



**United Nations
Environment
Programme**

EP



Distr.
GENERAL

UNEP/CHW.3/34
17 October 1995

ORIGINAL: ENGLISH

**THIRD MEETING OF THE CONFERENCE OF THE
PARTIES TO THE BASEL CONVENTION ON THE
CONTROL OF TRANSBOUNDARY MOVEMENTS OF
HAZARDOUS WASTES AND THEIR DISPOSAL**

Geneva, 18-22 September 1995

**REPORT OF THE THIRD MEETING OF THE CONFERENCE
OF THE PARTIES TO THE BASEL CONVENTION ON THE
CONTROL OF TRANSBOUNDARY MOVEMENTS OF
HAZARDOUS WASTES AND THEIR DISPOSAL**

I. INTRODUCTION

1. The third meeting of the Conference of the Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was held in Geneva from 18-22 September 1995.

II. OPENING OF THE MEETING

2. The Meeting was opened on 18 September 1995 by Mr. Christopher Lamb (Australia), President of the second meeting of the Conference of the Parties.

3. The President of the second meeting of the Conference of the Parties in his opening statement welcomed all participants and stated that there had been a marked rapid growth in the number of States Parties to the Convention, and a sharp rise in interest in the Convention and its objectives around the world. Some of this interest has been stimulated by the work which has been done on the implementation of decision II/12. For most States, the critical issues have surrounded work done to ensure that national legislation conforms to the Convention, and to build capacity to make possible the environmentally sound disposal of hazardous wastes in their own territory. Another has been to ensure the prevention and monitoring of illegal traffic. There is a need for the closest possible consultative mechanisms between all those involved in the transboundary movements of hazardous wastes including the various government ministries, industry and business groups, environmental NGOs, and local

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communities. He noted that much more needs to be done especially regarding the drafting of the protocol on liability and compensation. There is an urgent need for work to be completed on criteria for hazard characteristics. Related work on the development of technical guidelines for the environmentally sound management of wastes needs to receive continued priority attention. The Extended Bureau held four meetings between the meetings of the Conference of the Parties. The meetings were attended by a wide range of State participants in a harmonious and productive consensus setting. The President hoped that it would be possible for this pattern to continue into the future, in recognition of the significance which many States clearly attach to this Convention and its objectives. The Convention obliges the Conference of the Parties to evaluate the effectiveness of the Convention three years after its entry into force, and at least every six years thereafter. The President encouraged all delegations to take a wide view of this issue, noting that useful work has been done in strengthening the Convention. Among the issues is the unanimous approval of the decision that transboundary movements of hazardous wastes to developing countries for final disposal should cease immediately. He said it was timely to consider the place of the Basel Convention in the context of the work of the multilateral system: as a Convention with almost 100 States Parties. He also said that it was possible that the work now should aim at establishing more clearly the way the Secretariat and the Convention's meetings should relate to bodies elsewhere in the multilateral system, both inside and outside the UN system. He congratulated the Secretariat of the Basel Convention on its work. It has been an enormous task, and the budgetary resources available have been too few to allow all priorities to be served in the way possible in other, better resourced Conventions. He congratulated the Coordinator on the work carried out by her and other members of the Secretariat. The President also stated that he was grateful to Ms Dowdeswell for always being ready to hear a call for help in difficult times and expressed his hope that the Basel Convention Secretariat would be able to continue to call on UNEP's assistance in the future. This is particularly important because of the technical assistance dimension of the Basel Convention, a dimension which has not yet been able to receive the attention it deserves, largely because of the scarcity of resources. The Basel Convention has many distinct dimensions. Another which deserves comment is that which has emerged from the discussions surrounding decision II/12. The issues arising from decision II/12 are currently the subject of several proposals for the amendment of the Convention itself, and he said that it would be inappropriate for him to canvass the debates which are about to start on these questions. The President stated that the initiative of the Government of Senegal in hosting a Global Workshop on the Implementation of decision II/12 has made it possible for us to hold an informed and constructive debate on matters which all delegations agree deserve careful consideration. The Government of Denmark was also thanked for its generosity in hosting a technical meeting in the wake of the Dakar Workshop. Those meetings made it possible for the Technical Working Group to clarify the priority deserved by definitional questions relevant to the implementation of decision II/12. Important recommendations placed before this Conference by the Technical Working Group and the Extended Bureau prepare the ground for further work on definitions as a matter of special priority. The aim is to make it possible for States Parties to have a clear understanding of what is covered as they move to implement fresh arrangements consequent to decision II/12.

4. The Executive Director of UNEP, Ms Elizabeth Dowdeswell, expressed her thanks to the President of the second Conference of the Parties, Mr. Lamb and to other Bureau members for their strenuous efforts which have led to the development and implementation of the Basel Convention during the last year and a half. The Executive Director stated that the management of wastes is a most difficult problem and that is why the Basel Convention is one of the most challenging environmental conventions mainly oriented towards the protection of the environment of developing countries. Pioneer work has been undertaken within the framework of this Convention on the development of the concept of environmentally sound management of hazardous wastes. Progress has been made by the Technical Working Group regarding the hazard classification. Strong encouragement should be given to the Working Group on Liability and Compensation working on the development of the Protocol. The following count among the achievements of the Contracting Parties towards the full implementation of the Convention: the development of the Manual for its implementation, the Model National Legislation as well as technical guidelines on various waste streams and disposal operations. The establishment of the regional and sub-regional centres for training and technology transfer regarding the management of hazardous wastes and the minimization of their generation is well advanced and is expected to foster regional or sub-regional cooperation. The Executive Director stated that since the adoption of decision II/12 on the prohibition of all transboundary movements of hazardous wastes from OECD to non-OECD countries by the second Conference of the Parties, the international community has gone through a very intense process in the analysis of its implications. Implementation of the ban is one of the main subjects to be looked at the Conference. The decision on the ban, without proper monitoring of its implementation, will not meet the real requirements of the Parties. That is why ongoing cooperation with Interpol in developing a programme on the prevention and monitoring of illegal traffic, as well as with the World Customs Organization on customs nomenclature on hazardous wastes is very important. The Executive Director referred to the necessity of setting priorities and emphasized the need to work on definitions. The global aspirations of this Convention cannot be met without a national capability engendered by a legal framework, an educated citizenry and an enforcement capacity. Hardworking as the Secretariat of the Basel Convention is, it cannot meet all expectations without receiving sufficient financial support. Full implementation of the Convention will benefit from the involvement of partners including industry, NGOs and organizations within and outside the UN system. Hazardous waste management is part of a broader approach, including cleaner production. The Executive Director stated clearly and emphatically that UNEP stands ready to be a partner in the implementation of the Convention, respecting the integrity of the decision-making of the Conference of the Parties, while contributing through a complementary but supportive programme as authorized by its recent Governing Council in May 1995.

III. ADOPTION OF THE AGENDA

5. At the opening plenary session, the Conference adopted its agenda as in Conference document UNEP/CHW.3/1/Rev.1.

IV. ORGANIZATIONAL MATTERS

A. Attendance

6. The following Parties to the Basel Convention were represented: Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Belgium, Brazil, Canada, Chile, China, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Estonia, European Community, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Jordan, Kuwait, Latvia, Lebanon, Liechtenstein, Luxembourg, Malawi, Malaysia, Mauritius, Mexico, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Lucia, Saudi Arabia, Senegal, Seychelles, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Turkey, United Kingdom, United Republic of Tanzania, Uruguay, Viet Nam and Zambia.

7. The following States not Party to the Convention were represented: Algeria, Bulgaria, Colombia, Federated States of Micronesia, Honduras, Iraq, Kenya, Malta, Morocco, Myanmar, Nicaragua, Singapore, Thailand, Tunisia, Ukraine, United States of America, Venezuela, Western Samoa and Zimbabwe.

8. Observers from the following United Nations Bodies, Specialized Agencies, IGOs and Secretariats of Conventions were also present: Convention on International Trade in Endangered Species (CITES), Council of the European Community (General Secretariat), Secretariat of the Economic Commission for Europe (UN/ECE), Industry and Environment (IE)/UNEP, Interim Secretariat of the Convention to Combat Desertification, International Atomic Energy Agency (IAEA), International Lead and Zinc Study Group, International Maritime Organization (IMO), Mediterranean Action Plan/UNEP, Nettlap-ROAP/UNEP, Organisation for Economic Cooperation and Development (OECD), Organization of African Unity (OAU), Ozone Secretariat/UNEP, Regional Organization for the Protection of the Marine Environment (ROPME), South Pacific Regional Environment Programme (SPREP), United Nations Centre for Human Settlements (UNCHS)-HABITAT, United Nations Conference on Trade and Development (UNCTAD), United Nations Industrial Development Organization (UNIDO), United Nations Institute for Training and Research (UNITAR), World Customs Organization, and World Trade Organization (WTO).

9. The following non-governmental organizations and private sector were represented: Australian Council for Overseas Aid (ACFOA), Bureau of International Recycling (BIR), Earthlife Africa, Eurometaux, Eurometrec, European Chemical Industry Council (CEFIC), Fédération Européenne des Activités du Déchet (FEAD), Greenpeace International, Industrial Technology Research Institute (ITRI), Institut de recherche sur l'environnement (IREC), International and Environmental Law and Policy, International Chamber of Commerce (ICC), International Committee for European Security and Co-operation (ICESC), International Consulting Center for Environmental Technology and Nutrition Industry (ICCI), International Council of Environmental Law (ICEL), International Precious Metals Institute (IPMI), SDA/ELS, and Wuppertal Institut.

B. Election of officers

10. The following officers were elected by acclamation at the first plenary session:

<u>President:</u>	Mr. Bakary Kante (Senegal)
<u>Vice-Presidents:</u>	Ms. Rosnani Ibrahim (Malaysia)
	Mr. John Ashe (Antigua and Barbuda)
	Mr. Csaba Markó (Hungary)
<u>Rapporteur:</u>	Mr. Dick de Bruijn (Netherlands)

11. Following his election, Mr. Bakary Kante, President of the third meeting of the Conference of the Parties, made a statement in which he emphasized the importance of the Basel Convention for the protection of the environment. He said that the third meeting of the Conference was of crucial importance for its proper implementation. He underlined that legal, technical and financial matters had to be carefully addressed at the meeting and appropriate decisions would have to be adopted. Technical assistance and capacity building are of special importance.

C. Organization of work

12. The Co-ordinator of the Secretariat of the Basel Convention, Dr. Iwona Rummel-Bulska introduced the documentation prepared for the third Conference of the Parties including information documents. The documents available to the meeting are listed in the Conference document UNEP/CHW.3/Inf.12/Rev.1.

13. At the first plenary session, the Conference established two main working groups:

- the Institutional and Legal Working Group - chaired by Mr. Roehajat E. Soeriatmadja, Indonesia, with the mandate to consider the following draft decisions presented to the Conference by its Bureau (document UNEP/CHW.3/33), namely decisions III/1, III/2, III/3, III/4, III/5, III/6, III/7,

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III/8, III/9, III/10, III/21, III/22 and III/23 and the respective documents and reports submitted to the Conference.

- The Technical Working Group, chaired by Mr. Peter Hinchcliffe, United Kingdom, to consider the following draft decisions III/12 (in coordination with the Amendment Group), III/13, III/14, III/15, III/16, III/17, III/18, III/19, III/20, III/24, III/25 (and possibly also in coordination with the Institutional Working Group), III/26 and III/27. All these decisions should also be considered in conjunction with the respective documents and reports submitted to the Conference.

The Chairmen of the two working groups would contact each other to ensure that in relation to the agenda items that referred to both technical and legal matters there was coordination between the two Groups.

14. The Plenary decided that the draft decision II/28 on institutional, financial and procedural matters, with the draft budget for 1997/1998 would be considered by a special sub-working group under the chairmanship of Mr. John W. Ashe, Antigua and Barbuda.

15. The Conference also decided to establish an Amendments Group under the chairmanship of Mr. Donald Cooper, Bahamas, to deal with the draft decision III/11, the documents UNEP/CHW./3/2 and Corr.1 and Corr.2.

D. Credentials

16. The Bureau, in its capacity as the Credentials Committee, reviewed the credentials presented by the Contracting Parties present at the meeting and presented its report to the plenary session.

V. CONSIDERATION OF THE IMPLEMENTATION OF THE BASEL CONVENTION, INCLUDING THE DECISIONS OF THE SECOND MEETING OF THE CONFERENCE OF THE PARTIES

17. The representatives who took the floor expressed their satisfaction with the increase in the number of Parties to the Basel Convention since the second meeting of the Conference of the Parties. Several delegates commended the Secretariat of the Basel Convention for its highly devoted work during the reported period and for timely and accurate preparation of the documentation of the meeting.

18. The Ministerial part of the third meeting of the Conference of the Parties to the Basel Convention heard 66 statements by representatives of 54 Parties to the Convention, including 22 Ministers and Deputy Ministers, as well as representatives of intergovernmental and non-governmental organizations.

19. Many representatives recommended faster development of a protocol on liability and compensation for damage resulting from transboundary movements of hazardous wastes and their disposal. They also emphasized the importance for further work of the Technical Working Group on wastes characterization, definition and development of guidelines on management of various waste streams and their disposal operations. The need for technical assistance to developing countries in capacity building, national legislation and development of strategies for environmentally sound management of hazardous wastes was supported by all the delegates as one of the main goals of the Convention. The meeting supported and called for further work on the establishment of regional and sub-regional centres for training and technology transfer regarding the management of hazardous wastes and the minimization of their generation, as provided for in Article 14 of the Convention, and expressed their satisfaction with the ongoing efforts in that direction.

20. In considering future work on developing guidance for the hazard characteristics H13 "Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above", of Annex III to the Convention, the meeting noted that the Technical Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, had identified a number of options:

- a narrow interpretation referring only to leachate;
- not to use the hazard characteristic until guidance was better developed;
- explore with countries how they wish to use H13;
- a broad interpretation referring to all disposal options of Annex IV to the Convention likely to release harmful emissions, leachate, effluent or residues. The Technical Working Group at its eighth session in June 1995 did not retain this option as being workable.

21. The meeting condemned illegal traffic in hazardous wastes and called for strengthening of international and national actions for its prevention and monitoring. Some representatives emphasized that during the period between the second and the third meetings of the Conference of the Parties their countries were faced with cases of illegal traffic. Several representatives stressed the need for technical assistance to developing countries in their effort to prevent illegal traffic into their territories.

22. The representatives of many countries called for an increase in financial resources available to allow the full implementation of the Convention.

23. Many representatives emphasized the need for further development of information exchange including the establishment of an information system and data collection.

24. The representatives emphasized the need for support which would allow the transfer of environmentally sound technologies for the management of hazardous wastes from developed to developing countries and to countries with economies in transition. This is very much needed to allow these countries to deal with hazardous wastes generated within their national boundaries.

25. The meeting noted the importance of the issue of preventing the transfer of polluting industries, industrial activities and/or technologies which generate hazardous wastes as brought to its attention by the eight session of the Technical Working Group. In this regard, the meeting agreed to the need to encourage the transfer of cleaner technologies which could be developed as an important component of the work of the Regional Centres for Training and Technology Transfer and called upon the Technical Working Group to provide advice on this subject as appropriate and relevant.

26. Several delegates informed the Meeting on the adoption and/or update of national legislation related to the implementation of the Basel Convention and to the management of hazardous wastes and commended the draft Model National Legislation developed within the Basel Convention as a very useful document which assisted them in their legislative activities.

27. Many representatives strongly supported the adoption of an amendment to the Convention which would ban all exports of hazardous wastes from OECD to non-OECD countries, not only for final disposal but also for recovery and recycling operations.

28. Some representatives were however of the opinion that the amendment to the Convention should only refer to the part on the export of hazardous wastes from OECD to non-OECD countries for final disposal.

29. In this context, the need for further work to be done under the Convention on the hazard characteristics of wastes was emphasized by all speakers as a very crucial one.

30. A few delegations were of the opinion that the amendment of the Convention, in particular related to hazardous wastes destined for recovery operations was somehow premature.

31. Delegations emphasized that it was crucial to ensure the effective implementation of the Convention and possible amendment(s).

32. The delegate from Egypt emphasized that his country was currently facing a problem relating to the passage of hazardous waste shipments through the Suez Canal. Egypt as a transit country Party to the Basel Convention requires a Notification and Movement Document

concerning such shipments. According to the Egyptian Environmental legislation, it is forbidden - without a permit from the competent authority - to allow the passage of ships carrying hazardous wastes through territorial seas or the exclusive economic zone of Egypt and the Suez Canal. Egypt requires - for transit shipments of hazardous waste through the Suez Canal - Certificate of Insurance covering mitigation of any harm that could happen to the environment from these shipments. There are difficulties the ship owners are facing to submit such certificates of insurance to Egypt. The only available insurance is what is known as a P&I certificate, which is not clear and whose coverage is not clear either. In addition it is not available to all ship owners.

33. Several experts expressed their concern about the lack of sufficient financial means available in the Trust Fund of the Basel Convention which have their sources in non-payment of pledged contributions and/or delay in the payments.

34. The Malaysian delegate announced that his Government was prepared to consider hosting a meeting of the Technical Working Group in Kuala Lumpur.

35. The delegate from Senegal offered to host a sub-regional centre for francophone African countries and technology transfer for the environmentally sound management of hazardous wastes.

36. The delegate from Uruguay confirmed the commitment of his country to the establishment of a coordination centre for sub-regional centres for training and technology transfer in Uruguay and to this effect is organizing a seminar for Latin America and the Caribbean in Montevideo which will be held shortly.

37. The delegate from Zambia expressed the willingness of his Government to consider hosting a regional centre for training and technology transfer because of its' advantageous geographical location in Central Africa.

38. The delegate from Argentina confirmed that his country was ready to assume the responsibility for the establishment of a South American centre for training and technology transfer in Argentina and was hence taking measures to contribute, as far as possible, with infrastructure, human resources and financial means.

39. The Government of Egypt expressed its willingness to host a regional centre for training and technology transfer for Arabic speaking countries in Africa which will serve other Arabic speaking countries.

40. The Slovak Republic offered Bratislava as a seat for a regional training centre for the implementation of the Basel Convention and technology transfer and informed also that they

were going to organize an international workshop, which would outline the further steps to be made in this respect.

41. The Government of Switzerland announced its decision to provide the financial means for the period 1996-97 for setting up a sub-regional centre for training and technology transfer for Central Europe in the field of waste management. In addition, they will provide US\$ 35,000 to the Technical Cooperation Trust Fund to enable participation of non-Parties at meetings organized in relation to the Basel Convention and to support the organization of a regional seminar in Uruguay in October this year. The Swiss Government is also examining the possibility of supporting a regional seminar for Southern Africa for the environmentally sound management of hazardous wastes.

42. The representative from IMO referred to the close cooperation between SBC and IMO for the coordination of work between the two organizations with the purpose of promoting the effective protection of the marine environment and avoiding duplication of work. In particular, he referred to the cooperation regarding IMO's preparatory work for the prospective adoption next year of a Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances (HNS) by Sea. He emphasized that the Basel Convention is one of the most important instruments in ensuring environmentally sound management of hazardous wastes and their disposal. The IMO plan is to strengthen and intensify its cooperation with the Secretariat of the Basel Convention. Due to its wide acceptance, the Basel Convention has now become an important source of International Environmental Law. The implementation of the Basel Convention is considered at IMO as paramount and decisive for the protection of the marine environment. The contribution of the Secretariat of the Basel Convention is particularly appreciated in connection with deliberation of the Contracting Parties to the London Convention, 1972, in particular bearing in mind that this Convention will be decisively amended next year.

43. The delegate from SPREP informed the meeting about the recent adoption of the Waigani Convention for the South Pacific banning the import of hazardous and radioactive wastes into the region and controlling movements of hazardous wastes within the region.

44. One NGO representative (Greenpeace) stressed that any compromise should be rejected in relation to the proposed amendment to decision II/12 and if consensus could not be reached, voting should be applied. He drew, however, to the attention of the meeting that there seemed to be some confusion in relation to export of wastes for recycling and in this connection pointed out that non-contaminated scrap metals not referred to in Article 1 of the Convention were not covered by the Convention and would therefore not be covered by the ban.

45. Another NGO (Australian Council for Overseas Aid) expressed concern about cutting the proposed budget for regional centres for training and technology transfer and appealed to those countries who were in favour of this to reconsider their stand.

46. Representatives from industry (ICC, IPMI, BIR) expressed their concern in relation to decision II/12 and the possible adoption of an amendment to the Convention in this respect. They also referred to the need for clear definitions of hazardous wastes. One of the representatives for industry pointed out that some countries have the possibility to safely recycle hazardous wastes and that it was therefore necessary to consider carefully any proposal in relation to the ban on export of wastes for recycling. Another representative referred to the risk of closing down those industries which were dealing with recycling should there be a ban on free international trade on recyclables, and that this would result in unemployment for a large number of workers who would not find alternative employment.

VI. ADOPTION OF THE REPORT

47. The Chairmen of the Working Groups presented reports of the working groups established by the Conference, namely the Institutional and Legal Working Group and the Technical Working Group, to the Plenary for their adoption. The reports of the Working Groups were adopted by the Plenary and are reflected below in this report. The decisions agreed upon by the Working Groups and adopted by the Plenary are reflected in Conference doc.UNEP/CHW.3/35 entitled "Decisions adopted by the third meeting of the Conference of the Parties to the Basel Convention".

48. **Report of the Institutional and Legal Working Group**

The Institutional and Legal Working Group held five sessions during the period from 18 to 21 September 1995 under the Chairmanship of Mr. Soeriaatmadja from Indonesia. As decided by the Plenary meeting, the group considered draft decisions III/1, III/2, III/3, III/4, III/5, III/6, III/7, III/8, III/9, III/10, III/21, III/22 and III/23 as well as the related reports and notes submitted and presented by the Secretariat of the Basel Convention.

The Institutional and Legal Working Group was able to finalize the draft decisions which were recommended for adoption by the Plenary meeting of the Conference of the Parties.

The Institutional and Legal Working Group sought the opinion of the Technical Working Group on the "confirmed illegal traffic report form", referred to in draft decision III/4 relating to "illegal traffic in hazardous wastes and other wastes". The Technical Working Group informed the Institutional and Legal Working Group that further work was required on the Report Form and recommended that the Technical Working Group of the Basel Convention be requested to review it. After considering the Technical Working Group's opinion, the Institutional and Legal Working Group was in a position to finalize that part of the draft decision relating to the "confirmed illegal traffic report form". The draft decision was then approved by the Institutional and Legal Working Group and submitted to the Plenary meeting.

Similarly, the Institutional and Legal Working Group sought the opinion of the Budget Sub-Group in relation to some matters in draft decision III/9 on "evaluation of the effectiveness of the Basel Convention" and took into consideration the opinion of the Budget Sub-Group before finalizing the draft submitted to the Plenary meeting. The Budget Sub-Group requested the Institutional and Legal Working Group to provide it with a list of priorities of the decisions it was recommending to the Plenary in order to take such priorities into account in the finalization of the budget. The Institutional and Legal Working Group undertook such prioritization and communicated it through its Chairman to the Chairman of the Budget Sub-Group. At the request of the Budget Sub-Group, the list of priorities was agreed by the Institutional and Legal Working Group.

The Institutional and Legal Working Group made it clear that its finalization of the draft decisions did not prejudice the financial implications under consideration by the Budget Sub-Group.

In considering draft decision III/5 on "model national legislation for the transboundary movement and management of hazardous wastes", the Secretariat of the Basel Convention was requested to add the introduction agreed upon by the Legal Consultative Meeting which met in Geneva on 27 and 28 February 1995 as part of the Model. This introduction explains the nature of the Model and its purpose. It was also agreed that in relation to option II of Part IV on "Exporting Hazardous Wastes and Other Wastes", this report of the Institutional and Legal Working Group should contain a clarification of the term "stringent requirements" referred to in footnote 22. The agreed understanding is that "stringent requirements" means in this context requirements other than those already stipulated in the Basel Convention.

49. Report of the Technical Working Group

The Technical Working Group considered the decisions referred to it by the Plenary and agreed on the decisions to be adopted by the Plenary. At the request of the sub-working group on budgetary matters, the Technical Working Group agreed on the priorities for action for 1997/1998.

The texts of prioritized decisions agreed by the Institutional and Legal Working Group and by the Technical Working Group are attached as Annex IV to this Report.

The agreed "Illegal Traffic Report Form" by the Institutional and Legal Working Group and adopted by the Plenary is attached as Appendix II to Conference document UNEP/CHW.3/35 entitled "Decisions adopted by the third meeting of the Conference of the Parties".

50. Report of the Sub-Working Group on Institutional, Financial and Procedural Matters

The Report was presented by its Chairman to the Plenary for adoption. Accordingly, the decision on Institutional, Financial and Procedural Arrangements was adopted by the Plenary by consensus as reflected in Conference document UNEP/CHW.3/35 entitled "Decisions adopted by the third meeting of the Conference of the Parties". At the time of the adoption of the decision on Institutional, Financial and Procedural Arrangements, some delegates made statements on the subject and requested that their statements be reflected in the Report.

- (i) The delegate from Malaysia emphasized that the increase of work required to be done under the Convention, in particular in the light of adoption of the amendment to it, was not proportional to the increase in the Budget of the Basel Convention for 1997/98. Within the agreed Budget level it would not be possible to cover all expected and needed expenditures, especially in relation to the expected work increase to be carried out by the Technical Working Group. Malaysia was of the opinion that the Budget for 1997/98 should be increased by at least 30 per cent over the 1995 Budget and not only 10 per cent as was the case.
- (ii) The representative of France emphasized the substantial support France had provided from the outset to the Basel Convention and the activities of its Secretariat and assured the meeting that this support would continue. He stated that the Conference had reached a compromise on the size of the budget for 1997-1998 and that his delegation accepted this compromise. The French Government's instructions were clear and the delegation was not to accept a rise greater than would result from a strict application of inflation rates. Given the growing importance of the Convention, the delegation was allowed the possibility of accepting a substantially larger increase. The adjusted scale of contributions led, however, to an increase in France's contribution from the previous budget cycle of nearly 25 per cent in 1997, while the budget was going up by 10 per cent. The delegation of France was therefore compelled to enter a reservation on this point. The compromise reached within the Budget Group represented a 10 per cent increase of the total amount from 1996 with regards to the assessed contributions.
- (iii) The representative of Germany emphasized that Germany had been actively involved in the elaboration of the Basel Convention and in the subsequent development of activities of its Secretariat and that since July 1995 Germany was a full member of the Basel Convention. He stated that Germany would contribute to an effective and appropriate functioning of the Convention as it had done in 1995 and would do with regard to the payment of the assessed contribution for 1996. He said that the Convention Budget for 1997/98, which had been the outcome of one week's budget negotiations, represented a real increase of 52 per cent over the previous budget and

that it had to foresee significant voluntary contributions in order to achieve a balance. The delegate stated that obviously there was a big gap between the availability of funds for the Convention and funding demands for further work of the Secretariat. Many countries and international organizations were currently faced with a very difficult financial situation including also Germany and that was why it was Germany's position not to increase the budget under consideration by more than three per cent against the previous year. During the budget negotiations the German delegation tried to allow for a moderate further increase of contributions to the budget of the Convention. For Germany, however, compliance with a proposal to increase spending by more than 50 per cent was unacceptable. Germany did not, however, intend to break a consensus on the adoption of a budget for 1997/98 and would instead increase its contributions for 1997 by ten per cent, against 1996, and accept a further increase of its contributions by three per cent for the year 1998. This would raise the German contribution to a regular biannual budget of the Convention to a total of US\$ 681.000. The German delegation felt obliged to express a formal reservation on this point. The delegate of Germany stated also that Germany would be pleased to host a meeting of the Technical Working Group in Germany.

- (iv) The delegate from Italy expressed his country's reservation on budgetary matters related to the increase of the contributions to the budget by more than the inflation rate, considering the present difficulties of national economy. Italy therefore wished to renew its position with respect to the increase of its contribution in 1997 beyond a 10 per cent over the 1996 contribution and a further 3 per cent for the 1998 contribution.
- (v) The representative of Turkey stated that Turkey did not wish to hinder the adoption of the budget but it felt that if the UN scale of assessments was used it would reflect a non-equitable burden sharing. The new scale increased contributions by 30 per cent in 1997. The delegate of Turkey reserved his country's position vis-a-vis the scales of assessment related to Turkey for the years 1997/98.
- (vi) The delegate of Canada stated that Canada was in a position to approve the proposed budget for the years 1997 and 1998. Canada wanted to assure that it was ready and able to fulfil its financial obligations as it had done in the past up to and including 1995.
- (vii) The representative of Australia supported the consensus regarding the budget for 1997/98. She strongly emphasized, however, that the original budget presented to the meeting by the Bureau, namely at the level of US\$ 5,786,400 for 1997 and US\$ 5,272,100 for 1998 was the realistic budget which could have met growing requirements coming from the decisions adopted by the third meeting of the Conference of the Parties which led to the strengthening of the Convention and which increased the workload of the Secretariat. Australia was of the opinion that the Contracting Parties to the Basel Convention - from just over thirty in 1994 to over ninety in 1995 - should

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have been in a position to adopt the budget for 1997/98 which would allow full implementation of the Convention and the decisions adopted by the Conference of the Parties. Australia called for the Contracting Parties to pay the required shares of the budget even when they were of voluntary character, and expressed its agreement on an increase of the budget by 50 per cent through voluntary contributions.

- (viii) The representative of Brazil, on behalf of GRULAC, expressed the GRULAC countries' concern related to the budget, in particular to the need of providing the Secretariat with enough financial resources to advance its activities in the field of technical assistance to developing countries.
- (ix) The representative of Spain, speaking on behalf of the European Community, stated that the consensus reached on the level of the Budgets of 1997-1998 represented a 10 per cent increase of the total amount for 1996 with regard to the assessed contributions. This represents, however, a 10 per cent increase for the budget contributions from the Member States and from the European Commission an aggregate of 24 per cent. This by far reflects the intentions of Member States of the European Community. The countries of the European Community agreed to this in the spirit of compromise and to enable the continuing functioning of the Secretariat but wished to underline to delegations that this matter should be discussed in detail at the next meeting of the Bureau of the Conference. The European Community expected the Secretariat to distribute in due time a detailed budget as requested by the European Community in the budget working group, reflecting the amount of assessed contributions as well as the priorities set by the Conference of the Parties.
- (x) The representative of the Philippines, speaking on behalf of Group-77 and China, expressed these countries' concern about the Budget for 1997-98 which did not provide enough resources to allow full participation of experts from developing countries at the meetings to be organized to fulfil the increasing mandate and activities under the Convention in the years to come. The lack of financial resources was particularly seen by developing countries in these budget lines which were of first priority to these countries, namely: establishment of regional centres for training and technology transfer, technical assistance, illegal traffic and information exchange. The developing countries appreciated the readiness of developed countries to protect them against the export of hazardous wastes from the North but stated that the developed countries could not at the same time limit the resources for effective implementation of the Convention and for activities to be carried out by the Secretariat.

51. Report of the Amendment(s) Group

The Report was presented by its Chairman to the Plenary. After the necessary additional consultations the Plenary adopted by consensus the decision entitled "Amendment to the Basel

Convention" contained in Conference document UNEP/CHW.3/35 entitled "Decisions adopted by the third meeting of the Conference of the Parties".

Several delegates made statements regarding this decision and requested that their statements be reflected in the Report and/or attached to it.

- (i) The delegate of Brazil emphasized that the Basel Convention must be considered as a complex compound of rules in which each if its parts has a special meaning, but equal efficiency, namely: (a) the Basel Convention in itself; (b) its Annexes; (c) the decisions of the COP. They have equal value as a binding obligation to States. However, to transform decision II/12 into a disposition of the Basel Convention through an amendment would be desirable only if that decision was perfect and not as it stands nowadays. Brazil supported the introduction of the whole decision II/12 as a part of the Convention, but it urged to prioritize the rapid completion of the elaboration of a hazardous wastes definition by September 1997 in order to provide the Parties with a clear understanding of hazardous wastes subject to the Convention and to decision II/12. Being so, the Brazilian Delegation strongly supported any efforts to strengthen the reach and aims of the Basel Convention, such as the improvement of use of clean technologies, the minimization of generation of hazardous wastes and environmentally sound disposal.
- (ii) The delegate from Malaysia informed the meeting that it considered the decision II/12 binding for all Parties. Reiterating his concern on illegal misleading activities and disposal of such hazardous wastes by ships, he reaffirmed his Government's commitment to control these illegal activities according to the spirit and intent of the Basel Convention and in accordance with Malaysia's national legislation and interpretation of the Convention. He emphasized that there was an important amount of work in front of the Technical Working Group and offered to host a meeting of the Technical Working Group in 1996 subject to availability of funds provided for its organization and participation of experts from developing countries.
- (iii) The delegates of Uruguay and Egypt supported the adoption of the decision on the amendment.
- (iv) The delegate of Zambia thanked the President for the successful adoption of the decision on the amendment and brought the attention of the meeting to the necessity of providing sufficient funds to ensure a large participation of experts from developing countries at the meetings organized within the framework of the Basel Convention.
- (v) The delegate of Costa Rica, while going along with the consensus, reserved his country's position on the adopted the amendment due to the fact that the amendment did not reflect inclusion of Article 1, paragraph 1 (b) on wastes not covered by the Annexes

to the Convention but defined as, or considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.

- (vi) The delegate of Sri Lanka supported the consensus reached at the Conference but expressed some reservations on the amendment by Sri Lanka.
- (vii) The delegate of the Russian Federation expressed her country's reservation regarding the new wording of the draft amendment to Article 4 of the Convention, being substantially broader in scope than the text originally circulated, particularly as regards paragraph 2 of the proposed Article 4A. The time-frame for consideration of the new wording was exceptionally limited which was not in accordance with Article 17 of the Convention. The delegate announced that the Russian Federation could not accept the proposed amendment and did not consider itself bound thereby. The text of the Russian statement is attached to this Report as its Annex II.
- (viii) The delegate of Canada stated that his country went along with the consensus on the decision on the amendment and would not authorize any shipment of hazardous wastes for final disposal outside the OECD region or for recycling to countries that prohibit such imports. Canada, however, would be unable to ratify the amendment prior to the outcome of the work of the Technical Working Group. The full text of the Canadian statement is attached to this Report as Annex III.
- (ix) The delegate of Australia emphasized the good spirit of the negotiations on the decision on the amendment and welcomed the consensus achieved on its adoption. The delegate of Australia, however, expressed some concerns related to the amendment which was adopted before the exact subject of the ban had been agreed on by the Technical Working Group. She emphasized the importance of a large participation of experts at the Technical Working Group meetings and the need for financial assistance to be provided for this purpose. She also emphasized the role of Article 11 in the implementation of the Basel Convention and requested the delegates to continue the work on the implementation of the Basel Convention. The statement of Australia is attached to this report as Annex III.
- (x) The delegate of the Philippines expressed his country's support related to the adoption of the amendment.
- (xi) The delegate of the Republic of Korea emphasized the great effort which was needed to reach consensus on the adoption of the amendment. He also emphasized the importance of a global partnership in the implementation of this decision which should be carefully approached and assessed. He emphasized the need to respect the sovereign right of the importing country and the role of the capacity building process in the implementation of the Basel Convention. He expressed, however, some doubts on how

the Convention could be successfully implemented as the budgets adopted for 1997-98 were definitely too low to meet the required expectations. He appealed to the countries which were not yet Contracting Parties to the Basel Convention, in particular the United States, to join the Convention. He referred to the importance of Article 11 of the Convention for its implementation.

- (xii) The representative of New Zealand expressed her country's thanks for the achievement of consensus on the decision on the amendment and emphasized that her country shared similar concerns related to the amendment to the Convention as Australia and Canada. The representative of New Zealand referred to the role of bilateral agreements in the implementation of the Convention. She emphasized the need for future work under the Basel Convention which would allow countries to receive the proper protection related to their environmental problems which could only be ensured by cooperative actions. She endorsed the inclusion of Liechtenstein into Annex VII of the Amendment.
- (xiii) Several delegates including the representatives of ICC and Greenpeace congratulated the President of COP3 for his hard work which led the Conference to the adoption of the amendments by consensus and emphasized the need for further cooperation in order to fully implement the Basel Convention. Congratulations to the President of COP3, its Bureau, delegates and all participants including NGOs and the private sector were also extended by the Executive Director of UNEP.
- (xix) The President of the COP3, Mr. Bakary Kante, thanked all delegates for their hard and dedicated work and emphasized the need for future global cooperation within the framework of the Basel Convention which he considered an excellent legal instrument. He particularly thanked the members of the Bureau and Chairmen of the working groups established by COP3 for their contribution to the meeting.

VII. CLOSURE OF THE MEETING

- 52. After the customary exchange of courtesies, the President declared the meeting closed at 18.40 hours on 22 September 1995.

ANNEX I

**Statement by the delegation of the Russian Federation to the Plenary of the
Third Meeting of the Conference of the Parties to the Basel Convention on the
Control of Transboundary Movements of Hazardous Wastes and Their Disposal,
held on 22 September 1995, concerning the wording of the amendment
to Article 4 of the Convention**

Given that:

1. The new wording of the draft amendment to Article 4 of the Convention is substantially broader in scope than the text originally circulated, particularly as regards paragraph 2 of the proposed Article 4A;
2. The time-frame for consideration of the new wording is exceptionally limited, which is not in accordance with Article 17 of the Convention;

the delegation of the Russian Federation announces that it cannot accept the proposed amendment and does not consider itself bound thereby.

We should like this statement to be reflected in, and annexed in extenso to the report of the third meeting of the Parties to the Basel Convention.

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ANNEX II

Statement made by Canada following the adoption of the amendment decision by consensus

delivered by Mr. John Fraser, Ambassador for the Environment

Geneva, Friday 22 September 1995

Mr. President,

Canada has listened carefully to the debate on the ban amendment proposals and acknowledges the environmental concerns expressed by member and non-member countries alike.

Canada recognizes that many countries may not possess the technical ability to properly manage hazardous wastes in an environmentally sound manner. Canada believes that such countries view imports of hazardous wastes as threatening whether they arise from OECD or non-OECD sources.

Canada agrees that there exists sufficient evidence to warrant acceptance of the ban amendment related to hazardous wastes destined for final disposal. Canada will not authorize any shipments of hazardous wastes for final disposal outside of the OECD region or for recycling to countries that prohibit such imports.

Canada is committed to the wise utilization of all resources. As such, Canada believes that environmentally sound recycling is required to ensure the availability of such resources for use by future generations. Environmentally sound recycling is a necessary and integral part of sustainable development. There will be a need for recycling of hazardous wastes today, tomorrow, and for many years to come.

Canada finds that there is insufficient clarity as to which recyclable materials would be subject to the ban amendment. Therefore, it is premature to consider adoption of a legally binding amendment at this time.

Canada has approved the increase to the budget and I can assure you of our continuing commitment to provide our payments in full and on time.

However, I must tell you, under instructions from the Government of Canada, that we will be unable to consider ratification of this amendment prior to an outcome on definitional terms from the technical working group, from which Canada can draw the assurance that trade in non-hazardous recyclables will not be jeopardized.

/...

Canada will work diligently through the technical working group forum to provide the definitional clarity that prevents our current agreement to the recyclables portion of the proposed ban.

ANNEX III

Statement made by Australia following the adoption of the amendment decision by consensus

Geneva, Friday 22 September 1995

Mr. President,

Australia urged at the very beginning of this week that we should work to achieve outcomes that could command consensus support on all issues, including on this contentious issue of the proposed amendment to the Convention.

For our part we have worked strenuously to achieve a good spirit in the negotiations and to find consensus, believing a consensus outcome to be in the best interests of the Convention and all its Parties. We were ready to support the compromise text circulated in document UNEP/CHW.3/L.5/Add 1 subject to having the opportunity to see the text and verify our understanding of the compromises proposed in it.

Australia's essential position ever since negotiation began on Decision II/12, has been to strengthen the Convention and its processes to provide greater protection to those countries vulnerable to unwanted hazardous wastes. Our commitment to this objective is evident not only in the support my government has always given to the Basel Convention, but also in Australia's signature last week of the Waigani Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region.

We have, however, a number of concerns about the text which has been agreed upon, concern which my government wishes to register.

It sets in motion an amendment process in advance of the clarification of the definitions which are essential if Parties are to have a common understanding of exactly what is prohibited. It is essential that the Technical Working Group ensure that this work is completed before the amendment enters into force, and is equipped with all the resources necessary to enable this.

Australia, and probably a number of other Parties - and here I note the statement just made by Canada on this matter - will only consider ratifying the amendment when the work on the definition of hazardous characteristics is completed to our satisfaction. We are, however, pleased to see that such commodities as ferrous scrap and unmixed paper, and the majority of wastes on the OECD Green List which pose no threat to public health or amenity, would not be covered by this prohibition.

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A second area of concern to us - as I signalled at the commencement of our work - was the simplistic differentiation between groups of countries. Australia is pleased to see that arbitrary distinctions between Parties are no longer part of the text of the Convention itself. The placement of a list of Parties in the Annex provides a mechanism through which other Parties can be similarly listed if they wish. On this point, Mr. President, I note the statement made a few moments ago by the representative of Liechtenstein indicating its wish to be placed on the list and assume that this will be reflected in the final version of our text.

Australia is concerned to ensure that the application of the prohibition remains tuned to its key objective - ensuring that transboundary movements of hazardous wastes do not, as required by the Convention, entail a high risk of not constituting environmentally sound management.

For this reason, we are pleased that the Technical Working Group will be developing technical guidelines to assist those Parties and States which might benefit from assistance in ensuring that transboundary movements cannot derogate from environmentally sound management. Such guidelines will, I am sure, be particularly helpful, especially to developing countries. The guidelines could also eventually be helpful to those Parties and States wishing to conclude agreements or arrangements, including under Article 11, concerning the transboundary movement of hazardous waste.

Australia considers Article 11 to be an important provision of this Convention. It enables those countries wishing to enter into bilateral, multilateral or regional agreements or arrangements to do so. We do not consider that the text we have just adopted removes that right. Australia will remain in close contact with other States, especially our regional neighbours, on this subject.

Mr. President,

Australia is, as I have said, deeply committed to strengthening the Convention so as better to protect the vulnerable. We must not now lose enthusiasm for this objective. The work we have done here is by no means the answer to the problems vulnerable countries face - it does not deal with domestic disposal needs, waste minimization or capacity-building. Nor does it adequately address the legitimate developmental needs of developing countries. It is, in essence, a half-measure - and it cannot work without the commitment of effort and resources, especially from those who sponsored its adoption as a Convention amendment.

We now look to all those who have supported the adoption of this decision to contribute to the realization of its true objectives. We, for our part, we will not shirk that responsibility.

ANNEX IV

A. INSTITUTIONAL AND LEGAL WORKING GROUP - PRIORITIZED DECISIONS

- 1) The Group has considered the draft decisions offered to it, and has prioritized those which have budgetary implications.
- 2) The Group notes that many of the decisions are interrelated, and that work under one decision could contribute to the development of other work.
- 3) The Group felt that the subject of the decisions are self explanatory and therefore there is no need to make further comments.

PRIORITIZED LIST

Priority	Subject	Decision (document UNEP/CHW.3/35)
1	Liability and Compensation	III/1
2	Illegal Traffic in Hazardous Wastes and other Wastes	III/4
3	Model National Legislation for the Transboundary Movements and Management of Hazardous Wastes	III/5
4	Emergency Fund	III/2
5	Monitoring the Implementation of and Compliance with the Obligations set out by the Basel Convention	III/10
6	The Role of the Secretariat of the Basel Convention in the Implementation of Agenda 21	III/21
7	Cooperation with the International Atomic Energy Agency	III/22
8	Relationship of the Basel Convention and the London Convention, 1972	III/23
9	Evaluation of the Effectiveness of the Basel Convention	III/9
10	Bilateral, Multilateral and Regional Agreements or Arrangements	III/8

/...

11 Manual for the Implementation of the
Convention

III/7

B. TECHNICAL WORKING GROUP - PRIORITIZED DECISIONS

- 1) The Group has considered the draft decisions offered to it, and has prioritized those which have budgetary implications.
- 2) The Group notes that many of the decisions are interrelated, and that work under one decision could contribute to the development of other work.
- 3) The Group also notes that some projects can be broken down into a preliminary phase costing relatively little, and an implementation phase where the bulk of expenditure lies.
- 4) For this reason, the Group would encourage the Secretariat to remain active in all decisions, even those of lower priority, when modest expenditures can pave the way for more efficient work later. Projects for which this approach is particularly relevant have been identified on the prioritized list.
- 5) The Group is not, of course, in a position to judge its priorities against those of other groups. This should be done by a body with a broader remit than either the Technical Group or the Institutional and Legal Working Group. But the Technical Working Group does note that, in Plenary, delegations have emphasized the particular importance of the work of the Technical Working Group of the Basel Convention.

PRIORITIZED LIST

Priority	Task	Decision	Comments
1	Hazard characteristics	III/12	Regarded as of particular importance by many delegations
2	Regional centres	III/19	Similarly important, although the Group noted that there was scope here for considerable savings if funded from individual voluntary contributions
3	Documents	III/16	Vital to the proper enforcement of the Convention

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4	Liaison	III/24, 25, 26	The Secretariat of the Basel Convention must keep closely in touch with other bodies to avoid unnecessary duplication
5	Training and Seminars	III/20	Some of the training work will be undertaken by the Regional Centres. That element should be a component of priority 2 (dec. III/19)
6	Technical Guidelines	III/13	If the main work has to be deferred because of budgetary constraints, SBC should do what low-cost preparative work it can to allow speedy resumption of the work in a future year
7	Recovery operations	III/14	SBC should at least publish these technical guidelines and explore the possibility of carrying forward the case studies by individual <i>voluntary contributions</i>
8	Transmission of information	III/17	The basic collection and release of statistics can be carried out at low cost. The main cost component here is to develop more advanced information, and it could be deferred, although there may be scope here for direct assistance from Parties
9	Information management system	III/18	A low-cost feasibility study should be carried out at an early stage, but the implementation of the system (the bulk of the cost) could be delayed until funds are available.
