



## REPUBLIC OF VANUATU

# **BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL, ROTTERDAM CONVENTION ON PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE AND MINAMATA CONVENTION ON MERCURY (RATIFICATION) ACT NO. 9 OF 2018**

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# REPUBLIC OF VANUATU

Assent: 06/07/2018  
Commencement: 10/08/2018

## **BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL, ROTTERDAM CONVENTION ON PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE AND MINAMATA CONVENTION ON MERCURY (RATIFICATION) ACT NO. 9 OF 2018**

An Act to provide for the ratification of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and Minamata Convention on Mercury.

Be it enacted by the President and Parliament as follows-

### **1 Ratification**

- (1) The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and Minamata Convention on Mercury are ratified.
- (2) A copy of each of the Convention is attached.

### **2 Commencement**

This Act commences on the day on which it is published in the Gazette.

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*Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and Minamata Convention on Mercury (Ratification) Act No. 9 of 2018*



# **BASEL CONVENTION**

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

**PROTOCOL ON LIABILITY AND COMPENSATION**  
FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS  
OF HAZARDOUS WASTES AND THEIR DISPOSAL

TEXTS AND ANNEXES



**BASEL CONVENTION**

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TEXTS AND ANNEXES







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# **BASEL CONVENTION ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL<sup>1</sup>**

## **PREAMBLE<sup>2</sup>**

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

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<sup>1</sup> The present text incorporates amendments to the Convention adopted subsequent to its entry into force and that are in force as at 27 May 2014. Only the text of the Convention as kept in the custody of the Secretary-General of the United Nations in his capacity as Depositary constitutes the authentic version of the Convention, as modified by any amendments and/or corrections thereto. This publication is issued for information purposes only.

<sup>2</sup> The Conference of the Parties adopted Decision III/1 at its third meeting to amend the Convention by adding, *inter alia*, a new preambular paragraph 7 bis. The amendment is not yet in force. The relevant part of Decision III/1 provides as follows:

### "The Conference

...

3. Decides to adopt the following amendment to the Convention:

'Insert new preambular paragraph 7 bis:

Recognizing that transboundary movements of hazardous wastes, especially to developing countries, have a high risk of not constituting an environmentally sound management of hazardous wastes as required by this Convention;

..."



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 regard 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**

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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**

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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 airspace 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**

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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<sup>3</sup>

### GENERAL OBLIGATIONS

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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.

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<sup>3</sup> The Conference of the Parties adopted Decision III/1 at its third meeting to amend the Convention by adding, *inter alia*, a new Article 4A. The amendment is not yet in force. The relevant part of Decision III/1 provides as follows:

"The Conference

...

3. Decides to adopt the following amendment to the Convention:

...

'Insert new Article 4A:

1. Each Party listed in Annex VII shall prohibit all transboundary movements of hazardous wastes which are destined for operations according to Annex IV A, to States not listed in Annex VII.

2. Each Party listed in Annex VII shall phase out by 31 December 1997, and prohibit as of that date, all transboundary movements of hazardous wastes under Article 1(1)(a) of the Convention which are destined for operations according to Annex IV B to States not listed in Annex VII. Such transboundary movement shall not be prohibited unless the wastes in question are characterised as hazardous under the Convention. ..."

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**

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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**

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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**

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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**

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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

(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**

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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**

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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**

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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**

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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.

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## **ARTICLE 14**

### **FINANCIAL ASPECTS**

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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**

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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 the 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**

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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**

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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 vote 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**

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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**

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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**

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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.

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## **ARTICLE 21**

### **SIGNATURE**

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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.

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## **ARTICLE 22**

### **RATIFICATION, ACCEPTANCE, FORMAL CONFIRMATION OR APPROVAL**

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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 member 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.

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## **ARTICLE 23**

### **ACCESSION**

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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**

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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**

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1. This Convention shall enter into force on the ninetieth day after the date 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

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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

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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 Depository.
2. Withdrawal shall be effective one year from receipt of notification by the Depository, or on such later date as may be specified in the notification.

## **ARTICLE 28**

### DEPOSITORY

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

## **ARTICLE 29**

### **AUTHENTIC TEXTS**

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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 Basel on the 22 day of March 1989.

## ANNEXES





## ANNEX I

### **CATEGORIES OF WASTES TO BE CONTROLLED**

#### WASTE STREAMS

<b>Y1</b>	Clinical wastes from medical care in hospitals, medical centers and clinics
<b>Y2</b>	Wastes from the production and preparation of pharmaceutical products
<b>Y3</b>	Waste pharmaceuticals, drugs and medicines
<b>Y4</b>	Wastes from the production, formulation and use of biocides and phytopharmaceuticals
<b>Y5</b>	Wastes from the manufacture, formulation and use of wood preserving chemicals
<b>Y6</b>	Wastes from the production, formulation and use of organic solvents
<b>Y7</b>	Wastes from heat treatment and tempering operations containing cyanides
<b>Y8</b>	Waste mineral oils unfit for their originally intended use
<b>Y9</b>	Waste oils/water, hydrocarbons/water mixtures, emulsions
<b>Y10</b>	Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
<b>Y11</b>	Waste tarry residues arising from refining, distillation and any pyrolytic treatment
<b>Y12</b>	Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
<b>Y13</b>	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives

<b>Y14</b>	Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on man and/or the environment are not known
<b>Y15</b>	Wastes of an explosive nature not subject to other legislation
<b>Y16</b>	Wastes from production, formulation and use of photographic chemicals and processing materials
<b>Y17</b>	Wastes resulting from surface treatment of metals and plastics
<b>Y18</b>	Residues arising from industrial waste disposal operations

## WASTES HAVING AS CONSTITUENTS:

<b>Y19</b>	Metal carbonyls
<b>Y20</b>	Beryllium; beryllium compounds
<b>Y21</b>	Hexavalent chromium compounds
<b>Y22</b>	Copper compounds
<b>Y23</b>	Zinc compounds
<b>Y24</b>	Arsenic; arsenic compounds
<b>Y25</b>	Selenium; selenium compounds
<b>Y26</b>	Cadmium; cadmium compounds
<b>Y27</b>	Antimony; antimony compounds
<b>Y28</b>	Tellurium; tellurium compounds
<b>Y29</b>	Mercury; mercury compounds
<b>Y30</b>	Thallium; thallium compounds
<b>Y31</b>	Lead; lead compounds
<b>Y32</b>	Inorganic fluorine compounds excluding calcium fluoride
<b>Y33</b>	Inorganic cyanides
<b>Y34</b>	Acidic solutions or acids in solid form
<b>Y35</b>	Basic solutions or bases in solid form
<b>Y36</b>	Asbestos (dust and fibres)
<b>Y37</b>	Organic phosphorus compounds

<b>Y38</b>	Organic cyanides
<b>Y39</b>	Phenols; phenol compounds including chlorophenols
<b>Y40</b>	Ethers
<b>Y41</b>	Halogenated organic solvents
<b>Y42</b>	Organic solvents excluding halogenated solvents
<b>Y43</b>	Any congener of polychlorinated dibenzo-furan
<b>Y44</b>	Any congener of polychlorinated dibenzo-p-dioxin
<b>Y45</b>	Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

(a) To facilitate the application of this Convention, and subject to paragraphs (b), (c) and (d), wastes listed in Annex VIII are characterized as hazardous pursuant to Article 1, paragraph 1 (a), of this Convention, and wastes listed in Annex IX are not covered by Article 1, paragraph 1 (a), of this Convention.

(b) Designation of a waste on Annex VIII does not preclude, in a particular case, the use of Annex III to demonstrate that a waste is not hazardous pursuant to Article 1, paragraph 1 (a), of this Convention.

(c) Designation of a waste on Annex IX does not preclude, in a particular case, characterization of such a waste as hazardous pursuant to Article 1, paragraph 1 (a), of this Convention if it contains Annex I material to an extent causing it to exhibit an Annex III characteristic.

(d) Annexes VIII and IX do not affect the application of Article 1, paragraph 1 (a), of this Convention for the purpose of characterization of wastes.<sup>4</sup>

<sup>4</sup> The amendment whereby paragraphs (a), (b), (c) and (d) were added to at the end of Annex I entered into force on 6 November 1998, six months following the issuance of depositary notification C.N.77.1998 of 6 May 1998 (reflecting Decision IV/9, adopted by the Conference of the Parties at its fourth meeting).



## **ANNEX II**



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### **CATEGORIES OF WASTES REQUIRING SPECIAL CONSIDERATION**

<b>Y46</b>	Wastes collected from households
<b>Y47</b>	Residues arising from the incineration of household wastes

## ANNEX III

### LIST OF HAZARDOUS CHARACTERISTICS

UN Class <sup>5</sup>	Code	Characteristics
1	H1	Explosive  An explosive substance or waste is a solid or liquid substance or waste (or mixture of substances or wastes) which is in itself capable by chemical reaction of producing gas at such a temperature and pressure and at such a speed as to cause damage to the surroundings.
3	H3	Flammable liquids  The word “flammable” has the same meaning as “inflammable”. Flammable liquids are liquids, or mixtures of liquids, or liquids containing solids in solution or suspension (for example, paints, varnishes, lacquers, etc., but not including substances or wastes otherwise classified on account of their dangerous characteristics) which give off a flammable vapour at temperatures of not more than 60.5°C, closed-cup test, or not more than 65.6°C, open-cup test. (Since the results of open-cup tests and of closed-cup tests are not strictly comparable and even individual results by the same test are often variable, regulations varying from the above figures to make allowance for such differences would be within the spirit of this definition.)

<sup>5</sup> Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/AC.10/1Rev.5, United Nations, New York, 1988).

<b>UN Class<sup>5</sup></b>	<b>Code</b>	<b>Characteristics</b>
<b>4.1</b>	<b>H4.1</b>	Flammable solids
		Solids, or waste solids, other than those classed as explosives, which under conditions encountered in transport are readily combustible, or may cause or contribute to fire through friction.
<b>4.2</b>	<b>H4.2</b>	Substances or wastes liable to spontaneous combustion
		Substances or wastes which are liable to spontaneous heating under normal conditions encountered in transport, or to heating up on contact with air, and being then liable to catch fire.
<b>4.3</b>	<b>H4.3</b>	Substances or wastes which, in contact with water emit flammable gases
		Substances or wastes which, by interaction with water, are liable to become spontaneously flammable or to give off flammable gases in dangerous quantities.
<b>5.1</b>	<b>H5.1</b>	Oxidizing
		Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.
<b>5.2</b>	<b>H5.2</b>	Organic Peroxides
		Organic substances or wastes which contain the bivalent-o-o-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.

<b>UN Class<sup>5</sup></b>	<b>Code</b>	<b>Characteristics</b>
<b>6.1</b>	<b>H6.1</b>	<b>Poisonous (Acute)</b> Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
<b>6.2</b>	<b>H6.2</b>	<b>Infectious substances</b> Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
<b>8</b>	<b>H8</b>	<b>Corrosives</b> Substances or wastes which, by chemical action, will cause severe damage when in contact with living tissue, or, in the case of leakage, will materially damage, or even destroy, other goods or the means of transport; they may also cause other hazards.
<b>9</b>	<b>H10</b>	<b>Liberation of toxic gases in contact with air or water</b> Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
<b>9</b>	<b>H11</b>	<b>Toxic (Delayed or chronic)</b> Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.

<b>UN Class<sup>5</sup></b>	<b>Code</b>	<b>Characteristics</b>
<b>9</b>	<b>H12</b>	Ecotoxic
		Substances or wastes which if released present or may present immediate or delayed adverse impacts to the environment by means of bioaccumulation and/or toxic effects upon biotic systems.
<b>9</b>	<b>H13</b>	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

## TESTS

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The potential hazards posed by certain types of wastes are not yet fully documented; tests to define quantitatively these hazards do not exist. Further research is necessary in order to develop means to characterise potential hazards posed to man and/or the environment by these wastes. Standardized tests have been derived with respect to pure substances and materials. Many countries have developed national tests which can be applied to materials listed in Annex I, in order to decide if these materials exhibit any of the characteristics listed in this Annex.



## ANNEX IV

### DISPOSAL OPERATIONS

#### A. OPERATIONS WHICH DO NOT LEAD TO THE POSSIBILITY OF RESOURCE RECOVERY, RECYCLING, RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

Section A encompasses all such disposal operations which occur in practice.

<b>D1</b>	Deposit into or onto land, (e.g., landfill, etc.)
<b>D2</b>	Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc.)
<b>D3</b>	Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)
<b>D4</b>	Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc.)
<b>D5</b>	Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc.)
<b>D6</b>	Release into a water body except seas/oceans
<b>D7</b>	Release into seas/oceans including sea-bed insertion
<b>D8</b>	Biological treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A
<b>D9</b>	Physico chemical treatment not specified elsewhere in this Annex which results in final compounds or mixtures which are discarded by means of any of the operations in Section A, (e.g., evaporation, drying, calcination, neutralization, precipitation, etc.)
<b>D10</b>	Incineration on land

<b>D11</b>	Incineration at sea
<b>D12</b>	Permanent storage (e.g., emplacement of containers in a mine, etc.)
<b>D13</b>	Blending or mixing prior to submission to any of the operations in Section A
<b>D14</b>	Repackaging prior to submission to any of the operations in Section A
<b>D15</b>	Storage pending any of the operations in Section A

## B. OPERATIONS WHICH MAY LEAD TO RESOURCE RECOVERY, RECYCLING RECLAMATION, DIRECT RE-USE OR ALTERNATIVE USES

Section B encompasses all such operations with respect to materials legally defined as or considered to be hazardous wastes and which otherwise would have been destined for operations included in Section A

<b>R1</b>	Use as a fuel (other than in direct incineration) or other means to generate energy
<b>R2</b>	Solvent reclamation/regeneration
<b>R3</b>	Recycling/reclamation of organic substances which are not used as solvents
<b>R4</b>	Recycling/reclamation of metals and metal compounds
<b>R5</b>	Recycling/reclamation of other inorganic materials
<b>R6</b>	Regeneration of acids or bases
<b>R7</b>	Recovery of components used for pollution abatement
<b>R8</b>	Recovery of components from catalysts
<b>R9</b>	Used oil re-refining or other reuses of previously used oil

<b>R10</b>	Land treatment resulting in benefit to agriculture or ecological improvement
<b>R11</b>	Uses of residual materials obtained from any of the operations numbered R1-R10
<b>R12</b>	Exchange of wastes for submission to any of the operations numbered R1-R11
<b>R13</b>	Accumulation of material intended for any operation in Section B



## ANNEX V A



### INFORMATION TO BE PROVIDED ON NOTIFICATION

1. Reason for waste export
2. Exporter of the waste 1/
3. Generator(s) of the waste and site of generation 1/
4. Disposer of the waste and actual site of disposal 1/
5. Intended carrier(s) of the waste or their agents, if known 1/
6. Country of export of the waste  
Competent authority 2/
7. Expected countries of transit  
Competent authority 2/
8. Country of import of the waste  
Competent authority 2/
9. General or single notification
10. Projected date(s) of shipment(s) and period of time over which waste is to be exported and proposed itinerary (including point of entry and exit)3/
11. Means of transport envisaged (road, rail, sea, air, inland waters)
12. Information relating to insurance 4/

13. Designation and physical description of the waste including Y number and UN number and its composition 5/ and information on any special handling requirements including emergency provisions in case of accidents
14. Type of packaging envisaged (e.g. bulk, drummed, tanker)
15. Estimated quantity in weight/volume 6/
16. Process by which the waste is generated 7/
17. For wastes listed in Annex I, classifications from Annex III: hazardous characteristic, H number, and UN class
18. Method of disposal as per Annex IV
19. Declaration by the generator and exporter that the information is correct
20. Information transmitted (including technical description of the plant) to the exporter or generator from the disposer of the waste upon which the latter has based his assessment that there was no reason to believe that the wastes will not be managed in an environmentally sound manner in accordance with the laws and regulations of the country of import
21. Information concerning the contract between the exporter and disposer.

## Notes

- 1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted.
- 2/ Full name and address, telephone, telex or telefax number.
- 3/ In the case of a general notification covering several shipments, either the expected dates of each shipment or, if this is not known, the expected frequency of the shipments will be required.
- 4/ Information to be provided on relevant insurance requirements and how they are met by exporter, carrier and disposer.
- 5/ The nature and the concentration of the most hazardous components, in terms of toxicity and other dangers presented by the waste both in handling and in relation to the proposed disposal method.
- 6/ In the case of a general notification covering several shipments, both the estimated total quantity and the estimated quantities for each individual shipment will be required.
- 7/ Insofar as this is necessary to assess the hazard and determine the appropriateness of the proposed disposal operation.



## **ANNEX V B**



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### **INFORMATION TO BE PROVIDED ON THE MOVEMENT DOCUMENT**

1. Exporter of the waste 1/
2. Generator(s) of the waste and site of generation 1/
3. Disposer of the waste and actual site of disposal 1/
4. Carrier(s) of the waste 1/ or his agent(s)
5. Subject of general or single notification
6. The date the transboundary movement started and date(s) and signature on receipt by each person who takes charge of the waste
7. Means of transport (road, rail, inland waterway, sea, air) including countries of export, transit and import, also point of entry and exit where these have been designated
8. General description of the waste (physical state, proper UN shipping name and class, UN number, Y number and H number as applicable)
9. Information on special handling requirements including emergency provision in case of accidents
10. Type and number of packages
11. Quantity in weight/volume

12. Declaration by the generator or exporter that the information is correct
13. Declaration by the generator or exporter indicating no objection from the competent authorities of all States concerned which are Parties
14. Certification by disposer of receipt at designated disposal facility and indication of method of disposal and of the approximate date of disposal.

#### Notes

The information required on the movement document shall where possible be integrated in one document with that required under transport rules. Where this is not possible the information should complement rather than duplicate that required under the transport rules. The movement document shall carry instructions as to who is to provide information and fill-out any form.

- 1/ Full name and address, telephone, telex or telefax number and the name, address, telephone, telex or telefax number of the person to be contacted in case of emergency.





## **ANNEX VI**



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### **ARBITRATION**

#### **ARTICLE 1**

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Unless the agreement referred to in Article 20 of the Convention provides otherwise, the arbitration procedure shall be conducted in accordance with Articles 2 to 10 below.

#### **ARTICLE 2**

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The claimant Party shall notify the Secretariat that the Parties have agreed to submit the dispute to arbitration pursuant to paragraph 2 or paragraph 3 of Article 20 and include, in particular, the Articles of the Convention the interpretation or application of which are at issue. The Secretariat shall forward the information thus received to all Parties to the Convention.

#### **ARTICLE 3**

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The arbitral tribunal shall consist of three members. Each of the Parties to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the chairman of the tribunal. The latter shall not be a national of one of the Parties to the dispute, nor have his usual place of residence in the territory of one of these Parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

#### **ARTICLE 4**

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1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of either Party, designate him within a further two months period.

2. If one of the Parties to the dispute does not appoint an arbitrator within two months of the receipt of the request, the other Party may inform the Secretary-General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the Party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary-General of the United Nations, who shall make this appointment within a further two months' period.

#### **ARTICLE 5**

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1. The arbitral tribunal shall render its decision in accordance with international law and in accordance with the provisions of this Convention.

2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

#### **ARTICLE 6**

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1. The decisions of the arbitral tribunal both on procedure and on substance, shall be taken by majority vote of its members.

2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the Parties, recommend essential interim measures of protection.

3. The Parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.

4. The absence or default of a Party in the dispute shall not constitute an impediment to the proceedings.

## **ARTICLE 7**

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The tribunal may hear and determine counter-claims arising directly out of the subject-matter of the dispute.

## **ARTICLE 8**

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Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Parties to the dispute in equal shares. The tribunal shall keep a record of all its expenses, and shall furnish a final statement thereof to the Parties.

## **ARTICLE 9**

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Any Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

## **ARTICLE 10**

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1. The tribunal shall render its award within five months of the date on which it is established unless it finds it necessary to extend the time-limit for a period which should not exceed five months.
2. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the Parties to the dispute.
3. Any dispute which may arise between the Parties concerning the interpretation or execution of the award may be submitted by either Party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another tribunal constituted for this purpose in the same manner as the first.



## ANNEX VII

[not yet entered into force]<sup>6</sup>

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<sup>6</sup> Annex VII is an integral part of the Amendment adopted by the third meeting of the Conference of the Parties in 1995 in its Decision III/1. The amendment is not yet in force. The relevant part of Decision III/1 provides as follows:

"The Conference

...

3. Decides to adopt the following amendment to the Convention:

**'Annex VII**

Parties and other States which are members of OECD, EC, Liechtenstein."

## ANNEX VIII<sup>7</sup>

### LIST A

Wastes contained in this Annex are characterized as hazardous under Article 1, paragraph 1 (a), of this Convention, and their designation on this Annex does not preclude the use of Annex III to demonstrate that a waste is not hazardous.

#### A1 METAL AND METAL-BEARING WASTES

<b>A1010</b>	Metal wastes and waste consisting of alloys of any of the following: <ul style="list-style-type: none"><li>• Antimony</li><li>• Arsenic</li><li>• Beryllium</li><li>• Cadmium</li><li>• Lead</li><li>• Mercury</li><li>• Selenium</li><li>• Tellurium</li><li>• Thallium</li></ul> but excluding such wastes specifically listed on list B.
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<sup>7</sup> The amendment whereby Annex VIII was added to the Convention entered into force on 6 November 1998, six months following the issuance of depositary notification C.N.77.1998 of 6 May 1998 (reflecting Decision IV/9 adopted by the Conference of the Parties at its fourth meeting). The amendment to Annex VIII whereby new entries were added entered into force on 20 November 2003 (depositary notification C.N.1314.2003), six months following the issuance of depositary notification C.N.399.2003 of 20 May 2003 (reflecting Decision VI/35 adopted by the Conference of the Parties at its sixth meeting). The amendment to Annex VIII whereby one new entry was added entered into force on 8 October 2005 (depositary notification C.N.1044.2005), six months following the issuance of depositary notification C.N.263.2005 of 8 April 2005 (re-issued on 13 June 2005, reflecting Decision VII/19 adopted by the Conference of the Parties at its seventh meeting). The present text includes all amendments.

<b>A1020</b>	Waste having as constituents or contaminants, excluding metal waste in massive form, any of the following: <ul style="list-style-type: none"> <li>• Antimony; antimony compounds</li> <li>• Beryllium; beryllium compounds</li> <li>• Cadmium; cadmium compounds</li> <li>• Lead; lead compounds</li> <li>• Selenium; selenium compounds</li> <li>• Tellurium; tellurium compounds</li> </ul>
<b>A1030</b>	Wastes having as constituents or contaminants any of the following: <ul style="list-style-type: none"> <li>• Arsenic; arsenic compounds</li> <li>• Mercury; mercury compounds</li> <li>• Thallium; thallium compounds</li> </ul>
<b>A1040</b>	Wastes having as constituents any of the following: <ul style="list-style-type: none"> <li>• Metal carbonyls</li> <li>• Hexavalent chromium compounds</li> </ul>
<b>A1050</b>	Galvanic sludges
<b>A1060</b>	Waste liquors from the pickling of metals
<b>A1070</b>	Leaching residues from zinc processing, dust and sludges such as jarosite, hematite, etc.
<b>A1080</b>	Waste zinc residues not included on list B, containing lead and cadmium in concentrations sufficient to exhibit Annex III characteristics
<b>A1090</b>	Ashes from the incineration of insulated copper wire
<b>A1100</b>	Dusts and residues from gas cleaning systems of copper smelters
<b>A1110</b>	Spent electrolytic solutions from copper electrorefining and electrowinning operations

<b>A1120</b>	Waste sludges, excluding anode slimes, from electrolyte purification systems in copper electrorefining and electrowinning operations
<b>A1130</b>	Spent etching solutions containing dissolved copper
<b>A1140</b>	Waste cupric chloride and copper cyanide catalysts
<b>A1150</b>	Precious metal ash from incineration of printed circuit boards not included on list B <sup>8</sup>
<b>A1160</b>	Waste lead-acid batteries, whole or crushed
<b>A1170</b>	Unsorted waste batteries excluding mixtures of only list B batteries. Waste batteries not specified on list B containing Annex I constituents to an extent to render them hazardous
<b>A1180</b>	Waste electrical and electronic assemblies or scrap <sup>9</sup> containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) to an extent that they possess any of the characteristics contained in Annex III (note the related entry on list B B1110) <sup>10</sup>
<b>A1190</b>	Waste metal cables coated or insulated with plastics containing or contaminated with coal tar, PCB <sup>11</sup> , lead, cadmium, other organohalogen compounds or other Annex I constituents to an extent that they exhibit Annex III characteristics.

<sup>8</sup> Note that mirror entry on list B (B1160) does not specify exceptions

<sup>9</sup> This entry does not include scrap assemblies from electric power generation.

<sup>10</sup> PCBs are at a concentration level of 50 mg/kg or more.

<sup>11</sup> PCBs are at a concentration level of 50 mg/kg or more.

**A2 WASTES CONTAINING PRINCIPALLY INORGANIC  
CONSTITUENTS, WHICH MAY CONTAIN METALS AND  
ORGANIC MATERIALS**

<b>A2010</b>	Glass waste from cathode-ray tubes and other activated glasses
<b>A2020</b>	Waste inorganic fluorine compounds in the form of liquids or sludges but excluding such wastes specified on list B
<b>A2030</b>	Waste catalysts but excluding such wastes specified on list B
<b>A2040</b>	Waste gypsum arising from chemical industry processes, when containing Annex I constituents to the extent that it exhibits an Annex III hazardous characteristic (note the related entry on list B B2080)
<b>A2050</b>	Waste asbestos (dusts and fibres)
<b>A2060</b>	Coal-fired power plant fly-ash containing Annex I substances in concentrations sufficient to exhibit Annex III characteristics (note the related entry on list B B2050)

**A3 WASTES CONTAINING PRINCIPALLY ORGANIC  
CONSTITUENTS, WHICH MAY CONTAIN METALS AND  
INORGANIC MATERIALS**

<b>A3010</b>	Waste from the production or processing of petroleum coke and bitumen
<b>A3020</b>	Waste mineral oils unfit for their originally intended use
<b>A3030</b>	Wastes that contain, consist of or are contaminated with leaded anti-knock compound sludges
<b>A3040</b>	Waste thermal (heat transfer) fluids
<b>A3050</b>	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives excluding such wastes specified on list B (note the related entry on list B B4020)



<b>A3060</b>	Waste nitrocellulose
<b>A3070</b>	Waste phenols, phenol compounds including chlorophenol in the form of liquids or sludges
<b>A3080</b>	Waste ethers not including those specified on list B
<b>A3090</b>	Waste leather dust, ash, sludges and flours when containing hexavalent chromium compounds or biocides (note the related entry on list B B3100)
<b>A3100</b>	Waste paring and other waste of leather or of composition leather not suitable for the manufacture of leather articles containing hexavalent chromium compounds or biocides (note the related entry on list B B3090)
<b>A3110</b>	Fellmongery wastes containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list B B3110)
<b>A3120</b>	Fluff - light fraction from shredding
<b>A3130</b>	Waste organic phosphorous compounds
<b>A3140</b>	Waste non-halogenated organic solvents but excluding such wastes specified on list B
<b>A3150</b>	Waste halogenated organic solvents
<b>A3160</b>	Waste halogenated or unhalogenated non-aqueous distillation residues arising from organic solvent recovery operations
<b>A3170</b>	Wastes arising from the production of aliphatic halogenated hydrocarbons (such as chloromethane, dichloro-ethane, vinyl chloride, vinylidene chloride, allyl chloride and epichlorhydrin)

<b>A3180</b>	Wastes, substances and articles containing, consisting of or contaminated with polychlorinated biphenyl (PCB), polychlorinated terphenyl (PCT), polychlorinated naphthalene (PCN) or polybrominated biphenyl (PBB), or any other polybrominated analogues of these compounds, at a concentration level of 50 mg/kg or more <sup>12</sup>
<b>A3190</b>	Waste tarry residues (excluding asphalt cements) arising from refining, distillation and any pyrolytic treatment of organic materials
<b>A3200</b>	Bituminous material (asphalt waste) from road construction and maintenance, containing tar (note the related entry on list B, B2130)

#### **A4 WASTES WHICH MAY CONTAIN EITHER INORGANIC OR ORGANIC CONSTITUENTS**

<b>A4010</b>	Wastes from the production, preparation and use of pharmaceutical products but excluding such wastes specified on list B
<b>A4020</b>	Clinical and related wastes; that is wastes arising from medical, nursing, dental, veterinary, or similar practices, and wastes generated in hospitals or other facilities during the investigation or treatment of patients, or research projects
<b>A4030</b>	Wastes from the production, formulation and use of biocides and phytopharmaceuticals, including waste pesticides and herbicides which are off-specification, outdated, <sup>13</sup> or unfit for their originally intended use

<sup>12</sup> The 50 mg/kg level is considered to be an internationally practical level for all wastes. However, many individual countries have established lower regulatory levels (e.g., 20 mg/kg) for specific wastes.

<sup>13</sup> "Outdated" means unused within the period recommended by the manufacturer.

<b>A4040</b>	Wastes from the manufacture, formulation and use of wood-preserving chemicals <sup>14</sup>
<b>A4050</b>	Wastes that contain, consist of or are contaminated with any of the following: <ul style="list-style-type: none"> <li>• Inorganic cyanides, excepting precious-metal-bearing residues in solid form containing traces of inorganic cyanides</li> <li>• Organic cyanides</li> </ul>
<b>A4060</b>	Waste oils/water, hydrocarbons/water mixtures, emulsions
<b>A4070</b>	Wastes from the production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish excluding any such waste specified on list B (note the related entry on list B B4010)
<b>A4080</b>	Wastes of an explosive nature (but excluding such wastes specified on list B)
<b>A4090</b>	Waste acidic or basic solutions, other than those specified in the corresponding entry on list B (note the related entry on list B B2120)
<b>A4100</b>	Wastes from industrial pollution control devices for cleaning of industrial off-gases but excluding such wastes specified on list B
<b>A4110</b>	Wastes that contain, consist of or are contaminated with any of the following: <ul style="list-style-type: none"> <li>• Any congener of polychlorinated dibenzo-furan</li> <li>• Any congener of polychlorinated dibenzo-P-dioxin</li> </ul>
<b>A4120</b>	Wastes that contain, consist of or are contaminated with peroxides

<sup>14</sup> This entry does not include wood treated with wood preserving chemicals.

<b>A4130</b>	Waste packages and containers containing Annex I substances in concentrations sufficient to exhibit Annex III hazard characteristics
<b>A4140</b>	Waste consisting of or containing off specification or outdated <sup>15</sup> chemicals corresponding to Annex I categories and exhibiting Annex III hazard characteristics
<b>A4150</b>	Waste chemical substances arising from research and development or teaching activities which are not identified and/or are new and whose effects on human health and/or the environment are not known
<b>A4160</b>	Spent activated carbon not included on list B (note the related entry on list B B2060)

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<sup>15</sup> "Outdated" means unused within the period recommended by the manufacturer.

## ANNEX IX<sup>16</sup>

### LIST B

Wastes contained in the Annex will not be wastes covered by Article 1, paragraph 1 (a), of this Convention unless they contain Annex I material to an extent causing them to exhibit an Annex III characteristic.

#### B1 METAL AND METAL-BEARING WASTES

##### B1010

Metal and metal-alloy wastes in metallic, non-dispersible form:

- Precious metals (gold, silver, the platinum group, but not mercury)
- Iron and steel scrap
- Copper scrap
- Nickel scrap
- Aluminium scrap
- Zinc scrap
- Tin scrap
- Tungsten scrap
- Molybdenum scrap
- Tantalum scrap
- Magnesium scrap
- Cobalt scrap
- Bismuth scrap

<sup>16</sup> The amendment whereby Annex IX was added to the Convention entered into force on 6 November 1998, six months following the issuance of depositary notification C.N.77.1998 (reflecting Decision IV/9 adopted by the Conference of the Parties at its fourth meeting). The amendment to Annex IX whereby new entries were added entered into force on 20 November 2003 (depositary notification C.N.1314.2003), six months following the issuance of depositary notification C.N.399.2003 of 20 May 2003 (reflecting Decision VI/35 adopted by the Conference of the Parties at its sixth meeting). The amendment to Annex IX whereby one entry was added entered into force on 8 October 2005 (depositary notification C.N.1044.2005) six months following the issuance of depositary notification C.N.263.2005 of 8 April 2005 (re-issued on 13 June 2005, reflecting Decision VII/19 adopted by the Conference of the Parties at its seventh meeting). The amendment to Annex IX whereby new entries were added entered into force on 27 May 2014 (depositary notification C.N.304.2014) six months following the issuance of depositary notification C.N.965.2013 of 26 November 2013 (reflecting decision BC-11/6 adopted by the Conference of the Parties at its eleventh meeting). The present text includes all amendments.

<b>B1010</b>	<ul style="list-style-type: none"> <li>• Titanium scrap</li> <li>• Zirconium scrap</li> <li>• Manganese scrap</li> <li>• Germanium scrap</li> <li>• Vanadium scrap</li> <li>• Scrap of hafnium, indium, niobium, rhenium and gallium</li> <li>• Thorium scrap</li> <li>• Rare earths scrap</li> <li>• Chromium scrap</li> </ul>
<b>B1020</b>	<p>Clean, uncontaminated metal scrap, including alloys, in bulk finished form (sheet, plate, beams, rods, etc), of:</p> <ul style="list-style-type: none"> <li>• Antimony scrap</li> <li>• Beryllium scrap</li> <li>• Cadmium scrap</li> <li>• Lead scrap (but excluding lead-acid batteries)</li> <li>• Selenium scrap</li> <li>• Tellurium scrap</li> </ul>
<b>B1030</b>	Refractory metals containing residues
<b>B1031</b>	Molybdenum, tungsten, titanium, tantalum, niobium and rhenium metal and metal alloy wastes in metallic dispersible form (metal powder), excluding such wastes as specified in list A under entry A1050, Galvanic sludges
<b>B1040</b>	Scrap assemblies from electrical power generation not contaminated with lubricating oil, PCB or PCT to an extent to render them hazardous
<b>B1050</b>	Mixed non-ferrous metal, heavy fraction scrap, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics <sup>17</sup>

<sup>17</sup> Note that even where low level contamination with Annex I materials initially exists, subsequent processes, including recycling processes, may result in separated fractions containing significantly enhanced concentrations of those Annex I materials.

<b>B1060</b>	Waste selenium and tellurium in metallic elemental form including powder
<b>B1070</b>	Waste of copper and copper alloys in dispersible form, unless they contain Annex I constituents to an extent that they exhibit Annex III characteristics
<b>B1080</b>	Zinc ash and residues including zinc alloys residues in dispersible form unless containing Annex I constituents in concentration such as to exhibit Annex III characteristics <sup>18</sup>
<b>B1090</b>	Waste batteries conforming to a specification, excluding those made with lead, cadmium or mercury
<b>B1100</b>	<p>Metal-bearing wastes arising from melting, smelting and refining of metals:</p> <ul style="list-style-type: none"> <li>• Hard zinc spelter</li> <li>• Zinc-containing drosses: <ul style="list-style-type: none"> <li>- Galvanizing slab zinc top dross (&gt;90% Zn)</li> <li>- Galvanizing slab zinc bottom dross (&gt;92% Zn)</li> <li>- Zinc die casting dross (&gt;85% Zn)</li> <li>- Hot dip galvanizers slab zinc dross (batch)(&gt;92% Zn)</li> <li>- Zinc skimmings</li> </ul> </li> <li>• Aluminium skimmings (or skims) excluding salt slag</li> <li>• Slags from copper processing for further processing or refining not containing arsenic, lead or cadmium to an extent that they exhibit Annex III hazard characteristics</li> <li>• Wastes of refractory linings, including crucibles, originating from copper smelting</li> <li>• Slags from precious metals processing for further refining</li> <li>• Tantalum-bearing tin slags with less than 0.5% tin</li> </ul>

<sup>18</sup> The status of zinc ash is currently under review and there is a recommendation with the United Nations Conference on Trade and Development (UNCTAD) that zinc ashes should not be dangerous goods.

<b>B1110</b>	<p>Electrical and electronic assemblies:</p> <ul style="list-style-type: none"> <li>• Electronic assemblies consisting only of metals or alloys</li> <li>• Waste electrical and electronic assemblies or scrap<sup>19</sup> (including printed circuit boards) not containing components such as accumulators and other batteries included on list A, mercury-switches, glass from cathode-ray tubes and other activated glass and PCB-capacitors, or not contaminated with Annex I constituents (e.g., cadmium, mercury, lead, polychlorinated biphenyl) or from which these have been removed, to an extent that they do not possess any of the characteristics contained in Annex III (note the related entry on list A A1180)</li> <li>• Electrical and electronic assemblies (including printed circuit boards, electronic components and wires) destined for direct reuse,<sup>20</sup> and not for recycling or final disposal<sup>21</sup></li> </ul>
<b>B1115</b>	<p>Waste metal cables coated or insulated with plastics, not included in list A A1190, excluding those destined for Annex IVA operations or any other disposal operations involving, at any stage, uncontrolled thermal processes, such as open-burning.</p>

<sup>19</sup> This entry does not include scrap from electrical power generation.

<sup>20</sup> Reuse can include repair, refurbishment or upgrading, but not major reassembly.

<sup>21</sup> In some countries these materials destined for direct re-use are not considered wastes.



<b>B1120</b>	<p>Spent catalysts excluding liquids used as catalysts, containing any of:</p> <p>Transition metals, excluding waste catalysts (spent catalysts, liquid used catalysts or other catalysts) on list A:</p> <ul style="list-style-type: none"> <li>• Scandium</li> <li>• Vanadium</li> <li>• Manganese</li> <li>• Cobalt</li> <li>• Copper</li> <li>• Yttrium</li> <li>• Niobium</li> <li>• Hafnium</li> <li>• Tungsten</li> <li>• Titanium</li> <li>• Chromium</li> <li>• Iron</li> <li>• Nickel</li> <li>• Zinc</li> <li>• Zirconium</li> <li>• Molybdenum</li> <li>• Tantalum</li> <li>• Rhenium</li> </ul>	<p>Lanthanides (rare earth metals):</p> <ul style="list-style-type: none"> <li>• Lanthanum</li> <li>• Praseodymium</li> <li>• Samarium</li> <li>• Gadolinium</li> <li>• Dysprosium</li> <li>• Erbium</li> <li>• Ytterbium</li> <li>• Cerium</li> <li>• Neodymium</li> <li>• Europium</li> <li>• Terbium</li> <li>• Holmium</li> <li>• Thulium</li> <li>• Lutetium</li> </ul>
<b>B1130</b>	Cleaned spent precious-metal-bearing catalysts	
<b>B1140</b>	Precious-metal-bearing residues in solid form which contain traces of inorganic cyanides	
<b>B1150</b>	Precious metals and alloy wastes (gold, silver, the platinum group, but not mercury) in a dispersible, non-liquid form with appropriate packaging and labelling	
<b>B1160</b>	Precious-metal ash from the incineration of printed circuit boards (note the related entry on list A A1150)	

<b>B1170</b>	Precious-metal ash from the incineration of photographic film
<b>B1180</b>	Waste photographic film containing silver halides and metallic silver
<b>B1190</b>	Waste photographic paper containing silver halides and metallic silver
<b>B1200</b>	Granulated slag arising from the manufacture of iron and steel
<b>B1210</b>	Slag arising from the manufacture of iron and steel including slags as a source of TiO <sub>2</sub> and vanadium
<b>B1220</b>	Slag from zinc production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g., DIN 4301) mainly for construction
<b>B1230</b>	Mill scaling arising from the manufacture of iron and steel
<b>B1240</b>	Copper oxide mill-scale
<b>B1250</b>	Waste end-of-life motor vehicles, containing neither liquids nor other hazardous components

## **B2 WASTES CONTAINING PRINCIPALLY INORGANIC CONSTITUENTS, WHICH MAY CONTAIN METALS AND ORGANIC MATERIALS**

<b>B2010</b>	<p>Wastes from mining operations in non-dispersible form:</p> <ul style="list-style-type: none"> <li>• Natural graphite waste</li> <li>• Slate waste, whether or not roughly trimmed or merely cut, by sawing or otherwise</li> <li>• Mica waste</li> <li>• Leucite, nepheline and nepheline syenite waste</li> <li>• Feldspar waste</li> <li>• Fluorspar waste</li> <li>• Silica wastes in solid form excluding those used in foundry operations</li> </ul>
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<b>B2020</b>	Glass waste in non-dispersible form: <ul style="list-style-type: none"> <li>• Cullet and other waste and scrap of glass except for glass from cathode-ray tubes and other activated glasses</li> </ul>
<b>B2030</b>	Ceramic wastes in non-dispersible form: <ul style="list-style-type: none"> <li>• Cermet wastes and scrap (metal ceramic composites)</li> <li>• Ceramic based fibres not elsewhere specified or included</li> </ul>
<b>B2040</b>	Other wastes containing principally inorganic constituents: <ul style="list-style-type: none"> <li>• Partially refined calcium sulphate produced from flue-gas desulphurization (FGD)</li> <li>• Waste gypsum wallboard or plasterboard arising from the demolition of buildings</li> <li>• Slag from copper production, chemically stabilized, having a high iron content (above 20%) and processed according to industrial specifications (e.g., DIN 4301 and DIN 8201) mainly for construction and abrasive applications</li> <li>• Sulphur in solid form</li> <li>• Limestone from the production of calcium cyanamide (having a pH less than 9)</li> <li>• Sodium, potassium, calcium chlorides</li> <li>• Carborundum (silicon carbide)</li> <li>• Broken concrete</li> <li>• Lithium-tantalum and lithium-niobium containing glass scraps</li> </ul>
<b>B2050</b>	Coal-fired power plant fly-ash, not included on list A (note the related entry on list A A2060)
<b>B2060</b>	Spent activated carbon not containing any Annex I constituents to the extent they exhibit Annex III characteristics, for example, carbon resulting from the treatment of potable water and processes of the food industry and vitamin production (note the related entry on list A A4160)

<b>B2070</b>	Calcium fluoride sludge
<b>B2080</b>	Waste gypsum arising from chemical industry processes not included on list A (note the related entry on list A A2040)
<b>B2090</b>	Waste anode butts from steel or aluminium production made of petroleum coke or bitumen and cleaned to normal industry specifications (excluding anode butts from chlor alkali electrolyses and from metallurgical industry)
<b>B2100</b>	Waste hydrates of aluminium and waste alumina and residues from alumina production excluding such materials used for gas cleaning, flocculation or filtration processes
<b>B2110</b>	Bauxite residue ("red mud") (pH moderated to less than 11.5)
<b>B2120</b>	Waste acidic or basic solutions with a pH greater than 2 and less than 11.5, which are not corrosive or otherwise hazardous (note the related entry on list A A4090)
<b>B2130</b>	Bituminous material (asphalt waste) from road construction and maintenance, not containing tar <sup>22</sup> (note the related entry on list A, A3200)

<sup>22</sup> The concentration level of Benzol (a) pyrene should not be 50mg/kg or more.

**B3 WASTES CONTAINING PRINCIPALLY ORGANIC CONSTITUENTS,  
WHICH MAY CONTAIN METALS AND INORGANIC MATERIALS**

**B3010**

Solid plastic waste:

The following plastic or mixed plastic materials, provided they are not mixed with other wastes and are prepared to a specification:

- Scrap plastic of non-halogenated polymers and co-polymers, including but not limited to the following<sup>23</sup>
  - ethylene
  - styrene
  - polypropylene
  - polyethylene terephthalate
  - acrylonitrile
  - butadiene
  - polyacetals
  - polyamides
  - polybutylene terephthalate
  - polycarbonates
  - polyethers
  - polyphenylene sulphides
  - acrylic polymers
  - alkanes C10-C13 (plasticiser)
  - polyurethane (not containing CFCs)
  - polysiloxanes
  - polymethyl methacrylate
  - polyvinyl alcohol
  - polyvinyl butyral
  - polyvinyl acetate

<sup>23</sup> It is understood that such scraps are completely polymerized.

<b>B3010</b>	<ul style="list-style-type: none"> <li>• Cured waste resins or condensation products including the following: <ul style="list-style-type: none"> <li>- urea formaldehyde resins</li> <li>- phenol formaldehyde resins</li> <li>- melamine formaldehyde resins</li> <li>- epoxy resins</li> <li>- alkyd resins</li> <li>- polyamides</li> </ul> </li> <li>• The following fluorinated polymer wastes<sup>24</sup> <ul style="list-style-type: none"> <li>- perfluoroethylene/propylene (FEP)</li> <li>- perfluoro alkoxy alkane</li> <li>- tetrafluoroethylene/per fluoro vinyl ether (PFA)</li> <li>- tetrafluoroethylene/per fluoro methylvinyl ether (MFA)</li> <li>- polyvinylfluoride (PVF)</li> <li>- polyvinylidene fluoride (PVDF)</li> </ul> </li> </ul>
<b>B3020</b>	<p>Paper, paperboard and paper product wastes</p> <p>The following materials, provided they are not mixed with hazardous wastes:</p> <p>Waste and scrap of paper or paperboard of:</p> <ul style="list-style-type: none"> <li>• unbleached paper or paperboard or of corrugated paper or paperboard</li> <li>• other paper or paperboard, made mainly of bleached chemical pulp, not coloured in the mass</li> <li>• paper or paperboard made mainly of mechanical pulp (for example, newspapers, journals and similar printed matter)</li> <li>• other, including but not limited to 1) laminated paperboard 2) unsorted scrap</li> </ul>

<sup>24</sup> Post-consumer wastes are excluded from this entry:

- Wastes shall not be mixed
- Problems arising from open-burning practices to be considered

<b>B3026</b>	<p>The following waste from the pre-treatment of composite packaging for liquids, not containing Annex I materials in concentrations sufficient to exhibit Annex III characteristics:</p> <ul style="list-style-type: none"> <li>• Non-separable plastic fraction</li> <li>• Non-separable plastic-aluminium fraction</li> </ul>
<b>B3027</b>	<p>Self-adhesive label laminate waste containing raw materials used in label material production</p>
<b>B3030</b>	<p>Textile wastes</p> <p>The following materials, provided they are not mixed with other wastes and are prepared to a specification:</p> <ul style="list-style-type: none"> <li>• Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock) <ul style="list-style-type: none"> <li>- not carded or combed</li> <li>- other</li> </ul> </li> <li>• Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock <ul style="list-style-type: none"> <li>- noils of wool or of fine animal hair</li> <li>- other waste of wool or of fine animal hair</li> <li>- waste of coarse animal hair</li> </ul> </li> <li>• Cotton waste (including yarn waste and garnetted stock) <ul style="list-style-type: none"> <li>- yarn waste (including thread waste)</li> <li>- garnetted stock</li> <li>- other</li> </ul> </li> <li>• Flax tow and waste</li> <li>• Tow and waste (including yarn waste and garnetted stock) of true hemp (<i>Cannabis sativa</i> L.)</li> <li>• Tow and waste (including yarn waste and garnetted stock) of jute and other textile bast fibres (excluding flax, true hemp and ramie)</li> <li>• Tow and waste (including yarn waste and garnetted stock) of sisal and other textile fibres of the genus Agave</li> </ul>

<b>B3030</b>	<ul style="list-style-type: none"> <li>• Tow, noils and waste (including yarn waste and garnetted stock) of coconut</li> <li>• Tow, noils and waste (including yarn waste and garnetted stock) of abaca (Manila hemp or <i>Musa textilis</i> Nee)</li> <li>• Tow, noils and waste (including yarn waste and garnetted stock) of ramie and other vegetable textile fibres, not elsewhere specified or included</li> <li>• Waste (including noils, yarn waste and garnetted stock) of man-made fibres <ul style="list-style-type: none"> <li>- of synthetic fibres</li> <li>- of artificial fibres</li> </ul> </li> <li>• Worn clothing and other worn textile articles</li> <li>• Used rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables of textile materials <ul style="list-style-type: none"> <li>- sorted</li> <li>- other</li> </ul> </li> </ul>
<b>B3035</b>	Waste textile floor coverings, carpets
<b>B3040</b>	<p>Rubber wastes</p> <p>The following materials, provided they are not mixed with other wastes:</p> <ul style="list-style-type: none"> <li>• Waste and scrap of hard rubber (e.g., ebonite)</li> <li>• Other rubber wastes (excluding such wastes specified elsewhere)</li> </ul>




<b>B3050</b>	<p>Untreated cork and wood waste:</p> <ul style="list-style-type: none"> <li>• Wood waste and scrap, whether or not agglomerated in logs, briquettes, pellets or similar forms</li> <li>• Cork waste: crushed, granulated or ground cork</li> </ul>
<b>B3060</b>	<p>Wastes arising from agro-food industries provided it is not infectious:</p> <ul style="list-style-type: none"> <li>• Wine lees</li> <li>• Dried and sterilized vegetable waste, residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding, not elsewhere specified or included</li> <li>• Degras: residues resulting from the treatment of fatty substances or animal or vegetable waxes</li> <li>• Waste of bones and horn-cores, unworked, defatted, simply prepared (but not cut to shape), treated with acid or degelatinised</li> <li>• Fish waste</li> <li>• Cocoa shells, husks, skins and other cocoa waste</li> <li>• Other wastes from the agro-food industry excluding by-products which meet national and international requirements and standards for human or animal consumption</li> </ul>
<b>B3065</b>	<p>Waste edible fats and oils of animal or vegetable origin (e.g. frying oils), provided they do not exhibit an Annex III characteristic</p>
<b>B3070</b>	<p>The following wastes:</p> <ul style="list-style-type: none"> <li>• Waste of human hair</li> <li>• Waste straw</li> <li>• Deactivated fungus mycelium from penicillin production to be used as animal feed</li> </ul>
<b>B3080</b>	<p>Waste parings and scrap of rubber</p>

<b>B3090</b>	Paring and other wastes of leather or of composition leather not suitable for the manufacture of leather articles, excluding leather sludges, not containing hexavalent chromium compounds and biocides (note the related entry on list A A3100)
<b>B3100</b>	Leather dust, ash, sludges or flours not containing hexavalent chromium compounds or biocides (note the related entry on list A A3090)
<b>B3110</b>	Fellmongery wastes not containing hexavalent chromium compounds or biocides or infectious substances (note the related entry on list A A3110)
<b>B3120</b>	Wastes consisting of food dyes
<b>B3130</b>	Waste polymer ethers and waste non-hazardous monomer ethers incapable of forming peroxides
<b>B3140</b>	Waste pneumatic tyres, excluding those destined for Annex IVA operations

#### **B4 WASTES WHICH MAY CONTAIN EITHER INORGANIC OR ORGANIC CONSTITUENTS**

<b>B4010</b>	Wastes consisting mainly of water-based/latex paints, inks and hardened varnishes not containing organic solvents, heavy metals or biocides to an extent to render them hazardous (note the related entry on list A A4070)
<b>B4020</b>	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives, not listed on list A, free of solvents and other contaminants to an extent that they do not exhibit Annex III characteristics, e.g., water-based, or glues based on casein, starch, dextrin, cellulose ethers, polyvinyl alcohols (note the related entry on list A A3050)
<b>B4030</b>	Used single-use cameras, with batteries not included on list A



The background of the page is a close-up, high-angle photograph of a dandelion seed head. The seeds are in various stages of dispersal, with some still attached to the central core and others floating away. The lighting is soft and diffused, creating a dreamy, ethereal atmosphere. The colors are muted, with shades of grey, white, and light brown.

**PROTOCOL ON LIABILITY AND  
COMPENSATION FOR DAMAGE RESULTING  
FROM TRANSBOUNDARY MOVEMENTS OF  
HAZARDOUS WASTES AND THEIR DISPOSAL**



# **PROTOCOL ON LIABILITY AND COMPENSATION FOR DAMAGE RESULTING FROM TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL**

The Parties to the Protocol,

Having taken into account the relevant provisions of Principle 13 of the 1992 Rio Declaration on Environment and Development, according to which States shall develop international and national legal instruments regarding liability and compensation for the victims of pollution and other environmental damage,

Being Parties to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal,

Mindful of their obligations under the Convention,

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

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

Committed to Article 12 of the Convention, and emphasizing the need to set 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,

Convinced of the need to provide for third party liability and environmental liability in order to ensure that adequate and prompt

compensation is available for damage resulting from the transboundary movement and disposal of hazardous wastes and other wastes,

Have agreed as follows:

## **ARTICLE 1**

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### **Objective**

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The objective of the Protocol is to provide for a comprehensive regime for liability and for adequate and prompt compensation for damage resulting from the transboundary movement of hazardous wastes and other wastes and their disposal including illegal traffic in those wastes.

## **ARTICLE 2**

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### **Definitions**

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1. The definitions of terms contained in the Convention apply to the Protocol, unless expressly provided otherwise in the Protocol.
2. For the purposes of the Protocol:
  - (a) "The Convention" means the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
  - (b) "Hazardous wastes and other wastes" means hazardous wastes and other wastes within the meaning of Article 1 of the Convention;
  - (c) "Damage" means:
    - (i) Loss of life or personal injury;

- (ii) Loss of or damage to property other than property held by the person liable in accordance with the present Protocol;
  - (iii) Loss of income directly deriving from an economic interest in any use of the environment, incurred as a result of impairment of the environment, taking into account savings and costs;
  - (iv) The costs of measures of reinstatement of the impaired environment, limited to the costs of measures actually taken or to be undertaken; and
  - (v) The costs of preventive measures, including any loss or damage caused by such measures, to the extent that the damage arises out of or results from hazardous properties of the wastes involved in the transboundary movement and disposal of hazardous wastes and other wastes subject to the Convention;
- (d) "Measures of reinstatement" means any reasonable measures aiming to assess, reinstate or restore damaged or destroyed components of the environment. Domestic law may indicate who will be entitled to take such measures;
- (e) "Preventive measures" means any reasonable measures taken by any person in response to an incident, to prevent, minimize, or mitigate loss or damage, or to effect environmental clean-up;
- (f) "Contracting Party" means a Party to the Protocol;
- (g) "Protocol" means the present Protocol;
- (h) "Incident" means any occurrence, or series of occurrences having

the same origin that causes damage or creates a grave and imminent threat of causing damage;

- (i) “Regional economic integration organization” means an organization constituted by sovereign States to which its member States have transferred competence in respect of matters governed by the Protocol and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve, formally confirm or accede to it;
- (j) “Unit of account” means the Special Drawing Right as defined by the International Monetary Fund.

### **ARTICLE 3**

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#### **Scope of application**

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1. The Protocol shall apply to damage due to an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal, including illegal traffic, from the point where the wastes are loaded on the means of transport in an area under the national jurisdiction of a State of export. Any Contracting Party may by way of notification to the Depositary exclude the application of the Protocol, in respect of all transboundary movements for which it is the State of export, for such incidents which occur in an area under its national jurisdiction, as regards damage in its area of national jurisdiction. The Secretariat shall inform all Contracting Parties of notifications received in accordance with this Article.

2. The Protocol shall apply:

- (a) In relation to movements destined for one of the operations specified in Annex IV to the Convention other than D13, D14, D15,



R12 or R13, until the time at which the notification of completion of disposal pursuant to Article 6, paragraph 9, of the Convention has occurred, or, where such notification has not been made, completion of disposal has occurred; and

- (b) In relation to movements destined for the operations specified in D13, D14, D15, R12 or R13 of Annex IV to the Convention, until completion of the subsequent disposal operation specified in D1 to D12 and R1 to R11 of Annex IV to the Convention.
3. (a) The Protocol shall apply only to damage suffered in an area under the national jurisdiction of a Contracting Party arising from an incident as referred to in paragraph 1;
- (b) When the State of import, but not the State of export, is a Contracting Party, the Protocol shall apply only with respect to damage arising from an incident as referred to in paragraph 1 which takes place after the moment at which the disposer has taken possession of the hazardous wastes and other wastes. When the State of export, but not the State of import, is a Contracting Party, the Protocol shall apply only with respect to damage arising from an incident as referred to in paragraph 1 which takes place prior to the moment at which the disposer takes possession of the hazardous wastes and other wastes. When neither the State of export nor the State of import is a Contracting Party, the Protocol shall not apply;
  - (c) Notwithstanding subparagraph (a), the Protocol shall also apply to the damages specified in Article 2, subparagraphs 2 (c) (i), (ii) and (v), of the Protocol occurring in areas beyond any national jurisdiction;

(d) Notwithstanding subparagraph (a), the Protocol shall, in relation to rights under the Protocol, also apply to damages suffered in an area under the national jurisdiction of a State of transit which is not a Contracting Party provided that such State appears in Annex A and has acceded to a multilateral or regional agreement concerning transboundary movements of hazardous waste which is in force. Subparagraph (b) will apply mutatis mutandis.

4. Notwithstanding paragraph 1, in case of re-importation under Article 8 or Article 9, subparagraph 2 (a), and Article 9, paragraph 4, of the Convention, the provisions of the Protocol shall apply until the hazardous wastes and other wastes reach the original State of export.

5. Nothing in the Protocol shall affect in any way the sovereignty of States over their territorial seas and their jurisdiction and the right in their respective exclusive economic zones and continental shelves in accordance with international law.

6. Notwithstanding paragraph 1 and subject to paragraph 2 of this Article:

(a) The Protocol shall not apply to damage that has arisen from a transboundary movement of hazardous wastes and other wastes that has commenced before the entry into force of the Protocol for the Contracting Party concerned;

(b) The Protocol shall apply to damage resulting from an incident occurring during a transboundary movement of wastes falling under Article 1, subparagraph 1 (b), of the Convention only if those wastes have been notified in accordance with Article 3 of the Convention by the State of export or import, or both, and the damage arises in an area under the national jurisdiction of a State,

including a State of transit, that has defined or considers those wastes as hazardous provided that the requirements of Article 3 of the Convention have been met. In this case strict liability shall be channelled in accordance with Article 4 of the Protocol.

7. (a) The Protocol shall not apply to damage due to an incident occurring during a transboundary movement of hazardous wastes and other wastes and their disposal pursuant to a bilateral, multilateral or regional agreement or arrangement concluded and notified in accordance with Article 11 of the Convention if:
  - (i) The damage occurred in an area under the national jurisdiction of any of the Parties to the agreement or arrangement;
  - (ii) There exists a liability and compensation regime, which is in force and is applicable to the damage resulting from such a transboundary movement or disposal provided it fully meets, or exceeds the objective of the Protocol by providing a high level of protection to persons who have suffered damage;
  - (iii) The Party to the Article 11 agreement or arrangement in which the damage has occurred has previously notified the Depositary of the non-application of the Protocol to any damage occurring in an area under its national jurisdiction due to an incident resulting from movements or disposals referred to in this subparagraph; and
  - (iv) The Parties to the Article 11 agreement or arrangement have not declared that the Protocol shall be applicable;
- (b) In order to promote transparency, a Contracting Party that has notified the Depositary of the non-application of the Protocol

shall notify the Secretariat of the applicable liability and compensation regime referred to in subparagraph (a) (ii) and include a description of the regime. The Secretariat shall submit to the Meeting of the Parties, on a regular basis, summary reports on the notifications received;

- (c) After a notification pursuant to subparagraph (a) (iii) is made, actions for compensation for damage to which subparagraph (a) (i) applies may not be made under the Protocol.

8. The exclusion set out in paragraph 7 of this Article shall neither affect any of the rights or obligations under the Protocol of a Contracting Party which is not party to the agreement or arrangement mentioned above, nor shall it affect rights of States of transit which are not Contracting Parties.

9. Article 3, paragraph 2, shall not affect the application of Article 16 to all Contracting Parties.

## **ARTICLE 4**

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### **Strict liability**

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1. The person who notifies in accordance with Article 6 of the Convention, shall be liable for damage until the disposer has taken possession of the hazardous wastes and other wastes. Thereafter the disposer shall be liable for damage. If the State of export is the notifier or if no notification has taken place, the exporter shall be liable for damage until the disposer has taken possession of the hazardous wastes and other wastes. With respect to Article 3, subparagraph 6 (b), of the Protocol, Article 6, paragraph 5, of the Convention shall apply mutatis mutandis. Thereafter the disposer shall be liable for damage.

2. Without prejudice to paragraph 1, with respect to wastes under Article 1, subparagraph 1 (b), of the Convention that have been notified as hazardous by the State of import in accordance with Article 3 of the Convention but not by the State of export, the importer shall be liable until the disposer has taken possession of the wastes, if the State of import is the notifier or if no notification has taken place. Thereafter the disposer shall be liable for damage.

3. Should the hazardous wastes and other wastes be re-imported in accordance with Article 8 of the Convention, the person who notified shall be liable for damage from the time the hazardous wastes leave the disposal site, until the wastes are taken into possession by the exporter, if applicable, or by the alternate disposer.

4. Should the hazardous wastes and other wastes be re-imported under Article 9, subparagraph 2 (a), or Article 9, paragraph 4, of the Convention, subject to Article 3 of the Protocol, the person who re-imports shall be held liable for damage until the wastes are taken into possession by the exporter if applicable, or by the alternate disposer.

5. No liability in accordance with this Article shall attach to the person referred to in paragraphs 1 and 2 of this Article, if that person proves that the damage was:

- (a) The result of an act of armed conflict, hostilities, civil war or insurrection;
- (b) The result of a natural phenomenon of exceptional, inevitable, unforeseeable and irresistible character;
- (c) Wholly the result of compliance with a compulsory measure of a public authority of the State where the damage occurred; or

(d) Wholly the result of the wrongful intentional conduct of a third party, including the person who suffered the damage.

6. If two or more persons are liable according to this Article, the claimant shall have the right to seek full compensation for the damage from any or all of the persons liable.

## **ARTICLE 5**

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### **Fault-based liability**

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Without prejudice to Article 4, any person shall be liable for damage caused or contributed to by his lack of compliance with the provisions implementing the Convention or by his wrongful intentional, reckless or negligent acts or omissions. This Article shall not affect the domestic law of the Contracting Parties governing liability of servants and agents.

## **ARTICLE 6**

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### **Preventive measures**

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1. Subject to any requirement of domestic law any person in operational control of hazardous wastes and other wastes at the time of an incident shall take all reasonable measures to mitigate damage arising therefrom.

2. Notwithstanding any other provision in the Protocol, any person in possession and/or control of hazardous wastes and other wastes for the sole purpose of taking preventive measures, provided that this person acted reasonably and in accordance with any domestic law regarding preventive measures, is not thereby subject to liability under the Protocol.

## **ARTICLE 7**

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### **Combined cause of the damage**

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1. Where damage is caused by wastes covered by the Protocol and wastes not covered by the Protocol, a person otherwise liable shall only be liable according to the Protocol in proportion to the contribution made by the wastes covered by the Protocol to the damage.
2. The proportion of the contribution to the damage of the wastes referred to in paragraph 1 shall be determined with regard to the volume and properties of the wastes involved, and the type of damage occurring.
3. In respect of damage where it is not possible to distinguish between the contribution made by wastes covered by the Protocol and wastes not covered by the Protocol, all damage shall be considered to be covered by the Protocol.

## **ARTICLE 8**

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### **Right of recourse**

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1. Any person liable under the Protocol shall be entitled to a right of recourse in accordance with the rules of procedure of the competent court:
  - (a) Against any other person also liable under the Protocol; and
  - (b) As expressly provided for in contractual arrangements.
2. Nothing in the Protocol shall prejudice any rights of recourse to which the person liable might be entitled pursuant to the law of the competent court.

## **ARTICLE 9**

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### **Contributory fault**

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Compensation may be reduced or disallowed if the person who suffered the damage, or a person for whom he is responsible under the domestic law, by his own fault, has caused or contributed to the damage having regard to all circumstances.

## **ARTICLE 10**

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### **Implementation**

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1. The Contracting Parties shall adopt the legislative, regulatory and administrative measures necessary to implement the Protocol.
2. In order to promote transparency, Contracting Parties shall inform the Secretariat of measures to implement the Protocol, including any limits of liability established pursuant to paragraph 1 of Annex B.
3. The provisions of the Protocol shall be applied without discrimination based on nationality, domicile or residence.

## **ARTICLE 11**

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### **Conflicts with other liability and compensation agreements**

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Whenever the provisions of the Protocol and the provisions of a bilateral, multilateral or regional agreement apply to liability and compensation for damage caused by an incident arising during the same portion of a transboundary movement, the Protocol shall not apply provided the other agreement is in force for the Party or Parties concerned and had been opened for signature when the Protocol was opened for signature, even if the agreement was amended afterwards.



## **ARTICLE 12**

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### **Financial limits**

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1. Financial limits for the liability under Article 4 of the Protocol are specified in Annex B to the Protocol. Such limits shall not include any interest or costs awarded by the competent court.
2. There shall be no financial limit on liability under Article 5.

## **ARTICLE 13**

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### **Time limit of liability**

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1. Claims for compensation under the Protocol shall not be admissible unless they are brought within ten years from the date of the incident.
2. Claims for compensation under the Protocol shall not be admissible unless they are brought within five years from the date the claimant knew or ought reasonably to have known of the damage provided that the time limits established pursuant to paragraph 1 of this Article are not exceeded.
3. Where the incident consists of a series of occurrences having the same origin, time limits established pursuant to this Article shall run from the date of the last of such occurrences. Where the incident consists of a continuous occurrence, such time limits shall run from the end of that continuous occurrence.

## **ARTICLE 14**

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### **Insurance and other financial guarantees**

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1. The persons liable under Article 4 shall establish and maintain during the period of the time limit of liability, insurance, bonds or other financial guarantees covering their liability under Article 4 of the Protocol

for amounts not less than the minimum limits specified in paragraph 2 of Annex B. States may fulfil their obligation under this paragraph by a declaration of self-insurance. Nothing in this paragraph shall prevent the use of deductibles or co-payments as between the insurer and the insured, but the failure of the insured to pay any deductible or co-payment shall not be a defence against the person who has suffered the damage.

2. With regard to the liability of the notifier, or exporter under Article 4, paragraph 1, or of the importer under Article 4, paragraph 2, insurance, bonds or other financial guarantees referred to in paragraph 1 of this Article shall only be drawn upon in order to provide compensation for damage covered by Article 2 of the Protocol.

3. A document reflecting the coverage of the liability of the notifier or exporter under Article 4, paragraph 1, or of the importer under Article 4, paragraph 2, of the Protocol shall accompany the notification referred to in Article 6 of the Convention. Proof of coverage of the liability of the disposer shall be delivered to the competent authorities of the State of import.

4. Any claim under the Protocol may be asserted directly against any person providing insurance, bonds or other financial guarantees. The insurer or the person providing the financial guarantee shall have the right to require the person liable under Article 4 to be joined in the proceedings. Insurers and persons providing financial guarantees may invoke the defences which the person liable under Article 4 would be entitled to invoke.

5. Notwithstanding paragraph 4, a Contracting Party shall, by notification to the Depositary at the time of signature, ratification, or approval of, or accession to the Protocol, indicate if it does not provide for a right to bring a direct action pursuant to paragraph 4. The Secretariat shall maintain a record of the Contracting Parties who have given notification pursuant to this paragraph.

## **ARTICLE 15**

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### **Financial mechanism**

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1. Where compensation under the Protocol does not cover the costs of damage, additional and supplementary measures aimed at ensuring adequate and prompt compensation may be taken using existing mechanisms.
2. The Meeting of the Parties shall keep under review the need for and possibility of improving existing mechanisms or establishing a new mechanism.

## **ARTICLE 16**

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### **State responsibility**

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The Protocol shall not affect the rights and obligations of the Contracting Parties under the rules of general international law with respect to State responsibility.

## **PROCEDURES**

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## **ARTICLE 17**

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### **Competent courts**

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1. Claims for compensation under the Protocol may be brought in the courts of a Contracting Party only where either:
  - (a) The damage was suffered; or
  - (b) The incident occurred; or

(c) The defendant has his habitual residence, or has his principal place of business.

2. Each Contracting Party shall ensure that its courts possess the necessary competence to entertain such claims for compensation.

## **ARTICLE 18**

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### **Related actions**

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1. Where related actions are brought in the courts of different Parties, any court other than the court first seized may, while the actions are pending at first instance, stay its proceedings.

2. A court may, on the application of one of the Parties, decline jurisdiction if the law of that court permits the consolidation of related actions and another court has jurisdiction over both actions.

3. For the purpose of this Article, actions are deemed to be related where they are so closely connected that it is expedient to hear and determine them together to avoid the risk of irreconcilable judgements resulting from separate proceedings.

## **ARTICLE 19**

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### **Applicable law**

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All matters of substance or procedure regarding claims before the competent court which are not specifically regulated in the Protocol shall be governed by the law of that court including any rules of such law relating to conflict of laws.

## **ARTICLE 20**

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### **Relation between the Protocol and the law of the competent court**

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1. Subject to paragraph 2, nothing in the Protocol shall be construed as limiting or derogating from any rights of persons who have suffered damage, or as limiting the protection or reinstatement of the environment which may be provided under domestic law.
  
2. No claims for compensation for damage based on the strict liability of the notifier or the exporter liable under Article 4, paragraph 1, or the importer liable under Article 4, paragraph 2, of the Protocol, shall be made otherwise than in accordance with the Protocol.

## **ARTICLE 21**

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### **Mutual recognition and enforcement of judgements**

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1. Any judgement of a court having jurisdiction in accordance with Article 17 of the Protocol, which is enforceable in the State of origin and is no longer subject to ordinary forms of review, shall be recognized in any Contracting Party as soon as the formalities required in that Party have been completed, except:
  - (a) Where the judgement was obtained by fraud;
  
  - (b) Where the defendant was not given reasonable notice and a fair opportunity to present his case;
  
  - (c) Where the judgement is irreconcilable with an earlier judgement validly pronounced in another Contracting Party with regard to the same cause of action and the same parties; or

(d) Where the judgement is contrary to the public policy of the Contracting Party in which its recognition is sought.

2. A judgement recognized under paragraph 1 of this Article shall be enforceable in each Contracting Party as soon as the formalities required in that Party have been completed. The formalities shall not permit the merits of the case to be re-opened.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply between Contracting Parties that are Parties to an agreement or arrangement in force on mutual recognition and enforcement of judgements under which the judgement would be recognizable and enforceable.

## **ARTICLE 22**

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### **Relationship of the Protocol with the Basel Convention**

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Except as otherwise provided in the Protocol, the provisions of the Convention relating to its Protocols shall apply to the Protocol.

## **ARTICLE 23**

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### **Amendment of Annex B**

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1. At its sixth meeting, the Conference of the Parties to the Basel Convention may amend paragraph 2 of Annex B following the procedure set out in Article 18 of the Basel Convention.

2. Such an amendment may be made before the Protocol enters into force.

## **FINAL CLAUSES**

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### **ARTICLE 24**

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#### **Meeting of the Parties**

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1. A Meeting of the Parties is hereby established. The Secretariat shall convene the first Meeting of the Parties in conjunction with the first meeting of the Conference of the Parties to the Convention after entry into force of the Protocol.
2. Subsequent ordinary Meetings of the Parties shall be held in conjunction with meetings of the Conference of the Parties to the Convention unless the Meeting of the Parties decides otherwise. Extraordinary Meetings of the Parties shall be held at such other times as may be deemed necessary by a Meeting of the Parties, or at the written request of any Contracting Party, provided that within six months of such a request being communicated to them by the Secretariat, it is supported by at least one third of the Contracting Parties.
3. The Contracting Parties, at their first meeting, shall adopt by consensus rules of procedure for their meetings as well as financial rules.
4. The functions of the Meeting of the Parties shall be:
  - (a) To review the implementation of and compliance with the Protocol;
  - (b) To provide for reporting and establish guidelines and procedures for such reporting where necessary;
  - (c) To consider and adopt, where necessary, proposals for amendment of the Protocol or any annexes and for any new annexes; and

- (d) To consider and undertake any additional action that may be required for the purposes of the Protocol.

## **ARTICLE 25**

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### **Secretariat**

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1. For the purposes of the Protocol, the Secretariat shall:
  - (a) Arrange for and service Meetings of the Parties as provided for in Article 24;
  - (b) Prepare reports, including financial data, on its activities carried out in implementation of its functions under the Protocol and present them to the Meeting of the Parties;
  - (c) Ensure the necessary coordination with relevant international bodies, and in particular enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
  - (d) Compile information concerning the national laws and administrative provisions of Contracting Parties implementing the Protocol;
  - (e) Cooperate with Contracting Parties and with relevant and competent international organisations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation;
  - (f) Encourage non-Parties to attend the Meetings of the Parties as observers and to act in accordance with the provisions of the Protocol; and



(g) Perform such other functions for the achievement of the purposes of this Protocol as may be assigned to it by the Meetings of the Parties.

2. The secretariat functions shall be carried out by the Secretariat of the Basel Convention.

## **ARTICLE 26**

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### **Signature**

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The Protocol shall be open for signature by States and by regional economic integration organizations Parties to the Basel Convention in Berne at the Federal Department of Foreign Affairs of Switzerland from 6 to 17 March 2000 and at United Nations Headquarters in New York from 1 April to 10 December 2000.

## **ARTICLE 27**

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### **Ratification, acceptance, formal confirmation or approval**

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1. The Protocol shall be subject to ratification, acceptance or approval by States and to formal confirmation or approval by regional economic integration organizations. Instruments of ratification, acceptance, formal confirmation, or approval shall be deposited with the Depository.

2. Any organization referred to in paragraph 1 of this Article which becomes a Contracting Party without any of its member States being a Contracting Party shall be bound by all the obligations under the Protocol. In the case of such organizations, one or more of whose member States is a Contracting Party, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Protocol. In such cases, the organization and the member States shall not be entitled to exercise rights under the Protocol concurrently.

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

## **ARTICLE 28**

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### **Accession**

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1. The Protocol shall be open for accession by any States and by any regional economic integration organization Party to the Basel Convention which has not signed the Protocol. The instruments of accession shall be deposited with the Depositary.

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

3. The provisions of Article 27, paragraph 2, shall apply to regional economic integration organizations which accede to the Protocol.

## **ARTICLE 29**

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### **Entry into force**

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

2. For each State or regional economic integration organization which ratifies, accepts, approves or formally confirms the Protocol 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 regional economic integration organization of its instrument of ratification, acceptance, approval, formal confirmation or accession.

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

## **ARTICLE 30**

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### **Reservations and declarations**

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1. No reservation or exception may be made to the Protocol. For the purposes of the Protocol, notifications according to Article 3, paragraph 1, Article 3, paragraph 6, or Article 14, paragraph 5, shall not be regarded as reservations or exceptions.

2. Paragraph 1 of this Article does not preclude a State or a regional economic integration organization, when signing, ratifying, accepting, approving, formally confirming or acceding to the Protocol, 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 the Protocol, provided that such declarations or statements do not purport to exclude or to modify the legal effects of the provisions of the Protocol in their application to that State or that organization.

### **ARTICLE 31**

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#### **Withdrawal**

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1. At any time after three years from the date on which the Protocol has entered into force for a Contracting Party, that Contracting Party may withdraw from the Protocol 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 32**

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#### **Depositary**

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The Secretary-General of the United Nations shall be the Depositary of the Protocol.

### **ARTICLE 33**

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#### **Authentic texts**

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



## **ANNEX A**



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### **LIST OF STATES OF TRANSIT AS REFERRED TO IN ARTICLE 3, SUBPARAGRAPH 3 (D)**

1. Antigua and Barbuda
2. Bahamas
3. Bahrain
4. Barbados
5. Cape Verde
6. Comoros
7. Cook Islands
8. Cuba
9. Cyprus
10. Dominica
11. Dominican Republic
12. Fiji
13. Grenada
14. Haiti
15. Jamaica
16. Kiribati
17. Maldives
18. Malta
19. Marshall Islands
20. Mauritius
21. Micronesia (Federated States of)
22. Nauru
23. Netherlands, on behalf of Aruba, and the Netherlands Antilles
24. New Zealand, on behalf of Tokelau
25. Niue
26. Palau
27. Papua New Guinea

28. Samoa
29. Sao Tome and Principe
30. Seychelles
31. Singapore
32. Solomon Islands
33. St. Lucia
34. St. Kitts and Nevis
35. St. Vincent and the Grenadines
36. Tonga
37. Trinidad and Tobago
38. Tuvalu
39. Vanuatu



## **ANNEX B**



### **FINANCIAL LIMITS**

1. Financial limits for the liability under Article 4 of the Protocol shall be determined by domestic law.
  
2. The limits of liability shall:
  - (a) For the notifier, exporter or importer, for any one incident, be not less than:
    - (i) 1 million units of account for shipments up to and including 5 tonnes;
    - (ii) 2 million units of account for shipments exceeding 5 tonnes, up to and including 25 tonnes;
    - (iii) 4 million units of account for shipments exceeding 25 tonnes, up to and including 50 tonnes;
    - (iv) 6 million units of account for shipments exceeding 50 tonnes, up to and including to 1,000 tonnes;
    - (v) 10 million units of account for shipments exceeding 1,000 tonnes, up to and including 10,000 tonnes;
    - (vi) Plus an additional 1,000 units of account for each additional tonne up to a maximum of 30 million units of account;
  
  - (b) For the disposer, for any one incident, be not less than 2 million units of account for any one incident.

3. The amounts referred to in paragraph 2 shall be reviewed by the Contracting Parties on a regular basis taking into account, inter alia, the potential risks posed to the environment by the movement of hazardous wastes and other wastes and their disposal, recycling, and the nature, quantity and hazardous properties of the wastes.





**www.basel.int**

**Secretariat of the Basel Convention**

International Environment House

15 chemin des Anémones

1219 Châtelaine, Switzerland

Tel : +41 (0) 22 917 82 18

Fax : +41 (0) 22 797 34 54

Email : [sbc@unep.org](mailto:sbc@unep.org)

The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted in 1989 and it came into force in 1992. It is the most comprehensive global environmental agreement on hazardous wastes and other wastes. With 181 Parties (as at 18 July 2014), it has nearly universal membership. The Convention aims to protect human health and the environment against the adverse effects resulting from the generation, transboundary movements and management of hazardous wastes and other wastes.

The Basel Convention regulates the transboundary movements of hazardous wastes and other wastes and obliges its Parties to ensure that such wastes are managed and disposed of in an environmentally sound manner. The Convention covers toxic, poisonous, explosive, corrosive, flammable, ecotoxic and infectious wastes. Parties also have an obligation to minimize the quantities that are transported, to treat and dispose of wastes as close as possible to their place of generation and to prevent or minimize the generation of wastes at source.

14 Basel Convention Regional and Coordinating Centres have been established under the Basel Convention as at 18 July 2014. The centres are located in Argentina, China, Egypt, El Salvador, Indonesia, Islamic Republic of Iran, Nigeria, Russian Federation, Senegal, Slovak Republic, South Pacific Regional Environment Programme (Samoa), South Africa, Trinidad and Tobago, and Uruguay. They deliver training and technology transfer regarding management of hazardous wastes and other wastes and the minimization of their generation, so as to assist and support Parties in their implementation of the Convention.



ROTTERDAM CONVENTION

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ON THE PRIOR INFORMED CONSENT PROCEDURE  
FOR CERTAIN HAZARDOUS CHEMICALS  
AND PESTICIDES IN INTERNATIONAL TRADE

TEXTS AND ANNEXES

[REVISED IN 2015]



Food and Agriculture  
Organization of the  
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**Food and Agriculture  
Organization of the  
United Nations**

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This booklet is published for information only. It does not substitute the original authentic texts of the Rotterdam Convention and amendments thereto as deposited with the Secretary-General of the United Nations acting as the Depository of the Convention.

For further information please contact the Secretariat at one of the following addresses:

Rotterdam Convention Secretariat  
Food and Agriculture Organization of the United Nations (FAO)  
Viale delle Terme di Caracalla  
00153 Rome, Italy  
Fax: [+39 06] 5703 3224  
Email: [pic@pic.int](mailto:pic@pic.int)

Rotterdam Convention Secretariat  
United Nations Environment Programme (UNEP)  
11-13, chemin des Anémones  
CH-1219 Châtelaine  
Geneva, Switzerland  
Fax: [+41 22] 917 8098  
Email: [brs@brsmeas.org](mailto:brs@brsmeas.org)

[www.pic.int](http://www.pic.int)

Revised in 2015

# **ROTTERDAM CONVENTION**

## **ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE**

TEXTS AND ANNEXES

(REVISED IN 2015)

### **Introduction**

The dramatic growth in chemicals production and trade during the past three decades has raised both public and official concern about the potential risks posed by hazardous chemicals and pesticides. Countries lacking adequate infrastructure to monitor the import and use of these chemicals are particularly vulnerable.

In response to these concerns, the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization of the United Nations (FAO) started developing and promoting voluntary information-exchange programmes in the mid 1980's. FAO launched its International Code of Conduct on the Distribution and Use of Pesticides in 1985 and UNEP set up the London Guidelines for the Exchange of Information on Chemicals in International Trade in 1987.

Soon after, the two organizations jointly introduced the 1989 Prior Informed Consent (PIC) procedure. Jointly implemented by FAO and UNEP this programme has helped to ensure that governments have the information they need about hazardous chemicals for assessing risks and taking informed decisions on chemical imports.

Seeing the need for mandatory controls, officials attending the 1992 Rio Summit adopted Chapter 19 of Agenda 21, which called for the adoption of a legally binding instrument on the PIC procedure by the year 2000. Consequently, the FAO Council

(in 1994) and the UNEP Governing Council (in 1995) mandated their executive heads to launch negotiations which lead to the finalization of the text of the Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals in International Trade in March 1998.

The Convention was adopted and opened for signature at a Conference of Plenipotentiaries in Rotterdam on 10 September 1998 and entered into force on 24 February 2004.

The first meeting of the Conference of the Parties to the Rotterdam Convention (COP-1) was held in September 2004 resulting in the addition of fourteen chemicals to Annex III (decision RC-1/3) and the adoption of Annex VI on arbitration and conciliation (decision RC-1/11). The amendments to Annex III entered into force on 1 February 2005, except the deletion of the existing entries for certain severely hazardous formulations of Monocrotophos and Parathion that entered into force on 1 January 2006. Annex VI, as communicated to all Parties by the Depositary, entered into force on 11 January 2006 in accordance with paragraph 3 of Article 22 of the Convention.

The fourth meeting of the Conference of the Parties (COP-4) was held in October 2008 resulting in the addition of one chemical (all tributyltin compounds) to Annex III (decision RC-4/5). This amendment to Annex III entered into force on 1 February 2009.

The fifth meeting of the Conference of the Parties (COP-5) was held in June 2011 resulting in the addition of three chemicals (alachlor, aldicarb and endosulfan) to Annex III (decisions RC-5/3, RC-5/4 and RC-5/5). These amendments to Annex III entered into force on 24 October 2011.

The sixth meeting of the Conference of the Parties (COP-6) was held in April-May 2013, resulting in the addition of azinphos-methyl, commercial pentabromodiphenyl ether, commercial octabromodiphenyl ether, and perfluorooctane sulfonic acid, perfluorooctane sulfonates, perfluorooctane sulfonamides and perfluorooctane sulfonyls to Annex III (decisions RC-6/4, RC-6/5, RC-6/6 and RC-6/7). These amendments to Annex III respectively entered into force on 13 August 2013 (azinphos-methyl) and on 10 August 2013 (commercial pentabromodiphenyl ether, commercial octabromodiphenyl ether, and perfluorooctane sulfonic acid, perfluorooctane sulfonates, perfluorooctane sulfonamides and perfluorooctane sulfonyls).



The seventh meeting of the Conference of the Parties (COP-7) was held in May 2015, resulting in the addition of one chemical (methamidophos) to Annex III (decision RC-7/4). This amendment to Annex III entered into force on 15 September 2015.

FAO and UNEP jointly perform the Secretariat functions for the Rotterdam Convention. Should you wish to obtain additional information about the Rotterdam Convention, please consult the website at [www.pic.int](http://www.pic.int).



# ROTTERDAM CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN INTERNATIONAL TRADE

## The Parties to this Convention,

Aware of the harmful impact on human health and the environment from certain hazardous chemicals and pesticides in international trade,

Recalling the pertinent provisions of the Rio Declaration on Environment and Development and chapter 19 of Agenda 21 on “Environmentally sound management of toxic chemicals, including prevention of illegal international traffic in toxic and dangerous products”,

Mindful of the work undertaken by the United Nations Environment Programme (UNEP) and the Food and Agriculture Organization of the United Nations (FAO) in the operation of the voluntary Prior Informed Consent procedure, as set out in the UNEP Amended London Guidelines for the Exchange of Information on Chemicals in International Trade (hereinafter referred to as the “Amended London Guidelines”) and the FAO International Code of Conduct on the Distribution and Use of Pesticides (hereinafter referred to as the “International Code of Conduct”),

Taking into account the circumstances and particular requirements of developing countries and countries with economies in transition, in particular the need to strengthen national capabilities and capacities for the management of chemicals, including transfer of technology, providing financial and technical assistance and promoting cooperation among the Parties,

Noting the specific needs of some countries for information on transit movements,

Recognizing that good management practices for chemicals should be promoted in all countries, taking into account, *inter alia*, the voluntary standards laid down in the International Code of Conduct and the UNEP Code of Ethics on the International Trade in Chemicals,

Desiring to ensure that hazardous chemicals that are exported from their territory are packaged and labelled in a manner that is adequately protective of human health and the environment, consistent with the principles of the Amended London Guidelines and the International Code of Conduct,

Recognizing that trade and environmental policies should be mutually supportive with a view to achieving sustainable development,

Emphasizing that nothing in this Convention shall be interpreted as implying in any way a change in the rights and obligations of a Party under any existing international agreement applying to chemicals in international trade or to environmental protection,

Understanding that the above recital is not intended to create a hierarchy between this Convention and other international agreements,

Determined to protect human health, including the health of consumers and workers, and the environment against potentially harmful impacts from certain hazardous chemicals and pesticides in international trade,

**Have agreed as follows:**

## **ARTICLE 1**

### **Objective**

The objective of this Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals in order to protect human health and the environment from potential harm and to contribute to their environmentally sound use, by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.

## **ARTICLE 2**

### **Definitions**

For the purposes of this Convention:

- [a] “Chemical” means a substance whether by itself or in a mixture or preparation and whether manufactured or obtained from nature, but does not include any living organism. It consists of the following categories: pesticide (including severely hazardous pesticide formulations) and industrial;

- (b) “Banned chemical” means a chemical all uses of which within one or more categories have been prohibited by final regulatory action, in order to protect human health or the environment. It includes a chemical that has been refused approval for first-time use or has been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process and where there is clear evidence that such action has been taken in order to protect human health or the environment;
- (c) “Severely restricted chemical” means a chemical virtually all use of which within one or more categories has been prohibited by final regulatory action in order to protect human health or the environment, but for which certain specific uses remain allowed. It includes a chemical that has, for virtually all use, been refused for approval or been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment;
- (d) “Severely hazardous pesticide formulation” means a chemical formulated for pesticidal use that produces severe health or environmental effects observable within a short period of time after single or multiple exposure, under conditions of use;
- (e) “Final regulatory action” means an action taken by a Party, that does not require subsequent regulatory action by that Party, the purpose of which is to ban or severely restrict a chemical;
- (f) “Export” and “import” mean, in their respective connotations, the movement of a chemical from one Party to another Party, but exclude mere transit operations;
- (g) “Party” means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;
- (h) “Regional economic integration organization” means an organization constituted by sovereign States of a given region 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 or accede to this Convention;
- (i) “Chemical Review Committee” means the subsidiary body referred to in paragraph 6 of Article 18.

## **ARTICLE 3**

### **Scope of the Convention**

1. This Convention applies to:
  - (a) Banned or severely restricted chemicals; and
  - (b) Severely hazardous pesticide formulations.
2. This Convention does not apply to:
  - (a) Narcotic drugs and psychotropic substances;
  - (b) Radioactive materials;
  - (c) Wastes;
  - (d) Chemical weapons;
  - (e) Pharmaceuticals, including human and veterinary drugs;
  - (f) Chemicals used as food additives;
  - (g) Food;
  - (h) Chemicals in quantities not likely to affect human health or the environment provided they are imported:
    - (i) For the purpose of research or analysis; or
    - (ii) By an individual for his or her own personal use in quantities reasonable for such use.

## **ARTICLE 4**

### **Designated national authorities**

1. Each Party shall designate one or more national authorities that shall be authorized to act on its behalf in the performance of the administrative functions required by this Convention.
2. Each Party shall seek to ensure that such authority or authorities have sufficient resources to perform their tasks effectively.

3. Each Party shall, no later than the date of the entry into force of this Convention for it, notify the name and address of such authority or authorities to the Secretariat. It shall forthwith notify the Secretariat of any changes in the name and address of such authority or authorities.
4. The Secretariat shall forthwith inform the Parties of the notifications it receives under paragraph 3.

## **ARTICLE 5**

### **Procedures for banned or severely restricted chemicals**

1. Each Party that has adopted a final regulatory action shall notify the Secretariat in writing of such action. Such notification shall be made as soon as possible, and in any event no later than ninety days after the date on which the final regulatory action has taken effect, and shall contain the information required by Annex I, where available.
2. Each Party shall, at the date of entry into force of this Convention for it, notify the Secretariat in writing of its final regulatory actions in effect at that time, except that each Party that has submitted notifications of final regulatory actions under the Amended London Guidelines or the International Code of Conduct need not resubmit those notifications.
3. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a notification under paragraphs 1 and 2, verify whether the notification contains the information required by Annex I. If the notification contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the notification does not contain the information required, it shall inform the notifying Party accordingly.
4. The Secretariat shall every six months communicate to the Parties a synopsis of the information received pursuant to paragraphs 1 and 2, including information regarding those notifications which do not contain all the information required by Annex I.
5. When the Secretariat has received at least one notification from each of two Prior Informed Consent regions regarding a particular chemical that it has verified meet the requirements of Annex I, it shall forward them to the Chemical Review Committee. The composition of the Prior Informed Consent regions shall be defined in a decision to be adopted by consensus at the first meeting of the Conference of the Parties.

6. The Chemical Review Committee shall review the information provided in such notifications and, in accordance with the criteria set out in Annex II, recommend to the Conference of the Parties whether the chemical in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III.

## **ARTICLE 6**

### **Procedures for severely hazardous pesticide formulations**

1. Any Party that is a developing country or a country with an economy in transition and that is experiencing problems caused by a severely hazardous pesticide formulation under conditions of use in its territory, may propose to the Secretariat the listing of the severely hazardous pesticide formulation in Annex III. In developing a proposal, the Party may draw upon technical expertise from any relevant source. The proposal shall contain the information required by part 1 of Annex IV.

2. The Secretariat shall, as soon as possible, and in any event no later than six months after receipt of a proposal under paragraph 1, verify whether the proposal contains the information required by part 1 of Annex IV. If the proposal contains the information required, the Secretariat shall forthwith forward to all Parties a summary of the information received. If the proposal does not contain the information required, it shall inform the proposing Party accordingly.

3. The Secretariat shall collect the additional information set out in part 2 of Annex IV regarding the proposal forwarded under paragraph 2.

4. When the requirements of paragraphs 2 and 3 above have been fulfilled with regard to a particular severely hazardous pesticide formulation, the Secretariat shall forward the proposal and the related information to the Chemical Review Committee.

5. The Chemical Review Committee shall review the information provided in the proposal and the additional information collected and, in accordance with the criteria set out in part 3 of Annex IV, recommend to the Conference of the Parties whether the severely hazardous pesticide formulation in question should be made subject to the Prior Informed Consent procedure and, accordingly, be listed in Annex III.



## **ARTICLE 7**

### **Listing of chemicals in Annex III**

1. For each chemical that the Chemical Review Committee has decided to recommend for listing in Annex III, it shall prepare a draft decision guidance document. The decision guidance document should, at a minimum, be based on the information specified in Annex I, or, as the case may be, Annex IV, and include information on uses of the chemical in a category other than the category for which the final regulatory action applies.
2. The recommendation referred to in paragraph 1 together with the draft decision guidance document shall be forwarded to the Conference of the Parties. The Conference of the Parties shall decide whether the chemical should be made subject to the Prior Informed Consent procedure and, accordingly, list the chemical in Annex III and approve the draft decision guidance document.
3. When a decision to list a chemical in Annex III has been taken and the related decision guidance document has been approved by the Conference of the Parties, the Secretariat shall forthwith communicate this information to all Parties.

## **ARTICLE 8**

### **Chemicals in the voluntary Prior Informed Consent procedure**

For any chemical, other than a chemical listed in Annex III, that has been included in the voluntary Prior Informed Consent procedure before the date of the first meeting of the Conference of the Parties, the Conference of the Parties shall decide at that meeting to list the chemical in Annex III, provided that it is satisfied that all the requirements for listing in that Annex have been fulfilled.

## **ARTICLE 9**

### **Removal of chemicals from Annex III**

1. If a Party submits to the Secretariat information that was not available at the time of the decision to list a chemical in Annex III and that information indicates that its listing may no longer be justified in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, the Secretariat shall forward the information to the Chemical Review Committee.

2. The Chemical Review Committee shall review the information it receives under paragraph 1. For each chemical that the Chemical Review Committee decides, in accordance with the relevant criteria in Annex II or, as the case may be, Annex IV, to recommend for removal from Annex III, it shall prepare a revised draft decision guidance document.

3. A recommendation referred to in paragraph 2 shall be forwarded to the Conference of the Parties and be accompanied by a revised draft decision guidance document. The Conference of the Parties shall decide whether the chemical should be removed from Annex III and whether to approve the revised draft decision guidance document.

4. When a decision to remove a chemical from Annex III has been taken and the revised decision guidance document has been approved by the Conference of the Parties, the Secretariat shall forthwith communicate this information to all Parties.

## **ARTICLE 10**

### **Obligations in relation to imports of chemicals listed in Annex III**

1. Each Party shall implement appropriate legislative or administrative measures to ensure timely decisions with respect to the import of chemicals listed in Annex III.

2. Each Party shall transmit to the Secretariat, as soon as possible, and in any event no later than nine months after the date of dispatch of the decision guidance document referred to in paragraph 3 of Article 7, a response concerning the future import of the chemical concerned. If a Party modifies this response, it shall forthwith submit the revised response to the Secretariat.

3. The Secretariat shall, at the expiration of the time period in paragraph 2, forthwith address to a Party that has not provided such a response, a written request to do so. Should the Party be unable to provide a response, the Secretariat shall, where appropriate, help it to provide a response within the time period specified in the last sentence of paragraph 2 of Article 11.

4. A response under paragraph 2 shall consist of either:

(a) A final decision, pursuant to legislative or administrative measures:

(i) To consent to import;

- (ii) Not to consent to import; or
  - (iii) To consent to import only subject to specified conditions; or
- (b) An interim response, which may include:
- (i) An interim decision consenting to import with or without specified conditions, or not consenting to import during the interim period;
  - (ii) A statement that a final decision is under active consideration;
  - (iii) A request to the Secretariat, or to the Party that notified the final regulatory action, for further information;
  - (iv) A request to the Secretariat for assistance in evaluating the chemical.
5. A response under subparagraphs (a) or (b) of paragraph 4 shall relate to the category or categories specified for the chemical in Annex III.
6. A final decision should be accompanied by a description of any legislative or administrative measures upon which it is based.
7. Each Party shall, no later than the date of entry into force of this Convention for it, transmit to the Secretariat responses with respect to each chemical listed in Annex III. A Party that has provided such responses under the Amended London Guidelines or the International Code of Conduct need not resubmit those responses.
8. Each Party shall make its responses under this Article available to those concerned within its jurisdiction, in accordance with its legislative or administrative measures.
9. A Party that, pursuant to paragraphs 2 and 4 above and paragraph 2 of Article 11, takes a decision not to consent to import of a chemical or to consent to its import only under specified conditions shall, if it has not already done so, simultaneously prohibit or make subject to the same conditions:
- (a) Import of the chemical from any source; and
  - (b) Domestic production of the chemical for domestic use.

10. Every six months the Secretariat shall inform all Parties of the responses it has received. Such information shall include a description of the legislative or administrative measures on which the decisions have been based, where available. The Secretariat shall, in addition, inform the Parties of any cases of failure to transmit a response.

## **ARTICLE 11**

### **Obligations in relation to exports of chemicals listed in Annex III**

1. Each exporting Party shall:

- (a) Implement appropriate legislative or administrative measures to communicate the responses forwarded by the Secretariat in accordance with paragraph 10 of Article 10 to those concerned within its jurisdiction;
- (b) Take appropriate legislative or administrative measures to ensure that exporters within its jurisdiction comply with decisions in each response no later than six months after the date on which the Secretariat first informs the Parties of such response in accordance with paragraph 10 of Article 10;
- (c) Advise and assist importing Parties, upon request and as appropriate:
  - (i) To obtain further information to help them to take action in accordance with paragraph 4 of Article 10 and paragraph 2 (c) below; and
  - (ii) To strengthen their capacities and capabilities to manage chemicals safely during their life-cycle.

2. Each Party shall ensure that a chemical listed in Annex III is not exported from its territory to any importing Party that, in exceptional circumstances, has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, unless:

- (a) It is a chemical that, at the time of import, is registered as a chemical in the importing Party; or
- (b) It is a chemical for which evidence exists that it has previously been used in, or imported into, the importing Party and in relation to which no regulatory action to prohibit its use has been taken; or

- (c) Explicit consent to the import has been sought and received by the exporter through a designated national authority of the importing Party. The importing Party shall respond to such a request within sixty days and shall promptly notify the Secretariat of its decision.

The obligations of exporting Parties under this paragraph shall apply with effect from the expiration of a period of six months from the date on which the Secretariat first informs the Parties, in accordance with paragraph 10 of Article 10, that a Party has failed to transmit a response or has transmitted an interim response that does not contain an interim decision, and shall apply for one year.

## **ARTICLE 12**

### **Export notification**

1. Where a chemical that is banned or severely restricted by a Party is exported from its territory, that Party shall provide an export notification to the importing Party. The export notification shall include the information set out in Annex V.
2. The export notification shall be provided for that chemical prior to the first export following adoption of the corresponding final regulatory action. Thereafter, the export notification shall be provided before the first export in any calendar year. The requirement to notify before export may be waived by the designated national authority of the importing Party.
3. An exporting Party shall provide an updated export notification after it has adopted a final regulatory action that results in a major change concerning the ban or severe restriction of that chemical.
4. The importing Party shall acknowledge receipt of the first export notification received after the adoption of the final regulatory action. If the exporting Party does not receive the acknowledgement within thirty days of the dispatch of the export notification, it shall submit a second notification. The exporting Party shall make reasonable efforts to ensure that the importing Party receives the second notification.
5. The obligations of a Party set out in paragraph 1 shall cease when:
  - (a) The chemical has been listed in Annex III;
  - (b) The importing Party has provided a response for the chemical to the Secretariat in accordance with paragraph 2 of Article 10; and

- (c) The Secretariat has distributed the response to the Parties in accordance with paragraph 10 of Article 10.

## **ARTICLE 13**

### **Information to accompany exported chemicals**

1. The Conference of the Parties shall encourage the World Customs Organization to assign specific Harmonized System customs codes to the individual chemicals or groups of chemicals listed in Annex III, as appropriate. Each Party shall require that, whenever a code has been assigned to such a chemical, the shipping document for that chemical bears the code when exported.
2. Without prejudice to any requirements of the importing Party, each Party shall require that both chemicals listed in Annex III and chemicals banned or severely restricted in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.
3. Without prejudice to any requirements of the importing Party, each Party may require that chemicals subject to environmental or health labelling requirements in its territory are, when exported, subject to labelling requirements that ensure adequate availability of information with regard to risks and/or hazards to human health or the environment, taking into account relevant international standards.
4. With respect to the chemicals referred to in paragraph 2 that are to be used for occupational purposes, each exporting Party shall require that a safety data sheet that follows an internationally recognized format, setting out the most up-to-date information available, is sent to each importer.
5. The information on the label and on the safety data sheet should, as far as practicable, be given in one or more of the official languages of the importing Party.

## **ARTICLE 14**

### **Information exchange**

1. Each Party shall, as appropriate and in accordance with the objective of this Convention, facilitate:

- (a) The exchange of scientific, technical, economic and legal information concerning the chemicals within the scope of this Convention, including toxicological, ecotoxicological and safety information;
  - (b) The provision of publicly available information on domestic regulatory actions relevant to the objectives of this Convention; and
  - (c) The provision of information to other Parties, directly or through the Secretariat, on domestic regulatory actions that substantially restrict one or more uses of the chemical, as appropriate.
2. Parties that exchange information pursuant to this Convention shall protect any confidential information as mutually agreed.
3. The following information shall not be regarded as confidential for the purposes of this Convention:
- (a) The information referred to in Annexes I and IV, submitted pursuant to Articles 5 and 6 respectively;
  - (b) The information contained in the safety data sheet referred to in paragraph 4 of Article 13;
  - (c) The expiry date of the chemical;
  - (d) Information on precautionary measures, including hazard classification, the nature of the risk and the relevant safety advice; and
  - (e) The summary results of the toxicological and ecotoxicological tests.
4. The production date of the chemical shall generally not be considered confidential for the purposes of this Convention.
5. Any Party requiring information on transit movements through its territory of chemicals listed in Annex III may report its need to the Secretariat, which shall inform all Parties accordingly.

## **ARTICLE 15**

### **Implementation of the Convention**

1. Each Party shall take such measures as may be necessary to establish and strengthen its national infrastructures and institutions for the effective implementation of this Convention. These measures may include, as required, the adoption or amendment of national legislative or administrative measures and may also include:

- (a) The establishment of national registers and databases including safety information for chemicals;
- (b) The encouragement of initiatives by industry to promote chemical safety; and
- (c) The promotion of voluntary agreements, taking into consideration the provisions of Article 16.

2. Each Party shall ensure, to the extent practicable, that the public has appropriate access to information on chemical handling and accident management and on alternatives that are safer for human health or the environment than the chemicals listed in Annex III.

3. The Parties agree to cooperate, directly or, where appropriate, through competent international organizations, in the implementation of this Convention at the subregional, regional and global levels.

4. Nothing in this Convention shall be interpreted as restricting the right of the Parties to take action that is more stringently protective of human health and the environment than that called for in this Convention, provided that such action is consistent with the provisions of this Convention and is in accordance with international law.

## **ARTICLE 16**

### **Technical assistance**

The Parties shall, taking into account in particular the needs of developing countries and countries with economies in transition, cooperate in promoting technical assistance for the development of the infrastructure and the capacity necessary



to manage chemicals to enable implementation of this Convention. Parties with more advanced programmes for regulating chemicals should provide technical assistance, including training, to other Parties in developing their infrastructure and capacity to manage chemicals throughout their life-cycle.

## **ARTICLE 17**

### **Non-Compliance**

The Conference of the Parties shall, as soon as practicable, develop and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Convention and for treatment of Parties found to be in non-compliance.

## **ARTICLE 18**

### **Conference of the Parties**

1. A Conference of the Parties is hereby established.
2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of UNEP and the Director-General of FAO, acting jointly, no 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.
3. 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 it is supported by at least one third of the Parties.
4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.
5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by the Convention and, to this end, shall:
  - (a) Establish, further to the requirements of paragraph 6 below, such subsidiary bodies as it considers necessary for the implementation of the Convention;

- (b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies; and
- (c) Consider and undertake any additional action that may be required for the achievement of the objectives of the Convention.

6. The Conference of the Parties shall, at its first meeting, establish a subsidiary body, to be called the Chemical Review Committee, for the purposes of performing the functions assigned to that Committee by this Convention. In this regard:

- (a) The members of the Chemical Review Committee shall be appointed by the Conference of the Parties. Membership of the Committee shall consist of a limited number of government-designated experts in chemicals management. The members of the Committee shall be appointed on the basis of equitable geographical distribution, including ensuring a balance between developed and developing Parties;
- (b) The Conference of the Parties shall decide on the terms of reference, organization and operation of the Committee;
- (c) The Committee shall make every effort to make its recommendations by consensus. If all efforts at consensus have been exhausted, and no consensus reached, such recommendation shall as a last resort be adopted by a two-thirds majority vote of the members present and voting.

7. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or nongovernmental, qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer 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.

## **ARTICLE 19**

### **Secretariat**

1. A Secretariat is hereby established.
2. The functions of the Secretariat shall be:
  - (a) To make arrangements for meetings of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;
  - (b) To facilitate assistance to the Parties, particularly developing Parties and Parties with economies in transition, on request, in the implementation of this Convention;
  - (c) To ensure the necessary coordination with the Secretariats of other relevant international bodies;
  - (d) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
  - (e) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.
3. The secretariat functions for this Convention shall be performed jointly by the Executive Director of UNEP and the Director-General of FAO, subject to such arrangements as shall be agreed between them and approved by the Conference of the Parties.
4. The Conference of the Parties may decide, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other competent international organizations, should it find that the Secretariat is not functioning as intended.

## **ARTICLE 20**

### **Settlement of disputes**

1. Parties shall settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, with respect to any dispute concerning the interpretation or application of the Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Arbitration in accordance with procedures to be adopted by the Conference of the Parties in an annex as soon as practicable; and

(b) Submission of the dispute to the International Court of Justice.

3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedure referred to in paragraph 2 (a).

4. A declaration made pursuant to paragraph 2 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall not in any way affect proceedings pending before an arbitral tribunal or the International Court of Justice unless the parties to the dispute otherwise agree.

6. If the parties to a dispute have not accepted the same or any procedure pursuant to paragraph 2, and if they have not been able to settle their dispute within twelve months following notification by one party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The conciliation commission shall render a report with recommendations. Additional procedures relating to the conciliation commission shall be included in an annex to be adopted by the Conference of the Parties no later than the second meeting of the Conference.

## **ARTICLE 21**

### **Amendments to the Convention**

1. Amendments to this Convention may be proposed by any Party.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment 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 the proposed amendment to the signatories to this Convention and, for information, to the Depositary.

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 vote of the Parties present and voting at the meeting.

4. The amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.

5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having accepted it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three fourths of the Parties. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

## **ARTICLE 22**

### **Adoption and amendment of annexes**

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.

2. Annexes shall be restricted to procedural, scientific, technical or administrative matters.

3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

[a] Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1, 2 and 3 of Article 21;

[b] Any Party that is unable to accept an additional annex shall so notify the Depositary, in writing, within one year from the date of communication

of the adoption of the additional annex by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous notification of non-acceptance in respect of an additional annex and the annex shall thereupon enter into force for that Party subject to subparagraph (c) below; and

- (c) On the expiry of one year from the date of the communication by the Depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification in accordance with the provisions of subparagraph (b) above.

4. Except in the case of Annex III, the proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to the Convention.

5. The following procedure shall apply to the proposal, adoption and entry into force of amendments to Annex III:

- (a) Amendments to Annex III shall be proposed and adopted according to the procedure laid down in Articles 5 to 9 and paragraph 2 of Article 21;
- (b) The Conference of the Parties shall take its decisions on adoption by consensus;
- (c) A decision to amend Annex III shall forthwith be communicated to the Parties by the Depositary. The amendment shall enter into force for all Parties on a date to be specified in the decision.

6. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

## **ARTICLE 23**

### **Voting**

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 below.

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

3. For the purposes of this Convention, “Parties present and voting” means Parties present and casting an affirmative or negative vote.

## **ARTICLE 24**

### **Signature**

This Convention shall be open for signature at Rotterdam by all States and regional economic integration organizations on 11 September 1998, and at United Nations Headquarters in New York from 12 September 1998 to 10 September 1999.

## **ARTICLE 25**

### **Ratification, acceptance, approval or accession**

1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization that becomes a Party to this Convention without any of its member 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 this 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 its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the Depositary, who shall in turn inform the Parties, of any relevant modification in the extent of its competence.

## **ARTICLE 26**

### **Entry into force**

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.
2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.
3. For the purpose of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.

## **ARTICLE 27**

### **Reservations**

No reservations may be made to this Convention.

## **ARTICLE 28**

### **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. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.

## **ARTICLE 29**

### **Depositary**

The Secretary-General of the United Nations shall be the Depositary of this Convention.



## **ARTICLE 30**

### **Authentic texts**

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

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

Done at Rotterdam on this tenth day of September, one thousand nine hundred and ninety-eight.



## ANNEXES



# ANNEX I

## INFORMATION REQUIREMENTS FOR NOTIFICATIONS MADE PURSUANT TO ARTICLE 5

### Notifications shall include:

1. Properties, identification and uses
  - (a) Common name;
  - (b) Chemical name according to an internationally recognized nomenclature {for example, International Union of Pure and Applied Chemistry (IUPAC)}, where such nomenclature exists;
  - (c) Trade names and names of preparations;
  - (d) Code numbers: Chemical Abstracts Service (CAS) number, Harmonized System customs code and other numbers;
  - (e) Information on hazard classification, where the chemical is subject to classification requirements;
  - (f) Use or uses of the chemical;
  - (g) Physico-chemical, toxicological and ecotoxicological properties.
2. Final regulatory action
  - (a) Information specific to the final regulatory action:
    - (i) Summary of the final regulatory action;
    - (ii) Reference to the regulatory document;
    - (iii) Date of entry into force of the final regulatory action;
    - (iv) Indication of whether the final regulatory action was taken on the basis of a risk or hazard evaluation and, if so, information on such evaluation, covering a reference to the relevant documentation;

- (v) Reasons for the final regulatory action relevant to human health, including the health of consumers and workers, or the environment;
  - (vi) Summary of the hazards and risks presented by the chemical to human health, including the health of consumers and workers, or the environment and the expected effect of the final regulatory action;
- (b) Category or categories where the final regulatory action has been taken, and for each category:
- (i) Use or uses prohibited by the final regulatory action;
  - (ii) Use or uses that remain allowed;
  - (iii) Estimation, where available, of quantities of the chemical produced, imported, exported and used;
- (c) An indication, to the extent possible, of the likely relevance of the final regulatory action to other States and regions;
- (d) Other relevant information that may cover:
- (i) Assessment of socio-economic effects of the final regulatory action;
  - (ii) Information on alternatives and their relative risks, where available, such as:
    - Integrated pest management strategies;
    - Industrial practices and processes, including cleaner technology.

## **ANNEX II**

### **CRITERIA FOR LISTING BANNED OR SEVERELY RESTRICTED CHEMICALS IN ANNEX III**

In reviewing the notifications forwarded by the Secretariat pursuant to paragraph 5 of Article 5, the Chemical Review Committee shall:

- (a) Confirm that the final regulatory action has been taken in order to protect human health or the environment;
- (b) Establish that the final regulatory action has been taken as a consequence of a risk evaluation. This evaluation shall be based on a review of scientific data in the context of the conditions prevailing in the Party in question. For this purpose, the documentation provided shall demonstrate that:
  - (i) Data have been generated according to scientifically recognized methods;
  - (ii) Data reviews have been performed and documented according to generally recognized scientific principles and procedures;
  - (iii) The final regulatory action was based on a risk evaluation involving prevailing conditions within the Party taking the action;
- (c) Consider whether the final regulatory action provides a sufficiently broad basis to merit listing of the chemical in Annex III, by taking into account:
  - (i) Whether the final regulatory action led, or would be expected to lead, to a significant decrease in the quantity of the chemical used or the number of its uses;
  - (ii) Whether the final regulatory action led to an actual reduction of risk or would be expected to result in a significant reduction of risk for human health or the environment of the Party that submitted the notification;
  - (iii) Whether the considerations that led to the final regulatory action being taken are applicable only in a limited geographical area or in other limited circumstances;

- (iv) Whether there is evidence of ongoing international trade in the chemical;
- (d) Take into account that intentional misuse is not in itself an adequate reason to list a chemical in Annex III.

## ANNEX III <sup>1</sup>

### CHEMICALS SUBJECT TO THE PRIOR INFORMED CONSENT PROCEDURE

Chemical	Relevant CAS number(s)	Category
2,4,5-T and its salts and esters	93-76-5*	Pesticide
Alachlor	15972-60-8	Pesticide
Aldicarb	116-06-3	Pesticide
Aldrin	309-00-2	Pesticide
Azinphos-methyl	86-50-0	Pesticide
Binapacryl	485-31-4	Pesticide
Captafol	2425-06-1	Pesticide
Chlordane	57-74-9	Pesticide
Chlordimeform	6164-98-3	Pesticide
Chlorobenzilate	510-15-6	Pesticide
DDT	50-29-3	Pesticide
Dieldrin	60-57-1	Pesticide
Dinitro-ortho-cresol (DNOC) and its salts (such as ammonium salt, potassium salt and sodium salt)	534-52-1 2980-64-5 5787-96-2 2312-76-7	Pesticide
Dinoseb and its salts and esters	88-85-7*	Pesticide
1,2-dibromoethane (EDB)	106-93-4	Pesticide
Endosulfan	115-29-7	Pesticide
Ethylene dichloride	107-06-2	Pesticide
Ethylene oxide	75-21-8	Pesticide
Fluoroacetamide	640-19-7	Pesticide
HCH (mixed isomers)	608-73-1	Pesticide
Heptachlor	76-44-8	Pesticide
Hexachlorobenzene	118-74-1	Pesticide
Lindane	58-89-9	Pesticide

<sup>1</sup> As amended by the Conference of the Parties by its decisions RC-1/3 of 24 September 2004; RC-4/5 of 31 October 2008; RC-5/3, RC-5/4 and RC-5/5 of 24 June 2011; RC-6/4, RC-6/5, RC-6/6 and RC-6/7 of 10 May 2013; and RC-7/4 of 15 May 2015.



<b>Chemical</b>	<b>Relevant CAS number(s)</b>	<b>Category</b>
Mercury compounds, including inorganic mercury compounds, alkyl mercury compounds and alkyloxyalkyl and aryl mercury compounds		Pesticide
Methamidophos	10265-92-6	Pesticide
Monocrotophos	6923-22-4	Pesticide
Parathion	56-38-2	Pesticide
Pentachlorophenol and its salts and esters	87-86-5*	Pesticide
Toxaphene	8001-35-2	Pesticide
All tributyltin compounds including:		Pesticide
– Tributyltin oxide	56-35-9	
– Tributyltin fluoride	1983-10-4	
– Tributyltin methacrylate	2155-70-6	
– Tributyltin benzoate	4342-36-3	
– Tributyltin chloride	1461-22-9	
– Tributyltin linoleate	24124-25-2	
– Tributyltin naphthenate	85409-17-2	
Dustable powder formulations containing a combination of:		Severely hazardous pesticide formulation
– Benomyl at or above 7 per cent,	17804-35-2	
– Carbofuran at or above 10 per cent, and	1563-66-2	
– Thiram at or above 15 per cent	137-26-8	
Phosphamidon (soluble liquid formulations of the substance that exceed 1,000 g active ingredient/l)	13171-21-6 (mixture, [E] & [Z] isomers) 23783-98-4 ([Z]-isomer) 297-99-4 ([E]-isomer)	Severely hazardous pesticide formulation

<b>Chemical</b>	<b>Relevant CAS number(s)</b>	<b>Category</b>
Methyl-parathion (emulsifiable concentrates (EC) at or above 19.5% active ingredient and dusts at or above 1.5% active ingredient)	298-00-0	Severely hazardous pesticide formulation
Asbestos: – Actinolite – Anthophyllite – Amosite – Crocidolite – Tremolite	77536-66-4 77536-67-5 12172-73-5 12001-28-4 77536-68-6	Industrial Industrial Industrial Industrial Industrial
Commercial octabromodiphenyl ether including: – Hexabromodiphenyl ether – Heptabromodiphenyl ether	36483-60-0 68928-80-3	Industrial
Commercial pentabromodiphenyl ether including: – Tetrabromodiphenyl ether – Pentabromodiphenyl ether	40088-47-9 32534-81-9	Industrial

<b>Chemical</b>	<b>Relevant CAS number(s)</b>	<b>Category</b>
Perfluorooctane sulfonic acid, perfluorooctane sulfonates, perfluorooctane sulfonamides and perfluorooctane sulfonyls including: – Perfluorooctane sulfonic acid – Potassium perfluorooctane sulfonate – Lithium perfluorooctane sulfonate – Ammonium perfluorooctane sulfonate – Diethanolammonium perfluorooctane sulfonate – Tetraethylammonium perfluorooctane sulfonate – Didecyldimethylammonium perfluorooctane sulfonate – N-Ethylperfluorooctane sulfonamide – N-Methylperfluorooctane sulfonamide – N-Ethyl-N-(2-hydroxyethyl) perfluorooctane sulfonamide – N-(2-hydroxyethyl)-Nmethylperfluorooctane sulfonamide – Perfluorooctane sulfonyl fluoride	1763-23-1 2795-39-3 29457-72-5 29081-56-9 70225-14-8 56773-42-3 251099-16-8 4151-50-2 31506-32-8 1691-99-2 24448-09-7 307-35-7	Industrial
Polybrominated biphenyls (PBB)	36355-01-8 (hexa-) 27858-07-7 (octa-) 13654-09-6 (deca-)	Industrial
Polychlorinated biphenyls (PCB)	1336-36-3	Industrial
Polychlorinated terphenyls (PCT)	61788-33-8	Industrial
Tetraethyl lead	78-00-2	Industrial
Tetramethyl lead	75-74-1	Industrial
Tris (2,3-dibromopropyl) phosphate	126-72-7	Industrial

\* Only the CAS numbers of parent compounds are listed. For a list of other relevant CAS numbers, reference may be made to the relevant decision guidance document.

## **ANNEX IV**

### **INFORMATION AND CRITERIA FOR LISTING SEVERELY HAZARDOUS PESTICIDE FORMULATIONS IN ANNEX III**

#### **Part 1. Documentation required from a proposing Party**

Proposals submitted pursuant to paragraph 1 of Article 6 shall include adequate documentation containing the following information:

- (a) Name of the hazardous pesticide formulation;
- (b) Name of the active ingredient or ingredients in the formulation;
- (c) Relative amount of each active ingredient in the formulation;
- (d) Type of formulation;
- (e) Trade names and names of the producers, if available;
- (f) Common and recognized patterns of use of the formulation within the proposing Party;
- (g) A clear description of incidents related to the problem, including the adverse effects and the way in which the formulation was used;
- (h) Any regulatory, administrative or other measure taken, or intended to be taken, by the proposing Party in response to such incidents.

#### **Part 2. Information to be collected by the Secretariat**

Pursuant to paragraph 3 of Article 6, the Secretariat shall collect relevant information relating to the formulation, including:

- (a) The physico-chemical, toxicological and ecotoxicological properties of the formulation;
- (b) The existence of handling or applicator restrictions in other States;

- (c) Information on incidents related to the formulation in other States;
- (d) Information submitted by other Parties, international organizations, non-governmental organizations or other relevant sources, whether national or international;
- (e) Risk and/or hazard evaluations, where available;
- (f) Indications, if available, of the extent of use of the formulation, such as the number of registrations or production or sales quantity;
- (g) Other formulations of the pesticide in question, and incidents, if any, relating to these formulations;
- (h) Alternative pest-control practices;
- (i) Other information which the Chemical Review Committee may identify as relevant.

### **Part 3. Criteria for listing severely hazardous pesticide formulations in Annex III**

In reviewing the proposals forwarded by the Secretariat pursuant to paragraph 5 of Article 6, the Chemical Review Committee shall take into account:

- (a) The reliability of the evidence indicating that use of the formulation, in accordance with common or recognized practices within the proposing Party, resulted in the reported incidents;
- (b) The relevance of such incidents to other States with similar climate, conditions and patterns of use of the formulation;
- (c) The existence of handling or applicator restrictions involving technology or techniques that may not be reasonably or widely applied in States lacking the necessary infrastructure;
- (d) The significance of reported effects in relation to the quantity of the formulation used;
- (e) That intentional misuse is not in itself an adequate reason to list a formulation in Annex III.

## ANNEX V

### INFORMATION REQUIREMENTS FOR EXPORT NOTIFICATION

1. Export notifications shall contain the following information:
  - (a) Name and address of the relevant designated national authorities of the exporting Party and the importing Party;
  - (b) Expected date of export to the importing Party;
  - (c) Name of the banned or severely restricted chemical and summary of the information specified in Annex I that is to be provided to the Secretariat in accordance with Article 5. Where more than one such chemical is included in a mixture or preparation, such information shall be provided for each chemical;
  - (d) A statement indicating, if known, the foreseen category of the chemical and its foreseen use within that category in the importing Party;
  - (e) Information on precautionary measures to reduce exposure to and emission of, the chemical;
  - (f) In case of a mixture or a preparation, the concentration of the banned or severely restricted chemical or chemicals in question;
  - (g) Name and address of the importer;
  - (h) Any additional information that is readily available to the relevant designated national authority of the exporting Party that would be of assistance to the designated national authority of the importing Party.
2. In addition to the information referred to in paragraph 1, the exporting Party shall provide such further information specified in Annex I as may be requested by the importing Party.

## **ANNEX VI <sup>2</sup>**

### **SETTLEMENTS OF DISPUTES**

#### **A. Rules on arbitration**

The arbitration procedure for purposes of paragraph 2 (a) of article 20 of the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade shall be as follows:

##### **Article 1**

1. A Party may initiate recourse to arbitration in accordance with article 20 of the Convention by written notification addressed to the other Party to the dispute. The notification shall be accompanied by a statement of the claim, together with any supporting documents, and shall state the subject matter for arbitration including, in particular, the articles of the Convention the interpretation or application of which are at issue.

2. The claimant Party shall notify the Secretariat that the Parties are referring a dispute to arbitration pursuant to article 20. The written notification of the claimant Party shall be accompanied by the statement of claim and the supporting documents referred to in paragraph 1 above. The Secretariat shall forward the information thus received to all Parties.

##### **Article 2**

1. In disputes between two Parties, an Arbitral Tribunal shall be established. It shall consist of three members.

2. Each of the Parties to the dispute shall appoint an arbitrator and the two arbitrators so appointed shall designate by common agreement the third arbitrator, who shall be the President of the Tribunal. The President of the Tribunal shall not be a national of one of the Parties to the dispute, nor have his or her usual place of residence in the territory of one of these Parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

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<sup>2</sup> Adopted at the first meeting of the Conference of the Parties, in its decision RC-1/11 of 24 September 2004.

3. In disputes between more than two Parties, Parties in the same interest shall appoint one arbitrator jointly by agreement.

4. Any vacancy shall be filled in the manner prescribed for the initial appointment.

5. If the Parties do not agree on the subject matter of the dispute before the President of the Arbitral Tribunal is designated, the Arbitral Tribunal shall determine the subject matter.

### **Article 3**

1. If one of the Parties to the dispute does not appoint an arbitrator within two months of the date on which the respondent Party receives the notification of the arbitration, the other Party may inform the Secretary-General of the United Nations who shall make the designation within a further two-month period.

2. If the President of the Arbitral Tribunal has not been designated within two months of the date of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a Party, designate the President within a further two-month period.

### **Article 4**

The Arbitral Tribunal shall render its decisions in accordance with the provisions of the Convention and international law.

### **Article 5**

Unless the parties to the dispute agree otherwise, the Arbitral Tribunal shall determine its own rules of procedure.

### **Article 6**

The Arbitral Tribunal may, at the request of one of the Parties, recommend essential interim measures of protection.

### **Article 7**

The Parties to the dispute shall facilitate the work of the Arbitral Tribunal and, in



particular, using all means at their disposal, shall:

- (a) Provide it with all relevant documents, information and facilities; and
- (b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

## **Article 8**

The Parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the Arbitral Tribunal.

## **Article 9**

Unless the Arbitral Tribunal determines otherwise because of the particular circumstances of the case, the costs of the Tribunal shall be borne by the Parties to the dispute in equal shares. The Tribunal shall keep a record of all its costs and shall furnish a final statement thereof to the Parties.

## **Article 10**

A Party that has an interest of a legal nature in the subject matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the Arbitral Tribunal.

## **Article 11**

The Arbitral Tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

## **Article 12**

Decisions of the Arbitral Tribunal on both procedure and substance shall be taken by a majority vote of its members.

## **Article 13**

1. If one of the Parties to the dispute does not appear before the Arbitral Tribunal or fails to defend its case, the other Party may request the Tribunal to continue the proceedings and to render its decision. Absence of a Party or failure of a Party to defend its case shall not constitute a bar to the proceedings.

2. Before rendering its final decision, the Arbitral Tribunal must satisfy itself that the claim is well founded in fact and law.

## **Article 14**

The Arbitral Tribunal shall render its final decision within five months of the date on which it is fully constituted, unless it finds it necessary to extend the time limit for a period which should not exceed five more months.

## **Article 15**

The final decision of the Arbitral Tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the Tribunal may attach a separate or dissenting opinion to the final decision.

## **Article 16**

The award shall be binding on the parties to the dispute. The interpretation of the Convention given by the award shall also be binding upon a Party intervening under article 10 above insofar as it relates to matters in respect of which that Party intervened. The award shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

## **Article 17**

Any controversy which may arise between those bound by the final decision in accordance with article 16 above, as regards the interpretation or manner of implementation of that decision, may be submitted by any of them for decision to the Arbitral Tribunal which rendered it.

## **B. Rules on conciliation**

The conciliation procedure for purposes of paragraph 6 of article 20 of the Convention shall be as follows.

### **Article 1**

1. A request by a party to a dispute to establish a conciliation commission in consequence of paragraph 6 of article 20 shall be addressed in writing to the Secretariat. The Secretariat shall forthwith inform all Parties accordingly.

2. The conciliation commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

### **Article 2**

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement.

### **Article 3**

If any appointments by the parties are not made within two months of the date of receipt by the Secretariat of the written request referred to in article 1, the Secretary-General of the United Nations shall, upon request by a party, make those appointments within a further two-month period.

### **Article 4**

If the President of the conciliation commission has not been chosen within two months of the fourth member of the commission being appointed, the Secretary-General of the United Nations shall, upon request by a party, designate the President within a further two-month period.

### **Article 5**

1. The conciliation commission shall, unless the parties to the dispute otherwise agree, determine its own rules of procedure.

2. The parties and members of the commission are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the commission.

### **Article 6**

The conciliation commission shall take its decisions by a majority vote of its members.

### **Article 7**

The conciliation commission shall render a report with recommendations for resolution of the dispute within twelve months of being established, which the parties shall consider in good faith.

### **Article 8**

Any disagreement as to whether the conciliation commission has competence to consider a matter referred to it shall be decided by the commission.

### **Article 9**

The costs of the Commission shall be borne by the parties to the dispute in shares agreed by them. The Commission shall keep the record of all its costs and shall furnish a final statement thereof to the parties.

**www.pic.int**

**Rotterdam Convention Secretariat**

Food and Agriculture Organization of  
the United Nations (FAO)

Viale delle Terme di Caracalla  
00153 Rome, Italy

Fax: (+39 06) 5703 3224

Email: [pic@pic.int](mailto:pic@pic.int)

**Rotterdam Convention Secretariat**

United Nations Environment Programme (UNEP)

11-13, chemin des Anémones

CH-1219 Châtelaine

Geneva, Switzerland

Fax: (+41 22) 917 8098

Email: [brs@brsmeas.org](mailto:brs@brsmeas.org)



# MINAMATA CONVENTION ON MERCURY

## TEXT AND ANNEXES



UNITED NATIONS

**UN**   
**environment**

United Nations  
Environment Programme



# MINAMATA CONVENTION ON MERCURY

## TEXT AND ANNEXES

This booklet is published for information only. It does not substitute the original authentic texts of the Minamata Convention on Mercury as deposited with the Secretary-General of the United Nations acting as the Depositary of the Convention

[www.mercuryconvention.org](http://www.mercuryconvention.org)

September 2017



United Nations  
Environment Programme





## **FOREWORD BY THE SECRETARY-GENERAL OF THE UNITED NATIONS** ***ANTÓNIO GUTERRES***

In 1956, two sisters, aged two and five, were diagnosed in Minamata Bay, Japan, with the crippling, untreatable and stigmatizing effects of mercury poisoning. In the decades that followed, their story would be retold many times, becoming synonymous with the tens of thousands of adults, children and unborn infants to suffer from what is now known as Minamata disease.

Unfortunately, it is a story that we still need to tell because, decades on, too many people still think of mercury simply as a fascinating element safely contained in thermometers. Too few understand that it is lethal, indestructible and present in everything from coal-fired power generation to certain mascaras and fluorescent lights. Likewise, too many are unaware that just a fraction of the 130,000 chemicals and other substances on the market are properly assessed, labelled and tracked. Even fewer suspect that items as mundane as pizza boxes, microwave popcorn or electronic waste pollute our air, land, water, food chains and ecosystems for generations. It still takes far too long to identify, accept and act on such risks to human health.

We need to reinforce the right of scientists to pursue their work for the greater good and for medical experts and citizens to access that knowledge easily. And we need to insist on the right and responsibility of judiciaries and governments to act on such knowledge and the right of the media to report on the outcomes and implications of all these efforts. These are basic rights highlighted by the tragic past and optimistic future that the Minamata Convention symbolizes.

Like so many contaminants, mercury doesn't just damage individual victims. It damages entire communities. It fuels poverty, feeds conflict and pushes equality further out of reach. Take the example of a young mother working as an artisanal gold miner. While she is poisoned from handling mercury at work, countless others, including her children, are harmed by its impact on the environment.

The Minamata Convention is our chance to break that cycle of misery. It represents an opportunity to not only improve the health of people around the world, but to accelerate the transition to a fairer, greener economy. People can benefit from technology that offers safer, more effective alternatives for communities to build a more stable, sustainable future. The legal waste market, which is already worth \$400 billion a year, can create more jobs to securely handle the 90 per cent of electronic waste currently left to pollute our health and our environment. Quite simply, the potential benefits are enormous.

I thank everyone who has already worked so hard to ratify this Convention. But the hardest work still lies ahead, because now we must implement it swiftly and effectively to minimize the risks posed to communities in all regions by the toxic threat of mercury poisoning.



## **FOREWORD BY UN UNDER-SECRETARY-GENERAL AND EXECUTIVE DIRECTOR OF UN ENVIRONMENT**

***ERIK SOLHEIM***

The Minamata Convention is named after the beautiful Minamata city in Japan, where local communities were poisoned by mercury-tainted industrial wastewater in the late 1950's. The diagnosis and suffering continues to be repeated around the world. Through the Minamata Convention on Mercury, the global community remembers the many lives already lost to mercury poisoning and recognizes the industrial lessons to be learned. It celebrates victims who are determined to embrace life and to see this Convention protect others from the same fate.

The Minamata Convention traces the lifecycle of mercury to help all countries by adopting the better practices and safer alternatives that already exist. From restricting initial access to mercury and controlling its movement, to developing knowledge and technical capacity, meeting these goals will reduce health and environmental risks for people everywhere.

Since work began on the Minamata Convention in 2009, an intensive effort from Member States has delivered steady progress towards ratification. With the entry into force on 16 August 2017, it is the first global agreement on health and the environment for close to a decade. Now, we must reinforce that effort with support from the private sector, civil society and citizens everywhere.

To understand how high the stakes are for the Minamata Convention, we only need to listen to the human stories from Minamata. I was privileged to visit research institutes and welfare facilities whilst in Minamata. There I met Masami Ogata, a story teller at the Minamata Archives, who has carved over 4,000 commemorative dolls with trees from a forest that now covers reclaimed parts of Minamata Bay. He gives them to people who can share these stories to build a better life for victims like himself and help prevent any more. I also met Takeko Kato and members of the Hotto Hausu Programme, a vocational training centre for congenital disease patients. They told me their life stories and hope for their future; a world without sufferings caused by mercury poisoning. They want to turn this industrial tragedy into a positive force for global change. They simply want the lessons to be heard, learned and implemented.

Together we can share their stories to highlight the real character of mercury and its victims. Only then will the words of this Convention have the force needed to generate tangible actions and protect innocent lives.

Thank you.



## **FOREWORD BY HER EXCELLENCY (MRS.) DORIS LEUTHARD, PRESIDENT OF THE SWISS CONFEDERATION AND MINISTER FOR THE ENVIRONMENT, TRANSPORT, ENERGY AND COMMUNICATIONS**

The Minamata Convention is the first global environmental agreement negotiated in the 21st millennium. It reflects an innovative and comprehensive approach, addressing mercury throughout its life cycle from its mining to its management as waste. It is a privilege and honor for me to host the first Conference of the Parties to the Minamata Convention in Geneva, Switzerland.

In 2003, the Global Mercury Assessment was presented to the 22nd UNEP Governing Council. It concluded that there is significant global adverse impacts from mercury and its compounds to warrant further international action. In response, Switzerland, together with Norway, proposed to develop a comprehensive legally binding instrument on mercury. It took 6 years and many efforts of formal and informal discussions and outreach until the UNEP Governing Council decided in 2009 at its 25th session to launch negotiations for a global mercury convention. These negotiations were well organized and prepared by UNEP Chemicals. They benefitted from substantive input from competent intergovernmental institutions as well as nongovernmental organizations. And, they were guided by the president of the negotiation process, ambassador Fernando Lugini from Uruguay, in a diligent, wise and solution oriented manner.

In 2013, 10 years after Switzerland's and Norway's call for a legally binding instrument for mercury, the 5th session of the Intergovernmental Negotiation Committee concluded its negotiations in Geneva. I very well remember the final negotiations in Geneva and the pride and satisfaction, when on Saturday morning, 19 January 2013, at 7 am, after a long week of intensive negotiations, agreement on the text of the Minamata Convention on Mercury was achieved. The convention was formally adopted and opened for signature at the Diplomatic Conference of Plenipotentiaries in Kumamoto, Japan, on 10 October 2013, it entered into force on 16 August 2017, and its first Conference of the Parties meets in September 2017 in Geneva.

The Minamata Convention follows and builds on the Basel, Rotterdam and Stockholm conventions. It sets out the same basic substantive obligations for all countries, while providing some targeted differentiation and flexibility in specific substantive provisions, as well as provisions to mobilize financial resources by all, within their capabilities, for implementation in developing countries. Together with the Basel, Rotterdam and Stockholm conventions, it forms a comprehensive global regime for the sound management of chemicals and hazardous wastes.

The Minamata Convention is a 21st century response to the catastrophic pollution in Minamata, Japan, where industrial releases of methyl mercury caused the epidemic known as the Minamata disease in the 1950s and onwards. By naming the convention 'Minamata Convention', the name Minamata will not only be associated with a problem, but also with a solution. It is both an impressive and stimulating proof of how successful multilateralism can be to solve global problems and challenges. I would like to thank wholeheartedly all those who have contributed to that success.



## INTRODUCTION

In 2001, the Governing Council of the United Nations Environment Programme<sup>1</sup> (UNEP) invited the Executive Director of UNEP to undertake a global assessment of mercury and its compounds, including information on the chemistry and health effects, sources, long-range transport, and prevention and control technologies relating to mercury. In 2003, the Governing Council considered this assessment and found that there was sufficient evidence of significant global adverse impacts from mercury and its compounds to warrant further international action to reduce the risks to human health and the environment from the release of mercury and its compounds to the environment. Governments were urged to adopt goals for the reduction of mercury emissions and releases and UNEP initiated technical assistance and capacity building activities to meet these goals.

Mercury is recognized as a substance producing significant adverse neurological and other health effects, with particular concerns expressed about its harmful effects on infants and unborn children. The global transport of mercury in the environment was a key reason for taking the decision that global action to address the problem of mercury pollution was required. A mercury programme to address these concerns was thus established and was further strengthened by governments in decisions of the Governing Council in 2005 and in 2007. In the decision of 2007, the Governing Council concluded that the options of enhanced voluntary measures and new or existing international legal instruments would be reviewed and assessed in order to make progress in addressing the mercury issue.

In 2009, following extensive consideration of the issue, the Governing Council agreed that voluntary actions had not been sufficient to address the concerns on mercury, and decided on the need for further action on mercury, including the preparation of a global legally binding instrument. An intergovernmental negotiating committee to prepare a global legally binding instrument on mercury was therefore established, to commence its work in 2010 and conclude its negotiations prior to the twenty-seventh session of the Governing Council in 2013. The committee was provided with a detailed mandate setting out specific issues to be covered in the text of the instrument, as well as a number of other elements to be taken into account while negotiating the text.

In January 2013, the intergovernmental negotiating committee concluded its fifth session by agreeing on the text of the Minamata Convention on Mercury. The text was adopted by the Conference of Plenipotentiaries on 10 October 2013 in Japan and was opened for signature for one year until 9 October 2014. During this period, it was signed by 127 states and one regional economic integration organization, bringing to 128 the total number of signatories.

The Conference of Plenipotentiaries also mandated the intergovernmental negotiating committee to meet during the interim period preceding the opening of the first meeting of the Conference of the Parties to the Convention to facilitate the rapid entry into force of the Convention and its effective implementation upon entry into force. Two sessions of the committee were held, in November 2014 in Bangkok, Thailand and in March 2016 at the Dead Sea in Jordan.

The objective of the Convention is to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds and it sets out a range of measures to meet that objective. These include measures to control the supply and trade of mercury, including setting limitations on specific sources of mercury such as

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<sup>1</sup> As of February 2013, the designation of the Governing Council of UNEP has been changed to the United Nations Environment Assembly.



primary mining, and to control mercury-added products and manufacturing processes in which mercury or mercury compounds are used, as well as artisanal and small scale gold mining. The text of the Convention includes separate articles on emissions and releases of mercury, with controls directed at reducing levels of mercury while allowing flexibility to accommodate national development plans. In addition, it contains measures on the environmentally sound interim storage of mercury and on mercury wastes, as well as contaminated sites. Provision is made in the text for financial and technical support to developing countries and countries with economies in transition, and a financial mechanism for the provision of adequate, predictable and timely financial resources is defined.

The Minamata Convention provides that it shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession. That milestone was reached on 18 May 2017, allowing the Convention to enter into force on 16 August 2017 and the holding of the first meeting of its Conference of the Parties from 24 to 29 September 2017 in Geneva, Switzerland.

It is expected that coordinated implementation of the obligations of the Convention will lead to an overall reduction in mercury levels in the environment over time, thus meeting the objective of the Convention to protect human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.





## MINAMATA CONVENTION ON MERCURY

The Parties to this Convention,

*Recognizing* that mercury is a chemical of global concern owing to its long-range atmospheric transport, its persistence in the environment once anthropogenically introduced, its ability to bioaccumulate in ecosystems and its significant negative effects on human health and the environment,

*Recalling* decision 25/5 of 20 February 2009 of the Governing Council of the United Nations Environment Programme to initiate international action to manage mercury in an efficient, effective and coherent manner,

*Recalling* paragraph 221 of the outcome document of the United Nations Conference on Sustainable Development “The future we want”, which called for a successful outcome of the negotiations on a global legally binding instrument on mercury to address the risks to human health and the environment,

*Recalling* the United Nations Conference on Sustainable Development’s reaffirmation of the principles of the Rio Declaration on Environment and Development, including, inter alia, common but differentiated responsibilities, and acknowledging States’ respective circumstances and capabilities and the need for global action,

*Aware* of the health concerns, especially in developing countries, resulting from exposure to mercury of vulnerable populations, especially women, children, and, through them, future generations,

*Noting* the particular vulnerabilities of Arctic ecosystems and indigenous communities because of the biomagnification of mercury and contamination of traditional foods, and concerned about indigenous communities more generally with respect to the effects of mercury,

*Recognizing* the substantial lessons of Minamata Disease, in particular the serious health and environmental effects resulting from the mercury pollution, and the need to ensure proper management of mercury and the prevention of such events in the future,

*Stressing* the importance of financial, technical, technological, and capacity-building support, particularly for developing countries, and

countries with economies in transition, in order to strengthen national capabilities for the management of mercury and to promote the effective implementation of the Convention,

*Recognizing also* the activities of the World Health Organization in the protection of human health related to mercury and the roles of relevant multilateral environmental agreements, especially the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade,

*Recognizing* that this Convention and other international agreements in the field of the environment and trade are mutually supportive,

*Emphasizing* that nothing in this Convention is intended to affect the rights and obligations of any Party deriving from any existing international agreement,

*Understanding* that the above recital is not intended to create a hierarchy between this Convention and other international instruments,

*Noting* that nothing in this Convention prevents a Party from taking additional domestic measures consistent with the provisions of this Convention in an effort to protect human health and the environment from exposure to mercury in accordance with that Party's other obligations under applicable international law,

Have agreed as follows:

## **Article 1** Objective

The objective of this Convention is to protect the human health and the environment from anthropogenic emissions and releases of mercury and mercury compounds.

## Article 2

### Definitions

For the purposes of this Convention:

(a) “Artisanal and small-scale gold mining” means gold mining conducted by individual miners or small enterprises with limited capital investment and production;

(b) “Best available techniques” means those techniques that are the most effective to prevent and, where that is not practicable, to reduce emissions and releases of mercury to air, water and land and the impact of such emissions and releases on the environment as a whole, taking into account economic and technical considerations for a given Party or a given facility within the territory of that Party. In this context:

(i) “Best” means most effective in achieving a high general level of protection of the environment as a whole;

(ii) “Available” techniques means, in respect of a given Party and a given facility within the territory of that Party, those techniques developed on a scale that allows implementation in a relevant industrial sector under economically and technically viable conditions, taking into consideration the costs and benefits, whether or not those techniques are used or developed within the territory of that Party, provided that they are accessible to the operator of the facility as determined by that Party; and

(iii) “Techniques” means technologies used, operational practices and the ways in which installations are designed, built, maintained, operated and decommissioned;

(c) “Best environmental practices” means the application of the most appropriate combination of environmental control measures and strategies;

(d) “Mercury” means elemental mercury (Hg(0), CAS No. 7439-97-6);

(e) “Mercury compound” means any substance consisting of atoms of mercury and one or more atoms of other chemical elements that can be separated into different components only by chemical reactions;

(f) "Mercury-added product" means a product or product component that contains mercury or a mercury compound that was intentionally added;

(g) "Party" means a State or regional economic integration organization that has consented to be bound by this Convention and for which the Convention is in force;

(h) "Parties present and voting" means Parties present and casting an affirmative or negative vote at a meeting of the Parties;

(i) "Primary mercury mining" means mining in which the principal material sought is mercury;

(j) "Regional economic integration organization" means an organization constituted by sovereign States of a given region 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 or accede to this Convention; and

(k) "Use allowed" means any use by a Party of mercury or mercury compounds consistent with this Convention, including, but not limited to, uses consistent with Articles 3, 4, 5, 6 and 7.

### **Article 3**

#### **Mercury supply sources and trade**

1. For the purposes of this Article:

(a) References to "mercury" include mixtures of mercury with other substances, including alloys of mercury, with a mercury concentration of at least 95 per cent by weight; and

(b) "Mercury compounds" means mercury (I) chloride (known also as calomel), mercury (II) oxide, mercury (II) sulphate, mercury (II) nitrate, cinnabar and mercury sulphide.

2. The provisions of this Article shall not apply to:

(a) Quantities of mercury or mercury compounds to be used for laboratory-scale research or as a reference standard; or

(b) Naturally occurring trace quantities of mercury or mercury compounds present in such products as non-mercury metals, ores, or mineral products, including coal, or products derived from these materials, and unintentional trace quantities in chemical products; or

(c) Mercury-added products.

3. Each Party shall not allow primary mercury mining that was not being conducted within its territory at the date of entry into force of the Convention for it.

4. Each Party shall only allow primary mercury mining that was being conducted within its territory at the date of entry into force of the Convention for it for a period of up to fifteen years after that date. During this period, mercury from such mining shall only be used in manufacturing of mercury-added products in accordance with Article 4, in manufacturing processes in accordance with Article 5, or be disposed in accordance with Article 11, using operations which do not lead to recovery, recycling, reclamation, direct re-use or alternative uses.

5. Each Party shall:

(a) Endeavour to identify individual stocks of mercury or mercury compounds exceeding 50 metric tons, as well as sources of mercury supply generating stocks exceeding 10 metric tons per year, that are located within its territory;

(b) Take measures to ensure that, where the Party determines that excess mercury from the decommissioning of chlor-alkali facilities is available, such mercury is disposed of in accordance with the guidelines for environmentally sound management referred to in paragraph 3 (a) of Article 11, using operations that do not lead to recovery, recycling, reclamation, direct re-use or alternative uses.

6. Each Party shall not allow the export of mercury except:

(a) To a Party that has provided the exporting Party with its written consent, and only for the purpose of:



- (i) A use allowed to the importing Party under this Convention;  
or
  - (ii) Environmentally sound interim storage as set out in Article 10;  
or
- (b) To a non-Party that has provided the exporting Party with its written consent, including certification demonstrating that:
- (i) The non-Party has measures in place to ensure the protection of human health and the environment and to ensure its compliance with the provisions of Articles 10 and 11; and
  - (ii) Such mercury will be used only for a use allowed to a Party under this Convention or for environmentally sound interim storage as set out in Article 10.

7. An exporting Party may rely on a general notification to the Secretariat by the importing Party or non-Party as the written consent required by paragraph 6. Such general notification shall set out any terms and conditions under which the importing Party or non-Party provides its consent. The notification may be revoked at any time by that Party or non-Party. The Secretariat shall keep a public register of all such notifications.

8. Each Party shall not allow the import of mercury from a non-Party to whom it will provide its written consent unless the non-Party has provided certification that the mercury is not from sources identified as not allowed under paragraph 3 or paragraph 5 (b).

9. A Party that submits a general notification of consent under paragraph 7 may decide not to apply paragraph 8, provided that it maintains comprehensive restrictions on the export of mercury and has domestic measures in place to ensure that imported mercury is managed in an environmentally sound manner. The Party shall provide a notification of such decision to the Secretariat, including information describing its export restrictions and domestic regulatory measures, as well as information on the quantities and countries of origin of mercury imported from non-Parties. The Secretariat shall maintain a public register of all such notifications. The Implementation and Compliance Committee shall review and evaluate any such notifications and supporting information in accordance with Article 15 and may make recommendations, as appropriate, to the Conference of the Parties.

10. The procedure set out in paragraph 9 shall be available until the conclusion of the second meeting of the Conference of the Parties. After that time, it shall cease to be available, unless the Conference of the Parties decides otherwise by simple majority of the Parties present and voting, except with respect to a Party that has provided a notification under paragraph 9 before the end of the second meeting of the Conference of the Parties.

11. Each Party shall include in its reports submitted pursuant to Article 21 information showing that the requirements of this Article have been met.

12. The Conference of the Parties shall at its first meeting provide further guidance in regard to this Article, particularly in regard to paragraphs 5 (a), 6 and 8, and shall develop and adopt the required content of the certification referred to in paragraphs 6 (b) and 8.

13. The Conference of the Parties shall evaluate whether the trade in specific mercury compounds compromises the objective of this Convention and consider whether specific mercury compounds should, by their listing in an additional annex adopted in accordance with Article 27, be made subject to paragraphs 6 and 8.

## **Article 4**

### **Mercury-added products**

1. Each Party shall not allow, by taking appropriate measures, the manufacture, import or export of mercury-added products listed in Part I of Annex A after the phase-out date specified for those products, except where an exclusion is specified in Annex A or the Party has a registered exemption pursuant to Article 6.

2. A Party may, as an alternative to paragraph 1, indicate at the time of ratification or upon entry into force of an amendment to Annex A for it, that it will implement different measures or strategies to address products listed in Part I of Annex A. A Party may only choose this alternative if it can demonstrate that it has already reduced to a de minimis level the manufacture, import, and export of the large majority of the products listed in Part I of Annex A and that it has implemented measures or strategies to reduce the use of mercury in additional products not listed in

Part I of Annex A at the time it notifies the Secretariat of its decision to use this alternative. In addition, a Party choosing this alternative shall:

(a) Report at the first opportunity to the Conference of the Parties a description of the measures or strategies implemented, including a quantification of the reductions achieved;

(b) Implement measures or strategies to reduce the use of mercury in any products listed in Part I of Annex A for which a de minimis value has not yet been obtained;

(c) Consider additional measures to achieve further reductions; and

(d) Not be eligible to claim exemptions pursuant to Article 6 for any product category for which this alternative is chosen.

No later than five years after the date of entry into force of the Convention, the Conference of the Parties shall, as part of the review process under paragraph 8, review the progress and the effectiveness of the measures taken under this paragraph.

3. Each Party shall take measures for the mercury-added products listed in Part II of Annex A in accordance with the provisions set out therein.

4. The Secretariat shall, on the basis of information provided by Parties, collect and maintain information on mercury-added products and their alternatives, and shall make such information publicly available. The Secretariat shall also make publicly available any other relevant information submitted by Parties.

5. Each Party shall take measures to prevent the incorporation into assembled products of mercury-added products the manufacture, import and export of which are not allowed for it under this Article.

6. Each Party shall discourage the manufacture and the distribution in commerce of mercury-added products not covered by any known use of mercury-added products prior to the date of entry into force of the Convention for it, unless an assessment of the risks and benefits of the product demonstrates environmental or human health benefits. A Party shall provide to the Secretariat, as appropriate, information on any such product, including any information on the environmental and human

health risks and benefits of the product. The Secretariat shall make such information publicly available.

7. Any Party may submit a proposal to the Secretariat for listing a mercury-added product in Annex A, which shall include information related to the availability, technical and economic feasibility and environmental and health risks and benefits of the non-mercury alternatives to the product, taking into account information pursuant to paragraph 4.

8. No later than five years after the date of entry into force of the Convention, the Conference of the Parties shall review Annex A and may consider amendments to that Annex in accordance with Article 27.

9. In reviewing Annex A pursuant to paragraph 8, the Conference of the Parties shall take into account at least:

(a) Any proposal submitted under paragraph 7;

(b) The information made available pursuant to paragraph 4; and

(c) The availability to the Parties of mercury-free alternatives that are technically and economically feasible, taking into account the environmental and human health risks and benefits.

## **Article 5**

### **Manufacturing processes in which mercury or mercury compounds are used**

1. For the purposes of this Article and Annex B, manufacturing processes in which mercury or mercury compounds are used shall not include processes using mercury-added products, processes for manufacturing mercury-added products or processes that process mercury-containing waste.

2. Each Party shall not allow, by taking appropriate measures, the use of mercury or mercury compounds in the manufacturing processes listed in Part I of Annex B after the phase-out date specified in that Annex for the individual processes, except where the Party has a registered exemption pursuant to Article 6.

3. Each Party shall take measures to restrict the use of mercury or mercury compounds in the processes listed in Part II of Annex B in accordance with the provisions set out therein.

4. The Secretariat shall, on the basis of information provided by Parties, collect and maintain information on processes that use mercury or mercury compounds and their alternatives, and shall make such information publicly available. Other relevant information may also be submitted by Parties and shall be made publicly available by the Secretariat.

5. Each Party with one or more facilities that use mercury or mercury compounds in the manufacturing processes listed in Annex B shall:

(a) Take measures to address emissions and releases of mercury or mercury compounds from those facilities;

(b) Include in its reports submitted pursuant to Article 21 information on the measures taken pursuant to this paragraph; and

(c) Endeavour to identify facilities within its territory that use mercury or mercury compounds for processes listed in Annex B and submit to the Secretariat, no later than three years after the date of entry into force of the Convention for it, information on the number and types of such facilities and the estimated annual amount of mercury or mercury compounds used in those facilities. The Secretariat shall make such information publicly available.

6. Each Party shall not allow the use of mercury or mercury compounds in a facility that did not exist prior to the date of entry into force of the Convention for it using the manufacturing processes listed in Annex B. No exemptions shall apply to such facilities.

7. Each Party shall discourage the development of any facility using any other manufacturing process in which mercury or mercury compounds are intentionally used that did not exist prior to the date of entry into force of the Convention, except where the Party can demonstrate to the satisfaction of the Conference of the Parties that the manufacturing process provides significant environmental and health benefits and that there are no technically and economically feasible mercury-free alternatives available providing such benefits.

8. Parties are encouraged to exchange information on relevant new technological developments, economically and technically feasible mercury-free alternatives, and possible measures and techniques to reduce and where feasible to eliminate the use of mercury and mercury compounds in, and emissions and releases of mercury and mercury compounds from, the manufacturing processes listed in Annex B.

9. Any Party may submit a proposal to amend Annex B in order to list a manufacturing process in which mercury or mercury compounds are used. It shall include information related to the availability, technical and economic feasibility and environmental and health risks and benefits of the non-mercury alternatives to the process.

10. No later than five years after the date of entry into force of the Convention, the Conference of the Parties shall review Annex B and may consider amendments to that Annex in accordance with Article 27.

11. In any review of Annex B pursuant to paragraph 10, the Conference of the Parties shall take into account at least:

(a) Any proposal submitted under paragraph 9;

(b) The information made available under paragraph 4; and

(c) The availability for the Parties of mercury-free alternatives which are technically and economically feasible taking into account the environmental and health risks and benefits.

## **Article 6**

### **Exemptions available to a Party upon request**

1. Any State or regional economic integration organization may register for one or more exemptions from the phase-out dates listed in Annex A and Annex B, hereafter referred to as an “exemption”, by notifying the Secretariat in writing:

(a) On becoming a Party to this Convention; or

(b) In the case of any mercury-added product that is added by an amendment to Annex A or any manufacturing process in which mercury is used that is added by an amendment to Annex B, no later than the date

upon which the applicable amendment enters into force for the Party.

Any such registration shall be accompanied by a statement explaining the Party's need for the exemption.

2. An exemption can be registered either for a category listed in Annex A or B or for a sub-category identified by any State or regional economic integration organization.

3. Each Party that has one or more exemptions shall be identified in a register. The Secretariat shall establish and maintain the register and make it available to the public.

4. The register shall include:

- (a) A list of the Parties that have one or more exemptions;
- (b) The exemption or exemptions registered for each Party; and
- (c) The expiration date of each exemption.

5. Unless a shorter period is indicated in the register by a Party, all exemptions pursuant to paragraph 1 shall expire five years after the relevant phase-out date listed in Annex A or B.

6. The Conference of the Parties may, at the request of a Party, decide to extend an exemption for five years unless the Party requests a shorter period. In making its decision, the Conference of the Parties shall take due account of:

- (a) A report from the Party justifying the need to extend the exemption and outlining activities undertaken and planned to eliminate the need for the exemption as soon as feasible;

- (b) Available information, including in respect of the availability of alternative products and processes that are free of mercury or that involve the consumption of less mercury than the exempt use; and

- (c) Activities planned or under way to provide environmentally sound storage of mercury and disposal of mercury wastes.

An exemption may only be extended once per product per phase-out date.

7. A Party may at any time withdraw an exemption upon written notification to the Secretariat. The withdrawal of an exemption shall take effect on the date specified in the notification.

8. Notwithstanding paragraph 1, no State or regional economic integration organization may register for an exemption after five years after the phase-out date for the relevant product or process listed in Annex A or B, unless one or more Parties remain registered for an exemption for that product or process, having received an extension pursuant to paragraph 6. In that case, a State or regional economic integration organization may, at the times set out in paragraphs 1 (a) and (b), register for an exemption for that product or process, which shall expire ten years after the relevant phase-out date.

9. No Party may have an exemption in effect at any time after 10 years after the phase-out date for a product or process listed in Annex A or B.

## **Article 7**

### **Artisanal and small-scale gold mining**

1. The measures in this Article and in Annex C shall apply to artisanal and small-scale gold mining and processing in which mercury amalgamation is used to extract gold from ore.

2. Each Party that has artisanal and small-scale gold mining and processing subject to this Article within its territory shall take steps to reduce, and where feasible eliminate, the use of mercury and mercury compounds in, and the emissions and releases to the environment of mercury from, such mining and processing.

3. Each Party shall notify the Secretariat if at any time the Party determines that artisanal and small-scale gold mining and processing in its territory is more than insignificant. If it so determines the Party shall:

(a) Develop and implement a national action plan in accordance with Annex C;

(b) Submit its national action plan to the Secretariat no later than three years after entry into force of the Convention for it or three years after the notification to the Secretariat, whichever is later; and



(c) Thereafter, provide a review every three years of the progress made in meeting its obligations under this Article and include such reviews in its reports submitted pursuant to Article 21.

4. Parties may cooperate with each other and with relevant intergovernmental organizations and other entities, as appropriate, to achieve the objectives of this Article. Such cooperation may include:

(a) Development of strategies to prevent the diversion of mercury or mercury compounds for use in artisanal and small-scale gold mining and processing;

(b) Education, outreach and capacity-building initiatives;

(c) Promotion of research into sustainable non-mercury alternative practices;

(d) Provision of technical and financial assistance;

(e) Partnerships to assist in the implementation of their commitments under this Article; and

(f) Use of existing information exchange mechanisms to promote knowledge, best environmental practices and alternative technologies that are environmentally, technically, socially and economically viable.

## **Article 8**

### **Emissions**

1. This Article concerns controlling and, where feasible, reducing emissions of mercury and mercury compounds, often expressed as “total mercury”, to the atmosphere through measures to control emissions from the point sources falling within the source categories listed in Annex D.

2. For the purposes of this Article:

(a) “Emissions” means emissions of mercury or mercury compounds to the atmosphere;

(b) “Relevant source” means a source falling within one of the source categories listed in Annex D. A Party may, if it chooses, establish criteria to

identify the sources covered within a source category listed in Annex D so long as those criteria for any category include at least 75 per cent of the emissions from that category;

(c) “New source” means any relevant source within a category listed in Annex D, the construction or substantial modification of which is commenced at least one year after the date of:

- (i) Entry into force of this Convention for the Party concerned; or
- (ii) Entry into force for the Party concerned of an amendment to Annex D where the source becomes subject to the provisions of this Convention only by virtue of that amendment;

(d) “Substantial modification” means modification of a relevant source that results in a significant increase in emissions, excluding any change in emissions resulting from by-product recovery. It shall be a matter for the Party to decide whether a modification is substantial or not;

(e) “Existing source” means any relevant source that is not a new source;

(f) “Emission limit value” means a limit on the concentration, mass or emission rate of mercury or mercury compounds, often expressed as “total mercury”, emitted from a point source.

3. A Party with relevant sources shall take measures to control emissions and may prepare a national plan setting out the measures to be taken to control emissions and its expected targets, goals and outcomes. Any plan shall be submitted to the Conference of the Parties within four years of the date of entry into force of the Convention for that Party. If a Party develops an implementation plan in accordance with Article 20, the Party may include in it the plan prepared pursuant to this paragraph.

4. For its new sources, each Party shall require the use of best available techniques and best environmental practices to control and, where feasible, reduce emissions, as soon as practicable but no later than five years after the date of entry into force of the Convention for that Party. A Party may use emission limit values that are consistent with the application of best available techniques.

5. For its existing sources, each Party shall include in any national plan, and shall implement, one or more of the following measures, taking into account its national circumstances, and the economic and technical feasibility and affordability of the measures, as soon as practicable but no more than ten years after the date of entry into force of the Convention for it:

(a) A quantified goal for controlling and, where feasible, reducing emissions from relevant sources;

(b) Emission limit values for controlling and, where feasible, reducing emissions from relevant sources;

(c) The use of best available techniques and best environmental practices to control emissions from relevant sources;

(d) A multi-pollutant control strategy that would deliver co-benefits for control of mercury emissions;

(e) Alternative measures to reduce emissions from relevant sources.

6. Parties may apply the same measures to all relevant existing sources or may adopt different measures in respect of different source categories. The objective shall be for those measures applied by a Party to achieve reasonable progress in reducing emissions over time.

7. Each Party shall establish, as soon as practicable and no later than five years after the date of entry into force of the Convention for it, and maintain thereafter, an inventory of emissions from relevant sources.

8. The Conference of the Parties shall, at its first meeting, adopt guidance on:

(a) Best available techniques and on best environmental practices, taking into account any difference between new and existing sources and the need to minimize cross-media effects; and

(b) Support for Parties in implementing the measures set out in paragraph 5, in particular in determining goals and in setting emission limit values.

9. The Conference of the Parties shall, as soon as practicable, adopt guidance on:

- (a) Criteria that Parties may develop pursuant to paragraph 2 (b);
- (b) The methodology for preparing inventories of emissions.

10. The Conference of the Parties shall keep under review, and update as appropriate, the guidance developed pursuant to paragraphs 8 and 9. Parties shall take the guidance into account in implementing the relevant provisions of this Article.

11. Each Party shall include information on its implementation of this Article in its reports submitted pursuant to Article 21, in particular information concerning the measures it has taken in accordance with paragraphs 4 to 7 and the effectiveness of the measures.

## **Article 9**

### Releases

1. This Article concerns controlling and, where feasible, reducing releases of mercury and mercury compounds, often expressed as “total mercury”, to land and water from the relevant point sources not addressed in other provisions of this Convention.

2. For the purposes of this Article:

(a) “Releases” means releases of mercury or mercury compounds to land or water;

(b) “Relevant source” means any significant anthropogenic point source of release as identified by a Party that is not addressed in other provisions of this Convention;

(c) “New source” means any relevant source, the construction or substantial modification of which is commenced at least one year after the date of entry into force of this Convention for the Party concerned;

(d) “Substantial modification” means modification of a relevant source that results in a significant increase in releases, excluding any change in releases resulting from by-product recovery. It shall be a matter for the Party to decide whether a modification is substantial or not;

(e) “Existing source” means any relevant source that is not a new source;

(f) "Release limit value" means a limit on the concentration or mass of mercury or mercury compounds, often expressed as "total mercury", released from a point source.

3. Each Party shall, no later than three years after the date of entry into force of the Convention for it and on a regular basis thereafter, identify the relevant point source categories.

4. A Party with relevant sources shall take measures to control releases and may prepare a national plan setting out the measures to be taken to control releases and its expected targets, goals and outcomes. Any plan shall be submitted to the Conference of the Parties within four years of the date of entry into force of the Convention for that Party. If a Party develops an implementation plan in accordance with Article 20, the Party may include in it the plan prepared pursuant to this paragraph.

5. The measures shall include one or more of the following, as appropriate:

(a) Release limit values to control and, where feasible, reduce releases from relevant sources;

(b) The use of best available techniques and best environmental practices to control releases from relevant sources;

(c) A multi-pollutant control strategy that would deliver co-benefits for control of mercury releases;

(d) Alternative measures to reduce releases from relevant sources.

6. Each Party shall establish, as soon as practicable and no later than five years after the date of entry into force of the Convention for it, and maintain thereafter, an inventory of releases from relevant sources.

7. The Conference of the Parties shall, as soon as practicable, adopt guidance on:

(a) Best available techniques and on best environmental practices, taking into account any difference between new and existing sources and the need to minimize cross-media effects;

(b) The methodology for preparing inventories of releases.

8. Each Party shall include information on its implementation of this Article in its reports submitted pursuant to Article 21, in particular information concerning the measures it has taken in accordance with paragraphs 3 to 6 and the effectiveness of the measures.

## **Article 10**

### **Environmentally sound interim storage of mercury, other than waste mercury**

1. This Article shall apply to the interim storage of mercury and mercury compounds as defined in Article 3 that do not fall within the meaning of the definition of mercury wastes set out in Article 11.

2. Each Party shall take measures to ensure that the interim storage of such mercury and mercury compounds intended for a use allowed to a Party under this Convention is undertaken in an environmentally sound manner, taking into account any guidelines, and in accordance with any requirements, adopted pursuant to paragraph 3.

3. The Conference of the Parties shall adopt guidelines on the environmentally sound interim storage of such mercury and mercury compounds, taking into account any relevant guidelines developed under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal and other relevant guidance. The Conference of the Parties may adopt requirements for interim storage in an additional annex to this Convention in accordance with Article 27.

4. Parties shall cooperate, as appropriate, with each other and with relevant intergovernmental organizations and other entities, to enhance capacity-building for the environmentally sound interim storage of such mercury and mercury compounds.

## **Article 11**

### **Mercury wastes**

1. The relevant definitions of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal shall apply to wastes covered under this Convention for Parties to the Basel Convention. Parties to this Convention that are not Parties to the Basel

Convention shall use those definitions as guidance as applied to wastes covered under this Convention.

2. For the purposes of this Convention, mercury wastes means substances or objects:

- (a) Consisting of mercury or mercury compounds;
- (b) Containing mercury or mercury compounds; or
- (c) Contaminated with mercury or mercury compounds,

in a quantity above the relevant thresholds defined by the Conference of the Parties, in collaboration with the relevant bodies of the Basel Convention in a harmonized manner, that are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law or this Convention. This definition excludes overburden, waste rock and tailings from mining, except from primary mercury mining, unless they contain mercury or mercury compounds above thresholds defined by the Conference of the Parties.

3. Each Party shall take appropriate measures so that mercury waste is:

(a) Managed in an environmentally sound manner, taking into account the guidelines developed under the Basel Convention and in accordance with requirements that the Conference of the Parties shall adopt in an additional annex in accordance with Article 27. In developing requirements, the Conference of the Parties shall take into account Parties' waste management regulations and programmes;

(b) Only recovered, recycled, reclaimed or directly re-used for a use allowed to a Party under this Convention or for environmentally sound disposal pursuant to paragraph 3 (a);

(c) For Parties to the Basel Convention, not transported across international boundaries except for the purpose of environmentally sound disposal in conformity with this Article and with that Convention. In circumstances where the Basel Convention does not apply to transport across international boundaries, a Party shall allow such transport only after taking into account relevant international rules, standards, and guidelines.

4. The Conference of the Parties shall seek to cooperate closely with the relevant bodies of the Basel Convention in the review and update, as appropriate, of the guidelines referred to in paragraph 3 (a).

5. Parties are encouraged to cooperate with each other and with relevant intergovernmental organizations and other entities, as appropriate, to develop and maintain global, regional and national capacity for the management of mercury wastes in an environmentally sound manner.

## **Article 12**

### **Contaminated sites**

1. Each Party shall endeavour to develop appropriate strategies for identifying and assessing sites contaminated by mercury or mercury compounds.

2. Any actions to reduce the risks posed by such sites shall be performed in an environmentally sound manner incorporating, where appropriate, an assessment of the risks to human health and the environment from the mercury or mercury compounds they contain.

3. The Conference of the Parties shall adopt guidance on managing contaminated sites that may include methods and approaches for:

- (a) Site identification and characterization;
- (b) Engaging the public;
- (c) Human health and environmental risk assessments;
- (d) Options for managing the risks posed by contaminated sites;
- (e) Evaluation of benefits and costs; and
- (f) Validation of outcomes.

4. Parties are encouraged to cooperate in developing strategies and implementing activities for identifying, assessing, prioritizing, managing and, as appropriate, remediating contaminated sites.



## **Article 13**

### **Financial resources and mechanism**

1. Each Party undertakes to provide, within its capabilities, resources in respect of those national activities that are intended to implement this Convention, in accordance with its national policies, priorities, plans and programmes. Such resources may include domestic funding through relevant policies, development strategies and national budgets, and bilateral and multilateral funding, as well as private sector involvement.
2. The overall effectiveness of implementation of this Convention by developing country Parties will be related to the effective implementation of this Article.
3. Multilateral, regional and bilateral sources of financial and technical assistance, as well as capacity-building and technology transfer, are encouraged, on an urgent basis, to enhance and increase their activities on mercury in support of developing country Parties in the implementation of this Convention relating to financial resources, technical assistance and technology transfer.
4. The Parties, in their actions with regard to funding, shall take full account of the specific needs and special circumstances of Parties that are small island developing States or least developed countries.
5. A Mechanism for the provision of adequate, predictable, and timely financial resources is hereby defined. The Mechanism is to support developing country Parties and Parties with economies in transition in implementing their obligations under this Convention.
6. The Mechanism shall include:
  - (a) The Global Environment Facility Trust Fund; and
  - (b) A specific international Programme to support capacity-building and technical assistance.
7. The Global Environment Facility Trust Fund shall provide new, predictable, adequate and timely financial resources to meet costs in support of implementation of this Convention as agreed by the Conference of the Parties. For the purposes of this Convention, the Global

Environment Facility Trust Fund shall be operated under the guidance of and be accountable to the Conference of the Parties. The Conference of the Parties shall provide guidance on overall strategies, policies, programme priorities and eligibility for access to and utilization of financial resources. In addition, the Conference of the Parties shall provide guidance on an indicative list of categories of activities that could receive support from the Global Environment Facility Trust Fund. The Global Environment Facility Trust Fund shall provide resources to meet the agreed incremental costs of global environmental benefits and the agreed full costs of some enabling activities.

8. In providing resources for an activity, the Global Environment Facility Trust Fund should take into account the potential mercury reductions of a proposed activity relative to its costs.

9. For the purposes of this Convention, the Programme referred to in paragraph 6 (b) will be operated under the guidance of and be accountable to the Conference of the Parties. The Conference of the Parties shall, at its first meeting, decide on the hosting institution for the Programme, which shall be an existing entity, and provide guidance to it, including on its duration. All Parties and other relevant stakeholders are invited to provide financial resources to the Programme, on a voluntary basis.

10. The Conference of the Parties and the entities comprising the Mechanism shall agree upon, at the first meeting of the Conference of the Parties, arrangements to give effect to the above paragraphs.

11. The Conference of the Parties shall review, no later than at its third meeting, and thereafter on a regular basis, the level of funding, the guidance provided by the Conference of the Parties to the entities entrusted to operationalize the Mechanism established under this Article and their effectiveness, and their ability to address the changing needs of developing country Parties and Parties with economies in transition. It shall, based on such review, take appropriate action to improve the effectiveness of the Mechanism.

12. All Parties, within their capabilities, are invited to contribute to the Mechanism. The Mechanism shall encourage the provision of resources from other sources, including the private sector, and shall seek to leverage such resources for the activities it supports.

## **Article 14**

### **Capacity-building, technical assistance and technology transfer**

1. Parties shall cooperate to provide, within their respective capabilities, timely and appropriate capacity-building and technical assistance to developing country Parties, in particular Parties that are least developed countries or small island developing States, and Parties with economies in transition, to assist them in implementing their obligations under this Convention.
2. Capacity-building and technical assistance pursuant to paragraph 1 and Article 13 may be delivered through regional, subregional and national arrangements, including existing regional and subregional centres, through other multilateral and bilateral means, and through partnerships, including partnerships involving the private sector. Cooperation and coordination with other multilateral environmental agreements in the field of chemicals and wastes should be sought to increase the effectiveness of technical assistance and its delivery.
3. Developed country Parties and other Parties within their capabilities shall promote and facilitate, supported by the private sector and other relevant stakeholders as appropriate, development, transfer and diffusion of, and access to, up-to-date environmentally sound alternative technologies to developing country Parties, in particular the least developed countries and small island developing States, and Parties with economies in transition, to strengthen their capacity to effectively implement this Convention.
4. The Conference of the Parties shall, by its second meeting and thereafter on a regular basis, and taking into account submissions and reports from Parties including those as provided for in Article 21 and information provided by other stakeholders:
  - (a) Consider information on existing initiatives and progress made in relation to alternative technologies;
  - (b) Consider the needs of Parties, particularly developing country Parties, for alternative technologies; and

(c) Identify challenges experienced by Parties, particularly developing country Parties, in technology transfer.

5. The Conference of the Parties shall make recommendations on how capacity-building, technical assistance and technology transfer could be further enhanced under this Article.

## **Article 15**

### **Implementation and Compliance Committee**

1. A mechanism, including a Committee as a subsidiary body of the Conference of the Parties, is hereby established to promote implementation of, and review compliance with, all provisions of this Convention. The mechanism, including the Committee, shall be facilitative in nature and shall pay particular attention to the respective national capabilities and circumstances of Parties.

2. The Committee shall promote implementation of, and review compliance with, all provisions of this Convention. The Committee shall examine both individual and systemic issues of implementation and compliance and make recommendations, as appropriate, to the Conference of the Parties.

3. The Committee shall consist of 15 members, nominated by Parties and elected by the Conference of the Parties, with due consideration to equitable geographical representation based on the five regions of the United Nations; the first members shall be elected at the first meeting of the Conference of the Parties and thereafter in accordance with the rules of procedure approved by the Conference of the Parties pursuant to paragraph 5; the members of the Committee shall have competence in a field relevant to this Convention and reflect an appropriate balance of expertise.

4. The Committee may consider issues on the basis of:

(a) Written submissions from any Party with respect to its own compliance;

(b) National reports in accordance with Article 21; and

(c) Requests from the Conference of the Parties.

5. The Committee shall elaborate its rules of procedure, which shall be subject to approval by the second meeting of the Conference of the Parties; the Conference of the Parties may adopt further terms of reference for the Committee.

6. The Committee shall make every effort to adopt its recommendations by consensus. If all efforts at consensus have been exhausted and no consensus is reached, such recommendations shall as a last resort be adopted by a three-fourths majority vote of the members present and voting, based on a quorum of two-thirds of the members.

## **Article 16**

### **Health aspects**

1. Parties are encouraged to:

(a) Promote the development and implementation of strategies and programmes to identify and protect populations at risk, particularly vulnerable populations, and which may include adopting science-based health guidelines relating to the exposure to mercury and mercury compounds, setting targets for mercury exposure reduction, where appropriate, and public education, with the participation of public health and other involved sectors;

(b) Promote the development and implementation of science-based educational and preventive programmes on occupational exposure to mercury and mercury compounds;

(c) Promote appropriate health-care services for prevention, treatment and care for populations affected by the exposure to mercury or mercury compounds; and

(d) Establish and strengthen, as appropriate, the institutional and health professional capacities for the prevention, diagnosis, treatment and monitoring of health risks related to the exposure to mercury and mercury compounds.

2. The Conference of the Parties, in considering health-related issues or activities, should:

(a) Consult and collaborate with the World Health Organization, the International Labour Organization and other relevant intergovernmental organizations, as appropriate; and

(b) Promote cooperation and exchange of information with the World Health Organization, the International Labour Organization and other relevant intergovernmental organizations, as appropriate.

## **Article 17**

### **Information exchange**

1. Each Party shall facilitate the exchange of:

(a) Scientific, technical, economic and legal information concerning mercury and mercury compounds, including toxicological, ecotoxicological and safety information;

(b) Information on the reduction or elimination of the production, use, trade, emissions and releases of mercury and mercury compounds;

(c) Information on technically and economically viable alternatives to:

(i) Mercury-added products;

(ii) Manufacturing processes in which mercury or mercury compounds are used; and

(iii) Activities and processes that emit or release mercury or mercury compounds;

including information on the health and environmental risks and economic and social costs and benefits of such alternatives; and

(d) Epidemiological information concerning health impacts associated with exposure to mercury and mercury compounds, in close cooperation with the World Health Organization and other relevant organizations, as appropriate.

2. Parties may exchange the information referred to in paragraph 1 directly, through the Secretariat, or in cooperation with other relevant organizations, including the secretariats of chemicals and wastes conventions, as appropriate.

3. The Secretariat shall facilitate cooperation in the exchange of information referred to in this Article, as well as with relevant organizations, including the secretariats of multilateral environmental agreements and other international initiatives. In addition to information from Parties, this information shall include information from intergovernmental and non-governmental organizations with expertise in the area of mercury, and from national and international institutions with such expertise.

4. Each Party shall designate a national focal point for the exchange of information under this Convention, including with regard to the consent of importing Parties under Article 3.

5. For the purposes of this Convention, information on the health and safety of humans and the environment shall not be regarded as confidential. Parties that exchange other information pursuant to this Convention shall protect any confidential information as mutually agreed.

## **Article 18**

### **Public information, awareness and education**

1. Each Party shall, within its capabilities, promote and facilitate:

(a) Provision to the public of available information on:

(i) The health and environmental effects of mercury and mercury compounds;

(ii) Alternatives to mercury and mercury compounds;

(iii) The topics identified in paragraph 1 of Article 17;

(iv) The results of its research, development and monitoring activities under Article 19; and

(v) Activities to meet its obligations under this Convention;

(b) Education, training and public awareness related to the effects of exposure to mercury and mercury compounds on human health

and the environment in collaboration with relevant intergovernmental and non-governmental organizations and vulnerable populations, as appropriate.

2. Each Party shall use existing mechanisms or give consideration to the development of mechanisms, such as pollutant release and transfer registers where applicable, for the collection and dissemination of information on estimates of its annual quantities of mercury and mercury compounds that are emitted, released or disposed of through human activities.

## **Article 19**

### **Research, development and monitoring**

1. Parties shall endeavour to cooperate to develop and improve, taking into account their respective circumstances and capabilities:

(a) Inventories of use, consumption, and anthropogenic emissions to air and releases to water and land of mercury and mercury compounds;

(b) Modelling and geographically representative monitoring of levels of mercury and mercury compounds in vulnerable populations and in environmental media, including biotic media such as fish, marine mammals, sea turtles and birds, as well as collaboration in the collection and exchange of relevant and appropriate samples;

(c) Assessments of the impact of mercury and mercury compounds on human health and the environment, in addition to social, economic and cultural impacts, particularly in respect of vulnerable populations;

(d) Harmonized methodologies for the activities undertaken under subparagraphs (a), (b) and (c);

(e) Information on the environmental cycle, transport (including long-range transport and deposition), transformation and fate of mercury and mercury compounds in a range of ecosystems, taking appropriate account of the distinction between anthropogenic and natural emissions and releases of mercury and of remobilization of mercury from historic deposition;



(f) Information on commerce and trade in mercury and mercury compounds and mercury-added products; and

(g) Information and research on the technical and economic availability of mercury-free products and processes and on best available techniques and best environmental practices to reduce and monitor emissions and releases of mercury and mercury compounds.

2. Parties should, where appropriate, build on existing monitoring networks and research programmes in undertaking the activities identified in paragraph 1.

## **Article 20**

### **Implementation plans**

1. Each Party may, following an initial assessment, develop and execute an implementation plan, taking into account its domestic circumstances, for meeting the obligations under this Convention. Any such plan should be transmitted to the Secretariat as soon as it has been developed.

2. Each Party may review and update its implementation plan, taking into account its domestic circumstances and referring to guidance from the Conference of the Parties and other relevant guidance.

3. Parties should, in undertaking work in paragraphs 1 and 2, consult national stakeholders to facilitate the development, implementation, review and updating of their implementation plans.

4. Parties may also coordinate on regional plans to facilitate implementation of this Convention.

## **Article 21**

### **Reporting**

1. Each Party shall report to the Conference of the Parties, through the Secretariat, on the measures it has taken to implement the provisions of this Convention and on the effectiveness of such measures and the possible challenges in meeting the objectives of the Convention.

2. Each Party shall include in its reporting the information as called for in Articles 3, 5, 7, 8 and 9 of this Convention.

3. The Conference of the Parties shall, at its first meeting, decide upon the timing and format of the reporting to be followed by the Parties, taking into account the desirability of coordinating reporting with other relevant chemicals and wastes conventions.

## **Article 22**

### **Effectiveness evaluation**

1. The Conference of the Parties shall evaluate the effectiveness of this Convention, beginning no later than six years after the date of entry into force of the Convention and periodically thereafter at intervals to be decided by it.

2. To facilitate the evaluation, the Conference of the Parties shall, at its first meeting, initiate the establishment of arrangements for providing itself with comparable monitoring data on the presence and movement of mercury and mercury compounds in the environment as well as trends in levels of mercury and mercury compounds observed in biotic media and vulnerable populations.

3. The evaluation shall be conducted on the basis of available scientific, environmental, technical, financial and economic information, including:

(a) Reports and other monitoring information provided to the Conference of the Parties pursuant to paragraph 2;

(b) Reports submitted pursuant to Article 21;

(c) Information and recommendations provided pursuant to Article 15; and

(d) Reports and other relevant information on the operation of the financial assistance, technology transfer and capacity-building arrangements put in place under this Convention.

## **Article 23**

### **Conference of the Parties**

1. A Conference of the Parties is hereby established.

2. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme no later than one year after the date of entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be decided by the Conference.

3. 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 the Parties by the Secretariat, it is supported by at least one third of the Parties.

4. The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any of its subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.

5. The Conference of the Parties shall keep under continuous review and evaluation the implementation of this Convention. It shall perform the functions assigned to it by this Convention and, to that end, shall:

(a) Establish such subsidiary bodies as it considers necessary for the implementation of this Convention;

(b) Cooperate, where appropriate, with competent international organizations and intergovernmental and non-governmental bodies;

(c) Regularly review all information made available to it and to the Secretariat pursuant to Article 21;

(d) Consider any recommendations submitted to it by the Implementation and Compliance Committee;

(e) Consider and undertake any additional action that may be required for the achievement of the objectives of this Convention; and

(f) Review Annexes A and B pursuant to Article 4 and Article 5.

6. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not a Party to this Convention, may be represented at meetings of the Conference of the Parties as observers. Any body or agency, whether national or international,

governmental or non-governmental, that is qualified in matters covered by this Convention and has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an observer 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.

## **Article 24**

### **Secretariat**

1. A Secretariat is hereby established.
2. The functions of the Secretariat shall be:
  - (a) To make arrangements for meetings of the Conference of the Parties and its subsidiary bodies and to provide them with services as required;
  - (b) To facilitate assistance to Parties, particularly developing country Parties and Parties with economies in transition, on request, in the implementation of this Convention;
  - (c) To coordinate, as appropriate, with the secretariats of relevant international bodies, particularly other chemicals and waste conventions;
  - (d) To assist Parties in the exchange of information related to the implementation of this Convention;
  - (e) To prepare and make available to the Parties periodic reports based on information received pursuant to Articles 15 and 21 and other available information;
  - (f) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
  - (g) To perform the other secretariat functions specified in this Convention and such other functions as may be determined by the Conference of the Parties.

3. The secretariat functions for this Convention shall be performed by the Executive Director of the United Nations Environment Programme, unless the Conference of the Parties decides, by a three-fourths majority of the Parties present and voting, to entrust the secretariat functions to one or more other international organizations.

4. The Conference of the Parties, in consultation with appropriate international bodies, may provide for enhanced cooperation and coordination between the Secretariat and the secretariats of other chemicals and wastes conventions. The Conference of the Parties, in consultation with appropriate international bodies, may provide further guidance on this matter.

## **Article 25**

### **Settlement of disputes**

1. Parties shall seek to settle any dispute between them concerning the interpretation or application of this Convention through negotiation or other peaceful means of their own choice.

2. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a Party that is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, with regard to any dispute concerning the interpretation or application of this Convention, it recognizes one or both of the following means of dispute settlement as compulsory in relation to any Party accepting the same obligation:

(a) Arbitration in accordance with the procedure set out in Part I of Annex E;

(b) Submission of the dispute to the International Court of Justice.

3. A Party that is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with paragraph 2.

4. A declaration made pursuant to paragraph 2 or 3 shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

5. The expiry of a declaration, a notice of revocation or a new declaration shall in no way affect proceedings pending before an arbitral tribunal or the International Court of Justice, unless the parties to the dispute otherwise agree.

6. If the parties to a dispute have not accepted the same means of dispute settlement pursuant to paragraph 2 or 3, and if they have not been able to settle their dispute through the means mentioned in paragraph 1 within twelve months following notification by one Party to another that a dispute exists between them, the dispute shall be submitted to a conciliation commission at the request of any party to the dispute. The procedure set out in Part II of Annex E shall apply to conciliation under this Article.

## **Article 26**

### **Amendments to the Convention**

1. Amendments to this Convention may be proposed by any Party.
2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. The text of any proposed amendment 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 the proposed amendment to the signatories to this Convention and, for information, to the Depositary.
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 vote of the Parties present and voting at the meeting.
4. An adopted amendment shall be communicated by the Depositary to all Parties for ratification, acceptance or approval.
5. Ratification, acceptance or approval of an amendment shall be notified to the Depositary in writing. An amendment adopted in accordance with paragraph 3 shall enter into force for the Parties having consented to be bound by it on the ninetieth day after the date of deposit of instruments of ratification, acceptance or approval by at least three-fourths of the Parties

that were Parties at the time at which the amendment was adopted. Thereafter, the amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits its instrument of ratification, acceptance or approval of the amendment.

## **Article 27**

### **Adoption and amendment of annexes**

1. Annexes to this Convention shall form an integral part thereof and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any annexes thereto.

2. Any additional annexes adopted after the entry into force of this Convention shall be restricted to procedural, scientific, technical or administrative matters.

3. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

(a) Additional annexes shall be proposed and adopted according to the procedure laid down in paragraphs 1–3 of Article 26;

(b) Any Party that is unable to accept an additional annex shall so notify the Depositary, in writing, within one year from the date of communication by the Depositary of the adoption of such annex. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time notify the Depositary, in writing, that it withdraws a previous notification of non-acceptance in respect of an additional annex, and the annex shall thereupon enter into force for that Party subject to subparagraph (c); and

(c) On the expiry of one year from the date of the communication by the Depositary of the adoption of an additional annex, the annex shall enter into force for all Parties that have not submitted a notification of non-acceptance in accordance with the provisions of subparagraph (b).

4. The proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedures as for the proposal, adoption and entry into force of additional annexes to the Convention, except that an amendment to an annex shall not enter into

force with regard to any Party that has made a declaration with regard to amendment of annexes in accordance with paragraph 5 of Article 30, in which case any such amendment shall enter into force for such a Party on the ninetieth day after the date it has deposited with the Depository its instrument of ratification, acceptance, approval or accession with respect to such amendment.

5. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention enters into force.

## **Article 28**

### **Right to vote**

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2.
2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

## **Article 29**

### **Signature**

This Convention shall be opened for signature at Kumamoto, Japan, by all States and regional economic integration organizations on 10 and 11 October 2013, and thereafter at the United Nations Headquarters in New York until 9 October 2014.

## **Article 30**

### **Ratification, acceptance, approval or accession**

1. This Convention shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. It shall be open for accession by States and by regional economic integration



organizations from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization that becomes a Party to this Convention without any of its member 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 this 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 its instrument of ratification, acceptance, approval or accession, a regional economic integration organization shall declare the extent of its competence in respect of the matters governed by this Convention. Any such organization shall also inform the Depositary, who shall in turn inform the Parties, of any relevant modification of the extent of its competence.

4. Each State or regional economic integration organization is encouraged to transmit to the Secretariat at the time of its ratification, acceptance, approval or accession of the Convention information on its measures to implement the Convention.

5. In its instrument of ratification, acceptance, approval or accession, any Party may declare that, with regard to it, any amendment to an annex shall enter into force only upon the deposit of its instrument of ratification, acceptance, approval or accession with respect thereto.

## **Article 31**

### Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.
2. For each State or regional economic integration organization that ratifies, accepts or approves this Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.
3. For the purposes of paragraphs 1 and 2, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of that organization.

## **Article 32**

### Reservations

No reservations may be made to this Convention.

## **Article 33**

### 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. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.



## **Article 34**

### Depositary

The Secretary-General of the United Nations shall be the Depositary of this Convention.

## **Article 35**

### Authentic texts

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Depositary.

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

Done at Kumamoto, Japan, on this tenth day of October, two thousand and thirteen.

ANNEXES



## Annex A

### Mercury-added products

The following products are excluded from this Annex:

- (a) Products essential for civil protection and military uses;
- (b) Products for research, calibration of instrumentation, for use as reference standard;
- (c) Where no feasible mercury-free alternative for replacement is available, switches and relays, cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays, and measuring devices;
- (d) Products used in traditional or religious practices; and
- (e) Vaccines containing thiomersal as preservatives.

#### Part I: Products subject to Article 4, paragraph 1

<b>Mercury-added products</b>	<b>Date after which the manufacture, import or export of the product shall not be allowed (phase-out date)</b>
Batteries, except for button zinc silver oxide batteries with a mercury content < 2% and button zinc air batteries with a mercury content < 2%	2020
Switches and relays, except very high accuracy capacitance and loss measurement bridges and high frequency radio frequency switches and relays in monitoring and control instruments with a maximum mercury content of 20 mg per bridge, switch or relay	2020
Compact fluorescent lamps (CFLs) for general lighting purposes that are ≤ 30 watts with a mercury content exceeding 5 mg per lamp burner	2020

<p>Linear fluorescent lamps (LFLs) for general lighting purposes:</p> <p>(a) Triband phosphor &lt; 60 watts with a mercury content exceeding 5 mg per lamp;</p> <p>(b) Halophosphate phosphor ≤ 40 watts with a mercury content exceeding 10 mg per lamp</p>	2020
<p>High pressure mercury vapour lamps (HPMV) for general lighting purposes</p>	2020
<p>Mercury in cold cathode fluorescent lamps and external electrode fluorescent lamps (CCFL and EEFL) for electronic displays:</p> <p>(a) short length (≤ 500 mm) with mercury content exceeding 3.5 mg per lamp</p> <p>(b) medium length (&gt; 500 mm and ≤ 1 500 mm) with mercury content exceeding 5 mg per lamp</p> <p>(c) long length (&gt; 1 500 mm) with mercury content exceeding 13 mg per lamp</p>	2020
<p>Cosmetics (with mercury content above 1 ppm), including skin lightening soaps and creams, and not including eye area cosmetics where mercury is used as a preservative and no effective and safe substitute preservatives are available<sup>1/</sup></p>	2020
<p>Pesticides, biocides and topical antiseptics</p>	2020
<p>The following non-electronic measuring devices except non-electronic measuring devices installed in large-scale equipment or those used for high precision measurement, where no suitable mercury-free alternative is available:</p> <p>(a) barometers;</p> <p>(b) hygrometers;</p> <p>(c) manometers;</p> <p>(d) thermometers;</p> <p>(e) sphygmomanometers.</p>	2020

<sup>1/</sup>The intention is not to cover cosmetics, soaps or creams with trace contaminants of mercury.

## Part II: Products subject to Article 4, paragraph 3

<b>Mercury-added products</b>	<b>Provisions</b>
Dental amalgam	<p>Measures to be taken by a Party to phase down the use of dental amalgam shall take into account the Party's domestic circumstances and relevant international guidance and shall include two or more of the measures from the following list:</p> <ul style="list-style-type: none"> <li>(i) Setting national objectives aiming at dental caries prevention and health promotion, thereby minimizing the need for dental restoration;</li> <li>(ii) Setting national objectives aiming at minimizing its use;</li> <li>(iii) Promoting the use of cost-effective and clinically effective mercury-free alternatives for dental restoration;</li> <li>(iv) Promoting research and development of quality mercury-free materials for dental restoration;</li> <li>(v) Encouraging representative professional organizations and dental schools to educate and train dental professionals and students on the use of mercury-free dental restoration alternatives and on promoting best management practices;</li> <li>(vi) Discouraging insurance policies and programmes that favour dental amalgam use over mercury-free dental restoration;</li> <li>(vii) Encouraging insurance policies and programmes that favour the use of quality alternatives to dental amalgam for dental restoration;</li> <li>(viii) Restricting the use of dental amalgam to its encapsulated form;</li> <li>(ix) Promoting the use of best environmental practices in dental facilities to reduce releases of mercury and mercury compounds to water and land.</li> </ul>

## Annex B

### Manufacturing processes in which mercury or mercury compounds are used

#### Part I: Processes subject to Article 5, paragraph 2

Manufacturing processes using mercury or mercury compounds	Phase-out date
Chlor-alkali production	2025
Acetaldehyde production in which mercury or mercury compounds are used as a catalyst	2018

#### Part II: Processes subject to Article 5, paragraph 3

Mercury using process	Provisions
Vinyl chloride monomer production	<p>Measures to be taken by the Parties shall include but not be limited to:</p> <ul style="list-style-type: none"><li>(i) Reduce the use of mercury in terms of per unit production by 50 per cent by the year 2020 against 2010 use;</li><li>(ii) Promoting measures to reduce the reliance on mercury from primary mining;</li><li>(iii) Taking measures to reduce emissions and releases of mercury to the environment;</li><li>(iv) Supporting research and development in respect of mercury-free catalysts and processes;</li><li>(v) Not allowing the use of mercury five years after the Conference of the Parties has established that mercury-free catalysts based on existing processes have become technically and economically feasible;</li><li>(vi) Reporting to the Conference of the Parties on its efforts to develop and/or identify alternatives and phase out mercury use in accordance with Article 21.</li></ul>



<p>Sodium or Potassium Methylate or Ethylate</p>	<p>Measures to be taken by the Parties shall include but not be limited to:</p> <ul style="list-style-type: none"> <li>(i) Measures to reduce the use of mercury aiming at the phase out of this use as fast as possible and within 10 years of the entry into force of the Convention;</li> <li>(ii) Reduce emissions and releases in terms of per unit production by 50 per cent by 2020 compared to 2010;</li> <li>(iii) Prohibiting the use of fresh mercury from primary mining;</li> <li>(iv) Supporting research and development in respect of mercury-free processes;</li> <li>(v) Not allowing the use of mercury five years after the Conference of the Parties has established that mercury-free processes have become technically and economically feasible;</li> <li>(vi) Reporting to the Conference of the Parties on its efforts to develop and/or identify alternatives and phase out mercury use in accordance with Article 21.</li> </ul>
<p>Production of polyurethane using mercury containing catalysts</p>	<p>Measures to be taken by the Parties shall include but not be limited to:</p> <ul style="list-style-type: none"> <li>(i) Taking measures to reduce the use of mercury, aiming at the phase out of this use as fast as possible, within 10 years of the entry into force of the Convention;</li> <li>(ii) Taking measures to reduce the reliance on mercury from primary mercury mining;</li> <li>(iii) Taking measures to reduce emissions and releases of mercury to the environment;</li> <li>(iii) Encouraging research and development in respect of mercury-free catalysts and processes;</li> <li>(iv) Reporting to the Conference of the Parties on its efforts to develop and/or identify alternatives and phase out mercury use in accordance with Article 21.</li> </ul> <p>Paragraph 6 of Article 5 shall not apply to this manufacturing process.</p>

## Annex C

### Artisanal and small-scale gold mining

#### National action plans

1. Each Party that is subject to the provisions of paragraph 3 of Article 7 shall include in its national action plan:

- (a) National objectives and reduction targets;
- (b) Actions to eliminate:
  - (i) Whole ore amalgamation;
  - (ii) Open burning of amalgam or processed amalgam;
  - (iii) Burning of amalgam in residential areas; and
  - (iv) Cyanide leaching in sediment, ore or tailings to which mercury has been added without first removing the mercury;
- (c) Steps to facilitate the formalization or regulation of the artisanal and small-scale gold mining sector;
- (d) Baseline estimates of the quantities of mercury used and the practices employed in artisanal and small-scale gold mining and processing within its territory;
- (e) Strategies for promoting the reduction of emissions and releases of, and exposure to, mercury in artisanal and small-scale gold mining and processing, including mercury-free methods;
- (f) Strategies for managing trade and preventing the diversion of mercury and mercury compounds from both foreign and domestic sources to use in artisanal and small scale gold mining and processing;
- (g) Strategies for involving stakeholders in the implementation and continuing development of the national action plan;
- (h) A public health strategy on the exposure of artisanal and small-scale gold miners and their communities to mercury. Such a strategy

should include, inter alia, the gathering of health data, training for health-care workers and awareness-raising through health facilities;

(i) Strategies to prevent the exposure of vulnerable populations, particularly children and women of child-bearing age, especially pregnant women, to mercury used in artisanal and small-scale gold mining;

(j) Strategies for providing information to artisanal and small-scale gold miners and affected communities; and

(k) A schedule for the implementation of the national action plan.

2. Each Party may include in its national action plan additional strategies to achieve its objectives, including the use or introduction of standards for mercury-free artisanal and small-scale gold mining and market-based mechanisms or marketing tools.

## Annex D

### List of point sources of emissions of mercury and mercury compounds to the atmosphere

**Point source category:**

Coal-fired power plants;

Coal-fired industrial boilers;

Smelting and roasting processes used in the production of non-ferrous metals;<sup>1/</sup>

Waste incineration facilities;

Cement clinker production facilities.

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<sup>1/</sup> For the purpose of this Annex, “non-ferrous metals” refers to lead, zinc, copper and industrial gold.

## **Annex E**

### **Arbitration and conciliation procedures**

#### **Part I: Arbitration procedure**

The arbitration procedure for purposes of paragraph 2 (a) of Article 25 of this Convention shall be as follows:

##### **Article 1**

1. A Party may initiate recourse to arbitration in accordance with Article 25 of this Convention by written notification addressed to the other party or parties to the dispute. The notification shall be accompanied by a statement of claim, together with any supporting documents. Such notification shall state the subject matter of arbitration and include, in particular, the Articles of this Convention the interpretation or application of which are at issue.

2. The claimant party shall notify the Secretariat that it is referring a dispute to arbitration pursuant to Article 25 of this Convention. The notification shall be accompanied by the written notification of the claimant party, the statement of claim, and the supporting documents referred to in paragraph 1 above. The Secretariat shall forward the information thus received to all Parties.

##### **Article 2**

1. If a dispute is referred to arbitration in accordance with Article 1 above, an arbitral tribunal shall be established. It shall consist of three members.

2. Each party to the dispute shall appoint an arbitrator, and the two arbitrators so appointed shall designate by agreement the third arbitrator, who shall be the President of the tribunal. In disputes between more than two parties, parties in the same interest shall appoint one arbitrator jointly by agreement. The President of the tribunal shall not be a national of any of the parties to the dispute, nor have his or her usual place of residence in the territory of any of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

3. Any vacancy shall be filled in the manner prescribed for the initial appointment.

**Article 3**

1. If one of the parties to the dispute does not appoint an arbitrator within two months of the date on which the respondent party receives the notification of the arbitration, the other party may inform the Secretary-General of the United Nations, who shall make the designation within a further two-month period.

2. If the President of the arbitral tribunal has not been designated within two months of the date of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.

**Article 4**

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention and international law.

**Article 5**

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

**Article 6**

The arbitral tribunal may, at the request of one of the parties to the dispute, recommend essential interim measures of protection.

**Article 7**

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

- (a) Provide it with all relevant documents, information and facilities; and
- (b) Enable it, when necessary, to call witnesses or experts and receive their evidence.

### **Article 8**

The parties to the dispute and the arbitrators are under an obligation to protect the confidentiality of any information or documents that they receive in confidence during the proceedings of the arbitral tribunal.

### **Article 9**

Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the costs of the tribunal shall be borne by the parties to the dispute in equal shares. The tribunal shall keep a record of all its costs and shall furnish a final statement thereof to the parties.

### **Article 10**

A Party that has an interest of a legal nature in the subject matter of the dispute that may be affected by the decision may intervene in the proceedings with the consent of the arbitral tribunal.

### **Article 11**

The arbitral tribunal may hear and determine counterclaims arising directly out of the subject matter of the dispute.

### **Article 12**

Decisions of the arbitral tribunal on both procedure and substance shall be taken by a majority vote of its members.

### **Article 13**

1. If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its decision. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings.
2. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

**Article 14**

The arbitral tribunal shall render its final decision within five months of the date on which it is fully constituted, unless it finds it necessary to extend the time limit for a period that should not exceed five more months.

**Article 15**

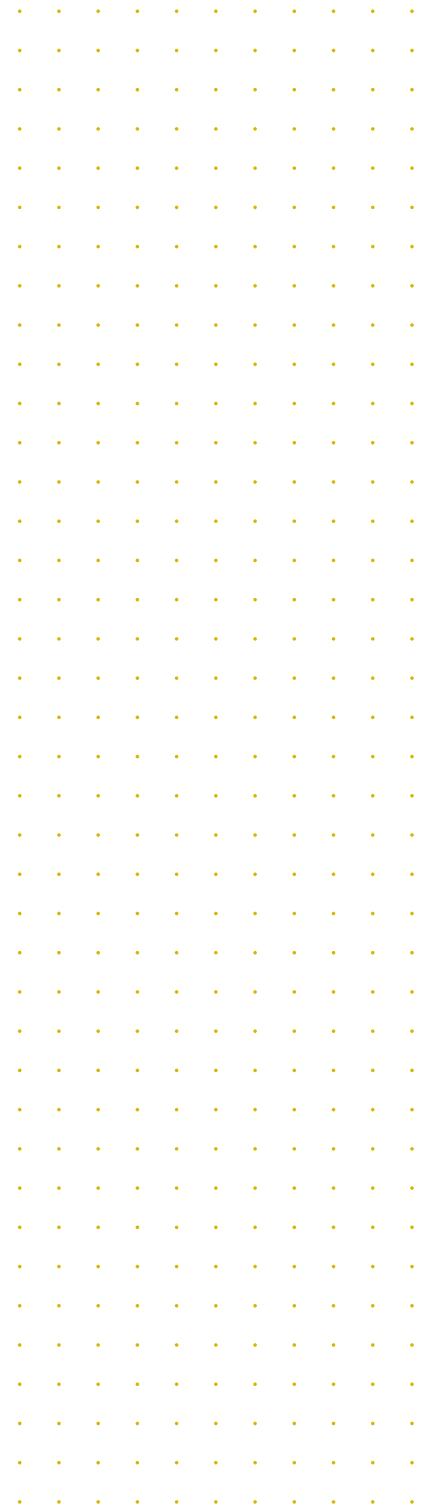
The final decision of the arbitral tribunal shall be confined to the subject matter of the dispute and shall state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the final decision. Any member of the tribunal may attach a separate or dissenting opinion to the final decision.

**Article 16**

The final decision shall be binding on the parties to the dispute. The interpretation of this Convention given by the final decision shall also be binding upon a Party intervening under Article 10 above insofar as it relates to matters in respect of which that Party intervened. The final decision shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

**Article 17**

Any disagreement that may arise between those bound by the final decision in accordance with Article 16 above, as regards the interpretation or manner of implementation of that final decision, may be submitted by any of them for decision to the arbitral tribunal that rendered it.





## Part II: Conciliation procedure

The conciliation procedure for purposes of paragraph 6 of Article 25 of this Convention shall be as follows:

### **Article 1**

A request by a party to a dispute to establish a conciliation commission pursuant to paragraph 6 of Article 25 of this Convention shall be addressed in writing to the Secretariat, with a copy to the other party or parties to the dispute. The Secretariat shall forthwith inform all Parties accordingly.

### **Article 2**

1. The conciliation commission shall, unless the parties to the dispute otherwise agree, comprise three members, one appointed by each party concerned and a President chosen jointly by those members.
2. In disputes between more than two parties, parties in the same interest shall appoint their member of the commission jointly by agreement.

### **Article 3**

If any appointment by the parties to the dispute is not made within two months of the date of receipt by the Secretariat of the written request referred to in Article 1 above, the Secretary-General of the United Nations shall, upon request by any party, make such appointment within a further two-month period.

### **Article 4**

If the President of the conciliation commission has not been chosen within two months of the appointment of the second member of the commission, the Secretary-General of the United Nations shall, upon request by any party to the dispute, designate the President within a further two-month period.

### **Article 5**

The conciliation commission shall assist the parties to the dispute in an independent and impartial manner in their attempt to reach an amicable resolution.

## **Article 6**

1. The conciliation commission may conduct the conciliation proceedings in such a manner as it considers appropriate, taking fully into account the circumstances of the case and the views the parties to the dispute may express, including any request for a swift resolution. It may adopt its own rules of procedure as necessary, unless the parties otherwise agree.
2. The conciliation commission may, at any time during the proceedings, make proposals or recommendations for a resolution of the dispute.

## **Article 7**

The parties to the dispute shall cooperate with the conciliation commission. In particular, they shall endeavour to comply with requests by the commission to submit written materials, provide evidence and attend meetings. The parties and the members of the conciliation commission are under an obligation to protect the confidentiality of any information or documents they receive in confidence during the proceedings of the commission.

## **Article 8**

The conciliation commission shall take its decisions by a majority vote of its members.

## **Article 9**

Unless the dispute has already been resolved, the conciliation commission shall render a report with recommendations for resolution of the dispute no later than twelve months of being fully constituted, which the parties to the dispute shall consider in good faith.

## **Article 10**

Any disagreement as to whether the conciliation commission has competence to consider a matter referred to it shall be decided by the commission.

## **Article 11**

The costs of the conciliation commission shall be borne by the parties to the dispute in equal shares, unless they agree otherwise. The commission shall keep a record of all its costs and shall furnish a final statement thereof to the parties.





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[www.unep.org](http://www.unep.org)

United Nations Environment Programme  
P.O. Box 30552 - 00100 Nairobi, Kenya  
Tel.: +254 20 762 1234  
Fax: +254 20 762 3927  
e-mail : [unepinfo@unep.org](mailto:unepinfo@unep.org)  
[www.unep.org](http://www.unep.org)

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