions of hazardous wastes pursuant to article 3 of the Convention by Parties to the Secretariat,

1. *Adopts* the standardized reporting format for reporting under article 3 of the Convention as contained in the annex to the present decision;

2. *Requests* the Parties that have not provided the Secretariat with any of the information required under article 3 of the Convention to provide such information not later than six months after the adoption of the standardized reporting format and to report any subsequent significant change of this information using the standardized format;

3. *Further requests* the Parties, when providing such information to the Secretariat, to make reference to the relevant Convention provision to avoid ambiguity;

4. *Further requests* the Secretariat to assist Parties in ensuring that information notified is up-to-date and as clear as possible to facilitate each Party's understanding of other Parties' national definitions of hazardous wastes;

5. *Requests* the Secretariat to make available on its web site the information received from Parties pursuant to article 3 of the Convention in the six official languages of the United Nations.

Annex to decision VII/[...] on national definitions of hazardous wastes

<p><b>Secretariat of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal</b></p> <p><b>Notification of national definitions or significant change to national definitions pursuant to article 3 of the Basel Convention</b></p> <p><b>(Information reported using this form shall be regarded as formal notification pursuant to article 3 and shall be transmitted by the Secretariat of the Basel Convention to all Parties as well as Signatories)</b></p>	
<p><b>Country:</b></p> <p><b>Government entity completing the questionnaire:</b></p> <p><b>Address:</b></p> <p><b>Telephone no:</b>                      <b>Fax no:</b></p> <p><b>Contact person:</b></p> <p><b>Title:</b></p> <p><b>Telephone no:</b> <b>(if different from above)</b></p> <p><b>E-mail:</b></p> <p><b>Date when form completed(D/M/Y):</b></p> <p><b>This report contains an updated national definition:</b>    Yes: <input type="checkbox"/>    No: <input type="checkbox"/></p>	

<b>National Definition of Hazardous Wastes</b>		
<b>1</b>	<b>Is there a definition of hazardous waste in your national legislation?</b>	
	<b>Yes:</b> <input type="checkbox"/>	<b>No:</b> <input type="checkbox"/> (If no, do not fill in the rest of the form)
	If yes, please provide the text of the national definition of hazardous waste (Please attach the full text of the relevant legislation):	
<b>1a</b>	<b>Is this a significant change to the national definition that has been previously notified to the Secretariat of the Basel Convention pursuant to article 3(2)?</b> (NB: Information transmitted annually under article 13 (3) does not represent a notification in compliance with article 3)	
	<b>Yes</b> <input type="checkbox"/>	<b>No</b> <input type="checkbox"/>
<b>1b</b>	<b>What is the source/ basis of this definition?</b>	
	<b>Basel Convention</b> <input type="checkbox"/>	<b>OECD-Council Acts</b> <input type="checkbox"/> <b>EU Waste Law</b> <input type="checkbox"/>
	<b>National</b> <input type="checkbox"/>	<b>Other</b> <input type="checkbox"/> (specify under remarks)
	<b><u>Remarks, if necessary:</u></b>	

<b>2</b>	<b>Does the national definition of hazardous waste cover wastes other than those listed in Annexes I, II and VIII of the Basel Convention?</b>		
	<b>Yes:</b> <input type="checkbox"/>	<b>No:</b> <input type="checkbox"/>	
	If yes, please tick the box(es) below indicating the list(s) containing such wastes and, in the table below or as an attachment, list the wastes.		
	<b>WCO-HS</b> <input type="checkbox"/>	<b>OECD</b> <input type="checkbox"/>	<b>EU-Waste List</b> <input type="checkbox"/>
	<b>National</b> <input type="checkbox"/> (specify under remarks)		<b>Other</b> <input type="checkbox"/> (specify under remarks)
	<b><u>General remarks, if any</u></b>		

Waste code*	Waste description	Remarks, if any

\* Please ensure that your listing is as precise and clear as possible.

Waste code*	Waste description	Remarks, if any

<b>3</b>	<b>Specify any requirements (procedures) concerning transboundary movements that are applicable to the wastes listed under question 2 above:</b>	
	The same as for wastes of Annex I, II or VIII: <input type="checkbox"/>	Other requirements (procedures): <input type="checkbox"/> If other, please specify the requirements (procedures):



## VII/[...]: Preparation of technical guidelines on persistent organic pollutants

*The Conference of the Parties,*

*Recalling* its decision VI/23,

*Noting* that, at its first meeting, the Conference of the Parties of the Stockholm Convention on Persistent Organic Pollutants will consider the general guidelines and the guidelines on PCB/PCT/PBB in accordance with article 6.2 of the Stockholm Convention,

*Noting also* with appreciation the roles played by Parties and others, especially Canada as lead country, in the preparation of the general guidelines and the PCB/PCT/PBB guidelines,

1. *Adopts* the general guidelines (UNEP/CHW.7/8/Add.1) and the PCB/PCT/PBB guidelines (UNEP/CHW.7/8/Add.2);
2. *Requests* the Secretariat to disseminate the technical guidelines to Parties, Signatories, intergovernmental organizations, environmental non-governmental organizations and industry in all languages of the United Nations;
3. *Further* requests the Secretariat to submit these guidelines to the Conference of the Parties of the Stockholm Convention at its first meeting through the Secretariat of the Stockholm Convention;
4. *Invites* Parties and others to use these technical guidelines, taking into account article 6.2 of the Stockholm Convention, and, two months before the eighth meeting of the Conference of the Parties, to submit a report to the Conference of the Parties, 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;
5. [*Requests* the Open-ended Working Group to review and, if appropriate, update those technical guidelines;
6. *Agrees* that the methodology for further definitions of low persistent organic pollutant content and the levels of destruction and irreversible transformation should be included in the work programme of the Open-ended Working Group for 2005–2006;]
7. *Invites* Parties and others to submit documents to the Secretariat and Australia by 31 January 2005 on the technical guidelines regarding PCDD/PCDF;
8. *Requests* Australia, in consultation with the small inter-sessional working group, to prepare revised draft technical guidelines regarding PCDD/PCDF for consideration by the Open-ended Working Group at its fourth session;
9. *Requests* Mexico, in consultation with the small inter-sessional working group, to prepare a first draft of the technical guidelines regarding DDT for consideration by the Open-ended Working Group at its fourth session;
10. *Requests* [the Secretariat] in consultation with the small inter-sessional working group to prepare first drafts of the two technical guidelines regarding HCB and the eight pesticides (aldrin, chlordane, dieldrin, endrin, HCB, heptachlor, mirex, toxaphene);
11. *Invites* the Food and Agriculture Organization of the United Nations to contribute to the preparation of the technical guidelines regarding the eight pesticides, their obsolete stockpiles and wastes;
12. *Decides* to extend the mandate of the small inter-sessional working group established by the Open-ended Working Group at its first session to continue to monitor and assist in the preparation, review and updating, as appropriate, of technical guidelines regarding persistent organic pollutants, working in particular by electronic means.

**VII/[...]: Preparation of technical guidelines on the environmentally sound recycling/reclamation of metals and metal compounds (R4)**

*The Conference of the Parties,*

*Recalling* decision VI/37 on the work programme of the Open-ended Working Group and in particular that part of it that refers to the preparation of technical guidelines,

*Noting* with appreciation the roles played by Parties and others, especially Australia as lead country, in the preparation of the technical guidelines on the recycling/reclamation of metals and metal compounds (R4),

1. *Adopts* the technical guidelines on the environmentally sound recycling/reclamation of metals and metal compounds (R4) contained in the note by the Secretariat<sup>1</sup>;
2. *Requests* the Secretariat to disseminate the technical guidelines to Parties, signatories, intergovernmental organizations, environmental non-governmental organizations and industry, in all official languages of the United Nations;
3. *Invites* Parties and others to use the technical guidelines and to report at least two months before the eighth meeting of the Conference of the Parties, through the Secretariat, on their experiences, including any difficulties in their application of the technical guidelines, with a view to improving the technical guidelines as necessary.

**VII/[...]: Preparation of technical guidelines on the environmentally sound management of wastes resulting from surface treatment of metals and plastics (Y17)**

*The Conference of the Parties,*

*Recalling* decision VI/37 on the work programme of the Open-ended Working Group and in particular that part of it that refers to the preparation of technical guidelines,

*Noting* with appreciation the roles played by Parties and others, especially Australia as lead country, in the preparation of draft technical guidelines on the environmentally sound management of wastes resulting from surface treatment of metals and plastics (Y17),

1. *Requests* the Open-ended Working Group to finalize the technical guidelines on the environmentally sound management of wastes resulting from surface treatment of metals and plastics (Y17) with a view to their interim adoption by the Open-ended Working Group at its fourth session;
2. *Invites* Parties and other stakeholders to provide comments to Australia by 31 January 2005 and to transmit copies of those comments to the Secretariat.

**VII/[...]: Work on hazard characteristics**

*The Conference of the Parties,*

*Recalling* decisions VI/25 on hazard characteristic H6.2 (infectious substances) and VI/37 on the work programme of the Open-ended Working Group and VI/29 on international cooperation,

*Mindful* of the usefulness of developing practical guidance on the hazard characteristics listed in Annex III to the Basel Convention to assist Parties and others to implement the Convention effectively,

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<sup>1</sup> UNEP/CHW.7/8/Add.3.

*Grateful* to those Parties and signatories that took the lead in the preparation of guidance papers on hazard characteristics,

*Noting* the importance of 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 in regard to the work being pursued on the hazard characteristics of Annex III to the Basel Convention,

*Considering* the interest of the United Nations Subcommittee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals in working with the appropriate body of the Basel Convention on hazard characteristics,

*Bearing in mind* the need to cooperate closely with the Committee of Experts on the Transport of Dangerous Goods and on the Globally Harmonized System of Classification and Labelling of Chemicals,

## I.

### Finalization of the work on hazard characteristics

1. *Decides* to adopt, on an interim basis, the three guidance papers on the hazard characteristics H6.2 (infectious substances), H11 (toxic (delayed or chronic)) and H13 (capable after disposal of yielding another hazardous material);<sup>2</sup>
2. *Invites* Parties and others to use these guidance papers and to submit to the Conference of the Parties, through the Secretariat, reports on their experience and any difficulties or obstacles encountered in the application of the guidelines, with a view to improving them as necessary;
3. *Requests* the Parties to contribute actively to the guidance paper on hazard characteristic H10 (liberation of toxic gases in contact with air or water) prepared by the Netherlands with a view to finalizing it in time for a session of the Open-ended Working Group in 2005;
4. *Invites* Parties and others to submit comments to the Netherlands with copies to the Secretariat on the H10 guidance paper, preferably by 31 January 2005;
5. *Invites* Parties and others to contribute technically and financially to the initiation of work on the other hazard characteristics of Annex III to the Basel Convention other than H6.2, H10, H11, H12 and H13;

## II.

### Cooperation

6. *Requests* the Open-ended Working Group to establish a working relationship with the United Nations Subcommittee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals with a view to exploring possible links between the work undertaken in the context of the Basel Convention on hazard characteristics and the elements of the Globally Harmonized System of Classification and Labelling of Chemicals, and including consideration of the respective work programmes to identify inconsistencies, discrepancies or shortcomings with a view to proposing appropriate action;
7. *Also requests* the Secretariat to present to the Open-ended Working Group at its first session in 2005 possible options for establishing a working relationship with the United Nations Subcommittee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals.

<sup>2</sup>

See documents UNEP/CHW.7/11/Add.1, Add.2 and Add.3.

**VII/[...]: French language version of the lists of wastes**

*The Conference of the Parties,*

*Noting with appreciation* the work undertaken by the Government of France to improve the translation into French of the lists of wastes contained in Annexes VIII and IX,

*Considering* the need to revise the existing official translation into French of Annexes VIII and IX,

1. *Decides* to incorporate the modifications proposed by the Government of France into the French language version of the lists of wastes contained in Annexes VIII and IX;

2. *Requests* the Secretariat to communicate the changes adopted by the Open-ended Working Group to the French language version of the lists of wastes contained in Annexes VIII and IX to the Depositary.

**VII/[...]: International cooperation, including cooperation with the World Trade Organization and the Global Environment Facility**

*The Conference of the Parties,*

*Recalling* its decisions VI/29 and VI/30 on international cooperation and cooperation with the World Trade Organization, respectively,

*Mindful* of the increased level of cooperation with United Nations bodies, other international and regional intergovernmental organizations and multilateral environmental agreements,

*Conscious* of the importance of developing cooperative links in domains of relevance to the implementation of the Basel Convention,

*Also conscious* of the limited resources available to the Secretariat to discharge its functions,

*Noting* the tasks contained in the work programme of the Open-ended Working Group for 2005-2006 of relevance to international cooperation,

*Considering* the report on international cooperation prepared by the Secretariat as contained in document UNEP/CHW.7/29,

1. *Requests* the Secretariat to further strengthen cooperation and synergies in the areas and with the organizations listed below:

**Persistent organic pollutants**

(a) The Secretariat of the Stockholm Convention on Persistent Organic Pollutants, the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization of the United Nations on the issue of the environmentally sound management of wastes consisting of, containing or contaminated with persistent organic pollutants;

**Toxic chemicals**

(b) The Secretariat of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade regarding joint efforts in training and capacity-building, involving the Basel Convention regional centres, with a view to enhancing implementation;

### **Strategic approach to international chemicals management**

(c) UNEP and other intergovernmental organizations or bodies such as the Inter-Organization Programme for the Sound Management of Chemicals, the Intergovernmental Forum on Chemical Safety and the OSPAR Commission of the Convention for the Protection of the Marine Environment of the North-East Atlantic, with a view to enhancing synergies and complementarities between chemicals and waste issues;

#### **Enforcement**

(d) UNEP, the World Customs Organization, the International Criminal Police Organization (Interpol), relevant multilateral environmental agreements like the chemicals-related conventions, the Montreal Protocol on Substances that Deplete the Ozone Layer to the Vienna Convention for the Protection of the Ozone Layer, the Convention on International Trade in Endangered Species of Wild Flora and Fauna and biosafety-related conventions or protocols;

#### **Transport and classification**

(e) The United Nations Committee of Experts on the Transport of Dangerous Goods, that committee's Subcommittee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals and the World Health Organization regarding the development of criteria for the hazardous characteristics of Annex III to the Convention generally and the transport of infectious substances;

#### **Identification of wastes in the World Customs Organization's Harmonized Commodity Description and coding System**

(f) The secretariat, the Harmonized System Committee and Subcommittee and the Scientific Sub-Committee of the World Customs Organization;

#### **Dismantling of ships**

(g) The secretariats of the International Maritime Organization, the International Labour Organization, the Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter (London Convention 1972), the United Nations Convention on the Law of the Sea and UNEP;

2. *Also requests* the Secretariat to continue its cooperation on critical areas for the effective implementation of the Basel Convention, its protocol and amendments with relevant organizations, including the following:

- (a) The World Bank;
- (b) The Global Environment Facility;
- (c) The United Nations Commission on Sustainable Development;
- (d) The United Nations Conference on Trade and Development;
- (e) The United Nations Office for the Coordination of Humanitarian Affairs;
- (f) The Office of the United Nations High Commissioner for Human Rights;
- (g) United Nations regional economic commissions;
- (h) The United Nations Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea;
- (i) The World Trade Organization;

- (j) The International Lead and Zinc Study Group, as well as other study groups on copper and nickel;
  - (k) The Organisation for the Prohibition of Chemical Weapons;
  - (l) The regional seas conventions and action plans;
  - (m) The African Union, as 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;
  - (n) The African Ministerial Conference on the Environment;
  - (o) The New Partnership for Africa's Development;
  - (p) The South Pacific Regional Environment Programme, as secretariat of the 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 (Waigani Convention);
  - (q) The Organisation for Economic Cooperation and Development;
  - (r) The International Energy Agency;
3. *Further requests* the Secretariat to report on cooperation to the Conference of the Parties at its eighth meeting;
4. *Encourages* Parties and others to support the cooperative efforts of the Secretariat.

#### **VII/[...]: Follow-up to the World Summit on Sustainable Development**

*The Conference of the Parties,*

*Recalling* its decision VI/40 on follow-up to the World Summit on Sustainable Development,

*Welcoming* the concrete activities carried out by the Secretariat, Basel Convention regional centres, Parties and others to contribute to the Plan of Implementation adopted at the World Summit<sup>3</sup>,

*Welcoming* the support expressed at the World Summit for the concept of type II partnerships between Governments, business and civil society,

*Mindful* of the call in the Plan of Implementation for coherence and cooperation between international regimes for wastes, hazardous wastes and chemicals,

1. *Requests* the Secretariat to pursue cooperation with interested stakeholders in support of the Plan of Implementation and type II partnerships between Governments, business and civil society;
2. *Also requests* the Secretariat to report to the Conference of the Parties at its eighth meeting on progress and deliverables.

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<sup>3</sup> *Report of the World Summit on Sustainable Development*, Johannesburg, South Africa, 26 August-4 September 2002 (United Nations publication, Sales No. E.03.II.A.1 and corrigendum), chap. I, resolution 2, annex.

**VII/[...]: Resource mobilization**

*The Conference of the Parties,*

*Noting with gratitude* the valuable work on preparation of the guidance note on resource mobilization generously funded by the Government of Denmark,

*Noting* the information paper prepared by the Secretariat in consultation with the Expanded Bureau on a possible strategy for resource mobilization,

*Recognizing* that effective implementation of the Strategic Plan and improved capacity for developing countries and countries with economies in transition requires an effective resource mobilization strategy, strong links to other international agenda, and a successful partnership programme,

1. *Commends* the guidance note and associated fact sheets on possible funding sources for waste management funded by the Government of Denmark for active use by Parties with a view to strengthening their capacity for the implementation of the Convention;

2. *Welcomes* the report of the Secretariat on resource mobilization;

3. *Requests* the Secretariat to implement a resource mobilization approach based upon this work, with a particular focus on:

(a) Strengthening programme links to other key international agendas such as chemicals, climate change, poverty reduction, water, sanitation human settlements and human health;

(b) Strengthening links to key international funding institutions such as the World Bank and the Global Environment Facility;

(c) [Continuing the implementation of the Basel Convention Partnership Programme with a view to strengthening and sustaining the Programme based on voluntary contributions].

**[VII/ ]: Financial matters**

*The Conference of the Parties,*

*Recalling* decision VI/41 on financial matters,

*Noting* the financial report on the trust funds for 2003 contained in document UNEP/CHW.7/INF/17,

*Noting* the increase in the number of Parties to the Convention, the need for greater technical and financial resources to assist the Parties to achieve more effective implementation, and the necessity to implement the various decisions of the Convention, 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 and effective;

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 [ ] United States dollars for 2005 and [ ] United States dollars for 2006, as contained in annex I to the present decision;

2. *Authorizes* the Executive Secretary to utilize an amount not exceeding [ ] United States dollars in the year 2005 and [ ] United States dollars in the year 2006 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 the 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 [ ] United States dollars for 2005 and [ ] United States dollars for 2006, as set out in annex [ ] to the present decision;
5. *Also decides* that the contributions of individual Parties shall be as listed in annex [ ] to the present decision;
6. *Authorizes* the Executive Secretary, in addition to the approved budget, on an exceptional basis, to use an amount not exceeding [ ] United States dollars in the period 2005–2006 from the reserve and fund balance of the Basel Convention Trust Fund for the purpose of putting into effect activities to implement core activities of the Strategic Plan in 2005–2006;
7. *Agrees* to review at its eight 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;
8. *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 the terms of reference;
9. *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;
10. *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 [ ] United States dollars for 2005 and [ ] United States dollars for 2006, as contained in annex [ ] to the present decision;
11. *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;
12. *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;
13. *Decides* that the trust funds for the Basel Convention shall be further continued until 31 December 2008 and requests the Executive Director of the United Nations Environment Programme to extend the two trust funds to the Basel Convention for 2007–2008, subject to the approval of the Governing Council of the United Nations Environment Programme;
14. *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;
15. *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;



16. *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 7 above on an annual basis;

17. *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.]

## Annex I to decision VII/[ ] on financial matters

## Draft budget

Basel Convention Trust Fund  
Years 2005 -2006**10 PERSONNEL COMPONENT***1100 Professional Staff (Title & Grade)*

1101	Executive Secretary (D2)
1102	Senior Programme Officer - Regional Centres/Technology (D1)
1103	Senior Programme Officer - Technical Cluster Matters (P5)
1104	Senior Programme Officer - Institutional/Sec. Legal WG (P5)
1105	First Programme Officer -Scientific Sec. TWG (P4)
1106	Programme Officer - National Reporting (P3)
1107	Programme Officer - Tech. Cooperation and Training (P4)
1108	Programme Officer - Public Awareness (P3)
1109	Administrative / Fund Management Officer (UNEP) **
1110	Associate Programme Officer - Computer Systems (P2)
1111	Senior Programme Officer - Partnerships (P5)
1112	Programme Officer / Project Development and Fundraising (P-4)
1113	Programme Officer / Compliance and Support (P-3). - New post, should the Parties plan for activities on the mechanism on compliance and monitoring.
1120	Temporary Posts for Conference Servicing (relates to COP8 together with line 1321)

**1199 Sub-total, Professional Staff***1200 Consultants*

1201	Legal Advice, Support, Capacity-building / Technical Guidelines
1202	Capacity-building / Technical Guidelines

**1299 Sub-total, Consultants**

COP 6 budget	COP 7 budget			
	2004	2005	2006	Total
	157,500	181,125	181,125	362,250
	146,800	168,820	168,820	337,640
	146,800	168,820	168,820	337,640
	146,800	168,820	168,820	337,640
	130,000	149,500	149,500	299,000
	108,000	124,200	124,200	248,400
	130,000	149,500	149,500	299,000
	108,000	124,200	124,200	248,400
	-	-	-	-
	87,600	100,740	100,740	201,480
	-	168,820	168,820	337,640
	-	149,500	149,500	299,000
	-	124,200	124,200	248,400
	50,000	50,000	50,000	100,000
<b>1199 Sub-total, Professional Staff</b>	<b>1,211,500</b>	<b>1,828,245</b>	<b>1,828,245</b>	<b>3,656,490</b>
	135,000	135,000	135,000	270,000
	135,000	135,000	135,000	270,000
<b>1299 Sub-total, Consultants</b>	<b>270,000</b>	<b>270,000</b>	<b>270,000</b>	<b>540,000</b>

	COP 6 budget	COP 7 budget			
		2004	2005	2006	Total
<i>1300 Administrative Support (Title &amp; Grade)</i>					
1301 Administrative Assistant (G6) **	-	-	-	-	
1302 Personal Assistant to the Executive Secretary (G6)	85,200	97,980	97,980	195,960	
1303 Meetings / Documents Assistant (G6)	85,200	97,980	97,980	195,960	
1304 Personnel Assistant (G5)	85,200	97,980	97,980	195,960	
1305 Programme Assistant (G5)	85,200	97,980	97,980	195,960	
1306 Secretary (G5)	85,200	97,980	97,980	195,960	
1307 Secretary (G5)	85,200	97,980	97,980	195,960	
1308 Reproduction & Registry Clerk (G4)*	85,200	97,980	97,980	195,960	
1309 Legal Assistant (G5)*	85,200	97,980	97,980	195,960	
1310 Finance and Budget Assistant (G-6) **	-	0	0	0	
1320 Temporary assistance posts (short term)	10,300	10,300	10,300	20,600	
<i>132X Sub-total</i>	<i>691,900</i>	<i>794,140</i>	<i>794,140</i>	<i>1,588,280</i>	
<i>Conference Servicing Costs</i>					
1321 Conference of the Parties (1 meeting per biennium in six languages, USD 50,000 pa charged against B/L 1120, hence total cost for biennium USD 700,000). Costed at 400 pages for translation. Carry over of COP funds to COP year).	500,000	100,000	500,000	600,000	
1322 Open-ended Working Group 4 (translation of 300 pages and interpretation in 6 UN languages)	0	400,000	0	400,000	
1323 Open-ended Working Group 5 (translation of 300 pages and interpretation in 6 UN languages)	0	0	400,000	400,000	
1324 Open-ended Working Group (translation of 300 pages and interpretation in 6 UN languages)	400,000	0	0	0	
1325 Expanded Bureau (in English only - 3 meetings per biennium)	7,000	7,000	7,000	14,000	
1326 Expert Group on end of life cycle mobile phones	3,000	3,000	3,000	6,000	
1327 Mechanism for Implementation and Compliance (English only)	3,000	3,000	3,000	6,000	
<b>1399 Sub-total Administrative Support and Conference Servicing Costs</b>	<b>1,604,900</b>	<b>1,307,140</b>	<b>1,707,140</b>	<b>3,014,280</b>	

		COP 6 budget	COP 7 budget		
		2004	2005	2006	Total
1600	<i>Travel on Official Business</i>				
1601	Official Travel	200,000	200,000	200,000	400,000
1699	<b>Total, Travel On Official Business</b>	<b>200,000</b>	<b>200,000</b>	<b>200,000</b>	<b>400,000</b>
1999	<b>TOTAL STAFF COMPONENT</b>	<b>3,286,400</b>	<b>3,605,385</b>	<b>4,005,385</b>	<b>7,610,770</b>
20	<b>SUB-CONTRACT COMPONENT</b>				
2100	<i>Sub-contracts Component</i>				
2101	Information System	50,000	50,000	50,000	100,000
2199	<b>Sub-total sub-contracts, non-commercial</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>100,000</b>
2999	<b>TOTAL SUB-CONTRACT COMPONENT</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>100,000</b>
30	<b>MEETINGS AND CONFERENCES</b>				
3300	<i>Travel and DSA Costs of Participants</i>				
3301	Conference of the Parties	-	0	0	0
3302	Open-ended Working Group 4 (25 travels)	-	87,500	0	87,500
3303	Open-ended Working Group 5 (25 travels)	-	0	87,500	87,500
3304	Open-ended Working Group (50 travels)	175,000	0	0	0
3305	Expanded Bureau (some 14 travels)	51,555	51,555	51,555	103,110
3306	Mechanism for Implementation and Compliance (English only) - Two meetings over the biennium (10 travels/meeting)	0	35,000	35,000	70,000
3399	<b>Sub-total Meetings and Conferences</b>	<b>226,555</b>	<b>174,055</b>	<b>174,055</b>	<b>348,110</b>
3999	<b>TOTAL MEETINGS AND CONFERENCES</b>	<b>226,555</b>	<b>174,055</b>	<b>174,055</b>	<b>348,110</b>

	COP 6 budget	COP 7 budget			
		2004	2005	2006	Total
<b>40 EQUIPMENT AND PREMISES COMPONENT</b>					
4100 <i>Expendable Equipment</i>					
4101 Office Supplies, library acquisitions and computer software	24,500	24,500	24,500	49,000	
<b>4199 Sub-total, Expendable Equipment</b>	<b>24,500</b>	<b>24,500</b>	<b>24,500</b>	<b>49,000</b>	
4200 Non-expandable equipment					
4201 Computer Equipment, printers, furniture, multimedia and others	28,000	28,000	28,000	56,000	
	<b>28,000</b>	<b>28,000</b>	<b>28,000</b>	<b>56,000</b>	
4300 <i>Premises</i>					
4301 Office space fees, building maintenance, security, utilities and insurance	60,000	60,000	60,000	120,000	
<b>4399 Total, Premises</b>	<b>60,000</b>	<b>60,000</b>	<b>60,000</b>	<b>120,000</b>	
<b>4999 TOTAL, EQUIPMENT AND PREMISES COMPONENT</b>	<b>112,500</b>	<b>112,500</b>	<b>112,500</b>	<b>225,000</b>	
<b>50 MISCELLANEOUS COMPONENT</b>					
5100 <i>Operation and Maintenance of Equipment</i>					
5101 Computers, Printers, photocopiers and other	51,300	51,300	51,300	102,600	
<b>5199 Sub-total, Maintenance of Equipment</b>	<b>51,300</b>	<b>51,300</b>	<b>51,300</b>	<b>102,600</b>	
5200 <i>Reporting costs</i>					
5201 Newsletters, publications and other media	55,000	55,000	55,000	110,000	
<b>5299 Sub-total, Reporting costs</b>	<b>55,000</b>	<b>55,000</b>	<b>55,000</b>	<b>110,000</b>	
5300 <i>Sundry</i>					
5301 Communications, freight and other (with carry over to COP year)	67,500	67,500	67,500	135,000	
<b>5399 Sub-total Sundry</b>	<b>67,500</b>	<b>67,500</b>	<b>67,500</b>	<b>135,000</b>	

	COP 6 budget	COP 7 budget		
	2004	2005	2006	Total
5400 Hospitality				
5401 Hospitality	9,500	9,500	9,500	19,000
<b>5499 Sub-total Hospitality</b>	<b>9,500</b>	<b>9,500</b>	<b>9,500</b>	<b>19,000</b>
<b>5999 TOTAL, MISCELLANEOUS COMPONENT</b>	<b>183,300</b>	<b>183,300</b>	<b>183,300</b>	<b>366,600</b>
<b>99 TOTAL OPERATIONAL COSTS</b>	<b>3,858,755</b>	<b>4,125,240</b>	<b>4,525,240</b>	<b>8,650,480</b>
Less UNEP Contribution	-137,300			
13% Programme Support Costs	480,399	536,281	588,281	1,124,562
<b>TOTAL BUDGET OF THE TRUST FUND</b>	<b>4,201,854</b>	<b>4,661,521</b>	<b>5,113,521</b>	<b>9,775,042</b>
<b>[Deduction from the Reserve and Fund Balance]</b>	<b>1,200,000</b>	<b>1,200,000</b>	<b>1,200,000</b>	<b>2,400,000</b>
<b>TO BE COVERED BY PARTIES</b>	<b>3,001,854</b>	<b>3,461,521</b>	<b>3,913,521</b>	<b>7,375,042</b>

\* Post proposed for reclassification due to changes in functions.

\*\* Post funded from 13 per cent Programme Support Costs