

VIII/30: Addressing the interpretation of paragraph 5 of article 17 of the Basel Convention

The Conference of the Parties,

Acknowledging that there is a difference of views concerning interpretation of the expression “who accepted them” in paragraph 5 of article 17 of the Basel Convention and recognizing that many Parties consider the expression to be ambiguous,

Recalling article 31 of the Vienna Convention on the Law of Treaties regarding the interpretation of a treaty or the application of its provisions,

Noting that some Parties are of the opinion that all Parties must agree to any decision interpreting provisions of the Convention,

Recognizing that 11 years have elapsed since the adoption of the amendment contained in decision III/1 relating to the export of hazardous wastes to developing countries;

Noting the strong concerns expressed in that respect by many Parties following the tragic events in Abidjan, including African countries in particular;

Aware that many parties have stressed that an agreed interpretation of paragraph 5 of article 17 of the Convention could facilitate the early entry into force of the amendment contained in decision III/1 and that, together with strengthened enforcement measures, that could deter the further occurrence of such tragic events,

Recalling the decisions of the Conference of the Parties strongly appealing to Parties to expedite the process of ratification with respect to the amendment contained in decision III/1 to facilitate its entry into force at the earliest opportunity and recognizing that many Parties have stressed the need to agree to make every effort to facilitate early entry into force of decision III/1 among Parties having ratified it, by all possible means, including through agreement on an interpretation of the expression “who accepted them” in paragraph 5 of article 17 in a manner that is favourable to that objective,

Emphasizing that the Parties to the Convention have the ultimate power to agree on the interpretation of the Convention,

1. *Urges* all Parties to make every effort to facilitate the early resolution of an interpretation of the expression “who accepted them” in paragraph 5 of article 17 of the Basel Convention;

2. *Requests* the Open-ended Working Group to address further the issue of interpretation taking account of the perception of ambiguity held by many Parties, with a view to resolving it at the earliest opportunity, and to develop a draft decision on an agreed interpretation of paragraph 5 of article 17 of the Basel Convention by the Parties in accordance with international law for consideration at the next meeting of the Conference of the Parties;

3. *Invites* all Parties and others to submit comments to the Secretariat by 31 March 2007 for compilation and the further consideration by the Open-ended Working Group and the Conference of the Parties on matters which may facilitate agreement on entry into force of the amendment.