

Committee on Trade and Environment

A DESCRIPTION OF INTERNATIONAL AGREEMENTS AND INSTRUMENTS
DEALING WITH TRADE IN DOMESTICALLY PROHIBITED GOODS AND
OTHER HAZARDOUS SUBSTANCES

Note by the Secretariat

This Note has been prepared for discussion under item seven of the Committee's Ministerial work programme in response to requests for background information on international agreements and instruments which deal with trade in domestically prohibited goods and other hazardous substances. It builds on PC/SCTE/W7 and work which was carried out by the GATT Working Group on Domestically Prohibited Goods, specifically DPG/W/4/Rev.1 and L/6872.¹

The Note provides up-to-date information on the membership, product coverage and operational procedures of 12 international and plurilateral agreements and instruments. To the Secretariat's knowledge, these are all the agreements and instruments that are currently in place in this area. The Note does not cover regional or bilateral instruments. It should be noted that in the case of several of the instruments covered (particularly the Amended London Guidelines for the Exchange of Information on Chemicals in International Trade and the FAO Code of Conduct on the Distribution and Use of Pesticides), negotiations are underway to expand and improve the provisions of the instruments.

There was a general view expressed at the Committee's meeting in February that the work of the WTO in this area should not duplicate work accomplished or underway in other international agreements and instruments. The Secretariat's preliminary assessment of where potential "gaps" might exist in the provision of information about exports of domestically prohibited goods (DPGs) and other hazardous substances to WTO Members under these other international agreements and instruments is as follows:

Product coverage

Coverage of hazardous wastes, chemicals and pesticides by the international agreements and instruments is very extensive. To the extent that gaps do exist, the Secretariat does not have the necessary expertise to identify them. In meetings of the GATT Working Group on DPGs and in the Committee's meeting in February 1995, certain delegations expressed the concern that in particular consumer products, certain pharmaceuticals for both human and animal use, cosmetics and foodstuff, such as food additives, may represent gaps in coverage.

¹ See also UNEP, Selected International Environmental Agreements: Information Note, Environment and Trade Unit, November 1994.

Membership

Due to differences between the membership of the WTO and those international agreements or instruments dealing with this issue, gaps might exist in the flow of information between WTO Members who are Parties to those agreements or who have adopted instruments and WTO Members who are non-Parties or non-participants.

Procedures

Differences in the procedures used in the different international agreements and instruments lead to differences in the amount, periodicity, etc. of information which is exchanged among Parties. Whether these differences amount to significant "gaps" is not possible for the Secretariat to determine on the basis of the information available. However, the Secretariat would presume that Parties to the agreements and instruments have established to their satisfaction adequate procedures for information exchange in this area.

The Note is structured as follows:

- I. INFORMATION EXCHANGE MECHANISMS DEALING WITH DOMESTICALLY PROHIBITED GOODS AND OTHER HAZARDOUS SUBSTANCES
- II. INTERNATIONAL AND PLURILATERAL AGREEMENTS AND INSTRUMENTS DEALING WITH TRADE IN DOMESTICALLY PROHIBITED GOODS AND OTHER HAZARDOUS SUBSTANCES
 - A. LEGALLY BINDING INTERNATIONAL AGREEMENTS
 1. Montreal Protocol on Substances that Deplete the Ozone Layer, UNEP, 1989.²
 2. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, UNEP, 1992.
 3. Convention Concerning Safety in the Use of Chemicals at Work, ILO, 1990.
 4. 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, UN, 1990.
 5. 1971 Convention on Psychotropic Substances, UN, 1976.
 6. 1961 Single Convention on Narcotics, UN, 1964, as Amended by 1972 Protocol, 1975.
 - B. LEGALLY BINDING PLURILATERAL AGREEMENTS
 7. Decision Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations, OECD, 1992.
 - C. VOLUNTARY INTERNATIONAL INSTRUMENTS
 8. Amended London Guidelines for the Exchange of Information on Chemicals in International Trade, UNEP, adopted 1989.
 9. Code of Ethics on International Trade in Chemicals, UNEP, adopted 1994.

²Unless otherwise indicated, the date is that at which the agreement came into force.

10. International Code of Conduct on the Distribution and Use of Pesticides, FAO, adopted 1985.
11. Certification Scheme on the Quality of Pharmaceutical Products Moving in International Trade, WHO, adopted 1975.

D. VOLUNTARY PLURILATERAL INSTRUMENTS

12. Decision-Recommendation on the OECD Notification System on Consumer Safety Measures, OECD, adopted 1989.

APPENDIX I: Summary chart of the membership, product and substance coverage, and general procedures of the selected instruments.

APPENDIX II: List of countries that have ratified the legally binding agreements covered in the Note

I. INFORMATION EXCHANGE MECHANISMS DEALING WITH DOMESTICALLY PROHIBITED GOODS AND OTHER HAZARDOUS SUBSTANCES

A great deal of work has been undertaken by UN organizations and programmes and other agencies to assist in the environmentally sound management of hazardous substances. UNEP, FAO, WHO, and the OECD have developed and operate guidelines and procedures for notification and exchange of information in several areas related to DPGs and other hazardous substances. The following section describes the main information exchanges in operation in the area of hazardous wastes, chemicals and pesticides, pharmaceuticals and consumer products.

(a) Hazardous wastes

Information exchange concerning the transboundary movement of hazardous wastes is covered under the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal, 1992 and the OECD Control System as contained in the 1992 Decision Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations, which are described in Section II.

(b) Chemicals and pesticides

There is a large volume of international activity in the field of information exchange on chemicals and pesticides. Some of the work done in different organizations overlaps and as a direct result there has been a great deal of effort to ensure that the provisions of different schemes are coordinated. Since the UNCED in 1992 and in order to implement Chapter 19 of Agenda 21, which deals with the environmentally sound management of toxic chemicals, there have been developments in order to: (i) expand and accelerate the international assessment of chemical risks; (ii) harmonize the classification and labelling of chemicals; (iii) exchange information on toxic chemicals; (iv) establish risk reduction programmes; (v) prevent illegal traffic in toxic and dangerous products; and (vi) strengthen national capacities for the management of chemicals.

The Intergovernmental Forum on Chemical Safety was established by 114 participating countries at the International Conference on Chemical Safety in April 1994 to coordinate intergovernmental exchange of information on chemical risk management. Also, the

Interorganisational Programme for the Sound Management of Chemicals was set up to coordinate the activities of FAO, WHO, UNEP, ILO, UNIDO and the OECD in this area. The two main obstacles to the environmentally sound management of chemicals which have been identified in the context of this programme are the lack of knowledge of the risks that many chemicals pose to human health and the environment and the lack of capability and capacity, particularly in developing countries, to manage chemical risk.³

There are several main international sources of information on chemicals. One is the International Register of Potentially Toxic Chemicals (IRPTC), established in 1976, as the UNEP response to the need to manage an international information exchange mechanism on chemicals. Agenda 21 mandates UNEP to improve assistance to the international community to make better use of existing information resources on toxic chemicals and waste in order to manage and reduce health and environmental risks posed by chemicals throughout their life cycle. Chemical management is based on the operation of the IRPTC data bank for chemicals and an international network of partners and capacity building. In order to assist decision makers in making informed decisions and assessments of the potential harms chemicals may pose, IRPTC has a data bank which contains more than 12,5000 chemicals (mainly pesticides) and it produces data profiles, integrated data sets covering, *inter alia*, physical-chemical properties, environmental fate, toxicity/ecotoxicity and waste management. The IRPTC legal file, the most widely known of the IRPTC databases, contains regulatory information on approximately 9,000 chemicals with regard to their uses, emissions, labelling, export/import, occupational exposure, consumer products, food and transport. UNEP/IRPTC are also responsible for the implementation of the Amended London Guidelines and the Prior Informed Consent (PIC) Procedure with FAO, described more extensively in the Note.

As stipulated in the Amended London Guidelines, UNEP/IRPTC is responsible for the coordination of the network of Designated National Authorities, currently 128 DNAs, including processing and disseminating Notifications of Control Actions to DNAs, concerned international organizations and information networks. IRPTC also operates the PIC Databank which is used as the information exchange mechanism in order to implement the PIC procedures. It contains notifications of banned and severely restricted chemicals and notification decisions for chemicals included in the PIC procedure as well as information concerning DNAs. The IRPTC coordinates with UNEP/UNITAR a Training Programme on the Implementation of the PIC procedure which has as its objective to assist developing countries in the implementation of the PIC procedure and in establishing national information systems for the management of chemicals and chemical safety.

The second, the Consolidated List of Products Whose Consumption and/or Sale have been Banned, Withdrawn, Severely Restricted or Not Approved, was mandated by a 1982 General Assembly Resolution on the Protection Against Products Harmful to Health and the Environment. It is prepared jointly by the UN, WHO and UNEP/IRPTC. The Consolidated List, first issued in 1983 and revised annually, is based on work already done in UNEP, FAO, WHO, ILO, GATT/WTO and the UN Centre on Transnational Corporations (now part of UNCTAD). Its objective is to assist in the dissemination of information to governments on products harmful to health and the environment. The List contains both generic, chemical and brand names as well as the names of all manufacturers and a short reference to the decisions taken by governments that relate to bans, withdrawals or severe restrictions of products. The List is primarily a reference

³See Progress within the UN System, and by two other intergovernmental organizations, in implementing Chapter 19 of Agenda 21: Environmentally Sound Management of Toxic Chemicals, Task Manager's Report for the UN Commission on Sustainable Development, 1994.

document, although it contains some information on consumer products which are hazardous because of their chemical composition. The most recent revision of the Consolidated List is the fifth issue of 1994.

Interorganizational cooperation and coordination has been repeatedly emphasized by those involved in the area of chemicals. In this respect, the International Programme for Chemical Safety (IPCS), set up in 1980 as a joint programme between WHO, UNEP and ILO, will be broadened to include FAO, UNIDO and the OECD in order to strengthen and coordinate activities relating to chemical safety. The IPCS is a cooperative undertaking among intergovernmental organizations or programmes that consent to work together to promote the environmentally-sound management of chemicals. Through the IPCS, activities in relation to chemical safety are coordinated, including scientific risk assessment, technology transfer, promotion of risk reduction, harmonization and use of internationally acceptable methods related to chemicals, and research on safer alternative chemicals.

Recent attention in the area of chemicals revolves around the proposal for a legally binding application of the PIC procedure for certain chemicals and pesticides. Both the International Conference on Chemical Safety and the Commission on Sustainable Development (CSD) have recommended that UNEP, together with FAO, continue to develop a PIC Convention, whereby Parties would be obliged to apply the PIC procedure to banned or severely restricted chemicals and pesticides as contained respectively in the Amended London Guidelines and the FAO Code of Conduct.

In this respect, the proposal for a ban on the export of domestically prohibited chemicals from OECD to non-OECD countries was mentioned in the Chairman's Summary of the Second Session of the CSD in May 1994.⁴ Following this proposal, several participants at the UNEP/FAO informal consultative meeting in December 1994, on issues related to the development of a PIC Convention, mentioned such a ban on domestically prohibited chemicals. In preparation for the development of a legally binding instrument on the application of the PIC procedure, UNEP and FAO are conducting a study on international trade in widely prohibited chemicals.⁵ In addition, the first meeting of UNEP's Expert Group on International Environmental Agreements and Trade, 30-31 March 1995, will examine the relationship between trade-related measures which may be included in the proposed PIC Convention and international trade rules contained in the WTO. This Expert Group will discuss, *inter alia*, the elements which might be included in a PIC Convention, the implication of the proposed ban on export of domestically prohibited chemicals from OECD member countries, work of the WTO on DPGs, and provisions of the GATT 1994 and related trade agreements which may be relevant in considering trade measures to be included in a PIC Convention.⁶

As it is currently operating, the Prior Informed Consent (PIC) Procedure is a voluntary procedure which is administered jointly by UNEP and FAO under the Amended London Guidelines and the FAO Code of Conduct. The FAO and UNEP established a Joint Programme on the Implementation of the PIC procedure in 1992, whereby a group of experts was formed to facilitate its operation. Both the London Guidelines and the FAO Code of Conduct adopted the PIC procedure in 1989.

⁴E/1994/33, E/CN.17/1994/20, pp.45-46.

⁵UNEP/Trade/IEA/1/3, 13 March 1995.

⁶UNEP/Trade/IEA/1/6, 13 March 1995.

The PIC procedure is a means for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipments of hazardous chemicals. The aim is to promote a shared responsibility between exporting and importing countries in protecting human health and the environment from the harmful effects of certain hazardous chemicals. The procedure is as follows. Participating countries nominate a Designated National Authority (DNA) to serve as a focal point for the operation of the procedure which includes pesticides and industrial and consumer chemicals that have been banned or severely restricted for health or environmental reasons by the participating governments. To date, 17 chemicals have been included. Pharmaceuticals, radioactive materials and food additives are excluded.

Countries regularly provide information on control actions to ban or severely restrict chemicals through Notification of Control Action forms which are maintained in the IRPTC database. Any chemical banned or severely restricted in at least one country after 1 January 1992 is eligible for inclusion in the procedure. Chemicals restricted prior to this date are included if control actions were taken in five or more countries. For each chemical subject to the procedure, a Decision Guidance Document (DGD) is developed and circulated to DNAs in order to help governments assess the risks connected with the handling and use of these chemicals. The DNA prepares an Importing Country Response (ICR) stating the conditions under which it allows import. These import decisions are summarized and compiled by the FAO/UNEP Secretariat and distributed to DNAs biannually.

Importing countries are requested to ensure that national import control authorities, importers and, as far as possible, users are informed on a regular basis of all notifications and responses received under the procedure. Import decisions must apply uniformly to imports from all exporting countries and to any domestic manufacturing of the chemicals. A chemical should not be exported without the consent of the importing country; however, the export may proceed if there have been previous shipments to that country or if the chemical is approved in that country. Exporting countries should ensure that PIC decisions made by participating importing countries are communicated to their exporters, industry and any other relevant authorities in order to ensure that exports do not occur contrary to these decisions.

Recent discussions in the context of the Amended London Guidelines have resulted in a mandate being sought from the UNEP Governing Council in May 1995 to start negotiations for the development of a legally binding instrument for the application of the PIC procedure in the London Guidelines and the FAO Code of Conduct by 1997.⁷ The FAO Council has already agreed to develop such an instrument. The trade-related elements of the proposed PIC Convention are outlined in PC/SCTE/W/7, pp.16-17. The objective of the Convention would be to make legally binding the PIC procedure and its operation, based on the procedure contained in the Amended London Guidelines and the FAO Code of Conduct. The scope of the proposed Convention would include "chemicals banned and severely restricted for health and environmental reasons and hazardous pesticide formulations which may be causing health [and/or environmental] problems under conditions of use in countries that do not have adequate infrastructure."⁸

The OECD Council Recommendation and Guiding Principles on Information Exchange Related to Export of Banned or Severely Restricted Chemicals, 1984 provides guiding principles for the exchange of information related to exports of banned or severely restricted chemicals as

⁷See PC/SCTE/W/7, pp. 14-17, 22 December 1994 and the Annex to UNEP/PIC/WG.1/4/5, 4 March 1995, pp.15-31, on "Elements which might be included in a legally binding instrument for the mandatory application of the PIC procedure."

⁸UNEP/PIC/WG.1/4/5, 15 April 1994, p.17.

prepared by an export group established under the OECD Special Programme on the Control of Chemicals. These principles were incorporated into much of the work undertaken by UNEP in this area and formed a large element of the basis for the work done by FAO on pesticides. The Recommendation covers any chemical subject to a ban, or severe restriction on the use of the chemical in order to protect human health or environment. These recommendations and principles lay the primary responsibility for the protection of health and the environment from hazards associated with imported chemicals on the importing country. However, they recommend that if any banned or severely restricted chemical is exported, information be provided from the exporting country to the importing country, including non-OECD members, to enable the latter to make timely and informed decisions on whether to import a given chemical. If a banned or severely restricted product is exported, the importing country should be informed, if possible before exportation takes place, that such an export is expected, informed of the identity or chemical specification of the chemical, given a description of the control action taken domestically by the exporting country, and notified of the contact point from which supplementary information can be obtained.

(c) Pharmaceuticals

The WHO operates a Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce based on its Guidelines on Good Practises in the Manufacture and Quality Control which provides information on specific products from identified manufacturers issued by the competent authority of the exporting country upon the request of the importing authority or another interested party. Certificates are usually requested at the time of product registration, or, in the absence of a registration system, when a product is first imported, and particularly when the manufacturer is unknown. This Scheme is explained in detail in Section II as a voluntary international instrument.

(d) Consumer products

The OECD established a notification procedure concerning product safety in 1973. The Council Recommendations concerning the Safety of Consumer Products of 1979 and Recall Procedures for Unsafe Products Sold to the Public of 1981 call on governments of Member countries to ensure that those goods that are banned or withdrawn from sale within their territories because they are so hazardous that they present a severe and direct danger to life, health or safety of any consumer of those goods, are not exported to other countries. In 1989, these provisions were reviewed and formalized in a Council Decision - Recommendation on the OECD Notification System on Consumer Safety Measures, which is described in Section II as a voluntary plurilateral instrument.

II. OBJECTIVES, PRODUCT AND SUBSTANCE COVERAGE AND GENERAL PROCEDURES OF INTERNATIONAL AND PLURILATERAL AGREEMENTS AND INSTRUMENTS DEALING WITH DPGs AND OTHER HAZARDOUS SUBSTANCES

A. LEGALLY BINDING INTERNATIONAL AGREEMENTS

1. Montreal Protocol on Substances that Deplete the Ozone Layer, UNEP, 1989

(i) Objectives and nature of the agreement

The objective is to provide legally binding guidelines for the reduction of consumption and production of specified substances that deplete the ozone layer.

(ii) Coverage of products or substances

The original controlled substances, whether existing alone or in a mixture, are listed in Annex A of the Protocol: five chlorofluorocarbons (CFCs) and three halons. It excludes, however, manufactured products which contain these substances (i.e. aerosol cans, refrigerators, air-conditioners, heatpumps, polyurethane prepolymer or any foam containing or manufactured with a controlled substance).

The Protocol was amended substantially at the Second Meeting of the Parties in London, 1990 and again at the Fourth Meeting of the Parties in Copenhagen, 1992. Annex B contains the controlled substances of the London Amendments: carbon tetrachloride and methyl chloroform. The Copenhagen Amendments are contained in an Annex C list of controlled substances: hydrobromofluorocarbons (HBFCs), hydrochlorofluorocarbons (HCFCs) and methyl bromide.

(iii) General obligations and control procedures

The basic obligation of the Protocol is to eliminate production and consumption of controlled substances by the year 2000. The Protocol lays down a schedule for reduction by stages of production and consumption. Since it mandates reductions in levels of consumption and defines consumption as the sum of production and imports, minus exports, it is implicitly assumed that Parties will gradually reduce and eliminate imports and exports of controlled substances. The method of implementation of this reduction in trade among Parties to the Protocol is left to each Party to determine. The Protocol provides for assessments of its control measures every four years based on available scientific, environmental, technical and economic information furnished by expert panels. Concerning trade with non-Parties, the Protocol contains provisions laying down specific dates after which imports from and exports to non-Parties are to be banned.

A time-lag of ten years for compliance with control measures is allowed for Annex 5 developing country Parties whose annual consumption of controlled substances was less than 0.3 killogrammes per capita on 1 January 1989.

(iv) Obligations of countries as exporters

The Protocol imposed an obligation to ban exports to non-Parties of controlled substances listed in Annex A from 1 January 1993. The London Amendments of 1990 revised the phase-out of all the initial gases (CFCs and halons) by developed countries to 2000. Carbon tetrachloride and other fully-halogenated CFCs are to be phased out by 2000, methyl chloroform by 2005, and

HCFC use is to be restricted to a minimum. The Copenhagen Amendments of 1992 revised the phase-out of all CFCs, carbon tetrachloride, and methyl chloroform by developed countries to 1996. Halons are to be banned by 1994. HCFCs are to be phased out by 2030 and HBFCs are to be banned by 1996. Methyl bromide consumption is to be frozen by 1995 at 1991 levels until further discussion. Both amendments allow exports of controlled substances to non-Parties in full compliance with the Protocol control measures.

(v) Obligations of countries as importers

Developments relating to the import ban on products containing controlled substances and on products produced with, but not containing controlled substances include an elaboration of a list of products containing controlled substances in Annex A which entered into force in May 1992, a decision that a ban on imports of products produced with, but not containing controlled substances was not feasible, and a decision not to elaborate a list of products containing controlled substances, in order to ban their import, for Annex B.

2. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, UNEP, 1992

(i) Objectives and nature of the agreement

The objective is to regulate the transboundary movements of hazardous wastes in order to reduce the generation of hazardous wastes to a minimum and encourage treatment and disposal of hazardous wastes close to their source of generation and based on environmentally sound management.

(ii) Coverage of products and substances

The Convention defines "wastes" as substances or objects which are disposed of, or are intended to be disposed of, or are required to be disposed of by the provisions of national law. The Convention lists 47 categories of controlled wastes in Annexes I and II of the Convention. Wastes are treated as hazardous if they possess any of the 13 hazardous characteristics enumerated in Annex III. A waste (defined or catalogued in the relevant national legislation) which is subject to a proposed transboundary movement, is controlled under the Convention if it corresponds to a category listed in Annex I and exhibits one or more of the Annex III hazardous characteristics, or if it is listed under Annex II. Radioactive wastes and those which derive from the normal operations of a ship are excluded as they are covered by other international instruments.

(iii) General obligations and control procedures

The Basel Convention provides for a strict control system of hazardous wastes based on prior informed consent. In addition, each Party shall: (i) prohibit all persons under its national jurisdiction from transporting or disposing of such waste unless such persons are allowed to perform such types of operations, and (ii) ensure that the obligation under the Convention to manage such wastes in an environmentally sound manner are not transferred to the States of import or transit. The "environmentally sound management of hazardous wastes or other wastes" is defined as taking all practicable steps to ensure that hazardous wastes or other wastes are managed in a manner which will protect human health and the environment against the adverse effects which may result from such wastes.

Parties to the Convention shall:

- prohibit or not permit exports of wastes to the States which have prohibited such imports;
- not permit exports of wastes to a non-Party;
- not allow the export of wastes for disposal within the area south of 60 degrees latitude (basically only Antarctica);
- permit exports of such wastes to the State of import only if the latter consents in writing to the specific import;
- not allow the export of such wastes to developing countries if it has reason to believe that wastes will not be managed in an environmentally suitable manner; and shall require that those that are permitted are, in fact, managed in an environmentally sound manner in the State of import;
- ensure that the transboundary movement of hazardous wastes only be allowed if the State of export does not have the technical capacity and the necessary facilities, capacity or suitable disposal sites to dispose of the wastes in question in an environmentally sound manner, or the wastes in question are required as a raw material for recycling or recovery industries in the State of import, or the transboundary movement in question is in accordance with other criteria to be decided by the Parties, provided those criteria do not differ from the objectives of this Convention;
- shall require that information about a proposed transboundary movement of wastes be provided to the States concerned that states clearly the effects of the proposed movement on human health and the environment;
- shall require that such wastes that are to be the subject of transboundary movement are packaged, labelled and transported in accordance with the recognised international standards and regulations;
- shall require that such wastes be accompanied by a movement document from the point at which a transboundary movement commences to the point of disposal;

(iv) Obligations of countries as exporters

The Second Meeting of the Conference of the Parties in March 1994 adopted the Decision to ban all exports of hazardous wastes which are destined for final disposal from OECD to non-OECD countries and phase out by 31 December 1997 all transboundary movements of hazardous wastes which are destined for recycling or recovery operations from OECD to non-OECD countries.

The intra-OECD and intra-non-OECD transboundary movement of hazardous wastes is permitted pursuant to the Convention's prior informed consent procedure, whereby the State of export has the following obligations:

- to notify through its competent national authority the authorities in the importing State of any proposed transboundary movement of wastes;
- to not allow the generator or exporter to begin the movement until it has received written confirmation that the exporter has received the written consent of the State of import and that the exporter has received from the State of import confirmation of the existence of a contract between the exporter and the importer specifying environmentally sound management of the wastes;
- to not allow the movement to begin until it has received the written consent of the State of transit;
- to be responsible for ensuring that the disposal is completed as specified.

(v) Obligations of countries as importers

Parties exercising their right to prohibit the import of wastes shall inform other Parties of the decision. They shall prevent the import of such wastes if they have reason to believe that the wastes would not be managed in environmentally sound way.

The State of import shall respond to the exporter in writing, consenting to the movement with or without condition, denying permission, or requesting additional information. If the import is allowed, the importer must inform both the exporter and the authority of the State of export of its receipt of the wastes, and of the completion of disposal as specified in the notification.

3. 1990 Convention Concerning Safety in the Use of Chemicals at Work, ILO, 1993

(i) Objectives and nature of the agreement

The objective is to ensure that all chemicals are evaluated to determine their hazards, provide information to employers and workers concerning chemicals used at work and to establish principles for programmes to ensure that these chemicals are used safely.⁹

(ii) Coverage of products and substances

The Convention covers chemical elements and compounds, and mixtures thereof, whether natural or synthetic and applies to all branches of economic activity in which chemicals are used in the workplace (production, handling, storage, transport, disposal and treatment of waste chemicals, release of chemicals from work activities and the maintenance, repair and cleaning of equipment for chemicals).

⁹The provisions of the Chemicals Convention, 1990 are to be applied in conjunction with the Recommendation Concerning Safety in the Use of Chemicals at Work, Recommendation No. 177, ILO, 25 June of 1990.

(iii) General obligations and control procedures

Pursuant to the Convention all chemicals shall be classified and hazardous chemicals are to be labelled. Requirements for making or labelling chemicals and chemical safety data sheets are established by the competent national authority, in accordance with national or international standards. For hazardous chemicals, chemical safety data sheets containing detailed essential information regarding their identity, supplier, classification, hazards, safety precautions and emergency procedures shall be provided to employers.

(iv) Obligations of exporting countries

Exporting member States shall communicate to any importing country hazardous chemicals domestically prohibited for reasons of safety and health at work and the reasons for this.

(v) Obligations of importing countries

The responsibilities for suppliers (manufacturers, importers or distributors) are to ensure that chemicals have been classified and marked and labelled as hazardous in accordance with the Convention and that chemical safety data sheets are prepared for hazardous chemicals.

There are provisions for workers to have the right to remove themselves from danger resulting from the use of chemicals and to have access to any information required to be kept pursuant to the Convention.

4. 1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1990;
5. 1971 Convention on Psychotropic Substances, 1976; and
6. 1961 Single Convention on Narcotics, 1964, as Amended by 1972 Protocol, 1975

(i) Objectives and nature of the agreements

The objectives of the 1988 Convention are to prevent and combat drug abuse through controlling the illicit supply of narcotic drugs and psychotropic substances and to prevent trade in and the diversion of materials and equipment for their illicit production or manufacture. The objective of the 1961 and 1971 Conventions is to control the licit supply of narcotic drugs and psychotropic substances respectively.

(ii) Coverage of products and substances

The 1988 Convention reinforces and supplements the measures provided in the 1961 and 1971 Conventions which apply to narcotic drugs and psychotropic substances, respectively. Narcotic drugs include opium and its derivatives: morphine, codeine and heroine; other narcotic drugs of man-made origin such as methadone and pethidine, as well as cannabis and cocaine. Psychotropic substances covered include mainly hallucinogens, stimulants and depressants. Drugs are categorized according to their addictive properties, their therapeutic value and the risks arising from their abuse in schedules annexed to the respective Conventions. The Commission on Narcotic Drugs, on the recommendation of the WHO determines which new substances should be included. There have been ten substances, used in the manufacture of drugs and narcotic substances, added to the list.

(iii) General obligations and control procedures

The 1988 Convention compliments the 1961 and 1971 Conventions by seeking to control the traffic in illicit narcotic drugs and psychotropic substances. There are provisions for confiscation and extradition of controlled drugs and substances which are illegally traded. The 1961 and 1971 Conventions were primarily designed for the control of licit narcotic drugs and psychotropic substances respectively. Under the 1988 Convention, a system of permits was established to primarily control the production, consumption and distribution within and between Parties.

B. LEGALLY BINDING PLURILATERAL AGREEMENTS

7. Decision Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations, OECD, 1992

(i) Objectives and nature of the instrument

The objective of the Decision is to regulate the export of wastes destined for recovery within the OECD through a control system, the development of which was recommended in the 1991 Decision-Recommendation on the Reduction of Transfrontier Movements of Waste (see below). This Decision is legally binding for all OECD member countries. It contains the necessary provisions to develop what is referred to as the OECD Control System. This Decision was adopted as a multilateral agreement under Article 11 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

(ii) Coverage of products and substances

The Decision defines wastes as materials other than radioactive materials intended for disposal for specified reasons, which are listed. Disposal operations are specified in lists of operations which do not lead and may lead to the possibility of resource recovery, recycling, reclamation, direct re-use or alternative uses and operations. The Control System classifies waste destined for recovery operations into three categories -- green, amber and red lists, and a specific control regime is established for each. Revisions have been made to these lists through two amendments, in July 1993 and July 1994.¹⁰

(iii) General obligations and control procedures

The OECD Control System establishes different levels of control for wastes in the green, amber and red lists ranging from regular commercial control (green) to stricter controls (amber and red). Wastes destined for recovery operations included on the green list is permitted to move among OECD Member countries toward recovery operations subject to all existing controls normally applied in commercial transactions. Wastes on the amber list is subject to a simplified control procedure, considering that it presents a lower overall risk (than red list wastes) when it is destined for recovery operations. Movements of amber wastes must be notified in advance and consent is assumed if no objection is lodged by any concerned countries within a thirty day limit for responding (this can also be decided in advance for certain types of shipments by the competent authorities). For movement of wastes on the red list, prior written consent of the importing and transit countries is needed within thirty days from receipt of the notification.

¹⁰See OECD, The OECD Control System for Transfrontier Movements of Wastes Destined for Recovery Operations: Guidance Manual, OECD Environment Monographs No. 96, 1995, pp.58-73 for the lists of wastes as they were revised in 1994.

Wastes destined for recovery have been assigned to one or another list in accordance with a number of criteria referring both to the characteristics of the waste itself and to the method of management and recovery. All red and amber waste shipment contracts must specify who is responsible for the waste, must be accompanied by a tracking document and the consignee must notify receipt of the waste.

The Control System does not apply to wastes destined for final disposal or transfrontier movements to or through non-OECD countries, which is covered under the Basel Convention. If hazardous waste which is being transported between OECD Member countries passes through a transit country which is not an OECD Member, the rules of the Basel Convention apply.

A Review Mechanism has been established to enable the OECD Council to review proposals for revising the lists (including application, deletion or reclassification). The Control System was implemented in Member countries through the enactment of national legislation.

Four OECD Council Acts laid the groundwork for and established the principles which were incorporated in the 1992 OECD Control System. In February 1984, the Council adopted the Decision-Recommendation on Transfrontier Movements of Hazardous Wastes C(83)180, which instructs Member countries to control transfrontier movements of hazardous waste by ensuring that the competent authorities of the countries concerned are provided with adequate and timely information regarding the type of wastes and planned movement of the waste to ensure sound management. However, it did not provide any operational action for Member countries.

In June 1986, the Council adopted the Decision-Recommendation on Exports of Hazardous Wastes from the OECD Area C(86)64, which binds Member countries to empower their competent authorities to prohibit the export of hazardous wastes to non-OECD countries in appropriate instances. It stipulates that controls on such transfrontier movements to non-Member countries must be at least as strict as controls governing movements to Member countries and must be formally approved by the importing (non-Member) country. As well, it provides that movements of hazardous wastes to non-Member countries must be prohibited if the waste disposal facility within the jurisdiction of the non-Member country is considered to be unsuitable.

The Council adopted the Decision on Transfrontier Movements of Hazardous Wastes C(88)90 in May 1988 which defines the terms "waste" and "disposal" and where Member countries agree to control a certain number of wastes which all of them considered hazardous. A core list of hazardous wastes to be controlled was developed and this was incorporated in the Control System of 1992. The Decision further provided that all other wastes not mentioned in the core list but considered to be hazardous in the exporting or importing Member country also be subject to controls. Also, it contained lists covering generic types of potentially hazardous wastes, constituents of potentially hazardous wastes, hazardous characteristics and disposal activities which may generate potentially hazardous wastes and those which do not.¹¹

The Decision-Recommendation on the Reduction of Transfrontier Movements of Wastes, C(90)178, adopted by the Council in January 1991, requires that wastes which are not destined for recovery operations be disposed of to the extent possible in the territory of the Member country in which the waste is generated, consistent with environmentally sound and efficient management practices. The Decision provides that Member countries should develop disposal capacity for wastes that currently cannot be managed within their territory and report on their plans for the

¹¹See OECD, Ibid., pp.80-95 for the lists.

environmentally sound management of wastes within their territory in 1995. Where this is not possible, countries are encouraged to provide for the environmentally sound management of these wastes through bilateral or regional plans agreed at the governmental level. This Decision also calls for a system that controls transfrontier movements of wastes being transported to recovery facilities and as such serves as the legal basis for the 1992 Decision which established the OECD Control System outlined above.

C. VOLUNTARY INTERNATIONAL INSTRUMENTS

8. Amended London Guidelines for the Exchange of Information on Chemicals in International Trade, UNEP, 1989

(i) Objectives and nature of the instrument

The objective is to provide a voluntary instrument to assist government in regulating international trade in chemicals through the exchange of scientific, technical, economic and legal information on chemicals which are banned or severely restricted. The Guidelines were amended in 1989 to incorporate the Prior Informed Consent (PIC) procedure for banned or severely restricted chemicals, administered jointly by UNEP and FAO.

(ii) Coverage of products and substances

The Guidelines are aimed at regulating banned or severely restricted chemicals. A "banned chemical" means a chemical which has, for health and environmental reasons, been prohibited for all uses by national governmental action. A "severely restricted chemical" means a chemical for which, for health and environmental reasons, virtually all uses have been prohibited by national governmental action, but for which certain specific uses remain authorized. The Guidelines do not apply to pharmaceuticals; radioactive materials; chemicals imported, in insignificant quantities, for the purpose of research, or as personal or household effects; or food additives. However, States may choose to apply the Guidelines to pharmaceuticals and food additives.

Both the Amended London Guidelines and the FAO Code of Conduct contain provisions for the identification of chemicals for inclusion in the PIC procedure. Designated National Authorities submit inventories of domestically banned or severely restricted chemicals to the International Register of Potentially Toxic Chemicals (IRPTC). On the basis of these notifications, IRPTC identifies all chemicals banned or severely restricted by five or more countries and introduces those into the PIC procedure. Currently, 17 chemicals have been included in the PIC procedure. When it becomes fully operational, any notification of a banned or severely restricted chemical which entered into force after 1 January 1992 will result in its inclusion in the procedure. Acutely hazardous pesticides that are not necessarily banned or severely restricted in any country, but which are known to cause health or environmental problems, particularly in developing countries, also are included in the Guidelines.

(iii) General obligations and control procedures

The notification procedure of the Guidelines is coordinated through Designated National Authorities (DNAs) which exchange information with participating States on a voluntary basis concerning banned or severely restricted chemicals through the International Register of

Potentially Toxic Chemicals (IRPTC) and the FAO/UNEP Joint Programme on Implementation of the PIC Procedure. Participating countries taking measures to regulate chemicals should:

- establish and strengthen legislative and regulatory systems for improving control and management of chemicals;
- create national registers of toxic chemicals, both industrial chemicals and pesticides;
- prepare manuals and directories for more effective information collection and dissemination; and
- designate a national governmental authority (or authorities) to communicate with DNAs of other participating countries and with international organizations concerned.

(iv) Obligations of countries as exporters

All exporting countries are expected to participate in the PIC procedure and respect the decision of importing countries to permit import and use of certain chemicals. It is, however, open to countries to participate in the information exchange procedures of the Guidelines without participating in the PIC procedure. They may also at any time withdraw from the PIC procedure. If the export of a domestically banned or restricted chemical which has been notified to the IRPTC occurs, the country of export should take steps to provide the DNA in the importing country with the following minimum information: (i) a copy of, or reference of the information provided at the time of notification of control action to IRPTC; (ii) indication that an export of chemical concerned will occur or is occurring; and (iii) an estimate of the quantity to be exported annually as well as any specific shipment inspection. The purpose in providing such information is to remind the DNA in the importing country of the original notification to IRPTC regarding the control action and to alert it to the fact that an export will occur.

All participating countries should ensure that chemicals exported from their territories are subject to no less stringent requirements for classification, packaging and labelling, than comparable products destined for use in the State of export.

(v) Obligations of countries as importers

Participating importing countries should ensure that actions taken with regard to an imported chemical are not more restrictive than those applied to the same chemical produced for domestic use or imported from a State other than the one that supplied the information. The DNA in an importing country shall respond within 90 days after receiving a Decision Guidance Document on a chemical included in the PIC procedure, to the IRPTC indicating its decision whether or not it will permit future import and use of the PIC chemical.

If a participating importing country does not respond within 90 days, the status quo should continue. This means that the chemical should not be exported without the explicit consent of the importing country, unless it is a pesticide which is registered in the importing country or is a chemical, the use or importation of which has been allowed by other governmental action in the importing country. Any final or interim decision should be communicated to the national competent authority responsible for controlling imports so that it can take appropriate import control actions under its authority.

9. Code of Ethics on International Trade in Chemicals, UNEP, 1994

(i) Objectives and nature of the instrument

The objective is to set principles and guidance for private sector participants governing standards of conduct in the production and management of chemicals in international trade, taking into account their entire life cycle, with the purpose of reducing risks to human health and the environment which might be posed by such chemicals. The Code enhances the objectives of the Amended London Guidelines for private sector participants. By the implementation of the Code, the private sector participants are expected to enter into voluntary commitment to help achieve the objectives of the Amended London Guidelines, i.e., to increase chemical safety and to enhance the sound management of chemicals through the exchange of information on chemicals in international trade.

(ii) Product and substance coverage

The Code applies not only to chemicals in international trade but is generally applicable to all chemicals whether exported or retained for domestic use, consistent with the idea that there should not be a double standard vis-a-vis exported and domestically marketed chemicals with respect to health, safety and the environment. The Code does not apply to pharmaceuticals, radioactive materials, small quantities of chemicals imported for research, chemicals imported as personal or household effects or food additives.

(iii) General obligations and control procedures

Private sector participants involved in the international trade in chemicals should make a commitment, in a written declaration, to undertake self-regulatory measures to meet the standards of conduct set out in the principles of the Code in order to ensure the safe production and management of chemicals in domestic and international trade. The commitment includes:

(i) increasing chemical safety and enhancing the sound production and management of chemicals, taking into account their entire life cycle, in all countries by providing government authorities and relevant private sector participants with relevant information on chemicals in domestic and international trade, and (ii) complying with the PIC procedure being carried out by UNEP and FAO to the extent applicable to private sector participants, as well as those instruments related to chemical accident prevention.

10. FAO Code of Conduct on the Distribution and Use of Pesticides, 1985

(i) Objectives and nature of the instrument

The objective is to set forth responsibilities and establish voluntary standards of conduct, particularly where national laws are inadequate to regulate pesticides in order to derive the benefits of pesticide use without significant adverse effects on people or the environment and to promote cooperative efforts between governments of exporting and importing countries. The standards of conduct are to: (i) encourage responsible and accepted trade practices; (ii) assist countries which have not yet established controls to regulate the quality and suitability of pesticide products; and (iii) promote practices which encourage safe and efficient use of pesticides for the improvement of agricultural production and of human, animal, and plant health with minimal adverse effects on humans and the environment.

(ii) Coverage of products and substances

The Code applies to all pesticides which are defined as any substance or mixture of substances intended for preventing, destroying, or controlling any pest, including vectors of human or animal disease, unwanted species of plants or animals causing harm during or interfering with the production, processing, storage, transport or marketing of food, agricultural commodities, wood and wood products or animal feedstuffs, or pesticides which may be administered to animals for the control of insects, arachnids, or other pests in or on their bodies. Also included are substances intended for use as a plant-growth regulator, defoliant, desiccant, or agent for thinning fruit or preventing the premature fall of fruit, and substances applied to crops, either before or after harvest, to protect the commodity from deterioration during storage and transport.

(iii) General obligations and control procedures

The Code stipulates that governments have the overall responsibility and should act to regulate the availability, distribution and use of pesticides in their countries: (i) by introducing necessary legislation for the regulation of pesticides and provisions for enforcement, registration schemes and infrastructures under which products can be registered prior to domestic use; (ii) by collecting and recording data to assess effects on human health or the environment following trends in use levels; and (iii) by following WHO classifications of pesticides and FAO packaging and labelling guidelines.

The Code provides the following recommendations for industry:

- to ensure quality control and packaging and labelling specifications;
- to monitor final uses and problems encountered with use;
- to effectively test pesticides for safety and efficacy and make copies of the reports of such tests available to government authorities;
- to halt the sale of and recall products when safe use does not seem possible;
- to take all necessary steps to ensure that pesticides entering international trade conform to relevant FAO, WHO or equivalent specifications;
- to ensure that pesticides which are manufactured for export are subject to the same quality requirements and standards as those applied by the manufacturer to comparable domestic products;
- to ensure that pesticides are traded by and purchased from reputable traders;
- to ensure that all advertising is done in conformity with the recommendations of the Code.

With the introduction of the PIC procedure to the Code in 1989, FAO: (i) reviews the notification of control actions to ensure conformity with the Code; (ii) develops relevant guidance documents; (iii) in cooperation with UNEP, develops and maintains a database of control actions and decisions taken by all member States; and (iv) informs all designated national authorities and

relevant international organizations of, and publicises notifications regarding the use and importation of a pesticide that has been included in the PIC procedure.

After having been notified by the government of a pesticide-exporting country of the restriction of a pesticide, FAO notifies the DNAs in other participating countries in order to give those authorities the opportunity to assess the risks associated with the pesticide, and to make timely and informed decisions as to their importation and use. The minimum information to be provided should be the identity of the pesticide; a summary of the control action taken and of the reasons for it; and the name and address of contact point in the exporting country to which a request for information should be addressed.

(iv) Obligations of countries as exporters

The government of a pesticide-exporting country which takes action to ban or severely restrict the use or handling of a pesticide in order to protect health or the domestic environment should notify FAO as soon as possible of the action that it has taken. Exporting countries should advise their pesticide exporters of the decisions of participating importing countries and take appropriate legislative measures to ensure that exports do not occur to the contrary. If an export of a restricted pesticide occurs, the exporting country should provide the DNA of the importing country with relevant information. For pesticides restricted before implementation of the Code, an inventory of prior control action should be provided to the IRPTC.

(v) Obligations of countries as importers

Governments of importing countries should establish internal procedures and designate the appropriate authority for the receipt and handling of information. Governments participating in the PIC procedure, when advised by FAO of control actions within the procedure, should:

(i) decide on future acceptability of that pesticide in their country and advise FAO; (ii) ensure that governmental measures or actions taken with regard to an imported pesticide for which information has been received are not more restrictive than those applied to the same pesticide produced domestically or imported from a country other than the one that supplied the information; and (iii) ensure that such a decision is not used inconsistently with the provisions of the GATT.

11. WHO Certification Scheme on the Quality of Pharmaceutical Products Moving in International Commerce, 1975

(i) Objectives and nature of the instrument

The objective is to provide an administrative mechanism whereby an importing country can: (i) obtain assurance that an imported pharmaceutical product is authorized to be sold in the market of the exporting country and, if not, information on why not; (ii) obtain assurance that the manufacturing plant in which the product is produced is subject to periodic inspections and conforms to the WHO Guidelines on Good Practices in the Manufacture and Quality Control of Drugs; and (iii) exchange information on the implementation of inspections and controls in the exporting country. The Guidelines on Good Practices are a general guide which may be adapted, whenever necessary, to meet individual needs provided the established standards of drug quality are still achieved. They are intended to apply to the manufacturing process (including packaging and labelling) used in the production of drugs in their finished dosage forms.

(ii) Coverage of products and substances

For the Certification Scheme, "pharmaceutical product" covers any medicine in its finished dosage form intended for human use, dosage forms of veterinary products administered to food-producing animals and those starting materials (basic drugs) used in the manufacture of pharmaceutical products that are subject to control by legislation in the exporting member country.

(iii) General obligations and control procedures

Participating member countries communicate to the Director General of WHO information concerning the competent authority responsible for the certification of their exports of pharmaceutical products and any reservations relating to participation in the Scheme.

(iv) Obligations of countries as exporters

At the request of an interested party, the competent authority in the exporting Member country shall certify to the competent authority of the importing Member country that:

(i) the pharmaceutical product is authorized for sale or distribution within the exporting country and if it is not so state the reasons why not in the certificate; and (ii) the manufacturing plant in which the product is produced is inspected at suitable intervals to show that the manufacturer conforms to requirements for the Guidelines of Good Practices. At the request of importing Member countries, the authority of the exporting Member country should provide information pertaining to implementation of the Guidelines of Good Practices, controls of the product, and the names and functions of the persons designated to sign certificates of individual batches of exported products.

(v) Obligations of countries as importers

The competent authority of a Member country into which a pharmaceutical product covered by the Certification Scheme is to be or has been imported must decide upon the receipt of the certificate whether to grant or refuse the authorization for sale or distribution of the pharmaceutical product or to make authorization conditional on the submission of supplementary data. In the case of quality defects of products imported under the Certification Scheme that are considered to be of a serious nature by the importing (exporting) country, the competent authority of the importing (exporting) Member country should notify the competent authority of the exporting (importing) Member country with a request to institute enquiries.

D. VOLUNTARY PLURILATERAL AGREEMENTS

12. Decision-Recommendation on the OECD Notification System on Consumer Safety Measures, OECD, 1989

(i) Objectives and nature of the instrument

The objective of the Decision-Recommendation is to formalize the OECD notification system for consumer goods stipulated in previous Council Recommendations. The attached Guiding Principles for the Use of the OECD Notification System on Consumer Safety Measures clarify the operating procedures of the notification system and specify the actions needed to enable clear, rapid reporting of information with a minimum of effort by the reporting countries.

Created in 1973, the OECD notification system on safety measures concerning hazardous products has become an important part of a systematic exchange of information in the area of consumer products among Member countries. It covers the voluntary notification of regulations and standards, product bans, withdrawals, recalls and safety research concerning consumer products. In this respect, there are three relevant previous OECD Council Recommendations: Concerning the Safety of Consumer Products, 1979, Concerning Recall Procedures for Unsafe Products Sold to the Public, 1981 and Concerning Risk Management and Cost Benefit Analysis in the Product Safety Field, 1982 that recommend Member countries to ensure, by means in conformity with their national procedures, that consumer products that are banned, severely restricted, withdrawn from sale or recalled within their territories because they are inherently hazardous or present a severe and direct danger to the health or safety of consumers of these goods are not exported to other countries. The Recommendations are intended for consumer products excluding food and drugs, automobiles and related road transport equipment. They cover all measures related to these products except those which are not likely to be of concern to other Member countries and refer to the safety of consumer products without specifying the range of products intended to be covered. However, following the OECD's practice in connection with other product safety issues, the notion of consumer products would not comprise such goods which, although they are obviously consumer goods, are covered by important specific regulations, e.g. food laws and laws concerning pharmaceutical products, pesticides, etc.

(ii) Product and substance coverage

The system is intended for consumer products excluding food and drugs, automobiles and related road transport equipment. It covers all measures related to these products except those which are not likely to be of concern to other Member countries.

(iii) Obligations and general procedures

It was decided that member countries should: (i) notify to the OECD all measures related to the safety of consumer products; and (ii) set up national contact points in charge of providing and receiving notifications. A distinction is drawn between general safety measures such as laws, regulations, guidelines and individual product safety measures, in particular, bans, recalls and public warnings. Notifications should be made of all new legislation, regulations and guidelines relating to consumer safety as well as officially published draft legislation and draft regulations and individual measures such as bans and recalls and other specific measures such as public warnings and voluntary action taken by producers and/or suppliers to the extent that government authorities have been involved in the process.

The Notification System is based on the consideration that the systematic exchange of information on national consumer safety measures is a prerequisite for progressive harmonization of consumer safety standards in order to avoid obstacles to international trade. As well, the 1989 Decision includes in the notification system ancillary services that are clearly related to a consumer product or the installation of a consumer product such as instructions for use, installation and maintenance of the product and certain "sensitive" products which are banned for such reasons as national security, cultural interest or various safety and health reasons as well as other consumer products which present a safety risk. One of the major problems with the system has been identified as the uneven participation of member countries; as such attention is drawn to the fact that excessive concern for definition of a product or service should not hamper reporting.¹²

¹²OECD, The OECD Notification System on Consumer Safety Measures - Review, Analysis, Suggestions for Future Action, Paris: OECD Committee on Consumer Policy, (CCP(89)1(1st Revision)), 5 September 1989, p. 2.

APPENDIX I

International and Plurilateral Agreements and Instruments Dealing with Trade in Domestically Prohibited Goods and Other Hazardous Substances March 1995

Voluntary Instruments												
Legally Binding Agreements												
International or plurilateral agreement or instrument ¹	Montreal Protocol on Substances that Deplete the Ozone Layer (UNEP)	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (UNEP)	Convention Concerning Safety in the Use of Chemicals at Work, "Chemicals Convention No. 170, 1990, (ILO)	Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (UN)	Single Convention on Narcotics, 1961 (UN)	Convention on Psychotropic Substances 1971 (UN)	Decision Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations (OECD)	Amended London Guidelines for the Exchange of Information on Chemicals in International Trade (UNEP)	Code of Ethics on International Trade in Chemicals (UNEP)	International Code of Conduct on the Distribution and Use of Pesticides (FAO)	Certification Scheme on the Quality of Pharmaceutical Products Moving in International Trade (WHO)	Decision- Recommendation on the OECD Notification System on Consumer Safety Measures, 1989 (OECD)
Date of entry into force or adoption	1 January 1989	5 May 1992	4 Nov 1993	11 Nov 1990	1964, as amended by 1972 Protocol, 8 Aug 1975	16 Aug 1976	adopted 30 March 1992 ³	adopted May 1987, amended 1989	adopted April 1994	adopted 28 Nov 1985, amended Nov 1989	adopted 1975	adopted 26 October 1989
Number of countries that have adopted or ratified ²	148 Parties, London Amendment 101 Parties, Copenhagen Amendment 39 Parties	81 Parties and the European Union	5 Parties	106 Parties	150 Parties, amended 130 Parties	134 Parties	OECD Members countries	192 Designated National Authorities from 128 countries and the EU	private sector participants	amendments adopted by the 25th Session of the FAO Conference	139 countries participate through Designated National Authorities	OECD Member countries

cont'd

¹Annex I of L/6872, July 1991, lists 11 international instruments dealing with trade in domestically prohibited goods and other hazardous substances. To this list has been added the OECD Decisions of 1992 and 1989 and UNEP's Code of Ethics on International Trade In Chemicals, 1994. The Consolidated List of Products Whose Consumption and/or Sale have been Banned Withdrawn, Severely Restricted or Not Approved, 1982 is addressed in Section I on information exchange mechanisms. The Recommendations Concerning the Safety of Consumer Products, 1979 and Recall Procedures for Unsafe Products Sold to the Public, 1981 have been incorporated in the description of the OECD Decision on the Notification System on Consumer Safety Measures, 1989. Therefore, 12 international and plurilateral agreements and instruments are described in the Chart and the Note. The secretariats of the relevant instruments described have been asked to confirm the information contained in this Note. The Secretariat takes full responsibility for any errors the document may contain and undertakes to revise it in the light of further information that it receives.

²Appendix II lists the membership of the legally binding agreements.

³The Decision was adopted by the OECD Council and has entered into force in all Member countries.

Voluntary Instruments												
	Amended London Guidelines for the Exchange of Information on Chemicals in International Trade (UNEP)	Code of Ethics on International Trade in Chemicals (UNEP)	International Code of Conduct on the Distribution and Use of Pesticides (FAO)	Certification Scheme on the Quality of Pharmaceutical Products Moving in International Trade (WHO)	Decision-Recommendation on the OECD Notification System on Consumer Safety Measures, 1989 (OECD)							
	banned or severely restricted chemicals	chemicals	banned or severely restricted pesticides	pharmaceutical products	banned or severely restricted consumer products, except food, pharmaceuticals and automobiles							
	PIC procedure, voluntary exchange of information, Decision Guidance Documents (DGD)	private sector participants voluntarily commit to help achieve the objectives of the Amended London Guidelines	voluntary standards of conduct, PIC procedure introduced in 1989 amendment jointly with UNEP and the Amended London Guidelines	certificates for specified products requested from the exporting country by the importing authority	notification procedures for consumer product safety standards and regulations							

Legally Binding Agreements							
International or plurilateral agreement or instrument ¹	Montreal Protocol on Substances that Deplete the Ozone Layer (UNEP)	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (UNEP)	Convention Concerning Safety in the Use of Chemicals at Work, 'Chemicals Convention No. 170, 1990, (ILO)	Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (UN)	Single Convention on Narcotics, 1961 (UN)	Convention on Psychotropic Substances 1971 (UN)	Decision Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations (OECD)
Product or substance coverage ⁴	ozone-depleting substances	hazardous substances as defined in Annexes I, II, and III.	all chemicals	narcotic drugs and psychotropic substances	narcotic drugs	psychotropic substances	wastes destined for recovery operations
Procedures ⁵	controls on production and consumption	identify chemicals included in PIC procedures through the information exchange system, IRPTC	principles to ensure the safe use of chemicals in the work place, systems and criteria for classification of hazardous chemicals	control in traffic of illicit narcotic drugs and psychotropic substances	control system of licit narcotic drugs	control system of licit psychotropic substances	OECD control system for wastes destined for recovery within the OECD (green, amber and red lists of wastes), July 1993 and July 1994

⁴The product or substance coverage for each instrument is explained in detail in the Note.

⁵The procedures for each instrument are explained in detail in the Note.

APPENDIX II

List of Countries¹ that have ratified the legally binding agreements covered in the NoteMontreal Protocol on Substances that Deplete the Ozone Layer, UNEP, 1989²

Algeria, Antigua and Barbuda*, Argentina*, Australia*, Austria*, Bahamas, Bahrain*, Bangladesh*, Barbados*, Belarus, Belgium*, Benin*, Bolivia*, Bosnia and Herzegovina, Botswana*, Brazil*, Brunei Darussalam*, Bulgaria, Burkina Faso*, Cameroon*, Canada*, Central African Republic*, Chad*, Chile*, China, Colombia*, Comoros, Congo*, Costa Rica*, Côte d'Ivoire*, Croatia, Cuba*, Cyprus*, Czech Republic*, Denmark*, Dominica*, Dominican Republic*, Ecuador, Egypt*, El Salvador*, Ethiopia, Fiji*, Finland*, France*, Gabon*, Gambia, Germany*, Ghana*, Greece*, Grenada, Guatemala*, Guinea*, Guyana*, Honduras*, Hungary*, Iceland*, India*, Indonesia*, Iran (Islamic Republic of), Ireland*, Israel*, Italy*, Jamaica*, Japan*, Jordan, Kenya*, Kiribati, Korea (Democratic People's Republic of), Korea (Republic of)*, Kuwait*, Lebanon, Lesotho*, Libyan Arab Jamahiriya, Liechtenstein*, Lithuania, Luxembourg*, Malawi*, Malaysia*, Maldives*, Mali*, Malta*, Marshall Islands, Mauritania*, Mauritius*, Mexico*, Monaco, Mozambique*, Myanmar*, Namibia*, Nepal, Netherlands*, New Zealand*, Nicaragua*, Niger*, Nigeria*, Norway*, Pakistan*, Panama, Papua New Guinea, Paraguay*, Peru*, Philippines*, Poland*, Portugal*, Romania*, Russian Federation, Saint Kitts and Nevis, Saint Lucia*, Samoa, Saudi Arabia, Senegal*, Seychelles, Singapore*, Slovak Republic*, Slovenia*, Solomon Islands, South Africa*, Spain*, Sri Lanka*, Sudan, Swaziland (Kingdom of)*, Sweden*, Switzerland*, Syrian Arab Republic, Tanzania (United Republic of)*, Thailand*, the former Yugoslav Republic of Macedonia, Togo*, Trinidad and Tobago*, Tunisia*, Turkey*, Turkmenistan, Tuvalu, Uganda*, Ukraine, United Arab Emirates, United Kingdom*, United States of America*, Uruguay*, Uzbekistan, Vanuatu, Venezuela*, Viet Nam, Yugoslavia, Zaire*, Zambia*, Zimbabwe, European Community*.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposals, UNEP, 1992³

Antigua and Barbuda*, Argentina*, Australia*, Austria*, Bahamas, Bahrain*, Bangladesh*, Belgium*, Brazil*, Canada*, Chile*, China, Comores, Côte d'Ivoire*, Croatia, Cuba*, Cyprus*, Czech Republic*, Denmark*, Ecuador, Egypt*, El Salvador*, Estonia, Finland*, France*, Greece*, Hungary*, India*, Indonesia*, Iran, Ireland*, Israel*, Italy*, Japan*, Jordan, Kuwait*, Latvia, Lebanon, Liechtenstein*, Luxembourg*, Malawi*, Malaysia*, Maldives*, Mauritius*, Mexico*, Monaco, Netherlands*, New Zealand*, Nigeria*, Norway*, Oman, Panama, Pakistan*, Peru*, Philippines*, Poland*, Portugal*, Republic of Korea*, Romania*, Russian Federation, Saint Kitts and Nevis, Santa Lucia*, Saudi Arabia, Senegal*, Seychelles, Slovak Republic*, Slovenia*, South Africa*, Spain*, Sri Lanka*, Sweden*, Switzerland*, Syria, Tanzania*, Trinidad and Tobago*, Turkey*, United Arab Emirates, United Kingdom*, Uruguay*, Viet Nam, Zaire*, Zambia*, European Economic Community*.

¹The Countries followed by an asterisk are, on 9 March 1995, voting or non-voting participants in the WTO General Council.

²As of 1 March 1995.

³As of 15 March 1995.

Convention Concerning Safety in the Use of Chemicals at Work, ILO, 1990⁴

China, Colombia*, Mexico*, Norway*, Sweden*.

1961 Single Convention on Narcotics, UN, 1964⁵

Afghanistan⁶, Algeria, Antigua and Barbuda*, Argentina*, Armenia, Australia*, Austria*, Bahamas, Bahrain*, Bangladesh*, Barbados*, Belarus, Belgium*, Benin*, Bolivia*, Bosnia and Herzegovina, Botswana*, Brazil*, Brunei Darussalam*, Bulgaria, Burkina Faso*, Burundi*, Cameroon*, Canada*, Cape Verde, Chad*, Chile*, China, Colombia*, Costa Rica*, Côte d'Ivoire*, Croatia, Cuba*, Cyprus*, Czech Republic*, Denmark*, Dominica*, Dominican Republic*, Ecuador, Egypt*, Ethiopia, Federated States of Micronesia, Fiji*, Finland*, France*, Gabon*, Germany*, Ghana*, Greece*, Guatemala*, Guinea*, Haiti*, Holy See, Honduras*, Hungary*, Iceland*, India*, Indonesia*, Iran, Iraq, Ireland, Israel, Italy, Jamaica*, Japan*, Jordan, Kenya*, Kyrgyzstan, Kuwait*, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho*, Liberia, Libya, Liechtenstein*, Lithuania, Luxembourg*, Madagascar*, Malawi*, Malaysia*, Mali*, Malta*, Marshall Islands, Mauritania*, Mauritius*, Mexico*, Monaco, Mongolia, Morocco*, Myanmar*, Nepal, Netherlands*, New Zealand*, Nicaragua*, Niger*, Nigeria*, Norway*, Oman, Pakistan*, Panama, Papua New Guinea, Paraguay*, Peru*, Philippines*, Poland*, Portugal*, Qatar, Republic of Korea*, Republic of Moldova, Romania*, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia*, Saudi Arabia, Senegal*, Seychelles, Sierra Leone, Singapore*, Slovakia*, Slovenia*, Solomon Islands, Somalia, South Africa*, Spain*, Sri Lanka*, Sudan, Suriname*, Sweden*, Switzerland*, Syria, Thailand*, the former Yugoslav Republic of Macedonia, Togo*, Tonga, Trinidad and Tobago*, Tunisia*, Turkey*, Uganda*, Ukraine, United Arab Emirates, United Kingdom*, United States of America*, Uruguay*, Venezuela*, Yugoslavia, Zaire*, Zambia*, Zimbabwe*.

1971 Convention on Psychotropic Substances, UN, 1976⁷

Afghanistan, Algeria, Antigua and Barbuda*, Argentina*, Armenia, Australia*, Bahamas, Bahrain*, Bangladesh*, Barbados*, Belarus, Benin*, Bolivia*, Bosnia and Herzegovina, Botswana*, Brazil*, Brunei Darussalam*, Bulgaria, Burkina Faso*, Burundi*, Cameroon*, Canada*, Cape Verde, Chile*, China, Colombia*, Costa Rica*, Côte d'Ivoire*, Croatia, Cuba*, Cyprus*, Czech Republic*, Denmark*, Dominica*, Dominican Republic*, Ecuador, Egypt*, Ethiopia, Federated States of Micronesia, Fiji*, Finland*, France*, Gabon*, Germany*, Ghana*, Greece*, Grenada, Guatemala*, Guinea*, Guyana*, Holy See, Hungary*, Iceland*, India*, Iraq, Ireland*, Israel*, Italy*, Jamaica*, Japan*, Jordan, Kyrgyzstan, Kuwait*, Latvia, Lebanon, Lesotho*, Libya, Lithuania, Luxembourg*, Madagascar*, Malawi*, Malaysia*, Malta*, Marshall Islands, Mauritania*, Mauritius*, Mexico*, Monaco, Morocco*, Myanmar*,

⁴As of 15 March 1995.

⁵As of 16 March 1995.

⁶The Countries which are Parties to the 1961 Convention only are underlined.

⁷As of 16 March 1995.

Netherlands*, New Zealand*, Nicaragua*, Niger*, Nigeria*, Norway*, Pakistan*, Panama, Papua New Guinea, Paraguay*, Peru*, Philippines*, Poland*, Portugal*, Qatar, Republic of Korea*, Republic of Moldova, Romania*, Russian Federation, Rwanda, Saint Kitts and Nevis, Saudi Arabia, Senegal*, Seychelles, Sierra Leone, Singapore*, Slovakia*, Slovenia*, Somalia, South Africa*, Spain*, Sri Lanka*, Sudan, Suriname*, Sweden*, Syria, Thailand*, the former Yugoslav Republic of Macedonia, Togo*, Tonga, Trinidad and Tobago*, Tunisia*, Turkey*, Uganda*, Ukraine, United Arab Emirates, United Kingdom*, United States of America*, Uruguay*, Venezuela*, Yugoslavia, Zaire*, Zambia*, Zimbabwe*.

1988 Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, UN, 1990⁸

Afghanistan, Antigua and Barbuda*, Argentina*, Armenia, Australia*, Azerbaijan, Bahamas, Bahrain*, Bangladesh*, Barbados*, Belarus, Bhutan, Bolivia*, Bosnia and Herzegovina, Brazil*, Brunei Darussalam*, Bulgaria, Burkina Faso*, Burundi*, Cameroon*, Canada*, Chile*, China, Colombia*, Costa Rica*, Côte d'Ivoire*, Croatia, Cyprus*, Czech Republic*, Denmark*, Dominica*, Dominican Republic*, Ecuador, Egypt*, El Salvador*, Ethiopia, Fiji*, Finland*, France*, Germany*, Ghana*, Greece*, Grenada, Guatemala*, Guinea*, Guyana*, Honduras*, India*, Iran, Italy*, Japan*, Jordan, Kenya*, Kyrgyzstan, Latvia, Luxembourg*, Madagascar*, Malaysia*, Mauritania*, Mexico*, Monaco, Morocco*, Myanmar*, Nepal, Netherlands*, Nicaragua*, Niger*, Nigeria*, Norway*, Oman, Pakistan*, Panama, Paraguay*, Peru*, Poland*, Portugal*, Qatar, Republic of Moldova, Romania*, Russian Federation, Saint Vincent and the Grenadines*, Saudi Arabia, Senegal*, Seychelles, Sierra Leone, Slovakia*, Slovenia*, Spain*, Sri Lanka*, Sudan, Suriname*, Sweden*, Syria, the former Yugoslav Republic of Macedonia, Togo*, Trinidad and Tobago*, Tunisia*, Uganda*, Ukraine, United Arab Emirates, United Kingdom*, United States of America*, Uruguay*, Venezuela*, Yugoslavia, Zambia*, Zimbabwe*.

Decision Concerning the Control of Transfrontier Movements of Wastes Destined for Recovery Operations, OECD, 1992⁹

Australia*, Austria*, Belgium*, Canada*, Denmark*, Finland*, France*, Germany*, Greece*, Iceland*, Ireland*, Italy*, Japan*, Luxembourg*, Mexico*, Netherlands*, New Zealand*, Norway*, Portugal*, Spain*, Sweden*, Switzerland*, Turkey*, United Kingdom* and United States of America*.

⁸As of 16 March 1995

⁹As of 16 March 1995.

