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Basel Convention

Implementation Manual

Basel Convention Secretariat

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Manual for Implementation

The Manual for the Implementation of the Basel Convention aims at assisting Parties as well as non-Parties, the private sector, NGOs, and individuals to understand the obligations set up in the Convention. It explains the provisions of the Convention in simple language and gives examples of situations covered by the Convention (e.g. actions by the State of Export, Import and Transit, as well as by the Exporter, Importer, Carrier, Generator, Disposer, etc.) related to the environmentally sound management of hazardous wastes and their disposal).

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1. INTRODUCTION

1.1 History of Convention

The Basel Convention on the Control of Transboundary movements of Hazardous Wastes and their Disposal was adopted on 22 March 1989 by the 116 States participating in the Conference of

Plenipotentiaries on the Global Convention on the Control of Transboundary Movements of Hazardous Wastes, which was convened by the Executive Director of the United Nations Environment Programme (UNEP) and held in Basel at the invitation of the Government of Switzerland. The Basel Convention entered into force on 5 May 1992, the first two meetings of the Conference of the Parties were held in December 1992 (Montevideo, Uruguay) and March 1994 (Geneva, Switzerland), respectively. As of 31 May 1995, 86 countries and the European Community are Party to the Basel Convention.

1.2 Goals of Convention

The main objectives of the Convention are:

- to reduce transboundary movements of hazardous wastes and other wastes to a minimum consistent with their environmentally sound management;
- to treat and dispose of hazardous wastes and other wastes as close as possible to their source of generation in an environmentally sound manner;
- to minimize the generation of hazardous wastes and other wastes (in terms both of quantity and potential hazard).

1.3 Scope of the Convention

The Basel Convention represents new norms, rules and procedures in law governing the movements and disposal of hazardous wastes at international as well as national levels. In this context, this instrument represents the intention of the international community to solve this global environmental problem in a collective manner. A regulatory system for the monitoring and control of hazardous wastes has been set up and is displayed in the full text of the Convention. Some of the key elements of the regulatory system of the Basel Convention are the prior informed consent, the prohibition to export to a country which is not Contracting Party to the Convention, and the legal provisions for duty to re-import and the responsibility of States involved in the transboundary movements.

2. WHAT MOVEMENTS ARE CONTROLLED?

2.1 Transboundary movements

2.1.1 Definition

"Transboundary movement" means any movement of hazardous wastes or other wastes from an area under the national jurisdiction of one State to or through an area under the national jurisdiction of another State or to or through an area not under the national jurisdiction of any State, provided at least two States are involved in the movement (Article 2, paragraph 3, of the Convention).

2.1.2 Transboundary movements pursuant to bilateral, multilateral and regional agreements

The provisions of this Convention shall not affect transboundary movements which take place pursuant to bilateral, multilateral or regional agreements, provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention" (Article 11, paragraph 2). Parties shall notify the Secretariat of any such agreement that they enter into regarding transboundary movement of hazardous or other wastes, as well as "those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements.

2.2 Definition of hazardous wastes

2.2.1 General

In order to facilitate the process of deciding whether or not a waste is subject to control under the Basel Convention, the present section of the Manual contains a number of subsections providing answers to some key questions about the steps to be taken for determining:

- If a waste subject to a transboundary movement comes under control by the Basel Convention;
- The category of the waste in question and its hazardous characteristic(s).

Other considerations related to the criteria for the definition of hazardous characteristics as well as to the classification of hazardous wastes in transport are described, together with information on disposal options.

2.2.2 What is waste?

In the context of transboundary movements, the Basel Convention defines wastes as "substances or objects which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law" (Article 2, paragraph 1)

2.2.3 Which wastes are subject to control under the Basel Convention?

(a) Under the Basel Convention the following wastes, subject to a transboundary movement, are defined as hazardous wastes if:

- the wastes belong to any category (Y1-Y45) contained in Annex I of the Convention;
- and exhibit one or more of the characteristics (H3-H33) contained in Annex III of the Convention.

(b) Wastes that are not covered under subparagraph (a) above but are defined as or are considered to be hazardous wastes by the domestic legislation of the Party of export, import or transit shall be controlled under the terms of the Convention;

(c) For the purpose of the Convention, wastes that belong to any of the two categories Y46 and Y47 of Annex II to the Convention, subject to a transboundary movement, are defined as "other wastes" and will be controlled by the Convention.

Wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials, and wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument are excluded from control.

2.2.4 Waste classification

Categories:

The wastes subject to control under the Basel Convention are classified into two general categories. Annex I of the Convention provides for a list of 45 categories of wastes which are themselves divided into:

- Wastes streams (e.g: clinical wastes, waste mineral oil, PCBs, etc.);

- Wastes having as constituents certain enumerated substances (e.g: copper compounds, arsenic, cadmium, lead, organic cyanides, halogenated organic solvent, etc.).

Annex II lists two categories of "other wastes":

- Wastes collected from households (Y46);
- Residues arising from incineration of household wastes (Y47).

Characteristics:

The hazard classes of the wastes listed in Annex I to the Basel Convention are contained in Annex III to that Convention. There are 13 classes, with some of them further subdivided into numbered divisions (e.g: class H4.1, H4.2, H4.3). For example, classification H4.1 means that the waste is in division 1 of class 4; and that the waste exhibits "flammable solids" characteristics.

The hazard classes of the Basel Convention correspond to hazard classification 1 to 9 of the United Nations recommendations on the transport of dangerous goods. Each hazardous waste will have one of these 9 classes as its primary classification. The primary classification describes the main hazardous property of a hazardous waste.

To classify waste as hazardous waste, first of all, reference to domestic legislation is required. The legislation shall specify the criteria and procedure needed to determine the class(es), division(s) and packing group(s) of a specific waste defined as or considered to be hazardous waste by such legislation.

Often, domestic legislation will differentiate between hazardous waste as pure substance, where the composition is known, hazardous waste not fully specified, mixtures containing a specific hazardous waste, or mixtures containing two or more hazardous wastes.

If there is no regulation or legislation in place, it is recommended to refer to and use the criteria for the classification and labelling of dangerous goods in transport contained in the United Nations recommendations on the transport of dangerous goods. The recommendations are widely used internationally through their adoption by international transportation authorities (air, sea, river, road and rail).

Concerning the information to be provided on the notification and the movement document, refer to sections 5.2 and 8.1 of the Manual.

Hazard classes H30 to H33 (Annex III of the Convention) may not be specified in the regulation or legislation. New environmental and health criteria for the hazardous characteristics H30, H31, H32 and H33 are being developed at the international level (refer to the work of the Secretariat of the Basel Convention, the United Nations Committee on the Transport of Dangerous Goods, the International Maritime Organization, the International Programme on Chemical Safety, the International Labour Organisation, the Organization for Economic Cooperation and Development and the Commission of the European Communities).

Methods of classifying hazardous wastes vary throughout the world. Many countries have their own national or domestic classification schemes and hazard criteria. That is why it is important for the State of export and the State of import, as well as the State of transit, if any, to classify the wastes subject to control under the Basel Convention, as the wastes may be considered hazardous in the State of import, but that may not be the case in the State of export (refer to Part I of the Manual, requirements of Article

6 of the Basel Convention).

2.3 List of wastes (Y list)

Annex I to the Basel Convention lists 45 categories of wastes to be controlled under the Convention; the list is divided into two types of categories as follows:

Categories of wastes to be controlled

Waste streams

Y1 Clinical wastes from medical care in hospitals, medical centers and clinics

Y2 Wastes from the production and preparation of pharmaceutical products

Y3 Waste pharmaceuticals, drugs and medicines

Y4 Wastes from the production, formulation and use of biocides and phytopharmaceuticals

Y5 Wastes from the manufacture, formulation and use of wood preserving chemicals

Y6 Wastes from the production, formulation and use of organic solvents

Y7 Wastes from heat treatment and tempering operations containing cyanides

Y8 Waste mineral oils unfit for their originally intended use

Y9 Waste oils/water, hydrocarbons/water mixtures, emulsions

Y10 Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybromated biphenyls (PBBs)

Y11 Waste tarry residues arising from refining, distillation and any pyrolytic treatment

Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish

Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives

Y14 Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known

Y15 Wastes of an explosive nature not subject to other legislation

Y16 Wastes from production, formulation and use of photographic chemicals and processing materials

Y17 Wastes resulting from surface treatment of metals and plastics

Y18 Residues arising from industrial waste disposal operations

Wastes having as constituents:

Y19 Metal carbonyls

Y20 Beryllium; Beryllium compounds

Y21 Hexavalent chromium compounds

Y22 Copper compounds

Y23 Zinc compounds

Y24 Arsenic; arsenic compounds

Y25 Selenium; selenium compounds

Y26 Cadmium; cadmium compounds

Y27 Antimony; antimony compounds

Y28 Tellurium; tellurium compounds

Y29 Mercury; mercury compounds

Y30 Thallium; thallium compounds

Y31 Lead; lead compounds

Y32 Inorganic fluorine compounds excluding calcium fluoride

Y33 Inorganic cyanides

Y34 Acidic solutions or acids in solid form

Y35 Basic solutions or bases in solid form

Y36 Asbestos (dust and fibers)

Y37 Organic phosphorus compounds

Y38 Organic cyanides

Y39 Phenols; phenol compounds including chlorophenols

Y40 Ethers

Y41 Halogenated organic solvents

Y42 Organic solvents excluding halogenated solvents

Y43 Any congener of polychlorinated dibenzo-furan

Y44 Any congener of polychlorinated dibenzo-p-dioxin

Y45 Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

Annex II *Categories of wastes requiring special consideration*

Y46 - Wastes collected from households

Y47 - Residues arising from the incineration of household wastes

2.4 Hazard criteria (H codes)

Annex III to the Convention lists the hazardous characteristics which wastes included in Annex I may exhibit. There are 13 classes of hazardous characteristics numbered H3 to H33 as follows:

List of Hazardous Characteristics

UN Class Code Characteristics

1 H3 Explosive

An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such speed as to cause damage to the surroundings.

3 H3 Flammable liquids

The word "flammable" has the same meaning as "inflammable." Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition).

4.1 H4.1 Flammable solids

Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.

4.2 H4.2 Substances or wastes liable to spontaneous combustion

Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.

4.3 H4.3 Substances or wastes which, in contact with water emit flammable gases

Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.

5.1 H5.1 Oxidizing

Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.

UN Class Code Characteristics

5.2 H5.2 Organic Peroxides

Organic substances or wastes which contain the bivalent-O-O-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.

6.1 H6.1 Poisonous (Acute)

Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed

or inhaled or by skin contact.

6.2 H6.2 Infectious substances

Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.

8 H8 Corrosives

Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.

9 H30 Liberation of toxic gases in contact with air or water

Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.

9 H31 Toxic (Delayed or chronic)

Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.

9 H32 Ecotoxic

Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.

9 H33 Capable, by means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

2.5 Disposal operations

"Disposal" means any operation specified in Annex IV to the Basel Convention (Article 2, paragraph 4). Annex IV to the Basel Convention lists the disposal options commonly being used.

In terms of the control procedure to be applied to waste which moves across a frontier, the Convention does not make a distinction between disposal operations that do not lead to resource recovery, recycling, reclamation, direct re-use or alternative uses (Annex IV, Section A), and disposal operations that may lead to resource recovery, recycling, reclamation, direct re-use or alternative uses (Annex IV, Section B). The Basel Convention requires that the disposal of hazardous wastes (Annex I) and other wastes (Annex II) be done in an environmentally sound and efficient manner.

The following elements should be considered when selecting a disposal option:

- Description of the purpose, scope and definition of the operation;
- Description of the technologies as well as of the efficiency of the operation;
- Description of environmental and health hazards which may be associated with the selected disposal option;

Identification of the suitability of the wastes for the operation;

- Description of the criteria for the sound operation of the technology selected and related safety aspects;
- Establishment of principles for assessment of the predicted environmental impacts of establishing and operating the facility, site selection parameters, technology options, construction/design and management plan;
- Guidance on monitoring and, when required, appropriate corrective action;
- Guidance on closure plans and after-care;
- Assessment of the economic aspects of the disposal option.

3. WHAT IF DIFFERENT CLASSIFICATIONS IN DIFFERENT COUNTRIES?

3.1 State of export

If the wastes are legally defined or considered to be hazardous wastes only by the State of export, the requirements of Article 6 para. 9 regarding the Movement Document and the certification of receipt and disposal/recovery by the disposal/recovery facility (see subsection 8.1.2 on the Movement Document and section 9.2 on the certification of disposal) shall apply *mutatis mutandis*, i.e. unmodified, to the exporter and State of export, respectively (Article 6, paragraph 5 (a)).

3.2 State of import

If the wastes are legally defined as or considered to be hazardous wastes only by the State of import, the requirements of Article 6 paragraph 1, 3, 4 and 6 regarding the notification procedure and permission of export (see chapter 5 on the notification procedure and section 7.2) that apply to the exporter and to the State of export shall apply *mutatis mutandis* to the importer or disposer and State of import, respectively (Article 6 paragraph 5(b)).

3.3 State of transit Party to the Convention

If the wastes are legally defined as or considered to be hazardous wastes only by the State of transit which is a Party, this Party shall acknowledge to the notifier the receipt of the notification and within 60 days, if prior written consent required, shall consent to the movement with or without special conditions, request additional information or deny permission for the movement. If prior written consent is not required, the State of transit must deny permission for the movement within 60 days of the receipt of a given notification, otherwise tacit consent will apply (see section 7.2) (Article 6, paragraph 5(c)).

4. SUMMARY OF ROLES AND RESPONSIBILITIES

4.1 Competent authorities and focal points

"Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical area as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6.

"Focal point" means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 16.

The Parties shall "designate or establish one or more competent authorities and one focal point" and "inform the Secretariat" of such designations "within three months of the date of the entry into force of

the Convention for them." In the case of a State of transit, "one competent authority shall be designated to receive the notification" (Article 5).

4.2 Parties

4.2.1 General obligations

"Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13" (Article 4, paragraph 1 (a)).

Each Party shall "prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner" (Article 4, paragraph 2 (g)).

"A Party shall not permit hazardous wastes or other wastes ... to be imported from a non-Party" (Article 4, paragraph 5). Notwithstanding that provision, "Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes ... provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries" (Article 11, paragraph 1).

Each Party shall "ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment" (Article 4, paragraph 2 (c)).

Each Party shall "prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations" (Article 4, paragraph 7 (a)).

Each Party shall "require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices" (Article 4, paragraph 7 (b)).

"The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document ... on receipt of the wastes in question" (Article 6, paragraph 9). "Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements" that they enter into regarding transboundary movement of hazardous or other wastes, as well as "those which they have entered into prior to the entry into force of this Convention for them" ... "The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention" (Article 11, paragraph 2).

4.2.2 Country of import

The State of import shall respond to the notifier in accordance to the notification procedure (refer to chapter 5 on the notification procedure).

4.2.3 Country of export

States shall engage in the transboundary movement of hazardous or other waste only if there does not exist a more environmentally sound alternative, and if it takes place between Parties to the Convention none of which has prohibited the import of such wastes.

The State of export shall only allow the export of hazardous wastes or other wastes, if it is in accordance with the provisions of the Convention (see chapter 7 on the conditions determining whether to allow a transboundary movement).

"Each Party shall require that hazardous wastes, or other wastes to be exported, are managed in an environmentally sound manner in the State of import or elsewhere" (Article 4 , paragraph 8).

The States of export shall inform the competent authority of the State of import of any intended transboundary movement of hazardous or other wastes, in accordance to the notification procedure (see chapter 5).

The State of export shall not allow the transboundary movement to commence until it has received the necessary responses from the notifier or the State of transit (see chapter 7 on the conditions determining whether to allow a transboundary movement).

"When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export may be obliged to reimport the wastes in question (see section 9.3 on the duty to re-import).

4.2.4 Country of transit Party to the Convention

After receiving the notification, the State of transit which is a Party must reply in accordance to the notification procedure (see chapter 5 on the notification procedure).

4.3 Non-Parties

4.3.1 Import/export from/to a non-Party

A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party (Article 4, paragraph 5). Notwithstanding that provision, "Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement of hazardous wastes ... provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries" (Article 11, paragraph 1).

4.3.2 Transit through a State that is not a Party to the Convention

A State of transit can be a State which is not a Party 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 State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. "'States concerned' means Parties which are States of export or import, or transit States, whether or not Parties" (see chapter 5 on the notification

procedure) (Article 2, paragraph 13).

4.4 Generators/exporters

"Generator" is any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes. The generator may be obliged to notify the competent authority of the States concerned of any proposed transboundary movement (refer to chapter 5 on the notification procedure).

"Exporter" means any person, under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported. The exporter may be obliged to notify the competent authority of the States concerned of any proposed transboundary movement (refer to chapter 5 on the notification procedure).

"The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document ... upon receipt of the wastes in question" (Article 6, paragraph 9).

4.5 Disposers/importers

"Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes. Each Party shall prohibit all persons under its jurisdiction from disposing of hazardous waste unless such persons are authorized or allowed to perform such operation (Article 4, paragraph 7(a)).

"Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported.

4.6 Carriers

"Carrier" means any person who carries out the transport of hazardous wastes or other wastes. Each Party shall prohibit all persons under its jurisdiction from transporting hazardous waste unless such persons are authorized or allowed to perform such operation (Article 4, paragraph 7(a)).

5. NOTIFICATION PROCEDURE

5.1 When to complete

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 or other wastes.

5.2 Who completes it

The State of export can provide this information itself or require the generator or exporter to do so (Article 6, paragraph 1).

5.3 How to complete

Such notification shall contain the declarations and information specified in Annex V A [of the Basel Convention], written in a language acceptable to the State of import" (Article 6, paragraph 1).

The information provided must, among other things, specify the reason for the export, the exporter, the

generator, the site of generation and the process by which the wastes are generated, the nature of the wastes and their packaging as well as the intended itinerary, the site of disposal, the disposer and the method of disposal as per Annex IV (Article 6, paragraph 1, Annex V A)

5.4 Where to send it

The notification and response required by this Article shall be transmitted to the competent authority of the Parties concerned or to such governmental authority as may be appropriate in the case of non-Parties (Article 6, paragraph 10).

Such notification shall be given to concerned non-Party transit States as well (Article 7).

5.5 Possible responses

5.5.1 State of import's written consent and confirmation of contract for sound management of wastes

"The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information" (Article 6, paragraph 2).

Such a response should include the importer's consent to, with or without conditions, or refusal of the import and confirmation of the existence of a contract between the exporter and the disposer "specifying environmentally sound management of the wastes in question" (Article 6, paragraph 3). A "copy of the final response of the State of import shall be sent to the competent authorities of the States concerned" (Article 6, paragraph 2). In this regard, a transit country is considered a State concerned.

5.5.2 Written consent of the State of transit Party to the Convention

After receiving the notification, the State of transit which is a Party must first provide the notifier with an acknowledgement on receipt of notification. It shall then respond to the notifier within 60 days, granting or denying permission for the movement to take place (see Article 6, paragraph 4).

A State which is a Party to the Convention can also decide to waive the requirement of prior written consent for transit transboundary movements of hazardous or other wastes, either generally or under specific conditions. Notice of such a decision must be given to the other Parties through the Secretariat. If a State Party has waived the requirement of prior written consent, the State of export may allow the transit movement to proceed through that State if it has received no response within 60 days after receipt of a given notification by the State of transit (see Article 6, paragraph 4; Article 13).

5.5.3 Transit through a State that is not a Party to the Convention

If a State of transit is not Party to the Basel Convention, the State of export shall notify, or shall require the generator or exporter to notify, the competent authority of the State of transit of any proposed transboundary movement of hazardous wastes or other wastes. There is no obligation to wait for its consent. (Article 6, paragraph 1, Article 7, Article 2, paragraph 13)

5.6 General notification procedures

"The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the

case of transit, via the same customs office of entry and exit of the State or States of transit" (Article 6, paragraph 6).

In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only by the State of import, or by the States of import and transit which are parties, the State of import may, subject to the written consent of the States concerned, allow the disposer or importer to use a general notification where regular shipments of wastes having the same physical and chemical characteristics, from the same generator to the same disposer via the same customs office of entry of the State of import (Article 6, paragraph 6, and paragraph 5 (b)).

"The States concerned may make their written consent to the use of the general notification referred to in paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped" (Article 6, paragraph 7).

"The general notification and written consent referred to in paragraphs 6 and 7 may cover multiple shipments of hazardous wastes or other wastes during a maximum period of 12 months" (Article 6, paragraph 8).

6. ADDITIONAL IMPORTERS/EXPORTERS REQUIREMENTS

6.1 Insurance

"Any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee as may be required by the State of import or any State of transit which is a Party" (Article 6, paragraph 11).

6.2 Contract

The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that the notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question (Article 6, paragraph 3).

7. DETERMINING WHETHER TO ALLOW A TRANSBOUNDARY MOVEMENT

7.1 General conditions

Parties shall take the appropriate measures to ensure that the transboundary movement of hazardous and other wastes only be allowed if:

(a) The State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites in order to dispose of the wastes in question in an environmentally sound and efficient manner; or

(b) The wastes in question are required as a raw material for recycling or recovery industries in the State of import; or

(c) The transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention" (Article 4, paragraph 9).

"Transboundary movements of such wastes from the State of their generation to any other State should

be permitted only when conducted under conditions which do not endanger human health and the environment and under conditions in conformity with the provisions of this [Basel] Convention;" and when "the transport and the ultimate disposal of such wastes is environmentally sound" (Preamble, paragraphs 9 and 23).

States shall engage in the transboundary movement of hazardous or other waste only if there does not exist a more environmentally sound alternative, and if it takes place between Parties to the Convention none of which has prohibited the import of such wastes .

The Parties shall "require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere" (Article 4, paragraph 8).

7.2 Importing country

7.2.1 Import ban

"Any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory" (Preamble, paragraph 6; see also Article 4, paragraph 1).

"Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13" (Article 4, paragraph 1 (a)).

7.2.2 Environmentally sound waste management

"Each Party shall "prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner" (Article 4, paragraph 2 (g)).

7.2.3 Import from a non-Party

"A Party shall not permit hazardous wastes or other wastes ... to be imported from a non-Party" (Article 4, paragraph 5). Notwithstanding that provision, "Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement 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 this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries" (Article 11, paragraph 1).

7.3 Exporting country

7.3.1 Prohibition in the absence of importing or transit Party's written consent

"Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes if the State of import does not consent in writing to the specific import, in the case where that State of import has not prohibited the import of such wastes" (Article 4, paragraph 1 (c)).

Article 6 of the Convention states that "the State of export shall not allow the transboundary movement to commence until it has received:

(a) The written confirmation that "the notifier has received the written consent of the State of import" and a "confirmation of the existence of a contract between the exporter and the disposer specifying

environmentally sound management of the wastes in question;"(Article 6, paragraph 3), and

(b) The written consent of the State of transit Party to the Convention. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.

7.3.2 Prohibition of export to a Party prohibiting import

"Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when they have been informed of such decision.

Nor shall they allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation, all imports (Article 4, paragraph 2 (e)).

7.3.3 Environmentally sound management

Each Party shall take the appropriate measures to "Not allow the export of hazardous wastes or other wastes ... if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting" (Article 4, paragraph 2 (e)).

The obligation of waste-generating States "to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import and transit" (Article 4, paragraph 10).

7.3.4 Export to a non-Party

"A Party shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party" (Article 4, paragraph 5). Notwithstanding that provision, "Parties may enter into bilateral, multilateral, or regional agreements or arrangements regarding transboundary movement 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 this Convention. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention in particular taking into account the interests of developing countries" (Article 11, paragraph 1).

7.3.5 Export for disposal south of 60° South latitude

"The Parties agree not to allow the export of hazardous wastes or other wastes for disposal within the area south of 60° South latitude, whether or not such wastes are subject to transboundary movement" (Article 4, paragraph 6).

7.4 Transit country

7.4.1 Party to the Convention

"Any State has the sovereign right to ban the entry of foreign hazardous wastes and other wastes in its territory." (Preamble, paragraph 6; see also Article 4, paragraph 1). This includes the right of the Transit

country to ban transit activities.

In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous only by the State of transit which is a Party, the State of transit shall notify the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. The State of transit shall not allow the transboundary movement to commence until it has given its written consent (unless the Party decides not to require prior written consent, in which case, if no response is given by the State within 60 days of the receipt of a given notification by the State of transit, the import may proceed (see Article 6, paragraphs 1, 4, 5 (b) and (c)).

7.4.2 Non-Party to the Convention

In accordance with Article 7 of the Convention there is no obligation to non-Parties to give their consent to transit activities, but under the general rules of international law each country has the right to prohibit the transit of wastes through its territory.

8. ENSURING ENVIRONMENTALLY SOUND MOVEMENTS

8.1 Movement document

8.1.1. When to complete it

Each Party shall "Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal" (Article 4, paragraph 7 (c))

8.1.2 Who completes it

Article 6, paragraph 9 states that "the Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question".

8.1.3 How to complete it

Annexes V A and V B of the Basel Convention contain the information to be provided on the notification and the movement document, respectively and document UNEP/CHW.1/12 contains the forms provisionally adopted by decision 1/21 of the First Meeting of the Conference of the Parties (see Annex of the present Manual).

The movement document shall contain the following information:

- (a) Exporter of the waste or the competent authority, whichever is the one making the notification;
- (b) Generator of the waste;
- (c) Disposer of the waste and actual site of disposal (See Annex IV of the Basel Convention for a list of operations that constitute disposal and also for the relevant D and R codes);
- (d) Carrier(s) of the waste or their agent(s);
- (e) Subject of general or single notification;
- (f) The date the transboundary movement started and date(s) and signature on receipt by each person

who takes charge of the waste;

(g) Means of transport including countries of export, transit, and import, and also point of entry and exit where these have been designated;

(h) General description of the waste (physical state, proper United Nations shipping name and class, UN number, Y number and H number as applicable).

(i) Information on special handling requirements including emergency provision in case of accidents;

(j) Type (e.g., bulk, drummed, tanker) and number of packages;

(k) Quantity in weight/volume;

(l) Declaration by the generator or exporter that the information is correct;

(m) Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties;

(n) Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal (Annex V B of the Basel Convention).

8.2 Packaging, labelling

Each Party shall "Require that hazardous and other wastes that are to be the subject of a transboundary movement be packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices" (Article 4, paragraph 7 (b)).

9. OBLIGATIONS SUBSEQUENT TO MOVEMENT

9.1 Routing of movement document

The Parties shall require that hazardous wastes and other wastes be accompanied by a movement document from the point at which the transboundary movement commences to the point of disposal.

9.2 Certification of disposal

The Parties shall require "that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import".

9.3 Duty to re-import

"When a transboundary movement of hazardous wastes or other wastes to which the consent of the States concerned has been given, subject to the provisions of this Convention, cannot be completed in accordance with the terms of the contract, the State of export shall ensure that the wastes in question are taken back into the State of export, by the exporter, if alternative arrangements cannot be made for their disposal in an environmentally sound manner, within 90 days from the time that the importing State informed the State of export and the Secretariat, or such other period of time as the States concerned agree" (Article 8).

10. TRANSMISSION OF INFORMATION

10.1 To the Conference of the Parties

The Parties, consistent with national laws and regulations shall transmit, through the Secretariat, to the Conference of the Parties established under Article 15, before the end of each calendar year, a report on the previous calendar year containing the following information:

- (a) Competent authorities and focal points that have been designated by them pursuant to Article 5;
- (b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:
 - (i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification;
 - (ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;
 - (iii) Disposals which did not proceed as intended;
 - (iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;
- (c) Information on the measures adopted by them in implementation of this Convention;
- (d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation, and disposal of hazardous wastes or other wastes;
- (e) Information concerning bilateral, multilateral, and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;
- (f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;
- (g) Information on disposal options operated within the area of their national jurisdiction;
- (h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and
- (i) Such other matters as the Conference of the Parties shall deem relevant.

10.2 To the Secretariat

"The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes or other wastes, and the response to it, are sent to the Secretariat when a Party considers that its environment may be affected by that transboundary movement has requested that this should be done" (Article 13, paragraphs 3-4).

The Secretariat shall receive information from the Parties on sources of technical assistance and training, available technical and scientific know-how, sources of advice and expertise, and availability of resources (Article 16, paragraph 1 (g)).

10.3 To other States

"The Parties shall ... ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those States are immediately informed" (Article 13).

10.4 To the other Parties

"Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13" (Article 4, paragraph 1 (a)).

Article 13, paragraph 2 requires that "The Parties shall inform each other, through the Secretariat, of: ...

(a) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction;

(b) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes."

10.5 From the Parties to their exporters

Parties shall be responsible for making available to their exporters the information obtained from the Secretariat regarding:

(a) Which wastes, in addition to those listed in Annexes I and II of the Basel Convention, are considered or defined by other Parties' national legislation as hazardous (Article 3, paragraph 1); and any significant changes;

(b) Other parties' requirements concerning transboundary movement procedures applicable to such wastes (Article 13, paragraph 2);

(c) Countries which have banned the import of hazardous wastes (Article 13, paragraph 2 (d)).

10.6 From the Secretariat to the Parties

The Secretariat of the Basel Convention shall compile information concerning authorized national sites and facilities of parties available for the disposal of their hazardous wastes and other wastes and shall circulate this information among Parties (Article 16, paragraph 1 (f)).

The Secretariat shall convey information to the Parties on sources of technical assistance and training, available technical and scientific know-how, sources of advice and expertise, and availability of resources (Article 16, paragraph 1 (g)).

11. ILLEGAL TRAFFIC

11.1 Definitions

"For the purpose of this Convention, any transboundary movement of hazardous wastes or other wastes:

(a) Without notification pursuant to the provisions of this Convention to all States concerned; or

(b) Without the consent pursuant to the provisions of this Convention of a State concerned; or

(c) With consent obtained from States concerned through falsification, misrepresentation or fraud; or

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

(e) That results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law, shall be deemed to be illegal traffic" (Article 9, paragraph 1).

11.2 Obligations for Parties

"The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal" (Article 4, paragraph 3) and shall "introduce appropriate national/domestic legislation to prevent and punish illegal traffic" (Article 9, paragraph 5).

"In case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the State of export shall ensure that the wastes in question are:

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

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

within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree" (Article 9, paragraph 2).

If the traffic is deemed illegal "as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree" (Article 9, paragraph 3).

"In cases where the responsibility for the illegal traffic cannot be assigned either to the exporter or generator or to the importer or disposer, the Parties concerned or other Parties, as appropriate, shall ensure, through cooperation, that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the State of export or the State of import or elsewhere as appropriate" (Article 9, paragraph 4).

11.3 Obligations for the Secretariat

The Secretariat of the Convention shall "assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic" (Article 16, paragraph 1 (i))

12. SETTLING DISPUTES BETWEEN PARTIES

"In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice." In the event that the Parties fail to settle, the dispute may, by common agreement, be "submitted to the International Court of Justice or to arbitration" (Article 20, paragraphs 1 and 2).

"In the case of a material breach of the provisions of this Convention or any protocol thereto, the relevant international law of treaties shall apply" (Preamble, paragraph 16).

