

**L.N. 205 of 2000**

**ENVIRONMENT PROTECTION ACT  
(CAP. 348)**

**Environment Protection (Control of Transboundary Movement of Toxic  
and other Substances) Regulations, 2000**

IN exercise of the powers conferred by articles 3, 6, 9, 16 and 48 of the Environment Protection Act, hereinafter in these regulations referred to as “the Act”, the Minister for the Environment has made the following regulations:

1. The title of these regulations is the Environment Protection (Control of Transboundary Movement of Toxic and other Substances) Regulations, 2000. Citation
2. The date of coming into force of these regulations is the 17th September, 2000. Coming into force.
3. (1) These regulations control all operations relating to the transit, export and import of toxic substances, and promote their environmentally sound management. Objective.  
  
(2) These regulations shall put into effect the obligations on the transboundary movement of hazardous wastes and their disposal as arising under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.
4. For the purpose of these regulations: Definitions.  
  
“Director” means the Director for the Protection of the Environment being the official as delegated in terms of article 3(3) of the Act to be responsible for the protection of the environment and delegated for the control, direction and management of the Department for the Protection of the Environment, and includes any officer in his Department who acts on his behalf, and, for the purposes of any regulations made under the Act, the term “Director responsible for the environment” or any other similar term, and the term “Official responsible for the protection of the environment” in the Act, shall be deemed to have the same meaning as “Director” in these regulations;  
  
“toxic substance” means any substance declared to be toxic by virtue of articles 9 and 10 of the Act;  
  
“Convention” or “Basel Convention” means the Convention on the Transboundary Movements of Hazardous Waste and Their Disposal which is

an integral part of, and is included in Schedule 1 to these regulations;

“Competent Authority” means the national authority responsible for receiving the notification of a transboundary movement, and any information related to it, and for responding to such a notification as provided in this law. It is responsible for the control of transboundary movements of hazardous wastes and other wastes;

“Competent Authority of other States Parties to the Convention” means the governmental authority designated by any Party to the Convention to be responsible within such geographical area or areas as a Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes and any information related to it and for responding to such a notification;

“waste” means any substance or object which is disposed of, or is intended to be disposed of, or is required to be disposed of;

“hazardous wastes” means wastes which belong to any category in Annexes I , II and VIII in Schedule 1 of these regulations, and which by virtue of articles 9 and 10 of the Act, are being declared to be toxic substances;

“management” means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;

“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 that at least two States are involved in the movement;

“disposal” means any operations specified in Annex IV in Schedule 1 to these regulations;

“environmentally sound management of hazardous wastes or other wastes” means taking all practicable steps to ensure that hazardous wastes or 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;

“environmentally sound manner” means in a manner which will protect human health and the environment against the adverse effects which may result from hazardous wastes or other wastes;

“approved site or facility” means a site or facility for the disposal of hazardous wastes or other wastes which is authorised or permitted to operate for such purpose by the Competent Authority of the State where the site or facility is located;

“area under the national jurisdiction of a State” means any land, marine area or air space within which such State exercises administrative and regulatory responsibility in regard to the protection of human health and, or the environment;

“State of export” means the State from which a transboundary movement of hazardous wastes or other wastes is initiated or is planned to be initiated;

“State of import” means a State to which a transboundary movement of hazardous wastes or other wastes is planned, or takes place for the purpose of disposal therein, or for the purpose of loading prior to disposal in an area that is not under the national jurisdiction of any State;

“import” means any entry into the national territory other than entry for transit;

“export” means any exit from the national territory other than exit for transit;

“State of transit” means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned to take place;

“transit” means the continuous passage from one border to another border through the national territory without storage, other than temporary storage incidental to transport;

“exporter” means any person under the jurisdiction of the State of export, who arranges for hazardous wastes or other wastes to be exported;

“importer” means any person under the jurisdiction of the State of import, who arranges for hazardous wastes or other wastes to be imported;

“carrier” means any person who carries out the transport of hazardous wastes and other wastes;

“generator” means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and, or control of those wastes;

“disposer” means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;

“State concerned” means any State of export or import, or transit;

“illegal traffic” means any transboundary movement of hazardous wastes or other wastes as specified in regulation 36 of these regulations.

5. The Competent Authority with respect to these regulations shall be the Environment Protection Department.

Designation of Competent Authority.

6. The Competent Authority shall determine which substances, and in which manner, are covered by these regulations, either *ex officio* or by way of a declaration.

Substances covered.

7. Any doubts relating to the interpretation of these regulations shall be decided in accordance with the proceedings of the Basel Convention.

Doubts relating to the interpretation.

8. The Competent Authority shall ensure that the management and transboundary movement of hazardous waste or other waste is carried out in an environmentally sound manner. In doing so, the Competent Authority may take any action whatsoever in order to ban, restrict and control the management, transit, export and import of hazardous waste or other waste.

Duties of the Competent Authority.

9. No person shall affect any proposed transboundary movement of hazardous wastes or other wastes through the area under the national jurisdiction of Malta unless in possession of a written permit from the Competent Authority.

Permit for Transboundary movement of hazardous and other waste.

10. A person intending to affect transboundary movement of hazardous waste or other waste shall request such a permit from the Competent Authority by providing the information in Annex V A of Schedule 1 and on the appropriate notification form in Schedule 2 to these regulations.

Request for transboundary movement.

11. He shall also include the following information pertaining to the transboundary movement:

Additional information.

(a) the final destination of the waste;

(b) a timetable specifying expected dates of transit through the area under the national jurisdiction of Malta;

(c) proof that the exporter, the carrier, the disposer, and the site or facility for disposal are authorised to carry out the operations in question in relation to the waste;

(d) an emergency contingency plan in case of accidents;



(e) certificate of insurance covering third party risks.

12. The Competent Authority shall not accept such notification unless the language of notification and the emergency procedure supplied by the notifier is in the English language.

Language of notification.

13. The person affecting the transboundary movement of hazardous waste or other waste shall ensure that the hazardous waste or other waste in question are labelled and packaged according to accepted international standards.

Labelling and packaging.

14. The Competent Authority may request any additional information where necessary and reserves the right to deny any transit of hazardous wastes or other wastes.

Request for additional information and denial for transit. Conditions for allowing export of hazardous and other waste

15. The Competent Authority shall allow the export of hazardous wastes and other wastes only if:

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

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

(c) the export is in accordance with an agreement or arrangement that conforms to the requirements of Article 11 of Schedule 1 to these regulations.

16. The Competent Authority shall prohibit any transboundary movement of hazardous waste and other waste:

Prohibition for export.

(a) to any point south of 60 degrees South latitude;

(b) to any State which has imposed a ban on the import of such wastes and has so notified Malta or the Secretariat of the Base! Convention;

(c) to any State which cannot provide assurance as to its capacity to dispose of such wastes in an environmentally sound manner;

(d) to any State which is not a Party to the Base! Convention except in the case of a State which is party to any bilateral, multilateral or regional agreement, or arrangement which stipulates provisions not less environmentally sound than those provided by the Base! Convention and to which Malta is also a Party.

17. The Competent Authority shall notify, or ask the exporter to notify, in writing, the competent authorities of the States concerned, in a language acceptable to them, of the proposed transboundary movement. Such notification

Notification to Competent Authorities of other States.

acceptable to them, of the proposed transboundary movement. Such notification shall contain detailed information as per Annex V A of Schedule 1 and Schedule 2 to these regulations.

18. Where export of hazardous waste and other waste is allowed under regulation 14 of these regulations, the Competent Authority may permit the exportation of hazardous wastes or other wastes only after satisfying itself that the following conditions have been fulfilled:

Further conditions  
for export.

(a) the exporter has formally applied at least 60 days in advance for the transboundary movement of such wastes and has provided the Competent Authority with the information requested in terms of regulations 9 and 10 of these regulations, as well as details on labelling in relation to the hazardous wastes and other wastes he intends to export;

(b) a contract, to the satisfaction of the Competent Authority, exists between the exporter and the disposer. Such a contract should specify the environmentally sound management of the waste in question;

(c) packaging, labelling and transportation are in conformity with the recognised international rules, standards and practices;

(d) the written consent of the competent authorities of the other States concerned have been received by the exporter in accordance with regulation 16 of these regulations:

Provided that in the case of a transit-State which has either no policy of granting written consent in such cases, or has waived the requirement of written consent, "tacit consent" shall be presumed after 60 days of acknowledged receipt by the transit-State of the request for consent from the Competent Authority or the generator, as far as no other conditions are imposed or objections raised by the transit-State in question during such sixty-day period.

19. The Competent Authority shall impose the following conditions upon the exporter with respect to transboundary movements of hazardous waste or other waste:

Conditions for  
transboundary  
movement.

(a) the exporter shall provide the information in Annex V B of Schedule 1, and fill in and sign the movement document at Schedule 3 to these regulations; the exporter shall see that this movement document accompanies the hazardous wastes in question; and

(b) any transboundary movement of hazardous wastes or other wastes shall be covered by insurance, bond or other guarantee covering third party risks.

20. If the transboundary movement of hazardous wastes or other wastes, to which consent of the States concerned has been given, cannot be completed in accordance with the terms of the contract, and if alternative arrangements cannot be made for their disposal in an environmentally sound manner, the Competent Authority shall require the exporter to take the wastes back, within 90 days from the time that the Competent Authority of the State of import informed the Competent Authority of Malta or the generator and the Secretariat of the Basel Convention, or such other period of time as the Parties concerned agree.

Transboundary movement which cannot be completed

21. A permit for the multiple export of hazardous wastes or other wastes can be granted by the Competent Authority subject to the written consent of the States concerned, for a maximum period of one year, if:

Permit for multiple exports.

(a) the wastes have the same physical and chemical characteristics, and

(b) they are shipped regularly to the same disposer via the same customs office and via the same entry customs office of the importing country, and in the case of transit, via the same customs office of entry and exit of the State or States of transit, and

(c) the States concerned agree to granting a similar permit.

22. Hazardous wastes or other wastes may only be imported subject to the written authorisation or permission of the Competent Authority.

Importation requires written permission from Competent Authority Conditions for import.

23. The Competent Authority may consent in writing to the import of hazardous wastes and other wastes provided the following conditions are met:

(a) the exporting State is a Party to the Basel Convention, and the country of destination is Party to a bilateral, multilateral or regional agreement or arrangement regarding transboundary movement of hazardous wastes or other wastes in accordance with Article 11 of Schedule 1 to these regulations;

(b) it is not possible to dispose of the wastes within the territory of the exporting State in an environmentally sound and efficient manner or the wastes in question are required as raw material for recycling or recovery industries in Malta, or the import is in accordance with an agreement or arrangement that conforms with the requirements of Article 11 of Schedule 1 to these regulations;

(c) the request complies with the requirements of regulations 9 and 10 of these regulations and has been received at least 60 days in advance of the importation of such hazardous or other wastes and contained the information required to the satisfaction of the Competent Authority;

(d) the labelling, packaging and transportation identified in the notification document conforms to the requirements of recognised international rules, standards and practices;

(e) the specified approved site or facility is capable of managing and disposing of the waste in an environmentally sound manner;

(f) the disposer guarantees in his contract with the exporter the environmentally sound management of the wastes in question;

(g) the disposer shall within 60 days of receipt of the hazardous wastes inform the exporter, the Competent Authority of the State of export, and the Competent Authority of receipt of the hazardous wastes in question and, in due course, the completion of disposal as specified in the notification;

(h) a binding contract, to the satisfaction of the Competent Authority, exists between the exporter and disposer specifying environmentally sound management of the wastes in question;

(i) the importer and the disposer have a valid licence to deal with the categories of hazardous wastes or other wastes proposed for importation;

(j) the generator, exporter, importer, disposer and carrier have appropriate insurance or other adequate financial guarantee covering third party risks;

(k) the importer or any agent acting on his behalf are resident in Malta, or in the case of a corporation, have a place of business in Malta.

24. A permit for the multiple import of hazardous wastes or other wastes can be granted to the same disposer subject to the written consent of the States concerned, for a maximum period of one year, if:

Conditions for multiple imports.

(a) the wastes have the same physical and chemical characteristics, and

(b) they are shipped regularly via the same customs office and via the same entry customs office of the importing country, and

(c) in the case of transit, via the same customs office of entry and exit of the State or States of transit, and

(d) the States concerned agree to grant a similar permit.

25. The importer shall inform the Competent Authority upon receipt of each shipment of its details as referred to in the notification document.

Information of receipt to Competent Authority.

26. The Competent Authority shall promptly acknowledge the receipt of any notification under regulation 9 of these regulations.	Acknowledgement of notification.
27. The Competent Authority shall, within 60 days of the receipt of notification under regulations 9 and 22 of these regulations, make a decision pursuant to regulations 14, 15 and 17 of these regulations and may include specific conditions relating to the transport of hazardous wastes or other wastes, and inform the exporter or the Competent Authority of the State of export as appropriate.	Decision by Competent Authority.
28. In case of a transboundary movement through a transit country, the authority at the point of entry into its territory, shall ensure that the container is sealed. The Authority should ensure, at the point of exit, that such a seal has not been broken or is still valid, provided that the Competent Authority may itself break or allow to be broken the seal for purposes of investigation.	Sealed container.
29. The Competent Authority shall monitor activities conducted pursuant to any permit granted by it and, if the conditions of the permit have not been met, may amend them as necessary, or, revoke the permit if it has reason to believe that the wastes will not be managed in an environmentally sound manner.	Monitoring and amendments or revocation of permit for transboundary movement.
30. The Competent Authority shall have the power to conduct both regular and random inspections of sites, facilities and cargo, and to seize the shipments of hazardous wastes or other wastes that are the object of illegal traffic.	Inspections.
31. In the case of an illegal transboundary movement to another country as a result of conduct on the part of the exporter or generator, he shall ensure that the wastes are taken back, or the Competent Authority will take them back at the expense of the exporter or generator.	Take-back of illegally shipped waste.
32. In the case that such re-import is impracticable, or in the case the illegal transboundary movement cannot be attributed to a particular person, the Competent Authority and the Competent Authority of the other States concerned shall ensure that the wastes are otherwise disposed of in an environmentally sound manner and in accordance with the provisions of these regulations.	Disposal in an environmentally sound manner.
33. In the case of an illegal transboundary movement to Malta as a result of conduct on the part of the importer or of the disposer, he shall, in addition to the penal punishment stipulated in regulation 38 of these regulations, ensure the environmentally sound management of hazardous wastes and, or pay the appropriate sum estimated by the Competent Authority in order to ensure the environmentally sound disposal of the imported hazardous wastes or other wastes.	Illegal transboundary movement to Malta.
34. Any expenses incurred by the Competent Authority in processing applications for the transboundary movement and for ensuring that the management and disposal of hazardous waste or other waste is done in an	Expenses to be borne by any person responsible for the transboundary

environmentally sound manner shall be borne by the importer, exporter, carrier, agent, or any other person otherwise responsible for the transboundary movement, whichever the case may be.

transboundary movement.

35. The granting of any permit by the Competent Authority for the purpose of these regulations shall not absolve the importer, exporter, carrier, agent or any other persons in charge of the transboundary movement, whichever the case may be, from any other legal obligations in force.

Other obligations at law.

36. The provisions of these regulations shall also apply to any Government department, corporation, public authority or regulatory body.

Application to Government entities

37. Any person who -

(a) fails to comply with any provision of these regulations or with any order lawfully given in terms of any provision of these regulations; or

Offence against these regulations.

(b) contravenes any restriction, prohibition or requirement imposed by or under these regulations; or

(c) acts in contravention of any provision of these regulations; or

(d) conspires or attempts, or aids, abets, advertises, counsels or procures any other person to contravene the provisions of these regulations or to fail to comply with any such provisions, including any order lawfully given in terms of any provision of these regulations, or to contravene any restriction, prohibition or requirement imposed by or under these regulations,

shall be guilty of an offence against these regulations.

38. (1) Any person who commits an offence against these regulations shall be liable:

Liability of person guilty of an offence.

(a) on a first conviction, to a fine (*multa*) of not less than five hundred Maltese un (LM 500) but not exceeding fifty thousand Maltese liri (LM 50,000);

(b) on a second or subsequent conviction, to a fine (*multa*) of not less than one thousand Maltese liri (LM 1,000) but not exceeding one hundred thousand Maltese liri (LM 100,000), or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

(2) Nothing in these regulations shall preclude the Director from taking any other action under article 47 of the Act with respect to the observance of these regulations.

39. Notwithstanding the provisions of regulation 38 of these regulations, the court shall order any person who has been found guilty of an offence against these regulations to pay for the expenses incurred. by the Competent Authority as a result of the said offence, and shall order the revocation of the permit issued. Payment of expenses and revocation of permit
40. The provisions of articles 23 and 30 of the Criminal Code shall, *mutatis mutandis*, apply to proceedings, in respect of offences against these regulations, sohowever that the disqualifications from holding or obtaining a license, permit or authority shall in no case be for a period less than one year. Disqualification from holding permit.
41. Notwithstanding the provisions of article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature. Courts of Magistrates as courts of criminal judicature.  
Cap. 9.
42. Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have the right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo) in respect of proceedings for any offence against these regulations. Right of appeal.
43. Schedule 1, Schedule 2 and Schedule 3 to these regulations are being published in the English language with the English text of these regulations. Language of schedules.

## **SCHEDULE 1**

**Basel Convention on the Control of Transboundary Movements of Hazardous  
Wastes and their Disposal Adopted by the Conference of the Plenipotentiaries on  
22 March 1989**



PREAMBLE

The Parties to this Convention,

Aware of the risk of damage to human health and the environment caused by hazardous wastes and other wastes and the transboundary movement thereof,

Mindful of the growing threat to human health and the environment posed by the increased generation and complexity, and transboundary movement of hazardous wastes and other wastes,

Mindful also that the most effective way of protecting human health and the environment from the dangers posed by such wastes is the reduction of their generation to a minimum in terms of quantity and/or hazard potential,

Convinced that States should take necessary measures to ensure that the management of hazardous wastes and other wastes including their transboundary movement and disposal is consistent with the protection of human health and the environment whatever the place of disposal,

Noting that States should ensure that the generator should carry out duties with regards to the transport and disposal of hazardous wastes and other wastes in a manner that is consistent with the protection of the environment, whatever the place of disposal.

Fully recognizing that any State has the sovereign right to ban the entry or disposal of foreign hazardous wastes and other wastes in its territory,

Recognizing also the increasing desire for the prohibition of transboundary movements of hazardous wastes and their disposal in other States, especially developing countries,

Convinced that hazardous wastes and other wastes should, as far as is compatible with environmentally sound and efficient management, be disposed of in the State where they were generated,

Aware also that transboundary movements of such wastes from the State of their generation to any other State should be permitted only when conducted under conditions which do not endanger human health and the environment, and under conditions in conformity with the provisions of this Convention,

Considering that enhanced control of transboundary movement of hazardous wastes and other wastes will act as an incentive for their environmentally sound management and for the reduction of the volume of such transboundary movement,

Convinced that States should take measures for the proper exchange of information on and control of the transboundary movement of hazardous wastes and other wastes from and to those States,

Noting that a number of international and regional agreements have addressed the issue of protection and preservation of the environment with regard to the transit of dangerous goods,

Taking into account the Declaration of the United Nations Conference on the Human Environment (Stockholm, 1972), the Cairo Guidelines and Principles for the Environmentally Sound Management of Hazardous Wastes adopted by the Governing Council of the United Nations Environment Programme (UNEP) by decision 14/30 of 17 June 1987, the Recommendations of the United Nations Committee of Experts on the Transport of Dangerous Goods (formulated in 1957 and updated biennially), relevant recommendations, declarations, instruments and regulations adopted within the United Nations system and the work and studies done within other international and regional organizations,

Mindful of the spirit, principles, aims and functions of the World Charter for Nature adopted by the General





Assembly of the United Nations at its thirty-seventh session (1982) as the rule of ethics in respect of the protection of the human environment and the conservation of natural resources,

Affirming that States are responsible for the fulfilment of their international obligations concerning the protection of human health and protection and preservation of the environment, and are liable in accordance with international law,

Recognizing that in the case of a material breach of the provisions of this Convention or any protocol thereto the relevant international law of treaties shall apply,

Aware of the need to continue the development and implementation of environmentally sound low-waste technologies, recycling options, good house-keeping and management systems with a view to reducing to a minimum the generation of hazardous wastes and other wastes,

Aware also of the growing international concern about the need for stringent control of transboundary movement of hazardous wastes and other wastes, and of the need as far as possible to reduce such movement to a minimum,

Concerned about the problem of illegal transboundary traffic in hazardous wastes and other wastes,

Taking into account also the limited capabilities of the developing countries to manage hazardous wastes and other wastes,

Recognizing the need to promote the transfer of technology for the sound management of hazardous wastes and other wastes produced locally, particularly to the developing countries in accordance with the spirit of the Cairo Guidelines and decision 14/16 of the Governing Council of UNEP on Promotion of the transfer of environmental protection technology,

Recognizing also that hazardous wastes and other wastes should be transported in accordance with relevant international conventions and recommendations,

Convinced also that the transboundary movement of hazardous wastes and other wastes should be permitted only when the transport and the ultimate disposal of such wastes is environmentally sound, and

Determined to protect, by strict control, human health and the environment against the adverse effects which may result from the generation and management of hazardous wastes and other wastes,

HAVE AGREED AS FOLLOWS:

## Article 1

### Scope of the Convention

1. The following wastes that are subject to transboundary movement shall be "hazardous wastes" for the purposes of this Convention:

(a) Wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex III; and

(b) Wastes that are not covered under paragraph (a) but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the Party of export, import or transit.

2. Wastes that belong to any category contained in Annex II that are subject to transboundary movement shall be "other wastes" for the purposes of this Convention.

3. Wastes which, as a result of being radioactive, are subject to other international control systems, including



international instruments, applying specifically to radioactive materials, are excluded from the scope of this Convention.

4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, are excluded from the scope of this Convention.

## **Article 2**

### **Definitions**

For the purposes of this Convention:

1. "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;
2. "Management" means the collection, transport and disposal of hazardous wastes or other wastes, including after-care of disposal sites;
3. "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;
4. "Disposal" means any operation specified in Annex IV to this Convention;
5. "Approved site or facility" means a site or facility for the disposal of hazardous wastes or other wastes which is authorized or permitted to operate for this purpose by a relevant authority of the State where the site or facility is located;
6. "Competent authority" means one governmental authority designated by a Party to be responsible, within such geographical areas as the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes or other wastes, and any information related to it, and for responding to such a notification, as provided in Article 6;
7. "Focal point" means the entity of a Party referred to in Article 5 responsible for receiving and submitting information as provided for in Articles 13 and 16;
8. "Environmentally sound management of hazardous wastes or other wastes" means taking all practicable steps to ensure that hazardous wastes or 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;
9. "Area under the national jurisdiction of a State" means any land, marine area or air space within which a State exercises administrative and regulatory responsibility in accordance with international law in regard to the protection of human health or the environment;
10. "State of export" means a Party from which a transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated;
11. "State of import" means a Party to which a transboundary movement of hazardous wastes or other wastes is planned or takes place for the purpose of disposal therein or for the purpose of loading prior to disposal in an area not under the national jurisdiction of any State;
12. "State of transit" means any State, other than the State of export or import, through which a movement of hazardous wastes or other wastes is planned or takes place;





13. "States concerned" means Parties which are States of export or import, or transit States, whether or not Parties;
14. "Person" means any natural or legal person;
15. "Exporter" means any person under the jurisdiction of the State of export who arranges for hazardous wastes or other wastes to be exported;
16. "Importer" means any person under the jurisdiction of the State of import who arranges for hazardous wastes or other wastes to be imported;
17. "Carrier" means any person who carries out the transport of hazardous wastes or other wastes;
18. "Generator" means any person whose activity produces hazardous wastes or other wastes or, if that person is not known, the person who is in possession and/or control of those wastes;
19. "Disposer" means any person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes;
20. "Political and/or economic integration organization" means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;
21. "Illegal traffic" means any transboundary movement of hazardous wastes or other wastes as specified in Article 9.

### **Article 3**

#### **National Definitions of Hazardous Wastes**

1. Each Party shall, within six months of becoming a Party to this Convention, inform the Secretariat of the Convention of the wastes, other than those listed in Annexes I and II, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.
2. Each Party shall subsequently inform the Secretariat of any significant changes to the information it has provided pursuant to paragraph 1.
3. The Secretariat shall forthwith inform all Parties of the information it has received pursuant to paragraphs 1 and 2.
4. Parties shall be responsible for making the information transmitted to them by the Secretariat under paragraph 3 available to their exporters.

### **Article 4**

#### **General Obligations**

1. (a) Parties exercising their right to prohibit the import of hazardous wastes or other wastes for disposal shall inform the other Parties of their decision pursuant to Article 13.
- (b) Parties shall prohibit or shall not permit the export of hazardous wastes and other wastes to the Parties which have prohibited the import of such wastes, when notified pursuant to subparagraph (a) above.





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

2. Each Party shall take the appropriate measures to:

(a) Ensure that the generation of hazardous wastes and other wastes within it is reduced to a minimum, taking into account social, technological and economic aspects;

(b) Ensure the availability of adequate disposal facilities, for the environmentally sound management of hazardous wastes and other wastes, that shall be located, to the extent possible, within it, whatever the place of their disposal;

(c) Ensure that persons involved in the management of hazardous wastes or other wastes within it take such steps as are necessary to prevent pollution due to hazardous wastes and other wastes arising from such management and, if such pollution occurs, to minimize the consequences thereof for human health and the environment;

(d) Ensure that the transboundary movement of hazardous wastes and other wastes is reduced to the minimum consistent with the environmentally sound and efficient management of such wastes, and is conducted in a manner which will protect human health and the environment against the adverse effects which may result from such movement;

(e) Not allow the export of hazardous wastes or other wastes to a State or group of States belonging to an economic and/or political integration organization that are Parties, particularly developing countries, which have prohibited by their legislation all imports, or if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner, according to criteria to be decided on by the Parties at their first meeting.

(f) Require that information about a proposed transboundary movement of hazardous wastes and other wastes be provided to the States concerned, according to Annex V A, to state clearly the effects of the proposed movement on human health and the environment;

(g) Prevent the import of hazardous wastes and other wastes if it has reason to believe that the wastes in question will not be managed in an environmentally sound manner;

(h) Co-operate in activities with other Parties and interested organizations, directly and through the Secretariat, including the dissemination of information on the transboundary movement of hazardous wastes and other wastes, in order to improve the environmentally sound management of such wastes and to achieve the prevention of illegal traffic.

3. The Parties consider that illegal traffic in hazardous wastes or other wastes is criminal.

4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention.

5. 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.

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

7. Furthermore, each Party shall:

(a) Prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other wastes unless such persons are authorized or allowed to perform such types of operations;

(b) Require that hazardous wastes and other wastes that are to be the subject of a transboundary movement be





packaged, labelled, and transported in conformity with generally accepted and recognized international rules and standards in the field of packaging, labelling, and transport, and that due account is taken of relevant internationally recognized practices;

(c) Require that hazardous wastes and other wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal.

8. Each Party shall require that hazardous wastes or other wastes, to be exported, are managed in an environmentally sound manner in the State of import or elsewhere. Technical guidelines for the environmentally sound management of wastes subject to this Convention shall be decided by the Parties at their first meeting.

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

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

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

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

10. The obligation under this Convention of States in which hazardous wastes and other wastes are generated to require that those wastes are managed in an environmentally sound manner may not under any circumstances be transferred to the States of import or transit.

11. Nothing in this Convention shall prevent a Party from imposing additional requirements that are consistent with the provisions of this Convention, and are in accordance with the rules of international law, in order better to protect human health and the environment.

12. Nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea established in accordance with international law, and the sovereign rights and the jurisdiction which States have in their exclusive economic zones and their continental shelves in accordance with international law, and the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

13. Parties shall undertake to review periodically the possibilities for the reduction of the amount and/or the pollution potential of hazardous wastes and other wastes which are exported to other States, in particular to developing countries.

## Article 5

### Designation of Competent Authorities and Focal Point

To facilitate the implementation of this Convention, the Parties shall:

1. Designate or establish one or more competent authorities and one focal point. One competent authority shall be designated to receive the notification in case of a State of transit.

2. Inform the Secretariat, within three months of the date of the entry into force of this Convention for them, which agencies they have designated as their focal point and their competent authorities.

3. Inform the Secretariat, within one month of the date of decision, of any changes regarding the designation made





by them under paragraph 2 above.

## **Article 6**

### **Transboundary Movement between Parties**

1. The State of export shall notify, or shall require the generator or exporter to notify, in writing, through the channel of the competent authority of the State of export, the competent authority of the States concerned of any proposed transboundary movement of hazardous wastes or other wastes. Such notification shall contain the declarations and information specified in Annex V A, written in a language acceptable to the State of import. Only one notification needs to be sent to each State concerned.
2. The State of import shall respond to the notifier in writing, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. A copy of the final response of the State of import shall be sent to the competent authorities of the States concerned which are Parties.
3. The State of export shall not allow the generator or exporter to commence the transboundary movement until it has received written confirmation that:
  - (a) The notifier has received the written consent of the State of import; and
  - (b) The notifier has received from the State of import confirmation of the existence of a contract between the exporter and the disposer specifying environmentally sound management of the wastes in question.
4. Each State of transit which is a Party shall promptly acknowledge to the notifier receipt of the notification. It may subsequently respond to the notifier in writing, within 60 days, consenting to the movement with or without conditions, denying permission for the movement, or requesting additional information. The State of export shall not allow the transboundary movement to commence until it has received the written consent of the State of transit. However, if at any time a Party decides not to require prior written consent, either generally or under specific conditions, for transit transboundary movements of hazardous wastes or other wastes, or modifies its requirements in this respect, it shall forthwith inform the other Parties of its decision pursuant to Article 13. In this latter case, if no response is received by the State of export within 60 days of the receipt of a given notification by the State of transit, the State of export may allow the export to proceed through the State of transit.
5. In the case of a transboundary movement of wastes where the wastes are legally defined as or considered to be hazardous wastes only:
  - (a) By the State of export, the requirements of paragraph 9 of this Article that apply to the importer or disposer and the State of import shall apply mutatis mutandis to the exporter and State of export, respectively;
  - (b) By the State of import, or by the States of import and transit which are Parties, the requirements of paragraphs 1, 3, 4 and 6 of this Article that apply to the exporter and State of export shall apply mutatis mutandis to the importer or disposer and State of import, respectively; or
  - (c) By any State of transit which is a Party, the provisions of paragraph 4 shall apply to such State.
6. The State of export may, subject to the written consent of the States concerned, allow the generator or the exporter to use a general notification where hazardous wastes or other wastes having the same physical and chemical characteristics are shipped regularly to the same disposer via the same customs office of exit of the State of export via the same customs office of entry of the State of import, and, in the case of transit, via the same customs office of entry and exit of the State or States of transit.
7. The States concerned may make their written consent to the use of the general notification referred to in





paragraph 6 subject to the supply of certain information, such as the exact quantities or periodical lists of hazardous wastes or other wastes to be shipped.

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

9. The Parties shall require that each person who takes charge of a transboundary movement of hazardous wastes or other wastes sign the movement document either upon delivery or receipt of the wastes in question. They shall also require that the disposer inform both the exporter and the competent authority of the State of export of receipt by the disposer of the wastes in question and, in due course, of the completion of disposal as specified in the notification. If no such information is received within the State of export, the competent authority of the State of export or the exporter shall so notify the State of import.

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

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

#### **Article 7**

##### **Transboundary Movement from a Party through States which are not Parties**

Paragraph 1 of Article 6 of the Convention shall apply *mutatis mutandis* to transboundary movement of hazardous wastes or other wastes from a Party through a State or States which are not Parties.

#### **Article 8**

##### **Duty to Re-import**

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

#### **Article 9**

##### **Illegal Traffic**

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

- (a) without notification pursuant to the provisions of this Convention to all States concerned; or
- (b) without the consent pursuant to the provisions of this Convention of a State concerned; or

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

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

(e) that results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention of this Convention and of general principles of international law,

shall be deemed to be illegal traffic.

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

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

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

within 30 days from the time the State of export has been informed about the illegal traffic or such other period of time as States concerned may agree. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the State of export.

3. In the case of a transboundary movement of hazardous wastes or other wastes deemed to be illegal traffic as the result of conduct on the part of the importer or disposer, the State of import shall ensure that the wastes in question are disposed of in an environmentally sound manner by the importer or disposer or, if necessary, by itself within 30 days from the time the illegal traffic has come to the attention of the State of import or such other period of time as the States concerned may agree. To this end, the Parties concerned shall co-operate, as necessary, in the disposal of the wastes in an environmentally sound manner.

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

5. Each Party shall introduce appropriate national/domestic legislation to prevent and punish illegal traffic. The Parties shall co-operate with a view to achieving the objects of this Article.

## **Article 10**

### **International Co-operation**

1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes.

2. To this end, the Parties shall:

(a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes and other wastes;

(b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment;





(c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies;

(d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field;

(e) Co-operate in developing appropriate technical guidelines and/or codes of practice.

3. The Parties shall employ appropriate means to co-operate in order to assist developing countries in the implementation of subparagraphs a, b, c and d of paragraph 2 of Article 4.

4. Taking into account the needs of developing countries, co-operation between Parties and the competent international organizations is encouraged to promote, *inter alia*, public awareness, the development of sound management of hazardous wastes and other wastes and the adoption of new low-waste technologies.

### **Article 11**

#### **Bilateral, Multilateral and Regional Agreements**

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

2. Parties shall notify the Secretariat of any bilateral, multilateral or regional agreements or arrangements referred to in paragraph 1 and those which they have entered into prior to the entry into force of this Convention for them, for the purpose of controlling transboundary movements of hazardous wastes and other wastes which take place entirely among the Parties to such agreements. The provisions of this Convention shall not affect transboundary movements which take place pursuant to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by this Convention.

### **Article 12**

#### **Consultations on Liability**

The Parties shall co-operate with a view to adopting, as soon as practicable, a protocol setting out appropriate 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.

### **Article 13**

#### **Transmission of Information**

1. The Parties shall, whenever it comes to their knowledge, ensure that, in the case of an accident occurring during

the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those states are immediately informed.

2. The Parties shall inform each other, through the Secretariat, of:

- (a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5;
- (b) Changes in their national definition of hazardous wastes, pursuant to Article 3;

and, as soon as possible,

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

(d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes;

(e) Any other information required pursuant to paragraph 4 of this Article.

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

(a) Competent authorities and focal points that have been designated by them pursuant to Article 5;

(b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including:

(i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the response to notification;

(ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods;

(iii) Disposals which did not proceed as intended;

(iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement;

(c) Information on the measures adopted by them in implementation of this Convention;

(d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes;

(e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention;

(f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them;

(g) Information on disposal options operated within the area of their national jurisdiction;

(h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and





- (i) Such other matters as the Conference of the Parties shall deem relevant.

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

#### **Article 14**

##### **Financial Aspects**

1. The Parties agree that, according to the specific needs of different regions and subregions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.

2. The Parties shall consider the establishment of a revolving fund to assist on an interim basis in case of emergency situations to minimize damage from accidents arising from transboundary movements of hazardous wastes and other wastes or during the disposal of those wastes.

#### **Article 15**

##### **Conference of the Parties**

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.

2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.

3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules to determine in particular the financial participation of the Parties under this Convention.

4. The Parties at their first meeting shall consider any additional measures needed to assist them in fulfilling their responsibilities with respect to the protection and the preservation of the marine environment in the context of this Convention.

5. The Conference of the Parties shall keep under continuous review and evaluation the effective implementation of this Convention, and, in addition, shall:

(a) Promote the harmonization of appropriate policies, strategies and measures for minimizing harm to human health and the environment by hazardous wastes and other wastes;

(b) Consider and adopt, as required, amendments to this Convention and its annexes, taking into consideration, *inter alia*, available scientific, technical, economic and environmental information;

(c) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation and in the operation of the agreements and



arrangements envisaged in Article 11;

- (d) Consider and adopt protocols as required; and
- (e) Establish such subsidiary bodies as are deemed necessary for the implementation of this Convention.

6. The United Nations, its specialized agencies, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to hazardous wastes or other wastes which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

7. The Conference of the Parties shall undertake three years after the entry into force of this Convention, and at least every six years thereafter, an evaluation of its effectiveness and, if deemed necessary, to consider the adoption of a complete or partial ban of transboundary movements of hazardous wastes and other wastes in light of the latest scientific, environmental, technical and economic information.

## Article 16

### Secretariat

1. The functions of the Secretariat shall be:

- (a) To arrange for and service meetings provided for in Articles 15 and 17;
- (b) To prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;
- (c) To prepare reports on its activities carried out in implementation of its functions under this Convention and present them to the Conference of the Parties;
- (d) To ensure the necessary coordination with relevant international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its function;
- (e) To communicate with Focal Points and Competent Authorities established by the Parties in accordance with Article 5 of this Convention;
- (f) To compile information concerning authorized national sites and facilities of Parties available for the disposal of their hazardous wastes and other wastes and to circulate this information among Parties;
- (g) To receive and convey information from and to Parties on:
  - sources of technical assistance and training;
  - available technical and scientific know-how;
  - sources of advice and expertise; and
  - availability of resources

with a view to assisting them, upon request, in such areas as:

- the handling of the notification system of this Convention;



- the management of hazardous wastes and other wastes;
  - environmentally sound technologies relating to hazardous wastes and other wastes; such as low- and non-waste technology;
  - the assessment of disposal capabilities and sites;
  - the monitoring of hazardous wastes and other wastes; and
  - emergency responses;
- (h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat;
- (i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic;
- (j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; and
- (k) To perform such other functions relevant to the purposes of this Convention as may be determined by the Conference of the Parties.

2. The Secretariat functions will be carried out on an interim basis by UNEP until the completion of the first meeting of the Conference of the Parties held pursuant to Article 15.

3. At its first meeting, the Conference of the Parties shall designate the Secretariat from among those existing competent intergovernmental organizations which have signified their willingness to carry out the Secretariat functions under this Convention. At this meeting, the Conference of the Parties shall also evaluate the implementation by the interim Secretariat of the functions assigned to it, in particular under paragraph 1 above, and decide upon the structures appropriate for those functions.

### Article 17

#### Amendment of the Convention

1. Any Party may propose amendments to this Convention and any Party to a protocol may propose amendments to that protocol. Such amendments shall take due account, inter alia, of relevant scientific and technical considerations.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties by the Secretariat at least six months before the meeting at which it is proposed for adoption. The Secretariat shall also communicate proposed amendments to the Signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority of the Parties present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, approval, formal confirmation or acceptance.



4. The procedure mentioned in paragraph 3 above shall apply to amendments to any protocol, except that a two-thirds majority of the Parties to that protocol present and voting at the meeting shall suffice for their adoption.
5. Instruments of ratification, approval, formal confirmation or acceptance of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraphs 3 or 4 above shall enter into force between Parties having accepted them on the ninetieth day after the receipt by the Depositary of their instrument of ratification, approval, formal confirmation or acceptance by at least three-fourths of the Parties who accepted them or by at least two thirds of the Parties to the protocol concerned who accepted them, except as may otherwise be provided in such protocol. The amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, approval, formal confirmation or acceptance of the amendments.
6. For the purpose of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

### **Article 18**

#### **Adoption and Amendment of Annexes**

1. The annexes to this Convention or to any protocol shall form an integral part of this Convention or of such protocol, as the case may be and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to scientific, technical and administrative matters.
2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to a protocol:
  - (a) Annexes to this Convention and its protocols shall be proposed and adopted according to the procedure laid down in Article 17, paragraphs 2, 3 and 4;
  - (b) Any Party that is unable to accept an additional annex to this Convention or an annex to any protocol to which it is party shall so notify the Depositary, in writing, within six months from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;
  - (c) On the expiry of six months from the date of the circulation of the communication by the Depositary, the annex shall become effective for all Parties to this Convention or to any protocol concerned, which have not submitted a notification in accordance with the provision of subparagraph (b) above.
3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to a protocol. Annexes and amendments thereto shall take due account, inter alia, of relevant scientific and technical considerations.
4. If an additional annex or an amendment to an annex involves an amendment to this Convention or to any protocol, the additional annex or amended annex shall not enter into force until such time the amendment to this Convention or to the protocol enters into force.

### **Article 19**

#### **Verification**

Any Party which has reason to believe that another Party is acting or has acted in breach of its obligations under this Convention may inform the Secretariat thereof, and in such an event, shall simultaneously and immediately inform, directly or through the Secretariat, the Party against whom the allegations are made. All relevant information should be submitted by the Secretariat to the Parties.

## **Article 20**

### **Settlement of Disputes**

1. In case of a dispute between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, they shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.

2. If the Parties concerned cannot settle their dispute through the means mentioned in the preceding paragraph, the dispute, if the Parties to the dispute agree, shall be submitted to the International Court of Justice or to arbitration under the conditions set out in Annex VI on Arbitration. However, failure to reach common agreement on submission of the dispute to the International Court of Justice or to arbitration shall not absolve the Parties from the responsibility of continuing to seek to resolve it by the means referred to in paragraph 1.

3. When ratifying, accepting, approving, formally confirming or acceding to this Convention, or at any time thereafter, a State or political and/or economic integration organization may declare that it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

- (a) submission of the dispute to the International Court of Justice; and/or
- (b) arbitration in accordance with the procedures set out in Annex VI.

Such declaration shall be notified in writing to the Secretariat which shall communicate it to the Parties.

## **Article 21**

### **Signature**

This Convention shall be open for signature by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations, in Basel on 22 March 1989, at the Federal Department of Foreign Affairs of Switzerland in Berne from 23 March 1989 to 30 June 1989 and at United Nations Headquarters in New York from 1 July 1989 to 22 March 1990.

## **Article 22**

### **Ratification, Acceptance, Formal Confirmation or Approval**

1. This Convention shall be subject to ratification, acceptance or approval by States and by Namibia, represented by the United Nations Council for Namibia, and to formal confirmation or approval by political and/or economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depositary.

2. Any organization referred to in paragraph 1 above which becomes a Party to this Convention without any of its members States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such



cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.

3. In their instruments of formal confirmation or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who will inform the Parties of any substantial modification in the extent of their competence.

### Article 23

#### Accession

1. This Convention shall be open for accession by States, by Namibia, represented by the United Nations Council for Namibia, and by political and/or economic integration organizations from the day after the date on which the Convention is closed for signature. The instruments of accession shall be deposited with the Depositary.

2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary of any substantial modification in the extent of their competence.

3. The provisions of Article 22, paragraph 2, shall apply to political and/or economic integration organizations which accede to this Convention.

### Article 24

#### Right to Vote

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention shall have one vote.

2. Political and/or economic integration organizations, in matters within their competence, in accordance with Article 22, paragraph 3, and Article 23, paragraph 2, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

### Article 25

#### Entry into Force

1. This Convention shall enter into force on the ninetieth day after the day of deposit of the twentieth instrument of ratification, acceptance, formal confirmation, approval or accession.

2. For each State or political and/or economic integration organization which ratifies, accepts, approves or formally confirms this Convention or accedes thereto after the date of the deposit of the twentieth instrument of ratification, acceptance, approval, formal confirmation or accession, it shall enter into force on the ninetieth day after the date of deposit by such State or political and/or economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.

3. For the purpose of paragraphs 1 and 2 above, any instrument deposited by a political and/or economic integration organization shall not be counted as additional to those deposited by member States of such organization.

### Article 26

**Reservations and Declarations**

1. No reservation or exception may be made to this Convention.
2. Paragraph 1 of this Article does not preclude a State or political and/or economic integration organization, when signing, ratifying, accepting, approving, formally confirming or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, *inter alia*, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Convention in their application to that State.

**Article 27****Withdrawal**

1. At any time after three years from the date on which this Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Withdrawal shall be effective one year from receipt of notification by the Depositary, or on such later date as may be specified in the notification.

**Article 28****Depositary**

The Secretary-General of the United Nations shall be the Depositary of this Convention and of any protocol thereto.

**Article 29****Authentic texts**

The original Arabic, Chinese, English, French, Russian and Spanish texts of this Convention are equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

Done at.....on the.....day of.....1989