



BASEL CONVENTION

ON THE CONTROL OF TRANSBOUNDARY
MOVEMENTS OF HAZARDOUS WASTES
AND THEIR DISPOSAL

PROTOCOL ON LIABILITY AND COMPENSATION

FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS
OF HAZARDOUS WASTES AND THEIR DISPOSAL

TEXTS AND ANNEXES



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INTRODUCTION

The management of hazardous wastes has been on the international environmental agenda from the early 1980s, when it was included as one of three priority areas in the United Nations Environment Programme's (UNEP) first Montevideo Programme on Environmental Law in 1981. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted on 22 March 1989 by the Conference of Plenipotentiaries in Basel, Switzerland, in response to a public outcry following the discovery, in the 1980s, in Africa and other parts of the developing world of deposits of toxic wastes imported from abroad. The Convention entered into force on 5 May 1992 and, as of 1 January 2011, there are 175 Parties to the Convention.

The overarching objective of the Basel Convention is to protect human health and the environment against the adverse effects of hazardous wastes. Its scope of application covers a wide range of wastes defined as "hazardous wastes" based on their origin and/or composition and their characteristics (article 1 and annexes I, III, VIII and IX), as well as two types of wastes defined as "other wastes" (household waste and incinerator ash; article 1 and annex II). The provisions of the Convention center around the following principal aims: (i) the reduction of hazardous waste generation and the promotion of environmentally sound management of hazardous wastes, wherever the place of disposal; (ii) the restriction of transboundary movements of hazardous wastes except where it is perceived to be in accordance with the principles of environmentally sound management; and (iii) a regulatory system applying to cases where transboundary movements are permissible.

Since its adoption, the Convention has seen a number of significant developments. The Amendment to the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

("the Ban Amendment") was adopted by the third meeting of the Conference of the Parties (COP) in 1995. The Ban Amendment provides for the prohibition of exports of all hazardous wastes covered by the Convention that are intended for final disposal, reuse, recycling and recovery from countries listed in annex VII to the Convention (Parties and other States which are members of the OECD, EC, Liechtenstein) to all other countries. As at 1 January 2011, the Ban Amendment has not yet entered into force. The challenge of protecting vulnerable countries from unwanted hazardous waste imports, while not precluding the import of wastes considered valuable secondary raw materials to countries in a position to manage them in an environmentally sound manner has therefore gained importance. Informal discussions were initiated at COP 9 in 2008 to identify a way to enable the entry into force of the Ban Amendment while addressing the concerns and needs of all countries in this context.

Annexes VIII and IX to the Convention, which provide further elaboration as to the wastes regulated by the Convention as listed in Annexes I and III were adopted by COP 4 in 1998.

The Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal was adopted by COP 5 in 1999. The Basel Protocol regulates civil liability for damage resulting from the transboundary movement of hazardous wastes and other wastes, including incidents occurring as a result of illegal traffic. As at 1 January 2011, the Basel Protocol has not yet entered into force. Delegates at COP 5 also agreed on an interim arrangement to cover emergency situations until the Protocol enters into force. COP 6 in 2002 approved the Interim Guidelines for the Implementation of decision V/32 on the Enlargement of the scope of the Technical Cooperation Trust Fund.

A Committee for Administering the Mechanism for Promoting Implementation and Compliance was established at COP 6 in Geneva in 2002. The objective of this mechanism is to assist Parties to comply with their obligations under the Convention and to facilitate, promote, monitor and aim to secure the implementation of, and compliance with, the obligations under the Convention. The mechanism is non-confrontational, transparent, cost-effective and preventive in nature, simple, flexible, non-binding and oriented in the direction of helping Parties to implement the provisions of the Basel Convention.

One of the most important contributions of the Basel Convention over the past 20 years is the elaboration of a significant number of policy instruments with non-binding character. Within the framework of the Convention, a large body of technical guidelines on the management of specific waste streams has been developed by technical government expert groups and approved by the COP. These non-binding instruments have been designed for the use of Governments at all levels, as well as other stakeholders, to provide practical guidance and thus facilitate the management of the relevant waste streams.

In 2002, COP 6 adopted the Strategic Plan for the implementation of the Basel Convention for the period 2002 to 2010, to assist developing countries and countries with economies in transition in implementing the provisions of the Convention. Numerous national and regional cooperation

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