

OEWG-II/3

Guidance elements for bilateral, multilateral or regional agreements or arrangements for the implementation of the Basel Protocol on Liability and Compensation

The Open-ended Working Group,

Noting the work done thus far on draft guidance elements for bilateral, multilateral and regional agreements since 1995,

Further noting that the work on the draft elements is not progressing,

Considering the decision of the Parties at the sixth meeting of the Conference of the Parties to focus Convention priorities on the Strategic Plan for the Implementation of the Basel Convention and the consequent practical application of environmentally sound management,

1. *Agrees* to recommend to the Conference of the Parties at its seventh meeting that it cease any further work on elements of guidance for bilateral, multilateral and regional agreements;
2. *Requests* the Secretariat to contact all Parties to the Convention and to ask them to identify any specific problems that they have related to article 11 arrangements and agreements, bearing in mind the questions in the annex to decision II/10 of the Conference of the Parties, attached in the annex to the present decision;
3. *Also requests* the Secretariat to assist Parties if requested, and within the means available to it, in addressing any specific problems identified;
4. *Further requests* the Secretariat to report on any outstanding issues or problems to the Parties for further consideration.

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 (as contained in the annex to decision II/10 of the Conference of the Parties)

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?