

Meeting Report

Agenda Item 1: Official Opening of the Meeting

1. The Second meeting of the Conference of the Parties to the Convention to Ban the Importation into Forum Islands Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and the Management of Hazardous Wastes within the South Pacific Region (Waigani Convention) was convened in Pape'ete, French Polynesia on 09 September 2004. Representatives of the following Parties attended: Australia, Cook Islands, Federated States of Micronesia, Fiji, New Zealand, Niue, Tonga and Tuvalu. The Republic of Marshall Islands and Greenpeace attended as Observers. A list of participants is attached as **Annex I**.

2. The representative of New Zealand as Chair of the First Conference of the Parties, called the meeting to order and invited the representative of the Cook Islands to open the meeting with a prayer. The Director of the South Pacific Regional Environment Programme was then invited to make his opening speech.

3. The Director, Asterio Takesy, greeted the meeting. A moment of silence was observed for the bombing in Jakarta of the Australian Embassy. He thanked the hosts for their hospitality. The Director recalled key decisions that were made at the First Conference of the Parties that provided the basis for implementation of the Convention. These were the adoption of Rules of Procedure, agreement on the establishment of the Scientific and Technical Advisory Committee as a subsidiary body of the Conference and the adoption of Financial Rules. The Director noted the positive achievements towards achieving the ultimate aims of the Convention including the development of a Waigani CD Handbook, training for competent authorities, progress towards the establishment of a Pacific Regional Centre, a successful first meeting of the Scientific and Technical Advisory Committee (STAC) with the support of New Zealand and collaboration with relevant institutions. He highlighted some of the important issues to be considered at this meeting such as the matter of the scale of contributions, the work programme and budget and the further development of the Joint Pacific regional center for Training and Technology Transfer. He concluded by urging Parties to take firm action so the Secretariat could be possessed with the means to implement the Convention. A copy of the Director's speech is attached as **Annex II**.

Agenda Item 2: Election of the Chair, Vice Chair and Organisational Matters

4. The representatives of Tonga and Niue were elected as Chair and Vice Chair respectively of the Second Conference of the Parties in accordance with the Rules of Procedure.

5. The Chair acknowledged and thanked the New Zealand delegate for her work and guidance of the Parties and Secretariat over the past two years.

Agenda Item 3: Adoption of the Agenda

6. The Agenda was adopted without amendment and is attached as **Annex III**.

Agenda Item 4: Institutional Arrangements for the Implementation of the Convention: Establishment of a Subsidiary Body – The Terms of Reference (TOR) for the Scientific and Technical Advisory Body (STAC).

7. The first meeting of the Conference of the Parties, established the Scientific and Technical Advisory Committee (STAC) as a subsidiary body to the Conference to meet as necessary to consider practicalities of implementation, legal and technical issues as mandated by the Conference of the Parties subject to the availability of funds. The Conference requested the Secretariat to develop a TOR for the STAC to be reviewed initially by it prior to examination and endorsement by the Second meeting of the Conference of the Parties. The first meeting of the STAC met from 21-23 June 2004 and considered its TOR. The TOR was initially circulated by the Secretariat to the Parties for comments in March 2004 and then reviewed and amended by STAC in June for recommending to COP2 for adoption.

8. New Zealand supported the adoption of the TOR including the sections in italics, (paras 1 and 4) that had been discussed in detail. Niue commented on the need for objectives describing the role of the STAC in the TOR and it was noted that these could be added at a later stage. Cook Islands supported the TOR agreeing with Niue that links with international chemical conventions needed to be taken into account to streamline efforts. In response to a question whether NGOs could be elected to the STAC under Para 1 of the TOR, the Secretariat responded that this was entirely the prerogative of Parties.

Decision WC/2/I

The Conference:

1. considered and approved the Terms of Reference for the STAC as reviewed and amended by STAC 1 and attached as **Annex IV**.

Agenda Item 5: Designation of Competent Authorities and Focal Points

9. At its first meeting, the Conference of the Parties requested Parties which had not yet informed the Secretariat of the designation or establishment of their competent authority and focal point to do so at the earliest opportunity. The Secretariat was also encouraged to seek the necessary funds to convene a regional training workshop for competent authorities on the use of the control system associated with the import-export of hazardous wastes.

10. In collaboration with UNEP Chemicals, the Basel Secretariat and AusAid, SPREP conducted the workshop for competent authorities on the use of the control system associated with the import-export of hazardous wastes, 26-30 May 2003 in Nadi.

11. Of the current twelve Parties to the Waigani Convention, eleven have designated their competent authorities and focal points. These are: *Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, New Zealand, Niue, Papua New Guinea, Samoa, Tonga and Tuvalu.*

12. Australia, Federated States of Micronesia, Fiji and Tuvalu indicated that they would update the Secretariat with changes to their competent authorities and focal points.

Decision WC/2/II

The Conference:

1. urged Parties who had not yet done so, to inform the Secretariat in writing through the National Focal Point for SPREP of their designated competent authority and focal point for the Convention including any modifications or additions as they occur;

2. requested the Secretariat to update where necessary and post the list of competent authorities and focal points on the SPREP website; and
3. urged the Secretariat to continue to pursue funding opportunities to enhance the capacity of competent authorities and focal points towards the effective implementation of the Waigani Convention.

Agenda Item 6: Relationship between the Basel and Waigani Conventions Secretariats. The Pacific Regional Centre for Training and Technology Transfer (PRC) for the Joint Implementation of the Basel and Waigani Conventions

13. The first Conference of the Parties to the Waigani Convention accepted the principle of a joint Centre of the Basel and Waigani Conventions integrated with SPREP and further requested the Secretariat to conduct a survey assessing the capacity of SPREP to perform such a role and the full implications of such a venture. The main purpose of the Pacific Regional Centre would be to strengthen the capacity of Pacific island Parties to the Basel and Waigani Conventions in the technical requirements of environmentally sound management of hazardous wastes including the minimisation of their generation as well as the legal and institutional aspects of implementing both Conventions.

14. The Secretariat, in collaboration with the Secretariat of the Basel Convention, conducted a feasibility study and the conclusions were presented at Basel COP 6 (held in December 2002) which “welcomed the establishment in principle of a Pacific Joint Regional Centre for the countries in the Pacific Region, within SPREP...”

15. The Basel Secretariat was also requested to negotiate a Memorandum of Understanding (MOU) with SPREP for the operation of the Joint Regional Centre. The MOU for the Centre was signed between the Director of SPREP and the Executive Secretary of the Basel Convention Secretariat on the 18th of December 2003. The SPREP Director noted the enthusiasm of the Basel Secretariat to work with SPREP to progress the implementation of the MOU. The MOU defines, *inter alia*, the work programme of the Centre, the sources of financing of agreed activities, as well as the role of the respective Secretariats in guiding, coordinating, monitoring and evaluating the work of the Centre.

16. In accordance with the Waigani COP1 decision, the feasibility study for the joint centre was presented to the first meeting of STAC in June. The STAC approved its establishment and reaffirmed the importance of having the Pacific Regional Centre as a mechanism for the improved management of hazardous wastes. The STAC also stressed the need for the Centre to become operational as soon as possible through collaboration with the Basel Secretariat and assistance from the Parties, stressing that there be no undue financial implications on the Parties in the Centre’s establishment.

17. Parties noted the need for the Centre to address waste management in an integrated manner to avoid unnecessary duplication related to the various waste management initiatives that were being undertaken. The need to consider activities also being undertaken by other related Conventions was highlighted. A regional approach to waste disposal was suggested as well as the documentation of success stories related to hazardous waste in particular. The work of the Secretariat to conclude the MOU was commended. General support for the Regional Centre and associated Business Plan was expressed as well as the urgent need to take action. Tuvalu requested that the MOU between the Secretariat of the Basel Convention and SPREP be made available to Parties.

Decision WC/2/III

The Conference:

1. endorsed the decision of STAC1 to the establishment of a joint Waigani/Basel regional training center;
2. noted the conclusion of an MOU between the Secretariat to the Waigani and Basel Convention on the operation of the Centre;

3. reinforced the recommendations adopted by STAC1, in particular to:
 - Urge the Secretariat to further its collaboration with the Basel Secretariat and any other relevant Secretariats of Conventions to allow the Pacific Regional Centre to become operational at the earliest; and
 - Strongly appeal to Parties to make every effort to support the Pacific Regional Centre in its effort to implement the business plan (attached as **Annex V**) in line with the agreed work programme of the Waigani Convention and SPREP work programme

Agenda Item 7: Cooperation with other institutions: Cooperation with the Interim Secretariat of the Rotterdam Convention and the Interim Secretariat of the Stockholm Convention on the Management of Persistent Organic Pollutants (POPS). Proposal for a Regional Centre for the Stockholm Convention

18. The Secretariat was requested to promote synergies through cooperation with the relevant United Nations bodies, in particular the Interim Secretariats of the Rotterdam and Stockholm Conventions. Cooperation with other bodies was also encouraged. These were the United Nations Environment Programme (UNEP), the International Maritime Organisation (IMO), Interpol, the World Customs Organisation (WCO) and the International Atomic Energy Agency.

19. The Secretariat highlighted a number of joint ventures together with the relevant Secretariats of Conventions in 2003-2004.

20. General support was expressed for the working paper recommendations. The need to work closely with the Secretariats of relevant conventions was emphasised so as to not duplicate approaches. The need for Global Environment Facility (GEF) assistance with the Centre was raised. The need to work closely with the United Nations Development Programme (UNDP) was also commented upon, especially as UNDP also had funding for countries to progress national implementation of the Stockholm Convention. The Secretariat endorsed the importance of working closely with GEF and the UNDP.

21. Marshall Islands indicated its intention to ratify the Waigani Convention noting that it was also a Party to the Basel and Stockholm Conventions and had a persistent organic pollutants (POPs) project in place as well as a national implementation plan that was being developed as part of the POPS project.

Decision WC/2/IV

The Conference:

1. supported the need to give consideration to the Pacific Regional Centre for the joint implementation of the Waigani and Basel Conventions in the process of assessing SPREP capacity to host a Stockholm Centre;
2. encouraged the Secretariat of the Waigani Convention to continue its discussions with the Interim Secretariat of the Stockholm Convention on POPs and SPREP on the possible establishment of a Stockholm Centre to be hosted by SPREP;
3. invited the Secretariat to further strengthen its collaboration with the Secretariats of the Stockholm, Rotterdam and Basel Conventions and any other institutions to undertake the necessary steps for conducting joint capacity development activities for the management of chemicals and hazardous wastes in an integrated manner at the national level;

4. called on the Secretariat to make every effort to ensure the involvement of relevant NGOs where appropriate in the process of implementing the Waigani Convention, in particular matters related to awareness raising;
5. requested the Secretariat jointly with SPREP to continue their cooperation with the Secretariat of the Stockholm Convention on POPs to assist countries with the finalisation and implementation of their National Implementation Plans (NIPs); and
6. urged the Secretariat to undertake joint fund raising efforts with the Secretariats of relevant Conventions to aid in the implementation of the Conventions, including the development of a model national regulatory framework for the management of chemicals and hazardous wastes.

Agenda Item 8: Financial arrangement for the administration of the Waigani Convention- Scale of Contributions

23. The first Conference of the Parties adopted the Financial Rules for the Convention but was unable to agree on a scale of contributions of the Parties to the budget of the Convention. As a result, Parties were asked to consider the scale of contributions proposed by the Secretariat and to provide comments for consideration by the STAC prior to the Second Conference of the Parties. The issue of the scale of contribution was duly referred to STAC 1 where the proposed scale of contributions was agreed to. The STAC accordingly recommended the proposed scale of contributions as contained in the working paper to this Conference for endorsement.

23. Consensus was reached on the recommended scale of contributions as proposed by STAC 1. Tuvalu indicated support and informed that this information would need to be put before their new government for confirmation.

24. Australia sought clarification from the Chair of an appropriate agenda item for them to raise its proposal to amend the Financial Rules so that consensus of the meeting would be required to adopt a budget for the Convention. The Meeting agreed to defer discussion on this matter to Other Business.

Decision WC/2/V

The Conference:

1. approved the scale of contribution from Parties as contained in **Annex VI**.

Agenda Item 9: Work Programme and Budget

25. The first Conference of the Parties adopted a core budget but was unable to agree on a work programme budget for the biennium 2003-2004. The Conference requested the Secretariat to develop draft TORs for projects in the indicative work programme for review by the STAC and encouraged the Secretariat to implement other activities as funds become available. Parties were invited to make voluntary contributions to the core budget of US\$43,000 as well as the work programme budget.

26. Contributions were received from the Governments of Fiji, Kiribati, Tuvalu. The cost related to the convening of the first meeting of the STAC was met by New Zealand.

27. The Secretariat noted that without the full resources needed to implement the indicative work programme, only some activities were able to be implemented. These were included in the Director's opening statement. The lack of funding of a work programme directly affected the Secretariat's ability to engage in any significant activity during the biennium 2003-2004.

28. During STAC1, the need to seek funding from other sources and donors and to develop partnerships and consider strategies for raising funding was also highlighted. The relationship between the Waigani work programme, the Pacific Regional Centre Business Plan and the SPREP Strategic Programmes was also discussed. STAC1 took into account the TOR of projects developed by the Secretariat in finalizing the work programme matrix for the biennium 2005/2006 proposed to the conference of the Parties (COP) for adoption.

29. General support was provided for the recommended work programme and budget. The development of national legislation was also suggested as a priority and the need for further input from Parties to prioritise the activities under the proposed work programme. Tuvalu raised the need to address marine pollution (in particular shipwrecks) as a priority. Fiji commented on the need for Parties to identify priorities through national implementation plans. Cook Islands saw waste management and pollution as priorities, in particular, sewage and chemicals. Niue indicated that it would follow up its core budget contribution.

30. The need for a streamlined approach in addressing waste issues was again emphasised as well as the need to work together with the POPs project, the GEF and UNDP. The Secretariat noted that the priorities were largely up to Parties to determine. It further commented that what was most important for the work programme of the Convention was securing financial support for it and in this respect the Parties would have to demonstrate commitment and priority by contributing to it. Fiji suggested that it would be helpful to have a breakdown of how much and what type of waste is generated in the Pacific, so that regional action can be taken. In response the Secretariat indicated that a survey had been done over 8 countries and the importance of action being driven at the national level.

Decision WC/2/VI

The Conference:

1. adopted the Core Budget for the biennium 2005-2006 for the Waigani attached as **Annex VII** to be funded according to the scale of contributions approved earlier by this meeting and shown together with the Core Budget;
2. urged all Parties to meet their assessed contributions due on 1 January 2005 and to consider making additional contributions over and above the core budget to fund the work programme;
3. approved the Work programme Budget for the Waigani Convention for the biennium 2005-2006 attached as **Annex VIII**; and
4. urged donors, non-Parties, ngos, and international agencies to make voluntary contributions both cash and in-kind to help implement the provisions of the Waigani Convention; and the Secretariat to make every effort to identify sources of funding and to assist implement the work programme 2005-2006.

Agenda Item 10: Reporting and Transmission of Information

31. The first Conference of the Parties acknowledged the need for considerable assistance to support capacity building in countries to enable them to fulfill the reporting and transmission of information as required under the Convention. Waigani COP1 also requested the Secretariat to adapt a number of forms developed under the Basel Convention for meeting the requirements of the Waigani Conventions. This work was presented to STAC 1.

32. The Secretariat noted the work it had done to progress the decision of the first COP including its current and future activities as well as the work of the STAC in reviewing the forms.

33. General appreciation was expressed for the progress made in relation to the reporting and transmission of information and the recommendations of the STAC. The good work of Australia's representative at STAC in adapting these forms was also commended.

Decision WC/2/VII

The Conference:

1. endorsed the Draft Reporting and Transmission of Information (**Annex IX**) as well as the Draft Notification Form (**Annex X**) and the Draft Movement Document (**Annex XI**);
2. requested Parties to meet their reporting obligations under the Waigani Convention for the calendar year 2004 using the Forms adopted by this Meeting which would enable the Secretariat to fulfil its obligations under Article 14 of the Convention;
3. encouraged the Secretariat to further its efforts with the Secretariat of the Basel Convention to secure funds to hold the training workshop on Reporting and Inventories of Hazardous Wastes and to use any existing tools or mechanisms such as the PEIN project to link its regional clearinghouse mechanism with other relevant clearinghouses or databases managed by other regional organizations and any other relevant Convention secretariat for better management, sharing and analysis of information on hazardous wastes; and
4. further encouraged the Secretariat to prepare country-fact sheets after Parties have fulfilled their first reporting requirements and subsequent ones under the Waigani Convention and to make such information available on a regular basis to the Parties, non Parties, any other related Convention Secretariats, institutions and agencies having a direct interest in the environmentally sound management of hazardous wastes.

Agenda Item 11: Prevention and monitoring of illegal traffic

34. The first Conference of the Parties requested Parties to bring any cases of illegal traffic to the Secretariat's attention and provide it with all necessary information to take any appropriate action under Article 9 paragraph 6 of the Convention. Although no case of illegal traffic has been reported to the Secretariat since COP 1, the need for Parties to remain vigilant remains important as illegal traffic may result not only from unscrupulous intentions but also from mistakes when fulfilling administrative procedures, differences in the interpretation of definitions of hazardous wastes, or the translation between languages.

35. COP1 further requested the Secretariat to conduct a training workshop for competent authorities on the use of the control system associated with the import and export of hazardous wastes. A training workshop for competent authorities on the use of the Control System Associated with the Import and Export of Hazardous Wastes was held 26-30 May 2003, in Fiji.

36. The Secretariat also referred to a number of tools, developed under the Basel Convention and adapted to the region. These being: (1), The Form for Confirmed Cases of Illegal Traffic and (2), the Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes. The above-mentioned forms were reviewed and adapted by STAC 1 in June. The STAC expressed concern at the weakness of effective means for the prevention, identification, management and monitoring of illegal traffic and recommended that cooperation among Parties with the support of the Secretariats of the Basel and Waigani Conventions was required.

37. General support for the recommendations of the STAC was expressed. Federated States of Micronesia recommended a web-based programme to facilitate information flow for illegal waste movements. A number of Parties commented on the need for continuing assistance to develop national legislation.

Decision WC/2/VIII

The Conference:

1. encouraged Parties to undertake consultation and where necessary develop any informal agreements with the Parties to the Basel Convention to better prevent, monitor and remedy illegal traffic and to inform the Secretariat of the Waigani Convention about such consultations;
2. requested Parties to promote cross-sectoral coordination within their governments and other means to prevent and penalise illegal traffic in hazardous wastes;
3. urged Parties to promulgate or develop stringent national legislation on the control of transboundary movement of hazardous wastes including appropriate sanctions or penalties for the illegal traffic of hazardous wastes; and
4. approved the Guidance Elements for Detection Prevention and Control of Illegal Traffic in Hazardous Wastes (attached as **Annex XII**) and the Form for Confirmed Cases of Illegal Traffic (attached as **Annex XIII**) as reviewed and amended by the first meeting of the STAC.

Agenda Item 12: Legal and Technical Assistance

38. The first Conference of the Parties expressed concern regarding the difficulties associated with the legal, institutional and technical capacity of Pacific islands countries in addressing the management of hazardous wastes and the potential usefulness of tools and expertise available under the Basel Convention. The Conference requested the Secretariat to undertake collaborative efforts with the Basel Secretariat, and other related Secretariats to address these difficulties through the development or adaptation of technical guidelines, the development of programmes of training and the conduct of joint capacity building activities as well as the provision of legal and technical assistance.

39. STAC 1 acknowledged the critical importance to the Pacific region given its limited capacity of the potential of the Waigani Convention to address the minimisation of the generation of hazardous wastes and its role in facilitating access to environmentally sound technologies, including the development of recycling and recovery schemes.

40. The Secretariat elaborated on its ongoing and future work in this area. It was expected that the establishment of the Pacific Regional Centre for the Joint Implementation of the Waigani and Basel Conventions would have an important role in addressing the legal, institutional and technical challenges encountered by the Waigani Parties. The Basel Convention Secretariat jointly with the Secretariat of the Waigani Convention had already submitted a number of project proposals to donors for the implementation of the Business Plan of the Centre. These projects were related to the development of national legislation, reporting and inventories, awareness raising and enforcement.

41. The Basel Convention Secretariat and the Interim Secretariat of the Stockholm Convention also provided some assistance to holding the Workshop on Competent Authorities on the use of the Control System. One of the main outputs of the workshop was the development of a Draft Manual on the Control System for transboundary movement of hazardous wastes which was reviewed by STAC 1.

42. The STAC and Secretariat recommendations were supported. The need for community awareness programmes was raised to strategically address the issue of waste over the long term. The provision of technical expertise was an issue that was important to small islands who needed to build their capacity. Australia requested that the Draft Manual be placed on CD and disseminated.

Decision WC/2/VIX

The Conference:

1. requested the Secretariat to develop programmes of training and technology transfer, and to conduct capacity building activities as funding allows in the budget approved by the Parties, and in cooperation with the Secretariat of the Basel Convention, as well as national authorities, to develop programmes of training and technology transfer, and to conduct capacity building activities;
2. urged Parties, non Parties, intergovernmental organizations, members of the industries and business sectors, and non governmental organizations to provide financial resources or assistance in kind, to assist countries in need of such assistance in the development of training activities, seminars and technology transfer for the environmentally sound management of hazardous wastes;
3. further urged Parties, other States and potential donors to contribute financially, technically or in kind to the operation of the Pacific Regional Centre toward the implementation of activities as contained in its business plan;
4. adopted the Waigani Instruction Manual on the Control System for the Transboundary Movement of Hazardous Wastes (attached as **Annex XIV**), for use by the Parties, non-Parties and other interested organizations;
5. requested the Secretariat to publish the Instruction Manual and to disseminate it widely;
6. requested Parties to play an active role in ensuring the wide distribution of the Manual to all bodies, authorities and persons involved in the environmentally sound management of hazardous wastes, in particular the generation, export, import and/or disposal in their countries; and
7. invited Parties to convey to the Secretariat any information related to their experience in using the Manual, in particular the difficulties encountered.

Agenda Item 13: Other Business

43. Australia proposed to amend Financial Rule 4 to have clause 3 read, "...The Conference of the Parties shall consider the budget proposal and adopt by consensus a budget prior to the commencement of the financial period that it covers...". Without this amendment Australia indicated that two thirds of the Parties present could vote and adopt the budget, with a quorum consisting of two thirds of the total number of Parties. Tuvalu queried whether consensus was the suitable solution in the event of a Party objecting and not going along with the consensus. Niue and Cook Islands expressed similar concerns. Fiji proposed that given the apparent complexity of the proposal and time constraints, it would be best to refer this matter for discussion and the recommendation of STAC 2. With the concurrence of Australia, the meeting agreed to this proposal.

44. Australia also suggested and received the support of the Meeting on the need for other issues by the Conference to be referred to the STAC such as integrated waste management; waste data collection, case studies on successes in hazardous waste management and issues to be addressed, identification of where assistance was needed, in-country training and partnerships for work and external funding.

45. New Zealand introduced a Non-Paper to align the annexes of Waigani and Basel Convention. NZ indicated that the differences between the two Convention Annexes affected their implementation for States Party to both of them. The Meeting agreed that New Zealand continue its work on developing its paper and for this to be referred to STAC for examination and a recommendation to the next COP.

46. Fiji acknowledged the assistance provided by Australia and SPREP in relation to the identification of hazardous substances and collection and shipment and commended this assistance for action elsewhere.

Agenda Item 14: Date and Venue of the Next Meeting

47. The Meeting agreed to convene the Third Meeting of the Conference of the Parties to the Waigani Convention at the same time and venue as the 17th SPREP Meeting in 2006.

48. The SPREP Director thanked the Chairman and to the previous Chairperson for their hard work and dedication.

Agenda Item 15: Adoption of the Report

49. The Meeting acknowledged and appreciated the excellent work of the Secretariat and the STAC to progress the implementation of the Convention.

50. The record of proceedings was adopted.

Agenda Item 16: Closure of the Meeting

51. In his closing remarks the Chair thanked the representatives for their participation during the meeting. He also thanked the technicians for their supportive work. The contribution of the Secretariat was also acknowledged.

Annex 1: Participants List

AUSTRALIA

Ms. Kerry Smith
Director – International Section
Department of the Environment & Heritage
GPO Box 787
Canberra, ACT 2601
Australia

Tel : (612) 6274 1171
Fax : (612) 6274 1858
Email : kerry.smith@deh.gov.au

Ms. Sue Erbacher
Program Manager – Environment and Fisheries
Pacific Branch, AusAID
GPO Box 887
Canberra, ACT 2601
Australia

Tel : (612) 6206 4546
Fax : (612) 6206 4636
Email : sue_erbacher@ausaid.gov.au

Mr. Brett Negus
Program Officer – Environment Pacific Branch
Pacific Branch, AusAID
GPO Box 887
Canberra, ACT 2601
Australia

Tel : (612) 6206 4320
Fax : (612) 6206 4636
Email : brett_negus@ausaid.gov.au

COOK ISLANDS

Mr. Vaitoti Tupa
Director
National Environment Service
Tu'anga Taporoporo
PO Box 371
RAROTONGA
Cook Islands

Tel : (682) 21256
Fax : (682) 22256
Email : vaitoti@oyster.net.ck

FEDERATED STATES OF MICRONESIA

Mr. Moses Pretrick
Environmental Health Coordinator
FSM Department of Health, Education and Social Affairs
PO Box PS 70
Palikir, Pohnpei FM 96941
Federated States of Micronesia

Tel : (691) 320 2619/8300
Fax : (691) 320 5263/8460
Email : fsmenvironment@mail.fm

FIJI

Mr. Cama Tuiloma
Chief Executive Officer
Ministry of Local Government, Housing, Squatter
Settlement & Environment
PO Box 2131
Government Buildings
Suva
Fiji

Tel : (679) 3304 364
Fax: (679) 3303 515
Email: camatuiloma@connect.com.fj

Mr. Epeli Nasome
Director of Environment
Ministry of Local Government,
Housing, Squatter Settlement & Environment
PO Box 2131
Government Buildings
Suva, Fiji

Tel : (679) 3311 699
Fax: (679) 3312 879
Email: enasome@govnet.gov.fj

NEW ZEALAND

Ms. Jennifer McDonald
Deputy High Commissioner
New Zealand High Commission
Beach Road
APIA, Samoa

Tel : (685) 21711
Fax : (685) 20086
Email : JM.McDonald@mfat.govt.nz

NIUE

Sauni Tongatule
Director of Environment Department
Alofi, Niue

Tel : (683) 4021
Fax : (683) 4232
Email : tongatule@mail.gov.nu

TONGA

Mr. Uilou Samani
Director
Department of Environment
PO Box 917
Nuku'alofa, Tonga

Tel : (676) 25 050
Fax : (676) 25 051
Email : uilousamani@hotmail.com

TUVALU

Mr. Mataio Tekinene Mataio
Director of Environment
Department of Environment
Private Mail Bag
Vaiaku
Funafuti, Tuvalu

Tel : (688) 20815 ext. 2180
Fax : (688) 20113/20114
Email : enviro@tuvalu.tv

OBSERVERS

MARSHALL ISLANDS

Ms. Deborah Barker
Deputy Director
Office of Environmental Planning & Policy Coordination
PO Box 975
Majuro, Marshall Islands 96960

Tel : (692) 625 7944
Fax : (692) 625 7918
Email : oeppc@ntamar.net

GREENPEACE

Ms. Shirley Atatagi-Coutts
Pacific Political Liaison Officer
Greenpeace
Level 1, Old Town Hall
Suva, Fiji

Tel : (679) 331 2121
Fax : (679) 331 2784
Email : shirley.atatagi-coutts@fj.greenpeace.org

TECHNICIAN

Mr. Alan Doyle
Technician
Language Professionals Ltd
15 Day Street
Newton, Auckland
New Zealand

Tel : (649) 379 2040
Fax : (649) 379 2041
Email :

Mr. Kevin Boyd
Technician
Language Professionals Ltd
15 Day Street
Newton, Auckland
New Zealand

Tel : (649) 379 2040
Fax : (649) 379 2041
Email :

SPREP SECRETARIAT

PO Box 240
Vailima
Apia
Samoa

Tel : (685) 21 929
Fax : (685) 20 231
Email : sprep@sprep.org.ws

Asterio Takesy
Director

Jacques Mougeot
Environmental Law Adviser

F. Vitolio Lui
Deputy Director

Clark Peteru
Environmental Legal Adviser

Alofa S. Tuuau
Finance Manager

Aliitasi Uesele-Petaia
IT/Network Officer

Andrea Volentras
Climate Change Coordinator

Ruta Tupua-Couper
Personal Assistant to the Director

Frank Griffin
Coordinator – Pollution Prevention

Apiseta Eti
Personal Assistant to the Deputy Director/

Kate Brown
Action Strategy Adviser

Lupe Silulu
Registry Supervisor

Satui Bentin
Information Resource Centre Manager

Pauline Fruean
Conference & Travel Officer

Annex II - Opening Address by Mr Asterio Takesy, Director of SPREP

Madame Chair
Distinguished Representatives, Ladies and Gentlemen

It is my pleasure to welcome you all to Tahiti and to this Second Conference of the Parties to the Waigani Convention.

This meeting comes at an important stage in the secretariat's and the region's continuing effort to address the important and difficult to achieve issue of environmentally sound management of hazardous wastes within the Pacific region.

I would like to briefly recall the first meeting of the parties two years ago in Majuro. At that meeting you were able to take some key decisions that provided the basis for foundation work to begin on implementing work on the convention. You were able to adopt the rules of procedures, agreed on the establishment of the scientific and technical advisory committee as a subsidiary body of the conference and adopted the financial rules. You were also unable to decide on other important matters and requested the secretariat to do further work to enable parties to progress and decide on these issues. For instance you were unable to decide on a scale of contributions to the convention's work programme and budget and as a result a work programme for the current biennium was not adopted.

This being said, the outcomes of COP 1 paved the way for some modest but positive achievements over the last two years towards progressing our convention and achieving its ultimate aims. Among these I would like to mention:

- The development of the Waigani CD handbook which has been recognised as a useful tool for a better understanding of the four chemical conventions;
- The provision of a training for competent authorities on the use of the control system;
- Advanced progress towards the establishment of the Pacific regional centre;
- The successful holding of the First meeting of the Scientific and Technical Advisory Committee;
- The development of a number of project proposals for the implementation of the Waigani convention;
- The promotion of the Waigani convention at all levels; and
- The development and strengthening of the collaboration with relevant institutions and convention secretariats.

The secretariat was also tasked by the first COP to find funds to convene the Scientific and Technical Advisory Committee and further refine and develop the important and key reporting forms required for the effective implementation of some of the provisions and obligations of the convention. With the generous support of the government of New Zealand for which we are most grateful, the secretariat was able to convene in June this year the STAC. And together with the secretariat we were able to progress much of the work deferred from the first meeting of the COP. The report of STAC has been made available to all of you and the results of its work are now before you as recommendations for consideration and decision.

As head of your secretariat and as we meet only every two years, I urge you to take firm action (although they might be difficult decisions) so that we as your secretariat and major implementation arm could be given the means to proceed with the necessary work.

I have reported earlier in this statement what modest progress we have made on your directions from COP 1. You as parties and the ultimate owners of this convention were also given tasks to progress. I hope we would also hear from you on what progress you have made toward the implementation of your and our convention.

We have a long agenda and only a day to consider and decide on it, I therefore do not wish to take too much of our precious time. But we have some important decisions which we must make at this meeting particularly now that the STAC has deliberated on them and commended them to you. There is the matter of the scale of contributions and the work programme and budget for the next biennium. There is also the joint centre for training and technology transfer to name just a few.

Madame Chair, distinguished representatives, we have a lot of work and important work for our region ahead of us and I wish you success in your deliberations and pledge you the full and active support of the secretariat in facilitating and carrying out our duties.

Thank you and god bless.

Annex III - Agenda

- Agenda Item 1: Official Opening**
- Agenda Item 2: Election of the Chair**
- Agenda Item 3: Organisational Matters**
- Agenda Item 4: Adoption of the Agenda**
- Agenda Item 5: Institutional Arrangements for the Implementation of the Convention: Establishment of a Subsidiary Body** – The Terms of Reference (TOR) for the Scientific and Technical Advisory Body (STAC).
- Agenda Item 6: Designation of Competent Authorities**
- Agenda Item 7: Relationship between the Secretariats of the Basel and Waigani Conventions Secretariat:** The Pacific Regional Centre for Training and Technology Transfer (PRC) for the Joint Implementation of the Basel and Waigani Conventions.
- Agenda Item 8: Cooperation with other Institutions:** Cooperation with the Interim Secretariat of the Rotterdam Convention and the Interim Secretariat of the Stockholm Convention on the Management of Persistent Organic Pollutants (POPs). Proposal for a Regional centre for the Stockholm Convention
- Agenda Item 9: Financial Arrangement for the Administration of the Waigani Convention:** Scale of contributions as proposed by Waigani COP 1.
- Agenda Item 10: Work programme and budget**
- Agenda Item 11: Reporting and Transmission of Information:**
- Agenda Item 11.1: Draft Reporting and Transmission of Information,
Agenda Item 11.2: Draft Notification and Draft Movement Document Forms
- Agenda Item 12: Illegal Traffic:**
- Agenda Item 12.1: Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes developed under the Basel Convention
Agenda Item 12.2: The Form for Confirmed Cases of Illegal Traffic developed under the Basel Convention
- Agenda Item 13: Legal and Technical Assistance-**
- Agenda Item 13.1: Review of the Draft Waigani Guide to the Control System
Agenda Item 13.2: Identification of potential training areas and joint capacity activities to assist the Waigani and Basel Convention Secretariats develop targeted programmes and activities in these areas.
- Agenda Item 14: Other business**
- Agenda Item 15: Closure of the meeting**

Annex IV - Terms of Reference of the Scientific and Technical Advisory Committee of the Waigani Convention

1. Each Party shall designate *a suitable representative and alternate* to the Scientific and Technical Advisory Committee (STAC) who may be accompanied by other experts and advisers appointed by that Party.
2. The Conference of the Parties shall determine the matters to be considered by the STAC which will fulfill such tasks and report to the next Conference of the Parties. This will include inter alia:
 - a) In collaboration with the Secretariat, the examination of information provided by Parties on measures taken to implement the Convention and the formulation of recommendations on the necessary actions to be undertaken for consideration by the Conference of the Parties.
 - b) The provision through the Secretariat of guidance on the development of plans, programmes and measures related to the technical and scientific aspects (awareness, training, legal, scientific) of the implementation of the Convention.
 - c) The provision of advice on the development/adaptation of guidelines and standards for the environmentally sound management of hazardous wastes.
 - d) The review of guidelines, standards and other relevant documents prior to adoption by the Conference of Parties.
 - e) The provision of advice on priority measures and activities in the legal and technical fields for the implementation of the Convention.
 - f) The assistance with co-ordination of work at the global, regional and national levels including the necessary linkages with relevant global Conventions.
 - g) The provision of advice to the Secretariat and the Parties on the technical and scientific needs of the Convention.
 - h) Assessment and prioritisation of the work-programme and budget for the implementation of the Convention and submission to the Conference of Parties
3. The Committee will perform such other functions relating to the implementation of the Convention as may be instructed by the Conference of the Parties.
4. Notwithstanding paragraphs 2 and 3 of this TOR a Party may add any other specific issue in direct relation to the implementation of the Convention on the mandate of the STAC, *with the approval of all Parties*.
5. Notwithstanding rule 22.3 of the Rules of Procedures of the Conference of the Parties which apply *mutatis mutandis* to the meeting of the STAC, the latter could elect its own Chairperson.

Annex V - Business Plan for the Pacific Regional Centre

Work Programme & Activities	Timeframe	Outcome	Partners	Budget (US\$)	Relation to the Strategic Plan
General backstopping	2003-2004	Core staff, office space, office equipment, telecommunication, audiovisual equipment, maintenance of office space and equipment.	SPREP	80,000 In-kind	Field (f)
Fund raising	2003-2004	Number of activities funded.	SPREP	3,000 In kind	Field (f)
Development of adequate legislation on the management of hazardous wastes in five (5) Countries	2003-2004	Review of national legislation; consultation with relevant stakeholders; awareness raising and drafting of national legislation for five (5) countries.	SBC- SPREP	50,000	Field (e)
Information knowledge management	2003-2004	Surveys of information needs; Development of information systems; Training (workshop/ attachments).	SOPAC SPREP SBC UNEP Chemicals	70,000	Field (g)
Training for enforcement staff (customs, police, port, legal officers, etc.)	2003-2004	Workshops to familiarize enforcement staff with the obligations under the Conventions and to further facilitate their implementation; Production of guidance manual.	SBC- SPREP	50,000	Field (i)
Promotion of ratification and implementation of the Basel/Waigani Conventions	2003-2004	Increasing number of Pacific Islands countries to the Basel and Waigani Conventions; Production of fact sheets, briefing papers, booklets, press kit, etc.	SPREP	2,000 In Kind	Field (g)
Development of partnerships	2003-2004	Formal working relationship with secretariats of relevant conventions, NGOs and the business sector developed.	SPREP SBC Stockholm NGOs	In kind	Field (f) Field (h)
Identification and adaptation of tools to facilitate implementation of the Basel/Waigani Conventions	2003-2004	A number of tools revised including technical guidelines to respond to specific needs of the Pacific.	SPREP SBC	10,000	Field (f)
Training on reporting requirements (Basel Art. 13&16, Waigani Art. 14.2)	2003-2004	Appropriate training provided to Focal Points to better monitor the implementation of the Basel and Waigani Conventions at the national level.	SPREP SBC	30,000	Field (i)
Advice to Competent Authorities in the Use of the Control System	2004	Hazardous wastes and chemicals from 13 Pacific Islands packaged, labeled and disposed in accordance with the Basel and Waigani Conventions.	SPREP	AusAid in Kind	Field (a)

Annex VI - Recommended Scale of Contributions to the Waigani Convention Budget

Parties	Percentage
Australia	40.0%
Cook Islands	2.0%
Federated States of Micronesia	2.0%
Fiji	2.0%
Kiribati	2.0%
New Zealand	40.0%
Niue	2.0%
Papua New Guinea	2.0%
Samoa	2.0%
Solomon Islands	2.0%
Tonga	2.0%
Tuvalu	2.0%
Total	100%

Annex VII - Recommended Waigani Convention Core Budget for the Biennium 2005-2006

Core Budget

	USD
Third Conference of the Parties:	18,000
(a) Secretariat Support, Communications, Photocopying/Stationery, etc \$10,000	
(b) Technical/Secretariat Support to members \$8,000	
Second Meeting of Scientific and Technical Advisory Committee	\$30,000
	US\$48,000

Contributions to the Core Budget

Parties	Percentage	Value USD
Australia	40.0%	\$ 19,200
Cook Islands	2.0%	\$ 960
Federated States of Micronesia	2.0%	\$ 960
Fiji	2.0%	\$ 960
Kiribati	2.0%	\$ 960
New Zealand	40.0%	\$ 19,200
Niue	2.0%	\$ 960
Papua New Guinea	2.0%	\$ 960
Samoa	2.0%	\$ 960
Solomon Islands	2.0%	\$ 960
Tonga	2.0%	\$ 960
Tuvalu	2.0%	\$ 960
Total	100.0%	\$ 48,000

Annex VIII - Recommended Waigani Convention Work Programme 2005 - 2006

Goal: The effective implementation of the Waigani Convention

Output	Outcome	Activities	Performance Measure	Timeframe	Estimated Budget (USD)	Reference to SPREP Programme	Partners
1. Development of adequate national legislation on the management of hazardous wastes	Convention implemented through national legislation	Review of national legislation; consultation with relevant stakeholders; awareness raising and drafting of national legislation	Five Parties provided with adequate national legislation on the control system for the transboundary movement and management of hazardous wastes	2005/2006	85,000		
2. Information effectively managed, disseminated and exchanged	Surveys of information needs; development of information systems; training (workshop/attachments)	1. Strengthening of national and regional clearinghouse mechanisms in synergy with existing national and regional clearinghouse(s) such as PEIN, SIDSnet, and SPREP; 2. Training with respect to the clearinghouse mechanisms	1. Clearinghouse mechanism initiated at national and regional level; 2. Key enforcement staff trained in analytical use of clearinghouse mechanism.	2005 – 2008	50,000		
3. Training of competent authorities and focal point	Competent authorities and focal points able to implement responsibilities under the convention	Workshop on the reporting requirements of the Waigani and Basel Conventions, with reference to developing national inventories of hazardous wastes.	1. Inventories initiated in-country. 2. Parties report as required under the Conventions	2005/2006	65,000		
4. Relevant stakeholders effectively implementing the Convention	Familiarisation of enforcement staff with the obligations under the Convention	National workshops in five countries to train customs, police, port, environment, and legal officers	Workshops are held; Officers of national agencies trained	2006 – 2007	50,000		
5. Promotion of ratification and implementation to the Waigani/Basel Conventions	Broader representation and participation of Pacific Island Countries in the Conventions	Development of fact sheets, briefings papers, booklets, press kit.	3 more ratifications to the Waigani Convention; Increased awareness of politicians and community to issues concerning hazardous waste management (eg e-waste)	2005/2006	5,000		
6. Collaboration with the Basel Convention and relevant institutions	Development of complementary approach to hazardous waste management in the Pacific region	Promotion of the Waigani Convention and the Pacific Regional Centre to facilitate implementation of related chemicals Conventions	Waigani and Pacific Regional Centre effectively used to facilitate the implementation of related Chemical Conventions	2005/2006	2,000		
7. Effective operation of the Pacific Regional Centre	Regional Centre facilitating implementation of the Waigani and Basel Conventions	1. Develop joint business plan for Regional Centre with Basel Secretariat 2. Maintenance of Regional Centre fund raising	Business plan implemented	2005/2006	80,000		
					\$337,000		

Annex IX - Draft Reporting And Transmission Of Information

**Secretariat of the Convention to
Ban the Importation into Forum Islands Countries of Hazardous and
Radioactive Wastes and to Control the Transboundary Movement
and Management of Hazardous Wastes within the
South Pacific Region (Waigani Convention)**

**Questionnaire on “Transmission of Information”
in accordance with Articles 7 & 14 of the
Waigani Convention**

Reporting for the year....

Please fill in the following

Country: _____ **Date when form completed(D/M/Y):** __/__/____

Name of the person who completed the questionnaire:

Title:

Address:

Telephone no:

Fax no:

E-mail:

To request an electronic version of this questionnaire, to return the completed questionnaire by e-mail, or for further information and clarification, please contact:

Secretariat of the Waigani Convention
SPREP
PO Box 240, Apia
Samoa
Tel : (685) 21 929
Fax : (685) 20 231
Email : sprep@sprep.org.ws

INTRODUCTION

The Parties to the Waigani Convention are required, in accordance with Articles 7 and 14 of the Convention, to inform each other, through the Secretariat of the Waigani Convention, on issues related to the implementation of the Waigani Convention. To facilitate reporting by Parties, under both the Basel and Waigani Conventions, the secretariat has revised and adapted the questionnaire on “Transmission of Information” as developed under the Basel Convention to meet the reporting requirements under the Waigani Convention. The questionnaire consists of two parts, namely:

- Part I: Status of information and;
- Part II: Annual reporting.

All Parties should complete Part I: Status of Information of the questionnaire for a certain calendar year which might only need to be updated for any subsequent year.

Part I: Status of information covers issues such as designation of Competent Authority and Focal Point; national definition of waste; national definition of hazardous waste; restrictions on transboundary movement of hazardous and radioactive wastes; control procedure of the transboundary movement of waste; reduction and/or elimination of the generation of hazardous wastes; reduction of the amount of hazardous wastes subject to transboundary movement; effect on human health and the environment; bilateral, multilateral or regional agreements or arrangements; disposal and recovery facilities and sources of assistance.

Part II: Annual reporting covers those issues for which reporting is required on an annual basis. For the ease of electronic reporting and processing of the reported data/information, Part II: Annual reporting is divided into two sections namely, Section A and Section B.

Part II: Section A covers issues such as export/import hazardous wastes and radioactive wastes and the generation of hazardous wastes .

Part II: Section B covers issues such as disposals, which did not proceed as intended and accidents occurring during the transboundary movement and disposal of hazardous wastes.

Some of the general guidelines to fill in the questionnaire are:

- Complete the questionnaire in English.
- Ensure that all quantities are in metric tonnes.
- Complete the questionnaire by providing information/data in the required format.
- Provide an electronic version of the completed questionnaire, if possible or handwritten in block letter for legibility.

The questionnaire and the manual are available both in hard copy as well as in electronic version from the Waigani Convention Secretariat

PART I: STATUS OF INFORMATION (for the year....)

Note: If there is any update to the pre-filled answer provided in the middle column by your country to this query since the last update, please indicate so on the right column and update all relevant information accordingly!

1	Competent Authority and Focal Point	Updated?
1a	Is there a designated Competent Authority to the Waigani Convention? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation If yes, please provide: Name: _____ Title: _____ Address: _____ Tel: _____ Fax: _____ E-mail: _____ Official Web site: _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
	1b	<input type="checkbox"/> Yes <input type="checkbox"/> No
2a	Is there a national definition of <u>waste</u> used for the purpose of transboundary movements of waste? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation If yes, please provide the text of the national definition of waste (use additional space/attachment, if required): _____ _____ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No
	2	<input type="checkbox"/> Yes <input type="checkbox"/> No
2	Wastes Controlled for the Purpose of Transboundary Movement	Updated?
2a	Is there a national definition of <u>waste</u> used for the purpose of transboundary movements of waste? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation If yes, please provide the text of the national definition of waste (use additional space/attachment, if required): _____ _____ _____	<input type="checkbox"/> Yes <input type="checkbox"/> No

2b	<p>Is there a national definition of hazardous waste used for the purpose of transboundary movements of waste?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation</p> <p>If yes, please provide the text of the national definition of hazardous waste (use additional space/attachment, if required):</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
2c	<p>Does your country regulate/control any additional wastes as hazardous that are not included in Art. 2 (1)a of the Waigani Convention and would be controlled for the purpose of transboundary movements pursuant to Art. 2 (1)b?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation</p> <p>If yes, please specify those wastes (use additional space/attachment, if required):</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
2d	<p>Are there any wastes other than those identified in above questions 2b and 2c that require special consideration when subjected to transboundary movement?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation</p> <p>If yes, specify (use additional space/attachment, if required):</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
3	<p>Restrictions on Transboundary Movement Wastes and Radioactive Wastes</p>	<p>Updated?</p>
3a	<p>Have the provisions of Article 4.1 (a) or (b) of the Waigani Convention, where applicable, been implemented in your country?</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation</p> <p>Remarks:</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

3b	Are there any restrictions on the <u>export</u> of hazardous and radioactive wastes for <u>final disposal</u> (Annex V) in your country?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation		
	If yes, please provide the following:		
	(i) Specify relevant legislation and its entry into force:		
(ii)	Specify country/region and/or waste which would be covered by this restriction:		
(iii)	Remarks:		
3c	Are there any restrictions on the <u>export</u> of hazardous and radioactive wastes for <u>recovery</u> (Annex V B) in your country?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation		
	If yes, please provide the following:		
	(i) Specify relevant legislation and its entry into force:		
(ii)	Specify country/region and/or waste which would be covered by this restriction:		
(iii)	Remarks:		
3d	Are there any restrictions on the <u>import</u> of hazardous wastes and radioactive wastes for <u>final disposal</u> (Annex V A) in your country?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation		
	If yes, please provide the following:		
	(i) Specify relevant legislation and its entry into force:		
(ii)	Specify country/region and/or waste which would be covered by this restriction:		
(iii)	Remarks:		

3e	Are there any restrictions on the <u>import</u> of hazardous and radioactive wastes for <u>recovery</u> (Annex V B) in your country?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation		
	If yes, please provide the following:		
	(i) Specify relevant legislation and its entry into force:		
(ii)	Specify country/region and/or waste which would be covered by this restriction:		
iii)	Remarks:		
3f	Are there any restrictions on the <u>transit</u> of hazardous wastes and radioactive wastes through your country?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation		
	If yes, please provide the following:		
	(i) Specify relevant legislation and its entry into force:		
(ii)	Specify country/region and/or waste which would be covered by this restriction:		
iii)	Remarks:		
4	Control Procedure of the Transboundary Movement of Wastes	Updated?	
4a	Are the Notification and Movement document forms of the Waigani Convention used and/or accepted in the control of transboundary movement of hazardous wastes?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation		
	(i) If yes, have there been any problems in the usage of the Notification and Movement document forms?		
	<input type="checkbox"/> Yes <input type="checkbox"/> No		
	If you have encountered any problem, please explain:		
(ii)	Provide information on any other forms which are used and/or accepted in the control of transboundary movement of hazardous.		
	:		

4b	Is the border control for the purpose of export/import/transit of hazardous wastes was established?	<input type="checkbox"/> Yes <input type="checkbox"/> No
	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation (i) Is the Harmonized System on customs control of the World Customs Organization used? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> In preparation (ii) Remarks:	
5	Reduction and/or Elimination of the <u>Generation</u> of Hazardous Wastes	Updated?
(i)	Describe measures taken for the reduction and/or elimination of the amount of hazardous wastes generated:	<input type="checkbox"/> Yes <input type="checkbox"/> No
	National strategies/policies:	
(ii)	Legislation, regulations and guidelines:	
(iii)	Economic instruments/initiatives:	
(iv)	Measures taken by industries/waste generators:	
(v)	Others:	

Table 3
Recovery Facilities Operated within the National Jurisdiction
Please provide the following information
OR indicate the source from where such information could be obtained:

Updated?

Yes No

Facility/operation or process (Name, address, organization/company, etc.)	Description of the facility, operation or process	Recovery operation (Annex VB) R code	Capacity of the facility (in metric tonnes)	Does the facility treat wastes imported Yes/No

OR

Sources of information from where such information could be obtained:	
Remarks:	

Table 4

Sources of Technical Assistance

Please list institutions (e.g. governmental bodies, universities, research centers etc.) to contact within your country for technical assistance and training; technical and scientific know-how, and for advice and expertise in various fields of assistance specified below:

Updated?

Yes No

Name and address of institutions	Field of Assistance						
	Notification system	Management of hazardous wastes	Environmentally sound technologies	Assessment of disposal capabilities and sites	Monitoring of hazardous wastes	Emergency response	Identification of cases of illegal traffic

OR

Sources of information from where such information could be obtained:

Remarks:

Table 5
Sources of Financial Assistance

Please list institutions within your country that could be contacted by other Parties for financial assistance, if required:

Updated?

Yes	No
-----	----

Name and address of institutions	Field of Assistance						
	Notification system	Management of hazardous wastes	Environmentally sound technologies	Assessment of disposal capabilities and sites	Monitoring of hazardous wastes	Emergency response	Identification of cases of illegal traffic

OR

Sources of information from where such information could be obtained:

Remarks:

Annex X - Transboundary Movement Of Waste - Notification Waigani Convention

1. Exporter (name, address): Contact person: _____ Tel: _____ _____ Fax/Telex: _____ Reason for export: _____		3. Notification concerning (1):	
		A (i) Single Movement <input type="checkbox"/> (ii) General notification (multiple movements) <input type="checkbox"/> B (i) Disposal (no recovery) <input type="checkbox"/> (ii) Recovery operation <input type="checkbox"/> C Pre-authorized recovery facility (1) Yes <input type="checkbox"/> No <input type="checkbox"/> Facility Registration Number (if Yes) _____ (To be completed for a recovery facility located in an OECD State)	
2. Importer (name, address): Contact person: _____ Tel: _____ _____ Fax/Telex: _____		4. Total intended number of shipments	5. Estimated quantity (3) _____ kg _____ litres
7. Intended carrier(s)* (name, address) (2): Contact person: _____ Tel: _____ _____ Fax/Telex: _____		8. Disposer (name, address)	
10. Waste generator(s) (name, address) (2): Contact person: _____ Tel: _____ _____ Fax/Telex: _____ Site of generation & process: _____		Contact person: _____ Tel: _____ Actual site of disposal: _____ Fax/Telex: _____ 9. Method(s) of disposal: D code / R code (4): _____ Technology employed (Attach details if necessary): _____	
13. (i) Designation and chemical composition of the waste		11. Mode(s) of transport (4):	12. Packaging Type(s) (4):
15. Waste identification code in country of export: _____ IWIC: _____ in country of import: _____ EWC: _____ Customs Code H.S.: _____ Other (specify): _____		14. Physical characteristics	
16. OECD classification (1): amber <input type="checkbox"/> red <input type="checkbox"/> and number: _____ other <input type="checkbox"/> (attach details)		17. Y-number (4):	18. H-number (4):
19. (i) UN identification: UN Shipping name: _____		(ii) UN class (4):	
20. Concerned states, code number of Component authorities, and specific points of entry and exit: (5)			
State of export	States of transit	State of Import	
21. Customs offices of entry and/or departure (European-Community): Entry: _____ Departure: _____		22. Number of annexes Attached (5)	
23. Exporter's/Generators declaration: I certify that the above information is complete and correct to my best knowledge. I also certify that legally-enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement. Name: _____ Signature: _____ Date: _____			
FOR USE BY COMPETENT AUTHORITIES			
24. To be completed by Notification received on: _____ Acknowledgment sent on: _____ Name of competent authority, stamp and/or signature: _____		25. Consent to the movement provided by the competent authority of (country): Consent given on: _____ Consent expires on: _____ Specific conditions (1): <input type="checkbox"/> Yes. See block 26 overleaf/annex _____ <input type="checkbox"/> No. Name of competent authority, stamp and/or signature: _____	
- Import (EEC, OECD) - transit (Basel)			

(1) Enter X in appropriate box; (2) Attach a list if more than one; (3) Attach a list if multiple shipment; (4) See codes on the reverse; [5] Annexes to be provided for reasons on reverse

List of abbreviations used in the notification form

DISPOSAL (NO RECOVERY) (Block 9) D1 Deposit into or onto Land, (e.g., Landfill, etc.) D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc...) D3 Deep Injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.) D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc...) D5 Specially engineered landfill, (e.g., placement onto lined discrete cells which are capped and isolated from one another and the environment, etc...) D6 Release into water body except seas/oceans D7 Release into seas/oceans including sea-bed insertion D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations number D1 to D12 D9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations numbered D1 to D12, (e.g., evaporation, drying, calcination etc.) D10 Incineration on land D11 Incineration at sea D12 Permanent Storage, (e.g., emplacement in containers in a mine, etc.) D13 Blending or mixing prior to submission to any of the operations numbered D1 to D12 D14 Repackaging prior to submission to any of the operations number D1 to D12. D15 Storage pending any of the operations D1 to D12.			RECOVERY OPERATIONS (Block 9) R1 Use as a fuel (other than in direct incineration) or other means to generate energy R2 Solvent reclamation/regeneration R3 Recycling/reclamation of organic substances which are not used as solvents R4 Recycling/reclamation of metal compounds R5 Recycling/reclamation of other inorganic materials R6 Regeneration of acid or bases R7 Recovery of components from used for pollution abatement R8 Recovery of components from catalysts R9 Used oil re-refining or other reuses of previously used oil R10 Land treatment resulting in benefit to agricultural or ecological improvement R11 Uses of residual material obtained from any of the operations numbered R 1 to R10 R12 Exchange of wastes for submission to any of the operations numbered R1 to R11 R13 Accumulation of material intended for any operations numbered R1 to R12		
H NUMBER (Block 18) AND UN CLASS (Block 19)					
MODES OF TRANSPORT (Block 11)	PACKAGING TYPES (Block 12)	PHYSICAL CHARACTERISTICS (Block 14)	UN	Class	H number
R Road	1 Drum	1 Powdery/powder	1	H1	Explosive
	2 Wooden Barrel	2 Solid	3	H3	Inflammable liquids
T Train/Rail	3 Jerrican	3 Viscous/paste	4.1	H4.1	Inflammable solids
	4 Box	4 Sludgy	4.2	H4.2	Substances or wastes liable to spontaneous combustion
S Sea	5 Bag	5 Liquid	4.3	H4.3	Substances or waste which, in contact with water, emit inflammable gases
	6 Composite Packaging	6 Gaseous	5.1	H5.1	Oxidizing
A Air	7 Pressure receptacle	7 Other (specify)	5.2	H5.2	Organic peroxides
	8 Bulk		6.1	H6.1	Poisonous (acute)
W Inland Waterways	9 Other (Specify		6.2	H6.2	Infectious substances
			8	H8	Corrosives
ANNEXES – Other information required including that as described in Annex VIA of the Waigani Convention (Block 22)			9	H10	Liberation of toxic gases in contact with air or water
1	Reasons for waste export		9	H11	Toxic (delayed or chronic)
2	Full name, address, phone, telex or fax number of the competent authorities of the State of export of the wastes, the expected transit countries, and the country of import of the wastes		9	H12	Ecotoxic
3	Planned shipping itinerary giving dates and points of entry and exit		9	H13	Capable, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above
4	Information on insurance		Codes used for the radioactive materials		
5	Process by which the waste is generated				
6	Information used by the exporter or generator to assess the capacity of the importer to deal with the material in an environmentally sound manner and in accordance with legislation of the country of import				
7	Information concerning the contract between the exporter and the disposer				
8	Others as needed				
<i>Y numbers (block 17) refer to categories of waste listed in Annex I of the Waigani Convention. These codes, as well as more detailed information can be found in an instruction manual available from the Secretariat of Waigani Convention.</i>					
26. SPECIFIC CONDITIONS ON CONSENTING TO THE MOVEMENT					

Annex X - Transboundary Movement Of Waste - Notification Waigani Convention

1. Exporter (name, address): Contact person: _____ Tel: _____ _____ Fax/Telex: _____ Reason for export: _____		3. Notification concerning (1): A (i) Single Movement <input type="checkbox"/> (ii) General notification <input type="checkbox"/> (multiple movements)		B (i) Disposal (no recovery) <input type="checkbox"/> (ii) Recovery operation <input type="checkbox"/>	
		C Pre-authorized recovery facility (1) Yes <input type="checkbox"/> No <input type="checkbox"/> Facility Registration Number (if Yes) _____ (To be completed for a recovery facility located in an OECD State)			
2. Importer (name, address): Contact person: _____ Tel: _____ _____ Fax/Telex: _____		4. Total intended number of shipments		5. Estimated quantity (3) _____ kg _____ litres	
		6. Intended date(s) or period of time for shipment(s)			
7. Intended carrier(s)* (name, address) (2): Contact person: _____ Tel: _____ _____ Fax/Telex: _____		8. Disposer (name, address) Contact person: _____ Tel: _____ Actual site of disposal: _____ Fax/Telex: _____			
10. Waste generator(s) (name, address) (2): Contact person: _____ Tel: _____ _____ Fax/Telex: _____ Site of generation & process: _____		9. Method(s) of disposal: D code / R code (4): _____ Technology employed (Attach details if necessary): _____			
		11. Mode(s) of transport (4):		12. Packaging Type(s) (4):	
13. (i) Designation and chemical composition of the waste		(ii) Special handling requirements		14. Physical characteristics	
15. Waste identification code in country of export: _____ IWIC: _____ in country of import: _____ EWC: _____ Customs Code H.S.: _____ Other (specify): _____				17. Y-number (4): 18. H-number (4):	
16. OECD classification (1): amber <input type="checkbox"/> red <input type="checkbox"/> and number: _____ other <input type="checkbox"/> (attach details)		19. (i) UN identification: UN Shipping name: _____		(ii) UN class (4):	
20. Concerned states, code number of Component authorities, and specific points of entry and exit: (5)					
State of export		States of transit		State of Import	
21. Customs offices of entry and/or departure (European-Community): Entry: _____ Departure: _____		22. Number of annexes Attached (5)		23. Exporter's/Generators declaration: I certify that the above information is complete and correct to my best knowledge. I also certify that legally-enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement. Name: _____ Signature: _____ Date: _____	
FOR USE BY COMPETENT AUTHORITIES					
24. To be completed by Notification received on: _____ Acknowledgment sent on: _____ Name of competent authority, stamp and/or signature: _____		- Import (EEC, OECD) - transit (Basel)		25. Consent to the movement provided by the competent authority of (country): Consent given on: _____ Consent expires on: _____ Specific conditions (1): <input type="checkbox"/> Yes. See block 26 overleaf/annex <input type="checkbox"/> No. Name of competent authority, stamp and/or signature: _____	

(1) Enter X in appropriate box; (2) Attach a list if more than one; (3) Attach a list if multiple shipment; (4) See codes on the reverse; [5] Annexes to be provided for reasons on reverse

List of abbreviations used in the notification form

DISPOSAL (NO RECOVERY) (Block 9) D1 Deposit into or onto Land, (e.g., Landfill, etc.) D2 Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc...) D3 Deep Injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.) D4 Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc...) D5 Specially engineered landfill, (e.g., placement onto lined discrete cells which are capped and isolated from one another and the environment, etc...) D6 Release into water body except seas/oceans D7 Release into seas/oceans including sea-bed insertion D8 Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations number D1 to D12 D9 Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations numbered D1 to D12, (e.g., evaporation, drying, calcination etc.) D10 Incineration on land D11 Incineration at sea D12 Permanent Storage, (e.g., emplacement in containers in a mine, etc.) D13 Blending or mixing prior to submission to any of the operations numbered D1 to D12 D14 Repackaging prior to submission to any of the operations number D1 to D12. D15 Storage pending any of the operations D1 to D12.			RECOVERY OPERATIONS (Block 9) R1 Use as a fuel (other than in direct incineration) or other means to generate energy R2 Solvent reclamation/regeneration R3 Recycling/reclamation of organic substances which are not used as solvents R4 Recycling/reclamation of metal compounds R5 Recycling/reclamation of other inorganic materials R6 Regeneration of acid or bases R7 Recovery of components from used for pollution abatement R8 Recovery of components from catalysts R9 Used oil re-refining or other reuses of previously used oil R10 Land treatment resulting in benefit to agricultural or ecological improvement R11 Uses of residual material obtained from any of the operations numbered R 1 to R10 R12 Exchange of wastes for submission to any of the operations numbered R1 to R11 R13 Accumulation of material intended for any operations numbered R1 to R12		
H NUMBER (Block 18) AND UN CLASS (Block 19)					
MODES OF TRANSPORT (Block 11)	PACKAGING TYPES (Block 12)	PHYSICAL CHARACTERISTICS (Block 14)	UN	Class	H number
R Road	1 Drum	1 Powdery/powder	1	H1	Explosive
	2 Wooden Barrel	2 Solid	3	H3	Inflammable liquids
T Train/Rail	3 Jerrican	3 Viscous/paste	4.1	H4.1	Inflammable solids
	4 Box	4 Sludgy	4.2	H4.2	Substances or wastes liable to spontaneous combustion
S Sea	5 Bag	5 Liquid	4.3	H4.3	Substances or waste which, in contact with water, emit inflammable gases
	6 Composite Packaging	6 Gaseous	5.1	H5.1	Oxidizing
A Air	7 Pressure receptacle	7 Other (specify)	5.2	H5.2	Organic peroxides
	8 Bulk		6.1	H6.1	Poisonous (acute)
W Inland Waterways	9 Other (Specify		6.2	H6.2	Infectious substances
			8	H8	Corrosives
ANNEXES – Other information required including that as described in Annex VIA of the Waigani Convention (Block 22)			9	H10	Liberation of toxic gases in contact with air or water
1	Reasons for waste export		9	H11	Toxic (delayed or chronic)
2	Full name, address, phone, telex or fax number of the competent authorities of the State of export of the wastes, the expected transit countries, and the country of import of the wastes		9	H12	Ecotoxic
3	Planned shipping itinerary giving dates and points of entry and exit		9	H13	Capable, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above
4	Information on insurance		Codes used for the radioactive materials		
5	Process by which the waste is generated				
6	Information used by the exporter or generator to assess the capacity of the importer to deal with the material in an environmentally sound manner and in accordance with legislation of the country of import				
7	Information concerning the contract between the exporter and the disposer				
8	Others as needed				
<i>Y numbers (block 17) refer to categories of waste listed in Annex I of the Waigani Convention. These codes, as well as more detailed information can be found in an instruction manual available from the Secretariat of Waigani Convention.</i>					
26. SPECIFIC CONDITIONS ON CONSENTING TO THE MOVEMENT					

Annex XII - Draft Guidance Elements for Detection, Prevention and Control of Illegal Traffic in Hazardous Wastes

INTRODUCTION

Purpose of these guidance elements

1. Decision V/11 of the first meeting of the Conference of the Parties for the Waigani Convention (COP1) invited Parties in their efforts to prevent, identify and manage illegal traffic to use the Guidance Elements for Detection, Prevention and Control of Illegal traffic in Hazardous Wastes developed under the Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal (the Basel Convention) as an interim measure and further requested the Scientific and Technical Advisory Committee (STAC) to revise and amend the guidance elements for adoption by the Conference of the Parties (COP).

2. Decision V/12 of COP1 also invited Parties to use the Basel Convention Form for Confirmed Cases of Illegal Traffic to report confirmed cases of illegal traffic to the Secretariat as an interim measure and further requested STAC to revise and amend the guidance elements for adoption by the COP.

3. The purpose of the document is to be a practical guide to assist enforcement of national law implementing the Waigani Convention.

4. Its intended audience includes Party Governments, ministries, federal and state authorities and agencies, law enforcement authorities and competent authorities.

5. Various readers will be interested in paragraphs dealing with matters related to their particular sphere of concern.

6. Representatives of Governments and ministries will be mainly interested in those paragraphs providing guidance for developing their national legislation or institution arrangements (e.g. paragraphs 14 to 17; 37 to 41; 49-50 and Appendix 1). Police officers will be more interested in reading paragraphs which could be useful to their particular mandate and activity (e.g. paragraphs 45 to 47; 51 to 54; 82 to 88). Customs officers will find it useful to read those paragraphs dealing with techniques of inspection of consignments on how to determine whether the material is or is not a hazardous waste.

7. These guidance elements are intended to set out the recommended procedures requested at COP1 Decisions V/11 and V/12.

Objectives

8. These guidelines focus on enforcement at the domestic level. By reference to the Convention documents and other resources they also provide guidance for Parties who have yet to develop implementing legislation.

Background

9. Ensuring enforcement of law implementing Multilateral Environmental Agreements (MEAs) is a widely recognised problem because enforcing national legislation and procedures across international boundaries is difficult and complex. Nevertheless, there is much useful experience of enforcement of law implementing MEAs amongst countries.

10. By decision SS VII/4, the Seventh Special Session of the Governing Council/Global Ministerial Environment Forum of UNEP, adopted the Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements.

11. The process of adoption of these Guidelines has highlighted the need for Parties to have the flexibility to design domestic implementation measures that are suited to their national circumstances and attributes.

Developing a national capacity to identify and manage illegal traffic

12. In order to implement the Waigani Convention effectively, it is important to develop and/or maintain national capacity for identifying, controlling and managing illegal traffic. The secretariat of the Waigani Convention will continue to support measures designed to enhance national and local capacity to comply with the agreements. These include technical and financial assistance, training and technology transfer. The private sector should also be encouraged to take a role.

13. As there are a number of complex legal and technical aspects to effective management of illegal traffic, a multifaceted approach to combating illegal traffic will be required.

National legislation

14. A key element in preventing and managing illegal traffic is an effective national regulatory environment. States should develop and implement a participatory approach to determining domestic needs and to setting priorities to encourage a culture of compliance. States should also provide for effective participation by civil society, including industry and non-governmental organizations when developing legislation and strengthen domestic institutions, including the judiciary.

15. Building an effective legal and institutional framework for enforcement and awareness raising, taking into account interlinkages between obligations in various MEAs, should be considered by Parties.

16. The secretariat of the Waigani Convention will continue to offer legal assistance to Parties that request it.

17. Those Parties in need of assistance for developing their national legislation, in addition to contacting the secretariat of the Waigani Convention, could seek bilateral assistance from other parties, etc, or consult three documents adopted by the Conference of the Parties to the Basel Convention: Model National Legislation; the Manual for the Implementation of the Basel Convention and the Instruction Manual, noting the similarities between the Basel and Waigani Conventions.

Definitions

18. There are different interpretations for terms such as "compliance", "enforcement" and "environmental crime" in international practice and law. These definitions are currently the subject of considerable debate in the international area.

19. The Waigani Convention contains a number of definitions that are relevant to managing illegal traffic. They include, for example, "wastes", "transboundary movement", "disposal", "environmentally sound management", "area under the national jurisdiction of a State", "importing Party", "exporting Party", "transit Party", "person",

"exporter", "importer", "carrier" and "generator" and "disposer". These all have a bearing on how intelligence is gathered and how illegal traffic is detected and monitored. Moreover, different Parties implement their Waigani obligations under different forms of national legislation, which all carry their own definitions. These may be broader than those laid out by the Waigani Convention.

20. Hazardous wastes are defined, in Article 2.1(a) of the Waigani Convention, as wastes that belong to any category contained in Annex I, unless they do not possess any of the characteristics contained in Annex II. Annex I of the Waigani Convention lists the categories of wastes to be controlled.

21. Annex II lists the hazardous characteristics of Waigani Convention wastes. The seventh session of the Technical Working Group of the Basel Convention noted that the United Nations Committee of Experts on the Transport of Dangerous Goods *Recommendations on the Transport of Dangerous Goods, English revised edition* 1993 had defined test procedures that elaborated the interpretation of H1, H3, H4.1, H4.2, H4.3, H5.1, H5.2, H6.1 and H8. However, it also noted that these were relevant only to the transport of the wastes, not their disposal. Annex II notes that 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 Annex II. Technical Working Group of the Basel Convention is still to finalise its work on some of these hazard characteristics.

22. Hazardous wastes are also defined, in Article 2.1(b) of the Waigani Convention, as wastes that are not covered under sub-paragraph (a) but are defined as, or are considered to be, hazardous wastes by the national legislation of the exporting, importing or transit Party. Article 3 states that each Party shall, within six months of becoming a Party, inform the secretariat of the wastes that, under its national legislation, are covered under Article 2.1(b). Parties shall also inform the secretariat of any significant changes to the information provided. The secretariat shall inform all Parties of the information it has received. Parties shall be responsible for making this information available to their exporters, importers and other appropriate bodies.

23. Interpretation of these definitions is complex and cases of illegal traffic may stem from differing interpretations of hazardous waste definitions. This may be further complicated by problems in translation from one language to another.

Summary of the provisions of the Waigani Convention concerning Illegal Traffic and of the Decisions of the Conference of the Parties

24. Illegal traffic is the subject of Article 9 of the Waigani Convention. Article 9.1 defines illegal traffic as any transboundary movement of hazardous wastes:

- (a) without notification pursuant to the provisions of this Convention to all countries concerned; or
- (b) without the consent pursuant to the provisions of this Convention of a country concerned; or
- (c) with consent obtained from countries concerned through falsification, misrepresentation or fraud; or
- (d) that does not conform in a material way with the supporting documentation; or
- (e) that results in deliberate disposal (e.g. dumping) of hazardous wastes in contravention of this Convention, other relevant international instruments and of general principles of international law, or in contravention of the import or export bans established by Article 4.1.

24bis. Article 9.2 specifies that each Party should introduce or adopt appropriate national legislation to prevent and punish illegal traffic, and that the Parties shall cooperate with a view to achieving the objects of this Article.

25. Article 9.3 specifies what must be done if a transboundary movement is deemed to be illegal traffic as the result of conduct on the part of the exporter or generator. The exporting Party shall ensure that the wastes in question are:

- (a) taken back by the exporter or the generator or, if necessary, by itself into the exporting Party, or, if impracticable,
- (b) otherwise disposed of in accordance with the provisions of this Convention, within 30 days from the time the exporting Party has been informed about the illegal traffic or such other period of time countries concerned may agree to. To this end the Parties concerned shall not oppose, hinder or prevent the return of those wastes to the exporting Party.

26. Article 9.4 specifies what must be done if a transboundary movement is deemed to be illegal traffic as the result of conduct on the part of the importer or disposer. The importing Party 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. This shall be done within 30 days from the time the illegal traffic has come to the attention of the importing Party or such other period of time as the countries concerned may agree on. To this end, the Parties concerned shall cooperate, as necessary, in the disposal of the wastes in an environmentally sound manner.

27. Article 9.5 specifies what must be done if 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 cooperate to ensure that the wastes in question are disposed of as soon as possible in an environmentally sound manner either in the exporting Party or the importing Party or elsewhere as appropriate.

28. *Article 9.6 requires the Secretariat to coordinate with the Secretariat of the Basel Convention in relation to the effective prevention and monitoring of illegal traffic in hazardous wastes. This is to include the exchange of information on incidents or alleged incidents of illegal traffic in the Convention Area and on the appropriate steps to remedy such incidents, and providing assistance in the field of capacity building including development of national legislation and of appropriate infrastructure in the Pacific Island Developing Parties with a view to the prevention and penalisation of illegal traffic of hazardous wastes.*

29. The prevention and control of illegal traffic in hazardous wastes is an important issue for the Waigani Convention, *particularly with respect to the ban on imports of hazardous wastes and radioactive wastes from outside the Convention area which is specified in Article 4.1(a). PICs continue to be targeted by persons outside the Convention area who propose the import of hazardous waste in the guise of "benign" material (eg "clean" landfill).*

30. At the first meeting of the Conference of the Parties, it was recognized that illegal traffic of hazardous wastes remains an issue of concern for the Pacific Region and requires close cooperation among States with the support of the secretariat, the Secretariat of the Basel Convention, as well as other relevant organisations.

31. The main provisions of the decision adopted by the Conferences of the Parties on the issue of illegal traffic are:

- requests Parties to ensure that national legislation for the management of chemical wastes and hazardous wastes to be developed also addressed the issue of illegal traffic of hazardous wastes and radioactive wastes;
- requests the Parties to incorporate in their legal systems, appropriate sanctions or penalties on all persons who have planned, carried out or assisted in illegal traffic in hazardous wastes and radioactive wastes;
- requests Parties to promote at the Ministerial level, all means to prevent and penalise illegal traffic in hazardous wastes; requests the Secretariat to assist Parties in developing national legislation and administrative procedures for the prevention, monitoring, repression and remediation of illegal traffic;
- encourages Parties to establish informal bilateral arrangements to better target illegal traffic between their countries;
- encourages Parties to bring any cases, or, if appropriate, alleged cases of illegal traffic to the attention of the Secretariat and to provide the Secretariat with all necessary information to enable it to take any appropriate action in accordance with Article 9.6;
- invites Parties in their efforts to preventing, identifying and managing illegal traffic to use the Guidance Elements for Detection, Prevention and Control of Illegal traffic in Hazardous Wastes developed under the Basel Convention as an interim measure and further requested STAC to revise and amend the guidance elements for adoption by the Conference of the Parties (COP); and
- invites Parties to use the Basel Convention Form for Confirmed Cases of Illegal Traffic to report confirmed cases of illegal traffic to the Secretariat as an interim measure and further requested STAC to revise and amend the guidance elements for adoption by the Conference of the Parties (COP).

32. The secretariat of the Waigani Convention was requested by the decision made at COP1 to report to the second meeting of the Conference of the Parties, through the STAC as appropriate, on information received by Parties, and encouraged to:

- to establish or strengthen collaboration with the Basel Convention Secretariat and the relevant international institutions in order to achieve better control and monitoring of cases of illegal traffic in hazardous wastes; and
- to explore ways of improving its cooperation with non governmental organisation, industry and the private sector for the prevention and monitoring of illegal traffic.

33. Appendix 1 contains all the provisions of the Waigani Convention related to illegal traffic and all the provisions of the decision adopted at COP1 by the Conference of the Parties of the Waigani Convention in relation to the issue of illegal traffic.

34. The five parts of the guidance elements for the detection, prevention and control of illegal traffic in hazardous waste should be considered in their entirety including all appendices, each part bringing specific suggestions for the same general goal.

35. Appendix 2 contains case studies/examples of successful actions of Parties under the Basel Convention.

36. These Draft Guidance Elements were prepared by the secretariat based on those developed under the Basel Convention and modified according to suggestions from Parties.

PART 1. NATIONAL CAPACITY BUILDING AND INTERNATIONAL COOPERATION

National Capacity Building

1a. Competent Authority/Focal Point

37. Article 5 of the Waigani Convention requires Parties to designate or establish one or more competent authority and one focal point. Parties must inform one another through the secretariat, of any changes in these arrangements.

38. National competent authorities have the main obligation to prevent, manage and punish illegal traffic of hazardous wastes. The secretariat should continue to organize training activities for competent authorities.

1b. Administrative procedures

39. Effective and transparent administrative procedures are another key agent in preventing and managing illegal cases of hazardous wastes.

Ic. National inventories

40. National authorities should adopt a common approach for compiling statistics (including from the export/importing companies) on the legal and illegal transboundary movements of hazardous wastes. Such an approach should incorporate both the Waigani Convention, Basel Convention and the Harmonised System of classification.

41. National inventories should be maintained on a yearly basis and should be used as a policy tool against illegal traffic, and to implement pragmatic and focused preventive and coercive measures against illegal traffic.

Id. Promotion of compliance

42. Competent authorities should develop compliance and enforcement strategies covering the four main components of compliance. These are education and information dissemination, permitting, detecting offences and investigations and enforcement action.

a. Education and information dissemination

43. This component focuses on behaviour modification and includes dissemination of information to shippers and exporters, responding to inquiries about the scope of the Convention and ensuring easy access for industry to guidance documents and promotional material. Another important thrust concerns proactive activities which seek to find solutions for waste disposal in country or to improve industry practice. These activities may include regular advertisements, production of guidance documents for dissemination to industry, initiating and participating in workshops, workgroups and discussions to assist where possible in establishing appropriate domestic solutions to waste disposal and encouraging companies to implement waste minimisation practices, cleaner production techniques and best practice technologies and methodologies.

b. Permitting

44. This component is about ensuring that any system of permits has in place checks and balances. It aims to ensure clarity of requirements, cross-checking of information, minimum standard requirements for public notices and tailoring of permit conditions to particular circumstances. Activities may include revision of forms to make requirements clear, ensuring the security of permit numbers, establishing procedures to cross check actual movements, as reported in Customs data,

against those specified in permits. The permits should clearly specify the obligations of the exporters.

c. Detecting offences

45. This component involves ad hoc inspections of shipments, taking of samples by inspectors, targeting particular types of export/import movements for compliance checks, checking of Customs data and provision of intelligence to Customs, targeting high-risk situations and initiating specific enforcement activities. Activities include ensuring a regular supply of information from Customs and establishing protocols for reviewing Customs data on a regular basis and responding to data that needs further action, targeting high-risk shipments for inspection and developing training courses for inspectors and Customs personnel.

d. Investigations and enforcement actions

46. This component consists of referral of possible breaches of the laws implementing the Convention to law-enforcement agencies. Activities may include developing standard operating procedures to assist in conducting investigation and developing comprehensive investigative procedures which do not risk compromising an investigation.

47. As enforcement of law becomes increasingly diverse and complex more demands are being made of all sectors of the community to ensure compliance with the law. This can be achieved proactively through education or reactively through investigation and subsequently, possible prosecution. Non-governmental organizations and community groups can make important contributions to enforcement and competent authorities should ensure that they can work effectively with them.

Ie. Training of enforcement personnel

48. Training of personnel involved in preventing, identifying and managing illegal traffic is central to effective control. Where there is a breach of a law an investigation is often necessary. Given the complexities inherent in such an investigation it is essential that the investigator be equipped with appropriate competencies and knowledge in order to fulfil the role effectively and efficiently. A basic training manual, jointly prepared by the Secretariat for the Basel Convention, Interpol and WCO but still with obvious relevance for the Waigani Convention, will be attached to this Guidance as Appendix 4.

If. Technical expertise/facilities

49. Lack of technical expertise/facilities is an obstacle to effective prevention, monitoring and

management of illegal traffic in hazardous wastes. The secretariat shall develop Guidelines on the development of incident, accident and contingency preparedness plan for hazardous wastes. Regional and sub-regional mechanism for Dump Watch alert system are encourage.

50. Where use of a national laboratory or facility is not feasible a regional solution should be sought. Regional training centres could play a key role in addressing this issue. Advice may be sought from the secretariat of the Waigani Convention, which may refer inquiries to relevant experts. The International Network on Compliance and Enforcement (INECE) can also help.

Ig. Enforcement/intelligence capacity

51. When developing strategies for preventing and managing illegal traffic in hazardous wastes, Parties could use any existing draft guidelines for compliance and enforcement. In particular, recommendations on transparency of approach, strengthening treaty reporting requirements, site monitoring, compliance incentives, building national capacity and education and awareness raising would provide a sound basis for such work.

52. Data gathering and information analysis is also a very important tool. In particular, close monitoring of hazardous waste import and export statistics, should be based on waste trade patterns and the modus operandi of confirmed illegal shipments to form an overall picture. For example, much of the data on illegal traffic in hazardous wastes is related to contaminated waste (i.e. wastes mixed with hazardous substances) or non-recyclable wastes. Past experience indicates that illegally imported or exported waste is often declared as non-hazardous scrap (e.g. mixed metal scrap and plastic scrap) and tends to be exported by small trading firms or agents with no waste recycling facilities, rather than original waste generators. Prior to the arrival of the waste at its destination, the waste is likely to have changed hands several times. Consequently, illegal traffic is generally suspected where the origin or exporter of a shipment is difficult to determine.

53. Some countries have been liaising with their major waste trade partners to share operational experience and refine the criteria for selecting shipments for inspection. Cooperation between competent authorities is also useful in determining the legal status of a shipment.

54. Heavy cargo traffic at many international ports and the time taken to conduct random screening and inspection, mean that sometimes illegal traffic is not detected prior to departure. Where an illegal shipment is suspected, competent authorities can exchange information on the name of the vessel, the contained number(s) and the date of departure so that the waste can be intercepted on its arrival at its destination. This type of cooperation can benefit both parties, as it allows time for shipping documents to be scrutinised and for inspections to be organized.

It is also relevant to all modes of transport including sea, road, rail, river and air.

55. Competent authorities should use a risk management approach to setting compliance and enforcement priorities, to ensure that their resources are targeted effectively. A typical approach would involve five steps, namely:

1. Establish the context
2. Identify the risks
3. Analyse the risks
4. Assess the risks and set priorities
5. Treat the risks
6. Following-up the process

56. Guidelines for such a risk management approach are provided in Appendix 5.

Ih. Effective licensing and monitoring of facilities

57. The Waigani Convention provides that each Party shall prohibit all persons under its national jurisdiction from transporting or disposing of hazardous wastes or other waste unless such persons are authorised or allowed to perform such types of operation. In order to meet this obligation all parties must have effective licensing and monitoring systems in place.

Ii. Effective inter-agency cooperation etc.

58. National environmental agencies generally work with local, national and international authorities to enforce controls on transboundary movements of hazardous waste. Customs agencies and competent authorities are key partners in detecting, intercepting and inspecting suspect hazardous waste shipments at critical control points.

59. International and national environmental agencies should collaborate with competent authorities, local police, transport companies, recycling industries, NGOs, etc. in detecting, investigating and managing illegal waste traffic. A high level of cooperation is crucial in managing and

monitoring the waste if it is to be safely and quickly returned to its place of origin.

60. Illegal hazardous waste shipments can often be detected by reviewing information contained in shipping manifests. Information received from partner agencies is also useful in building profiles for targeting illegal waste traders. For example, companies previously involved in illegal or problematic shipments are targeted for inspection as are shipments with profiles describe above. Often such shipments are identified in cooperation with overseas control authorities, and provide an effective additional check to random inspections.

International Cooperation

a. Levels of international cooperation

61. International cooperation for detection, prevention and control of illegal traffic in hazardous wastes can occur on the following levels:

- interaction of competent authorities
- use of international intelligence networks by enforcement/intelligence officers
- role of/cooperation with other international organizations such as the World Customs Organization (WCO), Interpol, etc.

62. The interaction between the competent authorities of the country of export, country of import and countries of transit is necessary and could help in detecting, preventing and controlling the illegal traffic of hazardous wastes. Formal and informal communication could be used, including e-mail messages which facilitate quick interaction.

63. The World Customs Organization initiated in July 2000 a network called Customs Enforcement Network (CEN). The aim of this network is to link all customs administrations for enforcement purposes and provide them with a common database and reference system. Any national customs administration should be connected to CEN through its National Contact Point. By using the CEN network, national customs administration can have immediate and direct access to the database of all previous cases of illegal traffic of hazardous wastes.

64. Another source of intelligence and useful information about past cases of illegal traffic of hazardous wastes and modus operandi could be obtained from Interpol through National Central Bureaus.

65. Such profiles will need to be continually updated if regulatory authorities are to keep abreast of developments in illegal traffic trends.

b. Role of the secretariat of the Waigani Convention

66. The secretariat of the Waigani Convention is rapidly improving its ability to facilitate international cooperation in the prevention, identification and management of illegal traffic in hazardous waste. In particular, the secretariat has identified a large number of relevant international organizations (other than the Secretariat for the Basel Convention) that could cooperate in joint activities aimed at better controlling and monitoring alleged or confirmed cases of illegal traffic. These include Interpol, World Customs Organization, UN Commission on Crime Prevention and Criminal Justice, UNEP, UNDP, IAEA/World Atom, the Secretariat of Climate Change, CITES, Ozone Secretariat, the UN High Commissioner for Human Rights, the Food and Agriculture Organization of the United Nations (FAO), the European Commission, the International Maritime Organization (IMO), the Organization for Economic Cooperation and Development (OECD), the Organization for the Prohibition of Chemical Weapons (OPCW).

67. The secretariat intends to develop Memoranda of Understanding or similar agreements with most, if not all, these organizations. These agreements will outline each party's area of responsibility and modalities for cooperation.

68. Future cooperative efforts will be focused on achieving practical and concrete results in the following priority areas:

- (i) identifying opportunities for combating illegal traffic;
- (ii) information exchange;
- (iii) improving data collection and analysis;
- (iv) updating criminal profiling;
- (v) improving methodologies for compliance and enforcement;
- (vi) identifying and resolving deficiencies in existing national legislation;
- (vii) training in compliance and enforcement;
- (viii) awareness raising and information dissemination.

PART 2. PREVENTION

69. It is very important for Parties prohibiting the import of various wastes to ensure that this information is transmitted to other Parties via the secretariat as required by Article 7 of the Convention.

70. Article 3.1 of the Waigani Convention requires each Party, within six months of becoming a Party to the Convention, to inform the secretariat of the Convention of the wastes, other than those listed in Annex I, considered or defined as hazardous under its national legislation and of any requirements concerning transboundary movement procedures applicable to such wastes.

71. Article 3.4 requires Parties to be responsible for making the information transmitted to them by the secretariat available to their exporters, importers and other appropriate bodies.

72. In cases where national legislation is defective or where there is information or technical obstacles to compliance, there are a range of measures that might enhance the capacity of Parties to comply, such as legal and technical assistance which could be requested through the Waigani secretariat.

73. Prevention can encompass detection, investigation, management of the intercepted cargo and legal action.

2a. Cooperation with Customs and other regulatory authorities

74. Cooperation with Customs and other regulatory authorities is central to preventing illegal traffic. Work currently being undertaken on the Harmonised System (HS) of the World Customs Organization will provide a much greater understanding of the extent of the illegal traffic problem and will allow greater scope for identifying and targeting problem areas.

75. There is today wide agreement about the importance of strengthening linkages among MEAs that will allow greater compliance verification and problem identification. Cooperation between secretariats, government agencies and non-governmental experts in on-site monitoring as a measure for increasing transparency is developing.

2b. Identification of waste streams at source

76. Exporting countries should develop strategies for identifying hazardous waste streams at the point of exit. This could be achieved by identifying regular hazardous waste exporters, maintaining tight administrative control at the

notification stage, promoting enhanced cooperation and information exchange amongst relevant national authorities, and tightening legal provisions relating to the 'duty to reimport' under their national laws in accordance with Article 8 of the Waigani Convention.

77. For some wastes, however, it may be best to identify waste streams at source. For example, hazardous electronic scrap is likely to be shipped under a general customs code such as "mixed metal scrap". It is very difficult to identify electronic scrap among the numerous entries for this code. However, companies that collect and dispose of electronic scrap will advertise their services, and it should be possible to check what each company is doing with the waste it collects.

2c. Promoting awareness

78. Some cases of illegal traffic are due to lack of information and for this reason a key strategy for prevention will be international and national awareness raising campaigns. This might include activities such as training courses, seminars, advertising, information papers and guidance documents targeted at those involved in the import and export of hazardous waste. Ensuring clear and enforceable regulations is also an effective prevention measure.

79. For intentional cases, publicity of prosecuted illegal cases may be an effective deterrent if detection and enforcement measures are successful. Other options for prevention might be advertising, strengthening detection and enforcement measures, closing loopholes in legislation and raising penalties to a level that will act as an effective deterrent.

2d. Guidance documents by national authorities

80. Guidance documents targeted at importers and exporters are essential for preventing inadvertent breaches of legislation. In areas of uncertainty such as determining waste from non-waste, whether or not a waste is hazardous, and what constitutes environmentally sound management, guidance documents can be useful in clarifying the Convention's rules. They also provide a transparent and consistent basis for determining how the Convention will be interpreted. For hazardous waste importers and exporters, such guidance provides clarification on issues that could potentially lead to illegal activity and leads to greater certainty in planning and administration.

81. Guidance documents are also useful for providing a simple explanation of the rules that need to be followed. Often legislation is difficult to

interpret and contains ambiguities that could lead to potential inadvertent breaches. Providing simple explanation and clarification of legislative instruments promotes an environment of transparency, cooperation, awareness and trust and can therefore be a useful tool in preventing illegal traffic.

2e. *Inspection: overt and covert*

82. In preventing illegal activity, it is important to know how and why breaches occur. It is also useful to know whether there are patterns or linkages of non-compliance that may point to potential or further illegal activity and whether there are obstacles or loopholes that act as disincentives to compliance. Strategies to promote transparency, cooperation amongst parties, public awareness and opportunities for a wide range of stakeholders to contribute to identifying problems and possible solutions should be encouraged.

83. In some cases it would be more convenient to inspect a transboundary shipment when it arrives at the importer's facility rather than at the border crossing. In this case the inspectors may wish to follow up their inspection of transboundary shipment by also inspecting equipment and processes at the inspector's facility to assess if they are consistent with the recycling and/or disposal operation(s) indicated in their licences/permits. Non-tariff requirements could be established so that at the border the environmental inspectors could verify the documents related to hazardous wastes.

84. In other cases, taking into account intelligence information, the inspection could also be undertaken at an export facility.

85. In all circumstances, the inspection procedure will begin with collection of all documents related to the generation of hazardous wastes, related to plans of export/import, related to recycling activities, disposal facilities and any other documents which might be useful (record information about exporter, carrier, importer, etc.).

86. After the documents are gathered and checked, a visual inspection of the hazardous waste is necessary, including storage facilities. People undertaking inspections should always take appropriate precautions. For example, closed shoes with steel caps should normally be worn in cargo-handling areas. Care should be taken when opening containers in case cargoes have shifted in transit. Respiratory protection and gloves should be worn if there is a risk of exposure to hazardous dusts.

87. Last, but not least, sampling might be necessary, for determining precisely what are the characteristics of the hazardous wastes. Sampling should always be done in accordance with the guidance in Appendix 3. As with visual inspections, appropriate safety precautions must always be taken.

88. In all cases of inspection, if there are signs of violation, the inspectors should remember that the purpose of inspection is to collect evidence to determine if a violation of the law was made. Subsequently, if this is the case the appropriate procedures of investigation should be followed.

2f. *International cooperation at all levels*

89. International cooperation amongst key players and at all levels is central to prevention and management of illegal traffic. These include national competent authorities, the secretariat of the Waigani and Basel Conventions, the secretariats of other environmental conventions, UNEP, Interpol, World Customs Organization, etc.

90. In addition, Parties should promote, as appropriate, strategies to bring their actions as well as actions of other relevant participants in the open for appropriate scrutiny by Parties, and as appropriate, other groups in the international system. The public should have access to information about the Convention, including reports on national compliance pursuant to Article 7 of the Waigani Convention and opportunities to assist in monitoring compliance.

91. Parties should consider making provision for measures designed to enhance national and local capacity, to comply with the Waigani Convention requirements. These include such measures as technical and financial assistance, training and supplying necessary equipment. The private sector should be encouraged to assist in enhancing the national capacity to comply. Economic or other incentives should be considered to facilitate effective implementation of the Waigani Convention.

92. Cooperation amongst the secretariats of relevant international Conventions, non-government and government experts, business and industrial association, recycling industries, universities, technical institutes, research centres, NGOs and individuals should be initiated in order to prevent and reduce illegal traffic.

2j. *Insurance and bonds*

Insurance

93. Article 6(11) of the Waigani Convention provides that any transboundary movement of hazardous wastes shall be covered by an insurance policy, bond or other guarantee as may be required or agreed to by the importing Party or any transit Party. It does not stipulate the level of or type of insurance that is required.

94. There are many insurance options that competent authorities can consider when determining insurance scheme. For example, insured legal liability to third parties covers claims in respect of personal injury or damage to property. It can also cover the cost of removing, nullifying or cleaning up any contamination or pollution, which is caused by a "sudden and accidental" event (insurance policies commonly exclude liability caused by or arising out of contamination or pollution unless caused by a sudden, identifiable, unintended, unexpected and accidental event). Competent authorities could choose to accept this double exclusion or they could require a less restrictive (but more expensive) type of insurance such as environment impairment liability insurance. This may cover any disposal, release, dispersal, discharge or seepage, even if it is not "sudden and accidental".

95. Geographical exclusions and conditions are also common in policies. Competent authorities may wish to consider not accepting such exclusions if the excluded countries include the proposed importing Party, export or transit.

96. A common feature of insurance policies however, is that they generally do not cover cases where shipments are deemed illegal. Where an accident occurs as a result of an illegal shipment, it may be difficult to apportion liability and even more difficult to enforce laws that will ensure adequate environmental clean up. In cases where an illegal shipment has resulted from an inadvertent error, financial guarantees or bonds, in addition to insurance, may minimize the exporting country's risk of having to meet the cost of environmental damage.

97. An analysis of the amount required for insurance, bonds or other guarantees in relation to the quantity and quality of hazardous wastes described in the shipping or movement documents could also provide useful for the detection or prevention of illegal traffic.

Financial Guarantees and Bonds

98. Article 8 of the Waigani Convention requires exporting Parties to ensure that wastes are taken back, by the exporter, if a transboundary movement cannot be completed in accordance with the terms of the contract. To ensure that exporters are able to do this, competent authorities may require financial guarantees and bonds. The amount of money involved should be calculated so that all likely costs of a forced return and disposal of the wastes are covered. Financial guarantees and bonds may not be required if the competent authority is satisfied that the exporter has sufficient assets to be able to meet these costs.

99. The major benefit of financial guarantees and bonds over insurance is that financial payouts are assured regardless of the legal status of the shipment. In short, they ensure that the risk lies with those responsible for shipping the waste.

100. Multiple financial guarantees or bonds may be required by all Parties concerned, that is the exporting, importing and transit Parties. It is not normally appropriate for one Party to rely on another Party's financial guarantee because for example, the importing Party may wish to call on a financial guarantee in circumstances outside the scope of the financial guarantee held by the exporting Party.

PART 3. DETECTION, MONITORING AND INTELLIGENCE

3a. *Problems relating to transit*

101. The Waigani Convention defines "transit Party" as any Party, other than the exporting Party or importing Party, through which a movement of hazardous wastes is planned or takes place. The definition of "transboundary movement" includes movement through an area under the jurisdiction of any Party, , to or through an area under the jurisdiction of another Party, or to or through an area not under the jurisdiction of another Party, provided at least two Parties are involved in the movement. Article 2.4 states that nothing in this Convention shall affect in any way the sovereignty of States over their territorial sea, the sovereign rights and jurisdiction that States have in their exclusive economic zones and continental shelves, and the exercise by vessels and aircraft of all States of navigational rights and freedoms, as provided for in international law and as reflected in the 1982 United Nations Convention on the Law of the Sea and other relevant international instruments.

102. Put simply, the general principles of maritime law are in one part the sovereignty of States over internal waters (which include ports), in the other part freedom of passage through the territorial sea and the exclusive economic zone. The right of freedom of passage in the territorial sea has been increasingly affected by regulations made by coastal States, particularly for reasons of security and protection of the environment. To a lesser extent, national regulations relating to the exclusive economic zone may be made to protect and preserve the marine environment. This is why, today, ships travelling in the territorial waters of States are subject to numerous regulations.

103. The Convention allows a Party to require notification and consent for transits of hazardous wastes which are planned to cross its territorial sea or exclusive economic zone. In practice, however, most Parties are understood to require notification and consent only when a ship enters a port under their jurisdiction. This is because during a visit to a port there is always a risk that wastes may be unloaded, even if this was not planned, and then abandoned. However, some Parties only require notification and consent if it is planned that the wastes be unloaded and then loaded again.

104. Because there is a risk associated with unloading of the wastes, some Parties require notification and consent if the ship enters a roadstead instead of a port. At international law a roadstead is an area of water which is normally used for the loading, unloading and anchoring of ships. The definition of a port would not include a roadstead: in referring to ports Article 11 of the UN Law of the Sea Convention (UNCLOS) does not expressly include roadsteads. Rather, the provision includes “permanent harbour works which form an integral part of the harbour system” but expressly excludes off-shore installations and artificial islands. Article 12 of UNCLOS provides for roadsteads to be considered part of the territorial sea and not part of internal waters.

105. It is recommended that Competent Authorities should follow the notification and consent procedure for all transboundary movements involving entry into a port or roadstead, unless they are aware that the wastes are not proposed to be unloaded and the particular Transit Party does not require notification under those circumstances. It is recommended that Parties which require notification and consent for transits through their territorial sea or exclusive economic zone should advise other Parties, through the secretariat, of their requirements.

106. Similar principles apply to proposed transits through airspace and airports.

107. Written consent from a transit Party is required for each movement that passes through it. International canals and free ports present special problems where a central system of control should be instituted.

3b. *Data gathering and information analysis*

108. It is important and necessary that each Party shall designate a competent authority to work together to address illegal traffic and share enforcement information through a confidential network.

109. Data gathering and analysis can take place at many stages, especially where the activity has been observed by intelligence gathering operations as potentially illegal. This may then trigger requests to customs authorities to investigate as the next paragraph suggests.

110. Typically, investigation of alleged illegal traffic is triggered by the detection of suspect material by customs officials or competent authorities in the country of import. Generally such shipments are not accompanied by the relevant documentation or the documentation provided does not correspond to description of the material being transported. Such cases tend to be intentional and are generally more difficult to resolve than unintentional breaches of the Convention involving companies that routinely comply with established regulations.

111. Intelligence about intentions of identified illegal traffic is crucial for preventing, monitoring and detecting illegal activities. Where unintentional breaches are detected, the reasons for non-compliance can be assessed and procedures refined or education programmes targeted to reduce the likelihood of a recurrence. Intentional breaches can point to loopholes in national legislation or procedures that may need amended or may point to wider organized criminal activity that may require further monitoring.

112. Once an illegal shipment is detected, further investigation is necessary to confirm who is responsible for the illegal activities and whether or not prosecution is likely to be successful. Collection of evidence is crucial for successful prosecution, and should be conducted strictly in accordance with established procedures.

113. Proper procedure for evidence collection and witness interviewing are vital if a successful prosecution is to take place under the relevant jurisdiction.

3c. Packaging, labelling, sampling and analysis

114. The Waigani Convention obliges each Party to ensure that all hazardous wastes and other wastes that are to be transported are packed, labelled and transported in conformity with generally accepted and recognised international rules and standards. Accepted international standards have been established under the UN Dangerous Goods Codes and ISO 14000 and all packaging, labelling and transportation procedures should conform to these standards.

115. Improper packaging and labelling may be indicative of illegal traffic, and any shipment that does not conform to the above standards should be investigated.

116. Sampling and analysis is dealt with in Appendix 3.

3d. Waigani Convention, national and other legal requirements

117. All legal requirements (provisions of the Waigani Convention, national laws and regulations) should be taken into account when determining whether or not a transboundary shipment of hazardous wastes is illegal.

3e. Liaison with customs authorities

118. Customs authorities are key players in detecting and intercepting illegal traffic. However, the current Harmonised System Code does not allow for the identification of hazardous wastes, making the task of customs even more difficult in identifying illegal traffic. For this reason, competent authorities, in cooperation with Customs, have begun to develop procedures for aligning Basel Convention wastes with categories in the Harmonised System. This will be of benefit for the Waigani Convention as well, and it is only through close cooperation between the customs authorities and national environmental agencies will customs authorities be able to become effective agents in the battle against illegal traffic in hazardous wastes.

3f. Dealing with ambiguity

119. Ambiguities can be of a legal, technical and/or practical nature and important ones must be resolved before an illegal shipment can be confirmed.

120. Legal ambiguities stem from different interpretations about what is or is not covered by the Convention. These are further complicated by national definitions of hazardous wastes. Consequently, a certain level of ambiguity will always remain. Ultimately Parties will need to resolve these matters through existing mechanisms established under the Convention, or through lengthy and costly legal proceedings in the Courts.

121. Technical ambiguities are related to determining the physico-chemical properties of a material. These relate to questions of whether a material is considered to be a waste or whether a waste is considered hazardous. Currently, these ambiguities are resolved by the Waigani Convention Scientific and Technical Advisory Committee (STAC) which can debate the issues and provide the opportunity for Parties to state their case and have their proposal examined by experts in a number of countries.

122. Ambiguities may also arise from disputes over sampling and analytical methods (see Appendix 3, Sampling and analysis).

123. Practical ambiguities relate to problems such as identifying a party or parties responsible for an illegal shipment, the ability of an aggrieved party to recover costs, differences in opinion about concepts such as temporary storage and determining the responsibility of concerned parties in meeting the Waigani Convention obligations on the cooperative resolution of illegal traffic.

124. In establishing certainty, it is useful to consult Part 3 of these Guidelines, especially paragraphs 127 to 130.

PART 4 - MANAGING ALLEGED AND CONFIRMED CASES

125. There are many challenges that face regulators in their efforts to effectively manage alleged cases of illegal traffic. One of the most difficult amongst them is determining whether the alleged case constitutes illegal traffic. Another key issue is determining who is responsible until illegal traffic has been confirmed. And once liability has been apportioned, the question of how to bring the perpetrator or perpetrators to justice poses further problems that can be extremely difficult to resolve.

126. Given the multiple jurisdictions and different legal systems that are often involved, resolving these challenges can be a complex and lengthy process. In many cases, national legislation is unable to effectively deal with inter-jurisdictional matters, making incidents of illegal traffic extremely

difficult, if not impossible, to resolve within the 30-day time period contemplated in Article 9 of the Convention. However, with effective cooperation of all authorities involved, cases of illegal traffic can be successfully resolved with minimal impact on the environment.

4a. Determining whether Article 9.1 has been violated

127. Once suspected illegal shipments are detected, further investigation must be carried out to confirm whether or not it is illegal traffic. Through intelligence received from various national and international sources, waste shipments may be intercepted for inspection at key control points such as container terminals. In later stages, investigations will be aimed at determining those responsible for undertaking the alleged illegal activities and whether or not prosecutions will be likely to succeed. As evidence is collected both locally and internationally, cooperation between relevant competent authorities is central to illegal traffic management.

128. Identification of hazardous waste in one country may not necessarily provide a basis for enforcement in another. Even where there is general agreement, Parties' rights under Article 3 of the Convention, to define non-Waigani waste as hazardous wastes under national legislation, may make prosecution difficult. This highlights the importance of the Waigani Convention's notification and consent procedures and the requirement under Article 3 to inform the secretariat of any non-Waigani hazardous wastes defined under national legislation.

129. There may also be a time lag between the arrival of the wastes in the importing Party and notification of the exporting Party of illegal traffic. Within 30 days from the time the exporting Party has been informed of the illegal traffic, the exporting Party or the generator shall take back the waste in question. The States concerned could agree to extend the period of 30 days. If it is impracticable to take back the wastes, the exporting Party or the generator shall dispose of the waste in accordance with the provisions of the Waigani Convention. Nevertheless, Parties' obligations to cooperate to resolve illegal traffic incidents should ensure that the material is returned to the country of origin and dealt with in an environmentally sound manner as soon as possible.

130. The tendency for countries to reject extra-territorial application of national laws in criminal cases makes it difficult for the exporting country to pursue prosecution of illegal traders based solely on allegations of the country of import. The country of

export has to have legal authority to require reimportation and the country of import has the right to insist on the duty of the Party of export to take back the illegal waste.

4b. Determining who was the exporter of the waste

131. Under the Waigani Convention, exporter means any person under the jurisdiction of the exporting Party who arranges for hazardous wastes to be exported. National legislation reflecting elements of the Convention, could provide that the exporter may be the generator, broker, carrier or other person with responsibility for the waste.

132. Considerable time may be spent determining the person or persons responsible for an illegal shipment. Complications increase with complexity in relationships between companies especially where foreign companies are involved. For example, the use of subsidiary companies, foreign brokers and agents and the sale of wastes to foreign companies prior to physical transfer of the waste can introduce complexities that obscure the identity of the exporter.

Additional questions may arise if the exporter is an overseas-based company without a presence or agent in the exporting Parties. In the absence of adequate legislative provisions to ensure legal liability is enforceable, the country of export must accept responsibility for making arrangements for the return of the waste. It is therefore in a party's interest to ensure that all loopholes in its national legislation are eliminated.

4c. Determining how to return the waste

133. Although the provisions of the Waigani Convention require the exporting Party or the generator to take back the illegal waste within 30 days from the time of receiving information about the illegal traffic, experience shows that complications could occur, such as determining who owns the waste.

134. Where there is a dispute between parties as to the legal ownership of the waste, the time taken to resolve the dispute could be lengthy, thus delaying the speedy return of the waste as required by the Waigani Convention.

135. The domestic law of some countries requires a successful conviction before steps can be taken to reimport an illegal shipment. In such cases, if the company involved in the illegal shipment does not voluntarily agree to reimport the waste, the time taken to resolve the illegal traffic incident is likely to be lengthy.

136. Once an illegal shipment of hazardous or contaminated waste has been intercepted, the country of import is often responsible for arranging the return of the waste to the country of origin. To facilitate early return of the waste in accordance with the requirements of the Waigani Convention, effective cooperation and liaison between the competent authority of the importing state and other relevant states should be a priority.

4d. Whether the exporter followed the requirements of the Waigani Convention

137. The country of export may take all reasonable steps to ensure that an illegal shipment is reimported and disposed of in accordance with the Convention. Nevertheless, it is possible that the Convention could once again be breached, either fraudulently or unintentionally, in the course of reimportation. In such cases, the reimport of the material would also be considered to be illegal traffic. Once confirmed, steps should be taken to investigate the breach and the perpetrators brought to justice.

4e. Seizure of the material

138. If the waste (in particular recyclable material that has economic value) is still legally owned by the exporting or importing company, but this company refuses to comply with requests to return the waste, government authorities may face legal difficulties in seizing or moving wastes that they do not own. Difficulties encountered by governments in seizing or moving waste may be addressed through provisions in national law.

4f. Temporary storage

139. It is important that the material is safely stored during an illegal traffic investigation. In particular, consideration should be given to protecting human health and the environment, safeguarding the chain of evidence and avoiding any counter-claims by companies relating to damage to their material.

140. Once an alleged illegal shipment of wastes has been identified, sampling and analysis is carried out to determine whether or not the material is hazardous. As the quality of sampling and analysis is central to legal proceedings and, later, whether or not a prosecution is likely to succeed, it is crucial that correct procedures are followed and evidence is not compromised. To ensure that highest quality results are obtained, the considerations in Appendix 3 should be taken into account in investigations of alleged illegal traffic.

4g. Dealing with abandoned waste

141. Cases of abandoned illegal shipments of hazardous wastes are increasing. It is therefore important to institute national legal and technical provisions and mechanisms for dealing with each case. For example old ships are being abandoned in the ports of developing countries or are dumped in the territorial waters of developing countries.

4h. Notification to the Secretariat of the Waigani Convention and concerned Parties

142. Article 16,(1)(j) of the Waigani Convention gave the secretariat the mandate to assist Parties upon request in identification of cases of illegal traffic and to circulate immediately to the Parties concerned, any information it has received regarding illegal traffic, and to coordinate with the Secretariat for the Basel Convention.

143. Ensuring that all relevant countries are aware of alleged illegal shipments is crucial in preventing illegal traffic. Notification, either by the secretariat for the Parties, or directly between Parties, encourages governments, companies, NGOs and other stakeholders to work together to develop effective prevention strategies and provides an incentive to quickly and effectively resolve illegal traffic incidents, to the extent that is consistent with legal requirements and enforcement practice.

4i. Differences in interpretations of the countries involved

144. On-going negotiation by relevant countries is crucial in resolving cases of illegal traffic where the countries of export and import disagree on the status of the shipment. Where agreement cannot be reached, despite the genuine effort of both Parties, it might be necessary to resort to the procedure for settlement of disputes described in Article 20 of the Convention.

PART 5 - USE OF ELECTRONIC INFORMATION

5a. Domestic Examples

145. Opportunities for increasing the automated administration of national legislation are increasing all the time. This includes both the collection of notification information from companies regarding proposed exports, imports and transits, the issuance of permits electronically, and the development of software for the electronic tracking of shipments. Some considerations experience include not only hardware and software capability within the administering agency, but also parallel and compatible electronic systems within industry and among trading partners.

146. Automated administration would likely require a large electronic database of information for example that is drawn from notification and movement documents. Other software uses could include systems that query these databases and can quickly provide information to officers in the field via a secure website which limits access to authorized individuals. These systems allow for direct access to the database, and at the same time, reports can be generated, shared and transmitted electronically. These are all technologies that Parties to the Conventions may have already implemented, or could consider developing.

147. For communication with regulated companies, one possibility is an internet based system of electronic data exchange (EDE). With such a system, it is possible to deposit notifications and movement documents directly into a database using either of the following methods:

- regulates fill out electronic forms over the internet; or
- regulates transfer bulk notification and movement document information from their databases using an e-mail attachment.

148. Given that not all regulates have the same level of technological capacity, an electronic system should also allow interface with traditional paper-based systems.

149. The systems outlined above support the generation and collection of data. The collected data can then be used to monitor regulatees' regulatory compliance. Additionally, the same or similar databases may be used to support intelligence and enforcement activities. Details regarding these activities may be considered to be confidential for security reasons. One possibility is the use of electronic libraries that contain case assessments.

5b. International Examples

150. In the international setting, there are also automated customs, trade and investigative processes that can incorporate electronic information and allow customs and law enforcement officers to track shipments and possession of wastes and to detect illegal shipments or dumping. For example, the World Customs Organization has a Customs Enforcement Network which has international accessibility restricted to authorized customs enforcement officers.

151. Bar codes and global positioning systems represent other electronic technologies with applicability to transboundary movements of hazardous wastes, particularly during their transportation. Partnerships among regulatory and enforcement authorities, and the affected industry (e.g. transportation) can be important aspects of the effective operation of such initiatives. These technologies can expedite customs clearance at international borders and also flag shipments which do not comply.

Appendix 1

Provisions of the Waigani Convention and
decisions adopted by the Conferences of the Parties to the Waigani Convention

Decisions adopted by the Conferences of the Parties to the Waigani Convention

Appendix 2

Case studies/examples of successful actions of Parties

Three cases from Australia

1. FIRST CASE FROM AUSTRALIA CONFIRMED CASES OF ILLEGAL TRAFFIC

A. TRANSMITTING AUTHORITY

Name:	Environment Australia	Party	
Address:	GPO Box 787 CANBERRA ACT 2601	Competent Authority	?
Tel:	61 2 6274 1411	Focal Point	?
Fax:	61 2 6274 1164	National Authority	?
E-mail:	hwa@ea.gov.au		
Date of transmission:			

B. REPORTING BODY

Name:	“As Above”		
Address:		Party ¹	?
		Observer State	?
Tel:		NGO	?
Fax:		Company	?
E-mail:		Individual	?

C. DESCRIPTION OF THE ILLEGAL ACT

C.1. Act(s) found to be illegal traffic (please include information on which Basel Convention provisions has (have) been contravened)

Description:

On 13 December 1996, 84,000kgs of used lead acid batteries were exported from Australia destined for recycling/recovery operations in Manila, Philippines. The export contravened Articles 6.1 and 6.3 of the Basel Convention because the requirements for notification and consent were not observed. The export also contravened section 40 of the Australian *Hazardous Waste (Regulation of Exports and Imports) Act 1989*, which prohibits the export of hazardous waste without a permit.

C.2. Name of States affected by the illegal traffic (i.e. country of origin, transit or destination):

Country of Origin: Australia

Countries of Transit: Singapore

Country of Destination: Philippines

¹ Please specify if different from Transmitting Authority.

C.3. Brief description of the waste(s) subject to the illegal act, including modes of transport, place of discovery, environmental conditions of the location:

Description of the waste: Scrap drained/dry whole intact lead batteries (“Rains”).

Modes of Transport: The waste was loaded into shipping containers, transported by road, loaded onto a ship at the Port of Burnie, Tasmania, Australia and offloaded at Manila in the Philippines.

Place of Discovery: The illegal export was discovered in Australia during a routine check of Australian Customs records.

Date of discovery of the wastes: April 1997

C.4. Date of the infraction:

Day Month Year

Infraction: **13 / 12 / 96**

D. WASTE IDENTIFICATION

D.1. Description of the waste:

Name of the Waste: Waste lead-acid batteries, whole or crushed (Annex VIII entry A1020).

Origin of the Waste: Tasmania, Australia.

Physical form: Solid.

Major constituents: Lead, plastic.

Typical contaminants: Not known.

Volume/Quantity of wastes: 84,000kgs.

Waste Code:	Y number(s) Y31	UN Class 6.1	
	H number(s) 6.1,11,12	UN number	
	IWIC	OECD	HS
	EWC		

D.2. Sampling and testing:

No sampling or testing was done on the waste.

Results:

D.3. Other relevant information (e.g. containment appearance, etc.):

None

E. DETECTION OF ILLEGAL TRAFFIC, TYPES OF DAMAGES, REMEDIAL ACTIONS AND DISPOSAL

E.1. Detection of illegal traffic:

By whom: Environment Australia

Where: Australia

When: April 1997

E.2. Damages:

Details of type and extent of known damages:

There were no damages reported from the illegal traffic.

E.3. Remedial actions:

Type of action(s):

No remedial actions were necessary.

Date:

Cost:

Allocation:

E.4. Final disposal of wastes subject to illegal traffic (i.e. measures taken, State of disposal, etc.)

The waste was disposed of by recycling/reclamation of metals and metal compounds in the Importing Party, by Philippine Recyclers Inc at Manila, Philippines.

F. PUNISHMENT

F.1. State of conviction: Australia

F.2. Date of conviction:

Day Month Year

Conviction: 25 / 05 / 1999

F.3. Description of punishment by the authority in the State of conviction:

The exporting company pleaded guilty to negligently contravening Section 40(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* by exporting a hazardous waste without an export permit. An executive officer of the company pleaded guilty to contravening Section 40B(1) of the *Hazardous Waste (Regulation of Exports and Imports) Act 1989* by being negligent as to whether the contravention of section 40(1) would occur, being in a position to influence the conduct of the company and failing to take all reasonable steps to prevent the contravention. The exporting company was convicted and fined AUD2,000. The executive officer was convicted and fined AUD500.

As this matter was the first prosecution under the amendments to the Act, which entered into force on 12 December 1996, the Magistrate made a number of general remarks in relation to the offences prior to passing sentence. Of particular note were his comments that this was not a matter where there had been a deliberate plot to export the battery waste or a conscious decision not to apply for a permit. Rather, the commission of this offence was the unintentional consequence of a series of events which had been occurring over a number of months. The Magistrate noted that the plea of guilty was in respect of a negligent export of lead battery waste without a permit, rather than a deliberate act.

2. SECOND CASE FROM AUSTRALIA

On 1 September 1997, a shipment of approximately 60 tonnes of waste, mainly computer scrap, was exported from Sydney, Australia, bound for Hong Kong. On 22 September 1997, the Hong Kong authorities, after being notified by Greenpeace Australia of the hazardous nature of the goods, refused to allow the scrap entry. The containers were subsequently returned to Sydney, together with another two containers, also consigned to Hong Kong, that were removed from another vessel before it left Brisbane, Australia, on 1 October 1997.

The shipments contravened Articles 6.1 and 6.3 of the Basel Convention because the requirements for notification and consent were not observed. The export also contravened section 40 of the Australian Hazardous Waste (Regulation of Exports and Imports) Act 1989 ('Act'), which prohibits the export of hazardous waste without a permit. The suspected contravention of the Act was the subject of a joint investigation by the Australian Federal Police (AFP) and the Department of the Environment and Heritage.

The investigation found that the computer scrap had been collected by an Australian company concerned with the collection and re-sale of most kinds of metal and electrical scrap. In August 1997, the Australian company sold the scrap to a foreign company for AUD26,693. The Australian company then stuffed the containers and transported them to the docks. During the process of stuffing the containers, Greenpeace Australia became aware of the possible hazardous nature of the goods.

The problem during the investigation centred upon which company was responsible for the illegal export of the goods. The investigation found that the terms of the contract between the Australian company and the foreign company were Free on Board (FOB) and under commercial law this in effect made the foreign company the owner and exporter of the waste. However, there was no basis for criminal proceedings against the foreign company because an offence against section 40 of the Act can only be committed by a person who acts knowingly or recklessly. It could not be shown that anyone associated with the foreign company knew or ought to have known that the containers contained hazardous waste.

It could be argued that the Australian company was the exporter of the scrap for the purposes of section 40, having sold the scrap and packed it into the containers knowing that it was to be shipped to Hong Kong. Nevertheless, the investigation found that the prospects for a successful prosecution were not good, partly because the only individual who clearly knew precisely what was in the containers had died during the investigation, and partly because it was uncertain whether a company could be an exporter for the purpose of section 40 unless it was also the exporter for the purpose of commercial law. The Australian company was wound up while the investigation proceeded.

The Act is currently being amended to close this loophole by making it illegal for Australian companies to sell hazardous waste to foreign companies unless an export permit is in place.

The hazardous waste was disposed of in Australia, under Australian law, at the expense of the Australian Federal Government and at a total cost of AUD94,426. There are provisions in the Act under which the Government may seek to recover these costs from the foreign company.

3. THIRD CASE FROM AUSTRALIA

An alleged import of waste oil from a South Pacific island country was detected in October 1999 when the oil was transported from an Australian port to a storage facility without the waste transport certificates that were required by the local environment agency.

Investigations by the Australian Federal Police confirmed that 20,000 litres of waste oil had been imported on 12 October 1999 in an isotainer that was owned/leased by an Australian oil company. The oil was owned by a mining company based in the South Pacific island country. This company was unable to dispose of the oil in their previous manner, through a local liquid soap manufacturer, because that manufacturer had closed due to civil unrest.

Enquiries subsequently found that a previous import of 16,800 litres of waste oil had occurred on 17 June 1999. This oil had been treated by a local recycling facility before disposal to a power generating plant.

The Director of Public Prosecutions determined that a *prima facie* case existed against the Australian oil company but prosecution would not be in the public interest after considering that:

- (a) the imports were designed to ensure the disposal of the waste oil in a more environmentally friendly manner in the light of the civil unrest in the South Pacific island country at the time;
- (b) no waste oil was spilled or caused any damage as a result of the import; and
- (c) the two imports were isolated incidents occurring four months apart and were not part of a continuing course of conduct.

A letter of caution was formally issued to the Australian oil company.

Case from the United Kingdom of Great Britain and Northern Ireland

(Please specify if different from Transmitting Authority.)

(Form for) CONFIRMED CASES OF ILLEGAL TRAFFIC

A. TRANSMITTING AUTHORITY

Name: Department for Environment, Food and Rural Affairs
Address: Waste Policy Division,
Ashdown House
123 Victoria Street
London, SW1 6DE

Tel: + 44 (0) 20 7944 6424
Fax: + 44 (0) 20 7944 6409
E-mail: waste_policy@defra.gsi.gov.uk
Date of transmission: 3 September 2001

B. REPORTING BODY

Name: As above
Address:

Tel:
Fax:
E-mail:

C. DESCRIPTION OF THE ILLEGAL ACT

C.1. Act(s) found to be illegal traffic (please include information on which Basel Convention provisions has (have) been contravened)

Description:

Shipment of hazardous waste from Sweden to the UK without notification to the relevant Competent Authorities. This contravened Article 9(1)(a) of the Basel Convention and Article 26(1)(a) of Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community.

C.2. Name of States affected by the illegal traffic (i.e. country of origin, transit or

destination):

Sweden (country of origin) and the United Kingdom (country of destination)

C.3. Brief description of the waste(s) subject to the illegal act, including modes of transport, place of discovery, environmental conditions of the location:

Waste rags, gloves, overalls and liquid solvents, including acetone. The waste arrived in 45 gallon drums at a solvent recovery facility in Morecambe, Lancashire. An employee at the site contacted the Environment Agency as the load was not accompanied by all the necessary paperwork. The waste was inspected by Agency officers and some of the drums were found to be damaged, there was a strong smell of solvents coming from the drums and wood and rags were visible in a number of drums without lids. The load was poorly secured and was not clearly labelled. Further examination of the load revealed rags, overalls, gloves and liquid solvents. The paperwork with the drums indicated a further load which were eventually traced (again 45-gallon drums) to the docks at Immingham. These drums were crudely packaged in shrink-wrapped polythene and there was no waste description, or hazard warning labels.

Date of discovery of the wastes:

1 December 1999

C.4. Date of the infraction:

1 December 1999

D. WASTE IDENTIFICATION

D.1. Description of the waste:

Name of the Waste: Acetone and waste cloths contaminated with resins and polymers.

Origin of the Waste: Malmö, Sweden

Physical form: Liquids, sludges and contaminated solids

Major constituents: Contaminated rags, packaging, protective clothing, polymers and resins.

Typical contaminants: Resins and Polymers.

Volume/Quantity of wastes: 13500 Kg

Waste Code: Y number(s) Y13 UN Class 3

H number(s) _H3_ UN number: 1993

IWIC Q16/D9/P13/C42/H3/A243 OECD ___ HS ___

EWG: 000102

D.2. Sampling and testing:

On 13 December 1999 seven samples of liquid solvent waste were submitted by the Environment Agency to Lancashire County Council Laboratory for analysis. These samples were obtained by Environment Agency officers on 10 December 1999.

Results:

The samples were found to contain concentrations of acetone varying from 4.1% to 67%. Flash point analysis carried out on the waste sampled varied from -10 degrees centigrade to 55 degrees centigrade.

D.3. Other relevant information (e.g. containment appearance, etc.):

The waste was poorly packaged in 45 gallon drums some of which had missing lids and sealing bungs. The waste gave off strong solvent odours and was a potentially explosive cocktail of substances.

Only a small amount of the total quantity of waste would have been suitable for solvent recovery, whilst the majority of the waste would have required final disposal.

E. DETECTION OF ILLEGAL TRAFFIC, TYPES OF DAMAGES, REMEDIAL ACTIONS AND DISPOSAL

E.1. Detection of illegal traffic:

By whom: Employee of the solvent recovery site at Morecambe, Lancashire, UK.

Where: Solvent recovery site, Morecambe, Lancashire, UK.

When: 1 December 1999

E.2. Damages:

Details of type and extent of known damages: None

E.3. Remedial actions:

Type of action(s):

Date:

Cost:

Allocation:

E.4. Final disposal of wastes subject to illegal traffic (i.e. measures taken, State of disposal, etc.)

The Environment Agency arranged for the waste to be shipped back to Sweden at Stirling Lloyd's cost. TFS notification no. GB 004528

F. PUNISHMENT

F.1. State of conviction:

United Kingdom

F.2. Date of conviction:

Conviction: 17 November 2000

F.3. Description of punishment by the authority in the State of conviction:

Stirling Lloyd Contracts Limited were fined £1500 for the illegal shipment and were ordered to pay £4594.80 costs to the Environment Agency.

If more space required, please use additional sheet(s)

Authority completing the Form shall forward a copy to all Competent Authorities or Focal Points in the State(s) concerned as appropriate.

Adopted by the fourth meeting of the
Conference of the Parties to the Basel Convention
February 1998

Appendix 3

Sampling and analysis

A. Quality of Investigations

1. It is important that investigation officers are familiar with sampling and analysis procedures before proceeding with investigations. Improper collection of evidence may compromise the likelihood of a successful prosecution. Consequently, investigation officers should be trained in determining the chain of custody, retaining samples and security procedures that the sampling team and laboratory intend to follow.

2. Experienced government agencies that regularly deal with environmental crime will have the relevant background and expertise to carry out investigations to a high standard. However, if a less experienced local officer, the person in charge of the investigation, is taking samples will need to ensure that appropriate chains of custody procedures are followed.

B. Quality of Analysis

3. Similarly, it cannot be assumed that laboratories will necessarily follow appropriate procedures once samples have been taken. This is especially true for laboratories or personnel that are relatively inexperienced in collecting and analysing samples for use in criminal proceedings. Consequently, it is important to work with accredited or certified laboratories that are familiar with the relevant procedures.

C. Sampling Procedures

4. A number of questions may be asked to ensure proper handling of samples, as follows:

- (a) Does the chain of custody form follow the samples from the time they are taken until the time they are delivered to the laboratory for analysis?
- (b) If sampling exceeds one day or samples require storage prior to delivery to the laboratory, investigators should determine what the samples are intended to be used for and what security procedures are in place to protect existing samples. Procedures should ensure secure overnight storage for all samples which are to be used as evidence in criminal cases. For example if the samples are to be stored in a locked vehicle, then the vehicle should be garaged in secure conditions. Where samples are being taken to determine clean-up costs for civil cases, secured storage is not required. They should also determine whether there are any other storage or packaging requirements relevant to the material being sampled and check how the samples will be packaged. For example the samples may need to be stored at a certain temperature, in a dark place and/or away from moisture until analysis is carried out to ensure their integrity. Ensure that all packaging and storage requirements are met.
- (c) Is a chain of custody procedure or other record generated when the laboratory receives the samples?
- (d) How does the laboratory store the samples prior to analysis?
- (e) Will the samples be handled by multiple personnel during the course of analysis? If so, what records are maintained to track samples and procedures?
- (f) What happens to the samples after analysis? Does the laboratory retain the samples? If so, how long are the samples retained and are the samples secure?

D. Capability of Laboratory

- (a) Are approved testing methods used to analyse samples and are the correct methods used for the specific circumstance?
- (b) Are appropriate quality assurance/quality control procedures strictly applied?
- (c) Does the laboratory have a track record in providing high quality services for criminal investigation? The experience and reputation of the laboratory undertaking the analysis will have a direct bearing on the quality of the analysis. Certification or accreditation should be a minimum requirement for all cases involving criminal investigations. To this end, consideration should be given to establishing a regional network of accredited laboratories that can be used for this purpose.
- (d) Does the laboratory understand the objectives of the investigation?

E. Capability of Inspectors

6. A number of questions may be asked to ensure laboratory capability, as follows:

- (a) Does the investigator understand the correct analytical procedures to be followed and what information is required? As with sampling, it is important to furnish scientific personnel with as much relevant case history as possible prior to analysis to maximise the accuracy of the results.
- (b) Can the investigator accurately interpret the results? If not, has he/she clarified any areas of confusion? It is important to obtain early clarification of results in areas where there may be confusion or a lack of understanding.
- (c) Has the investigators asked the laboratory to retain the samples for the requisite period of time?

F. Treatment of video and photographic evidence

7. As a general rule, photographic or videotaped evidence is not recommended for recording sampling or analysis procedures. However, should photographic or videotaped evidence be required, the following measures should be taken:

- (a) personnel undertaking sampling or analysis should not be videotaped or photographed.
- (b) the sample area and sample jars should be videotaped or photographed before and after sampling takes place as a record that correct procedures have been followed.
- (c) where a videotaped record of sampling and analysis procedures is undertaken, a new video cassette should be used, the sound turned off and the original tape retained by the investigator in charge.
- (d) where a photographic record of sampling and analysis procedures is undertaken, a full record of the photographic evidence should be kept including photo sequence numbers, a description of the photograph and the time and date of photography. As with videotaped evidence, films should be retained by the investigator in charge.
- (e) should the company under investigation request the right to videotape or photograph sampling procedures, permission should not be granted where there is a risk of interference with the sampling being undertaken.

G. Treatment of original documents

8. The sampling team and other technical staff involved in investigations should be informed that all original documents must be stored in a secure location until the investigator notified them that the documents are no longer required. These documents include chain of custody forms, field notes and reports.

9. Likewise, the laboratory responsible for analysing the samples should be requested to maintain all original documents relating to the analysis until otherwise informed. These documents include laboratory notes, chromatograms and final reports.

H. Treatment in the Laboratory

10. Treatment in the laboratory includes the following operations:

- (a) Sample pre-treatment: homogenisation, subsampling, extraction, clean-up, purification, irradiation, etc.
- (b) Component separation, chemical and physico-chemicals.
- (c) Components measure: detection, identification, quantification.

I. Results and Data

11. Reliability of analytical data means that it is precise and true. Precision is achieved when random errors are minimised. Accuracy is reached when systematic errors are eliminated.

Note: At some later date Appendix 3 might benefit from some worked examples. Such examples could be added after the guidance elements have been adopted and used in practice.

Appendix 4

Guidelines for Risk Management Approach

Step 1: Establish the context

1. The political, social, economic, legal and physical environments in which the competent authority operates must be considered in establishing the context. The following questions may be asked:

- What legislation is being enforced?
- What does the legislation seek to control?
- What, broadly, is the nature, size and complexity of the business or community activity concerned?
- What are the major threats of non-compliance?
- What are the major outcomes expected/desired?
- Who has an interest in ensuring compliance with the legislation?
- Who must comply with the legislation?
- What is their interest in the matters the legislation is protecting?
- What must individuals or organizations external to the competent authority do, in order to comply with the legislation?
- What problems or obstacles have been identified?

Step 2: Identify the risks

2. For the purposes of compliance and enforcement, risk means the risks, or incidents, of failure to comply with the legislation. This step is concerned with identifying the potential or actual incident. The consequences and likely occurrence of these non-compliance risks or incidents will be analysed in step 3. The following questions may be asked:

- What is the source of each non-compliance risk or incident?
- When is an incident of failure to comply with the Convention likely to occur?
- What is the compliance rate at present for similar activities?
- Are there any geographical regions in which breaches of the Convention are particularly prevalent?
- Why might an individual or organization not comply with the Convention?
 - ❖ ignorance of existence of the Convention
 - ❖ knowledge of the Convention but insufficient awareness of provisions
 - ❖ wilful non-compliance
 - ❖ lack of clarity of Convention/processes/regulations
 - ❖ ignorance/inadvertence/recklessness/negligence
- What advantages might be gained by failing to comply with the Convention?
- What is the nature of penalties vis-à-vis potential advantages from non-compliance?
- Are individuals or organizations aware of their responsibilities under the Convention?
- Have any individual, or classes, of people or organizations displayed a particular tendency not to comply with the Convention in the past?
- What problems might arise from excessive or inadequate enforcement activity?

Step 3: Analyse the risks

3. In this step the level of risk will be determined. The level of risk is determined by the relationship between the likelihood that a person or organization will fail to comply with the Convention and the consequences of that failure. The consequence of a failure to comply should be considered from three perspectives:

- the consequences for the environment,
- consequences for the community, present and future, and
- consequences for the Government

4. The level of risk may be determined by answering the following questions:
- What is the potential likelihood of the non-compliance risks or incidents occurring?
 - What is the compliance rate at present for similar activities?
 - Are there any geographical regions in which breaches of the legislation are particularly likely to occur?
 - What advantages might be gained by failing to comply with the legislation?
 - What is the nature of penalties vis-à-vis potential advantages from non-compliance
 - Are individuals or organizations aware of their responsibilities under the legislation?
 - Have any individual, or classes, of people or organizations displayed a particular tendency not to comply with the legislation in the past?
 - What are the potential consequences of each non-compliance risk or incident, should it occur?
 - What environmental damage may result from the failure to comply with the legislation?
 - Are there any classes of illegal activities that are likely to damage the environment more than others?
 - Are there any geographic regions where damage as a result of failure to comply with the legislation may be particularly severe?
 - Are there any protected elements of the environment (e.g. particular species, objects and/or places, or cultural values) which are particularly vulnerable to illegal actions (or failures to act)?
 - Are there any matters covered by the legislation that have a high public profile in which there is a high degree of community or political interest?
 - What are the current controls which may detect or prevent potential non-compliance risks or incidents?

Step 4: Assess risk and set priorities

5. This steps involves deciding whether a given risk (assessed in Step 3 as severe, high, etc.) is acceptable or unacceptable. An assessment of the acceptability of the risk involves, takes into account cost impact, benefits and opportunities presented by the risk. Thresholds may be appropriate in some cases, to determine how much effort is warranted in relation to each area of level of risk.
6. In order to set priorities and assess the risk, the following key questions should be answered:
- What is the acceptable level of risk (for the environment, for the community and for the Government)?
 - Are there any matters covered by the legislation that have a high public profile or in which there is a high degree of community or political interest?
 - What level or priority is the risk (severe, high, etc.)?

Step 5: Treat the risks

7. This step involved deciding what measures need to be taken to minimise identified risks and their impacts. Promoting compliance with legislation will reduce the risks and incidents; certain measures may be necessary to promote compliance. The information identified in the previous steps will help identify which strategies are the most appropriate under a given set of circumstances.

- What are the current controls which may detect or prevent potential non-compliance risks or incidents?
- How may these be improved?
- What other strategies may promote compliance and enforcement activities?

8. Possible strategies include:

- Compliance assistance
- Education and awareness
- Technical assistance
- Partnership arrangements
- Monitoring and investigation
- Addressing contraventions
- Enforcement options
- Remedial actions
- Managing key partnerships
- Ensuring other agencies can be relied upon for some of the compliance and enforcement functions.

Monitoring and review

9. Periodic review is necessary to ensure changing circumstances do not alter risk priorities.

Note: At some later date Appendix 4 might benefit from some worked examples. Such examples could be added after the guidance elements have been adopted and used in practice.

Annex XIII - CONFIRMED ILLEGAL TRAFFIC REPORT FORM

PART A: GENERAL INFORMATION

IDENTIFICATION OF THE TRANSMITTER OF INFORMATION

STATE IMPORTING EXPORTING TRANSIT

ADDRESS:

TEL:

FAX:

DESCRIPTION OF THE ILLEGAL ACT:

TRANSBOUNDARY MOVEMENT OF HAZARDOUS WASTES AND RADIOACTIVE WASTES

WITHOUT NOTIFICATION TO: IMPORTING STATE PARTY NON-PARTY
TRANSIT STATE PARTY NON-PARTY

WITHOUT THE CONSENT OF: IMPORTING STATE PARTY NON-PARTY
TRANSIT STATE PARTY NON-PARTY
EXPORT STATE PARTY NON-PARTY

WITH CONSENT OBTAINED THROUGH FALSIFICATION, MISREPRESENTATION OR FRAUD FROM:

: IMPORTING STATE PARTY NON-PARTY
TRANSIT STATE PARTY NON-PARTY
EXPORT STATE PARTY NON-PARTY

THAT DOES NOT CONFORM IN A MATERIAL WAY WITH THE SUPPORTING DOCUMENTS:

THAT RESULTS IN DELIBERATE DISPOSAL OF HAZARDOUS AND RADIOACTIVE WASTES OR IN CONTRAVENTION OF:

WAIGANI CONVENTION: YES NO

GENERAL PRINCIPLES OF INTERNATIONAL LAW: YES NO

THAT RESULTS IN CONTRAVENTION OF THE IMPORT OR EXPORT BANS ESTABLISHED BY ARTICLE 4.1:

YES NO

PERMISSION FOR EXPORT:

HAS PERMISSION FOR EXPORT BEEN GRANTED BY THE EXPORTING PARTY WITHOUT:

WRITTEN CONSENT OF THE IMPORTING PARTY: YES NO

WRITTEN CONSENT OF EVERY TRANSIT PARTY: YES NO

WRITTEN CONSENT OF EVERY NON-PARTY OF CONSENT:
YES NO

WRITTEN CONFIRMATION FROM THE IMPORTING PARTY OF THE EXISTENCE OF A CONTRACT BETWEEN THE EXPORTER AND THE DISPOSER SPECIFYING THE ENVIRONMENTALLY SOUND MANAGEMENT OF THE WASTES IN QUESTION:
YES NO

WRITTEN CONFIRMATION FROM THE THE EXPORTER OF THE EXISTENCE OF ADEQUATE INSURANCE, BOND, INSURANCE OR OTHER GUARANTEE SATISFACTORY TO THE EXPORTING PARTY: YES NO

INFORMATION RELATED TO THE HAZARDOUS WASTES:

GENERAL DESCRIPTION OF THE WASTE:

QUANTITY:

PLACE AND DATE OF DISCOVERY:

MEANS OF TRANSPORT:

SAMPLES TAKEN: YES NO

SAMPLES ANALYZED: YES NO

RESULT:

OTHER TECHNICAL INFORMATION AVAILABLE?: YES NO

{IF YES, PLEASE FILL THE ANNEX}

**ACTORS INVOLVED IN THE ILLEGAL TRAFFIC
(e.g. Exporter, Importer, Carrier, Generator, Disposer):**

EXPORTING COUNTRY: TRANSIT COUNTRY(IES): IMPORTING COUNTRY:

COMPANY(IES):

ADDRESS:	ADDRESS:	ADDRESS:
TEL:	TEL:	TEL:
FAX:	FAX:	FAX:

PERSON:

ADDRESS:	ADDRESS:	ADDRESS:
TEL:	TEL:	TEL:
FAX:	FAX:	FAX:

PART B:
INFORMATION RELATED TO EXPORT/IMPORT/TRANSIT

EXPORTING COUNTRY:

WAS ILLEGAL TRAFFIC DETECTED BY THE EXPORTING COUNTRY?:
YES NO

BEFORE LEAVING ITS NATIONAL TERRITORY: YES NO

REMEDIAL ACTIONS UNDERTAKEN: YES NO

AFTER LEAVING ITS NATIONAL TERRITORY: YES NO

HAS THE EXPORTING STATE INFORMED:

EXPECTED IMPORTING COUNTRY: YES NO

EXPECTED TRANSIT COUNTRY: YES NO

INTERPOL: YES NO

OTHER REGIONAL CONVENTION OR COMMISSION:
YES NO

WHICH:

WAS ANY REMEDIAL ACTION UNDERTAKEN BY EXPORTING COUNTRY?:
YES NO

WERE THE WASTES TAKEN BACK?: YES NO

IF NO, WHY?:

BY THE GENERATOR BY THE EXPORTER BY THE EXPORTING STATE

DATE OF RE-IMPORT:

MEANS OF RE-IMPORT:

WERE THE WASTES DISPOSED OF IN ACCORDANCE WITH WAIGANI CONVENTIONS?:
YES NO

DESCRIPTION OF WAYS AND MEANS:

OTHER REMEDIAL ACTION(S): YES NO

IF YES, SPECIFY:

IMPORTING COUNTRY:

IN THE CASE THAT ILLEGAL TRAFFIC IS A RESULT OF CONDUCT ON THE PART OF THE EXPORTER OR GENERATOR:

HAS IMPORTING COUNTRY BEEN INFORMED OF THE ILLEGAL TRAFFIC?

BEFORE ARRIVAL?:	BY EXPORTING COUNTRY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
	BY TRANSIT COUNTRY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
AFTER ARRIVAL ?:	BY EXPORTING COUNTRY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
	BY TRANSIT COUNTRY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>

HAS THE EXPORTING COUNTRY BEEN INFORMED OF THE ILLEGAL TRAFFIC BY THE IMPORTING COUNTRY?:

YES NO

HAS THE EXPORTING COUNTRY REPLIED?:

YES NO

HAS EXPORTING COUNTRY IDENTIFIED THE EXPORTED OR GENERATOR?:

YES NO

HAS THE RE-IMPORT TO EXPORTING COUNTRY ALREADY BEEN MADE?:

YES NO

HAS THE REQUEST TO RE-IMPORT TAKEN PLACE?:

YES NO

IF NOT, WHY?:

HAS ANY OTHER REMEDIAL ACTION BEEN TAKEN BY THE EXPORTING COUNTRY?:

YES NO

IF YES, SPECIFY:

HAS INTERPOL BEEN INFORMED OF THE ILLEGAL TRAFFIC?:

YES NO

IN THE CASE THAT ILLEGAL TRAFFIC IS A RESULT OF CONDUCT ON THE PART OF THE IMPORTER OR DISPOSER:

HAS REMEDIAL ACTION BEEN TAKEN BY THE IMPORTING COUNTRY?:

YES NO

IF YES, SPECIFY:

WERE THE WASTES DISPOSED OF IN ACCORDANCE WITH THE WAIGANI CONVENTION?:

YES NO

DESCRIPTION OF WAYS AND MEANS:

TRANSIT COUNTRY:

<u>ILLEGAL TRAFFIC DETECTED BY THE TRANSIT COUNTRY:</u>	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<i>BEFORE THE WASTES LEFT ITS NATIONAL TERRITORY?:</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>
<i>REMEDIAL ACTION UNDERTAKEN:</i>		
<i>HAS TRANSIT COUNTRY INFORMED:</i>	YES <input type="checkbox"/>	NO <input type="checkbox"/>
THE EXPORTING COUNTRY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
INTERPOL:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
OTHER REGIONAL CONVENTION OR COMMISSION:	YES <input type="checkbox"/>	NO <input type="checkbox"/>

WHICH:

AFTER THE WASTES LEFT ITS NATIONAL TERRITORY?:

HAS THE TRANSIT COUNTRY INFORMED:

THE EXPECTED IMPORTING COUNTRY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
OTHER EXPECTED TRANSIT COUNTRY:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
INTERPOL:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
OTHER REGIONAL CONVENTION OR COMMISSION:	YES <input type="checkbox"/>	NO <input type="checkbox"/>

WHICH:

PUNISHMENT

IS THE ILLEGAL TRAFFIC CONSIDERED A CRIMINAL ACT BY THE NATIONAL LEGISLATION OF?:

EXPORTING COUNTRY:	IMPORTING COUNTRY:	TRANSIT COUNTRY:
YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO: <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>

PUNISHMENT IMPOSED BY:

EXPORTING COUNTRY <input type="checkbox"/>	IMPORTING COUNTRY <input type="checkbox"/>	TRANSIT COUNTRY <input type="checkbox"/>
--	--	--

IDENTIFICATION OF THE PERSON(S) PUNISHED:

PUNISHMENT ALREADY EXECUTED: YES NO:

TYPE OF PUNISHMENT:

COMMUNICATION OF PUNISHMENT TO THE:

EXPORTING COUNTRY <input type="checkbox"/>	IMPORTING COUNTRY <input type="checkbox"/>	TRANSIT COUNTRY <input type="checkbox"/>
--	--	--

Annex

1. PLACE AND DATE OF DISCOVERY:

HYDROGEOLOGICAL CONDITIONS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
HUMAN SETTLEMENT AREAS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
INDUSTRIAL ZONES:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
COASTAL AREAS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
FORESTS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
AGRICULTURE AREAS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
RIVERSIDES:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
OTHER (PLEASE SPECIFY):	YES <input type="checkbox"/>	NO <input type="checkbox"/>

2. GENERAL DESCRIPTION OF THE WASTES:

COMPOSITION:	PURE:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
	MIXED:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
	SOLID:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
	LIQUID:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
	ORGANIC:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
	INORGANIC:	YES <input type="checkbox"/>	NO <input type="checkbox"/>

PHYSICO-CHEMICAL PROPERTIES/CHARACTERISTICS: CLASSIFICATION IN WAIGANI CONVENTION:

EXPLOSIVE:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
FLAMMABLE LIQUIDS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
FLAMMABLE SOLIDS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
SUBSTANCES OR WASTES LIABLE TO SPONTANEOUS COMBUSTION	YES <input type="checkbox"/>	NO <input type="checkbox"/>
SUBSTANCES OR WASTES WHICH, IN CONTACT WITH WATER, EMIT FLAMMABLE GASES	YES <input type="checkbox"/>	NO <input type="checkbox"/>
OXIDIZING	YES <input type="checkbox"/>	NO <input type="checkbox"/>
ORGANIC PEROXIDES	YES <input type="checkbox"/>	NO <input type="checkbox"/>
POISONOUS (ACUTE)	YES <input type="checkbox"/>	NO <input type="checkbox"/>
INFECTIOUS SUBSTANCES	YES <input type="checkbox"/>	NO <input type="checkbox"/>
CORROSIVES	YES <input type="checkbox"/>	NO <input type="checkbox"/>
LIBERATION OF TOXIC GASES IN CONTACT WITH AIR OR WATER	YES <input type="checkbox"/>	NO <input type="checkbox"/>
TOXIC (DELAYED OR CHRONIC)	YES <input type="checkbox"/>	NO <input type="checkbox"/>
ECOTOXIC	YES <input type="checkbox"/>	NO <input type="checkbox"/>
ORGANIC PEROXIDES:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
POISONOUS:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
INFECTIOUS SUBSTANCES:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
CORROSIVE:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
TOXIC:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
ECOTOXIC:	YES <input type="checkbox"/>	NO <input type="checkbox"/>
CAPABLE, BY ANY MEANS, AFTER DISPOSAL, OR YIELDING ANOTHER MATERIAL,	YES <input type="checkbox"/>	NO <input type="checkbox"/>

3. MODES OF TRANSPORT:

PACKAGING: YES NO

IF YES, PLEASE SPECIFY:

LABELLING: YES NO

4. TESTING

SAMPLES TAKEN:

SAMPLES ANALYZED:

RESULTS:

5. CONTAINMENT APPEARANCE:

LEAKAGES OBSERVED: YES NO

EMISSIONS DETECTED: YES NO

ODOURS DETECTED: YES NO

OTHER: YES NO

DETAILS OF OBSERVATION MADE:

MEASURES TAKEN: YES NO

IF NO, EXPLAIN WHY:

6. OCCURRENCE OF DAMAGES TO:

POPULATION: YES NO

PROPERTIES: YES NO

ENVIRONMENTAL MEDIAS: YES NO

IF KNOWN, PLEASE QUALIFY MEDIA

Annex XIV - Draft Instruction Manual on Control System for Transboundary Movements of Hazardous Wastes

DRAFT

INSTRUCTION MANUAL

CONTROL SYSTEM FOR TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES

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PART II: THE NOTIFICATION AND MOVEMENT DOCUMENT

Notification

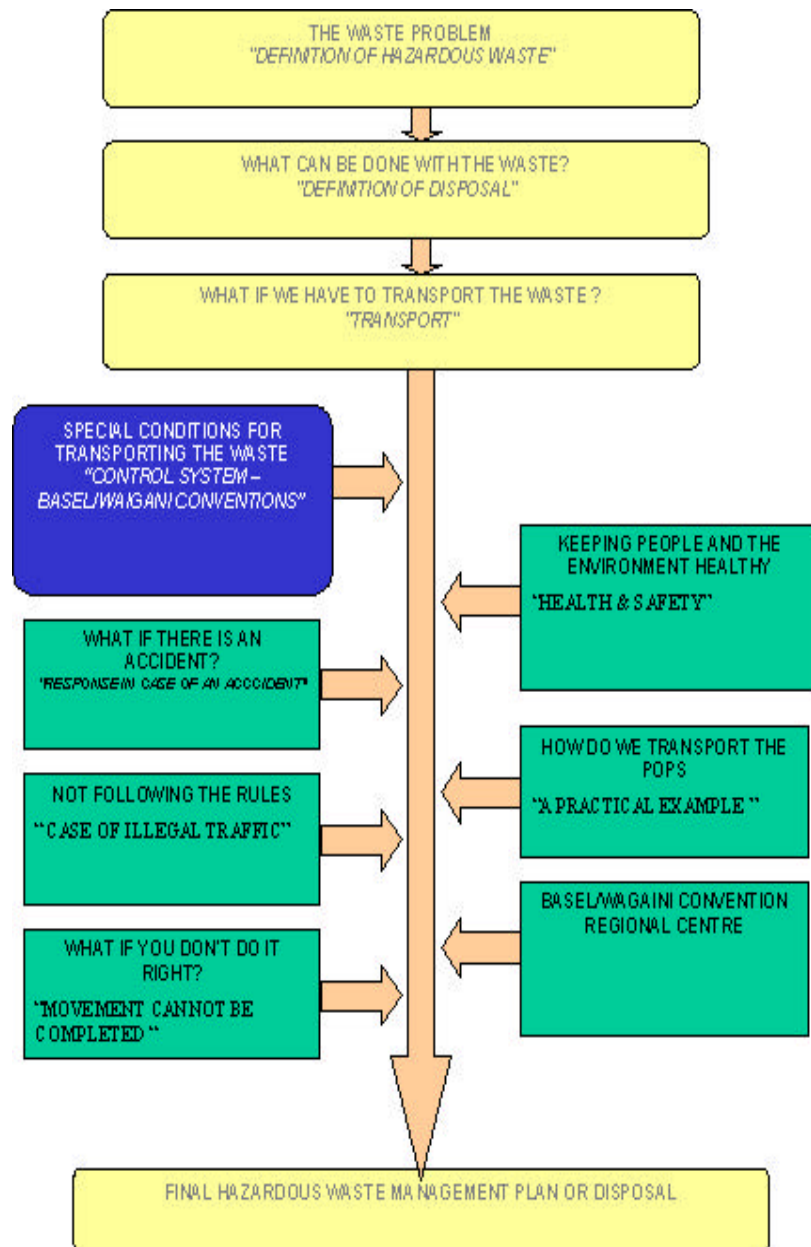
Instructions for completing the notification

Movement document

Instructions for completing the movement document

APPENDIXES

- 1 *Glossary*
- 2 *Annex I: Categories of Wastes Which are Hazardous Wastes*
- 3 *Annex II: List of Hazard Characteristics*
- 4 *Annex V: Disposal Operations*
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PART I

DESCRIPTION OF THE CONTROL PROCEDURE

1. Introduction

Name of the Convention: The Convention to Ban the Importation into Forum Island Countries of Hazardous and Radioactive Wastes and to Control the Transboundary Movement and Management of Hazardous Wastes within the South Pacific Region (Waigani Convention).

Date and place of adoption: 16 September 1995, Waigani Papua New Guinea

Date of entry into force: 21 October 2001

Secretariat: The South Pacific Regional Environmental Programme (SPREP)

Depositary: The Secretary General for the Pacific Islands Forum Secretariat (PIFS)

Party	Signed		Ratified		In Force	
	Month	Year	Month	Year	Month	Year
Australia	16 September	1995	17 August	1998	21 October	2001
Cook Islands	17 September	1995	30 October	2000	21 October	2001
Fed St of Micronesia	17 September	1995	26 January	1996	21 October	2001
Fiji	16 September	1995	18 April	1996	21 October	2001
Kiribati	16 September	1995	28 June	2001	21 October	2001
Marshall Is, Rep	-		-			
Nauru	16 September	1995				
New Zealand	16 September	1995	30 November	2000	21 October	2001
Niue	16 September	1995	22 July	2003	21 August	2003
Palau	16 September	1995				
Papua New Guinea	16 September	1995	11 December	1995	21 October	2001
Samoa	16 September	1995	23 May	2001	21 October	2001
Solomon Islands	16 September	1995	7 October	1998	21 October	2001
Tonga	16 September	1995	22 May	2003	21 June	2003
Tuvalu	-		21 September	2001	21 October	2001
Vanuatu	16 September	1995				
France	-					
United Kingdom	-					
United States	-					

Main Reasons why the Convention was adopted:

- The threat to human health and the environment posed by the generation of hazardous wastes and their disposal by environmentally unsound methods;
- The danger posed by radioactive wastes to the people and the environment of the Pacific;
- The attempts made by numerous foreign waste dealers for the importation into and the disposal within the Pacific Region of hazardous and radioactive wastes.

Overall goal of the Convention:

- To establish strict control over transboundary movements of hazardous wastes and to protect human health and the environment against the adverse effects which may result from the generation and management of these wastes.

The main objectives of the Convention:

- To prohibit the importation of hazardous and radioactive wastes into Pacific Islands Developing countries
- to reduce transboundary movements of hazardous wastes to a minimum consistent with their environmentally sound management;
- to treat and dispose of hazardous wastes as close as possible to their source of generation in an environmentally sound way; and
- to minimize the generation of hazardous wastes (in terms of quantity and potential hazard).

Each State Party to the Waigani Convention is bound by all the obligations under the Convention. A State that is a Party to the Waigani Convention has to have national legislation implementing the requirements of the Convention. Any person within the national jurisdiction of a State that is a Party to the Waigani Convention, who is involved in transboundary movement of hazardous wastes, is therefore legally bound to comply with the relevant national laws and regulations governing the transboundary movements of wastes and their disposal.

This Permit Control Manual is intended to provide practical and workable guidance for all persons involved in the transboundary movements of the wastes subject to the Waigani Convention.

2. Wastes Controlled under the Waigani Convention

2.1 What is waste?

The Waigani Convention defines waste as "substances or materials which are disposed of or are intended to be disposed of or are required to be disposed of by the provisions of national law" (Art. 1). See glossary in Appendix 1 for the definition of disposal for the purposes of the Waigani Convention. It is important to note that national provisions concerning the definition of waste may differ and, therefore, the same material may be regarded as waste in one State but as a commodity or raw material in another State. Please refer to section 6.4 for the procedures to be applied in cases of such differences. (see Appendix 9 on distinction of wastes from Non-Wastes under Australia's Hazardous Waste Act.)

2.2 Which wastes are covered by the Convention?

According to Article 2 of the Convention, the following wastes that are subject to transboundary movement are covered by the Convention:

- wastes referred to as "hazardous wastes" for the purposes of this Convention;
- wastes that belong to any category contained in Annex I of the Convention, unless they do not possess any of the characteristics contained in Annex II of the Convention;
- wastes other than those referred to above which are defined as, or are considered to be, hazardous wastes by national legislation of the Party of export, import or transit (Art. 1, para. 1); and

The following wastes are excluded from the scope of the Waigani Convention:

- wastes which, as a result of being radioactive, are subject to other international control systems, including international instruments, applying specifically to radioactive materials (Art. 2, para. 2); and
- wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument (Art. 1, para. 3).

Annex I to the Convention consists of a list of 47 broad generic categories of wastes, divided into waste streams (Y1 - Y18 and Y46, Y47) and constituents of waste (Y19 - Y45). The Y categories of waste are displayed in [Appendix 2 to this Manual](#). A waste which falls under any of the categories of waste in Annex I (Y1 - Y47) is considered to be hazardous waste subject to the Waigani Convention unless it can be shown that the waste does not possess or exhibit any of the hazardous characteristics described in Annex II to the Convention ([see Appendix 3 of this Manual](#)). In other words, these wastes must have certain characteristics to be considered as hazardous wastes (explosive, flammable, corrosive, toxic, etc.) Normally, it is the duty of the exporter or any other person (e.g. generator) engaged in exporting the waste, to prove, if necessary, that the waste in question does not possess or exhibit any of the hazardous characteristics, so that the waste will not be subject to control under the Convention.

3. Restrictions on transboundary movements of hazardous wastes

The Waigani Convention lays down some restrictions on the transboundary movements of hazardous wastes. These restrictions shall always be taken into account when assessing acceptability of a particular transboundary movement of waste. In accordance with the provisions of the Waigani Convention:

It is not always obvious whether a material is a waste or not, or whether it is hazardous or not

Some countries will have different definitions of what is a waste.

It is important to get your definitions clear, and to understand whether the potential importing country also considers the material a waste.

Example of Used Lead Acid Batteries:
Y codes:
 Y31 (Lead, lead compounds)
 If wet, also Y34 (Acidic solutions or acids in solid form)
H codes:
 H6.1 – Poisonous (Acute),
 H11 – Toxic (Delayed or chronic),
 H12 – Ecotoxic
 If wet, also H8 – corrosive

Each Pacific Island Developing Party shall take the appropriate legal, administrative and other measures within the area under its jurisdiction to ban the import of all hazardous and Radioactive wastes from

outside the Convention. Also “Other Parties” such as Australia and New Zealand shall take the necessary measures to ban the export of all hazardous wastes and radioactive wastes to all Forum Islands Countries, or to Territories which don’t have the status of “Other Party” area (Article 4, paragraph 1. The Convention further prohibits the importation of hazardous and radioactive wastes from non Parties unless the Parties concerned have concluded bilateral, multilateral or regional agreements or arrangements pursuant to Article 11 of the Convention that set forth the conditions under which the transboundary movement is to be carried out. Those conditions shall not be less environmentally sound than those provided by the Convention in particular taking into account the interests of developing countries.

4. Description of the Control Procedure GENERAL: steps to be undertaken by actors involved

States of Transit: It is important to list and contact ALL potential Transit States. Some States don’t allow wastes to transit their waters. This may lead to the shipments getting stuck along the process.

1. **The exporter has the responsibility to determine if the waste is covered under the Waigani Convention** and subject to the control procedure as well as in compliance with the Waigani and national legislation.
2. Exporter contacts the competent authority of the State of Export in order to get the notification and movement documents **and all relevant information concerning the notification and tracking procedures.**
3. **Exporter concludes a contract with the disposer** of the waste specifying the environmentally sound management of the wastes (carriers, traders, disposal facilities operate under appropriate legal status, licensed, authorized, approved or recognized by the State concerned (see section 9 of Australia Guide). The contract should ensure compliance with the provisions of the Waigani Convention. The assignment of responsibilities and liability shall be clearly identified.
4. The exporter shall arrange **financial guarantees** (*insurance, bond or other*) as may be required by the importing or transit party. Needed for alternative arrangement in case the shipment and disposal of the wastes cannot take place in accordance with the terms of the contract.



5. **The exporter complete the notification form** in an acceptable language and make the necessary original copies (State of export, Import, Transit). Those shall be signed by the generator or/and the exporter.
6. **The exporter send copies of the notification** to the Competent Authority of the Country of export
7. **The Competent Authority of the State of Export** (the generator or the exporter as required by the Competent Authority of the State of export) **shall notify** in writing using the appropriate documentation (*notification form*) the Competent Authorities of the countries concerned (Import-Transit).
8. **The Competent Authority of the Importing Party shall acknowledge receipt of notification** to the Competent Authority of the Exporting Party within fourteen days.
9. **The Competent Authority of the Importing Party may require additional information within 21 days.**
10. **The Competent Authority of the Exporting Party needs to make sure that the Exporter also received the reply** from the Competent Authority of the Importing Party.
11. **The Competent Authority of the Exporting Party shall wait for authorization** from the Competent Authority of the State of Import and Transit if any, to commence the movement.
12. **To authorize the shipment, the Competent Authority of the Exporting Party shall make sure that he has received:**
 - a. Written consent of the importing Party;
 - b. Written consent from every transit Party;
 - c. Written consent of every non-Party country of transit;
 - d. Written confirmation from the importing Party of the existence of a contract between the exporter and the disposer specifying the environmentally sound management of the wastes in question;
 - e. Written confirmation from the exporter of the existence of adequate insurance, bond or other guarantee satisfactory to the exporting Party.
13. **The exporter shall complete a movement document** which will accompany the movement of the Hazardous wastes (enclose a copy of the notification document is recommended) and ensure its signing by the carriers.
14. **Receipt of the wastes: The disposer shall inform the exporter and competent Authority of the Exporting Party of receipt** by the disposer of the wastes.
15. **Completion of disposal: The disposer shall inform the exporter and Competent Authority of the Exporting Party the completion of the disposal.**

The procedure for the notification of transboundary movements of hazardous wastes forms the foundation of the control system of the Waigani Convention. One important condition under the Waigani Convention is that a transboundary movement of hazardous wastes can take place only upon prior written notification to the competent authorities of the States of export, import and transit (if appropriate), and upon consent from these authorities permitting the transboundary movement of waste. Furthermore, each shipment of hazardous waste shall be accompanied by a movement document from the point at which a transboundary movement begins to the point of disposal (See Annex IV of the Waigani Convention).

4.1 Responsibility to notify

In accordance with Article 6, paragraph 1 of the Waigani Convention, the State of export shall notify, or shall require the generator or exporter to notify in writing, using appropriate documentation, the competent authorities of the States concerned of any transboundary movement of hazardous wastes. See glossary in Appendix 1 for the definition of generator, exporter and competent authority.

4.2 Documentation and general notification

Specific documents are to be used to notify the competent authorities in the concerned countries of all transboundary movements of hazardous wastes and, subsequently, to accompany the movement of waste. Competent authorities will issue these documents, which consist of two forms: the notification and the movement document. A sample of each document is included in Part II of this Manual along with instructions for their completion.

The notification and its annexes are designed to provide detailed, accurate and complete information of the parties involved with the movement(s), on the waste itself, on the type of disposal operation to which the waste is destined, and on other details relating to the proposed movement. This information will allow the competent authorities concerned to be sufficiently informed to make a judgment on whether to object or consent to the movement, in accordance with the Waigani Convention and relevant national legislation.

A notification may usually cover only one type of waste. The notification may cover several shipments of wastes over a maximum period of one year, provided the waste in question has the same physical and chemical characteristics and will be regularly shipped to the same disposer via the same customs offices for entry and exit. The term general notification is used when referring to such a notification (ref. Art. 6, para. 6)

The movement document is intended to accompany the consignment at all times from the time of departure from the waste generator to the arrival of the consignment at the disposer in another country. The movement document provides relevant information on a particular consignment, for example, on the carriers of the consignment, passage through customs offices, and the receipt and disposal of waste by the disposer.

The movement document should also provide accurate information on the authorizations by the competent authorities for the proposed movement of waste. Most of the countries accept a copy of the duly completed and fully authorized notification to

be enclosed with the movement document. However, some other countries require that an original notification, stamped and signed by the competent authority, shall always accompany the movement document. In the latter case, the exporter/generator will have to provide the competent authority concerned with as many completed notification documents as intended consignments. The competent authority shall sign and stamp each notification document and return all of them to the exporter/generator.

4.3 Contracts

The existence of a contract between the exporter and the disposer specifying environmentally sound management of the waste in question is an important precondition for the authorization of the transboundary movement of waste (Art. 6 para. 3).

The parties to a contract must ensure that the contract complies with the requirements set in the Waigani Convention and in relevant national legislation. The involved parties must be aware that in some countries, competent authorities may impose additional requirements concerning the contracts. For example, the involved parties may be required to submit the contracts (or portions thereof) to the competent authorities for review. It is therefore suggested to attach a copy of the contract to the notification.

The onus is on the exporter to get all the information, and to ensure the steps in the export process are right.

The important role for the Competent Authority is to ensure that they ask the right questions and that appropriate information is provided in the export application process

In general, contracts should confirm that the carriers, traders, and disposal facilities operate under the legal jurisdiction of the Contracting Parties to the Waigani Convention and have appropriate legal status. They must be licensed or otherwise authorized, approved, or "recognized" by the competent authorities of the State of export, State(s) of transit or State of import.

The assignment of legal responsibility and liability in contracts for any adverse consequences resulting from mishandling, accidents or other unforeseeable events, assists the competent authorities in identifying the responsible parties at any given moment, in accordance with national and international rules and regulations. The contract should also specify which party shall assume responsibility for alternative arrangements in cases where the original terms of the contract cannot be

fulfilled. It should be noted that, according to Article 8 of the Waigani Convention, the State of export shall ensure that the wastes are taken back into the State of export, by the exporter, when a transboundary movement of hazardous waste or other waste cannot be completed in accordance with the terms of the contract and if alternative arrangements cannot be made for the disposal of the waste in an environmentally sound manner.

It should be noted that a contract should normally be concluded before the notification is provided and the competent authorities have issued their authorizations. Therefore, the contract should include a caveat "subject to authorisation", in order to avoid possible practical trade problems in case the proposed movement of waste will not be permitted by the competent authorities.

Basic elements for the preparation of contracts for transboundary movement of hazardous wastes are included in Appendix 6. However, national legislation may require different or additional requirements with regard to the content of the contract.

4.4 Financial guarantees

The Waigani Convention requires that "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" (Art. 6, para. 10). These guarantees are intended to provide for immediate funds for alternative management of the waste in cases where shipment and disposal cannot be carried out as originally intended. These guarantees may take the form of an insurance policy, bank letters, bonds or other promise of compensation for damage, depending on the countries concerned.

4.5 Environmentally sound management of hazardous wastes

The aim of the regulatory system of the Waigani Convention is to ensure that hazardous wastes and other wastes are disposed of in an environmentally sound manner, regardless where the disposal operation is to take place.

In order to assist relevant authorities and other bodies to assess and improve the standard of disposal operations, the Technical Working Group of the Basel Convention has prepared technical guidelines on the following waste streams and disposal operations:

Framework Document on the preparation of technical guidelines for the environmentally sound management of wastes subject to the Waigani Convention;

- Technical Guidelines on hazardous waste from the production and use of organic solvents (Y6);
- Technical Guidelines on hazardous waste: waste oils from petroleum origins and sources (Y8);
- Technical Guidelines on wastes comprising or containing PCBs, PCTs and PBBs (Y10);
- Technical Guidelines on wastes collected from households (Y46);
- Technical Guidelines on specially engineered landfills (D5);
- Technical Guidelines on incineration on land (D10);
- Technical Guidelines on used oil re-refining or other re-uses of previously used oil (R9); and
- Guidance Document on transboundary movements of hazardous wastes destined for recovery operations.

These documents and guidelines have been adopted by the Conference of the Parties. They are available from the Secretariat of the Waigani Convention. The Technical Working Group continues to prepare additional technical guidelines on other priority waste streams and disposal operations; for example, technical guidelines on physico-chemical and biological treatment, and on clinical waste and waste tyres.

5. Detailed Description of the Control Procedure

The Party of Export, Party of Import or a Party of Transit are involved in the permitting process.

The process also applied the "Cradle to grave" concept

This includes, under the Waigani process, the tracking of waste, and any residue derived from its treatment which is also a hazardous waste, from the exporter, through the transit countries, to the importing country and then to evidence of final destruction.

For the 'paper trail' it is important for parties to acknowledge in writing that they have received any requests or applications for transit or import, and that they notify the Party of Export of their decision to either consent or not to consent to the movement. It is also important for the exporter and the competent authority in the state of export to receive written evidence that the wastes have been successfully destroyed or recycled at the end of the process.

5.1 Main stages of the control procedure

The main stages of the control procedure of the Waigani Convention are shown in figures 1 and 2. The main responsibilities of the different parties involved in the control system are presented in figures 3 - 7. Please note that the flow charts describe the control system in a simplified way. The control system is dealt with in more detail in the check lists presented in sections 5.2 - 5.6.

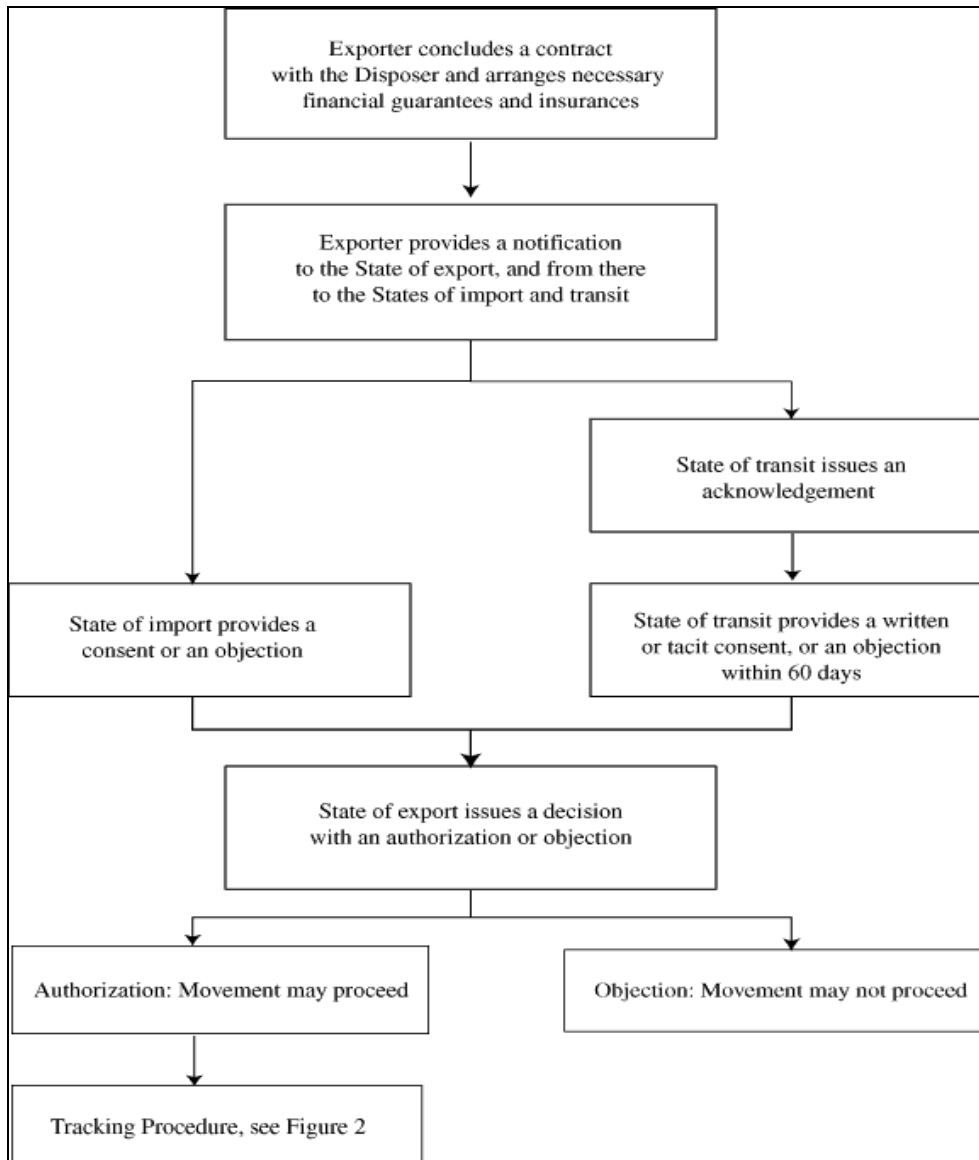


Fig.1. Flow chart of the notification and authorization procedure of the Waigani Convention.

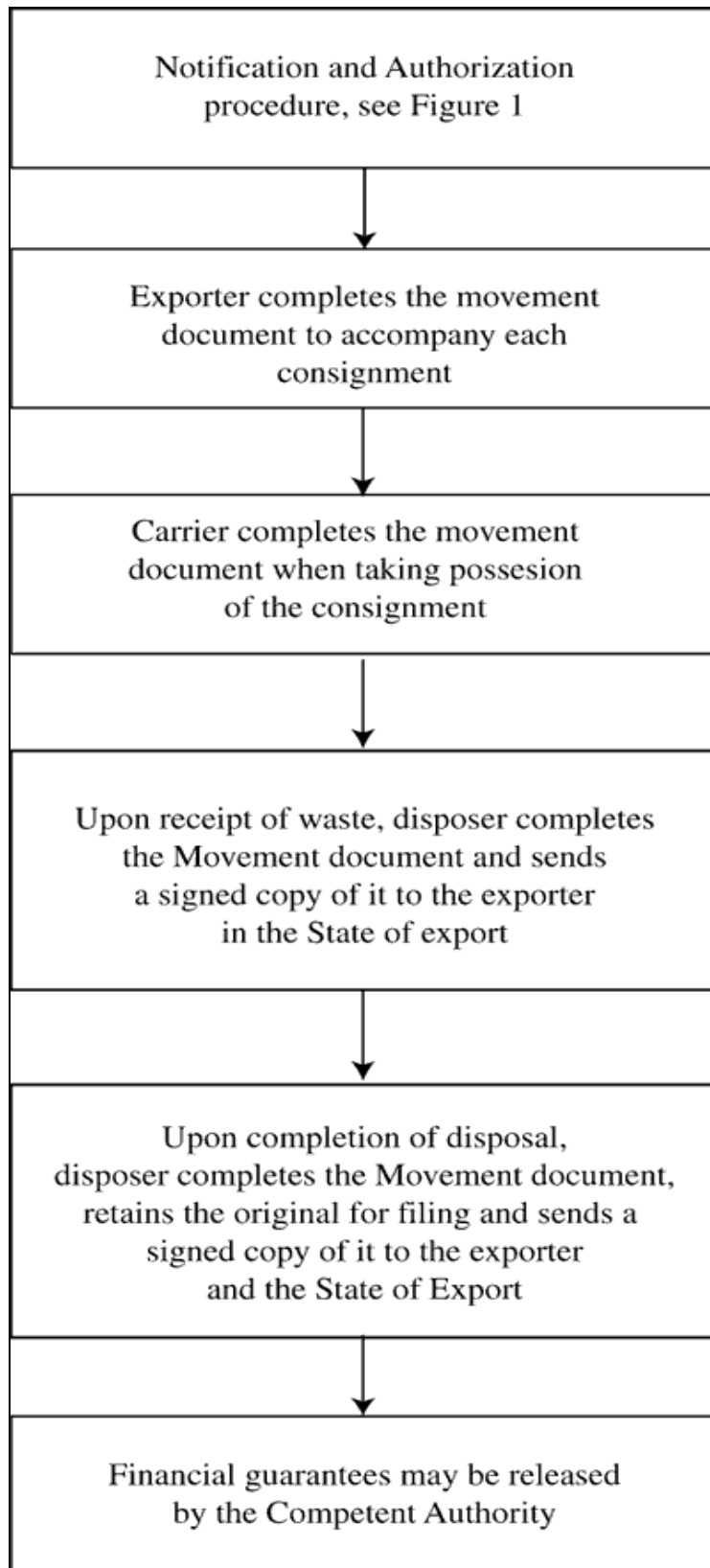


Fig.2. Flow chart of the tracking procedure of the Waigani Convention.

5.2 Check list for the exporter (when acting as a notifier)

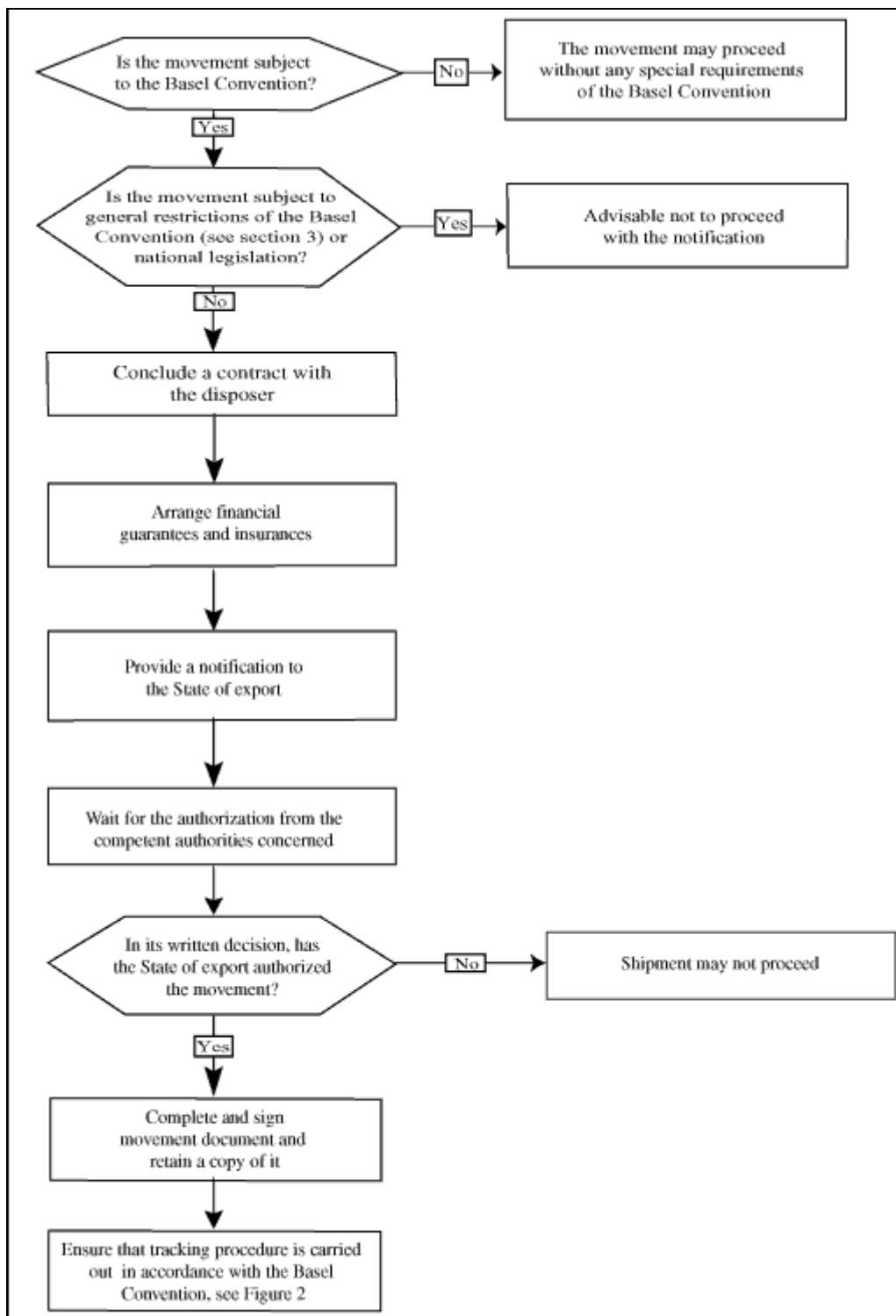


Fig.3 Flow chart of the main responsibilities of the exporter (for more details see below)

RESPONSABILITIES OF THE EXPORTER

1

Determine if the material is considered as a waste and covered under the Waigani Convention and subject to the control procedures and be carried out in accordance with the Waigani Convention and the national legislation of the concerned countries.

- State of import is a Party to the Waigani Convention or has concluded an agreement under Article 11 ?
- Movement is subject to prohibitions?
- The waste cannot be disposed of in the country of export?
- The waste is needed as raw material in the State of import in case of recovery?
- The disposal facility licensed in accordance with the national legislation of the state of import?
- Will the movement be carried out in an environmentally sound manner?

2

Contact the Competent Authority of the State of Export in order to get the notification and movement document and all the relevant information concerning the notification and tracking procedures

3

Conclude a contract with the disposer

- The existence of a contract is a prerequisite for the authorization of the transboundary movement of hazardous wastes and be concluded prior to the notification.
- It shall **specify the environmentally sound management** of hazardous wastes and comply with the requirements of the Waigani Convention and relevant national legislation (additional national requirements might exist).

- Contract shall confirm that carriers, traders, and disposal facilities **operate under the legal jurisdiction of the Parties** to the Waigani Convention and have appropriate legal status. They must be licensed or authorized/approved, or recognized by the State of export, transit or import.
- Contract should state the **assignment of responsibility and liability** for any adverse consequences resulting from mishandling, accidents and other unforeseeable events in accordance with national and international rules and regulations.
- It should specify which **Party will assume responsibility for alternative arrangements** in cases where the original terms of the contract cannot be completed. (See Article 8 of the Waigani Convention.)

Basic elements to be included in the contract:

- Scope of disposer services (*acceptance of wastes; disposal facilities authorized*)
- Term of contract (*period of the contract*)
- Waste material and method of disposal
- Quantity
- Delivery (*type of packaging, information of date of shipment, arrival, completion of disposal; used transport*)
- Title and ownership of the waste
- Inspection, sampling, analysis and acceptance of the shipment including alternative management of the waste when the company receiving the wastes cannot accept it
- Representations and warrants of exporter and the disposer
- Liability (*delineation of the responsibility for third party property damage and any other specific damages -environment, trading loss...*)
- Insurance
- Law and arbitration
- Financial arrangement (*compensation*)

4

Arrange the financial guarantees and insurances required by the national legislation of the country concerned

The Waigani Convention requires that any transboundary movement of hazardous wastes shall be covered by insurance, bond or other guarantee as may be required by the state of import (or transit). These guarantees are intended to provide for immediate funds for alternative management of the waste in cases where shipment and disposal cannot be carried out as originally intended.

Applicants must be reasonably insured against risks that might occur in relation to the hazardous wastes. It should also be a suitable person having regard to their financial viability including the costs of returning and disposing of the waste in cases where arrangements for the shipment or the recovery operations cannot be carried out as originally intended (i.e. in Australia to be financially viable, an applicant must control assets to meet the likely costs of returning and disposing of the wastes).

Some countries may require separate insurance against damage to third parties.

5

Acquire all necessary information in accordance with Annex VI A (*information to be provided on notification*) and Annex VI B (*information to be provided on the movement document*)

6

Complete the notification

Complete the notification in accordance with the instructions. The notification may cover several shipments of wastes over a maximum period of one year providing that the wastes have the same physical and chemical characteristics, is intended to be regularly shipped to the same disposer via the same customs officers for entry and exit (general notification). The notification shall be completed in language acceptable to the competent Authority of the State of import.

Make the necessary number of copies of the completed notification which shall be sign by the generator/or the exporter.

Prepare signed copies for:

- The competent authority of the State of export;
- The competent authority of the State of import
- The Competent authority of the State of Transit if any.

[Some authorities may also wish to check the contents of the movement document in advance. In such a case, a movement document, completed as far as possible at the time of notification, shall be provided to the competent authority along with the notification]

7

Send the copies of the notification to the Competent Authority of the State of Export at least two month before the intended date of the first movement of wastes. (*the competent authority will forward the notification to the other competent authority(ies)*)

8

Provide any other additional data where necessary

Provide any additional data requested by the competent authorities

The exporter is to receive a reply in writing from the competent authorities of the States of import and transit if any.

When having received such replies, it is advisable to check if the competent authority of the State of export has received copy of the reply.

If not, a copy of the reply should be forwarded to the competent authority of the State of export.

9

Wait for the authorisations from the competent authorities

The movement of waste may commence only upon receipt of the authorization by the competent authority of the Exporting Party consenting to the movement.

This authorisation can be given only if the competent authority of the State of import has issued its written consent to the movement and the competent authority of transit, if any, have consented to the movement.

10

Complete a movement document to accompany each movement of waste

Complete the movement document in accordance with the instructions provided. A completed movement document shall accompany each shipment.

The movement document is intended to accompany the consignment at all times from the time of departure from the waste generator to the arrival of the consignment at the disposer in another country.

The movement document provides relevant information on a particular consignment (*for example, on the carriers of the consignment, passage through customs offices, and the receipt and disposal of waste by the disposer*)

The movement document should also provide accurate information on the authorizations by the competent authorities for the proposed movement of waste. It is recommended to enclose a copy of the completed notification to accompany the movement document.

11

Signing of the movement document by the carriers

Ensure that the carriers are aware of their duty to sign the movement document upon receipt of the waste.

Retain a copy of the movement document signed by the first carrier.

At each successive transfer of the consignment to another carrier, a copy of the signed document is to be retained by the previous carrier.

12

Certification of receipt of wastes

Ensure that the disposer is aware of his/her duty to complete the movement document and to send the copies of the document to the exporter and the competent authority of the state of export.

13

Certification of disposal

Ensure that the disposer is aware of his duty to complete the movement document by certifying that the waste has been disposed of, as set out in the notification, and to send the certification to the exporter and the competent authority of the State of export

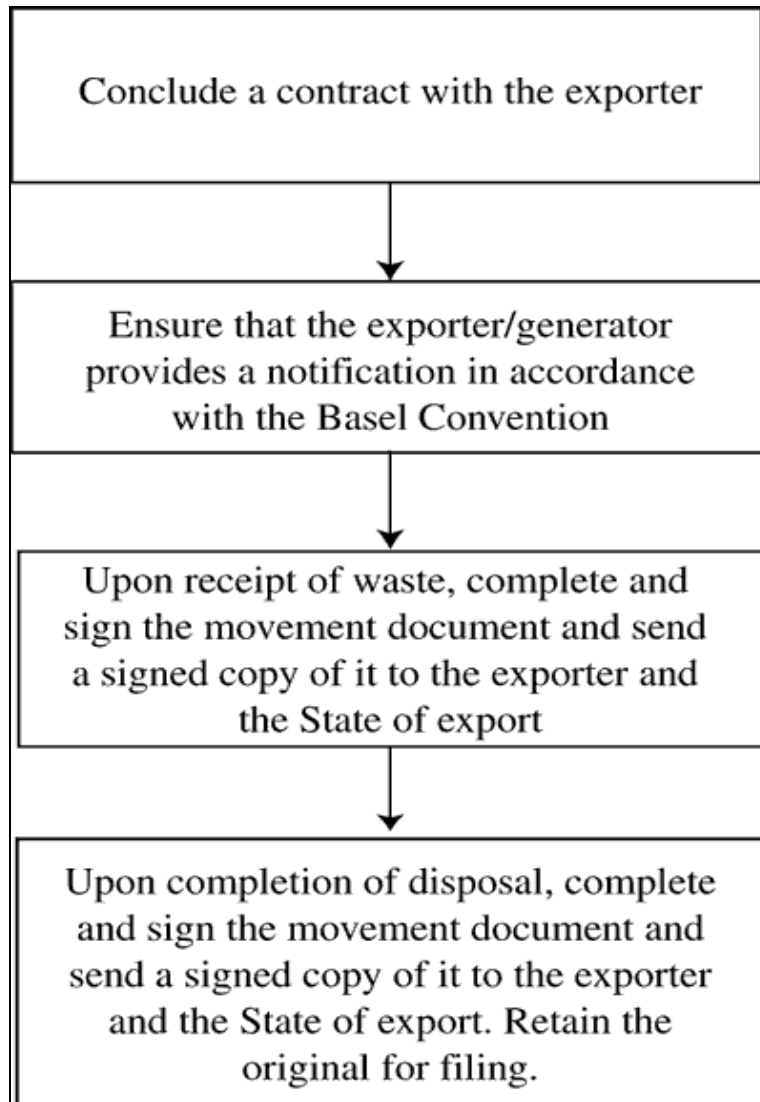
14

Release of financial guarantees

Ensure that the competent authority returns the financial guarantees arranged for the movement after all the certifications of disposal have been given by the disposer, indicating that the consignments of wastes have been disposed of in an environmentally

II

RESPONSABILITIES OF THE DISPOSER



1

Conclude a contract with the exporter

(See Appendix 7: on Basic elements to be included in the contract)

2

Provide the necessary information

For example on the disposal processes to the exporter/generator in order to facilitate the completion of the notification and the movement document.

3

Notification

Ensure that the exporter/generator notifies the competent authorities of the State of export and State transit, if any of the intended movement of waste in accordance with the Waigani Convention.

The notification may cover several shipments of wastes over a maximum period of one year, if wastes having the same characteristics is intended to be regularly shipped to the same disposer via the same customs officers for entry and exit.

4

Certification of receipt of waste

Upon the receipt of the waste, weight the amount of waste and check, if necessary by testing and sampling, whether the consignment complies with the notification and contract.

Complete the movement document and give it to the last carrier.

Send signed copies of the completed movement document to the exporter and the competent authority of the State of export, and retain the original for filing.

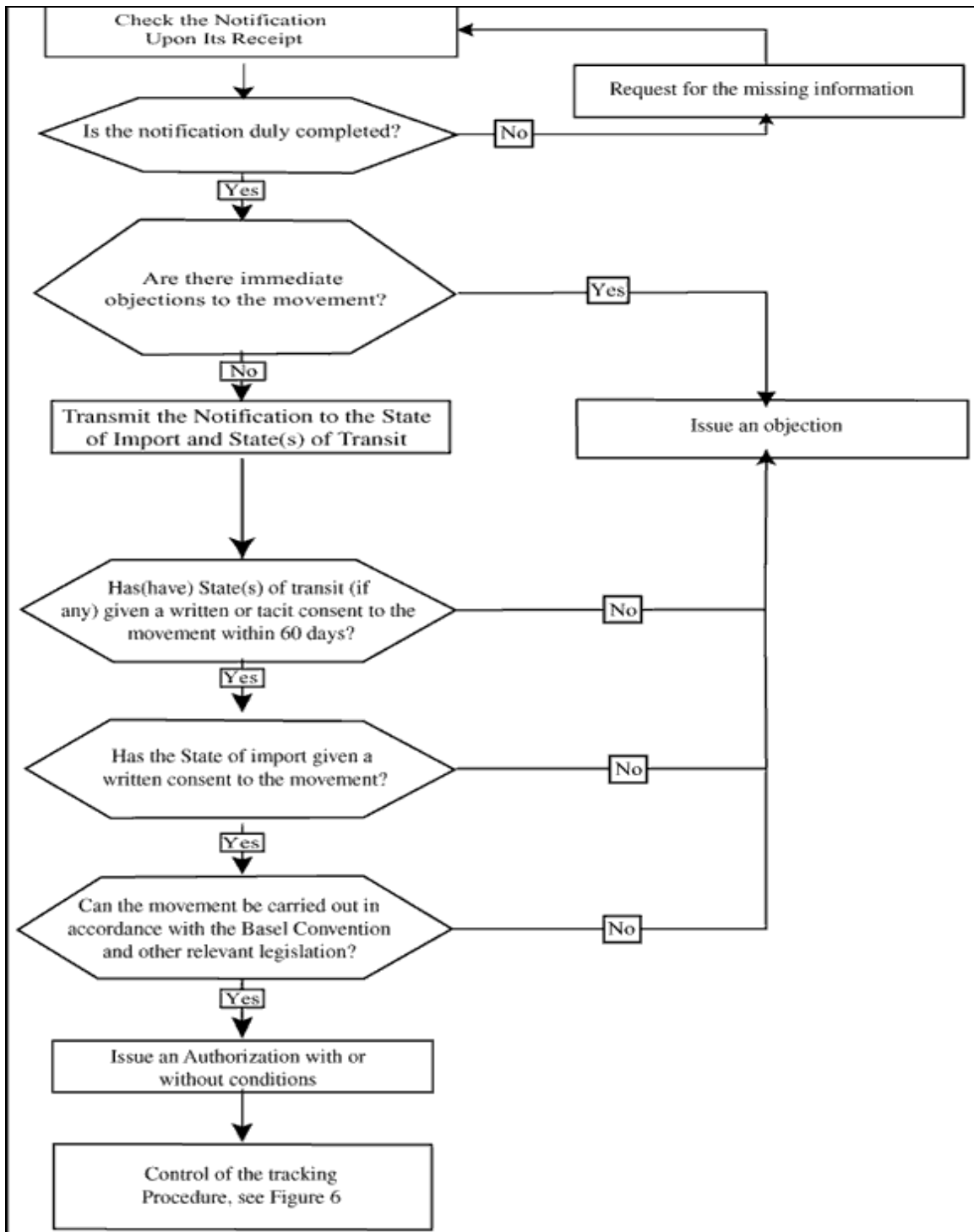
5

Certification of disposal

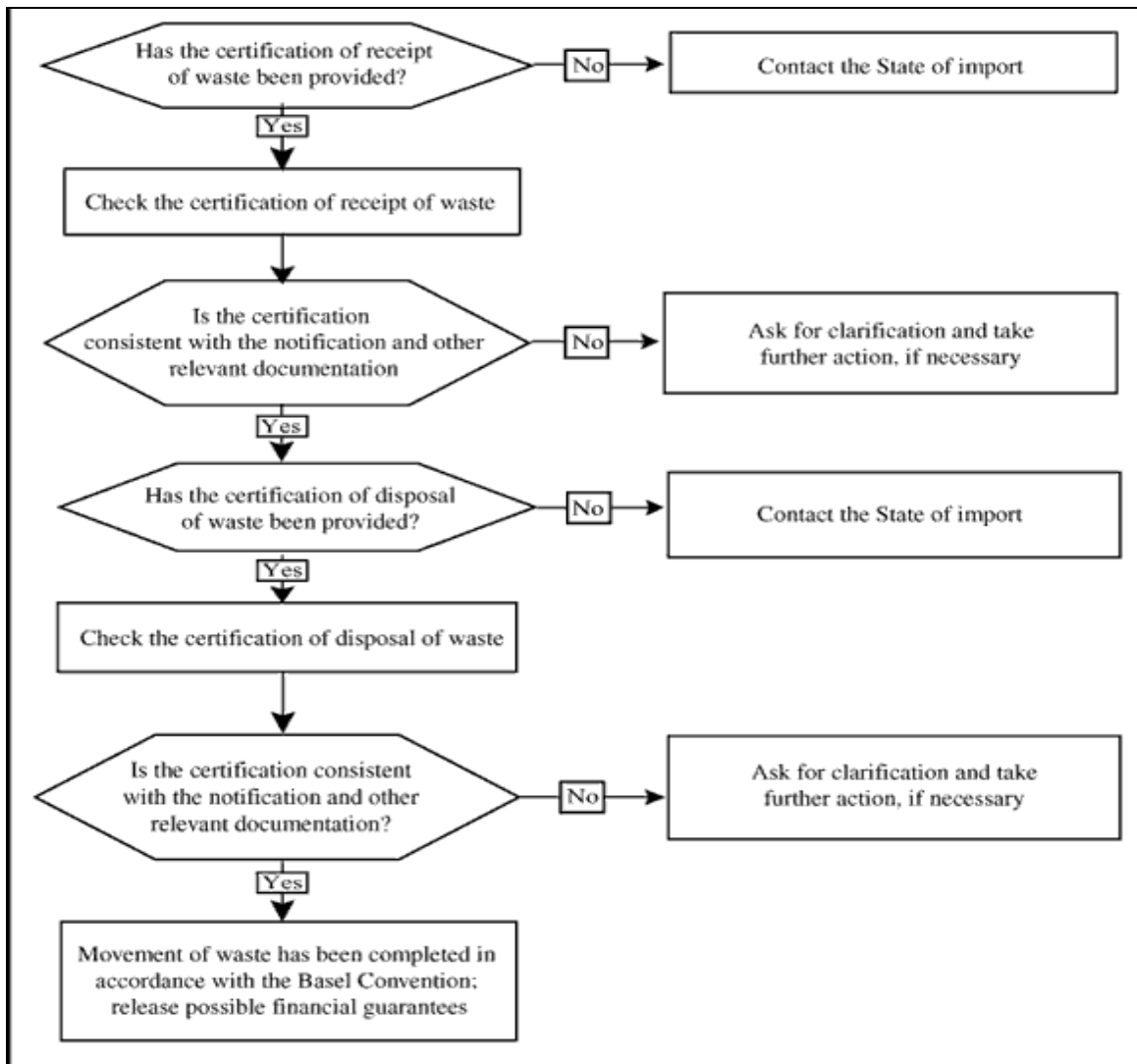
After the consignment of waste has been disposed of in an environmentally sound manner complete the movement document by certifying that the disposal has been completed.

Send signed copies of the movement document to the exporter and the competent authority of the State of export and retain the original for filing.

RESPONSIBILITIES OF THE COMPETENT AUTHORITY OF THE STATE OF EXPORT



Main responsibilities of the Competent Authority of the state of export in the notification and authorisation procedure of the Waigani Convention



Main responsibilities of the Competent Authority of the state of export under the tracking procedure.

1

Assist the exporter, if necessary, to determine whether is the material the waste is subject to control under the Waigani Convention

2

Distribute forms (notification - movement) and all necessary information to exporter/generator

3

Check the Notification

Upon receipt of the notification, check if the notification is duly completed.

If not, return the notification to the exporter/generator and ask for the missing information.

Check is the exporter/generator has provided a sufficient number of the notification documents and ask for additional documents if necessary.

Competent authorities might also wish to check the content of the movement document in advance. If yes, a movement document, completed at the time of notification, shall be provided by the exporter/generator to the competent authority along with the notification. If competent authority decides not to proceed with the notification for immediate reasons, immediately inform the exporter/generator of these objections.

4

Transmit the notification to other competent authorities

Transmit copies of the notification (only if duly completed and there are no immediate objections) to the competent authority of the state of import (and transit if any)

5

Asses if the proposed movement is in accordance with the Waigani Convention and national legislation

Based on the information given in the notification, assess if the movement of wastes complies with the requirements of the Waigani Convention and

national legislation. Special attention should be given to the following:

- Is the State of import is a Party to the Waigani Convention or is there an agreement under Article 11.
- Is the movement subject to prohibitions
- Has the State of import generally prohibited the import of such waste
- The waste cannot be disposed in the State of export
- In case of recovery, does the State of import need the waste as raw material
- Is the disposer licensed in accordance with the national legislation of the State of import
- Will the movement will be carry out in an environmentally sound manner (transport, storage, disposal)
- If necessary, request additional information.

6

Ensure that the competent authority of the State of import acknowledge within 15 working days of receipt of notification

7

Ensure that the movement is allowed by the Competent Authorities of the States of Transit if any

The Competent authority of the State of transit shall promptly acknowledge receipt of within 15 working days receipt of notification of the exporter. If you don't receive copy of the acknowledgement, you can ask to provide you with a copy of the response.

The competent authority of the transit Party shall have sixty days after issuing the acknowledgement to inform the notifier that it is consenting to the movement, with or without conditions, denying permission for the movement or requesting additional information.

In the case of additional information is needed, another period of 20 days begins from the time of receipt of the additional information.

8

Ensure that the movement is allowed by the Competent Authority of the State of import

Ensure that the competent authority of the State of import has issued its written response and has confirmed the existence of a contract between the exporter and the disposer.

In practice, this confirmation may rarely be necessary, because information concerning the contract is to be given by the exporter in the notification.

9

Issue a decision in writing

Issue a decision:

- Consenting to the movement of the wastes with or without conditions
- Denying permission for the movement
- Requesting additional information

The proposed movement can be authorized only in the absence of objections from the competent authority of the state of export and of other competent authorities concerned.

In the case of a general notification, authorization can be given only for a period of one year.

10

Check the certifications of receipt of the wastes

Check the certifications of receipt of the waste sent by the disposer.

In case of inconsistencies with the notification, request explanations from the exporter/generator or the disposer or, contact the competent authority of the State of import.

If the certifications have not been provided, contact the competent authority of the State of importation

11

Check the certifications of disposal

Check the certifications of receipt of the disposal sent by the disposer. In case of inconsistencies with the notification, ask for explanations from the exporter/generator or the disposer or contact the competent authority of the State of import.

If the certifications have not been provided, contact the competent authority of the State of import.

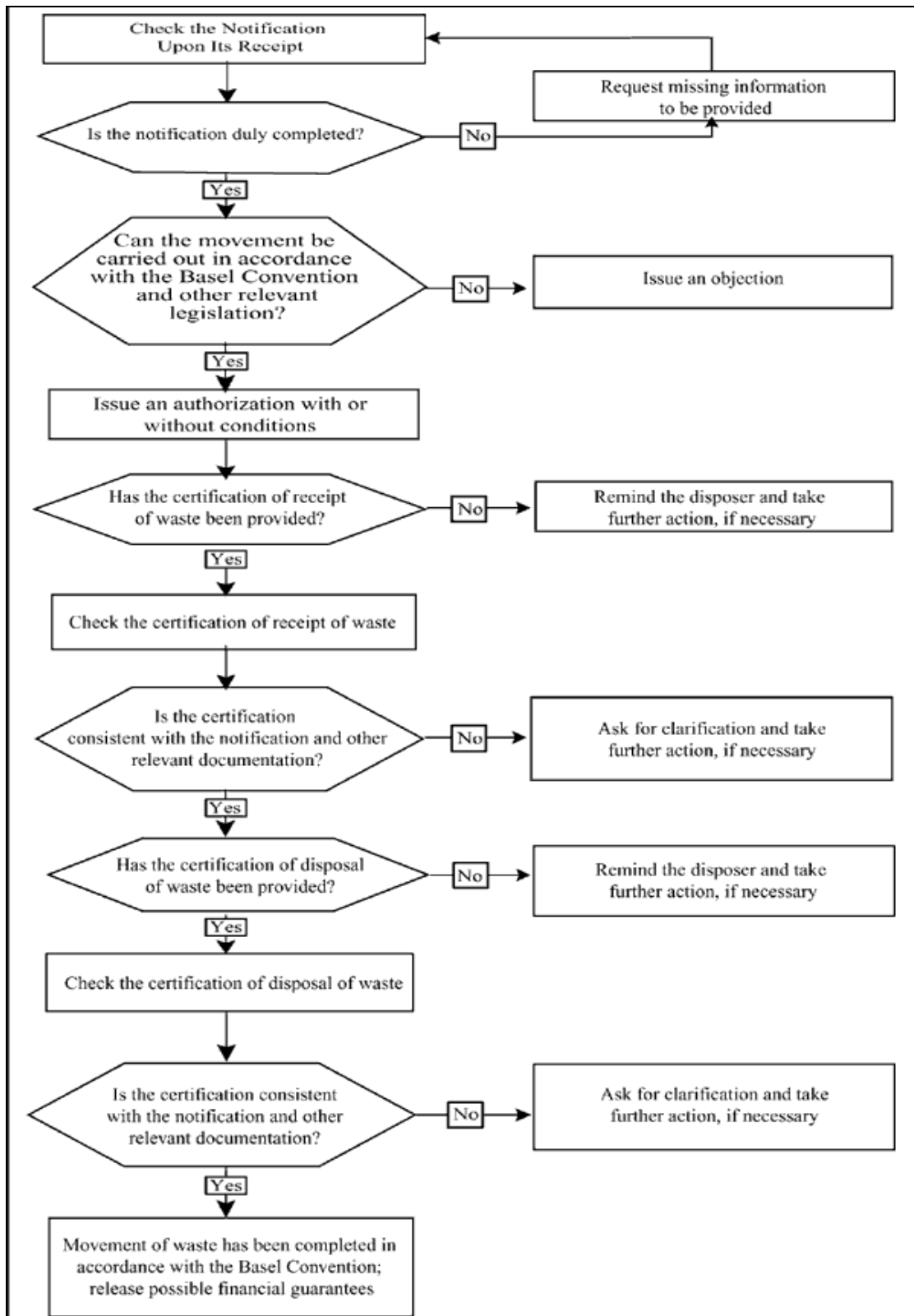
12

Release of financial guarantees

When all the certifications of disposal have been given by the disposer indicating that all the consignments of waste have been disposed of in an environmentally sound way, the pre-arranged financial guarantees for the movement of waste may be released.

IV

RESPONSIBILITIES OF THE COMPETENT AUTHORITY OF THE STATE OF IMPORT



Main responsibilities of the Competent Authority of the state of import.

1

Assess if the proposed movement is in accordance with the Waigani Convention and the national legislation

Upon receipt of the notification from the exporter/generator via the competent authority of the State of Export, the competent authority of the State of import assess if the proposed movement of waste complies with the requirements of the Waigani Convention and the national legislation. Particular attention should be given to the following:

- Is the State of export is a Party to the Waigani Convention or is there an agreement under Article 11.
- Is the movement subject to prohibitions
- Is the import of such waste prohibited by national legislation
- In case of recovery, does the State of import need the waste as raw material
- Is the disposer licensed in accordance with the national legislation of the State of import
- Will the movement will be carry out in an environmentally sound manner (transport, disposal, storage)
- Request additional information, if necessary.

2

Issue a reply in writing

Issue a reply in writing:

- Consenting to the movement with or without conditions
- Denying permission for the movement; or
- Requesting additional information

Confirm the existence of a contract between the exporter and the disposer

In practice, the confirmation may not be necessary as information concerning the contract is to be given by the exporter in the notification,

In case of general notification, authorization can be given for a maximum period of one year.

3

Check the certifications of receipt of waste sent by the disposer

In case of inconsistencies with the notification, ask for explanations from the disposer.

In case the certification has not been provided, the disposer of his responsibility to do it and, if necessary take further action in accordance with national legislation.

4

Check the certifications of disposal

In case of inconsistencies with the notification, ask for explanations from the disposer and if necessary, take further action in accordance with national legislation.

In case the certification of disposal has not been provided, remind the disposer of his responsibility to do so and where necessary to take further actions in accordance with national legislation.

5

Release of financial guarantees

When all the certifications of disposal have been given by the disposer, indicating that all consignments of waste have been disposed of in an environmentally sound way, the pre-arranged financial guarantees for the movement of the waste may be released.

RESPONSIBILITIES OF THE COMPETENT AUTHORITY OF THE STATE OF TRANSIT (IF ANY)

1

Issue the acknowledgement

Acknowledge receipt of the notification to the notifier within 14 working days. Although not required by the Waigani Convention, it is recommended to send copies of the acknowledgement to the other

2

Decide whether the proposed movement can be accepted or not

The competent authority of the State of transit shall issue a decision to the notifier within 60 days after the acknowledgement of notification:

- Consenting to the movement with or without conditions;
- Denying permission for the movement, or
- Requesting additional information

In the event of additional information, a new period of 21 days recommences from the time of receipt of the additional information.

It is recommended to keep the Secretariat of the Waigani Convention informed of any movement, including copying notification and documents forms in light of its obligation to report to Parties on information regarding transboundary movement of hazardous wastes in which Parties have been involved, including:

- The quantity of hazardous wastes exported, their category, characteristics, destination, any transit country and disposal method as stated in the notification;
- Disposal which did not proceed as intended

6. Other Issues of Importance

6.1 Transit through a State not Party to the Waigani Convention

If a State of transit is not Party to the Waigani Convention, the competent authority of such State shall be notified on the transit of waste in the same way as if the State was a Party to the Convention (Art. 7). Although not explicitly required by the

Waigani Convention, many countries require that the transit of waste shall not be allowed to proceed, until the competent authority of such State of transit has given written consent to the movement.

Some States not Party to the Waigani Convention have provided the Secretariat of the Waigani Convention with information on focal points and/or competent authorities who should be contacted in case of intended transit of waste through their territory. The available information on such contact points is included in Appendix 5. With regard to other States, a relevant government authority to be contacted is normally the Ministry of the Environment of these States or the Ministry of Foreign Affairs.

6.2 Movements destined for disposal operations D13 - D15 and R12 - R13

Annex IV of the Waigani Convention contains a list of disposal operations for waste. Some of the listed operations are to be considered as "intermediate or temporary operations", that is, after these operations wastes still need to undergo further treatment before being finally disposed of. These operations are: blending and mixing prior to submission to any of the disposal operations (D13), repackaging prior to submission to any of the disposal operations (D14), storage pending any of the disposal operations (D15), exchange of wastes for submission to any of the operations numbered R1-R11 (R12), and accumulation of material intended for any recovery operations (R13).

In case the transboundary movements of hazardous wastes or other wastes take place in order to undertake disposal operations D13-D15 or R12-R13, the competent authorities may require that the subsequent intended disposal operations should be specified on the notification as additional information. The competent authority may decide not to authorize the proposed movement of waste, if it is not convinced that the waste will be disposed of in an environmentally sound way at its final destination.

6.3 Cases when the notification is to be sent to the Secretariat of the Waigani Convention

According to Article 13, paragraph 4 of the Convention, all Parties, consistent with their national legislation, 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 of the Waigani Convention "when a Party (which) considers that its environment may be affected by that transboundary movement has requested that this should be done".

6.4 Dealing with interpretation differences and the "mutatis mutandis" principle

In some cases, certain wastes may not be legally defined or considered as hazardous waste by all the countries involved in transboundary movement of such wastes. This may be due to, for example, the following reasons:

- a Party may, on the basis of Article 1, paragraph 1b of the Convention, also classify other wastes than those listed in Annexes I and II of the Convention as hazardous wastes in accordance with its national legislation;
- because of differences in national legislation of the States, as regards the definition of waste, a certain substance or object may not be considered as waste by all the States concerned; or
- the competent authorities may disagree on whether a certain waste possesses any of the hazardous characteristics referred to in Annex III of the Convention.

According to Article 6, paragraph 5 of the Convention, the situations described above shall be dealt with according to the mutatis mutandis principle. The following examples show how this principle may be interpreted under the Waigani Convention.

If the waste is legally defined as or considered to be hazardous waste only by the State of import, or by the States of import and transit, the notification duties are to be undertaken by the State of import. This means that the disposer or the competent authority of the State of import shall provide the notification to the competent authorities concerned (see check list for the exporter, section 5.2). Similarly, the competent authority of the State of import shall assume the responsibilities of the competent authority of the State of export (see check list for the competent authority of the State of export, section 5.4).

In case the wastes are legally defined as or considered to be hazardous wastes only by the State of export, the State of export shall ensure that the disposer issues a certification of receipt of the waste and a certification of the completion of disposal as required by the Convention. This may be done, for example, by requiring these obligations to be included in the contract between the exporter and the disposer.

The Convention does not clearly define the procedures to be applied in cases when the waste is legally defined as or considered to be hazardous wastes only by the State of transit. For practical reasons, it is recommended that the exporter or the State of export, through negotiations or by some other means, makes arrangements for the notification to be provided to the competent authority of the State of transit in accordance with the Waigani Convention.

7. Movements That Cannot be Completed as Intended and Illegal Traffic

7.1 Movements that cannot be completed as intended

When a transboundary movement of hazardous wastes or other wastes cannot be completed as intended, that is, in accordance with the notification, authorizations of the competent authorities and the terms of the contract, the Party that has possession of the waste must immediately inform the exporter/generator and the competent authorities of the States of export and import of such incident. If the consignment is located in a State of transit, then the competent authority of that country must also be immediately informed.

In such cases, alternative management and control arrangements, or return of the wastes to the exporter/generator if necessary, must be arranged. According to Article 8 of the Waigani Convention, the State of export shall ensure that the exporter takes the wastes back into the State of export, if alternative arrangements cannot be made for their disposal in an environmentally sound manner.

On a case-by-case basis, the competent authorities of the concerned States shall cooperate to ensure that all necessary arrangements are made and documents obtained, and action taken within a limited time period (90 days or any other period of time as the States concerned agree), in order to ensure the best alternative management of waste. To this end, the State of export and any States of transit shall not oppose, hinder or prevent the return of the consignment to the State of export.

7.2 Illegal traffic

According to Article 9 of the Waigani Convention, any transboundary movement of wastes or other wastes is deemed to be illegal traffic if:

- it is carried out without notification pursuant to the provisions of the Waigani Convention;
- it is carried out without consent in accordance with the Waigani Convention;
- the consent for it is obtained from the States concerned through falsification, misinterpretation or fraud;
- it does not conform in a material way with the relevant documents; or
- it results in deliberate disposal (e.g. dumping) of hazardous wastes or other wastes in contravention with the Convention and of general principles of international law.

In case a transboundary movement is deemed to be illegal traffic as the result of conduct on the part of the exporter or generator, the Waigani Convention requires that the State of export shall ensure that the wastes in question are taken back by the exporter or generator or, if necessary, by itself into the State of export; or are otherwise disposed of in accordance with the provisions of the 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.

If the illegal traffic is the result of conduct on the part of the importer or disposer, the State of import, within 30 days from the time the illegal traffic has come to its attention or such other period of time as the States concerned may agree, 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.

It is important to secure material that is prepared for import.

This is because once the line of contracts has been finalised and the permit applications forms completed (notification, movement / tracking and any other import requirements for the importing country), if the materials are altered or tampered with (ie, more chemicals added, or the packaging is tampered with), it could render the material illegal, and the importing country may not accept the waste.

The exporter will then have to cover the cost of bringing the waste back to the country of original export

In cases where the responsibility for the illegal traffic cannot be assigned, the Waigani Convention requires that the Parties concerned or other Parties, as appropriate, ensure, through cooperation that the wastes in question are disposed of as soon as possible in an environmentally sound manner.

Confirmed cases of illegal traffic means cases dealt with in accordance with the relevant national legislation and criminal law, as provided for in Article 9, paragraph 5 of the Waigani Convention.

PART II

NOTIFICATION AND MOVEMENT DOCUMENT

Multiple movements need one Notification Form, but many Movement Forms.

If you intend to export several shipments in one year, you only need one Notification Form that describes the shipments, but you need a separate Movement Form for each shipment.

The Notification and Movement forms remain current for up to 12 months

TRANSBOUNDARY MOVEMENT OF WASTE - Notification WAIGANI CONVENTION											
1. Exporter (name, address):				3. Notification concerning (1):							
				A (i) Single Movement				B (i) Disposal (no recovery)			
				(ii) General notification				(ii) Recovery operation			
Contact person:		Tel:		(multiple movements)							
				C Pre-authorized recovery facility (1)		Yes		No			
Reason for export:				Facility Registration Number (if Yes)							
2. Importer (name, address):				(To be completed for a recovery facility located in an OECD State)							
				4. Total intended number of shipments		5. Estimated quantity (3)					
										kg	
										litres	
Contact person:		Tel:		6. Intended date(s) or period of time for shipment(s)							
		Fax/Telex:									
7. Intended carrier(s)* (name, address) (2):				8. Disposer (name, address)							
Contact person:		Tel:									
		Fax/Telex:									
10. Waste generator(s) (name, address) (2):				Contact person:		Tel:					
				Actual site of disposal:		Fax/Telex:					
Contact person:		Tel:		9. Method(s) of disposal:							
		Fax/Telex:		D code / R code (4):							
Site of generation & process:				Technology employed (Attach details if necessary):							
				11. Mode(s) of transport (4):				12. Packaging Type(s) (4):			
13. (i) Designation and chemical composition of the waste				(ii) Special handling requirements				14. Physical characteristics			
15. Waste identification code				17. Y-number (4):							
in country of export:				IWIC:							
in country of import:				EWC:				18. H-number (4):			
Customs Code H.S:				Other (specify):							
16. OECD classification (1):				19. (i) UN identification:				(ii) UN class (4):			
amber		red		and number:		UN Shipping name:					
other		(attach details)									
20. Concerned states, code number of Component authorities, and specific points of entry and exit: (5)											
State of export				States of transit				State of Import			
21. Customs offices of entry and/or departure (European-Community):				23. Exporter's/Generators declaration:							
Entry				I certify that the above information is complete and correct to my best knowledge. I also certify that legally-enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement.							
Departure:				22. Number of annexes Attached (5)		Name:		Signature:			
For use by competent authorities											
24. To be completed by				- Import (EEC, OECD)				25. Consent to the movement provided by the competent authority of (country):			
Notification received on:				- transit (Basel)							
								Consent given on:		Consent expires on:	
Acknowledgment sent on:				Specific conditions (1):				Yes. See block 26 overleaf/annex			
										No.	
Name of competent authority,				Name of competent authority,							
stamp and/or signature:				stamp and/or signature:							

- (1) Enter X in appropriate box; (2) Attach a list if more than one; (3) Attach a list if multiple shipment ;
 (4) See codes on the reverse; [5] Annexes to be provided for reasons on reverse

List of abbreviations used in the movement document	DISPOSAL (NO RECOVERY) (Block 9)	List of abbreviations used in the movement document	DISPOSAL (NO RECOVERY) (Block 9)
D1	Deposit into or onto Land, (e.g., Landfill, etc.)	R1	Use as a fuel (other than in direct incineration) or other means to generate energy
D2	Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc...)	R2	Solvent reclamation/regeneration
D3	Deep Injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)	R3	Recycling/reclamation of organic substances which are not used as solvents
D4	Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc...)	R4	Recycling/reclamation of metal compounds
D5	Specially engineered landfill, (e.g., placement onto lined discrete cells which are capped and isolated from one another and the environment, etc...)	R5	Recycling/reclamation of other inorganic materials
D6	Release into water body except seas/oceans	R6	Regeneration of acid or bases
D7	Release into seas/oceans including sea-bed insertion	R7	Recovery of components from used for pollution abatement
D8	Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations number D1 to D12	R8	Recovery of components from catalysts
D9	Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations numbered D1 to D12, (e.g., evaporation, drying, calcination etc.)	R9	Used oil re-refining or other reuses of previously used oil
D10	Incineration on land	R10	Land treatment resulting in benefit to agricultural or eco- logical improvement
D11	Incineration at sea	R11	Uses of residual material obtained from any of the operations numbered R 1 to R10
D12	Permanent Storage, (e.g., emplacement in containers in a mine, etc.)	R12	Exchange of wastes for submission to any of the operations numbered R1 to R11
D13	Blending or mixing prior to submission to any of the operations numbered D1 to D12	R13	Accumulation of material intended for any operations numbered R1 to R12
D14	Repackaging prior to submission to any of the operations number D1 to D12.		
D15	Storage pending any of the operations D1 to D12.		
			H NUMBER (Block 18) AND UN CLASS (Block 19)

	MODES OF TRANSPORT (Block 11)		PACKAGING TYPES (Block 12)		PHYSICAL CHARACTERISTICS (Block 14)	UN	Class	H number
R	Road	1	Drum	1	Powdery/powder	1	H1	Explosive
		2	Wooden Barrel	2	Solid	3	H3	Inflammable liquids
T	Train/Rail	3	Jerrican	3	Viscous/paste	4.1	H4.1	Inflammable solids
		4	Box	4	Sludgy	4.2	H4.2	Substances or wastes liable to spontaneous combustion
S	Sea	5	Bag	5	Liquid			
		6	Composite Packaging	6	Gaseous	4.3	H4.3	Substances or waste which, in contact with water, emit inflammable gases
A	Air	7	Pressure receptacle	7	Other (specify)			
		8	Bulk			5.1	H5.1	Oxidizing
W	Inland Waterways	9	Other (Specify			5.2	H5.2	Organic peroxides
						6.1	H6.1	Poisonous (acute)
						6.2	H6.2	Infectious substances
						8	H8	Corrosives
	ANNEXES – Other information required including that as described in Annex VIA of the Waigani Convention (Block 22)					9	H10	Liberation of toxic gases in contact with air or water
1	Reasons for waste export					9	H11	Toxic (delayed or chronic)
2	Full name, address, phone, telex or fax number of the competent authorities of the State of export of the wastes, the expected transit countries, and the country of import of the wastes					9	H12	Ecotoxic
3	Planned shipping itinerary giving dates and points of entry and exit					9	H13	Capable, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above
4	Information on insurance							
5	Process by which the waste is generated							
6	Information used by the exporter or generator to assess the capacity of the importer to deal with the material in an environmentally sound manner and in accordance with legislation of the country of import							What codes are used for the radioactive materials?????
7	Information concerning the contract between the exporter and the disposer							
8	Others as needed							
	Y numbers (block 17) refer to categories of waste listed in Annex I and II of the Basel Convention. These codes, as well as more detailed information can be found in <i>an instruction manual available from the Secretariat of the Basel Convention.</i>							
26.	SPECIFIC CONDITIONS ON CONSENTING TO THE MOVEMENT							

INSTRUCTIONS FOR COMPLETING THE NOTIFICATION

Blocks 1 to 23 must be completed by the **exporter**

Block 24 must be completed by the **competent authority of transit**

Block 25 and 26 are for use by the competent **authorities of the State of export, import and transit** when issuing decisions on the proposed transboundary movement of wastes

Taking into consideration Article VI-1 of the Waigani Convention, the Exporting Party shall notify, or shall require the generator or exporter to notify, in writing, through its competent authority, the competent authority of the country concerned of any proposed transboundary movement of hazardous wastes.

Such notification shall contain the declarations and information specified in Annex VI A of the Waigani Convention, written in the language acceptable to the importing Party.

Although the Waigani Convention requires that one notification needs to be sent to each country concerned, the Basel convention recommends for practical reasons that the exporter prepares:

- Two signed copies for the competent authority of the State of export;
- Two signed copies for the competent authority of the State of import;
- Three signed copies for the competent authority of each State of transit, if any.

The exporter sends all copies of the signed copies to the competent authority of the State of export, who transmits the notifications to the other competent authorities concerned. It is also recommended that the exporter sends a copy of the notification to the disposer for information.

The competent authority of the State of export and the competent authority of the State of import use:

- One copy to provide the consent of the proposed movement of wastes (original with block 25 completed to be sent to the exporter/generator and a copy of it to be sent to other States concerned);
- One copy for filing.

The competent authority of the State of transit uses:

- One copy to provide acknowledgement (original with block 24 completed to be sent to the exporter/generator and a copy of it to the competent authority of the other States concerned)
- One copy to provide the consent for the proposed movement of hazardous wastes (original with block 25 completed, to be sent to the exporter/generator and a copy of it to the competent authorities of other states concerned);
- One copy for filing

Please note that some countries require to check the contents of the movement document in advance. Therefore a movement document, completed as far as possible at the time of notification, shall be provided to the competent authority together with the notification.

The notification number on the top right of the form may be provided by the competent authority when issuing a notification.

In all cases and as required by the Waigani Convention (Article VI-3), the exporting Party shall not allow the transboundary movement until it has received:

- Written consent of the importing Party;
- Written consent from every transit Party;
- Written consent of every non-Party of transit
- Written confirmation from the importing Party of the existence of a contract between the exporter and the disposer specifying the environmentally sound management of the wastes in question; and
- Written confirmation from the exporter of the existence of adequate insurance, bond or other guarantee satisfactory to the exporting Party.

BLOCK 1	<p>The exporter is the person under the jurisdiction of the exporting Party who proposes/arranges for hazardous wastes to be exported. He has possession or legal control of the wastes at the time that the planned transboundary movement commences.</p> <p>Provide the full name and address, telephone, telex or telefax number of the exporter, and the name, address, telephone, telex or telefax number of the person who can be contacted at any time in relation to any incident during movement of the consignment.</p> <p>Give the reasons for export of the wastes</p>
BLOCK 2	<p>The importer is the person to whom possession or legal control of the waste is assigned at the time the waste is received in the state of import. The importer arranges for the hazardous waste to be imported and must be under the legal jurisdiction of the country of import. The importer may also be the operator of a recovery facility.</p> <p>Provide the full name and address, telephone and telex or telefax number of the importer concerned with the proposed movement, and the name, address, telephone, telex or telefax number of the person who can be contacted at any time in relation to any incident during movement of the consignment. Normally, the importer would be the disposer. In this case enter the words "same as block 8". If not both blocks 2 and 8 need to be completed.</p>
BLOCK 3	<p>Tick the appropriate boxes to indicate whether:</p> <ul style="list-style-type: none"> - A/ The notification is intended to cover a single movement or several shipments (general notification); - B/ The waste is destined for final operation without recovery (Annex VA of the Waigani Convention), or a recovery operation (Annex VB of the Waigani Convention) - C/ Is to be completed as part of a OECD System
BLOCK 4	Indicate the total number of intended shipments
BLOCK 5	<p>Provide the estimated total quantity (weight in kilos or volume in liters) of the amount to be shipped.</p> <p>Note there might be some practical difficulties in estimating quantities of the waste and the intended day of shipment at the time of notification.</p>
BLOCK 6	<p>Indicate intended date of shipment or period of time for shipments and proposed itinerary.</p> <p>In the case of a general notification covering several shipments, indicate either the expected dates of each shipment or, if it is not known, the expected frequency of the shipment will be required.</p>
BLOCK 7	<p>The Carrier is the person who carries out the transport of hazardous wastes.</p> <p>Provide the full name and address, telephone and telex or telefax number of the carrier and the name, address, telephone telex or telefax of the person to be contacted at any time in relation to any incident during movement of the consignment.</p> <p>If more than one carrier is involved, enter the words "see attached list" and append a list giving the information required for each carrier.</p>
BLOCK 8	<p>The disposer is the person for whom hazardous wastes are destined and who carries out the actual disposal of such wastes.</p> <p>Provide the full name, address, telephone and telefax or telex number of the disposer and the name, address, telex or telefax number of the person to be contacted.</p> <p>Provide the information on the actual disposal site (if it is different from the location of the disposer).</p>
BLOCK 9	<p>Provide the methods of disposal (see the reverse side for codes/ Annex V of the Waigani Convention).</p> <p>Describe the technology employed and the environmentally soundness of the methods followed. Attach additional information if necessary.</p>
BLOCK 10	<p>The generator is the persons whose activity produces the wastes. If that person is not known, the person who is in possession and/or control of those wastes.</p> <p>Provide the full name and address, telephone and telex or telefax number of the generator of the waste and the name address, telephone, telex or telefax of the person to be contacted at any time in relation to any incident during movement of the consignment.</p> <p>Provide information on the process by which the waste was generated and the site of generation.</p> <p>If the generator is the exporter, write in the block "Same as block 1".</p> <p>When the waste is produced by more than one generator, enter words " See attached list" and append a list providing the information required to each generator.</p>
BLOCK 11	Indicate the proposed means of transport. There are on the reverse side of the notification
BLOCK 12	Indicate the proposed packaging type(s). There are on the reverse side of the notification

BLOCK 13	(i) Provide the names by which the material is commonly known, the chemical names and constituents and their concentration (ii) Indicate any special precautions concerning the consignment, for example, producers handling instructions for employees, health and safety information, including information on emergencies in case of accident.
BLOCK 14	Indicate the physical characteristics of the waste at normal temperature and pressure. Refer to the reverse side of the notification.
BLOCK 15	Indicate the waste identification code by which the material is designated in the country of export and, if known, in the country of import. Where necessary, provide the designation of the waste according to an adopted uniform classification code such as the International Waste Identification Code (IWIC), the European Waste Catalogue (EWC) code, the Harmonised System (HS) code or any other to be specified.
BLOCK 16	Refers to OECD classification, which is required to be checked only for wastes going to recovery facilities under the OECD System.
BLOCK 17	Provide the Y number (s), which accords with "Categories of Wastes which are Hazardous wastes" (Wastes streams-Wastes having as constituents) as contained in Annex I of the Waigani Convention.
BLOCK 18	For wastes listed in Annex I of the Convention, provide the H number(s). Refer to the reverse side of the notification/Annex II of the Waigani Convention (List of hazardous characteristics, UN Class Code Characteristics)
BLOCK 19	Provide the UN identification number, including proper shipping name, and, for wastes listed in Annex I of the Waigani Convention (Y1-Y45), UN Class (refer to the reverse side of the notification). The UN recommendations provide conditions on the Transport of Dangerous Goods. The UN recommendations provide conditions under which dangerous goods are suitable for transportation internationally.
BLOCK 20	In the left-hand block, provide the name of the State of export, (or the code for the country by using the OECD and ISO Standard 3166 abbreviations). Provide also the name, address, telephone and telefax/telex number of the Competent Authority of the State of export, the name of the port and the customs office as the point of entry to or exit from a particular country. In the three middle blocks, provide the corresponding information on the States of transit in order of the transport. In the right-hand block, provide the corresponding information on the State of import.
BLOCK 21	Completion required for consignments entering, passing through or leaving EU Member.
BLOCK 22	Specify the number of Annexes attached. (Annexes refer to any supplementary information supplied with the Notification Form). Ensure that each Annex is headed by the reference number of the box to which it relates. Annexes may refer to, for example, the list of several carriers, or generator of waste, as well as information on the method of disposal, the contract between the exporter and the disposer and on the financial guarantees or insurances provided for the transboundary movement of hazardous wastes.
BLOCK 23	Sign and date the notification before it is submitted to the Competent Authority of the State of Report. The name of the authorised representative of the Export/Generator should appear in capital letters to accompany the signature. By signing the declaration, the exporter/generator certifies that the information is complete and correct and that there is a valid written contract between the exporter and the disposer, and that the required financial guarantees are or shall be in force covering the transboundary movement. The proof of insurance and information concerning the contract between the exporter and the disposer and, if requested by the Competent Authorities, the proof of other financial guarantees shall accompany the notification. Example of declaration: <i>"I certify that the above information is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement"</i>
BLOCK 24	This is not to be filled by the exporter but by the Competent Authority that is to acknowledge receipt of notification
BLOCK 25	This is to be filled by the Competent Authority of any country concerned when providing writing consent to a transboundary movement of hazardous wastes. Indicate the name of the country, the date of consent and the date on which it expires. If the movement is subject to specific condition, place (X) in the appropriate box and complete Block 26 "Specific conditions on consenting to the movement" on the reverse side of the form, or use a separate sheet of paper. When objecting to a movement, Competent Authority may write "OBJECTION" in block 25. Block 26 or the use of a separate sheet of paper may explain the objection.
BLOCK 26	This block is on the reverse side of the notification form to be used by the Competent Authorities when providing specific conditions for their written consent to the movement or to explain their objection to the movement.

INSTRUCTION FOR COMPLETING THE MOVEMENT DOCUMENT

TRANSBOUNDARY MOVEMENT OF WASTE - Notification WAIGANI CONVENTION

1 i)	Exporter (name, address)	3	Corresponding to Notification:	4.	Serial number of shipment
			Movement subject of (1)		
Contact person:			single notification		
Tel:			general notification		
Fax/Telex:			8.		
Disposal (name, address)					
1 ii)	Waste generator (name, address) (1)				
Contact person:		Tel:			
Fax/Telex:		Actual site of disposal:			
Site of generation:					
2.	Importer (name, address)	9.	Method(s) of disposal:		
D code / R code (3):					
Technology Employed *:					
Contact person:		Tel:			
Fax/Telex:		*(Attach details if necessary)			
5.	1st Carrier (name, address):	6.	2nd Carrier (name, address) (4):	7.	Last carrier (name, address):
Registration No:		Registration No:		Registration No:	
Tel:		Tel:		Tel:	
Fax/Telex:		Fax/Telex:		Fax/Telex:	
10.	Identity of means of transport (3)	11.	Identity of means of transport (3)	12.	Identity of means of transport (3)
Date of transfer:		Date of transfer:		Date of transfer:	
Signature of Carrier's Representative		Signature of Carrier's Representative		Signature of Carrier's Representative	
13.	Designation and chemical composition of the waste			14. Physical characteristics (3)	
15.	Waste identification code			17.	Actual quantity
in country of export:		IWIC:		kg	
in country of import:		EWC:		litres	
Customs code (H.S.):		Other (specify):		19. UN Classification	
16. OECD Classification(1)				UN Shipping Name:	
				UN Identification:	
				UN class (3):	
				H Number (3):	
				Y Number:	
20.	Special handling instructions (including in case of accidents)	22. Exporter's declaration:			
		I certify that the information in blocks 1 to 9 and 13 to 21 above is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are in force covering the transboundary movement, and that all necessary authorisations have been received from the competent authorities of the States concerned.			
21.	Actual date of shipment	Name		Signature:	
		Date:			
TO BE COMPLETED BY IMPORTER/DISPOSER					
23.	Shipment received by importer on (if not disposer):			25. I certify that the disposal/recovery of the waste	
Quantity received:		Kg/litres		accepted	
				described above has been completed	
Date:				rejected(5)	
Name:		Signature:		Date:	
24	Shipment received at disposer on:			Name:	
Quantity received:		kg/litres		accepted	
				Signature and Stamp:	
Date:				rejected(5)	
Name:		Signature:			
Approximate date of disposal:					
Method of disposal:					

- (1) Attach list, if more than one (2) Enter X in appropriate boxes (3) See codes on the reversed in (4) If more than three carriers attach information as require blocks 6 and 1(5) Immediately contact Competent Authority

List of abbreviations used in the movement document	DISPOSAL (NO RECOVERY) (Block 9)				List of abbreviations used in the movement document	RECOVERY OPERATIONS (Block 9)			
D1	Deposit into or onto Land, (e.g., Landfill, etc.)				R1	Use as a fuel (other than in direct incineration) or other means to generate energy			
D2	Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc...)				R2	Solvent reclamation/regeneration			
D3	Deep Injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)				R3	Recycling/reclamation of organic substances which are not used as solvents			
D4	Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc...)				R4	Recycling/reclamation of metal compounds			
D5	Specially engineered landfill, (e.g., placement onto lined discrete cells which are capped and isolated from one another and the environment, etc...)				R5	Recycling/reclamation of other inorganic materials			
D6	Release into water body except seas/oceans				R6	Regeneration of acid or bases			
D7	Release into seas/oceans including sea-bed insertion				R7	Recovery of components from used for pollution abatement			
D8	Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations number D1 to D12				R8	Recovery of components from catalysts			
D9	Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any operations D1 to numbered D12, (e.g., evaporation, drying, calcination etc.)				R9	Used oil re-refining or other reuses of previously used oil			
D10	Incineration on land				R10	Land treatment resulting in benefit to agricultural or ecological improvement			
D11	Incineration at sea				R11	Uses of residual material obtained from any of the operations numbered R1 to R10			
D12	Permanent Storage, (e.g., emplacement in containers in a mine, etc.)				R12	Exchange of wastes for submission to any of the operations numbered R1 to R11			
D13	Blending or mixing prior to submission to any of the operations numbered D1 to D12				R13	Accumulation of material intended for any operations numbered R1 to R2			
D14	Repackaging prior to submission to any of the operations number D1 to D12.								
D15	Storage pending any of the operations D1 to D12.								
H NUMBER AND UN CLASS (Block 19)									
					UN Class/	H Number			
					1	H1	Explosive		
					3	H3	Inflammable liquids		
					4.1	H4.1	Inflammable solids		
					4.2	H4.2	Substances or wastes liable to spontaneous combustion		
					4.3	H4.3	Substances or waste which, in contact with water, emit inflammable gases		
					5.1	H5.1	Oxidizing		
					5.2	H5.2	Organic peroxides		
					6.1	H6.1	Poisonous (acute)		
					6.2	H6.2	Infectious substances		
					8	H8	Corrosives		
					9	H10	Liberation of toxic gases in contact with air or water		
					9	H11	Toxic (delayed or chronic)		
					9	H12	Ecotoxic		
					9	H13	Capable, after disposal, of yielding another material, e.g. leachate, which possesses any of the characteristics listed above.		
FOR USE BY CUSTOMS OFFICERS									
26. COUNTRY OF EXPORT/DISPATCH OR CUSTOMS OFFICE OF EXIT					28. STAMPS OF CUSTOM OFFICES OF TRANSIT COUNTRIES				
					Name of Country (2):		Name of Country (2):		
The waste described overleaf has left the country on:					Entry	Departure	Entry	Departure	
Stamp:									
Signature:									
27. COUNTRY OF IMPORT/DESTINATION					Name of Country (2):		Name of Country (2):		
The waste described overleaf has entered the country on:					Entry	Departure	Entry	Departure	
Stamp:									
Signature:									

Parts filled in grey as shown in the table below indicate in who shall provide the information:

Blocks 1 to 9 and 13 to 22 must be completed by the **exporter/generator**;

Blocks 10, 11, 12 must be completed by the **carriers** (the first carrier completes block 10, the second carrier completes block 11 and the third carrier completes block 12).

Blocks 23 must be completed by the **importer** in the event he is not the disposer (please note that normally the disposer is the importer).

Blocks 24 and 25 must be completed by the **disposer**.

Blocks 26, 27, 28 are for use by **customs offices**.

According to article VI -9 of the Waigani Convention each transboundary movement shall be accompanied by a movement document which includes the information listed in Annex VI B. The movement document shall accompany the wastes at all time until it has reached the disposal/recovery facility. Each person who takes charge of the transboundary movement of hazardous wastes sign the document either upon delivery or receipt of the wastes in question.

At the time of the shipment, the exporter/generator completes the movement document. The carrier completes and sign block 10 and a copy is left with the exporter/generator for filing.

If there is more than one carrier for the shipment, transfer of the shipment to the new carrier must be recorded on the form.

Each successive carrier must sign the form on receipt and retain a photocopy of the form before releasing the shipment onto the next carrier.

When the waste has been received by the disposer, an authorized representative of the disposer completes block 24 and give a copy to the last carrier. The disposer shall also send a signed copy of the document to the exporter and the competent authority of the State of export.

When the disposal of waste has been completed, the disposer completes block 25 of the document and sends signed copies of it to the exporter and the competent authority of the state of export. The original document is retained by the disposer for filing.

BLOCK 1	Exporter/Generator: Provide the full name and address, telephone, telex or telefax number of the exporter company, and the name, address, telephone, telex or telefax number of the person who can be contacted at any time in relation to any incident during transport of the consignment (<i>Same as blocks 1 and 10 in the notification</i>)
BLOCK 2	Exporter/Generator: Provide the full name and address, telephone, telex or telefax number of the importer, and the name, address, telephone, telex or telefax number of the person who can be contacted at any time in relation to any incident during transport of the consignment (<i>Same as block 2 in the notification</i>). Normally the importer would be the disposer. In this case enter the words "same as block 8. If not both block 2 and 8 need to be completed.
BLOCK 3	Exporter/Generator: Enter the notification number to which the particular consignment refers. This is to be copied from the top right of the notification. Tick the appropriate box to indicate whether it is a single or general notification
BLOCK 4	Exporter/Generator: In case of multiple movements, enter the serial number of the intended shipments (as show in block 4 of the notification). For example "1 out 5" indicates that it is the first of five shipments under the general notification.
BLOCKS 5, 6, 7	Exporter/Generator: Indicate the full name and address, telephone and telex number of each actual carrier and the name, address, telephone, telefax of the person to be contacted in case of emergency. Enter information on the first carrier (block 5), on the second carrier (block 6), on the third carrier (block 7). In case of more than three carriers, information should be appended to the form.
BLOCK 8	Exporter/Generator: Provide the full name, address, telephone and telefax or telex number of the disposer and the name, address, telex or telefax number of the person to be contacted. Provide the information on the actual disposal site (<i>same as information contained in block 8 of the notification</i>).
BLOCK 9	Exporter/Generator: Provide a description of the methods of disposal, recovery and the technology employed (see reverse side of the form/ Annex V of the Waigani Convention).(<i>same as information contained in block 9 of the notification</i>)
BLOCKS 10, 11, 12	Carrier: Provide the means of transport being used (see reversed side of the form for codes), the date and location of transfer at the time of receipt of the wastes. Each subsequent carrier or his representative is to sign the document when taking possession of the consignment. The first carrier to complete block 10, the second carrier to complete block 11 and the third carrier to complete block 12. If any additional carriers are involved , appropriate information on each of them should be appended to the form.
BLOCK 13	Exporter/Generator: Enter the date when the shipment actually starts. This date should correspond to the first date of transfer indicated in block 10. (i) Provide the names by which the material is commonly known, the chemical names and constituents and their concentration; (ii) Indicate any special precautions concerning the consignment for example, producers handling instructions for employees, health and safety information, including information on emergencies in case of accident. (<i>same as information contained in block 13 of the notification</i>)
BLOCK 14	Exporter/Generator: Indicate the physical characteristics number. Refer to reverse side of the form. (<i>same as information contained in block 14 of the notification</i>)
BLOCK 15	Exporter/Generator: Indicate the waste identification code by which the material is designated in the country of export and, if known, in the country of import. Where necessary, provide the designation of the waste according to an adopted uniform classification code such as the International Waste Identification Code (IWIC), the European Waste Catalogue (EWC) code, the Harmonised System (HS) code or any other to be specified. (<i>Same as information contained in block 15 of the notification</i>).
BLOCK 16	Exporter/Generator: Refers to OECD classification, which is required to be checked only for wastes going to recovery facilities under of OECD System.
BLOCK 17	Exporter/Generator: Before shipment, provide the actual quantity by weight (Kilos) or by volume (Litres) of the amount to be shipped.
BLOCK 18	Exporter/Generator: Insert the packaging code (refer to the reverse side of the form) and the number of packages comprising the consignment.
BLOCK 19	Exporter/Generator: Insert the relevant UN, H, and Y codes. Provide the UN identification number, including proper shipping name, and, for wastes listed in Annex I of the Waigani Convention (Y1-Y45), UN Class (refer to the reverse side of the notification) Provide the H number for the wastes listed in Annex I of the Convention. Refer to the reverse side of the notification /Annex II of the Waigani Convention) Provide the Y number which accords with the categories of wastes which are hazardous wastes as contained in Annex I

BLOCK 20	<u>Exporter/Generator:</u> Indicate any special precautions concerning the consignment, for example, producers handling instructions for employees, health and safety information, including, among other things, information on dealing with spillage, and accidents. Annexes should be used if necessary.
BLOCK 21	<u>Exporter/Generator:</u> Enter the date when the shipment actually starts. This date should correspond to the first date of transfer indicated in block 10.
BLOCK 22	<p><u>Exporter/Generator:</u> At the time of shipment, the authorized representative of the exporter/generator shall sign and date the movement document. The name of the authorized representative of the exporter/generator should also appear in capital letters to accompany the signature.</p> <p>It should be noted that by signing the declaration, the exporter and/or generator certifies:</p> <ul style="list-style-type: none"> - the completeness and correctness of information , - the existence of a contract - the necessary financial guarantees and insurances - all necessary authorizations have been received from the competent authorities concerned. <p>Example of the exporter declaration: " <i>I certify that the information in blocks 1 to 9 and 13 to 21 is complete and correct to the best of my knowledge. I also certify that legally-enforceable written contractual obligations have been entered into, that any applicable insurance or other financial guarantees are in force covering a transboundary movement, and that all necessary authorizations have been received from the competent authorities of the State concerned</i>"</p> <p><i>(This happen after the form has been returned by the Competent Authority which has granted authorization)</i></p>
BLOCK 23	<p><u>Importer if not the Disposer:</u> Indicate:</p> <ul style="list-style-type: none"> - the amount of waste received weight in kilogrammes and/or volume in litres; - date of receipt; - the name of the importer; and - the signature of the authorised representative. <p>The name of the authorized representative of the importer should also appear in capital letters to accompany the signature.</p> <p>Indicate also, whether the waste has been accepted or rejected by ticking the appropriate box. If the shipment has been rejected, for any reason, the importer must immediately contact his competent authority.</p> <p>Upon receipt of the waste, the importer shall give a signed copy of the movement document to the carrier. The importer shall also send signed copies to the exporter and the competent authority of the state of export.</p>
BLOCK 24	<p><u>Disposer:</u> To be completed by the authorized representative of the disposer on receipt of a transboundary consignment of the waste. Enter:</p> <ul style="list-style-type: none"> - the amount of waste received in kilogrammes and/or in litres, - date of receipt, - the name of disposer, and - the signature of the authorised representative. <p>The name of the authorized representative of the disposer should also appear in capital letters to accompany the signature.</p> <p>Indicate also, whether the waste has been accepted or rejected by ticking the appropriate box. If the shipment has been rejected, for any reason, the disposer must immediately contact his competent authority.</p> <p><i>Upon receipt of the waste, the disposer shall give a signed copy of the movement document to the carrier. The disposer shall also send signed copies to the exporter and the competent authority of the state of export.</i></p>
BLOCK 25	<p><u>Disposer:</u> Certify the completion of disposal of the waste. Enter:</p> <ul style="list-style-type: none"> - the date of disposal - the name of the disposer - the signature of the authorized representative of the disposer. <p>The name of the authorized representative of the disposer should also appear in capital letters to accompany the signature.</p> <p>Signed copies of the form shall be sent to the exporter and the competent authority of the State of export. The original movement document is normally to be retained by the disposer.</p>
BLOCKS 26, 27, 28	<p><u>Customs officers:</u></p> <p>These are for control by customs offices at the borders of country of export, transit and import</p>

APPENDIX 1

GLOSSARY

The following explanations are meant to clarify the terms used in this Manual and in the Waigani Convention. However, it should be noted that they do not replace the "Definitions" in Article 1 of the Waigani Convention, or any definitions adopted by national legislation.

Approved site or facility: a site or a facility for the disposal of hazardous wastes which is authorised or permitted to operate for this purpose by a relevant authority of the Party where the site or facility is located; Transboundary movement;

Carrier: Any person who carries out the transport of hazardous wastes;

Competent authority: The governmental authority designated by a Party to the Waigani Convention, within such geographical areas the Party may think fit, for receiving the notification of a transboundary movement of hazardous wastes, and any information related to it, and for responding to such a notification, as provided in Article 6 of the Convention. See Appendix 4 of this manual for the list of the competent authorities of Parties to the Waigani Convention.

Countries concerned: Countries of export, import or transit whether or not Parties to this Convention;

Disposal: Any operation specified in Annex IV to the Convention. In the context of the Waigani Convention, this term comprises both final disposal (Annex IV A) and recovery operations (Annex IVB). However, it should be noted that in some countries, disposal only refers to the operations specified in Annex IV A of the Convention, that is, to such operations which do not lead to any form of recovery;

Disposer: Any natural or legal person to whom hazardous wastes or other wastes are shipped and who carries out the disposal of such wastes. Under the control system of the Waigani Convention, the disposer is, for example, responsible for issuing the certifications of receipt and disposal of wastes, in accordance with Article 6, paragraph 9 of the Convention.

Exporter: Any person under the jurisdiction of the exporting Party who arranges for hazardous wastes to be exported. The exporter may be a generator, a holder of waste, or a broker or a dealer recognized in accordance with national legislation. Normally, it is the duty of the exporter to provide a notification to the competent authority of the State of export, in accordance with Article 6 of the Waigani Convention;

Exporting Party: Party from which the transboundary movement of hazardous wastes or other wastes is planned to be initiated or is initiated.

General notification: A notification which covers several shipments of hazardous wastes, having the same physical and chemical characteristics and shipped regularly to the same disposer via the same customs office for entry and exit, to be carried out during a maximum period of one year.

Generator: Any person whose activity produces hazardous waste or other waste or, if that person is not known, the person who is in possession and/or control of those wastes. If two or more batches of wastes are mixed before being moved and disposed of, and/or otherwise subjected to physical or chemical operations which render the original wastes indistinguishable or inseparable in the resulting mixture, the party or parties who perform(s) these operations is (are) considered to be the generator of the new wastes resulting from these operations

Importer: Any person under the jurisdiction of the importing Party who arranges for hazardous wastes to be imported. Normally, the importer is the same as the disposer.

Importing Party: Party to which a transboundary movement of hazardous 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.

Movement document: A document required to accompany the hazardous wastes from the point at which a transboundary movement commences to the point of disposal. Each person who takes charge of a transboundary movement of hazardous wastes must sign the movement document. The movement document shall include all the information referred to in Annex VB of the Convention. A sample form of the movement document and the instructions for its completion are presented in Part II of this Manual.

Notification: A document used to transmit, to the competent authorities of the States concerned, all the required information concerning any proposed transboundary movement of hazardous wastes and other wastes. The notification shall include all the information referred to in Annex VA of the Convention. A sample form of the notification and the instructions for its completion are presented in Part II of this Manual.

Person: Any natural or legal person

Transboundary movement: Any movement of hazardous wastes from an area under the jurisdiction of any Party, or to through an area under the jurisdiction of another Party, or to or through an area not under the jurisdiction of another Party, provided at least two Parties are involved in the movement.

Transit Party: Any Party, other than the Party of import or export, through which a transboundary movement of hazardous wastes is planned or takes place.

APPENDIX 2

ANNEX I: CATEGORIES OF WASTES WHICH ARE HAZARDOUS WASTES

Wastes Streams:

Y1	Clinical wastes from medical care in hospitals, medical centers and clinics
Y2	Wastes from the production and preparation of pharmaceutical products
Y3	Waste pharmaceuticals, drugs and medicines
Y4	Wastes from the production, formulation and use of biocides and phytopharmaceuticals
Y5	Wastes from the manufacture, formulation and use of wood preserving chemicals
Y6	Wastes from the production, formulation and use of organic solvents
Y7	Wastes from heat treatment and tempering operations containing cyanides
Y8	Waste mineral oils unfit for their originally intended use
Y9	Waste oils/water, hydrocarbons/water mixtures, emulsions
Y10	Waste substances and articles containing or contaminated with polychlorinated biphenyls (PCBs) and/or polychlorinated terphenyls (PCTs) and/or polybrominated biphenyls (PBBs)
Y11	Waste tarry residues arising from refining, distillation and any pyrolytic treatment
Y12	Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish
Y13	Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives
Y14	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
Y15	Wastes of an explosive nature not subject to other legislation
Y16	Wastes from production, formulation and use of photographic chemicals and processing materials
Y17	Wastes resulting from surface treatment of metals and plastics
Y18	Residues arising from industrial waste disposal operations
Y46	Wastes collected from households, including sewage sludges with the exception of clean sorted recyclable wastes which do not possess any of the hazardous characteristics found in Annex II.
Y47	Residues arising from the incineration of household wastes.

Wastes having as constituents:

Y19	Metal carbonyls
Y20	Beryllium; beryllium compounds
Y21	Hexavalent chromium compounds
Y22	Copper compounds
Y23	Zinc compounds
Y24	Arsenic; arsenic compounds
Y25	Selenium, selenium compounds
Y26	Cadmium; cadmium compounds
Y27	Antimony; antimony compounds
Y28	Tellurium; tellurium compounds
Y29	Mercury; mercury compounds
Y30	Thallium; thallium compounds
Y31	Lead, lead compounds
Y32	Inorganic fluorine compounds excluding calcium fluoride
Y33	Inorganic cyanides
Y34	Acidic solutions or acids in solid form
Y35	Basic solutions or bases in solid form
Y36	Asbestos (dust and fibres)
Y37	Organic phosphorous compounds
Y38	Organic cyanides
Y39	Phenols; phenol compounds including chlorophenols
Y40	Ethers
Y41	Halogenated organic solvents
Y42	Organic solvents excluding halogenated solvents
Y43	Any congener of polychlorinated dibenzo-furan
Y44	Any congener of polychlorinated dibenzo-p-dioxin
Y45	Organohalogen compounds other than substances referred to in this Annex (e.g. Y39, Y41, Y42, Y43, Y44)

APPENDIX 3

ANNEX II: LIST OF HAZARD CHARACTERISTICS

*UN Class	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 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 deg. C, closed-cup test, or not more than 65.6 deg 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.)
4.1	H4.1	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.
4.2	H4.2	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.
4.3	H4.2	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.
5.1	H5.1	Oxidising
		Substances or wastes which, while in themselves not necessarily combustible, may, generally by yielding oxygen cause, or contribute to, the combustion of other materials.

5.2	H5.2	Organic Peroxides
		Organic substances or wastes which contain the bivalent-o-o-structure are thermally unstable substances which may undergo exothermic self-accelerating decomposition.
6.1	H6.1	Poisonous (Acute)
		Substances or wastes liable either to cause death or serious injury or to harm human health if swallowed or inhaled or by skin contact.
6.2	H6.2	Infectious substances
		Substances or wastes containing viable micro organisms or their toxins which are known or suspected to cause disease in animals or humans.
8	H8	Corrosives
		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.
9	H10	Liberation of toxic gases in contact with air or water
		Substances or wastes which, by interaction with air or water, are liable to give off toxic gases in dangerous quantities.
9	H11	Toxic (Delayed or chronic)
		Substances or wastes which, if they are inhaled or ingested or if they penetrate the skin, may involve delayed or chronic effects, including carcinogenicity.
9	H12	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.
9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above.

**Corresponds to the hazard classification system included in the United Nations Recommendations on the Transport of Dangerous Goods (ST/SG/*

Tests

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 characterize 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.

APPENDIX 4

DISPOSAL OPERATIONS

A. Operations which do not lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternative uses (Final Disposal)

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

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

D10	Incineration on land
D11	Incineration at sea
D12	Permanent storage (eg emplacement of containers in a mine etc)
D13	Blending or mixing prior to submission to any of the operations in Section A
D14	Repackaging prior to submission to any of the operations in Section A
D15	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 (Recycling)

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 operation included in Section A.

R1	Use as fuel (other than in direct incineration) or other means to generate energy
R2	Solvent reclamation/regeneration
R3	Recycling/reclamation or organic substances which are not used as solvents
R4	Recycling/reclamation of metals and metal compounds
R5	Recycling/reclamation or other inorganic materials
R6	Regeneration of acids or bases
R7	Recovery of components used for pollution abatement
R8	Recovery of components from catalysts
R9	Used oil re-refining or other reuses of previously used oil
R10	Land treatment resulting in benefit to agriculture or ecological improvement
R11	Uses of residual materials obtained from any of the operations numbered R1–R10
R12	Exchange of wastes for submission to any of the operations numbered R1–R11
R13	Accumulation of material intended for any operation in Section B

APPENDIX 5

REASONS WHY MATERIALS ARE INTENDED FOR DISPOSAL

This list is taken from Table 1 of OECD Decision C (88)90(Final)

Q1	Production residues not otherwise specified below
Q2	Off-specification products
Q3	Products whose date for appropriate use has expired
Q4	Materials spilled, lost or having undergone other mishap including any materials, equipment etc. contaminated as a result of the mishap
Q5	Materials contaminated or soiled as a result of planned actions (e.g. residues from cleaning operations, packing materials, containers, etc.)
Q6	Unusable parts (e.g. reject batteries, exhausted catalysts, etc.)
Q7	Substances which no longer perform satisfactorily (e.g. contaminated acid, contaminated solvents, exhausted tempering salts, etc.)
Q8	Residues of industrial processes (e.g. slags, still bottoms, etc.)
Q9	Residues from pollution abatement processes (e.g. scrubber sludges, baghouse dusts, spent filters, etc.)
Q10	Machining/finishing residues (e.g. lathe turnings, mill scales, etc.)
Q11	Residues from raw materials processing (e.g. mining residues, oil field slops, etc.)
Q12	Adulterated materials (e.g. oils contaminated with PCBs, etc.)
Q13	Any materials, substances or products whose use has been banned by law in the country of exportation
Q14	Products for which there is no further use (e.g. agriculture, household, office, commercial and shop discards, etc.)
Q15	Materials, substances or products resulting from remedial actions with respect to contaminated land
Q16	Any materials, substances or products which the generator or exporter declares to be wastes and which are not contained in the above categories

A material intended for any operation specified in Annex V, Part A or Part B, for one or more of the reasons listed in the above table, is a waste under Australian legislation.

APPENDIX 6

STRUCTURE OF PERMIT:

- Delegation of Authority / where is power coming from?
- Legal framework
- Identifies parties involved
- Explains what permit is for
- Clearly specifies dates
- Prescribes where the wastes are to be disposed of
- Transit and final destination
- contact details
- Quantity of materials
- refers to conditions specified in an attachment

5) Conditions on Permit

- Abide by other legislation (ie other national legislation as well as other country's legislation)
- ESM Concepts
- Transport requirements (packaging, handling, insurances)
- Who needs to be notified by when (important for Competent Authority for inspection or auditing purposes)
- contravention of permit conditions can lead to the cancelling of the permit

6) Statement of Decision

- shows logic of decision
- also important for natural justice, accountability / transparency and appeals process
- Necessary elements:
- tie back to regulation or Convention (those things that MUST be met)
- also includes general conditions that SHOULD be met
- it may also specify other conditions that are particular to a country's domestic legislation

Appendix 7

BASIC ELEMENTS TO BE INCLUDED IN THE CONTRACT BETWEEN THE EXPORTER AND THE DISPOSER

Contracts for the shipment of waste destined for disposal operations should clearly set out the rights and obligations of each party and demonstrate a positive and mutually responsible approach. The objective is to have a contract that is acceptable, clear, workable and fair to both parties.

It should be noted that a contract shall normally be concluded before the notification is provided and the competent authorities have issued their authorizations to the movement of waste. Therefore, the contract concluded at that stage should include a caveat "subject to authorisation", in order to avoid possible practical trade problems in case the proposed movement of waste will not be permitted by the competent authorities.

The following elements should be considered for inclusion in the contract.

NOTE: National regulations may lead to different requirements with regard to the contents of the contract.

1. *Scope of disposer's services*

Specify that the disposer will accept the waste in question, providing that the transboundary movement meets certain agreed on quality requirements (within agreed levels of tolerance) described in section 4. Specify that waste disposal facility is authorized or permitted to handle waste.

2. *Term of contract*

Specify the time period of the contract and, if appropriate, the frequency of shipments.

3. *Waste material and method of disposal*

Provide a description of the hazardous waste or other waste and the disposal process for which it is destined, as well as the nature and quantity of wastes arising from the recovery operations and their destination. Provide a description of the intended use of the reclaimed material (or product). Specify the environmentally sound management of the wastes in question.

Specify the mutually agreed acceptance criteria.

4. *Quantity*

Specify the quantity of hazardous waste or other waste that the disposer agrees to receive.

5. *Delivery*

Specify the type of packaging that will be used in transport.

Specify that the exporter will inform the disposer of the date of any shipment pursuant to the contract and the expected date of arrival to the disposer's premises and completion of the disposal operations.

6. *Title*

Specify the conditions for transfer of ownership and of liability, clearly defining the areas covered, for example, loss, theft, damage (clarify what is meant by "damage").

7. *Inspection and acceptance*

Specify which party shall be responsible for ensuring the inspection, sampling, and analysis, as well as the procedures to follow in case of non-conformity of the sample and/or rejection of the shipment. Specify which party shall bear the cost of each of these items. Specify alternative management and the chain of responsible parties, in cases where the disposer cannot accept the wastes in question.

Remember that the Waigani Convention contains the Duty to Re-import from the State of export (Article 8).

8. *Representations and warrants of exporter and/or disposer*

Specify the representations and warrants of each company, for example, concerning the competence of each party and his license/authorization to operate.

9. *Liability*

Clearly delineate the responsibility for third-party property damage and any other specific damages (e.g. damage to environment, trading loss, loss of profit, etc.)

10. *Insurance*

Specify that the companies carry the insurance required by law, or other insurance mutually agreed upon.

11. *Law and arbitration*

Specify the procedures and time frame to be followed in the event of a dispute arising from the contract (e.g. agreement to pursue a non-legal resolution to the dispute or to refer the dispute to an arbitration tribunal such as the ICC Court of Arbitration).

NOTE: The following section should be separated from the standard terms and conditions of the contract before the contract can become a public document.

12. *Financial arrangements*

Specify the compensation.

Specify the terms and conditions for adjustment of the compensation.

OTHER SOURCES OF INFORMATION

Eg UN DG Codes, transport, MSDS, etc, EA information papers

Appendix 8

COMPETENT AUTHORITIES AND FOCAL POINTS TO THE WAIGANI CONVENTION		
PARTY	FOCAL POINT	COMPETENT AUTHORITY
<p><u>Australia</u></p> <p>Signed: 16 Sept 1995</p> <p>Ratified: 17 August 1998</p> <p>In Force: 21 Oct 2001</p>	<p>Assistant Secretary Chemicals and the Environment Branch Environment Quality Division Environment Australia GPO Box 787 Canberra, ACT 2601 Australia</p> <p>Tel: (6126) 250 02 70 Fax: (6126) 250 03 87 Email: peter.burnett@ea.gov.au</p>	<p>Assistant Secretary Chemicals and the Environment Branch Environment Quality Division Environment Australia GPO Box 787 Canberra, ACT 2601 Australia</p> <p>Tel: (6126) 250 02 70 Fax: (6126) 250 03 87 Email: peter.burnett@ea.gov.au</p>
<p><u>Cook Islands</u></p> <p>Signed: 17 Sept 1995</p> <p>Ratified: 30 October 2000</p> <p>In Force: 21 Oct 2001</p>	<p>Mr Edwin Pittman Secretary Ministry of Foreign Affairs & Immigration PO Box 105 Rarotonga Cook Islands</p> <p>Tel: (682) 29347 Fax: (682) 21247 Email: secfa@foraffairs.gov.ck</p>	<p>Mr Vaitoti Tupa Director National Environment Service PO Box 371 Rarotonga Cook Islands</p> <p>Tel: (682) 21256 Fax: (682) 22256 Email: vaitoti@oyster.net.ck</p>
<p><u>Federated States of Micronesia</u></p> <p>Signed: 17 Sept 1995</p> <p>Ratified: 26 January 1996</p> <p>In Force: 21 Oct 2001</p>	<p>Hon Ieske K Iehsi Secretary Department of Foreign Affairs PO Box PS 123 Palikir, Pohnpei Federated States of Micronesia 96941</p> <p>Telephone: (691)320 2613/2544/2641 Fax: (691) 320 2933 Email: foreignaffairs@mail.fm</p>	<p>Hon. Dr. Eliueli K. Pretrick Secretary Department of Health, Education and Social Services PO Box PS 70 Pohnpei Federated States of Micronesia 96941</p> <p>Telephone: (691) 320 2872 Fax: (691) 320 5263 Email: fsmhealth@mail.fm</p>
<p><u>Fiji</u></p> <p>Signed: 16 Sept 1995</p> <p>Ratified: 18 April 1996</p> <p>In Force: 21 Oct 2001</p>	<p>Mr Bhaskaran Nair Acting Permanent Secretary for Local Government Housing and Environment PO Box 2131</p>	<p>Mr Epeli Nasome Director of Environment Ministry of Local Government Housing and Environment</p>
PARTY FOCAL POINT COMPETENT AUTHORITY		
<p>Government Buildings SUVA, Fiji</p> <p>Telephone: (679) 304 307/ 309 918/ 309 917 ext 201 Fax: (679) 303 515 Email: bnair@is.com.fj</p>	<p>PO Box 2131 Government Buildings SUVA, Fiji</p> <p>Telephone: (679) 311 699 Fax: (679) 312 879 Email: enasome@govnet.gov.fj</p>	

<p><u>Kiribati</u></p> <p>Signed: 16 Sept 1995</p> <p>Ratified: 28 June 2001</p> <p>In Force: 21 Oct 2001</p>	<p>Mrs Karibaiti Taoaba Permanent Secretary Ministry of Environment and Social Development PO Box 234 Biikenibeu, Tarawa KIRIBATI</p> <p>Telephone: (686) 28211 Fax: (686) 28334</p>	<p>Mrs Karibaiti Taoaba Permanent Secretary Ministry of Environment and Social Development PO Box 234 Biikenibeu, Tarawa KIRIBATI</p> <p>Telephone: (686) 28211 Fax: (686) 28334</p>
<p><u>Marshall Is, Rep</u></p> <p>Signed:</p> <p>Ratified:</p>		
<p><u>Nauru</u></p> <p>Signed: 16 Sept 1995</p> <p>Ratified:</p>		
<p><u>New Zealand</u></p> <p>Signed: 16 Sept 1995</p> <p>Ratified: 30 November 2000</p> <p>In Force: 21 Oct 2001</p>	<p>Mr Glenn Wigley Senior Operator Ministry for the Environment Grand Annexe,84 Boulcott Street Wellington NEW ZEALAND</p> <p>Telephone: (644) 917 7515 Fax: (644) 917 7528 Email: glenn.wigley@mfe.govt.nz</p>	<p>Mr Stuart Calman Manager Energy and the Environment Ministry of Economic Development 33 Bowen Street PO Box 1473 Wellington NEW ZEALAND</p> <p>Telephone: (644) 474 2647 Fax: (644) 473 9930 Email: stuart.calman@med.govt.nz</p>
<p><u>Niue</u></p> <p>Signed: 16 Sept 1995</p> <p>Ratified: 22 July 2003</p> <p>In Force: 21 Aug 2003</p>	<p>Office for External Affairs Premier's Department PO Box 40 Alofi Niue</p> <p>Telephone: (683) 4200 Fax: (683) 4206/4232 Email: christine.external@mail.gov.nu</p>	<p>Public Health Division Niue Health Department PO Box 33 Alofi Niue</p> <p>Telephone: (683) 4100 Fax: (683) 4265 Email:</p>
<p><u>Palau</u></p> <p>Signed: 16 Sept 1995</p>		
<p><u>Papua New Guinea</u></p> <p>Signed: 16 Sept 1995</p> <p>Ratified: 11 Dec. 1995</p> <p>In Force: 21 Oct 2001</p>	<p>Dr. Wari Iamo Secretary Department of Environment and Conservation Level 7 Somare Foundation PO Box 6601 Boroko, NCD PAPUA NEW GUINEA</p> <p>Telephone: (675) 325 0180 Fax: (675) 325 0182</p>	<p>Dr. Wari Iamo Secretary Department of Environment and Conservation Level 7 Somare Foundation PO Box 6601 Boroko, NCD PAPUA NEW GUINEA</p> <p>Telephone: (675) 325 0180 Fax: (675) 325 0182</p>

PARTY FOCAL POINT COMPETENT AUTHORITY

<p><u>Samoa</u> Signed: 16 Sept 1995 Ratified: 23 May 2001 In Force: 21 Oct. 2001</p>	<p>The Secretary for Foreign Affairs Ministry of Foreign Affairs PO Box L1859 APIA, Samoa Telephone: (685) 63333 Fax: (685) 21504 Email: mfa@mfa.gov.ws</p>	<p>Mr Tuu'u Ieti Taulealo Director Department of Lands, Surveys and Environment Private Mail Bag APIA, Samoa Telephone: (685) 25019/22481 Telex: (779) 221 MALO SX Fax: (685) 23176 Email: tuu.ieti@samoa.ws</p>
<p><u>Solomon Islands</u> Signed: 16 Sept 1995 Ratified: 7 October 1998 In Force: 21 Oct 2001</p>		
<p><u>Tonga</u> Signed: 16 Sept 1995 Ratified: 22 May 2003 In Force: 21 June 2003</p>		
<p><u>Tuvalu</u> Acceded : 21 Sept 2001 In Force : 21 Oct 2001</p>	<p>Permanent Secretary Ministry of Environment, Energy and Tourism Private Mail Bag Vaiaku, Funafuti Tuvalu Telephone: (688) 20171 Fax: (688) 20826 Email: enviro@tuvalu.tv or pklaupepe@yahoo.com</p>	<p>Ms. Susan Tupulaga Acting Waste Coordinator Office of Prime Minister Department of Environment PO Box 148 Vaiaku, Funafuti Tuvalu Telephone: (688) 20164 Fax: (688) 20826 Email: waste@tuvalu.tv</p>
<p><u>Vanuatu</u> Signed : 16 Sept 1995</p>		
<p><u>France</u></p>		
<p><u>United Kingdom</u></p>		
<p><u>United States</u></p>		

APPENDIX 9

DISTINCTION WASTES NON WASTES UNDER THE AUSTRALIA'S HAZARDOUS WASTE ACT

Waste is defined, under the Hazardous Waste Act, by reference to three tables, A, B and C.

Table A is a list of final disposal operations, Table B is a list of recovery operations and Table C is a list of reasons why materials are intended for operations in Tables A or B.

A number of factors need to be considered before deciding whether a material is or is not a hazardous waste under the Act. These factors include:

- whether the material is destined for a final disposal operation;
- whether the material is destined for a recovery operation;
- how and why the material is produced;
- whether the material has economic value;
- whether a recovery operation is necessary;
- whether the material is suitable for its originally intended use; and
- whether the material is destined for direct re-use or alternative uses.

Various examples of materials which are classified as either wastes or non-wastes under the Act are given below to illustrate the circumstances in which these factors may apply.

Issues Related to Final Disposal

WASTE EXAMPLES	NON -WASTE EXAMPLE
<p>Spent Pot linings (Example 2)</p> <p>Spent pot linings for testing are wastes because they are in Q7 of Table C and the residues are disposed of in a secure landfill after testing.</p>	<p>Blood & Urine Samples (Example 1)</p> <p>Clinical samples for testing are non-wastes because they are not in any entry in Table C.</p>

Issues Related to Recovery Operations

WASTE EXAMPLES	NON -WASTE EXAMPLE
EXAMPLES	NON WASTE EXAMPLES
<p>Smelting of Zinc Residues (Example 3)</p> <p>Waste recovery operations can be performed in a facility which is not primarily a waste management operation.</p> <p>Waste Solvents used in Cement Kilns (Example 4)</p> <p>A cement kiln is not necessarily a waste management operation, but is able to use waste solvents as fuel.</p>	

Additional Considerations Waste Examples Non-waste Examples

WASTE EXAMPLES	NON WASTES EXAMPLES
<p>Brass Dross (Example 7) Brass dross is a waste because its production is unavoidable, it is not produced to quality controls and it is sold to a waste recovery industry.</p> <p>Lead Solder Residues (Example 9) Lead solder residues are a waste because the metallics have suffered a loss in value by being oxidised and mixed.</p> <p>Spent Catalysts for regeneration / manufacture (Example 10) Spent catalysts are a waste when destined for recovery of components but are a non-waste when destined for regeneration.</p> <p>Used Computers for Disassembly (Example 12) Used computers are wastes if destined for disassembly followed by re-use, recycling and recovery of their components.</p> <p>Draining of Used Lead-Acid Batteries (Example 13) Draining a used lead-acid battery does not return the material to a normal commercial cycle.</p> <p>Dewatered Oil (Example 14) Dewatered oil is a waste because it is fit and intended only for use in a cement kiln as fuel.</p>	<p>Processing of nickel-cobalt ores (Examples 5&6) Nickel ore refining can produce more than one product when there is a clear intention to produce both to a specification.</p> <p>Anode Slimes (Example 8) Anode slimes are a non-waste when produced intentionally by blending and processing to meet specifications</p> <p>Used Computers for Continued Use (Example 11) Used computers are non-wastes if destined for continued use as computers and are in working order or require only minor repairs.</p> <p>Demineralised Oil (Example 14) Demineralised oil is a non-waste because it meets the specifications for, and can be safely used as a substitute for, diesel oil.</p>

Trans frontier movements of materials for their Originally Intended

WASTE EXAMPLES	NON-WASTE EXAMPLES
	<p>Used Tyres (Example 15) Used tyres destined for continued use as tyres are a non-waste, even if they are no longer legal in the State of export, provided they are legal in the State of import.</p>

Transfrontier movements of materials for Direct Re-use or Alternatives

WASTE EXAMPLES	NON WASTE EXAMPLES
	<p>Smelting of Lead Dross (Example 16) Lead dross is a waste because it is a residue of industrial processes destined for a recovery operation in a facility that is not primarily a waste disposal operation.</p>

Criteria for determining when a Waste ceases to be a Waste Waste

WASTE EXAMPLES	NON WASTE EXAMPLES
<p>Upgraded Copper Flue Dust (Example 19)</p> <p>Upgraded copper flue dust is still a waste because it combines low copper with high arsenic and antimony and must be blended in at a low ratio.</p> <p>Use of zinc slag for abrasive blast cleaning (Example 20)</p> <p>This hazardous waste has not been subjected to a recovery operation and remains a waste intended for disposal whether or not it is used for abrasive blast cleaning before disposal.</p>	<p>Production of Lead Sulphate (Example 17)</p> <p>Lead sulphate recovered from lead fumes is a non-waste because it has been treated to meet market demand and contaminants have been removed.</p> <p>Fly Ash (Example 18)</p> <p>After blending with Portland cement fly ash is no longer a waste because the threat originally posed to the environment is sufficiently diminished and the material is of sufficient beneficial use.</p>

Instructions to Countries for Notification under POPs in PICs Project

What is contained in your package of forms?

1. Four (4) copies of the Waigani Convention Transboundary Movement of Waste – Notification forms.
2. Four (4) copies of the attachments for the Notification forms.
3. Two (2) sample cover letters: one to cover the Notification form to the State of Import (Australia); one to cover each Notification form to the States of Transit (Tonga and Fiji).

Instructions:

1. Check documentation to make sure everything is included in the package.

2. Allocate a Notification Number in the top right hand corner of the Notification Document. This will need to be referred to in block 3 of the Movement Document also.
3. Mr Aiono Mose Pouvi Sua to sign all four (4) original copies of the Notification form.
4. Ensure all attachments are secured to the Notification forms.
5. Keep one original package of documents on file in Samoa, and send one package to each of the States of Transit and the State of Import.
6. Prepare cover letters on Samoan Government letterhead, using samples included in the package;

Packages to State of Import should be addressed:	Packages to States of Transit should be addressed:
<p>Dr Greg Rippon Assistant Manager Hazardous Waste Section Australian Government, The Department of the Environment and Heritage GPO Box 787 CANBERRA ACT 2601 AUSTRALIA</p>	<p>Mr Uilou Samani Director Department of Environment PO Box 917 NUKU'ALOFA TONGA</p> <p>Copy to Dr Netatua Prescott.</p> <p>Mr Epeli Nasome Director Department of Environment Fiji Football Assoc. Building Gladstone Road PO Box 2131 SUVA FIJI Copy to Ms Vananda Naidu.</p>

7. You must receive a copy of the signed Notification form from each of the States of Transit and the State of Import, indicating they approve the transit / entry before the shipment leaves Samoa.
8. Follow up with Transit and Import States by phone to ensure timelines are met.

Instructions to Countries for Movement under POPs in PICs Project:

What is contained in your package of forms?

1. Five (5) copies of the Waigani Convention Transboundary Movement of Waste – Movement forms.
2. Five (5) copies of the attachments for the Movement forms.

Instructions:

1. Check documentation to make sure everything is included in the package.
2. Ensure all attachments are secured to the Movement forms.
3. Keep one original package of documents on file in Samoa, and send one package to each of the States of Transit and the State of Import.
4. Include these documents with the Notification Documents and cover letters mentioned under the Instructions to Countries for Notification under POPs in PICs Project.
5. Customs office to stamp and sign fifth set of the form (block 26 of Movement Document) with attachments and hand paperwork to ship's records manager to accompany the shipment.

What will happen with the forms?

1. The Customs office of each State of Transit will stamp and sign the Movement form (block 28 Movement Document) accompanying the shipment, indicating that the waste has transited their port, and keep a copy on their files.
2. The Customs office of the State of Import will stamp the Movement form (block 27 of Movement Document) accompanying the shipment, indicating that the waste has entered Australia, and keep a copy on their files.
3. The disposal facility will sign the Movement form (block 24 of Movement

Document) accompanying the shipment, indicating that the waste has arrived at the disposal facility, and keep a copy on their files.

4. The disposal facility will sign the movement form (block 25 of Movement Document) accompanying the shipment, indicating that the waste has been successfully destroyed, and return the original completed Movement Document to Samoa.
5. Samoa will then be able to reconcile the form received with the details in the application.

[Transit Country]

RE: Transit of Persistent Organic Pollutants under the AusAID project, Persistent Organic Pollutants (POPs) from Pacific Island Countries (PICs) – Phase II, POPs collection and disposal (POPs in PICs Project).

Dear _____,

As you are aware, the Australian Agency for International Development (AusAID) has been conducting a project to assist thirteen Pacific Island Countries identify and manage stockpiles of Persistent Organic Pollutants, namely disused organo-chlorine and organo-phosphate pesticides, and polychlorinated biphenyls (PCBs) from old electrical transformers.

The project is now entering the final stage of Phase II of the project, which is the clean-up and re-packaging of the POPs, and shipment to Australia for destruction.

As a State of Transit, and a fellow participating country under the POPs in PICs Project, we request your timely approval for the shipment from Samoa to transit through your port [Name of Port].

Please find enclosed two packages with the information and forms required to undertake this shipment as indicated below. Also included in this letter are instructions on the handling of the enclosed documentation. Please follow these instructions carefully, to ensure all approvals are properly documented and communicated.

Package 1: This package contains a signed copy of the form with the title 'Transboundary Movement of Waste – Notification Document – Waigani Convention'. The form includes three (3) Annexes. This is the official method by which notification

and transit approval must be sought under the Waigani Convention on the Transboundary Movement of Hazardous and Radioactive Waste.

Instructions:

Please sign the enclosed form where indicated (block 24 of the Notification Document), and return the signed document (without the attachments) to:

Mr Aiono Mose Pouvi Sua
Chief Executive Officer
Ministry of Foreign Affairs and Trade
PO Box L1859
APIA
SAMOA

We also ask that a copy that clearly shows the approval signature be faxed to the number +685 25856 (Attn: Mr Bill Cable) as soon as it is signed.

We recommend you keep a photocopy of this form for your files.

Please note: we hope to receive your approval by X July 2004 in order to export the POPs with the ship indicated in block 20 of the Notification Document.

It is important that you liaise with your Customs office at this stage to notify them of the transit approval and the shipping dates (stated in block 20 of the Notification Document).

Package 2: This package contains a form with the title 'Transboundary Movement of Waste – Movement Document – Waigani Convention'. The Movement Document also has three Annexes, and is the official form by which the movement of hazardous waste under the Waigani Convention is tracked.

This package is FOR YOUR FILES ONLY.

Instructions:

A separate Movement Document with the same information will accompany the shipment and will need to be signed by your Customs office (block 28 of the Movement Document) at the time of transit.

Once the Customs office has signed the Movement Document accompanying the shipment, please make a copy and keep on your files. The original is returned to the ship's records manager to continue accompanying the shipment.

Again, please fax a copy of the signed Movement Document to Mr Bill Cable on the fax number above as soon as it is signed.

I thank you in advance for your cooperation and timely provision of approvals for the transit of this shipment through your waters and port. If you have any questions, please do not hesitate to contact Dr Frank Griffin (SPREP) or Dr Jacques Mougeot (SPREP) on +685 21929.

Yours faithfully,

Mr Aiono Mose Pouvi Sua
Chief Executive Officer

[Import Country]

RE: Importation of Persistent Organic Pollutants under the AusAID project, Persistent Organic Pollutants (POPs) from Pacific Island Countries (PICs) – Phase II, POPs collection and disposal (POPs in PICs Project).

Dear Dr Rippon,

As you are aware, the Australian Agency for International Development (AusAID) has been conducting a project to assist thirteen Pacific Island Countries identify and manage stockpiles of Persistent Organic Pollutants, namely disused organo-chlorine and organo-phosphate pesticides, and polychlorinated biphenyls (PCBs) from old electrical transformers.

The project is now entering the final stage of Phase II of the project, which is the clean-up and re-packaging of the POPs, and shipment to Australia for destruction.

As the State of import we request your timely approval for import of the shipment from Samoa through the Port of Brisbane.

Please find enclosed two packages with the information and forms required to undertake this shipment as indicated below. Also included in this letter are instructions on the handling of the enclosed documentation. Please follow these instructions carefully, to ensure all approvals are properly documented and communicated.

Package 1: This package contains a signed copy of the form with the title 'Transboundary Movement of Waste – Notification Document – Waigani Convention'. The form includes three (3) Annexes. This is the official method by which notification and transit approval must be sought under the Waigani Convention on the Transboundary Movement of Hazardous and Radioactive Waste.

Instructions:

Please sign the enclosed form where indicated (block 24 of the Notification Document), and return the signed document (without the attachments) to:

Mr Aiono Mose Pouvi Sua
Chief Executive Officer
Ministry of Foreign Affairs and Trade
PO Box L1859
APIA, SAMOA

We also ask that a copy that clearly shows the approval signature be faxed to the number +685 25856 (Attn: Mr Bill Cable) as soon as it is signed.

We recommend you keep a photocopy of this form for your files.

Please note: we hope to receive your approval by X July 2004 in order to export the POPs with the ship indicated in block 20 of the Notification Document.

It is important that you liaise with your Customs office at this stage to notify them of the transit approval and the shipping dates (stated in block 20 of the Notification Document).

Package 2: This package contains a form with the title 'Transboundary Movement of Waste – Movement Document – Waigani Convention'. The Movement Document also has three Annexes, and is the official form by which the movement of hazardous waste under the Waigani Convention is tracked.

This package is FOR YOUR FILES ONLY.

Instructions:

A separate Movement Document with the same information will accompany the shipment and will need to be signed by your Customs office (block 28 of the Movement Document) at the time of import.

Once the Customs office has signed the Movement Document accompanying the shipment, please make 2 copies of the form: one copy is for your records; and one copy to be sent to the Samoan Competent Authority as outlined for the Notification Document above.

Again, please fax a copy of the signed Movement Document to Mr Bill Cable on the fax number above as soon as it is signed.

I thank you in advance for your cooperation and timely provision of approvals for the transit of this shipment through your waters and port. If you have any questions, please do not hesitate to contact Dr Frank Griffin (SPREP) or Dr Jacques Mougeot (SPREP) on +685 21929.

Yours faithfully,

Mr Aiono Mose Pouvi Sua
Chief Executive Officer

TRANSBOUNDARY MOVEMENT OF WASTE – Notification WAIGANI CONVENTION

1. Exporter (name, address):		3. Notification concerning (1):			
Ministry of Foreign Affairs and Trade	Contact: Mr Bill Cable	A	(i) Single movement	<input checked="" type="checkbox"/>	B. (i) Disposal (no recovery)
PO Box L1859	Tel: +685 25869		(ii) General notification		(ii) Recovery operation
APIA, Samoa	Fax/Telex: +685 25856		(multiple movements)		
Reason for export: Destruction and disposal in Australia		C	Pre-authorized recovery facility (1)	<input type="checkbox"/>	<input type="checkbox"/>
			Facility Registration Number (if Yes)	N/A	
		(To be completed for a recovery facility located in an OECD State)			
2. Importer (name, address):		4. Total intended number of shipments: 1		5. Estimated quantity (3):	
GHD Pty Ltd	Contact person: Mr Phil Baker			1,488 (OCBs)	kg
180 Lonsdale St	Tel: +61 3 8687 8983			735 (PCBs)	liters
Melbourne Vic 3000	Fax: +61 3 86878111				
7. Intended carrier(s)* (name, address) (2):		6. Intended date(s) or period of time for shipment(s): June – October 2004			
Swires Shipping	Contact: Mark Spillane	8. Disposer (name, address):			
8th Floor, 444 Queen Street	Tel: 1300 550 505	BCD Technologies Pty Ltd		Contact person: Mr Jeff Dibley	
Brisbane Qld 4000	Fax: 1300 133 078	2 Krypton Street		Tel: 61 7 3203 3400	
		Narangba Qld 4504		Fax/Telex: 61 7 3203 3450	
10. Waste generator(s) (name, address) (2):		Actual site of disposal: As Above. Storage may be necessary, please see Annex 2.			
See Block 1 above.		9. Method(s) of disposal:			
Site of generation & process: Stored agricultural chemicals and disused capacitors		D code/R code (4): D15, D9			
		Technology employed: Please see Annex 2 for destruction and contingency storage details.			
		11. Modes of transport (4): R/S/R		12. Packaging type(s) (4): Annex 1 (col.O-T)	
13. (i) Designation and chemical composition of the waste		(ii) Special handling requirements:		14. Physical characteristics:	
Please see Annex 1 (col. D&E)		Please see Annex 3 – Project Emergency Response Plan		Please see Annex 1 (col. V)	
15. Waste identification code				17. Y-number (4):	
in country of export: Please see Annex 1 (col. C)		IWIC: N/A		Please see Annex 1 (col. K)	
in country of import: Please see Annex 1 (col. C)		EWC: N/A		18. H-number (4):	
Customs Code H.S.: Please see Annex 1 (col. M)		Other (specify): N/A		Please see Annex 1 (col. L)	
16. OECD classification (1): N/A		19. (i) UN identification:		(ii) UN class (4): 9	
amber		red		and number:	
				UN Shipping name:	
				Please see Annex 1 (col. D)	
other *		(attach details)			
20. Concerned states, code number of Competent authorities, and specific points of entry and exit (5):					
State of export		States of transit			State of import
Samoa (Apia)	30 Jul-12 August 2004	Tonga (Nuku'alofa)	Fiji (Suva / Lautoka)		Australia (Port of Brisbane)
21. Customs offices of entry and/or departure (European Community):		23. Exporter's/Generator's declaration:			
Entry:		I certify that the above information is complete and correct to my best knowledge. I also certify that legally-enforceable written contractual obligations have been entered into and that any applicable insurance or other financial guarantees are or shall be in force covering the transboundary movement.			
Departure:		Name: _____ Signature: _____			
		Date: _____			
		22. Number of annexes Attached (5): 3			
FOR USE BY COMPETENT AUTHORITIES					
24. To be completed by		- import (EEC, OECD)		25. Consent to the movement provided by the competent authority of (country):	
- transit (Basel)					
Notification received on:				Consent given on: _____ Consent expires on: _____	
Acknowledgement sent on:		Specific conditions (1): _____		Yes. See block 26 overleaf / annex	
				No.	
Name of competent authority, stamp and/or signature:				Name of competent authority, stamp and/or signature:	

- (1) Enter X in appropriate box; (2) Attach list if more than one; (3) Attach a list if multiple shipment;
(4) See codes on the reverse; (5) Annexes to be provided for reasons on reverse

List of abbreviations used in the notification form	DISPOSAL (NO RECOVERY) (Block 9)			List of abbreviations used in the notification form	RECOVERY OPERATIONS (Block 9)			
D1	Deposit into or onto land, (e.g., landfill, etc.)			R1	Use as a fuel (other than in direct incineration) or other means to generate energy			
D2	Land treatment, (e.g., biodegradation of liquid or sludgy discards in soils, etc...)			R2	Solvent reclamation/regeneration			
D3	Deep injection, (e.g., injection of pumpable discards into wells, salt domes or naturally occurring repositories, etc.)			R3	Recycling/reclamation of organic substances which are not used as solvents			
D4	Surface impoundment, (e.g., placement of liquid or sludge discards into pits, ponds or lagoons, etc...)			R4	Recycling/reclamation of metals and metal compounds			
D5	Specially engineered landfill, (e.g., placement into lined discrete cells which are capped and isolated from one another and the environment, etc...)			R5	Recycling/reclamation of other inorganic materials			
D6	Release into a water body except seas/oceans			R6	Regeneration of acids or bases			
D7	Release into seas/oceans including sea-bed insertion			R7	Recovery of components used for pollution abatement			
D8	Biological treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12			R8	Recovery of components from catalysts			
D9	Physico-chemical treatment not specified elsewhere in this list which results in final compounds or mixtures which are discarded by means of any of the operations numbered D1 to D12 (e.g., evaporation, drying, calcinations, etc.)			R9	Used oil re-refining or other reuses of previously used oil			
D10	Incineration on land			R10	Land treatment resulting in benefit to agriculture or ecological improvement			
D11	Incineration at sea			R11	Uses of residual materials obtained from any of the operations numbered R1 to R10			
D12	Permanent storage, (e.g., emplacement of containers in a mine, etc.)			R12	Exchange of wastes for submission to any of the operations numbered R1 to R11			
D13	Blending or mixing prior to submission to any of the operations numbered D1 to D12			R13	Accumulation of material intended for any operation numbered R1 to R12			
D14	Repackaging prior to submission to any of the operations numbered D1 to D12							
D15	Storage pending any of the operations numbered D1 to D12							
	MODES OF TRANSPORT (Block 11)		PACKAGING TYPES (Block 12)		PHYSICAL CHARACTERISTICS (Block 14)	H NUMBER (Block 18) & UN CLASS (Block 19)		
R	Road	1.	Drum	1.	Powdery/powder	UN Class	H Number	Designation
		2.	Wooden barrel	2.	Solid			
T	Train/Rail	3.	Jerrican	3.	Viscous/paste	1	H1	Explosive
		4.	Box	4.	Sludgy	3	H3	Inflammable liquids
S	Sea	5.	Bag	5.	Liquid	4.1	H4.1	Inflammable solids
		6.	Composite packaging	6.	Gaseous	4.2	H4.2	Substances or wastes liable to spontaneous combustion
	MODES OF TRANSPORT (Block 11)		PACKAGING TYPES (Block 12)		PHYSICAL CHARACTERISTICS (Block 14)	H NUMBER (Block 18) & UN CLASS (Block 19)		
A	Air	7.	Pressure receptacle	7.	Other (specify)			
		8.	Bulk			4.3	H4.3	Substances or wastes which, in contact with water, emit inflammable gases
W	Inland Waterways	9.	Other (specify)			5.1	H5.1	Oxidising
	ANNEXES – Other information required including that as described in Annex VIA of the Waigani Convention (Block 22)					5.1	H5.1	Oxidising
1.	Reason for waste export.					5.2	H5.2	Organic peroxides
2.	Full name, address, phone telex or fax number of the competent authorities of the State of export of the wastes, the expected transit countries, and the country of import of the wastes					6.1	H6.1	Poisonous (acute)
3.	Planned shipping itinerary giving dates and points of entry and exit					6.2	H6.2	Infectious substances
4.	Information on insurance					8	H8	Corrosives
5.	Process by which the waste is generated					9	H10	Liberation of toxic gases in contact with air or water
6.	Information used by the exporter or generator to assess the capacity of the importer to deal with the material in an environmentally sound manner and in accordance with legislation of the country of import					9	H11	Toxic (delayed or chronic)
7.	Information concerning the contract between the exporter and the disposer					9	H12	Ecotoxic
8.	Others as needed					9	H13	Capable, by any means, after disposal, of yielding another material, e.g., leachate, which possesses any of the characteristics listed above
	<i>Y numbers (block 17) refer to categories of waste listed in Annex I and II of the Basel Convention. These codes, as well as more detailed information can be found in an Instruction Manual available from the Secretariat of the Basel Convention.</i>							
26.	SPECIFIC CONDITIONS ON CONSENTING TO THE MOVEMENT							

**TRANSBOUNDARY MOVEMENT OF WASTE – Movement document WAIGANI
CONVENTION**

1.	i) Exporter (name, address):	3.	Corresponding to Notification:	4.	
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