

TRACTATENBLAD

VAN HET

KONINKRIJK DER NEDERLANDEN

JAARGANG 1996 Nr. 81

A. TITEL

*Verdrag van Bazel inzake de beheersing van de grensoverschrijdende
overbrenging van gevaarlijke afvalstoffen en de verwijdering ervan,
met Bijlagen;
Bazel, 22 maart 1989*

B. TEKST

De Engelse en de Franse tekst van Verdrag en Bijlagen zijn geplaatst
in *Trb.* 1990, 12; zie ook *Trb.* 1993, 72 en *Trb.* 1994, 253.

C. VERTALING

Zie *Trb.* 1990, 12, *Trb.* 1993, 72 en *Trb.* 1994, 253.

D. PARLEMENT

Zie *Trb.* 1993, 72.

E. BEKRACHTIGING

Zie *Trb.* 1990, 12, *Trb.* 1993, 72 en *Trb.* 1994, 253.

Behalve de aldaar genoemde hebben nog de volgende Staten en Orga-
nisatie in overeenstemming met artikel 22, eerste lid, van het Verdrag
een akte van bekrachtiging, aanvaarding of goedkeuring nedergelegd bij
de Secretaris-Generaal van de Verenigde Naties:

Portugal	26 januari 1994
Denemarken	6 februari 1994
Ierland	7 februari 1994
Italië ¹⁾	7 februari 1994
Luxemburg ²⁾	7 februari 1994
Spanje ³⁾	7 februari 1994
het Verenigd Koninkrijk van Groot-Brit- tannië en Noord-Ierland ⁴⁾	7 februari 1994

Europese Economische Gemeenschap . . .	7 februari 1994
Turkije	22 juni 1994
Griekenland	4 augustus 1994
Israël	14 december 1994
Nieuw-Zeeland ⁵⁾	20 december 1994
Libanon	21 december 1994
de Russische Federatie	31 januari 1995
Guatemala	15 mei 1995
Duitsland ⁶⁾	21 april 1995

¹⁾ Onder bevestiging van de op 30 maart 1990 afgelegde verklaring en het op die datum gemaakte bezwaar (zie *Trb.* 1993, 72, blz. 3).

²⁾ Onder de volgende verklaring:

“For the implementation of article 5 of the Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, signed at Basel on 22 March 1989, the competent authority in Luxembourg is the Environmental Administration, Wastes Division.” (*VN-vertaling*)

³⁾ Onder de volgende verklaring:

“The Spanish Government declares, in accordance with article 26.2 of the Convention, that the criminal characterization of illegal traffic in hazardous wastes or other wastes, established as an obligation of States Parties under article 4.3, will in future take place within the general framework of reform of the substantive criminal legal order.”

⁴⁾ Mede voor het Britse Zuidpoolgebied en onder bevestiging van de bij de ondertekening van het Verdrag op 6 oktober 1989 afgelegde verklaring (zie *Trb.* 1990, 12, blz. 57).

⁵⁾ Onder de verklaring dat het Verdrag voorsnog niet zal gelden voor Tokelau.

⁶⁾ Onder de volgende verklaring:

“It is the understanding of the Government of the Federal Republic of Germany that the provisions in article 4, paragraph 12 of this Convention shall in no way affect the exercise of navigational rights and freedoms as provided for in international law. Accordingly, it is the view of the Government of the Federal Republic of Germany that nothing in this Convention shall be deemed to require the giving of notice to or the consent of any State for the passage of hazardous wastes on a vessel under the flag of a party exercising its right of innocent passage through the territorial sea or the freedom of navigation in an exclusive economic zone under international law.”

F. TOETREDING

Zie *Trb.* 1993, 72¹⁾ en *Trb.* 1994, 253.

Behalve de aldaar genoemde hebben nog de volgende Staten in overeenstemming met artikel 23, eerste lid, van het Verdrag een akte van toetreding bij de Secretaris-Generaal van de Verenigde Naties nedergelegd:

Trinidad en Tobago	18 februari 1994
Zuid-Korea	28 februari 1994
Zuid-Afrika	5 mei 1994

Kroatië	9 mei 1994
Pakistan	26 juli 1994
Saint Kitts en Nevis ²⁾	7 september 1994
Cuba ³⁾	3 oktober 1994
Zaire	6 oktober 1994
de Comoren	31 oktober 1994
Zambia	15 november 1994
Ivoorkust	1 december 1994
Oman	8 februari 1995
Costa Rica	7 maart 1995
Vietnam	13 maart 1995
Namibië	15 mei 1995
Guinee	26 april 1995
IJsland	28 juni 1995
Qatar	9 augustus 1995
Barbados	24 augustus 1995
Micronesië	6 september 1995
Paraguay	28 september 1995
Tunesië	11 oktober 1995
Honduras	27 december 1995
Marokko	28 december 1995

¹⁾ De Regering van Egypte heeft op 31 januari 1995 medegedeeld dat bij de akte van toetreding op 8 januari 1993 de volgende verklaringen hadden dienen te worden afgelegd:

“First declaration: passage of ships carrying hazardous wastes through the Egyptian territorial sea

The Arab Republic of Egypt, upon acceding to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, which was done on 22 March 1989 and is referred to hereafter as “the Convention”, and, in accordance with article 26 of the Convention,

Declares that:

1. In accordance with the provisions of the Convention and the rules of international law regarding the sovereign right of the State over its territorial sea and its obligation to protect and preserve the marine environment, since the passage of foreign ships carrying hazardous or other wastes entails many risks which constitute a fundamental threat to human health and the environment; and in conformity with Egypt’s position on the passage of ships carrying inherently dangerous or noxious substances through its territorial sea (United Nations Convention on the Law of the Sea, 1982), the Government of the Arab Republic of Egypt declares that foreign ships carrying hazardous or other wastes will be required to obtain prior permission from the Egyptian authorities for passage through its territorial sea.

2. Prior notification must be given of the movement of any hazardous wastes through areas under its national jurisdiction, in accordance with article 2, paragraph 9, of the Convention.

Second declaration: imposition of a complete ban on the import of hazardous and other wastes

The Arab Republic of Egypt, upon acceding to the Basel Convention on the

Control of Transboundary Movements of Hazardous Wastes and their Disposal, which was signed on 22 March 1989 and is referred to below as “the Convention”, and in accordance with article 26 of the Convention,

Declares that:

1. In accordance with its sovereign rights and with article 4, paragraph 1 (a), of the Convention, a complete ban is imposed on the import of all hazardous or other wastes and on their disposal on the territory of the Arab Republic of Egypt. This confirms Egypt’s position that the transportation of such wastes constitutes a fundamental threat to the health of people, animals and plants and to the environment.

Third declaration

Declaration by Bahrain, Belgium, Benin, the Commission of the European Union, Côte d’Ivoire, Denmark, Egypt, the Federal Republic of Germany, Finland, France, the German Democratic Republic, Ghana, Greece, Hungary, Italy, Jordan, Kenya, Kuwait, Lebanon, Luxembourg, Malaysia, Malta, Namibia, Netherlands, Niger, Norway, the Philippines, Portugal, Saudi Arabia, Senegal, Sweden, Switzerland, Turkey, the United Arab Emirates and the United Kingdom of Great Britain and Northern Ireland.

The Governments of Bahrain, Belgium, Benin, Côte d’Ivoire, Denmark, Egypt, the Federal Republic of Germany, Finland, France, the German Democratic Republic, Ghana, Greece, Hungary, Italy, Jordan, Kenya, Kuwait, Lebanon, Luxembourg, Malaysia, Malta, Namibia, Netherlands, Niger, Norway, the Philippines, Portugal, Saudi Arabia, Senegal, Sweden, Switzerland, Turkey, the United Arab Emirates, and the United Kingdom of Great Britain and Northern Ireland, as well as the Commission of the European Union, which will sign the Convention and/or the final document referring to the Control of Transboundary Movements of Hazardous Wastes and their Disposal, (referred to hereafter as “the Convention”).

Concerned that the transboundary movement of hazardous wastes constitutes a great danger to the health of both humans and the environment,

Considering that the developing countries have a limited ability to manage wastes, especially hazardous wastes, in an environmentally sound manner,

Believing that a reduction in the production of hazardous wastes and their disposal in environmentally sound conditions in the country which exports them must be the goal of waste management policy,

Convinced that the gradual cessation of transboundary movements of hazardous wastes will undoubtedly be a major incentive to the development of appropriate national facilities for the disposal of wastes,

Recognizing the right of every State to ban the import to or export from its territory of hazardous wastes,

Welcoming the signature of the Convention,

Believing it necessary, before applying the provisions of the Convention, to impose immediate and effective control on transboundary movement operations, especially to developing countries, and to reduce them,

Declare the following:

1. The signatories to this Convention affirm their strong determination that wastes should be disposed of in the country of production.

2. The signatories to this Convention request States which accede to the Convention to do so, by making every possible effort to effect a gradual cessation of the import and export of wastes for reasons other than their disposal in facilities which will be set up within the framework of regional cooperation.

3. The signatories to this Convention will not permit wastes to be imported to or exported from countries deficient in the technical, administrative and legal

expertise in administering wastes and disposing of them in an environmentally sound manner.

4. The signatories to this Convention affirm the importance of assistance to develop appropriate facilities intended for the final disposal of wastes produced by countries referred to in paragraph 3 above.

5. The signatories to this Convention stress the need to take effective measures within the framework of the Convention to enable wastes to be reduced to the lowest possible level and to be recycled.” (*VN-vertaling*)

De Regering van het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland heeft op 9 oktober 1995 tegen deze verklaringen het volgende bezwaar gemaakt:

“The Government of the United Kingdom of Great Britain and Northern Ireland cannot accept the first declaration of Egypt (passage of ships carrying hazardous wastes through the Egyptian territorial sea) Not only was this declaration out of time, but like all other declarations to similar effects, it is unacceptable in substance. In this connection, the United Kingdom Government recalls its own statement upon signature confirmed upon ratification, which reads as follows:” [Zie *Trb.* 1993, 72, blz. 3].

De volgende regeringen hebben op 13 oktober 1995 tegen deze verklaringen de volgende bezwaren gemaakt:

Finland

“The Government of Finland has studied the communication of the Government of Egypt, dated 31 January 1995, where it informs that at the time of acceding to the Convention (in January 1993), certain declarations should have been accompanying the instrument of accession. These declarations not having been transmitted, the Government of Egypt has transmitted them in January 1995 declaring, inter alia, that ‘foreign ships carrying hazardous or other wastes will be required to obtain prior permission from the Egyptian authorities for passage through its territorial sea’. Egypt also declares that ‘a complete ban is imposed on the import of all hazardous or other wastes and on their disposal on the territory of the Arab Republic of Egypt.’

In the view of the Government of Finland the declarations of Egypt raise certain legal questions. Article 26.1 of the Basel Convention prohibits any reservation or exception to the Convention. However, according to Article 26.2 a State can, when acceding to the Convention, make declarations or statements ‘with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention.....’.

Without taking any stand to the content of the declarations, which appear to be reservations in nature, the Government of Finland refers to Article 26.2 of the Basel Convention and notes that the declarations of Egypt have been made too late. For this reason the Government of Finland objects to the declarations and considers them devoid of legal effect.”

Italië

“The Italian Government refers to the communication from the Egyptian Government of 31 January 1995, transmitting to the office of the Secretary-General several declarations which, as stated in that communication, should have been transmitted at the same time of the accession of Egypt to the Basel Convention (8 January 1993).

In particular, Egypt declares that “foreign ships carrying hazardous or other wastes will be required to obtain prior permission from the Egyptian authorities for passage through its territorial sea” and that “a complete ban is imposed on the import of all hazardous or other wastes and on their disposal on the territory of the Arab Republic of Egypt.”

The Italian Government objects to the deposit of the aforementioned declarations since, in its opinion, they should be considered as reservations to the Basel Convention and the possibility of making reservations is excluded under article 26, paragraph 1, of the Convention.

In any event, article 26, paragraph 2, stipulates that a State may, within certain limits, formulate declarations only "when signing, ratifying, accepting, approving, ... confirming or acceding to this Convention".

For these reasons, the deposit of the aforementioned declarations cannot be allowed, regardless of their content." (*VN-vertaling*)

het Koninkrijk der Nederlanden

"The Kingdom of the Netherlands has examined the declarations made by Egypt on 31 January 1995 concerning the Basel Convention on the control of transboundary movements of hazardous wastes and their disposal. While the second and third declarations do not call for observations by the Kingdom, the first declaration establishing the requirement of prior permission for passage through the Egyptian territorial sea is not acceptable.

The Kingdom of the Netherlands considers the first declaration to be a reservation to the (Basel) Convention. The Convention explicitly prohibits the making of reservations in Article 26 par. 1. Moreover, this reservation has been made two years after the accession of Egypt to the (Basel) Convention, and therefore too late.

Consequently the Kingdom of the Netherlands considers the declaration on the requirement of prior permission for passage through the territorial sea made by Egypt a reservation which is null and void."

De Regering van Zweden heeft op 16 oktober 1995 tegen deze verklaringen het volgende bezwaar gemaakt:

"The Government of Sweden cannot accept the declarations made by the Government of Egypt

First, these declarations were made almost two years after the accession by Egypt contrary to the rule laid down in Article 26, paragraph 2 of the Basel Convention.

Second, the content of the first of these declarations must be understood to constitute a reservation to the Convention, whereas the Basel Convention explicitly prohibits reservations (Article 26, paragraph 1).

Thus, the Government of Sweden considers these declarations null and void."

Gezien deze bezwaren en de in dergelijke gevallen gevolgde praktijk is de depositaris van mening dat hij de door Egypte afgelegde verklaringen niet kan aanvaarden.

²⁾ Onder de volgende verklaring:

"With respect to article 20, paragraph 2 of the Convention, the Government of Saint Kitts and Nevis declares that it recognizes submission to arbitration in accordance with the procedures and the conditions set out in Annex VI to the Convention, as compulsory *ipso facto*."

³⁾ Onder de volgende verklaring:

"The Government of the Republic of Cuba declares, with regard to article 20 of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, that any disputes between Parties as to the interpretation or application of, or compliance with, this Convention or any protocol thereto, shall be settled through negotiation through the diplomatic channel or submitted to arbitration under the conditions set out in Annex VI on arbitration." (*VN-vertaling*)

G. INWERKINGTREDING

Zie *Trb.* 1993, 72.

H. TOEPASSELIJKVERKLARING

Het Verenigd Koninkrijk van Groot-Brittannië en Noord-Ierland heeft het Verdrag toepasselijk verklaard op:

Hong Kong 30 oktober 1995

J. GEGEVENS

Zie *Trb.* 1990, 12, *Trb.* 1993, 72 en *Trb.* 1994, 253.

Voor het op 26 juni 1945 te San Francisco tot stand gekomen Handvest der Verenigde Naties zie ook *Trb.* 1994, 277.

Wijziging

Tijdens de derde vergadering van de Conferentie van Verdragsluitende Partijen op 22 september 1995 is bij besluit III/1 een wijziging van het Verdrag aangenomen. De Engelse en Franse tekst van het Besluit luiden als volgt:

Amendment to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, adopted at the Third Meeting of the Conference of the Parties at Geneva on 22 September 1995

Insert new preambular paragraph 7 bis:

“Recognizing that transboundary movements of hazardous wastes, especially to developing countries, have a high risk of not constituting an environmentally sound management of hazardous wastes as required by this Convention”.

Insert new Article 4A:

“1. Each Party listed in Annex VII shall prohibit all transboundary movements of hazardous wastes which are destined for operations according to Annex IV A, to States not listed in Annex VII.

2. Each Party listed in Annex VII shall phase out by 31 December 1997, and prohibit as of that date, all transboundary movements of hazardous wastes under Article 1 (i) (a) of the Convention which are destined for operations according to Annex IV B to States not listed in Annex VII. Such transboundary movement shall not be prohibited unless the wastes in question are characterized as hazardous under the Convention.”

“Annex VII
Parties and other States which are members of OECD, EC,
Liechtenstein.”

**Amendement à la Convention de Bâle sur le contrôle des
mouvements transfrontières de déchets dangereux et de leur
élimination, adopté à la troisième réunion de la Conférence des
Parties à Genève le 22 septembre 1995**

Insérer le nouvel alinéa 7 bis dans le préambule:

«Conscients que les mouvements transfrontières de déchets dangereux, notamment vers les pays en développement, risquent fort d'être incompatibles avec une gestion écologiquement rationnelle de ces déchets, ce qu'exige la présente Convention.»

Insérer le nouvel article 4A:

«1. Chacune des Parties énumérées à l'annexe VII interdira tous les mouvements transfrontières de déchets dangereux vers des États non énumérés à l'annexe VII lorsque ces déchets doivent faire l'objet d'opérations visées à l'annexe IV A.

2. Chacune des Parties énumérées à l'annexe VII devra avoir éliminé progressivement au 31 décembre 1997 et interdire à partir de cette date tous les mouvements transfrontières de déchets dangereux relevant de l'article 1 i) a) de la Convention vers des États non énumérés à l'annexe VII, lorsque ces déchets doivent faire l'objet d'opérations visées à l'annexe IV B. Les mouvements transfrontières de ce type ne seront interdits que si ces déchets sont définis comme dangereux par la Convention.»

«Annexe VII
Parties et autres États membres de l'OCDE, CE, Liechtenstein.»

De vertaling van het besluit luidt als volgt:

Wijziging op het Verdrag van Bazel inzake de beheersing van de grensoverschrijdende overbrenging van gevaarlijke afvalstoffen en de verwijdering ervan, aangenomen op de derde vergadering van de Conferentie der Partijen, gehouden te Genève op 22 september 1995

Aan de preambule wordt de volgende alinea 7bis toegevoegd:

„Erkennende dat bij grensoverschrijdende overbrenging van gevaarlijke afvalstoffen, in het bijzonder naar ontwikkelingslanden, het risico groot is dat er geen sprake is van milieuhygiënisch verantwoord beheer van gevaarlijke afvalstoffen volgens de vereisten van dit Verdrag”.

Een nieuw artikel 4A wordt toegevoegd:

„1. Iedere in Bijlage VII genoemde Partij verbiedt de grensoverschrijdende overbrenging van gevaarlijke afvalstoffen naar andere Staten dan de in Bijlage VII genoemde, wanneer deze zijn bestemd om te worden verwijderd volgens handelingen als bedoeld in Bijlage IV A.

2. Iedere in Bijlage VII genoemde Partij beëindigt tot 31 december 1997 geleidelijk de grensoverschrijdende overbrenging van gevaarlijke afvalstoffen als bedoeld in artikel 1, eerste lid, letter a, van het Verdrag naar andere Staten dan de in de Bijlage VII genoemde, wanneer deze zijn bestemd om te worden verwijderd volgens handelingen als bedoeld in Bijlage IV B, en verbiedt deze met ingang van die datum. Een dergelijke grensoverschrijdende overbrenging wordt slechts verboden, wanneer de desbetreffende afvalstoffen in het Verdrag als gevaarlijk worden aangemerkt.”

„Bijlage VII
Partijen en andere Staten die lid zijn van de OESO; en de EG en Liechtenstein.”

Deze wijziging behoeft ingevolge artikel 91 van de Grondwet de goedkeuring der Staten-Generaal, alvorens het Koninkrijk aan de wijziging kan worden gebonden.

In overeenstemming met artikel 17, vijfde lid, van het Verdrag zal de wijziging in werking treden tussen de Partijen die de wijziging hebben aanvaard, op de negentigste dag na de ontvangst door de depositaris van de akten van bekrachtiging, goedkeuring, formele bevestiging of aanvaarding van tenminste drie vierde van de Partijen.

De wijzigingen treden voor iedere andere Partij in werking op de negentigste dag nadat die Partij haar akte van bekrachtiging, goedkeuring, formele bevestiging of aanvaarding van de wijziging nederlegt.

Uitgegeven de tweeëntwintigste maart 1996.

De Minister van Buitenlandse Zaken,

H. A. F. M. O. VAN MIERLO