

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

In the late 1980s, a tightening of environmental regulations in industrialized countries led to a dramatic rise in the cost of hazardous waste disposal, which, in turn, led to the export of toxic waste from industrialized countries to Eastern Europe and developing countries. The Basel negotiation process then started, in response to the public outrage caused by the discovery of this practice.

By decision 14/30 of 17 June 1987 (A/42/25, Annex I), the Governing Council of the United Nations Environment Program (UNEP) approved the Cairo Guidelines and Principles for Environmentally Sound Management of Hazardous Wastes, which had been adopted by a working group of expert convened in 1982 by the Governing Council, the *Ad Hoc* Working Group of Experts on the Environmentally Sound Management of Hazardous Wastes. The Council further authorized the Executive Director to convene a working group of legal and technical experts to organize a global convention on the control of transboundary movements of hazardous wastes, drawing from the Cairo Guidelines and relevant work of national, regional and international bodies, and requested him to convene a diplomatic conference in early 1989 to adopt and sign such a convention. The organizational meeting of the *Ad Hoc* Working Group of Legal and Technical Experts with a Mandate to Prepare a Global Convention on the Control of Transboundary Movements of Hazardous Wastes (the Working Group) was held in Budapest, Hungary, from 27 to 29 October 1987. It discussed the general principles to be incorporated into the convention and considered a first draft of the convention prepared by the Secretariat of UNEP.

On 11 December 1987, the General Assembly adopted resolution 42/183, by which it took note of decision 14/30 of the Governing Council. It further welcomed the convening of a diplomatic conference in Switzerland in 1989 and requested the Secretary-General to prepare a comprehensive report on the question of illegal traffic in toxic and dangerous products and wastes.

The Working Group held a total of five sessions between February 1988 and March 1989. At its first session, held from 1 to 5 February 1988 in Geneva, Switzerland, the Working Group considered a First Revised Draft Convention on the Control of Transboundary Movements of Hazardous Wastes (UNEP/WG.182/2).

Pursuant to General Assembly resolution 42/183, the Secretary-General submitted a preliminary report to the Economic and Social Council (E/1988/72, 16 May 1988), based on the information received from Governments and international organizations in response to a letter from the Executive Director of UNEP, dated 25 January 1988. By resolution 1988/70 of 28 July 1988, the Economic and Social Council requested the Secretary-General, in preparing his report to the General Assembly, to focus on a quantitative and geographic assessment of the illegal traffic and a classification of types of toxic and dangerous products and wastes. It further requested him to submit conclusions and recommendations on different possible mechanisms to monitor toxic and dangerous products and wastes. By resolution 1988/71 of the same date, the Economic and Social Council requested the Secretary-General to report to the General Assembly at its forty-fourth session on developments in regard to a global convention on the control of transboundary movements of hazardous wastes.

The second and third sessions of the Working Group were held respectively from 6 to 10 June 1988 in Caracas, Venezuela, and from 7 to 16 November 1988 in Geneva,

Switzerland. During its third session, the Working Group considered the Fourth Revised Draft Convention on the Control of Transboundary Movements of Hazardous Wastes (UNEP/WG.189/L.2/Rev.1) and adopted a fifth revised draft. On 20 December 1988, the General Assembly, on the recommendation of the Second Committee, adopted resolution 43/212 by which it urged all States to take the necessary measures to halt and prevent the illegal international traffic in, and the dumping and resulting accumulation of, toxic and dangerous products and wastes. It further requested the Working Group to take into account the various views expressed during the forty-third session of the General Assembly on the respective responsibilities for the prevention of such illegal international traffic, dumping and resulting accumulation.

In response to persistent disagreement between industrialized and developing countries on a number of issues, an African Ministerial Conference was convened in Dakar, Senegal, in January 1989, with a view to discuss contentious issues. This conference however led to open disagreement between African and European countries, and by resolution CM/Res.1199 (XLIX) of February 1989, the Council of Ministers of the Organization of African Unity called upon all African countries to reach agreement on a common position for “ameliorating the inadequacies” contained in the draft convention and to participate fully at the upcoming diplomatic conference.

The Working Group held its fourth meeting in Luxembourg, from 30 January to 3 February 1989, and its fifth and final meeting in Basel, Switzerland, from 13 to 17 March 1989. In parallel to the meetings of the Working Group, informal negotiations were conducted by the Executive Director of UNEP and played an important part in the success of the preparatory process. A final draft of the convention was agreed upon at the final meeting of the Working Group.

The Conference of Plenipotentiaries on a Global Convention on the Control of Transboundary Movements of Hazardous Wastes was convened in Basel, Switzerland from 20 to 22 March 1989. The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal was adopted unanimously by the 116 States participating in the Conference on 22 March 1989. It entered into force on 5 May 1992. The Final Act of the Basel Conference was signed by 105 States and the European Economic Community (EEC).

In response to Economic and Social Council resolution 1988/71 of 28 July 1989, and on the basis of a report entitled “Progress in the control of transboundary movements of hazardous wastes” submitted by the Executive Director of UNEP to the Governing Council (UNEP/GC.15/9/Add.7), the Secretary-General submitted a report on the developments in regard to a global convention on the control of transboundary movements of hazardous wastes to the General Assembly on 19 September 1989 (A/44/479). The General Assembly took note of the Secretary-General’s report by decision 44/454 of 22 December 1989. By resolution 44/226 of the same date, the General Assembly, taking note of the conclusion of the Convention, requested the Executive Director of UNEP to establish an *ad hoc* working group of legal and technical experts to develop elements that might be included in a protocol on liability and compensation for damage resulting from transboundary movement and disposal of hazardous wastes, in accordance with Resolution 3 adopted by the Basel Conference.

The *Ad Hoc* Working Group of Legal and Technical Experts to Consider and Develop a Draft Protocol on Liability and Compensation for Damage Resulting from Transboundary Movements of Hazardous Wastes and Their Disposal was established by decision I/5 of the first meeting of the Conference of the Parties to the Convention, held at

Piriapolis, Uruguay, on 3 and 4 December 1992. It held ten sessions between 1993 and 1999. The Basel Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal was adopted by the Conference of the Parties to the Convention at its fifth meeting, held from 6 to 10 December 1999 in Basel. As of September 2010, the Protocol has not yet entered into force.

Another issue discussed in the context of the Conference of the Parties was that of the introduction of a total or partial ban on transboundary movements of hazardous wastes. The negotiations on this issue resulted in the adoption of the Amendment to the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal on 22 September 1995 by Conference of the Parties at its third meeting. As of September 2010, the Amendment has not yet entered into force.