

Bilateral, multilateral and regional agreements or arrangements

The Conference,

Recalling that Article 11, paragraph 1, of the Basel Convention permits Parties to enter into bilateral, multilateral and regional agreements or arrangements regarding the transboundary movements of hazardous wastes or other wastes with Parties and 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 the Basel Convention and that these agreements or arrangements shall stipulate provisions which are not less environmentally sound than those provided for by the Convention, in particular taking into account the interest of developing countries,

Recalling that Article 11, paragraph 2, provides that the provisions of the Basel Convention shall not affect transboundary movements which are taking place pursuant to agreements concluded prior to the entry into force of the Basel Convention for the relevant Parties to such agreements provided that such agreements are compatible with the environmentally sound management of hazardous wastes and other wastes as required by the Basel Convention,

Recalling decision I/9 of the First Meeting of the Conference of the Parties,

Having considered the report of the Secretariat contained in document UNEP/CHW.2/9 on the implementation of decision I/9 referred to above,

Requests Parties which have entered, in accordance with Article 11, into bilateral, multilateral and regional agreements or arrangements to report, consistent with national laws and regulations, to the Open-Ended Ad Hoc Committee, through the Secretariat of the Basel Convention, on the conformity of such agreements or arrangements taking into consideration the list of questions annexed to the present decision.

Annex

Questions to be considered by Parties to bilateral, multilateral or regional agreements or arrangements when reporting on their conformity with the provisions of Article 11 of the Convention

In preparation of its report to the Conference of the Parties, the following questions could be used as a guide by a Party when it is reviewing one of its agreements which falls under Article 11. The questions would help the Party focus on particular issues, however it is important to note that the agreement must be viewed in its entirety and not strictly provision by provision. It is also recognized that the purpose of the said agreement and the geographic, legal and economic circumstances of the other Contracting Party(ies) constitute elements of this review. A Party's Report would have to indicate that the different requirements found in paragraph 1 or 2 of Article 11, as appropriate, are met in conformity with the Basel Convention.

1. Does the agreement address the control of the transboundary movement of hazardous wastes and other wastes subject to the Basel Convention?
2. Taking all practicable steps, will the management of hazardous wastes under the agreement or arrangement be such that it will protect human health and the environment against adverse effects?
3. How does the agreement or arrangement take into account the interests of developing countries?
4. Does the agreement or arrangement require prior notification?
5. Does the agreement or arrangement require prior consent?
6. Does the agreement or arrangement provide for the tracking of the wastes?
7. Does the agreement or arrangement provide for alternative measures for wastes which cannot be managed as planned?
8. Does the agreement or arrangement provide for the identification of authorities responsible for the implementation of such an agreement?
9. Are the obligations of the Article 11 Agreement or arrangement consistent with the control measures related to transboundary movements of hazardous wastes as provided for by the Basel Convention?
10. Are the wastes covered by the Article 11 agreement or arrangement consistent with the scope of the Basel Convention?