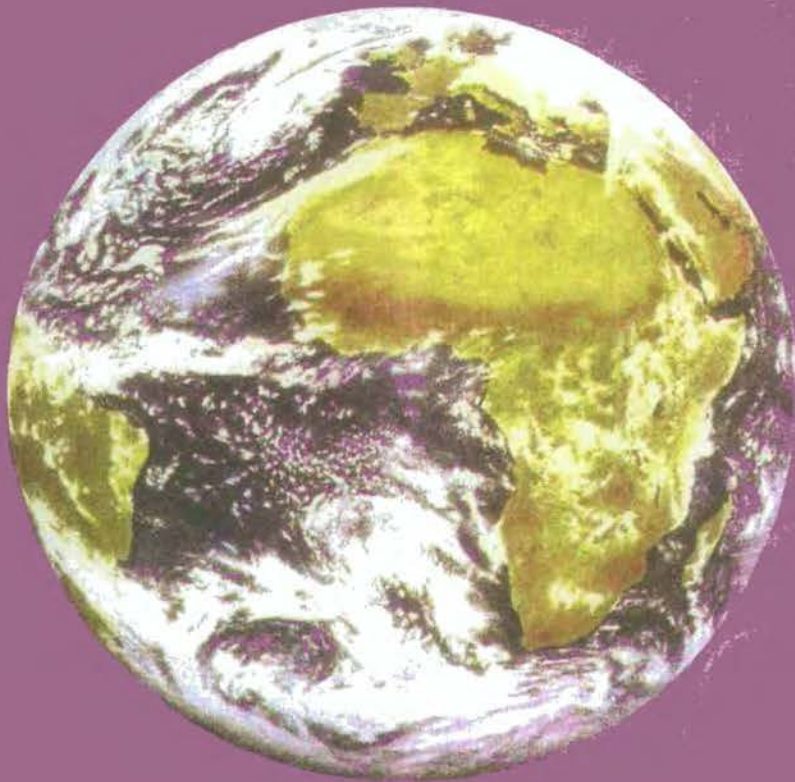


The Basel Convention:



A Global Solution for Controlling Hazardous Wastes



UNITED NATIONS

Printed in Switzerland
GE.97-01695-June 1997-5,000

UNEP/SBC/97/4



UNEP

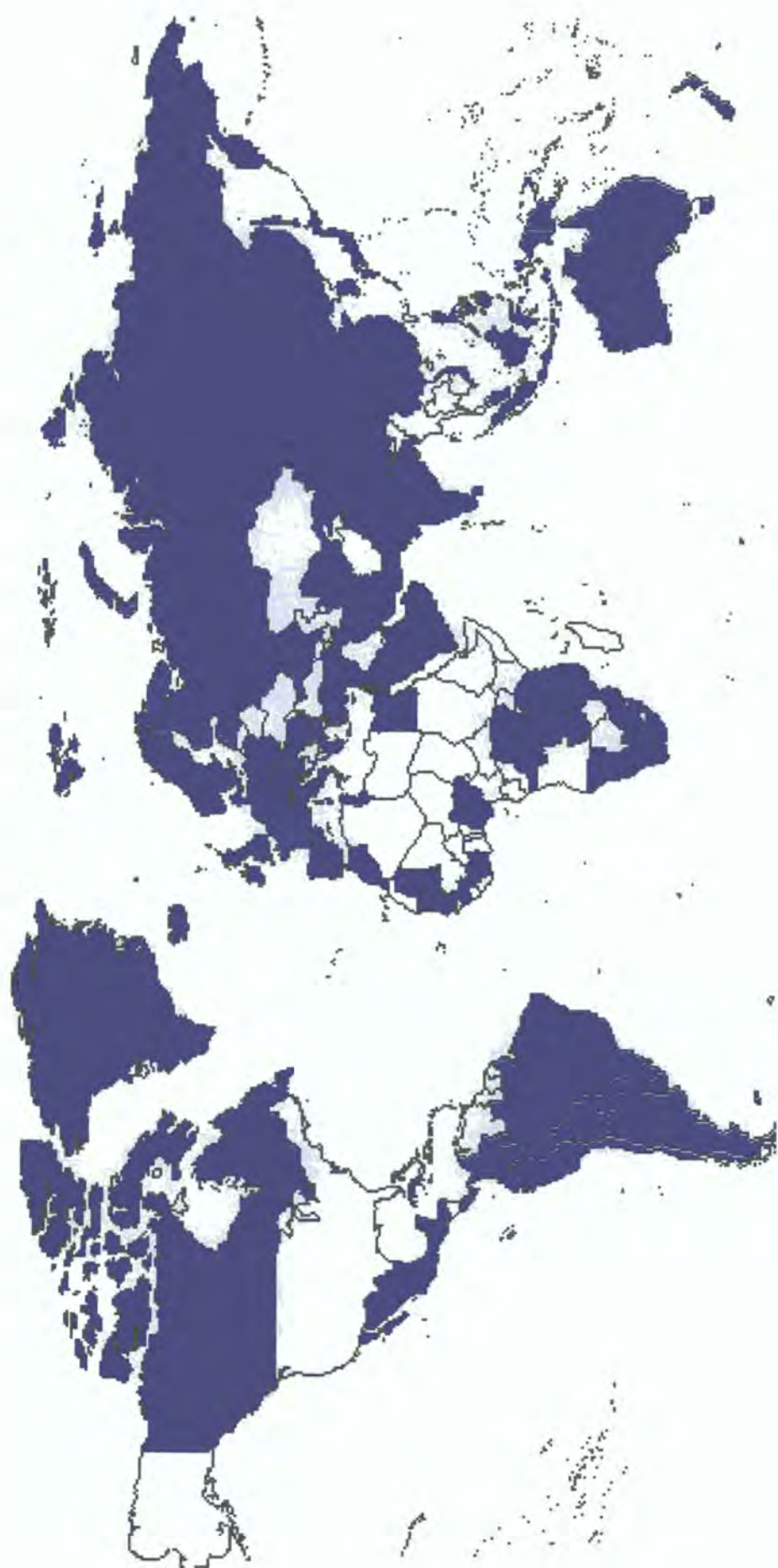
The Basel Convention

A Global Solution for Controlling Hazardous Wastes



UNITED NATIONS
New York and Geneva, 1997

The map below replaces the map on page 6. It should be read together with the List of Parties on page 5.



The Basel family: States Parties to the Basel Convention as of May 1997

PREFACE

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, adopted by the diplomatic conference in Basel in 1989, was developed under the auspices of the United Nations Environment Programme (UNEP) and entered into force in May 1992. As of May 1997, the Basel Convention has 111 States and the European Community as Parties. The rapidly increasing number of Parties reflects the growing awareness and interest of States in this important sector of environment and health protection.

The following are the key objectives of the Basel Convention:

- ◆ To reduce transboundary movements of hazardous wastes and other wastes subject to the Basel Convention to a minimum consistent with their environmentally sound management;
- ◆ To dispose of the hazardous wastes and other wastes generated, as close as possible to their source of generation;
- ◆ To minimize the generation of hazardous wastes in terms of quantity and hazard-ousness;
- ◆ To ensure strict control over the movements of hazardous wastes across borders as well as the prevention of illegal traffic;
- ◆ To prohibit shipments of hazardous wastes to countries lacking the legal, administrative and technical capacity to manage and dispose of them in an environmentally sound manner;
- ◆ To assist developing countries and countries with economies in transition in environmentally sound management of the hazardous wastes they generate.

The Basel Convention is the broadest and most significant international treaty on hazardous wastes presently in effect. The impact of hazardous wastes on the environment has large repercussions, particularly on the quality of waters and land. Effective regulation of the management and disposal of hazardous wastes requires cooperation at the global level. The Basel Convention is the first and foremost global legal instrument regulating the transboundary movement of hazardous wastes and their disposal.

The purpose of this booklet: *The Basel Convention: A Global Solution for Controlling Hazardous Wastes* is to promote knowledge about the implementation of the Basel Convention. Furthermore one of the main functions of the Secretariat of the Basel Convention is also to collect and disseminate information on environmental sound management, on control of transboundary movement and disposal of hazardous wastes.

Dr. Iwona Rummel-Bulska
Executive Secretary
Secretariat of the Basel Convention
May 1997

TABLE OF CONTENTS

	<i>Page</i>
PREFACE	iii
BACKGROUND	1
1. WHAT LED TO THE ELABORATION OF THE BASEL CONVENTION?	3
The Montevideo Programme	3
The Cairo Guidelines	3
The negotiating process	3
2. HOW DOES THE BASEL CONVENTION FUNCTION?	7
3. WHAT ARE THE IMPORTANT DEFINITIONS?	11
4. WHAT ARE THE MAIN PROVISIONS OF THE CONVENTION?	13
5. WHAT IS THE FOUNDATION FOR THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES?	15
Notification system	15
Ban	16
Lists of wastes	17
6. WHAT ARE THE ESSENTIAL ELEMENTS FOR THE ENVIRONMENTALLY SOUND MANAGEMENT OF HAZARDOUS WASTES?	19
Technical Guidelines	19
Protocol on Liability and Compensation	19
Emergency Fund	19
7. WHAT ARE THE MAIN SUPPORTS FOR IMPLEMENTING THE CONVENTION?	21
Manual for Implementation of the Convention	21
National legislation	21
Regional centres for training and technology transfer	21
Technical assistance and training	23
8. HOW DOES THE CONVENTION ADDRESS ILLEGAL TRAFFIC PROBLEMS?	25
9. HOW DOES INTERNATIONAL AND REGIONAL COOPERATION FUNCTION TO IMPLEMENT THE BASEL CONVENTION?	27
10. WHAT ARE SOME KEY EMERGING ISSUES?	31
Trade and environment	31
CONCLUSION	35

BACKGROUND



Since the beginning of the century the world has experienced unprecedented industrialization and economic growth. New discoveries, techniques and technologies formed a basis for accelerated development in the chemicals field. Synthetic fibres such as nylon and terylene for use in various kinds of textiles; plastics such as PVC and polythene for use as packing material, in furniture and in cars; insecticides, herbicides and other pesticides; an array of new pharmaceuticals, and many other chemically-based new products came into widespread use. In addition, a great many new process chemicals were synthesized and used in industry. In homes the use of new

detergents, types of paints and other household chemicals marked the beginning of a new era. At the same time the harmful effects on human health and on the environment of wastes generated by producing and consuming industrial and agricultural goods have become increasingly striking. Industry and mining are the main sources of hazardous wastes, particularly in industrialized countries. The generation of hazardous wastes is not confined to large-scale industrial plants, as small-scale industry, small workshops, garages and very small production units collectively produce large and diverse quantities of hazardous wastes. Furthermore, transport services, hospitals, research laboratories, public buildings, military establishments and even households are often sources of highly dangerous materials. Within the industrial sector itself, the chemical industry is by far the main source of hazardous wastes. In developing countries, small-scale industry is an important source of ill-defined heterogeneous quantities of hazardous waste. One of the most difficult environmental challenges the world faces is hazardous waste: large quantities of waste generated with more and more complex chemical structures leading to increased difficulties.

There are more than 400 million tonnes (metric) of hazardous wastes generated each year worldwide. Some 10 per cent of these wastes cross national frontiers. Stockpiles of corrosive acids, organic chemicals, toxic metals and other wastes pose acute, long-term health and ecological threats, causing groundwater contamination, leaching and other types of pollution. For economic reasons, a large volume of the movements of hazardous wastes used to be exported from industrialized countries to developing countries as well as to Eastern and Central Europe where the disposal costs were lower. Unfortunately a number of these countries lacked environmentally sound management of waste disposal. In developing countries future action in minimizing and managing hazardous wastes is required because the capabilities and capacities of these countries in disposal, monitoring and enforcement are quite weak. Another major problem is the scarcity of resources that could be allocated to sound hazardous waste management practices. Therefore, transboundary movements of hazardous wastes have become a global problem demanding global solutions. However, in developing countries in particular front-line measures are urgently required to cope with existing problems due to hazardous waste generation.

1. WHAT LED TO THE ELABORATION OF THE BASEL CONVENTION?

Recognizing the need for urgent action, the international community put the issue of hazardous waste on its agenda. Under the auspices of the United Nations Environment Programme (UNEP), a global legal instrument on environmentally sound management of hazardous wastes and on their transboundary movements and disposal was elaborated as from the early 1980s.

The Montevideo Programme

The Governing Council of UNEP in May 1981 established an Ad Hoc Meeting of Senior Government Officials Expert in Environmental Law to identify subjects for increased global and regional cooperation in the elaboration of environmental law. The first meeting of this expert group was held in Montevideo, Uruguay, from 28 October to 6 November 1981. The so-called Montevideo Programme contained conclusions and recommendations highlighting several important environmental issues, such as the transport, handling and disposal of toxic and dangerous wastes. The preparation of guidelines and principles was included in this programme which could lead to a global convention on hazardous wastes.

The Cairo Guidelines

The Governing Council of UNEP in 1982 established a working group of experts to develop guidelines or principles on the environmentally sound transport, management and disposal of hazardous wastes. The working group developed and agreed on the Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes, the so-called Cairo Guidelines, in December 1985. The Governing Council of UNEP adopted the Guidelines at its session of June 1987. The Executive Director of UNEP was authorized to establish a working group of legal and technical experts to prepare a global Convention on the control of transboundary movements of hazardous wastes.

The negotiating process

The Basel Convention is the result of intensive negotiations among representatives of States with different economic, technical and geographical situations. It was not always easy to reach consensus, though the work was carried out in view of the common aim to reduce and control the international traffic of dangerous wastes.

The first meeting of the Ad Hoc Working Group of Legal and Technical Experts took place in October 1987 in Budapest, Hungary. It had a mandate to prepare a global Convention on the control of hazardous wastes taking into consideration the work of the European Economic Community (EEC) and the Organisation for Economic Co-operation and Development (OECD) which had already done substantial work on this issue. The experts agreed that the Convention should include two main elements. First, it should take the form of a framework Convention which would require further specific implementation instruments. Secondly, it should also contain provisions with direct implications for the control of transboundary movements of hazardous wastes specifying clearly the responsibility of States involved in such movements. Experts from 96 States participated in one or more of the sessions and representatives of more than 50 international organi-



Open sewage in a populated neighbourhood. Used oil and other contaminants are disposed of by a nearby electrical power plant

zations attended as observers. The Conference of Plenipotentiaries on the Global Convention on the Control of Transboundary Movements of Hazardous Wastes, was convened in Basel, Switzerland, from 20 to 22 March 1989. As a result, worldwide concern about the transboundary movements and disposal of hazardous wastes crystallized into a convention negotiated under the United Nations Environment Programme entitled *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal* in 1989. One hundred and five States and the European Economic Community (EEC) signed the final act of the Conference, 35 States and the EEC signed the Convention immediately after its adoption. The diplomatic conference also adopted eight resolutions to develop and implement the Convention. The Convention entered into force on 5 May 1992, 90 days after its ratification by the 20th State. As of May 1997, the Basel Convention had 111 States and the European Economic Community as Contracting Parties. The rapidly increasing number of Parties reveals the spreading interest of States in the protection of the environment and human health.

**List of Parties to the Basel Convention of the control of transboundary movements of hazardous wastes and their disposal (adopted in 1989 and entered into force in 1992)
Geneva, 30 May 1997**

Africa	Asia and Pacific	Western Europe and Others	Central and Eastern Europe	Latin America and Caribbean
Burundi	Bahrain	Australia	Bulgaria	Antigua and Barbuda
Comoros	Bangladesh	Austria	Croatia	Argentina
Côte d'Ivoire	China	Belgium	Czech Republic	Bahamas
Egypt	India	Canada	Estonia	Barbados
Guinea	Indonesia	Cyprus	Hungary	Belize
Malawi	Iran (Islamic Republic of)	Denmark	Latvia	Bolivia
Mauritania	Japan	Finland	Poland	Brazil
Mauritius	Jordan	France	Romania	Chile
Morocco	Kuwait	Germany	Russian Federation	Colombia
Mozambique	Kyrgyzstan	Greece	Slovakia	Costa Rica
Namibia	Lebanon	Iceland	Slovenia	Cuba
Nigeria	Malaysia	Ireland		Ecuador
Senegal	Maldives	Israel		El Salvador
Seychelles	Micronesia (Federated States of)	Italy		Guatemala
South Africa	Mongolia	Liechtenstein		Honduras
Tunisia	Nepal	Luxembourg		Mexico
United Republic of Tanzania	Oman	Monaco		Panama
Zaire	Pakistan	Netherlands		Paraguay
Zambia	Papua New Guinea	New Zealand		Peru
	Philippines	Norway		Saint Kitts and Nevis
	Qatar	Portugal		Saint Lucia
	Republic of Korea	Spain		Saint Vincent and the Grenadines
	Saudi Arabia	Sweden		Trinidad and Tobago
	Singapore	Switzerland		Uruguay
	Sri Lanka	Turkey		
	Syrian Arab Republic	United Kingdom of Great Britain and Northern Ireland		
	Turkmenistan			
	United Arab Emirates			
	Uzbekistan			
	Viet Nam			
	Yemen			
19	31	26	11	24

Political and/or Economic Integration Organizations: European Economic Community.

TOTAL NUMBER OF CONTRACTING PARTIES: 111 States Parties and 1 Economic Integration Organization.



The Basel family: countries which have ratified or acceded to the Convention as of May 1997

2. HOW DOES THE BASEL CONVENTION FUNCTION?

The Conference of the Parties (COP) is a meeting of the Contracting Parties established in accordance with article 15 of the Convention. It is the governing body of the Convention. The United Nations, its specialized agencies, as well as any States not Party to the Convention are also invited to participate as observers at meetings of the COP. Any other body or agency, whether international or national, governmental or non-governmental, such as industry associations, qualified in the matter of hazardous wastes or other wastes and having notified interest in attending the Conference of the Parties can participate as observers unless one third of the Parties objects. The main function of the Conference of the Parties is to continuously review and evaluate the effective implementation of the Convention. The Conference of the Parties can establish subsidiary bodies as deemed necessary for the implementation of the Convention. There have been three meetings of the COP. The first meeting of the Conference of the Parties was held in Piriapolis, Uruguay, from 30 November to 4 December 1992 and two others were held in Geneva from 21-25 March 1994 and 18-22 September 1995.

The Extended Bureau, composed of actual Bureau members and previous Bureau members of the Conference of the Parties, is to provide general policy and general operational directions to the Secretariat between meetings of the Conference of the Parties and provide guidance and advice to the Secretariat on the preparation of agendas and other requirements of meetings and in any other matters brought to it by the Secretariat in the exercise of the functions, in particular regarding financial and institutional matters.

The Open-ended Ad Hoc Committee was established by the Conference of the Contracting Parties to facilitate the implementation of the Basel Convention and it was agreed that it would meet between the meetings of the Contracting Parties. One of its main tasks is to prepare work for the consideration of the Conference of the Parties.

The Technical Working Group was established by the Conference of the Contracting Parties to prepare as its first task technical guidance for the environmentally sound management of hazardous wastes, to develop criteria on which wastes are suitable for recovery and recycling operations and to provide guidance on technical matters to the Conference of the Parties. Taking into account development within the Basel Convention, the Technical Working Group is actively involved in better defining, identifying and clarifying what hazardous waste is under the Convention.

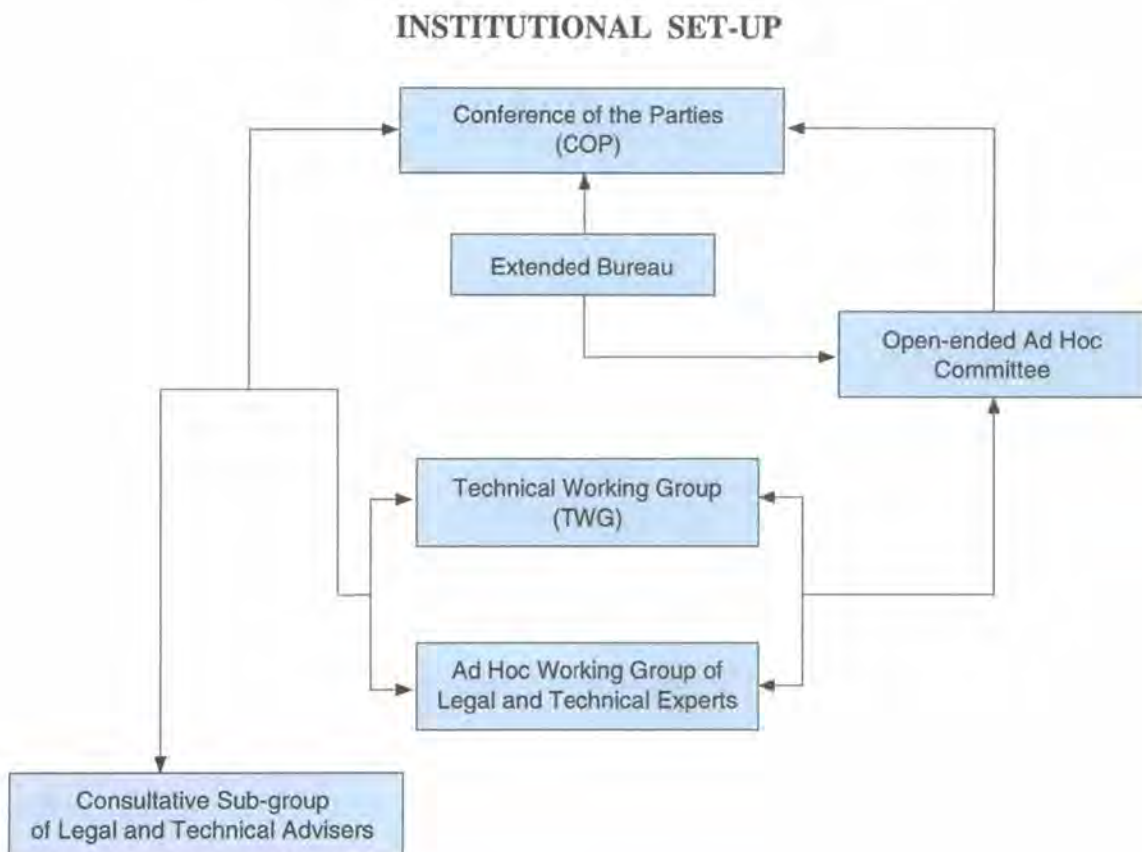
The Ad Hoc Working Group of Legal and Technical Experts was established by the Conference of the Contracting Parties to consider and develop a draft protocol on liability and compensation for damage resulting from transboundary movements of hazardous wastes and their disposal.

The Consultative Sub-group of Legal and Technical Advisers was established by the Conference of the Contracting Parties to study the issues related to the establishment of a mechanism for monitoring the implementation of and compliance with the Basel Convention and to examine the issues related to the establishment of an emergency fund.

The Secretariat of the Basel Convention was established in January 1993 and is located in Geneva at the invitation of the Swiss Government. The Secretariat, with a limited staff, is composed of an Executive Secretary, a Senior Programme Officer, two Programme Officers, an Information Officer/Documentalist and four support staff members.

The main activities of the Secretariat consist of:

1. Carrying out the implementation of the Convention as guided and decided by COP and its subsidiary bodies;
2. Arranging for and servicing meetings of the COP and its subsidiary bodies;
3. Ensuring the necessary coordination with relevant international bodies;
4. Communicating with Focal Points and Competent Authorities established by the Parties;
5. Providing information to Parties on:
 - Sources of technical assistance and training;
 - Scientific know-how; and environmentally sound technologies; and
 - Availability of resources.
6. Assisting Parties in:
 - Controlling movements of hazardous wastes;
 - Handling of the notification system of this Convention;
 - Managing and minimizing of hazardous wastes;
 - Assessing disposal capabilities and sites;
 - Monitoring of hazardous wastes and emergency responses; and
 - Identifying cases of illegal traffic.



There are several **national bodies** acting at the national level towards the implementation of the Basel Convention, such as:

The Competent Authority is the governmental authority designated by a Party to be responsible for receiving, informing and responding to the notification of a transboundary movement of hazardous wastes.

The Focal Point is the entity of a Party responsible for transmitting information and communicating with the Secretariat.

3. WHAT ARE THE IMPORTANT DEFINITIONS?

How is *waste* defined in the Basel Convention?

Wastes are 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.

What is meant by *hazardous waste* in the Basel Convention?

First, rather than adopting one definition of hazardous waste, the Convention takes a broad view that there are 45 categories of wastes that are presumed to be hazardous in the Convention. Eighteen of them are waste streams (i.e. clinical wastes, mineral oils, PCB) and 27 others are wastes having clearly identified constituents (i.e. mercury, lead, asbestos, organic cyanides, halogenated organic solvents). However, in order to be classified as hazardous, these categories of wastes need to exhibit one or more hazardous characteristics, such as being flammable, oxidizing, poisonous, infectious, corrosive, ecotoxic. Secondly, if a waste is considered hazardous by the national legislation of the Party of export, import or transit, it will be considered hazardous for the purpose of transboundary movement by all States involved.

What is meant by *other wastes* in the Basel Convention?

The Basel Convention covers two categories of wastes requiring special consideration: waste collected from households and residues arising from the incineration of household wastes.

Which wastes are excluded from the scope of the Basel Convention?

There are two categories of wastes excluded from the scope of the Convention. First, radioactive waste which is covered by other international agreements or arrangements, such as the International Atomic Energy Agency (IAEA) Code of Practice on the International Transboundary Movement of Radioactive Waste (1990). Secondly, waste deriving from the normal operations of a ship which is covered by other international agreements or arrangements, such as the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78 Convention).

What is meant by *transboundary movement*?

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.

What is *environmentally sound management*?

According to the Basel Convention *environmentally sound management of hazardous wastes or other wastes* means “*taking all practicable steps to ensure that hazardous wastes and other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes*”.

A number of interrelated principles are used by Governments when considering the development of waste and hazardous waste strategies. These are:

- (a) *The Source Reduction Principle*—by which the generation of waste should be minimized in terms of its quantity and its potential to cause pollution. This may be achieved by using appropriate plant and process designs;
- (b) *The Integrated Life-cycle Principle*—by which substances and products should be designed and managed such that minimum environmental impact is caused during their generation, use, recovery and disposal;
- (c) *The Precautionary Principle*—whereby preventive measures are taken, considering the costs and benefits of action and inaction, when there is a scientific basis, even if limited, to believe that release into the environment of substances, waste or energy is likely to cause harm to human health or the environment;
- (d) *The Integrated Pollution Control Principle*—which requires that the management of hazardous waste should be based on a strategy which takes into account the potential for cross media and multimedia synergistic effects;
- (e) *The Standardization Principle*—which requires the provision of standards for the environmentally sound management of hazardous wastes at all stages of their processing, treatment, disposal and recovery;
- (f)¹ *The Self-sufficiency Principle* (to be considered with (g) and (h))—by which countries should ensure that the disposal of the waste generated within their territory is undertaken there by means which are compatible with environmentally sound management, recognizing that economically sound management of some wastes outside national territories may also be environmentally sound;
- (g) *The Proximity Principle* (to be considered with (f) and (h))—by which the disposal of hazardous wastes must take place as close as possible to their point of generation, recognizing that economically and environmentally sound management of some wastes will be achieved at specialized facilities located at greater distances from the point of generation;
- (h) *The Least Transboundary Movement Principle* (to be considered with (f) and (g))—by which transboundary movements of hazardous wastes should be reduced to a minimum consistent with efficient and environmentally sound management;
- (i) *The Polluter Pays Principle*—by which the potential polluter must act to prevent pollution and those who cause pollution pay for remedying the consequences of that pollution;
- (j) *The Principle of Sovereignty*—under which every country shall take into account political, social and economic conditions in establishing a national waste management structure. A country may, for example, ban the importation of hazardous wastes into its territory in accord with its national environmental legislation;
- (k) *The Principle of Public Participation*—under which States should ensure that in all stages, waste management options are considered in consultation with the public as appropriate, and that the public has access to information concerning the management of hazardous wastes.

¹ Principles (f), (g) and (h) should be considered in relationship and balance. It should also be recognized that considerations for disposal may be different from those for recovery, which, if soundly managed, can provide environmental and economic benefits and should be encouraged.

4. WHAT ARE THE MAIN PROVISIONS OF THE CONVENTION?

The overall goal of the Basel Convention is to protect human health and the environment against the adverse effects which may result from the generation, transboundary movements and management of hazardous and other wastes. To achieve this a number of interrelated objectives are to be fulfilled:

- ◆ Reducing transboundary movements of wastes to a minimum consistent with their environmentally sound and efficient management, and controlling any permitted transboundary movement under the terms of the Convention;
- ◆ Minimizing the quantity and the hazardousness of wastes generated and ensuring their environmentally sound management including the treatment of these wastes as close as possible to their source of generation;
- ◆ Assisting developing countries in environmentally sound management of the hazardous and other wastes they generate.

In other words, the aim of the Basel Convention is to help reduce the number of transboundary movements and the quantity of hazardous wastes to a minimum, and to manage and dispose of these wastes in an environmentally sound manner.

Article 4 provides general obligations to the Parties including:

- Parties exercise their right to prohibit the import of hazardous wastes.
- Parties shall prohibit the export of hazardous wastes to the Parties which have prohibited the import of such wastes.
- For wastes not specifically prohibited by the importing State, Parties shall prohibit the export of hazardous wastes if the importing State has not consented in writing to the specific import.
- Each Party shall prevent the import of hazardous wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner.
- Any Party shall not permit the export and/or import of hazardous wastes involving a State that is not a Party to the Convention.
- Parties agree not to allow the export of hazardous wastes for disposal to Antarctica.

According to article 11, the Parties may enter into bilateral, multilateral or regional agreements or arrangements regarding transboundary movements of hazardous wastes if such agreements do not derogate from the environmentally sound management as required by the Convention. Parties should notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements and those which they have entered into prior to the entry into force of this Convention, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements.

5. WHAT IS THE FOUNDATION FOR THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES?

Notification system

The Basel Convention has set up a very strict control system, based on the prior written consent procedure. The procedure for the notification of transboundary movements of hazardous wastes or other wastes forms the basis of the control system of the Basel Convention. One important condition under the Basel Convention is that the transboundary movement of hazardous wastes or other wastes can take place only upon prior written notification to the competent authorities of the States of export, import and transit (if appropriate), and upon consent from these authorities permitting the transboundary movement of waste. Furthermore, each shipment of hazardous waste or other waste shall be accompanied by a movement document from the point at which a transboundary movement begins to the point of disposal.

In accordance with article 6, paragraph 1 of the Basel Convention, the State of export shall notify, or shall require the generator or exporter to notify in writing, using appropriate documentation of the competent authority of the State of export, the competent authorities of the States concerned of any transboundary movement of hazardous wastes or other wastes.

Specific documents are to be used to notify the competent authorities in the countries concerned of all transboundary movements of hazardous wastes and other wastes and, subsequently, to accompany the movement of waste. Competent authorities will issue these documents, which consist of two forms: *the notification and the movement document*.

The notification and its annexes are designed to provide detailed, accurate and complete information about the Parties involved with the movement(s), on the waste itself, on the type of disposal operation for which the waste is destined, and on other details relating to the proposed movement (i.e.: existence of a contract between the exporter and the disposer; financial guarantee). This information will allow the competent authorities concerned to be sufficiently informed to make a judgement on whether to object or consent to the movement, in accordance with the Basel Convention and relevant national legislation.

A notification may usually cover only one type of waste. However, the notification may cover several shipments of wastes over a maximum period of one year, provided the waste in question has the same physical and chemical characteristics and will be regularly shipped to the same disposer via the same customs offices for entry and exit. The term *general notification* is used when referring to such a notification.

The movement document is intended to accompany the consignment at all times from the time of departure from the waste generator to the arrival of the consignment at the disposer in another country. The movement document provides relevant information on a particular consignment, for example, on the carriers of the consignment, passage through customs offices, and the receipt and disposal of waste by the disposer.



Unsorted clinical waste mixed with solid waste within the premises of a hospital

The movement document should also provide accurate information on the authorizations by the competent authorities for the proposed movement of waste. It is therefore recommended by the Conference of the Parties that the duly completed notification should always accompany the movement document. Most of the countries accept a copy of the duly completed and fully authorized notification to be enclosed with the movement document. The competent authority shall sign and stamp each notification document and return all of them to the exporter/generator.

Ban

Article 4, paragraph 1(a), states that Parties to the Basel Convention exercise the right to prohibit the import of hazardous wastes. Article 4, paragraph 1(b), also states that Parties shall prohibit the export of hazardous wastes to the Parties which have prohibited the import of such wastes. The First Meeting of the Conference of the Parties referred to the prohibition of transboundary movement of hazardous wastes from industrialized to developing countries. Recognizing the increasing desire and demand of the international community for the prohibition of transboundary movements of hazardous wastes and their disposal especially in developing countries, the Second Meeting of the Conference of the Parties adopted Decision II/12. It prohibited immediately all transboundary movements of hazardous wastes which were destined for final disposal from OECD to non-OECD countries. All transboundary movement of hazardous wastes from OECD to non-OECD countries destined for recycling or recovery operations is to be phased out by 31 December 1997 and prohibited as of that date.

The Third Meeting of the Conference of the Parties adopted Decision III/1 on the Amendment to the Convention. This amendment stated that Parties which are members of OECD, EC, Liechtenstein are to prohibit immediately all transboundary movements of hazardous wastes destined for final disposal to other States. These States should phase out by 31 December 1997 and prohibit as of that date all transboundary movements of hazardous wastes which are destined for recovery, recycling, reclamation, direct reuse or alternative uses. A critical factor acknowledged by the Conference of the Parties was that transboundary movements of hazardous wastes, especially to developing countries, have a high risk of not constituting environmentally sound management

of hazardous wastes as required by the Convention. The Parties also recognized the need to cooperate and work actively to ensure the effective implementation of this decision. Moreover, this amendment needs to be ratified by three fourths of the Parties who accepted it in order to come into force. As of April 1997, the amendment has been ratified by Finland.

Lists of wastes

The Technical Working Group, at its session in February 1997, completed its work on the preparation of lists of wastes. Classification of wastes in two different lists has been elaborated in relation to the decision of the third COP to amend the Convention. The lists prepared by the Technical Working Group refer to specific wastes characterized as hazardous under the Basel Convention (list A) and those that would not fall under the scope of the Convention (list B), unless they are contaminated by constituents rendering them hazardous or are regulated by national legislation as hazardous wastes.

6. WHAT ARE THE ESSENTIAL ELEMENTS FOR THE ENVIRONMENTALLY SOUND MANAGEMENT OF HAZARDOUS WASTES?

Technical Guidelines

The Conference of the Parties adopted a Framework Document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes subject to the Basel Convention and sets of Technical Guidelines, namely on waste streams:

- Hazardous waste from the production and use of organic solvents;
 - Waste oils from petroleum origins and sources;
 - Wastes comprising or containing polychlorinated biphenyls (PCBs), polychlorinated terphenyls (PCTs) and polybrominated biphenyls (PBBs);
 - Wastes collected from households
- and on disposal operations:
- Specially engineered landfill;
 - Incineration on land;
 - Used oil re-refining or other reuses of previously used oil.

The Technical Working Group is preparing technical guidelines on physico-chemical and biological treatments. Furthermore, the preparation of guidance materials for the disposal of clinical wastes and waste pneumatic tyres is progressing.

Protocol on Liability and Compensation

The Contracting Parties agreed in article 12 to cooperate with a view to adopting a protocol setting out rules and procedures in the field of liability and compensation for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes. The Ad Hoc Working Group of Legal and Technical Experts has been working since 1993 on the development of this protocol which is supposed to be submitted to the Fourth Meeting of the Conference of the Parties in October 1997.

Emergency Fund

In case of emergency situations article 14 of the Convention stipulates that Parties shall consider the establishment of a revolving fund to assist, on an interim basis, the minimization of damage from accidents arising from transboundary movements of hazardous wastes and/or during the disposal of these wastes. The above-mentioned working group will also consider the necessary elements for establishing an Emergency Fund and its relationship to a possible Compensation Fund to be established under the Protocol on Liability and Compensation required under the Basel Convention.



Municipal wastes invading populated urban areas

7. WHAT ARE THE MAIN SUPPORTS FOR IMPLEMENTING THE CONVENTION?

Manual for Implementation of the Convention

The First Meeting of the Conference of the Parties adopted a Manual for Implementation of the Basel Convention. The purpose of the Manual is to facilitate the implementation of the Basel Convention for the Parties and any natural and/or legal persons involved in the generation, export, import and/or disposal of wastes subject to the Basel Convention.

National legislation

Article 4 of the Basel Convention requests Parties to take appropriate legal, administrative and other measures to implement and enforce its provisions. In order to assist the Parties to fulfil this obligation, the Secretariat arranged for the preparation of a Model National Legislation which was submitted to the Second Meeting of the Conference of the Parties. The model was accepted by that meeting and was requested to be distributed to Parties and non-Parties and for consideration when providing technical assistance in the field of national legislation. It covers both the transboundary movements of hazardous wastes and other wastes, and their management.

Regional centres for training and technology transfer

Article 14 sets forth that the Parties, according to the specific needs of different regions and subregions, should establish regional or subregional centres for training and technology transfer regarding the management of hazardous wastes and other wastes and the minimization of their generation. At the end of the First Conference of the Parties, the Parties requested the Open-ended Ad Hoc Committee to identify the specific needs of the different regions and subregions for training and technology transfer. The Second Meeting of the Conference of the Parties invited those countries in a position to do so, to supply financial and technical support for the feasibility studies to be conducted on the establishment of centres in the different regions. At the Third Meeting of the Conference of the Parties various sites were selected for the establishment of the regional and subregional centres. For Latin America and the Caribbean, Uruguay was selected as the coordinating centre with three subregional centres: Argentina for the South American subregion; El Salvador for Central America; and Trinidad and Tobago for the Caribbean. For Africa, three subregional centres should be established: one for Arabic-speaking countries; one for English-speaking countries; and one centre for French-speaking African countries. One centre for Central and Eastern Europe has already been established in the Slovak Republic with substantive support from Switzerland. A centre in China has started its operation for the Asia and Pacific region. The establishment of a centre in Indonesia is in the pipeline.

The centres are aimed primarily at strengthening the capacity of the Governments of the regions in complying with the technical, legal and institutional requirements of the environmentally sound management of hazardous wastes, as specified by the Basel Convention and further elaborated by its technical and legal bodies. The regional centres therefore provide the adequate institutional framework for the coordination and imple-



Regional centres in operation are written in capital letters

mentation of technical and practical programmes. The increasing demands for assistance to developing countries and countries with economies in transition provided the basis for the Secretariat to coordinate feasibility studies in Africa, Asia and the Pacific, Latin America and the Caribbean, and Eastern and Central Europe for the establishment of regional centres in these geographical regions which resulted in recommendations of sites to host the centres.

Africa

A feasibility study for the establishment of regional/subregional centres for the environmentally sound management of hazardous wastes for English-speaking African countries, identified the main needs of these countries with regard to training and technology transfer for the implementation of the Convention as well as their available resources to address those needs. Similar studies for the establishment of subregional centres for French-speaking and for Arabic-speaking African countries have been finalized and will provide the basis for discussion at regional and subregional level to initiate work.

Asia and the Pacific

A regional centre has been established in Beijing for the Asian region. A regional meeting of Asian and Pacific countries held in Beijing in July 1996 adopted the recommendations of the feasibility study and agreed on the priorities and the organizational set-up for the future centre. Moreover, a Board of Directors has been established, which will supervise and guide the activities of the centre. The first meeting of the Board of Directors has on its agenda: the establishment of objectives and goals of the Centre, setting-up strategies to meet these objectives and goals and work plan for the next three years.

Central and Eastern Europe

A subregional centre for training and technology transfer has been established in Bratislava, Slovakia. Switzerland signed an agreement with the Secretariat of the Basel Convention for financial support of this centre for the first two years of its operation. The first training course is expected to be held in June 1997.

Latin America and the Caribbean

An endorsement of the overall framework for the establishment of the network of regional/subregional centres for training and technology transfer in Latin America and the Caribbean was obtained from the Ministers of Environment of this region at their Tenth Meeting held in Buenos Aires on 11-12 November 1996. The Canadian Government has supported the initiation of activities for the establishment of the network of regional/subregional centres for training and technology transfer through the Coordinating Centre in Uruguay.

Technical assistance and training

The effective implementation of the Basel Convention and of the decisions taken by the Conference of the Parties and the achievement of the environmentally sound management of hazardous wastes rely upon developing the adequate capacity and capability at the national or regional levels and upon the active cooperation among Parties, and of Parties with non-Parties and international organizations. The growing number of Contracting Parties to the Basel Convention entails increasing demands for assistance to developing countries and countries with economies in transition. The Secretariat is cooperating with national authorities in developing national legislation, setting up inventories of hazardous wastes, strengthening national institutions, assessing the hazardous waste management situation and preparing hazardous waste management plans.

Another task of the Secretariat is to provide legal and technical advice to countries in order to solve specific problems related to the control and management of hazardous wastes. The Secretariat of the Basel Convention has, as one of its functions, to cooperate with Parties and with relevant international organizations in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation.

The Secretariat has been and is actively involved in the preparation and convening of national and regional workshops and seminars on the legal, institutional and technical implementation of the Basel Convention in Saint Lucia, Maldives, Cuba, Sri Lanka, Mauritius, Brazil, Haiti, Seychelles and Ecuador. Moreover, training seminars related to the establishment of regional centres for training and technology transfer have been held in Montevideo, Bratislava and Beijing. It is expected that, once the centres for training and technology transfer on the environmentally sound management of hazardous wastes have been established in all the regions, more and more activities on technical assistance and training will be taken over by these centres which will alleviate the burden of the small Secretariat of the Convention. The Basel Convention provides a number of obligations for Parties to ensure that if pollution occurs as a result of the transboundary movement of hazardous wastes or their management, they shall minimize the consequences thereof for human health and the environment.

8. HOW DOES THE CONVENTION ADDRESS ILLEGAL TRAFFIC PROBLEMS?

Under the Basel Convention illegal traffic occurs if the transboundary movement of hazardous wastes is taking place:

- Without notification pursuant to the provisions of the Convention to all States concerned;
- Without the consent of a State concerned;
- With consent obtained through falsification, misrepresentation or fraud;
- That does not conform in a material way with the documents; or
- That results in deliberate disposal of hazardous wastes in contravention of the Convention and of general principles of international law.

In case of illegal traffic as the result of conduct on the part of the:

a) Exporter or generator, the State of export shall ensure that hazardous wastes are taken back by the exporter, generator or itself, or if impracticable, otherwise disposed of in accordance with the Convention;

b) 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, disposer or itself.

If the responsibility cannot be assigned either to the exporter or the generator or to the importer or the disposer, the Parties concerned or other Parties shall ensure, through cooperation, that the wastes are disposed of in an environmentally sound manner.

Under the Basel Convention the illegal traffic in hazardous wastes is considered criminal. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. Parties shall cooperate to prevent illegal traffic. In order to build up the capacity for an effective response to the illegal traffic, regional and sub-regional cooperation is a necessity. The United Nations regional commissions as well as other regional bodies and conventions have taken and should continue to take an effective role in the monitoring and prevention of illegal traffic in cooperation with the Secretariat. This is also one of the important issues to be dealt with at the regional/sub-regional centres for training and technology transfer established under the Basel Convention.

The United Nations General Assembly at its 44th session in 1989 adopted resolution 44/226 entitled: *Traffic in Toxic and Dangerous Products and Wastes*. It requested each United Nations regional economic commission to contribute to the prevention of the illegal traffic in toxic and dangerous products and wastes by monitoring and making regional assessments of this illegal traffic and its environmental and health implications in each region, in cooperation with UNEP and other relevant bodies. UNEP implemented this resolution developing a regional project in close cooperation with the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) in 1992.

The Basel Convention has been cooperating with INTERPOL in relation to illegal traffic in hazardous wastes. Moreover, both organizations participate in international conferences aimed at raising awareness concerning environmental crime. It was pointed

out that criminal activities involving hazardous wastes are on the rise as substantial profits can be gained at the cost of irreparably damaging the environment.

Illegal traffic of hazardous wastes has been taking place from developed to the developing countries. It is also well known that the extent of the illegal trafficking can only be roughly estimated and that at the present time only a small number of the incidents are uncovered and reported. The problem of illegal traffic has also been the subject of consideration by the Commission of Human Rights during its 51st, 52nd and 53rd sessions.

9. HOW DOES INTERNATIONAL AND REGIONAL COOPERATION FUNCTION TO IMPLEMENT THE BASEL CONVENTION?

As part of the United Nations Environmental Programme (UNEP), the Secretariat has a close working relationship with other UNEP departments. The Conference of the Parties gave a strong mandate to the Secretariat to cooperate with the relevant United Nations bodies, other intergovernmental bodies and non-governmental organizations in order to achieve environmentally sound management of hazardous wastes. In particular, these are:

IMO (International Maritime Organization)

SBC and the International Maritime Organization (IMO) have been collaborating to harmonize the provisions of the Basel Convention and the other international instruments in the field of maritime transportation of hazardous wastes and marine environment protection. IMO is responsible for two important conventions which are closely related to the Basel Convention namely: the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention, 1972) and the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78 Convention).

IAEA (International Atomic Energy Agency)

SBC and the International Atomic Energy Agency (IAEA) have been cooperating to make sure that the provisions of the Basel Convention have been fully taken into account and have been considered a bottom line for instruments which regulate transactions involving nuclear wastes. The Secretariat has been continuing its cooperation with IAEA whose members are preparing a Convention on Safety of Management of Radioactive Wastes.

UNIDO (United Nations Industrial Development Organization)

SBC has been collaborating with the United Nations Industrial Development Organization (UNIDO) in providing information on existing databases with regard to available technical and scientific know-how on hazardous waste and in the development and activities of the regional/subregional centres for training and technology transfer on the environmentally sound management of hazardous wastes.

FAO (Food and Agriculture Organization)

SBC, in cooperation with UNEP/Chemicals (IRPTC), has been closely following the work of the Food and Agriculture Organization (FAO) on the disposal of obsolete and unwanted pesticide stocks in Africa and the Near East. In addition, SBC has been contributing to the work of the FAO in developing guidelines for pesticide management.

United Nations regional commissions

A close working relationship is carried on with United Nations regional commissions, in particular with the United Nations Economic Commission for Europe (UN/ECE) on matters related to the recommendations, rules and regulations governing the transport of hazardous wastes as well as on matters pertaining to hazard characterization of wastes, effects of transboundary industrial pollution and persistent organic pollutants.

SBC has been cooperating with the other United Nations regional commissions with a view to promoting the development of compatible regional systems for the prevention of illegal traffic in hazardous wastes. As a result, information is exchanged particularly with the Economic and Social Commission for Western Asia (ESCWA), the Economic and Social Commission for Asia and the Pacific (ESCAP) and the Economic Commission for Latin America and the Caribbean (ECLAC). The latter has initiated the work on a draft convention for the region on the establishment of a mechanism to prevent illegal traffic.

Other United Nations bodies, specialized agencies and intergovernmental organizations

The Secretariat has been collaborating with the following United Nations bodies and specialized agencies: United Nations Department of Humanitarian Affairs (UN/DHA), United Nations Department for Policy Coordination and Sustainable Development (UN/DPCSD), United Nations Institute for Training and Research (UNITAR), World Health Organization (WHO) as well as with other intergovernmental organizations such as Caribbean Community (CARICOM), the Organization of African Unity (OAU), South Pacific Forum (SPF) and the South Pacific Regional Environment Programme (SPREP).

WCO (World Customs Organization)

In order to achieve the effective control and monitoring of transboundary movements of hazardous wastes at the border, SBC and WCO have been working together to include hazardous wastes as defined by the Basel Convention in the Harmonized System (world nomenclature used by customs).

OECD (Organisation for Economic Co-operation and Development)

SBC has a very close and continuous working relationship with the Organisation for Economic Co-operation and Development (OECD), with regard to information and data on hazardous waste movements and their generation. The OECD Environment Policy Committee reaffirmed that waste prevention should be the highest priority, complemented by strategies for reuse, recycling and environmentally sound disposal. It also reaffirmed the importance of the amendment to the Basel Convention and is committed to meeting this obligation. SBC has been regularly attending the meetings of the OECD Waste Management Policy Group (WMPG) which has been proceeding with its work on the waste minimization programme and on definitions, terms and concepts as well as measurement and evaluation of waste minimization.

EEC (European Economic Community)²

The European Economic Community has amended its legislation on shipments of wastes in order to implement the amendment to the Basel Convention. SBC and EEC

² The European Economic Community is Party to the Basel Convention.



Example of a good interim storage facility for hazardous wastes

have been cooperating on the preparation of technical guidelines for the environmentally sound management of wastes, on the separate identification of hazardous wastes in the Harmonized System and on hazard characterization of wastes. EEC has further been supporting the activities of the Secretariat in helping developing countries in implementing the provisions of the Basel Convention and in developing national strategies on the environmentally sound management of hazardous wastes. Priority has been given to the Caribbean and Africa for 1996/1998.

Regional agreements

The Secretariat of the Basel Convention has been closely involved in the preparation and implementation of regional agreements having responsibility for controlling the transboundary movements of hazardous wastes, in particular in Africa, the South Pacific region and in the Mediterranean.

The Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement of Hazardous Wastes within Africa was adopted on 30 January 1991 and entered into force on 20 March 1996. It follows to a large extent the provisions of the Basel Convention but was—at the time of its adoption—stricter than the Basel Convention, because it covered not only hazardous but also radioactive wastes and further banned the import of such wastes into Africa. Nowadays, the main concerns of the African countries are addressed in the global Basel regime.

The Convention to Ban the Importation into Forum Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention) was signed in September 1995 and for its entry into force it needs to be ratified by ten States. The vast Exclusive Economic Zones of the South Pacific are crossed by hazardous and radioactive wastes as vessels move between major waste producing and consuming

countries. The Waigani Convention therefore aims at protecting the territorial seas of the South Pacific through banning the importation of all hazardous and radioactive wastes from outside the Convention area and through ensuring that any transboundary movements of hazardous wastes within the Convention area are completed in an environmentally sound manner.

The Protocol for the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and Their Disposal was adopted in Izmir, Turkey in October 1996. It has not yet entered into force.

Private sector

Industry and business associations (e.g. International Chamber of Commerce (ICC), International Recycling Bureau (BIR), European Federation of Waste Management (FEAD), Council of the Federation of European Chemical Industries (CEFIC), International Precious Metal Institute (IPMI), International Council of Metals and the Environment (ICME), EUROMETAUX) and environmental groups (e.g. Greenpeace International), in cooperation with the Secretariat, have been actively contributing to the implementation of the Basel Convention.

10. WHAT ARE SOME KEY EMERGING ISSUES?

Trade and environment

The relationship between trade and environment has recently taken a new dimension in view of the promotion of free trade internationally by the World Trade Organization (WTO) and other organizations and of the necessity to protect the environment as well as ensuring the proper management of natural resources. The Basel Convention contains two provisions referring to international trade. The first one is related to the obligations of the Parties to the Convention not to allow export to or import from non-Parties to the Convention (article 4, paragraph 5), and the second provision is the right of the Parties to ban the import of hazardous wastes (preamble, paragraph 6 and article 4, paragraph 1(a)).

(a) *The obligation of the Parties to the Basel Convention not to export to or import from non-Parties to the Convention*

One of the main principles of the Basel Convention is to impose strict control measures on the transboundary movements of hazardous wastes in order to avoid the negative effects on health and the environment which could result from the movements of such wastes and to guarantee their proper handling from their generation to their final disposal. It was clear during the negotiations leading to the Basel Convention that permitting a Party to deal with non-Parties will be a valve through which the Party could derogate from the obligations it has undertaken under the terms and provisions of the Basel Convention and thus practising the movement and disposal of hazardous wastes without any kind of guarantee and safety for human health and the environment. As a result of this reasoning and also in order to encourage non-Parties to become Party to the Basel Convention, the provision of paragraph 5 of article 4 was included in the Basel Convention stating that "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".

Of direct link to this article comes the provision of article 11 in both its paragraphs 1 and 2, permitting Parties to deal with non-Parties under the condition of concluding bilateral, multilateral or regional agreements or arrangements. These agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by this Convention for agreements concluded after the entry into force of the Basel Convention. Agreements concluded before the entry into force of the Basel Convention shall be compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

The above quoted provisions of article 11 allow the Parties to the Convention to deal with non-Parties on the basis of parallel rules to the Basel Convention to be included in bilateral, multilateral or regional agreements or arrangements. The provisions of the Basel Convention, therefore, permit export and import to and from non-Parties only under the conditions that it is based on rules not less environmentally sound than the ones of the Convention.

(b) *The right of the Parties to ban the import of hazardous wastes*

The provisions of the Basel Convention state that the right to ban is a general one which shall, if used, be applied *vis-à-vis* all other countries equally Parties and non-Parties to the Convention. Exercising such a right is, therefore, in compliance with

the principle of non-discrimination. Also, doubts cannot be raised that the country which exercises this right is following a protectionist policy because from the definition of waste it is clear that they are not goods which are produced to be commercialized, but are generated as a result of the production process of other goods. The concept of protecting a market for the waste generated locally has, therefore, no place within the logic of the Basel Convention.

As referred to above, article 11 of the Basel Convention regulates the relationship with non-Parties on a non-discriminatory basis. No problems have been raised in implementing this article. Should any problem be raised in the future, the Open-ended Ad Hoc Committee, established under the terms of Decision I/9 of the First Meeting of the Conference of the Parties to the Basel Convention, will deal with it.

In accordance with article 4, paragraph 1, Parties have the right to prohibit both imports (para. 1 (a)) and/or exports of hazardous wastes (para. 1(b)). The First Meeting of the Conference of the Parties to the Basel Convention adopted Decision I/22 which requested the industrialized countries to prohibit the export of hazardous wastes to developing countries for final disposal, and requested the developing countries to prohibit the import of hazardous wastes from industrialized countries. During the negotiations leading to the signature of the Basel Convention, it was emphasized by several delegates that that article only confirmed the sovereign right of every country to ban import and/or export of hazardous wastes.

Recognizing the increasing desire and demand of the international community for the prohibition of transboundary movements of hazardous wastes and their disposal especially in developing countries, the Second Meeting of the Conference of the Parties adopted a decision establishing the immediate prohibition of all transboundary movements of hazardous wastes which are destined for final disposal from OECD to non-OECD countries. The transboundary movement of hazardous wastes from OECD to non-OECD countries destined for recycling or recovery operations is to be phased out by 31 December 1997 and prohibited as of that date. This transitional period has been seen as necessary for those concerned with these movements to enable them to take appropriate measures consistent with the environmentally sound management of such wastes.

The Parties to the Convention agreed during the Conference that it was imperative to render such prohibition effective and decided on a control system through regular reporting on the implementation of the decision. In addition, those non-OECD States not possessing a national hazardous waste import prohibition and which allow the import from OECD States of hazardous wastes for recycling and recovery operations until 31 December 1997, should let the Secretariat of the Basel Convention know that it would allow the import from an OECD State of hazardous wastes for recycling or recovery operations by specifying the categories of hazardous wastes that are acceptable for import, the quantities to be imported, to which recycling/recovery process the waste will be subject and the final destination or disposal of the residues derived from such operations. The Parties also recognized the need to cooperate and work actively to ensure the effective implementation of this decision.

At the Third Conference of the Parties a decision was adopted to amend the Convention with respect to a prohibition, by each Party member of OECD, EC, Liechtenstein, of all transboundary movements of hazardous wastes which are destined for final disposal to other States. It also phases out by 31 December 1997 and prohibits as of that date all transboundary movements of hazardous wastes which are destined for recovery, recycling, reclamation, direct reuse or alternative uses from Party members of the OECD, EC, Liechtenstein, to other States. Such transboundary movement shall not

be prohibited unless the wastes in question are characterized as hazardous under the Convention.

In connection with the decision on adoption of an amendment, the Third Meeting of the Conference of the Parties to the Basel Convention requested the Technical Working Group to continue its work on hazard characterization of wastes subject to the Basel Convention (Decision III/12) as well as to continue its work on the development of lists of wastes which are hazardous and wastes which are not subject to the Convention.

The Conference also requested the Technical Working Group to develop technical guidelines to assist any Party or State that has the sovereign right to conclude agreements or arrangements including those under article 11 concerning the transboundary movement of hazardous wastes.

The following important points related to trade clauses under the Basel Convention should be emphasized:

- Trade between Parties and non-Parties to the Basel Convention is not prohibited. But in order to enhance the principle of non-discrimination and equal treatment, the Basel Convention requests, in accordance with article 11, its Parties when dealing with non-Parties to conclude bilateral agreements or arrangements stipulating provisions which are not less environmentally sound than those provided for by the Basel Convention. Therefore, in relation to the control of transboundary movements of hazardous wastes, Parties and non-Parties will have to respect standards recognized as essential by the international community for the protection of the environment. Trade restrictions against non-Parties do not only aim to induce non-Parties to accede to the agreements, but also to achieve the aim of non-discrimination. Article 11 of the Basel Convention on bilateral, multilateral or regional agreements or arrangements which complement the provisions of article 4 prohibits transboundary movements of wastes with non-Parties. Article 11 allows such movements through the conclusion of agreements or arrangements not less stringent than the provisions of the Basel Convention. Therefore, the aim of both articles 4 and 11 of the Basel Convention is to set international standards in relation to the transboundary movement of hazardous wastes, to be respected by Parties and non-Parties to the Basel Convention. This approach of the Basel Convention enhances the principle of equal treatment and non-discrimination.
- The decision taken by the third Conference of the Parties to amend the Convention constitutes a prohibition of transboundary movements of hazardous wastes from OECD, EC, Liechtenstein, to other States. It is based on the recognition that the movement of hazardous wastes, especially to developing countries, has a high risk of not constituting environmentally sound management of hazardous wastes and is not based on any trade consideration including protectionism. This concept of high risk of affecting the environment is part of the amendment and will be inserted as a new preambular paragraph and provision in the Convention.

As a general principle regarding the trade clauses it has to be emphasized that a clear differentiation is to be made between unilateral actions by some governments related to the establishment of environmental standards which have a direct impact on trade, and the global environment agreements which do establish rules that could affect trade, but which are agreed upon by a very large number of governments. In this regard, it has to be pointed out that while WTO could be in a position to examine the compatibility of such unilateral action with GATT provisions, this is not the case for environmental agreements of a global character because of the equal legal status of WTO and those global environmental agreements.

CONCLUSION

The Basel Convention is a dynamic and flexible global agreement with an inbuilt capacity for further development. It has been reviewed and developed by its Contracting Parties, in accordance with emerging requirements and changing priorities. It is a unique forum where governments of the world discuss and negotiate solutions to the problems related to the environmental sound management of hazardous wastes experienced at the regional and international levels.

The Basel Convention has established a global regulatory regime for the environmentally sound management of hazardous wastes and their transboundary movement. It has not only developed international standards but has also acted as a catalyst to develop national means to control transboundary movements of hazardous wastes and to prevent their illegal traffic. As a result, national, regional and international control systems have reduced, and will continue to reduce, the risks to human health and the environment created by hazardous waste disposal.

The Basel story is a success story. Since its signature (1989), in a relatively short time the Basel Convention has been able to promote the protection of the environment and global environmental cooperation, specifically in:

- Establishing a strict control system for the transboundary movements of hazardous wastes;
- Minimizing the transboundary movements of hazardous wastes;
- Developing and adopting several sets of technical guidelines for environmentally sound management of hazardous wastes;
- Establishing regional/subregional centres for training and technology transfer;
- Providing technical assistance to developing countries in implementing the Convention and their capacity for environmentally sound management of hazardous wastes;
- Monitoring and preventing illegal traffic in hazardous wastes.



It is to the advantage of the world community that the implementation of the Convention continues as energetically and effectively as today. The Basel Convention should continue to respond to the needs of countries and be sustained by the increasing commitment of everyone.

The Basel family is growing: it has more than one hundred members. But still there is an urgent need for all countries of the world to join the family in order to meet more effectively the common goal and the worldwide environmental challenge for controlling and limiting to a minimum the transboundary movements of hazardous wastes, their disposal and assure that hazardous wastes are managed in an environmentally sound way.

Secretariat of the Basel Convention
15, chemin des Anémones
1219 Châtelaine/GE
Switzerland

Telephone: (41 22) 979 92 18

Telefax: (41 22) 797 34 54

E-Mail: bulskai@unep.ch

Website: <http://www.unep.ch/basel/index.html>