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CERTAIN PERSISTENT ORGANIC POLLUTANTS

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REPORT BY THE SECRETARIAT ON INTER-SESSIONAL WORK REQUESTED
BY THE COMMITTEE

Scope, content and development of national action plans under the
auspices of existing multilateral environmental agreements

Note by the secretariat

At the second session of the Intergovernmental Negotiating Committee, the Implementation Aspects Group requested the secretariat to compile, inter alia, information on the scope, content and development process of national action plans under the auspices of existing environmental agreements, for consideration at its next meeting (UNEP/POPS/INC.2/6, subparagraph 96 (d)). In response to this request, the secretariat has prepared the attached report.

* UNEP/POPS/INC.3/1.

**Scope, Content and Development
of National Action Plans under the Auspices of Existing
Multilateral Environmental Agreements**

Information Document

**UNEP Chemicals
Geneva, Switzerland
July 1999**

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1. Introduction.

At its second session, the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants (INC) asked the Secretariat to prepare a document compiling information pertaining to "the scope, content and development process" of national action plans under the auspices of existing Multilateral Environmental Agreements for consideration by the INC at its next session (UNEP/POPS/INC.2/6, paragraph 81).

Without prejudice to any approach that the INC may wish to consider, this paper provides an overview of National Action Plans (NAPs) or similar mechanisms in operation under the auspices of seven existing Multilateral Environmental Agreements (MEAs). The paper focuses on the design of the NAP mechanism within the MEA and the scope, content and development process of the NAPs themselves. It does not focus on NAP implementation. This reflects the specific request of the INC, the information available concerning NAPs, and the relatively modest experience that Parties to existing MEAs have implementing NAPs. The NAP mechanisms studied were all created within the last decade, with most created in the last five years. In most environmental regimes, NAP implementation has just begun if it has begun at all.¹ This lack of experience implementing NAPs precludes the inclusion in this report of a detailed, comparative discussion of issues arising out of NAP implementation.

Therefore, as requested by the INC, this paper summarizes available information concerning the scope, content and development process of NAPs in existing MEAs. It should not be considered an exhaustive compilation. The goal is to outline existing NAP mechanisms so as to help inform discussions concerning the range of options available to the INC should it choose to consider potential NAP designs.

The paper is divided into 5 sections:

- Section 1 — Introduction;
- Section 2 — Research Design;
- Section 3 — Overview of NAPs in Existing MEAs;
- Section 4 -- Design and Implementation Issues;
- Section 5 — Overview of NAPs in Individual MEAs;

Section 2 provides a brief overview of the methods used to conduct this research. This includes the definition of "action plans," the MEAs examined in the study, the attributes of NAPs on which research focused, and the sources of information used in examining MEAs and NAPs.

^{1/} International regimes are sets of integrated principles, norms, rules and procedures that nation-states create or accept to regulate and coordinate action in particular issue-areas of international relations. Principles are beliefs of fact, causation and rectitude. Norms are standards of behavior. Rules are specific prescriptions or proscriptions for action. Procedures are prevailing practices, including those for making and implementing collective choice. These components can be structured through formal agreements, international organizations and accepted norms of international behavior.

Section 3 provides a comparative overview of NAP regimes or similar processes created under existing MEAs. Research focused on the following seven MEAs:

Montreal Protocol on Substances that Deplete The Ozone Layer;

United Nations Framework Convention on Climate Change;

United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;

Convention on Biological Diversity;

Protocol to the Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal;

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals in International Commerce.

In doing so, this section focuses on twelve key attributes or characteristics of the scope, content and development process of existing NAP mechanisms:

Presence and definition of NAP mechanism.

Objectives;

Nature of obligations;

Timing of obligations;

Scope and content of NAPs;

Methods of development, including provisions for guidelines and required formats;

Funding aspects, including cost of development and sources of funding;

Technical assistance aspects, including assistance in developing NAPs and sources of technical assistance;

Review and approval process for NAP;

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Review of the NAP mechanism;

Requirements for updating;

Requirements and methods for dispersing information regarding NAPs.

Section 4 takes note of a number of issues that research indicates could be of importance when considering issues related to the inclusion, scope, content and development process of NAP mechanisms. These are based on patterns in the design of existing NAPs, experience gained in the development, review and preliminary implementation of NAPs, and analytical deduction.

Section 5 presents individual analyses of six of the seven MEAs listed above. PIC is not examined as it does not contain a NAP mechanism. After a very brief introduction to each MEA, the section presents treaty-specific information on twelve attributes of the scope, content, and development process of the NAP mechanisms in the six MEAs.

2. Research Design.

This section provides a brief overview of the methods used to conduct this research. This includes the definition of "action plans," the MEAs examined in the study, the characteristics of NAPs on which the study focused, and the sources of information used in the study.

2.1. Action Plans

This paper uses the term "action plan" to denote processes and requirements similar to those outlined in the relevant discussion during POPs INC 2 (e.g., UNEP/POPS/INC.2/6, paragraphs 80-81) and paragraph 1 of section E of the Preliminary Draft Text, entitled "National Implementation Plans." This section reads in part, "Each Party shall develop, [, consistent with its capabilities and subject to the availability of technical assistance where appropriate,] national [strategies and] plans for implementation of the provisions of this Convention and transmit them to the Conference of Parties according to a schedule and a format to be determined by the Conference of Parties (UNEP/POPS/INC.2/6, Annex 1, section E, paragraph 1).

This paper examines such provisions in existing MEAs regardless of the terms used to describe them in those MEAs. It understands NAPs to be distinct from both the implicit obligation all Parties have to meet their legal responsibilities under an MEA and the data reporting requirements common to many MEAs. NAPs, rather, are a tool that explicitly links important aspects of these requirements. They are mechanisms that require, and link, the development of national plans to implement an MEA, the articulation of those to the Parties, and subsequent communications on the implementation of those plans.

2.2. MEAs Examined in Study.

This paper focuses on seven MEAs when considering NAPs: Montreal Protocol on Substances that Deplete the Ozone Layer; United Nations Framework Convention on Climate Change (UNFCCC); United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD); Convention on Biological Diversity (CBD); Protocol to the Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants (LRTAP POPs Protocol); Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal; and Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals in International Commerce (PIC).

These agreements were selected due to their: (a) prominence; (b) relatively recent adoption; (c) relevance to a potential international instrument on POPs; and (d) possible inclusion of provisions for action plans -- that is the regime may have taken specific actions to define, within its legal framework, a method and/or mechanism for Parties to develop national plans for implementing the provisions of the Convention and to transmit details of those plans to the Parties.

2.3. NAP Attributes in Study.

This paper provides a comparative analysis and individual summary of the following attributes of NAP regimes in existing MEAs: presence and definition of NAP mechanism; objective; nature of obligation to develop NAPs; timing of obligations; scope and content of NAPs; methods of development, including provisions for guidelines and required formats when developing and reporting NAP; funding aspects, including cost of development and sources of funding; technical assistance aspects, including assistance in developing NAPs and sources of technical assistance; review and approval processes for NAPs; review procedure for the NAP mechanism; requirements for updating; and requirements and methods for dispersing information regarding NAPs.

These attributes were selected on the basis of the design of existing NAP mechanisms, experience gained implementing those NAPs, analytical deduction regarding requirements for designing and implementing new NAP provisions, and the relevant discussion during INC 2.

2.4. Sources of Information Used in Study.

This paper seeks to help inform INC discussions concerning the range of options available when considering potential designs for NAPs. In doing so it summarizes available information, rather than building an exhaustive compilation. Information used in preparing this report was gathered from the text of MEAs, relevant Decisions by Parties to MEAs, and official guidelines, instructions and formats for preparing NAPs under these MEAs. These sources form the foundation of the paper.

Information was also gathered from four additional types of sources. MEA regime documents concerning NAP implementation and review were examined on a priority basis.² A short questionnaire regarding NAP attributes was sent electronically to Secretariats for each of the MEAs as well as to several individuals associated with implementing agencies that are familiar with the preparation, review and implementation of NAPs. These electronic exchanges included open-ended requests for comments regarding implementation issues.³ Researchers also spoke to at least one individual at each MEA Secretariat regarding NAP attributes and implementation issues. Finally, where applicable, secondary sources were examined. Each of these additional sources were examined on a priority basis given the time constraints for completing this report. While we believe that we gathered the essence of the information available, time did not permit a systematic review of all possible information sources nor a comprehensive time-series and comparative research study.

3. Comparative Overview of National Action Plan Mechanisms in Existing MEAs.

This section provides a comparative overview of twelve key attributes of NAP regimes or similar processes created under existing MEAs, in particular the: Montreal Protocol; Framework Convention on Climate Change (UNFCCC); Desertification Convention (UNCCD); Biodiversity Convention (CBD); LRTAP POPs Protocol; Basel Convention; and Rotterdam Convention (PIC).

3.1. Presence and definition.

Components similar to 'National Action Plans' as envisioned in the discussion in POPs INC 2 and in section E of the provisional draft text were once rare but have become an increasingly common component in MEAs during the last decade. Indeed, although the particulars of their provisions can vary significantly, the inclusion of these types of requirements seems to be an emerging norm when drafting MEAs.⁴

The draft language in paragraph 1 of section E contains two main obligations: (a) to develop national action plans for implementing an international instrument on POPs; and (b) to report on those plans to the Parties.

^{2/} These documents were obtained from the MEA Secretariat web-sites or from Secretariat officials.

^{3/} 14 requests for information were sent, including one general request to each Secretariat (except for PIC, which contains no relevant provisions requiring further investigation). Written responses were obtained regarding the NAP-related provisions of the Montreal Protocol, UNFCCC, CBD, and LRTAP POPs Protocol.

^{4/} The conclusions in this paragraph are based on discussions with leading experts on international environmental treaties, including one who has helped draft many MEAs during the last two decades, and a preliminary review of existing MEAs. In this review we conducted a preliminary search of the CIESIN's ENTRI database of 169 MEAs <www.ciesin.org> for NAP-related terms including: action plan; implementation plans; country programme; national reports; data reports; reports; reporting; communications; etc. Although the search engine does not take one to specific section of specific treaties, we were able to read the text of those treaties that arose from the general search. This much small number contained few examples in which Parties were explicitly required both to develop specific implementation plans and to report on them to the Parties or some other body.

A preliminary search revealed that most MEAs in the last 25 years contain some type of obligatory reporting requirements, although not necessarily reporting on national implementation plans. Reporting clearly has become a standard obligation within MEAs and it is a significant component of MEA implementation. Far fewer MEAs contain specific language requiring the development of formal plans to implement the MEA. Fewer still contain both. However, this pattern appears to have changed noticeably in the last 12 years, with governments choosing to incorporate NAPs into several recent and notable MEA regimes. As a consequence, in the last decade NAP provisions may have become a standard drafting point in new global MEAs.⁵

Six of the seven MEAs examined in this study contain NAP-related provisions -- explicit requirements both to develop national plans to meet MEA obligations and to report regularly on those plans -- although there were significant differences with regard to many key attributes. In the Montreal Protocol, NAPs as outlined above are called "Country Programmes." In the UNFCCC they are "National Communications." In UNCCD they are "Action Programmes" and "national reports." In CBD they are "National Biodiversity Strategy and Action Plans" (SBSAPs) and the related reporting requirements are called "national reports." In the LRTAP POPs Protocol and Basel Convention there are no specific referents as yet but the required provisions do exist. These we will call "NAP-related" provisions. PIC, perhaps due to the nature of its obligations, does not include a NAP mechanism.

3.2. Objectives.

The central objectives of the NAP processes in the MEAs surveyed perhaps can be best summarized in five parts:

- (a) to provide an incentive or requirement for Countries to gain knowledge of key issues, inventories, cause and effect relationships, and potential policy options concerning the environmental issue addressed by the MEA;
- (b) to provide an incentive, requirement, and or framework for Countries to develop specific plans and policies as soon as possible to implement the provisions of the MEA;
- (c) to encourage a productive, general uniformity in the implementation and communication of these provisions, although one that respects all relevant national and regional differences;
- (d) to provide an opportunity for review, in a non-judicial manner, of reports on national plans and their resulting implementation in order to: create greater assurance that Parties are meeting their obligations; evaluate levels and patterns of compliance; evaluate the operation and impact of the MEA; and provide additional information for evaluating possible provision of technical and/or financial assistance;

⁵/ Of course some examples of NAP-related procedures exist, including the fairly weak provisions in the London Dumping Convention (see paragraph 4 of Article 6).

(e) to increase the general transparency of the MEA regime.

These objectives emerge from: the provisions of the NAP processes; reports of the discussion in regime bodies regarding their creation, review and initial implementation; and the text of NAP-related Decisions, guidelines and implementation documents. The actual texts of MEAs rarely specify clear and formal objectives for the NAP mechanisms they create. Only UNCCD, among the MEAs examined, offers a specific objective for its NAP mechanism within its MEA.⁶ The lack of specificity regarding NAP objectives was surprising and theoretically could impact NAP effectiveness in supporting the overall objectives of the MEA.

3.3. Nature of the obligation.

The obligation to develop NAPs or to implement specific components can vary across at least six broad categories. The MEAs examined contained examples of four:

NAPs are required of all Parties and essentially equal obligations exist with the NAP mechanism (e.g. CBD, Basel Convention, and LRTAP POPs Protocol);

NAPs are required for all Parties but different obligations exist within the NAP mechanisms, reflecting different obligations under the Protocol (e.g. UNFCCC and UNCCD);⁷

NAPs are required of some Parties (e.g., the ozone regime under the Montreal Protocol);

NAPs are urged for all Parties;

NAPs are urged for some Parties;

NAPs are not required or urged for any Parties.

3.4. Timing of obligations.

^{6/} Article 10.1 of UNCCD states that the objective of the national action programmes is "to identify the factors contributing to desertification and practical measures necessary to combat desertification and mitigate the effects of drought." Interestingly, most of the Secretariat officials with which we spoke responded to questions regarding the objectives of the NAP mechanisms by citing the objectives of the MEA itself.

^{7/} In the UNFCCC all Parties must develop and report NAPs but different types of NAP requirements exist depending on if a Party is classified as a Annex I, Annex II, or non-Annex I or II Party. Under the UNCCD, countries affected by desertification must develop "national reports" including "action programmes" to implement their obligations to address desertification; while developed country Parties must develop national reports that report on measures taken to fulfill their obligations under the convention, including those to assist in the preparation and implementation of action programmes). The LRTAP POPs and ozone regimes also contain different requirements with regard to very specific data reporting provisions.

MEAs can mandate timing requirements for when Parties must develop and report on their NAP-related activities. They can suggest timing recommendations. Or they can establish no timing requirements.

Nearly all of the MEAs examined, set specific requirements for when Parties must develop and report on their NAP-related activities. The Montreal Protocol and UNFCCC have established clear timing requirements for nearly all NAP-related obligations. The UNCCD, CBD, and LRTAP POPs Protocol have established requirements for significant parts of their NAP mechanisms and state their intention to establish similar requirements for the remainder. The Basel Convention has timing requirements for reporting but not for NAP development.

The specific requirements for when Parties must develop and report NAPs range from six months to several years. Parties to the LRTAP POPs Protocol must submit their NAPs six months after the MEA's entry into force. The UNFCCC established six months after becoming a Party as the deadline for submitting the first national communication for Annex I (developed country and CEIT) Parties. For non-Annex I Parties (developing countries), national communications are due no later than three years after becoming a Party or three years after receiving financial assistance for their development. In the ozone regime, Parties must submit country programmes within 9 months of the distribution of financial support for their development. CBD initially set a deadline of January 1998 but this was moved to January 2000. UNCCD states that it should be done "as soon as possible" and that the Conference of Parties (COP) "shall determine the timetable for submission" of the NAP reports.⁸ As a result, the first Conference of Parties (COP-1) established that the first national reports were due six months prior to COP-3, effectively 18 months from the time of the decision. Basel sets no deadline for NAP development. Regarding subsequent reporting requirements, most regimes set the intervals for "data reports", "updates", "reports" and/or "communications" related to the implementation of these NAPs on an annual or periodic basis.⁹

3.5. Scope and content.

The scope and content of NAPs varies with the specific characteristics of the issue addressed by the MEA and the obligations accepted by Parties to address that issue. However, in general the scope and content of the NAP mechanisms studied contain some or all of the following types of components (this is intended as an indicative, general list):

- (a) inventory and/or baseline measurements, perhaps including, but not limited to:
 - (i) inventories of the substances controlled under the MEA; and/or
 - (ii) baseline measures of the substances controlled under the MEA; and/or
 - (iii) examination of current, relevant environmental conditions;

^{8/} UNCCD Articles 26.6 and 26.1, respectively.

^{9/} The original text from several MEAs set no standard intervals for the relevant reports, stating that these would be set by subsequent COPs. Text from the other MEAs established annual requirements.

- (iv) examination of current, relevant environmental impacts;¹⁰
- (b) an examination of the relevant cause and effect relationships in the issue area;¹¹
- (c) an overview of the existing legal, regulatory and institutional infrastructure related to the issue and the Party's obligations under the MEA;
- (d) an overview of the legal, regulatory, institutional and other strategies and actions that must take place to implement successfully the Party's obligations under the MEA;
- (e) a plan and strategy to create and implement these actions, often including specific projects and timelines;
- (f) where applicable, an overview of the financial and/or technical assistance required to create and implement these plans, strategies and projects;
- (g) a report on the creation and implementation of the plan to date;
- (h) periodic updates to the Conference of Parties, thru the Secretariat, regarding the implementation of the plan, including updates to any data provided under (a).

3.6. Methods of development, including provisions for guidelines and required formats.

NAPs are usually developed by the "national focal point", "competent authority", or the equivalent government unit responsible for coordinating implementation of the MEA in a given Party. Under the Montreal Protocol, UNFCCC, UNCCD, and CBD, developing country focal points usually develop the NAP in cooperation with an implementing agency or other entity providing financial and/or technical assistance. In general, the focal points, sometimes with technical and financial assistance, gather the information, assess the capacity, and outline the policies needed to meet the MEA requirements for the scope, content and format of the NAP. In those cases that require the development of new policies and regulations, the focal point reports on (and may assist) the development and implementation of those policies.

The specific methods used for developing individual NAPs vary significantly. These variations reflect significant differences in the: characteristics of the issue-area addressed by the MEA; standard governmental practices of the Party; relevant institutional capacity of the Party; modalities related to the provision of

^{10/} (i) and (ii) are prominent components of the scope and content of the NAP mechanisms under the Montreal Protocol, UNFCCC, and LRTAP POPs Protocols. (iii) and (iv) are more relevant to CBD and UNFCCC.

^{11/} E.g. beginning an examination of the causes and consequences of biodiversity loss in a given Party under CBD or the causes and consequences of desertification under UNCCD.

financial and technical assistance, if any, under the MEA; relevant procedures, expertise and operating methods of the implementing agencies; and other factors.

One increasingly common aspect of NAP development is the provision of guidelines and formats to assist Parties develop and report NAPs. The NAP mechanisms for the Montreal Protocol, UNFCCC, UNCCD, CBD, Basel and LRTAP POPs all include some form of required or recommended guidelines and formats. In addition, it appears that over time MEAs tend to develop increasingly explicit guidelines, instructions, processes, models, and/or formats for preparing NAPs.¹² These are usually developed through Decisions by the COP on the basis of far more general NAP-related provisions in original text of the MEA. Of course, variations exist with regard to the level of detail and the content of the guidelines, instructions and formats provided to Parties. To a great extent, these variations reflect substantive differences in the issue-areas addressed by the MEAs, in the nature of the control measures and other obligations created by the MEA, and in the extant development of the MEA and NAP regimes.

The adoption of accepted and appropriately explicit guidelines, instructions and formats for preparing and submitting NAPs appears to be an important procedural step that Parties can take to increase the likelihood that NAPs will be prepared and reported accurately and in the manner intended by the MEA.¹³ In doing so, such action theoretically also could increase the likelihood that the NAP mechanisms will be relevant to, and supportive of, the implementation of the objectives of the MEA.

3.7. Funding aspects, including cost of development and sources of funding.

The Montreal Protocol, UNFCCC, UNCCD, and CBD contain specific provisions for developing countries and/or CEITs to receive financial assistance to help prepare and report NAPs.¹⁴ The Montreal Protocol created a dedicated financial instrument, the Multilateral Fund to assist developing countries. CEITs can receive assistance from the Global Environment Facility (GEF). The CBD and UNFCCC designated the GEF as the financial instrument for providing assistance to both developing countries and CEITs, including in the development of NAPs. Under UNCCD, the Secretariat acts as a facilitator and conduit to connect developed country donors, which are required to provide financial assistance, international organizations, regional organizations and non-governmental organizations to affected developing countries in need of assistance to develop action programmes and national reports. This facilitating role will be taken on by the "Global Mechanism" once Parties to the UNFCCC agree on its details. The LRTAP POPs Protocol and Basel Convention contain no specific provisions for providing financial assistance.

^{12/} A preliminary review of regime documents and information provided by Secretariats indicate that this has been the case in ozone and climate and is likely to be the case in CBD and UNCCD.

^{13/} This is based on both a review of the NAP procedures as well as conversation with officials from various Secretariats and implementing agencies.

^{14/} UNEP/POPS/INC.2/INF/4 provides detailed information on the financial mechanisms under these MEAs.

Most MEAs also contain explicit or implicit provisions for bilateral assistance to support NAP development, most notably the UNFCCC, UNCCD and CBD where it has proven instrumental in several cases.¹⁵ No regimes have explicit provisions to provide developed countries with financial assistance.

3.8. Technical assistance aspects, including assistance in developing NAP.

Each MEA examined includes provisions for providing or encouraging technical assistance to Parties in order to facilitate implementation of the MEA, including developing NAPs. The sources of the technical assistance include MEA Parties, international, regional, sub-regional and non-governmental organizations, other Parties, expert consultants, and private firms. The range of technical assistance provided for NAP development is broad. In individual cases it reflects the characteristics of the environmental issue being addressed, the Party's obligations under the MEA, the specific requirements of the NAP mechanism, the standard methods and practices of the entity providing the assistance, and the relevant provisions of the MEA regarding eligibility for and provision of technical assistance.

Under the Montreal Protocol, UNFCCC and CBD, the regimes with the most explicit financial mechanisms, technical assistance is provided as a result of, and usually in a package with, financial assistance. Depending on the regime, UNDP, UNEP, UNIDO, UNITAR and/or World Bank coordinate and provide enabling support for NAP development, implementation and reporting in a particular country. Assistance can also include the services of expert consultants (individuals or organizations), such as IUCN in the case of CBD.¹⁶ Bilateral assistance has also been provided. Of particular importance has been the assistance provided by Canada, Germany, the Netherlands, the United States and other Annex I Parties to assist developing countries research, develop and report their first national communication under the UNFCCC.¹⁷

The UNCCD places several specific obligations on developed countries to provide technical assistance to developing countries in combating desertification, including in the development of National Action Programmes and country reports. Under UNCCD, the Secretariat acts as it does with regard to financial assistance to facilitate connections between developing countries requesting technical assistance and those with resources to provide it. International, regional and sub-regional organizations (which are supported financially by developed countries) have also provided important technical assistance under UNCCD. The Basel Convention charges the Secretariat with facilitating technical assistance by providing information on model policies, standard practices, consultants, national legal developments, and methods to develop,

^{15/} This conclusion is based on a preliminary review of selected national communications and reports, the information contained in several 'compilation and synthesis' documents prepared by the Secretariats using these reports, and discussions with Secretariat officials.

^{16/} UNDP, UNEP and the World Bank are the three Implementing Agencies for the GEF. UNDP, UNEP, UNIDO and the World Bank are the three Implementing Agencies for the Multilateral Fund for the Implementation of the Montreal Protocol. UNITAR is an approved implementing agency under the UNFCCC.

^{17/} This conclusion is based on a preliminary review of selected national communications and reports, several 'compilation and synthesis', and information provided by the Secretariat.

coordinate and harmonize relevant national laws and regulations. LRTAP POPs and PIC contain only general encouragement for Parties to exchange information on relevant research, development and monitoring issues. All the MEAs encourage general technical cooperation and the sharing of information among Parties and other actors.

3.9. Review and approval process for NAP.

All the MEAs examined contain provisions for reviewing the information contained in NAPs and/or the reports required concerning those NAPs. The relevant text in the MEAs or enabling decisions usually indicates, if not emphasizes, that such reviews are analytical rather than judicial exercises. Only the Montreal Protocol regime requires that NAPs be formally approved prior to their implementation.

In general terms, NAP reviews are intended to foster transparency and to allow the Parties collectively to see important trends, patterns, successes and potential problems revealed by the NAPs and the reports on their development and implementation. Most MEAs also use NAP reviews as the basis to examine the adequacy of current MEA terms with regard to, inter alia, protecting the environment, providing financial and technical assistance, the process and scope of the NAP mechanism, and other issues. The review often takes the form of a "compilation", "synthesis", "summary", or similar document prepared by the Secretariat and then considered by the COP and/or its subsidiary bodies. This is done most clearly under the UNFCCC, UNCCD, and CBD for NAPs and under the Montreal Protocol for several NAP-related provisions such as data reporting and project implementation. Under the UNFCCC, the compilation and synthesis report is preceded by a series of "indepth reviews" on each national communication. These reviews, performed by small teams of experts coordinated by the Secretariat, are published as separate documents and are then used as part of the basis for the broader compilation and synthesis documents.

3.10. Review of the NAP mechanism.

Most NAP regimes contain implicit or explicit procedures for reviewing the content, operation and impact of the NAP mechanisms itself. Some contain specific mandates requiring Parties to review the NAP mechanism or some particular element, such as the content and format for NAP reports (e.g. LRTAP POPs Protocol). Others contain explicit or implicit provisions to use the review, compilation and synthesis, or summary of the NAPs reports, at least in part, as a method of gathering information to support continuing consideration of the guidelines, procedure, methods, and formats for developing and reporting NAPS. All the MEAs contain provisions allowing the Conference of Parties (or equivalent) to examine and alter any element of the MEA, including the NAP mechanism, should they so decide.

3.11. Requirements for updating.

Most NAP mechanisms require Parties to review and to report on progress made in their implementation. This often includes annual data reporting requirements and/or updates on policy development and implementation.

Specifically, the Montreal Protocol, UNFCCC, UNCCD, CBD, LRTAP POPs and Basel regimes all require regular, and sometimes annual, reports on implementation of NAPs or related obligations. Ozone, UNFCCC, Basel, and LRTAP POPs also have important data reporting requirements that are not linked solely to their NAP mechanisms. Parties to the CBD will decide if future national reports will also contain updates on the development and implementation of NAPs (SBSAPs). The ozone regime includes provisions for updating the original country programme itself when necessary to increase its accuracy in response to significant changes in baseline information, significant deviations from the phase-out schedule due to changing economic or political conditions, or other factors.

3.12. Requirements and methods for dispersing information regarding NAP.

Although few guidelines exist in the original treaties, Parties to most MEA regimes have directed the treaty Secretariats to make available NAPs; summaries, compilations and reviews of NAPs; and/or information on NAPs and NAP-related procedures. Specifically, the UNFCCC, UNCCD, and CBD Secretariats place (or will place) the full text of NAP documents online at their websites. In the case of the UNCCD, the "national reports" will be online while the original "National Action Programmes" will be available from the national focal points. The ozone regime's Country Programmes are available by written request from the national focal points and the Montreal Protocol's Multilateral Fund Secretariat. The UNFCCC, UNCCD, CBD, and Basel Secretariats also place their NAP 'synthesis and compilation' and related documents online. The Basel Secretariat also compiles a periodic document, "Compilation of Country Fact Sheets" based on NAP-related reports from Parties, a copy of which are also placed online.¹⁸ The Montreal Protocol's Multilateral Fund Secretariat intend to place its "Country Programme Summary Sheets" online at some point in the future. No decision has been taken with regard to dispersing information on NAPs under the LRTAP POPs Protocol.

4. Design and Implementation Issues

This section takes note of a number of issues that initial research indicates could be of importance when considering issues related to the inclusion, scope, content and development process of NAP mechanisms. These are based on patterns in the design of existing NAPs, experience gained in the development, review and preliminary implementation of these NAPs (and NAP related provisions), secondary sources, and analytical deduction. They are not intended to be viewed as drafting suggestions nor are they exhaustive in scope. Nor should they be interpreted as significant "lessons learned." Such conclusions would require more detailed analysis. Rather they compose a preliminary, indicative list of issues intended to assist relevant INC discussions.

NAP mechanisms have the potential to act as incentives and procedural avenues to assist governments individually and MEA Parties collectively:

^{18/} E.g. "Compilation of Country Fact Sheets" (Based on Reports from Contracting Parties For the Year 1993), Basel Convention Series/SBC No: 96/002, Geneva, May 1996.

- to gain a better understanding of the relevant issues in their countries, including the nature of the problem, the relevant inventories, and the necessary political and regulatory response.¹⁹
- to begin taking concrete analytical and policy responses to the issues addressed in the MEA;²⁰
- to create a consolidated view of the issue-area within their country and a comprehensive policy and regulatory framework to respond to it;
- to create a reference document that is both comprehensive and flexible and that can be used to assist, guide and evaluate policy implementation;
- to create greater transparency;
- to learn from model diffusion (e.g. from the successful actions of other Parties);
- to be assured that counterparts are implementing their obligations;
- to have equal access to relevant standardized information from all Parties concerning implementation issues;
- to learn of and to assess patterns in implementation of MEA obligations, including achievements worthy of emulation and challenges resulting from regime processes or design that may deserve additional attention;
- to provide a clear basis for revealing, articulating and examining implementation aspects that could require technical and financial assistance;
- to improve the informational basis on which they can review the ongoing implementation and strategic objectives of the MEA.

Design factors that appear linked to the effectiveness of NAP mechanisms include:

- creating explicit and productive links between the objectives, processes, components, and requirements of the NAP mechanism and the overall objectives and control measures of the MEA;

^{19/} For example, it was not until developing their country programmes that many governments gained even an estimate of the amount of ozone-depleting substances used in their countries or learned of existing regulatory models for addressing the issue (based on personal communication from the several officials at implementing agencies as well as a preliminary review of randomly selected country programmes).

^{20/} For example, the process of implementing the SBSAP provisions of the CBD assisted many countries in developing biodiversity conservation policies and developing country programmes under the Montreal Protocol assisted many governments in creating meaningful policies to restrict ozone-depleting chemicals.

- taking into account the specific characteristics of the issue-area addressed by the MEA, including national and regional variations;
- having governments, including all the relevant ministries, fully committed, interested and involved in NAP preparation;
- having other significant stakeholders, including relevant commercial and social actors, understand and involved in NAP preparation;
- having clear guidelines, processes, instructions and formats for countries to use when developing and reporting NAPs;
- having clearly defined baseline and/or inventory data requirements;
- having provisions for field surveys based on properly designed questionnaires or other appropriate research methods to augment and/or validate available data;
- having provisions for the identification or development of a focal point for the preparation of the NAP (a competent department or Ministry of Government);
- having provisions for the identification of a core team of national experts from relevant departments (depending on the extent of its multi-disciplinary nature) to provide oversight and direction to the process;
- having provisions for a competent facilitator (international or national expert/consultant) with the ability to put together a coherent report;
- compiling a coherent NAP document by the facilitator in a timely manner;
- making the draft NAP available to relevant departments and Ministries for comment;
- organizing national workshops of relevant stakeholders to introduce and discuss the substance of the NAP;
- submitting the NAP with an official letter of transmittal signed by a competent high government official (Minister, Director of a Ministry or Department of Government);
- taking into account, and promoting awareness of, information on the local benefits to the environment of implementing the NAP and the MEA;²¹

^{21/} E.g. see UNEP/POPs/INC.3/INF/6, p. 8.

including specific implementation measures and schedules that can be used effectively to provide clear reference points during MEA implementation;

emphasizing procedures and documentation that produces an iterative, evolving NAP process focussed on effective implementation;

producing simple, flexible and dynamic implementation plans that provide relevant information and action frameworks to be regularly consulted;

having annual reports on implementation;

having annual reports on relevant data with clear, concise data requirements and reporting formats;

having only clear, internally consistent, and necessary data, policy and implementation reporting requirements.

having provisions for updating NAPs in response to significant changes in economic and political conditions in the country or to new knowledge concerning the accuracy of previous data;

having periodic reviews for the NAP mechanism to assess its impact on achieving the objectives of the MEA and to suggest potential amendments to the mechanism.

Broader, potential design issues include that:

guidelines, instructions and formats are seen as important tools but they also may need to be sufficiently flexible to address relevant, significant differences among Parties; as well as sufficiently adaptable, though review and/or Decisions by the Parties or some other mechanism, to respond productively to potential changes in the MEA, in the regulated sectors, in the issue-area, and in other factors;²²

accurate baselines and inventories are seen as important components of an effective NAP mechanism, particularly with regard to establishing MEA controls that are both realistic and meaningful, designing effective national strategies and policies, and estimating the potential need for, and impact of, possible provisions of technical and financial assistance;

^{22/} For example, changes in regime terms, including the addition of new control measures, have required changes in formats in some existing NAPs procedures.

obtaining accurate baselines and inventories sometimes can be difficult, however, and can sometimes requires ongoing investigations due to the complexity of the regulated sector, the nature of the substances involved, the role played in the issue-area by small-to-medium size enterprises, the role played by informal economic sectors, and national political, economic and industrial conditions;²³

annual reviews and/or reports on NAP implementation are seen as useful to identifying areas requiring attention by a Party, the Conference of Parties, the Secretariat and, where applicable, institutions providing financial and technical assistance.

5. Overview of Individual MEAs and their Establishment of NAPs, including Attributes of the Scope Content and Development Process of the NAPs.

This section provides individual overviews of the NAP-related provisions of six prominent MEAs. Focus is placed on the twelve attributes of the scope, content, and development processes outlined in section three.

5.1. Montreal Protocol on Substances that Deplete the Ozone Layer.

The 1987 Montreal Protocol aims to protect stratospheric ozone by phasing out the production and consumption of ozone-depleting substances (ODS), including CFCs, halons, carbon tetrachloride, methyl chloroform, methyl bromide, HCFCs and other substances.

The Protocol has been amended and adjusted several times, most notably in 1990, 1992, 1995 and 1997, and is widely considered a success.

The ozone regime created by the Montreal Protocol recognizes the special "situation of developing countries" (Article 5) by distinguishing between "Parties operating under Paragraph 1 of Article 5" and "Parties not so operating". Article 5 Parties are developing countries whose calculated consumption of (Annex A Group I controlled substances) CFCs was less than 0.3 kilograms per capita on the date the treaty entered into force for it or anytime thereafter. The regime contains binding control measures, including specific, separate phase-out schedules for Article 5 and non-Article 5 Parties, a Multilateral Fund to provide financial and technical assistance to help Article 5 Parties implement their obligations, an Implementation Committee to examine issues concerning compliance with the Protocol, an Ozone Secretariat to administer the regime, and independent Assessment Panels to examine relevant scientific, environmental, economic and technological issues. The Multilateral Fund has its own Secretariat (Fund Secretariat) and is governed by an Executive Committee (ExCom). The ExCom is composed of representatives from seven Article 5 and seven non-Article 5 Parties and makes policy decisions on behalf of the Parties but it derives its authority from the full Meeting of the Parties. Additional information on the Montreal Protocol, its history, development, control

^{23/} Accurate data has sometimes been difficult to collect because of these types of factors. However, while inaccurate data can be an important problem, its possibility should not be allowed to block implementation plans. A NAP mechanism that emphasized accurate data at the expense of implementation could be counter-productive.

measures, institutional components, and nap-related provisions can be found in the relevant sections of document UNEP/POPs/INC.2/Inf.4, prepared for POPs INC 2, and online at websites maintained by the Ozone Secretariat, the Multilateral Fund Secretariat, the Assessment Panels, and the "implementing agencies" -- the units within UNDP, UNEP, UNIDO, and the World Bank that work with Article 5 Parties to implement the Protocol.²⁴

5.1.1. Presence and Definition of NAP Mechanism.

The Montreal Protocol and, more broadly, the ozone regime have developed an elaborate set of requirements regarding the formulation and reporting of national implementation plans; the gathering and reporting of data on these plans; and the gathering and reporting of data on the production, consumption and trade of controlled substances as well as other matters related to implementation of the Protocol.

"Country Programme" is the term used in the Montreal Protocol to denote action plans as understood in this document; i.e. provisions for developing and reporting comprehensive plans to implement a Party's obligations under the Protocol. The term "action plan" itself is used in the ozone regime to denote a group of specific implementation activities within a Country Programme.

"Data Reporting" denotes a far broader obligation to gather and report data, particularly on the production, consumption and trade of ODS. By reporting data, Parties are, in essence, reporting on the results of their implementation activities to meet their ODS-control obligations under the Protocol. Data reporting represents an important and clearly mandatory obligation for all Parties.

This section focuses on Country Programmes as the NAP mechanism of the Montreal Protocol. However, some sub-sections will refer to the data reporting requirements when such reference is deemed particularly important.²⁵

5.1.2. Objectives.

^{24/} Ozone Secretariat <www.unep.ch/ozone>; Multilateral Fund Secretariat <www.unmfs.org>; Assessment Panels <www.teap.org>; UNDP <www.undp.org/eed/eap/montreal/>; UNEP <www.unepie.org/ozonaction.html>; UNIDO <www.unido.org/doc/what.htmls>; and World Bank <www-esd.worldbank.org/mp>.

^{25/} The section is, by necessity, a broad summary. Far more detail regarding Country Programmes is provided in the document, "Multilateral Fund for the Implementation of the Montreal Protocol: Policies, Guidelines and Criteria (as at March 1999)" (hereafter known as "Policies, Guidelines and Criteria") published by the Multilateral Fund Secretariat, <<http://www.unmfs.org/reportsanddocuments.asp>>, as well as the 1996 edition of the "Handbook for the International Treaties for the Protection of the Ozone Layer", and 1997 update, <<http://www.unep.org/unep/secretar/ozone/handbook-update.htm>>.

Country programmes were created in a Decision by the Parties as part of the creation and implementation of the Multilateral Fund.²⁶ The Montreal Protocol itself does not specify objectives for, nor even mentions the term, country programme. Our review suggests three main avenues for articulating the objectives of the country programme mechanism.

First, the country programme is a tool which sets out a framework for action by a Party to implement the Protocol and which act as the first step towards obtaining assistance from the Multilateral Fund. As such the objectives of the Country Programme are to: reflect "the commitment of the government to achieve compliance with the obligations as a party to the Protocol; record and present "the information and analysis from which the Action Plan in the Country Programme has been developed; provide "the framework within which assistance from the Fund is provided...; and provide "the basis for monitoring the extent to which the Action Plan is being followed and its effectiveness in reducing the consumption of Ozone Depleting Substances as planned in the Country Programme."²⁷

Another approach is to deduce the objectives from the functional role played by the country programme in linking (a) protocol obligations; to (b) provisions of assistance in implementing the Protocol; to (c) the formal requirements of the Multilateral Fund process. In this way, its objectives can be summarized as providing Article 5 Parties the opportunity, incentive, framework, and assistance to develop a clear, coherent and achievable plan to implement their obligations under the Protocol. This includes, inter alia, gaining an understanding of: their current and baseline ODS production and consumption; the status of current regulatory activity in the sector; the activities that must be undertaken to fulfill obligations under the Protocol; the status of domestic institutions available to complete these activities; the types of institutional strengthening needed to complete these activities; and the types of technical and financial assistance that could be required to undertake and complete these activities.

A final approach to articulating the objectives would be to deduce them from the manner in which the information gathered through the development and reporting on the implementation of country programmes is used by the ExCom and the Meeting of the Parties in its general deliberations. In this way, the objectives can be summarized as providing information to allow Parties to learn of and to assess patterns in the implementation of the Protocol so as: to identify successes worthy of emulation; to expose problems in the design or processes of the ozone regime; to provide a coherent basis for planning potential, future developments in the financial mechanism; and to help inform deliberations on possible amendments, adjustments and decisions regarding the Protocol.

5.1.3. Nature of obligation to develop NAP.

^{26/} UNEP/OzL.Pro.2/3, section IV, Decision II/8 , and Annex IV, especially appendix II, para 10(g). See also UNEP/OzL.Pro/ExCom/3/18/Rev.1, Annex III, section II.1.1.

^{27/} This text is found in the instructions for the development and submission of Country Programmes in the document, "Policies, Guidelines and Criteria" under the heading "purpose" of the country programme <www.unmfs.org/reportsanddocuments.asp>, p. 205.

Article 5 Parties that wish to receive support from the Multilateral Fund must develop and submit a country programme to the Fund's Executive Committee (ExCom). With regard to the categories introduced above, country programmes are action plans that are required of some Parties in order to qualify for particular status. No Party is required to develop and report a country programme but one is required in order to receive significant technical and financial assistance. Developed countries do not need to develop country programmes.

All Parties are required to report ODS production, consumption, trade and other data on an annual basis under Article 7, related provisions of the Protocol, and relevant Decisions by various Meetings of the Parties. Data reporting represents an important and clearly mandatory obligation for all Parties.

5.1.4. Timing of obligations.

Article 5 Parties are encouraged to complete and submit their country programmes as soon as possible following their ratification of the Protocol and within 9 months of the disbursement of the funds for preparation of the country programme.²⁸ They must provide annual progress reports on the implementation of the country programmes²⁹ by 1 May of each year.³⁰ The data must also relate to the previous year. All Parties must report their annual ODS production, consumption and other data under Article 7 of the Protocol by 30 September of each year. The data submitted must relate to the previous year.

5.1.5. Scope and content.

Parties to the Protocol have endorsed specific recommendations and requirements for the scope and content of the country Programs.

Country programmes should be submitted with an official letter of transmittal, an executive summary, and a country programme cover sheet. The details of the programme are expected to contain, inter alia:

(a) a review of recent production, imports, applications and use of controlled substances by the main producers, users, and consumers, and links to transnational producers or users; as well as national and sectoral base year, current, and forecasted ODS production and consumption;

(b) a description of the institutional framework governing controlled substances (e.g. government agencies, NGOs, consumer groups, industry associations, etc involved in the relevant sectors);

^{28/} UNEP/OzL.Pro.ExCom/10/40, para. 134.

^{29/} UNEP/OzL.Pro/ExCom/17/60, Decision 17/34, para 57.

^{30/} UNEP/OzL.Pro/ExCom/22/79/Rev.1, Decision 22/68, paras. 92 (d)-(e).

- (c) a description of existing policy frameworks and regulatory and incentive systems;
- (d) a description of government and industry activities in response to the Protocol;
- (e) a statement of strategy for implementing the Protocol, indicating the respective roles of government, multilateral and bilateral agencies, and designating a national ozone unit that will coordinate the plan and serve as node for communication with the implementing agencies and the Ozone and Multilateral Fund Secretariats;
- (f) an specified action plan, including timetables and implications on ODS consumption, encompassing investment and technical assistance projects, pre-investment studies, and any policy analysis required;
- (g) a timetable for each activity and for action plan review; and
- (h) a budget and financing programme.³¹

Parties have also established requirements for the scope and content of the data that must be reported. The data reporting requirements for production, consumption, import and export of ODS are clear and their importance acknowledged. Other requirements and the relationships between all the various requirements have been the subject of discussion off and on for several years. In response, Decision IX/28 of the Ninth Meeting of the Parties in 1997 requested UNEP to prepare a handbook to assist Parties fulfill their data reporting obligations under the Montreal Protocol. The resulting "Handbook on Data Reporting Under the Montreal Protocol", outlines the scope and content of the data reporting requirements and is intended to assist Parties understand and follow the correct data reporting procedures, including those related to Article 7 requirements (for ODS production and consumption data) and those related to Multilateral Fund and Country Programme requirements.³²

5.1.6. Methods of development, including provisions for guidelines and required formats.

There are standard methods, detailed guidelines, instructions, standard formats, and required forms for preparing, submitting and reporting on country programmes. These were developed to assist Parties prepare standardized, complete, implementable and acceptable country programmes. They have been distributed to Article 5 Parties and Implementing Agencies and are also available online in the document "Multilateral Fund

^{31/} Although there are strong expectations that Parties will complete country programmes containing all these elements, the Executive Committee recognizes that country programmes should be viewed as flexible instruments that establish the frameworks for a Party's actions to meet the requirements of the Protocol and should contain this scope and content to the extent possible (UNEP/OzL.Pro/ExCom/5/16, para. 28a and Annex III). This summary of scope and content was drawn from "Policies, Guidelines and Criteria," pp. 71 and 203-204. Original documentation includes: UNEP/OzL.Pro/ExCom/3/18/Rev.1, Annex III, section II.1.2; UNEP/OzL.Pro/ExCom/5/16, para. 22-23; UNEP/OzL.Pro/ExCom/5/16 Annex III; and UNEP/OzL.Pro/ExCom/13/47 paras. 98-99.

^{32/} Available online at <<http://www.unepie.org/ozat/nou/datareport.html>>.

for the Implementation of the Montreal Protocol: Policies, Procedures, Guidelines and Criteria."³³ The outline of the required format is as follows:

Transmittal Letter

Executive Summary

1. INTRODUCTION

1.1 Purpose

1.2 Status

1.3 Assistance Received in preparing programme

2. CURRENT SITUATION

2.1 Current and Forecast Consumption of ODS

2.2 Industry Structure

2.3 Institutional Framework

2.4 Policy Framework

2.5 Government and Industry Responses to the Protocol

3. IMPLEMENTING PHASE OUT

3.1 Strategy Statement by Government

3.2 Action Plan

3.3 Roles in Implementing the Strategy

3.4 Timetable and Consumption Implications

3.5 Budget and Financing Programme

3.6 Monitoring Arrangements³⁴

Each Article 5 Party is urged to select and to work closely with one of the implementing agencies in developing and implementing its country programme.³⁵ Implementing agencies are expected to apply the Fund guidelines when cooperating with Article 5 Parties in Article 5 Programmes.³⁶ Some implementing

^{33/} <<http://www.unmfs.org/reportsanddocuments.asp>>, pages 71-74 and 203-222.

^{34/} "Policies, Procedures, Guidelines and Criteria," p. 204. The detailed instructions and forms for completing this outline conform to the scope and content provisions discussed above in section 7.7.3.4.

^{35/} UNEP/OzL.Pro/ExCom/8/29 Annex III, paras. 3.1, 3.2, 3.5.

^{36/} "Policies, Procedures, Guidelines and Criteria, p. 71; UNEP/OzL.Pro/ExCom/5/16, para. 28c.

agencies have also developed additional instructions and procedures to help the Parties they work with use the guidelines developed by the Fund.

Implementing agencies, through funds provided by the Multilateral Fund, help provide Parties with the technical and modest financial assistance necessary to help prepare and submit the country programme. Parties and implementing agencies are urged to work together to expedite the preparation of country programmes, work programmes, and project proposals.³⁷

In developing a country programme, the Article 5 Party and implementing agency engage in activities designed to gather the information, build the capacity, and draft the policy plans needed to follow the detailed instructions and meet the standards set for scope, content and format outlined above. The precise methods used can vary greatly in response to the different political, economic, institutional, and ODS-related conditions present in different countries. Indeed, it was partly to standardize the process in response to such variables that the ExCom and Fund Secretariat developed and distributed the approved guidelines, instructions and detailed formats for preparing country programmes.

With regard to the broader requirement on all Parties to report data annually, including data on ODS production and consumption, the Ozone and Fund Secretariats have also, following specific requests from the Parties, provided specified formats and instructions. These have been elaborated in UNEP's new Data Reporting Handbook, which contains detailed guidelines, data reporting forms and instructions.³⁸

5.1.7. Funding aspects, including cost of development and sources of funding.

The Multilateral Fund provides funding to support the costs of developing and submitting country programmes. The funds help cover expenditures of implementing agency personnel and international and national consultants for collection of data and other information as well as for the preparation of a strategy and plan of action for the ODS phase-out. Funds are distributed through the implementing agency selected by the Party to assist it in this process. Implementing agencies submit, on behalf of the Governments concerned, a request for financial assistance for the preparation of a country programme, to be completed within a specific time frame (about 9 months to one year). Once the ExCom approves the request, implementing agencies are essentially co-responsible for the preparation and submission of the country programme.

The level of funding provided by the Multilateral Fund for country programme preparation depends on a number of factors including, but not limited to: the size of the country (population, surface area); the size, composition and complexity of the ODS sector; the industrial infrastructure; the total amount of controlled substances produced and/or consumed and their sectoral distribution (foam, refrigeration, solvents, etc.); the

^{37/} *ibid.*

^{38/} On line at <<http://www.unepie.org/ozat/nou/datareport.html>>.

number of ODS sub-sectors; existing information on ODS sectors; domestic regulatory capacity in ODS sectors; level of institutional development; and other factors. Average costs for low-volume ODS consuming countries are between \$30,000 and \$40,000, for medium size countries \$80,000 to \$120,000 and for large consuming countries \$150,000 and over.³⁹

In some instances, additional funding may also come from the implementing agencies, other United Nations or international bodies, company and industry groups, non-governmental organizations, and bilateral support from other governments. The most notable example has been the assistance provided to Russia and other CEITs by the GEF, World Bank and several interested governments for the preparation and implementation of NAPs to phase-out ODS.⁴⁰

5.1.1.8. Technical assistance aspects, including assistance in development of NAP.

In developing its country programme, an Article 5 Party may request technical assistance and other services and support from an implementing agency.⁴¹ The implementing agency submits, on behalf of the Government concerned, a request for financial assistance for the preparation of a country programme. Once the ExCom approves the request, implementing agencies are essentially co-responsible for the preparation and submission of the country programme. The amount of technical assistance provided in preparation of country programmes is sometimes extensive but its components vary significantly due to the particular practices, standards and methodologies employed by the different implementing agency; the size and characteristics of the ODS sector in the Party; the relevant institutional capacity in the Party; the available technical and financial resources of the Party; and other factors.

Technical assistance involves individuals from the implementing agency and paid international and sometimes domestic consultants expert in ODS sector analysis, relevant policy options, and country programme development. In general, the technical assistance for which the funds are used include (but are not limited to): data collection (including surveys); data analysis; meetings and workshops for stakeholders; identification of activities and projects to meet the country's obligations to phase-out ODS; estimating the incremental cost of implementing the activities and projects identified; collation of the information; formulation, where appropriate, of projects; and preparation of the document. Regardless of the types of individuals or activities involved in the technical assistance, the final document must contain the information and outline the domestic and legal and regulatory infrastructure as required under the provisions outlined above regarding the scope, content and format of country programme.

^{39/} Based on information provided by the Fund Secretariat.

^{40/} Details on the financial mechanism under Montreal Protocol can be found in document UNEP/POPS/INC.2/INF.4, prepared for POPs INC 2.

^{41/} UNEP/OzL.Pro/ExCom/3/18/Rev.1 Annex III, section II.1.3.

Additional technical assistance may also come from other United Nations or international bodies, company and industry groups, non-governmental organizations, bilateral support from other governments, and governmental departments and agencies outside the ODS sector within the country. In many cases country programmes would not or could not be prepared without the technical and financial assistance provided by the implementing agencies, Multilateral Fund, and other actors.

5.1.9. Review and approval process for NAP.

Each country programme is reviewed first by the national lead authority and the implementing agency. Prior to its submission to the ExCom for consideration and possible approval, it also receives a thorough review by the Multilateral Fund Secretariat. All major data is consolidated in a one-page cover sheet. The review and consolidation help to ensure that all the necessary data has been gathered and is consistent, that the major elements of the policy outlines and action plans for the ODS phase-out are clear, coherent and consistent, and that all the major elements of the standard format have been addressed.

The Secretariat reviews the document in light of the current guidelines and the relevant ODS consumption data reported to the Ozone Secretariat by the Party concerned. Issues raised by the Secretariat during the review process, if any, are clarified by the implementing agency submitting the country programme. The Secretariat then prepares a country programme evaluation sheet for submission to ExCom members. This sheet includes relevant information on the country programme including: the status of ratification of Vienna Convention, Montreal Protocol and amendments; production and consumption of controlled substances by substance (CFC-11, CFC-12, etc) and by sector (aerosol, foam, etc.); ODS phase out targets; priority phase out areas; and the phase out strategy proposed by the government concerned. The evaluation sheet also includes comments and recommendations from the Fund Secretariat; the official letter of transmittal of the country programme; the country programme cover sheet; and the executive summary. Each country programme is then formally considered by the ExCom.⁴² The ExCom's approval of the country programme allows the Party to receive financial and technical assistance from the Fund.⁴³

The data that Parties report annually to the Secretariat under the broader Article 7 data reporting requirements, including data on ODS production and consumption, is compiled and summarized by Secretariat and presented to the Implementation Committee, to the Meeting of the Parties, and to the general public. The Implementation Committee is charged with reviewing this data and making recommendations to the Parties regarding potential issues of non-compliance revealed by this data.

5.1.10. Review of the NAP mechanism.

^{42/} In the early years of the Multilateral Fund, the entire country programme was submitted to ExCom members. To expedite the process, the ExCom moved to a procedure whereby the country programme is considered by the ExCom on the basis of the executive summary and Secretariat's evaluation sheet, except for ExCom members who had earlier expressly requested the entire country programme document.

^{43/} That is, to receive significant assistance beyond that approved for the preparation of the country programme.

The operation of the country programme process is reviewed by the ExCom on a regular basis in the course of its normal deliberations on country programmes, project proposals and the operation of the Multilateral Fund. These reviews are not necessarily formal reviews of the country programme process as a whole but rather of particular aspects of that process which are crucial to its implementation and which, for various reasons, come up for discussion. More broadly, the ExCom and the Parties have exercised their ability to conduct reviews of the operation of the Multilateral Fund itself, including the country programme mechanism.

5.1.11. Requirements for updating.

Parties are urged and in the case of Article 5 Parties requested to monitor and report annually to the ExCom on their progress in implementing their Country Programmes. Specifically, governments are expected to monitor progress in reducing ODS consumption in line with the plans in their country programmes and to periodically review the effectiveness of the measures being taken.⁴⁴ Forms and instructions have been adopted to facilitate and standardize this process. If deemed necessary, the Parties are requested to submit updates to relevant sections or the entire country programme.

The Article 5 Parties are required to use the specific formats in their annual presentations of information on progress of implementation of country programmes.⁴⁵ These formats were distributed to them and to the Implementing Agencies and are also available online.⁴⁶ The formats include recent augmentations that made them more quantitative and electronically friendly.⁴⁷ Implementing agencies are also required to submit to the ExCom, through the Fund Secretariat, a variety of updates on their work including annual reports on implementation of activities related to country programmes.⁴⁸

If it becomes necessary to change the action plan in order to maintain progress, an updated country programme should be submitted to the Fund Secretariat for further consideration by the ExCom. Factors responsible for such a situation include the need to have more up-to date information or to alter policy plans in response to changes in macro economic and/or political conditions; or to unforeseen levels of ODS consumption, often due to inaccurate baseline or forecast data due, for instance, to the difficulty of fully

^{44/} UNEP/OzL.Pro/ExCom/5/16, para. 22-23; UNEP/OzL.Pro/ExCom/5/16 Annex III; UNEP/OzL.Pro/ExCom/10/40, para. 135.

^{45/} UNEP/OzL.Pro/ExCom/13/47, paras. 192-193 and Annex II; UNEP/OzL.Pro/ExCom/13/46; UNEP/OzL.Pro/ExCom/22/79/Rev.1, Decision 22/68, para. 92 (d) and (e). For previous formats see UNEP/OzL.Pro/ExCom/5/16 Annex III.

^{46/} Available online in the document, "Policies, Guidelines and Criteria," <<http://www.unmfs.org/reportsanddocuments.asp>>, sections VII.2 and VII.3, pp. 215-222.

^{47/} The most recent instructions and forms for updating country programmes are found at <<http://www.unmfs.org/countryprogramme.htm>>.

^{48/} UNEP/OzL.Pro/ExCom/3/18/Rev.1, Annex III, section VI.2; UNEP/OzL.Pro/ExCom/8/29 Annex III, para. 3.14.

assessing the extent of the informal and/or small-to-medium size enterprise sectors and their consumption of controlled substances.

5.1.12. Requirements and methods for dispersing information regarding NAP.

There are no requirements to disperse information regarding the specific contents of Country Programmes to Parties or the public. Prior to approval of a country programme, the document can be considered as a draft document subject to restricted distribution to members of the Executive Committee only. Approved country programmes are not public documents per se. Following their approval by the Executive Committee they could be made available to governments or interested organizations (e.g., other UN organizations, universities, institutions) upon a request submitted to the Secretariat.

To assist the Parties and the ExCom, the Fund Secretariat has developed "Country Programme Summary Sheets" that outline key information taken from the country programme, the annual updates by the Party and implementing agencies, and the status reports on the implementation of projects and activities approved to date. These "Country Programme Summary Sheets," are to be posted on the Fund Secretariat's web-page in the near future.

5.2. United Nations Framework Convention on Climate Change.

The 1992 Framework Convention on Climate Change (UNFCCC) aims to achieve "stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system". UNFCCC distinguishes between Annex I Parties (developed country and CEIT Parties), Annex II Parties (developed country Parties) and non-Annex I Parties (developing country Parties). The Convention requires Annex I Parties to take and report on actions to reduce emissions, individually or jointly, of greenhouse gases not covered by the Montreal Protocol to 1990 levels.⁴⁹

The Conference of Parties (COP) is the supreme body of the Convention. The Subsidiary Body on Science and Technical Advice (SBSTA) links scientific, technical and technological assessments, including information provided by competent international bodies, to the policy-oriented needs of COP. The Subsidiary Body for Implementation (SBI) develops recommendations to assist the COP in the review and assessment of the implementation of the Convention and in the reparation and implementation of its decisions. Further information on the history, development, control measures, institutional component, and

^{49/} In 1997, Parties to UNFCCC negotiated the Kyoto Protocol to the Convention which set required collective emission reductions by Annex I Parties of at least 5 percent below 1990 levels by 2008-2012. The Kyoto Protocol is not in effect.

other attributes of UNFCCC relevant to this paper can be obtained found online at websites maintained by the UNFCCC Secretariat⁵⁰ and in document UNEP/POPS/INC.2/INF.4, prepared for POPs INC 2.

5.2.1. Presence and definition of NAP mechanism.

UNFCCC requires each Party to develop and to report on plans to meet its obligations under the Convention. Article 4.1(b) requires Parties to "formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, and measures to facilitate adequate adaptation to climate change". Article 12.1 requires Parties to "communicate to the Conference of the Parties, through the secretariat, the following elements of information: (b) A general description of steps taken or envisaged by the Party to implement the Convention". These elements are consistent with an "action plan" mechanism as understood in this paper.

These and other NAP-related provisions appear in several different Articles within the Convention, as well as many subsequent Decisions by the COP.⁵¹ "National Communication" is the term for the reports required of Parties regarding their plans and activities to implement the Convention. Thus, this section focuses on national communications as the NAP mechanism of UNFCCC.

5.2.2. Objectives.

The Convention does not specify an individual objective for national communications.

The objective of the NAP-related requirements are therefore to support the overall objective of UNFCCC: "to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner" (Article 3).

5.2.3. Nature of obligation to develop NAP.

National communications are required for all Parties but different obligations exist with regard to specific aspects of the NAP mechanisms.

All Parties are required to develop and submit national communicates containing: (a) inventories of Greenhouse gas emissions and removals by sinks; (b) a description of steps taken or envisaged to implement the Party's obligations under the Convention (Articles 4.1 and 12.1). As obligations differ depending on a

^{50/} www.unfccc.de

^{51/} E.g. Articles 4.1 a,b,j; 4.2 a-d; 4.5-4.7; 8.2c; 9.2; 10.2b; and, in particular, 12.

Party's inclusion, or lack thereof, in Annex I and/or Annex II, the nature of the specific content of the communications differ. These differences are spelled out below in the discussion of scope and content.

In addition, the obligation to develop and report national communications is unconditional for Annex II Parties but somewhat conditional for CEIT Parties and developing country Parties. Article 4.3 requires developed country Parties to assist developing country Parties comply with their obligations to develop and report inventories and implementation policies. Article 4.7 states that "the extent to which developing country Parties effectively implement their commitments under the Convention will depend on" the provision of financial and technical assistance. Article 4.6 allows for "a certain degree of flexibility" for CEITs in meeting their commitments.

5.2.4. Timing of obligations.

There are specific timing requirements for when Parties must submit national communications but these timing requirements vary for different Parties.

Annex I Parties must submit national communications on a regular basis detailing their climate change strategies. The first submissions from Annex I Parties were due no later than six months after they became a Party (Article 12.5). The second submissions from Annex I Parties were due by 15 April 1997 (Decision 9/CP.2) with the exception that CEITs could delay their submission until 15 April 1998 (Decision 9/CP.2.4 (a)). The third national communication is required by 30 November 2001 and the fourth and successive submissions every three to five years (Decision 11/CP.4). Annex I Parties also have to submit annual national inventory data on emissions by sources and removals by sinks by 15 April of each year.

Non-Annex I Parties must submit their first national communication no later than 36 months after becoming a Party or after receiving financial assistance to develop the communication (Decision 10/CP.2). The timing of the second national communication from non-Annex I Parties is currently under discussion. As noted, the requirement on Non-Annex I Parties to submit their national communication partially depends on the effective implementation by developed country Parties of their commitments under the Convention related to financial resource and technology transfer (Article 6.7).

5.2.5. Scope and content.

There are clear guidelines for the scope and content of the national communications for both Annex I and Non-Annex I Parties. These were adopted in two decisions by the Second COP in 1996. Decision 9/CP.2 set the guidelines for Annex I Parties. Decision 10/CP.2 set the guidelines for Non-Annex I Parties.⁵² These

^{52/} Decision 9/CP. 2 paragraph 3 requires Annex-I Parties to "use the revised guidelines contained in the annex to this decision for the preparation of their second communications, taking into account decisions of the Subsidiary Body for Scientific and Technological Advise at its forth session and, unless modified or replaced, for subsequent communications". Decision 10/CP.2 paragraph 2 requires Non-Annex I Parties to "use the guideline in the annex to the present decision when preparing their initial communications under the Convention."

decisions pulled together the numerous and sometimes detailed references to scope and content provisions within the Convention itself as well as additional provisions, interpretations and instructions as decided by COP-1 and COP-2. The 24-page Annex to report of the COP-2 contains the recommended scope and content for Annex I Parties.⁵³ Non-Annex I Parties are requested to use the guidelines as well. The issues addressed in the guidelines include:

Coverage: The communication should address the full range of a Party's actions to implement the convention.

Inventories: Parties are required to create and communicate national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. At a minimum, information should be provided on the following greenhouse gases: carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), and sulphur hexafluoride (SF₆). Parties should also provide information on the indirect greenhouse gases carbon monoxide (CO), nitrogen oxides (NO_x) and non-methane volatile organic compounds (NMVOCs), and are encouraged to provide data on sulphur oxides. For example, the sources of anthropogenic emissions of CO₂ include fuel combustion from energy and transformation industries, fuel combustion from industry, fuel combustion from transport, and fuel combustion from others. The removals of CO₂ by sinks and reservoirs include agriculture, land-use change and forestry, and others.

Policies and measures: Parties are required to communicate information on the policies and measures implemented or committed to that the Party believes contribute significantly to its efforts to reduce emissions and enhance sinks of greenhouse gases. Parties must describe those policies and measures organized by gas and by sector according to very detailed guidelines. The sectors of carbon dioxide, for example, should include: cross-sectoral, energy and transformation industries, transport, industry (energy-related), industry (non-energy), residential, commercial and institutional, fugitive fuel emissions, agriculture, and land-use change and forestry.

Activities implemented jointly: Parties may include relevant summary information on activities implemented jointly (AIJ).

Projections and assessment of effects of measures: Parties should include projections of future greenhouse gas emission and removal levels. Parties should incorporate the effects of policies and measures that are implemented or committed to into the projection of anthropogenic emissions by sources and removals by sinks. In the interest of transparency, Parties should include baseline projections, indicating which measures are included and which measures are additional to these baseline projections.

Vulnerability assessment and adaptation measures: Parties should review briefly the expected impacts of climate change for the Party concerned and outline the actions with regard to adaptation.

⁵³/ FCCC/CP/1996/15/Add.1 <www.unfccc.de/resource/docs/cop2/15a01.htm>. This document also contains the specific text of the two Decisions.

Financial resources and transfer of technology and know-how: Annex II Parties must provide detailed information on the activities undertaken to implement their commitments under Articles 4.3-4.5, as follows:

- a) indicate what new and additional financial resources have been provided to meet the agreed full costs incurred by developing country Parties in developing and submitting their national communications;
- b) provide, to the extent possible, detailed information on the provision of financial resources of meet the agreed fill incremental costs incurred by developing country in their implementation of measures covered in Article 4.1;
- c) provide detailed information on assistance provided to developing country Parties that are particularly vulnerable to the adverse effects of climate change in order to meet the costs of adaptation to those adverse effects;
- d) provide detailed information on measures taken to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies;
- e) report separately, to the extent possible, their activities for the financing of access by developing countries of hard or soft environmentally sound technologies.

Research and systematic observation. Annex I Parties should communicate information on their actions relating to research and systematic observation. This could include, inter alia, information on: research on the impacts on climate change; modelling and prediction, including global circulation models; c) climate process and climate system studies; data collection, monitoring and systematic observation; socio-economic analysis, including analysis of impacts of climate change and response options; and technology research and development.

Education, training, and public awareness. Annex I Parties should communicate information on their actions relating to education, training and public awareness. This would include information on relevant domestic programmes and participation in international activities.

Special considerations: CEIT Parties seeking "flexibility" or "consideration" in accordance with Article 4.6 and 4.10 of the Convention should state clearly the special consideration they are seeking and to provide an adequate explanation of the circumstances necessitating the request;

Basic data (national circumstances): Parties may wish to provide other information relevant to its greenhouse gas emission/removal profile. This would permit readers to put the information on its implementation of the Convention in context, could help to explain certain trends and would provide data valuable in the analysis and aggregation of the submissions. This profile could include population, geographic, climatic, economic, energy, and social data. Also, Parties may provide information on which government institution(s) has responsibility for implementing which policies and measures as well as information relating to the application of and experience with indicators for performance in greenhouse gas mitigation.

5.2.6. Methods of development, including provisions for guidelines and required formats.

There are an extensive array of recommended and required methods, processes, guidelines, formats and forms which Parties have agreed to use when Parties in developing and submitting national communications. These are intended to assist Parties develop and communicate all the required information, to improve the quality and comparability of the information provided, and to standardize key elements of the process to increase the validity and usefulness of comparative study of the information.

The specific details of the methods, processes, guidelines and formats can be found in the guidelines developed through decision 9/CP.2, the outlines of which were presented in the previous sub-section. These can be found in the annex to the report of COP 2.54 The methods and guidelines provided include technical processes and procedures developed by subsidiary or advisory bodies, including the Subsidiary Body for Scientific and Technological Advice (SBSTA) and Intergovernmental Panel on Climate Change (IPCC). This reflects the technical nature of some of the reporting provisions and the agreement among Parties that it was important to create scientifically valid measures and processes that could be recommended for use by the Parties.⁵⁵ There are also guidelines and formats regarding the structure of the document. This includes provisions for a recommended outline, executive summary, technical annex, language requirements,⁵⁶ and length.

The guidelines also include provisions for at least 13 specific forms and tables that Parties have agreed to use when developing and submitting. Those tables include:

- Table 1. Summary of policies and measures: CO₂.
- Table 2. Summary of projections of anthropogenic emissions of CO₂.
- Table 3. Summary of projections of removals of CO₂ by sinks and reservoirs.
- Table 4. Summary of projections of anthropogenic emissions of CH₄.
- Table 5. Summary of projections of anthropogenic emissions of N₂O.
- Table 6. Summary of projections of anthropogenic emissions of other greenhouse gases.

^{54/} FCCC/CP/1996/15/Add.1 at <<http://www.unfccc.de/resource/docs/cop2/15a01.htm>>.

^{55/} These include the provision that when reporting on the inventories and projections of greenhouse gas emissions and removals, Parties may use information provided by IPCC in its Second Assessment Report. Annex I Parties should use the IPCC Guidelines for National Greenhouse Gas Inventories in estimating, reporting and verifying inventory data as well as presenting methodologies, activity data, emission factors and other assumptions. When reporting on policies and measures and projections, Parties may refer to the "Methods for assessment of mitigation options" (chapter 27) and appendices 1-4, contained in "Climate Change 1995: IPCC Second Assessment Report, Volume III, Scientific-Technical Analyses of Impacts, Adaptations, and Mitigation of Climate Change: Contribution of Working Group II of the IPCC". The communications of policies and measures by Annex I Parties should be consistent with the categories set out in the IPCC Guidelines for National Greenhouse Gas Inventories. Parties are encouraged to use the IPCC Technical Guidelines for Assessing Climate Change Impacts and Adaptation when they describe vulnerability assessment and adaptation measures. All IPCC reports and guidelines can be found at <<http://www.ipcc.ch/pub/pub.htm>>.

^{56/} National communications may be submitted in one of the six working languages of the United Nations. In addition, Annex I Parties are encouraged to submit, to the extent possible and where relevant, a translation of their communication in English.

Table 7. Summary of projections of anthropogenic emissions of precursors and Sox.

Table 8. Summary of key variable and assumptions in the projections analysis.

Table 9a. Financial contributions to the operating entity or entities of the financial mechanism, regional and other multilateral institutions and programmes.

Table 9b. New and additional financial contributions to the operating entity or entities of the financial mechanism, regional and other multilateral institutions and programmes.

Table 10a. Bilateral financial contributions related to the implementation of the Convention, 1994.

Table 10b. New and additional bilateral financial contributions related to the implementation of the Convention, 1994.

Table 11. Projects or programmes that promote, facilitate and/or finance transfer of access to hard and soft technologies.

5.2.7. Funding aspects, including cost of development and sources of funding.

Non-Annex I Parties are eligible to receive financial assistance from Annex II and developing country Parties in the preparation of their national communications in accordance with Articles 4.3 and 12.7.57

Article 4.3 reads, "The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties."

Article 12.7 reads: "From its first session, the Conference of the Parties shall arrange for the provision to developing country Parties of technical and financial support, on request, in compiling and communicating information under this Article, as well as in identifying the technical and financial needs associated with proposed projects and response measures under Article 4. Such support may be provided by other Parties, by competent international organizations and by the secretariat, as appropriate."

In addition, Article 4.7 implicitly allows developing countries to delay development and submission of their national communications if such assistance is not available:

^{57/} See also Article 8.2(c), Decision 10/CP.2 and other provisions.

"The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties."

There is no explicit language regarding the provision of assistance to CEIT or Annex II Parties. However, CEIT Parties can receive funding for the development and submission of national communications through the regular climate related work programme of the GEF.⁵⁸

Annex II Parties provide financial assistance for non-Annex I Parties for the preparation of national communication bilaterally, multilaterally, and in particular, through the GEF and its climate program implementing agencies, UNDP, UNEP, World Bank, and UNITAR.⁵⁹ The COP has emphasized to the GEF the need to expedite the approval and disbursement of financial resources so that Non-Annex I Parties can make submissions of national communications (Decision 12/CP.2 annex paragraph 5).

GEF provides funding for the preparation of national communications of Non-Annex I Parties through its support of enabling activities. Enabling activities for the preparation of national communications cover full costs while other GEF projects such as "medium/operating program projects" only cover a portion of incremental costs. Maximum possible funding for non-Annex I national communications was initially set for \$350,000. In 1999, this amount was increased to \$ 450,000. As of March 1999, 85 projects had been funded by the GEF. The average amount of funding was approximately \$258,000. A list and of GEF projects related to national communications of Non-Annex I Parties and the amount funded can be found in document FCCC/SBI/1999/INF.1. The operating guidelines for the GEF Enabling Activities can be found at <<http://www.gefweb.org/wprogram/enact/back.htm>> and in the GEF document, "Operational Guidelines for Expedited Financing of Initial Communications from Non-Annex I Parties."

5.2.8. Technical assistance aspects, including assistance in development of NAP.

Non-Annex I Parties are eligible to receive financial assistance from Annex II Parties in the preparation of their national communications in accordance with Articles 4.3, 4.7, *2 (c) and 12.7, and Decision 10/CP.2, and other provisions. There is no explicit language regarding the provision of assistance to CEIT or to Annex II Parties. CEIT's can receive technical assistant for the development and submission of national communications through the regular climate related work programme of the GEF.

^{58/} Information available at the time this document was prepared indicate that to date, two CEITs have received such funding.

^{59/} Details on the financial mechanism under UNFCCC can be found in document UNEP/POPS/INC.2/INF.4, prepared for POPs INC 2.

CC: TRAIN (Climate Change Training Programme), a joint initiative of the Secretariat, UNITAR, UNDP, UNEP, and GEF, is responsible for the implementation of technical assistance for the preparation of national communications of Non-Annex I Parties. CC: Train organizes regional workshops and expert group meetings, conducts training and workshops on developing emission and activity data for the preparation of the greenhouse gases inventories, facilitates local policy and technical-level training packages and workshops, conducts university-based training on vulnerability and adaptation, assists institutional building among Non-Annex I Parties, and develops training and guidance materials.⁶⁰

Regional workshops include the National Communications Support Programme (NCSP), a joint initiative of the Secretariat, UNDP, UNEP, and GEF. The purpose of the programme is to enhance the capacity of Non-Annex I Parties to prepare their initial national communications and to improve the quality, comprehensiveness and timeliness of the submission. The first thematic regional workshops on Greenhouse gas inventories for Africa were held in January 1999 and the first thematic workshops in Greenhouse gas inventories and mitigation assessment for Asia-Pacific were held in May 1999. CC: TRAIN "workshop packages" include information needed to organize and prepare training workshops, including: module plans, overhead transparencies, notes for the presenters, exercises, exercise instructions, a bibliography of reference materials and a "Training Package Guide". Those packages are available at <http://www.unitar.org/cctrain/>.

The Secretariat also disseminates training and guidance materials including the "CC:INFO/Web Tutorial Kit 1.0" CO-ROM. This was designed to encourage Parties to develop national Web sites on climate change and the implementation of the Convention, and to foster the growth of a network of such sites for the sharing of information and ideas. Many Non-Annex I Parties have collaborated with CC:INFO/Web initiative as a possible activity to be undertaken with their enabling activity projects.

5.2.9. Review and approval process for NAP.

National communications do not require formal approval prior to their submission (or to the commencement of the policies they outline). However, the information contained in the communications is reviewed by the COP, its subsidiary bodies, and the Secretariat as a part of their regular processes of examining implementation of the Convention. There are two types of reviews: (a) compilations and analytical summaries of the information contained in all the submitted communications; and (b) indepth reviews of individual national communications.

^{60/} Information in this section is based on that in documents FCCC/SBI/1999/INF.1 and FCCC/SBI/1999/INF.3, which can be consulted to get more information on the financial and technical support provided to date.

Decisions 2/CP.1, 9/CP.2, and 11/CP.4 require "regular review" of national communications.⁶¹ Under this process, the Secretariat coordinates compilations, summaries and analytical syntheses of all national communications according to processes and schedules to be adopted by the subsidiary bodies. The Secretariat then produces a series of reports that examine both the process and content of the national communications, including: reporting issues;⁶² trends in greenhouse gas emissions; policies and measures to limit emissions and protect sinks; projects and effects of policies and measures; provision of financial and technical assistance; transfer of technology; and implementation of other commitments. The report, "second compilation and synthesis of second national communications" is a recent prominent, three part example (FCCC/CP/11 for a summary, FCCC/CP/1998/11/Add.1 for the full report, and (FCCC/CP/11/Add.2 for complete tables of inventories and projections). It and other documents are available at <http://www.unfccc.de/resource/cop4.html>.⁶³

Decision 9/CP.2 (paragraph 9), requires the Secretariat conduct "indepth reviews" of the second national communication from each Annex I Party, applying specific procedures for the review "as defined in decision 2/CP.1." These reviews are comprehensive technical assessments of the information contained in the national communications. Reports of individual in-depth reviews of Annex I national communications are available at www.unfccc.de/resource/idr.html.

The review process is summarized in the section, "Sharing and Reviewing National Communication" of the "Climate Change Information Kit" available at www.unfccc.de/resource/iuckit/fact20.html. In practice, the Secretariat assembles a large teams of experts from developed and developing countries, the Secretariat, and international organizations to conduct the reviews. The indepth review teams, as part of their normal

^{61/} The specific enabling language within the Convention itself includes paragraph 2 of Article 10 which requires the subsidiary body for implementation (SBI) to "consider the information communicated in accordance with Article 12, paragraph 1, to assess the overall aggregated effect of the steps taken by the Parties ...[and] the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2(d). Paragraph 2 of Article 7 requires the COP to "keep under regular review the implementation of the Convention ... To this end, it shall: ...(b) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention; ...(e) Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved; (f) Consider and adopt regular reports on the implementation of the Convention and ensure their publication."

^{62/} These can include information on the extent which Parties follow the required formats contained in the guidelines; whether or not/how late each Party submit its national communication; whether or not/to what extent each Party employs the required methodologies for Greenhouse gas inventory or other data; whether or not/which required information each Party fails to present in its national communication; etc.

^{63/} See also, "National Communications from Parties Included in Annex I to the Convention, Annual Inventories of National Greenhouse Gas Data for 1996" (FCCC/CP/1999/5); and National Communications from Parties Not Included in Annex I to the Convention, Provision of Financial and Technical Support (FCCC/CP/1999/INF.3).

procedure, visit the Annex I Party as part of its research. One ancillary benefit of the review process is that participation of experts from developing countries helps to build capacity in those countries. The results of comparative and summary research as well as of the in-depth reviews are then summed up in the compilation and synthesis reports.

5.2.10. Review of the NAP mechanism.

National Communications are a central obligation of the UNFCCC. Therefore, the COP and its subsidiary bodies are required to review it as part of their overall obligation to review the institutional structure, operation, implementation, and impact of the Convention.⁶⁴ The information gathered as part of the reviews of national communications is an integral part of the process of evaluating the mechanism itself.

Specific consideration of the national communication provisions are most commonly processed through the SBSTA and/or SBI as a result of its consideration of new scientific or policy related issues, evidence, approaches, or methodologies. Given a recommendation from SBSTA or/and SBI regarding potential issues relating to possible revisions or additions to the national communication mechanism, the COP requests SBSTA and/or SBI to consider those issues formally. Following a report from one or more subsidiary bodies, the COP then examines the issue and decides to take or not to take a particular decisions. A particularly notable example of this process was Decision 9/CP.2 which altered the guidelines, schedule and process for developing and considering national communications."⁶⁵

5.2.11. Requirements for updating.

^{64/} See, in particular, Articles 4.2(d); 7.2 (a) and (e); and 10.2.

^{65/} *The Conference of the Parties, Recalling* the relevant provisions of the United Nations Framework Convention on Climate Change, in particular, Articles 4, 5, 6, 7.2, 9.2(b), 10.2, 11 and 12; *Recalling* its decision 2/CP.1 on review of first communications from the Parties included in Annex I to the Convention, decision 3/CP.1 on preparation and submission of national communications from the Parties included in Annex I to the Convention and decision 4/CP.1 on methodological issues' *Having considered* the relevant recommendations of the Subsidiary Body for Scientific and Technological Advice and those of the Subsidiary Body for Implementation; *Recognizing* that anthropogenic emissions and removals by sinks of all greenhouse gases should be reported in a complete, transparent and comparable way that avoids double-counting or incomplete counting: 1. *Requests* the Subsidiary Body for Scientific and Technological Advice to consider, at its fourth session, any other possible additional revisions to the guidelines arising from, inter alia, any modifications to the Intergovernmental Panel on Climate Change Guidelines for National Greenhouse Gas Inventories; 2. *Requests* the Subsidiary Body for Scientific and Technological Advice to consider methodological issues relevant to national communications and, in particular, at its fourth session, to address those issues discussed in FCCC/SBSTA/1996/9/Add.1 and Add.2; and, if relevant conclusions on such issues can be drawn, to revise further the guidelines for the preparation of national communications as appropriate; 3. *Decides* that Parties included in Annex I to the Convention (Annex I Parties) should use the revised guidelines contained in the annex to this decision for the preparation of their second communications, taking into account decisions of the Subsidiary Body for Scientific and Technological Advice at its fourth session and, unless modified or replaced, for subsequent communications.

Parties are required to submit updated national communications on a regular, periodic basis under Article 4.1 (a)-(b) and Article 12.5. The precise requirements and timing of subsequent, updated national communication are different for non-CEIT Annex-I Parties, CEIT Parties, and Non-Annex I Parties. These schedules and requirements, as decided by the COP, are noted above in the sections on the timing requirements and scope and content of national communications (section 5.2.1.4 and 5.2.1.5 respectively).

In summary, non-CEIT, Annex I Parties must submit initial national communications no later than six months after they became a Party and updated national communications by 15 April 1997, 30 November 2001, and then every three to five years with the precise dates to be decided by the COP. The second national communications by CEIT Parties was due by 15 April 1998. Annex I Parties also have to submit updated national inventory data on emissions by sources and removals by sinks by 15 April of each year. Non-Annex I Parties must submit initial national communications no later than 36 months after becoming a Party or after having access to financial assistance for its preparation. The timing of second national communications from non-Annex I Parties is under discussion.

5.2.12. Requirements and methods for dispersing information regarding NAP.

National communications submitted by Parties are available at the Secretariat's website.⁶⁶ Documents compiling information from these communications as well as the indepth reviews of the communications and executive summaries are also available (as are all official COP documents as well as those of the subsidiary bodies). This is accordance with Article 12.10 of the Convention which reads, "Subject to paragraph 9 above, and without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make communications by Parties under this Article publicly available at the time they are submitted to the Conference of the Parties."⁶⁷

5.3. United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa.

The 1994 United Nations Convention to Combat Desertification (UNCCD) aims to combat desertification and drought, particularly in Africa, by providing support to affected country Parties to assist them develop and implement effective long-term strategies to combat desertification. The Convention includes four "regional implementation annexes" that articulate core requirements of the Convention with respect to the particular conditions in Africa, Asia, Latin American and the Caribbean, and the Northern Mediterranean. The core of UNCCD, which entered into force in 1996, is the development and implementation of national action programmes by affected countries in cooperation with donors, international organizations, local

^{66/} <http://www.unfccc.de>

^{67/} Paragraph 9 of Article 12 concerns confidentiality. It reads, "Information received by the secretariat that is designated by a Party as confidential, in accordance with criteria to be established by the Conference of the Parties, shall be aggregated by the secretariat to protect its confidentiality before being made available to any of the bodies involved in the communication and review of information."

populations, and NGOs. The action programmes focus on identifying and addressing factors contributing to desertification. Affected country Parties and developed country Parties have separate but interconnected responsibilities with respect to action programmes (Articles 2 and 10).

The Conference of Parties (COP) is supported by a subsidiary body, the Committee on Science and Technology that provides information and advice on scientific and technical matters. A Secretariat performs administrative functions. The operations of the UNCCD are relatively new with the third session of the COP to be held in 1999. Additional information on the UNCCD, its history, development, provisions, operation, institutional components, and nap-related provisions can be found in the relevant sections of document UNEP/POPs/INC.2/Inf.4, prepared for POPs INC 2, in materials and documents prepared by the UNCCD Secretariat,⁶⁸ and online at websites maintained by the Secretariat⁶⁹ as well as the International Institute for Sustainable Development.⁷⁰

5.3.1. Presence and definition of NAP Mechanism.

The UNCCD requires each Party to develop and to report on the measures it has taken, or will take, to meet its obligations under the Convention. Article 4.1 requires all Parties "to implement their obligations under this Convention ... and develop a coherent long-term strategy" to do so. Article 26 requires all Parties to "communicate reports on the measures which it has taken for the implementation of the Convention," in accordance with the procedures for the communication of information and review of implementation as determined by the COP. These elements are consistent with an "action plan" mechanism as understood in this paper.

In addition to this "national report" mechanism, affected country Parties are required to develop and report on "national action programmes" -- dynamic, framework documents which identify the central factors contributing to desertification in the Party and elaborate practical measures to address it (Articles 9-15). There are also provisions for joint, sub-regional or regional action programmes (Article 11). Under UNCCD, "national action programmes" are the central element of strategy to combat desertification and mitigate the effects of drought (Article 9). Indeed, most of the reporting requirements under Article 26 are in the framework of national action programmes: affected countries must report on the measures taken to development and implement action programmes; developed country Parties must report on measures taken to fulfill their specific obligations to assist the development and effective implementation of action programmes (Article 26.3 and 26.5).

^{68/} These include the: UNCCD National Reports Help Guide; CCD Fact Sheets; Down to Earth: A simplified guide to the Convention to Combat Desertification, why its necessary and what is important and different about it; and Reports of the first two sessions of the Conference of Parties to the UNCCD: ICCD/COP(1)/11 and Add.1; and ICCD/COP(2)/14 and Add.1.

^{69/} www.unccd.de

^{70/} <http://www.iisd.ca/linkages/vol04/enb04127e.html>.

Thus, the NAP mechanism in the UNCCD centers on "action programmes" and "national reports." They are integrated, concurrent NAP obligations that are central to the Convention and this section will examine them both from that perspective.

5.3.2. Objectives.

UNCCD is the only MEA of those examined that offers a specific objective for its NAP mechanism within the text of the MEA. The Convention states that "the purpose of national action programmes is to identify the factors contributing to desertification and practical measures necessary to combat desertification and mitigate the effects of drought" (Article 10). Decision 11 of the First Conference of Parties (Decision 11/COP.1) states that the objectives of the national reports and their review are to:

- "(a) To ensure the effective assessment of progress towards achieving the objectives of the Convention and to enable the Conference of the Parties to make appropriate recommendations to further those objectives;
- (b) To exchange information and data among Parties in order to maximize the benefits of successful measures and initiatives under the Convention;
- (c) To ensure that the Committee on Science and Technology and the global mechanism have access to the information and data necessary to carry out their mandates;
- (d) To ensure that information on implementation is in the public domain and available to the international community, particularly intergovernmental and non-governmental organizations, and other interested entities."⁷¹

5.3.3. Nature of obligation to develop NAP.

NAP-related obligations exist for all Parties to the UNCCD but significantly different obligations exist within the NAP mechanisms, reflecting different obligations under the Convention.⁷² All Parties are required to submit 'National Reports' regarding the measures taken to implement their obligations under the Protocol, in particular their obligations in relation to the development and implementation of action programmes (Article 26). However, because different types of Parties have different requirements with respect to action programmes, the nature of the obligations to develop and report NAPs differ. Decision 11/COP.1 summarizes the nature of the NAP obligations under UNCCD:

^{71/} All Decisions by COP 1 quoted in this section are found in document ICCD/COP(1)/11/Add.1. All Decisions by COP 2 quoted in this section are found in document ICCD/COP(2)/14/Add.1.

^{72/} Structurally, this is similar to the UNFCCC in which all Parties must develop and report NAPs but different types of NAP requirements exist depending on if a Party is classified as a Annex I, Annex II, or non-Annex I or II Party.

- "3. Each Party shall communicate to the Conference of the Parties for consideration at its ordinary sessions, through the Permanent Secretariat, reports on the measures which it has taken for the implementation of the Convention.
4. Affected country Parties shall provide a description of the strategies established pursuant to article 5 of the Convention and of any relevant information on their implementation.
5. Affected country Parties which implement action programmes pursuant to articles 9 to 15 of the Convention shall provide a detailed description of the programmes and their implementation.
6. In addition to reports on action programmes pursuant to paragraph 5, any group of affected country Parties may make a joint communication, directly or through a competent subregional or regional organization, on measures taken at the subregional and/or regional levels in implementation of the Convention.
7. Developed country Parties shall report on measures taken to assist in the preparation and implementation of action programmes, including information on the financial resources they have provided, or are providing, under the Convention.

5.3.4. Timing of obligations.

There are specific timing requirements for when Parties must submit reports on their implementation of the Convention but not for when specific aspects of that implementation must take place. The timing obligations are:

Affected African country Parties must submit reports on the development and implementation of their action programmes six months prior to the third COP, in 1999, and then to successive alternative COPs (5th, 7th, 9th COP, etc).

Affected country Parties from the other regions must submit reports six months prior to the fourth COP, and ten to successive alternative COPs (6th, 8th, 10th, etc).

Developed country Parties must report six months prior to each session of the COP on measures each has taken to assist the action programmes of whichever affected country Parties are reporting for that session.

This staggered obligation reflects the priority given under UNCCD to desertification in Africa (Article 7). International and non-governmental organizations are also invited to report on their assistance and implementation activities in appropriate years.

The specific enabling provisions include Article 26.1, which states that "each Party shall communicate to the Conference of the Parties for consideration at its ordinary sessions, through the Permanent Secretariat, reports on the measures which it has taken for the implementation of the Convention. The Conference of the Parties shall determine the timetable for submission and the format of such reports." Decision 11/COP.1 further specified this obligation, stating that:

"13. The Conference of the Parties shall initiate, at its third session, review of the reports submitted by the Parties, alternating between affected African country Parties and affected country Parties of other regions. At its third session, the Conference of the Parties shall examine the reports of affected African country Parties. At its fourth session, the Conference of the Parties shall examine the reports of affected country Parties of other regions. Such rotation shall apply to subsequent sessions.

14. Developed country Parties shall report, at each session, on measures taken to assist action programmes of those affected developing country Parties reporting for the session. Relevant organs, funds and programmes of the United Nations, as well as other intergovernmental and non-governmental organizations, are invited to do likewise.

15. Reports shall be submitted to the Permanent Secretariat at least six months prior to the session at which they are to be reviewed."⁷³

5.3.5. Scope and content.

The UNCCD and subsequent decisions by the COP provide clear guidance regarding the scope and content of action programmes and national reports.

In general, action programmes must include measures to identify the factors that contribute to desertification; a list of measures to address these factors; a list of measures to prepare for and mitigate the effects of drought; the respective roles that government, local communities, and land users played in developing these measures; the respective roles that government, local communities, and land users will play implementing these measures; and the resources available and needed to implement them.⁷⁴

Provisions outlining the recommended and/or required scope and content for action programmes are found in Article 10 and, in more focused detail, in each of the Regional Annexes: Annex I, Regional Implementation Annex for Africa; Annex II, Regional Implementation Annex for Asia; Annex III, Regional Implementation

^{73/} See also Decision 5/COP.2.

^{74/} See Articles 9-10 and relevant sections of the Regional Annexes.

Annex Latin America and the Caribbean; and Annex IV, Regional Implementation Annex for the Northern Mediterranean.⁷⁵ The most specific provisions are those in Article 8 of Annex I, which reads:

1. Consistent with article 10 of the Convention, the overall strategy of national action programmes shall emphasize integrated local development programmes for affected areas, based on participatory mechanisms and on integration of strategies for poverty eradication into efforts to combat desertification and mitigate the effects of drought. The programmes shall aim at strengthening the capacity of local authorities and ensuring the active involvement of local populations, communities and groups, with emphasis on education and training, mobilization of non-governmental organizations with proven expertise and strengthening of decentralized governmental structures.
2. National action programmes shall, as appropriate, include the following general features:
 - (a) the use, in developing and implementing national action programmes, of past experiences in combating desertification and/or mitigating the effects of drought, taking into account social, economic and ecological conditions;
 - (b) the identification of factors contributing to desertification and/or drought and the resources and capacities available and required, and the setting up of appropriate policies and institutional and other responses and measures necessary to combat those phenomena and/or mitigate their effects; and
 - (c) the increase in participation of local populations and communities, including women, farmers and pastoralists, and delegation to them of more responsibility for management.
3. National action programmes shall also, as appropriate, include the following:
 - (a) measures to improve the economic environment with a view to eradicating poverty:
 - (i) increasing incomes and employment opportunities, especially for the poorest members of the community, by: - developing markets for farm and livestock products; - creating financial instruments suited to local needs; - encouraging diversification in agriculture and the setting-up of agricultural enterprises; and - developing economic activities of a para-agricultural or non-agricultural type;
 - (ii) improving the long-term prospects of rural economies by the creation of: - incentives for productive investment and access to the means of production; and - price and tax policies and commercial practices that promote growth;
 - (iii) defining and applying population and migration policies to reduce population pressure on land; and
 - (iv) promoting the use of drought resistant crops and the application of integrated dry-land farming systems for food security purposes;
 - (b) measures to conserve natural resources:

^{75/} Article 10 provides specific guidance regarding scope and content but its provision are to some extent captured by the more specific elements in the regional Annexes.

- (i) ensuring integrated and sustainable management of natural resources, including: - agricultural land and pastoral land; - vegetation cover and wildlife; - forests; - water resources; and - biological diversity;
 - (ii) training with regard to, and strengthening, public awareness and environmental education campaigns and disseminating knowledge of techniques relating to the sustainable management of natural resources; and
 - (iii) ensuring the development and efficient use of diverse energy sources, the promotion of alternative sources of energy, particularly solar energy, wind energy and bio-gas, and specific arrangements for the transfer, acquisition and adaptation of relevant technology to alleviate the pressure on fragile natural resources;
- (c) measures to improve institutional organization:
- (i) defining the roles and responsibilities of central government and local authorities within the framework of a land use planning policy;
 - (ii) encouraging a policy of active decentralization, devolving responsibility for management and decision-making to local authorities, and encouraging initiatives and the assumption of responsibility by local communities and the establishment of local structures; and
 - (iii) adjusting, as appropriate, the institutional and regulatory framework of natural resource management to provide security of land tenure for local populations;
- (d) measures to improve knowledge of desertification:
- (i) promoting research and the collection, processing and exchange of information on the scientific, technical and socio-economic aspects of desertification;
 - (ii) improving national capabilities in research and in the collection, processing, exchange and analysis of information so as to increase understanding and to translate the results of the analysis into operational terms; and
 - (iii) encouraging the medium and long term study of: - socio-economic and cultural trends in affected areas; - qualitative and quantitative trends in natural resources; and - the interaction between climate and desertification; and
- (e) measures to monitor and assess the effects of drought:
- (i) developing strategies to evaluate the impacts of natural climate variability on regional drought and desertification and/or to utilize predictions of climate variability on seasonal to interannual time scales in efforts to mitigate the effects of drought;
 - (ii) improving early warning and response capacity, efficiently managing emergency relief and food aid, and improving food stocking and distribution systems, cattle protection schemes and public works and alternative livelihoods for drought prone areas; and
 - (iii) monitoring and assessing ecological degradation to provide reliable and timely information on the process and dynamics of resource degradation in order to facilitate better policy formulations and responses

Provisions outlining the scope and content of national reports are laid down in quite general terms in Article 26. Specific provisions, including differentiated scope and content guidelines for affected country Parties and

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developed country Parties were articulated in paragraph 10 of Decision 11/COP.1, entitled "Format and content of reports":

"(a) Reports on national action programmes

- (i) A table of contents;
- (ii) A summary not exceeding six pages;
- (iii) The strategies and priorities established within the framework of sustainable development plans and/or policies;
- (iv) The institutional measures taken to implement the Convention;
- (v) The participatory process in support of the preparation and implementation of the action programme;
- (vi) The consultative process in support of the preparation and implementation of the national action programme and the partnership agreement with developed country Parties and other interested entities;
- (vii) The measures taken or planned within the framework of the national action programmes, including measures to improve the economic environment, to conserve natural resources, to improve institutional organization, to improve knowledge of desertification and to monitor and assess the effects of drought;
- (viii) Financial allocations from national budgets in support of implementation as well as financial assistance and technical cooperation received and needed, identifying and prioritizing requirements;
- (ix) A review of the benchmarks and indicators utilized to measure progress and an assessment thereof;

(b) Reports on joint, subregional and regional action programmes

- (i) A table of contents;
- (ii) A summary not exceeding six pages;
- (iii) The areas of cooperation under the programme and measures taken or planned;
- (iv) The consultative process in support of the preparation and implementation of the subregional or regional action programmes and the partnership agreement with developed country Parties and other interested entities;
- (v) Financial allocations by affected country Parties of the subregion or region in support of implementation as well as financial assistance and technical cooperation received and needed, identifying and prioritizing requirements;
- (vi) A review of the benchmarks and indicators utilized to measure progress and an assessment thereof;

(c) Reports of developed country Parties

- (i) A table of contents;
- (ii) A summary not exceeding six pages;
- (iii) The consultative processes and partnership agreements in which they are involved;

/ . . .

(iv) Measures taken to support the preparation and implementation of action programmes at all levels, including information on the financial resources they have provided, or are providing, both bilaterally and multilaterally;

(d) Reports of affected developed country Parties not preparing action programmes

(i) A table of contents;

(ii) A summary not exceeding six pages;

(iii) The strategies and priorities, within the framework of sustainable development plans and/or policies, to combat desertification and mitigate the effects of drought and any relevant information on their implementation."⁷⁶

5.3.6. Methods of development, including provisions for guidelines and required formats.

There are provisions for recommended methods of development, guidelines and formats for both action programmes and national reports. These are contained most generally in the Convention, more specifically in the four Regional Implementation Annexes, and quite explicitly in the document, "UNCCD National Reports Help Guide" (Help Guide) that was developed by the Secretariat with assistance from UNITAR and the Sahara and Sahel Observatory (OSS) and additional contributions from several international and regional organizations.⁷⁷

The Regional Annexes contain the most of the recommendations regarding methods of development for action programmes. Of these the most specific are found in Article 9 of Annex I (Africa), "Preparation of national action programmes and implementation and evaluation indicators":

"Each affected African country Party shall designate an appropriate national coordinating body to function as a catalyst in the preparation, implementation and evaluation of its national action programme. This coordinating body shall, in the light of article 3 and as appropriate:

(a) undertake an identification and review of actions, beginning with a locally driven consultation process, involving local populations and communities and with the cooperation of local administrative authorities, developed country Parties and intergovernmental and non-governmental organizations, on the basis of initial consultations of those concerned at the national level;

(b) identify and analyze the constraints, needs and gaps affecting development and sustainable land use and recommend practical measures to avoid duplication by making full use of relevant ongoing efforts and promote implementation of results;

(c) facilitate, design and formulate project activities based on interactive, flexible approaches in order to ensure active participation of the population in affected areas, to minimize the negative impact of

^{76/} "Relevant organs, funds and programmes of the United Nations, as well as other intergovernmental and non-governmental organizations" are also invited to report.

^{77/} ICCD/COP(3)/Inf.3.

such activities, and to identify and prioritize requirements for financial assistance and technical cooperation;

(d) establish pertinent, quantifiable and readily verifiable indicators to ensure the assessment and evaluation of national action programmes, which encompass actions in the short, medium and long terms, and of the implementation of such programmes; and

(e) prepare progress reports on the implementation of the national action programmes."

As noted above, Decision 11/COP.1 establishes the requirements for the format and content of national reports. These have been incorporated in the Help Guide. This detailed 23 page report is designed for UNCCD National Focal Points and contains "useful information to assist them in the collection, compilation, analysis and presentation of data and information towards communications on measures taken" to implement UNCCD under Article 26.78 It contains a "possible process to follow" which includes a specific schedule; information on potential assistance by African sub-regional organizations; how to achieve synergy with similar processes under the Climate and Biodiversity Conventions; submission modalities; and a proposed methodology that includes indicators of implementation, evaluation parameters, remarks, and questions. The methodology was adapted from a matrix proposed by the Committee on Science and Technology and is specifically designed to assist Parties complete the required format for reports adopted in Decision 11/COP.1 (contained in section 5.3.1.5 above).

5.3.7. Funding aspects, including cost of development and sources of funding.

5.3.8. Technical assistance aspects, including assistance in development of NAP.

UNCCD includes a variety of general and specific requirements for developed country Parties to provide financial and technical assistance to assist affected developing country Parties combat desertification and mitigate the effects of drought, including preparing, implementing, and reporting on action programmes.⁷⁹

Financial assistance in the preparation, implementation and reporting of action programmes is currently provided by Parties and international, regional and non-governmental organizations. The provision of assistance is facilitated by the Secretariat which attempts to help connect submitted requests for assistance with potential donors. In doing so the Secretariat is responding to Decision 11/COP.1 which instructed it to "facilitate assistance to affected developing country Parties, particularly affected African country Parties and least developed Parties among them, in the compilation and communication of information pursuant to the present procedures, or seek such assistance from bilateral donors and/or competent intergovernmental organizations."

^{78/} ICCD/COP(3)/INF.3, p. 1.

^{79/} Specific obligations and recommendations to provide assistance to action programmes and national reports include Articles 12, 13, 14, 20, 21, 26 and Annex I, Articles 5, 14, 15, 16, and 17.

Technical assistance is provided by the same types of actors. Regional and sub-regional organizations in Africa are also particularly important. The types of technical assistance provided spans the entire set of actions in the recommended methods of development for action programmes and country reports. Financial and technical assistance was provided to most of the African countries that have submitted reports in 1999. Estimating the amount and ultimate source of the financial assistance provided for the preparation of action programmes and reports is difficult, however, as so much of it is in-kind contributions of personal and equipment or provided by international and sub-regional organizations that, in turn, receive funding themselves from a number of additional sources.

The Convention established provisions for a "Global Mechanism" to perform facilitating functions with regard to financial and technical assistance (Article 21) but the specific operational modalities for such an entity are still under discussion and the mechanism is not in operation. Information on past and potential future development of a mechanism to provide and/or facilitate financial assistance and technical assistance under the UNCCD can be found in the relevant sections of document UNEP/POPs/INC.2/Inf.4.

5.3.9. Review and approval process for NAP.

National action programmes and national reports do not require formal approval prior to their respective commencement or submission but the information contained therein is reviewed by the Secretariat and the COP as part of their regular processes of examining the implementation of the Convention.

UNCCD requires that the Secretariat compile summaries and analytical syntheses of the reports provided by Parties on their implementation of the Convention, including the development, implementation and/or support of action programmes. These reports, as well as other information, are then reviewed by the COP and subsidiary bodies. In doing so they provide part of the basis for the COP's required reviews of implementation of the Convention under Article 22.2(a)-(b). The initial set of documents produced under this procedure will be considered by COP 3 this year.

Specifically, Article 10.2 (g) requires "regular review" of the national action programmes and their implementation. Article 22 requires the COP to use this information as part of its review and promotion of UNCCD implementation overall. Article 22.2 (a) requires the COP to "regularly review the implementation of the Convention and the functioning of its institutional arrangements in the light of the experience gained at the national, subregional, regional and international levels and on the basis of the evolution of scientific and technological knowledge. Article 22.2 (b) requires the COP to "promote and facilitate the exchange of information on measures adopted by the Parties, and determine the form and timetable for transmitting the information to be submitted pursuant to article 26, review the reports and make recommendations on them;..." Finally, paragraphs 16-20 of Decision 11/COP.1 establish the specifics of this process:

"Compilation and synthesis by the Permanent Secretariat

16. The Permanent Secretariat shall compile the summaries of reports submitted pursuant to paragraphs 3 to 7, and of information provided by relevant organs, funds and programmes of the

United Nations, as well as other intergovernmental and non-governmental organizations, on measures taken or planned in support of implementation of the Convention.

17. The Permanent Secretariat shall prepare, in addition, a synthesis of the reports setting out the trends emerging in the implementation of the Convention.

Review process

18. Reports by Parties, together with advice and information provided by the Committee on Science and Technology and the global mechanism consistent with their respective mandates and such other reports as the Conference of the Parties may call for, shall constitute the basis of the review of implementation by the Conference of the Parties.

Periodic reports

19. After the third ordinary session and following every subsequent ordinary session of the Conference of the Parties, the Permanent Secretariat shall prepare a report summarizing the conclusions of the review process.

Official documents

20. Documents prepared by the Permanent Secretariat in accordance with paragraphs 16, 17 and 19 shall constitute official documents of the Conference of the Parties.

Availability of reports

21. All reports communicated to the Permanent Secretariat in accordance with the present procedures, as well as institutional information pursuant to paragraph 22, shall be in the public domain. The Permanent Secretariat shall make available copies of the reports to any interested Parties and other entities or individuals."

5.3.10. Review of the NAP mechanism.

The COP mandate to review implementation of the Convention (Article 26.2) is an implicit charge to review the national action programme and national report mechanisms. The process outlined immediately above forms the framework for this review. The documents being prepared by the Secretariat on the first set of national reports will lead to recommendations for any potential changes to the existing national action programme and report mechanisms. At this time, few if any immediate changes are expected during the next COP, especially with regard to the scope, content, guidelines and requirements in 11/COP.1.

5.3.11. Requirements for updating.

Parties are required to update their national reports under the general terms of Article 10.2 (g) and the specific schedule established in paragraphs 13-15 of Decision 11/COP.1.⁸⁰ Thus, affected country Parties in different regions will provide updated reports to alternating meetings of the COP on their NAP implementation activities. Developed country Parties will provide reports to each COP on their provision of technical and financial support to assist Parties undertake those activities. Currently, COPs are scheduled every year but this pattern may yield to bi-annual meetings or some other schedule in the future should the Parties so decide.

There are no formal provisions that affected country Parties must submit formally updated versions of the original action programme with their bi-annual reports. However as the action programme is intended to be a dynamic process as well as a document, it is likely that a process of implicit updating will occur as part of the intertwined procedures of implementing the action programmes and preparing and submitting national reports. Indeed, Article 9.1 states that action programmes "shall be updated through a continuing process on the basis of lessons from field action, as well as the results of research."

5.3.12. Requirements and methods for dispersing information regarding NAP.

As mandated under paragraph 21 of Decision 11/COP.1, all action plans and national reports communicated to the Secretariat are in the public domain.⁸¹ The Secretariat's website will contain all the national reports on implementation submitted by Parties as well as the compilations, summaries and analytical syntheses of these reports prepared by the Secretariat and the COP. None are available yet as the first set of national reports were only due recently. This site also contains all documents from the first two COPs, as well as a variety of other information. Action Programme documents themselves are available from individual national focal points as well as from international or non-governmental organization that were instrumental in their preparation.

^{80/} Article 10.2 (g) requires "regular review of, and progress reports on" implementation of action programmes. Decision 11/COP.1 states (under the sub-title of 'Timetable for the submission of reports'), "13. The Conference of the Parties shall initiate, at its third session, review of the reports submitted by the Parties, alternating between affected African country Parties and affected country Parties of other regions. Such rotation shall apply to subsequent sessions. 14. Developed country Parties shall report, at each session, on measures taken to assist action programmes of those affected developing country Parties reporting for the session.

^{81/} "All reports communicated to the Permanent Secretariat in accordance with the present procedures, as well as institutional information pursuant to paragraph 22, shall be in the public domain. The Permanent Secretariat shall make available copies of the reports to any interested Parties and other entities or individuals" (11/COP.1, para 21).

5.4. Convention on Biological Diversity.

The 1992 Convention on Biological Diversity (CBD) seeks "the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising from the use of genetic resources." The Convention addresses the rapid loss of species and ecosystems due to human intervention and a realization that biological diversity is a valuable asset for current and future generations. Parties are obligated to make proactive efforts to create protected areas for the conservation of biodiversity, monitor the components of biodiversity, integrate its conservation into national plans and policies, and develop the necessary legislation for its protection. CBD also spells out the rights and obligations of the Parties to engage in scientific and technological cooperation. To assist the prompt implementation and enforcement of the Convention, a system of national reporting has been created.

The Conference of Parties (COP) is the supreme body of the Convention. It is supported in its work by the Subsidiary Body on Science, Technical and Technological Advice (SBSTTA). Further information on the history, development, control measures, institutional components, and other attributes of CBD can be obtained online at websites maintained by the CBD Secretariat⁸² as well as the International Institute for Sustainable Development,⁸³ and in the relevant sections of document UNEP/POPS/INC.2/INF.4, prepared for POPs INC 2.

5.4.1. Presence and definition.

The CBD requires each Party to develop strategies and report on the measures it has taken or will take to meet its obligations under the Convention. Article 6 states that "each contracting Party shall ... develop national strategies, plans or programs for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect the measures set out in this Convention." These are referred to as "National Biodiversity Strategy and Action Plans" or "NBSAPs".

Article 26 requires each Party, "at intervals to be determined by the Conference of the Parties, [to] present to the Conference of the Parties, reports on measures which it has taken for the implementation of the provisions of this Convention and their effectiveness in meeting the objectives of this Convention." The first of these "national reports" was required to be on the implementation of the Article 6 requirement to development NBSAPs (Decision II/7).

Together, these two requirements are consistent with an "action plan" mechanisms as understood in this paper. Thus, this section will examine SBSAPs and national reports as the NAP mechanism for CBD.

5.4.2. Objective.

^{82/} www.biodiv.org

^{83/} <http://www.iisd.ca/linkages/>

The Convention does not specify individual objectives for NBSAPs or national reports. However, Article 1 specifically asserts that all the "relevant provisions" of the CBD pursue the same overall objectives: the "conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources..." (Article 1).

5.4.3. Nature of obligation to develop NAP.

The relevant obligations are essentially equal and universal. All Parties are required to "develop national strategies or programs for the conservation and sustainable use of biological diversity" (Article 6(a)). All Parties must also develop and present "reports on measures which it has taken for the implementation of this Convention and their effectiveness in meeting the objectives of this Convention (Article 26).

However, the obligation to develop and report national communications is at conditional for developing country Parties as Article 20.4 states that "the extent to which developing country Parties will effectively implement their commitments under this Convention will depend on the effective implementation by developed country Parties of their commitments under this Convention related to financial resources and transfer of technology..."

5.4.4. Timing of obligations.

There are specific timing requirements for when Parties must submit national reports but not for when Parties must develop and implement specific aspects of their implementation plans.

Parties were required to submit their first national reports by 1 January 1998. This initial timing requirement, established in Decision III/9 of the Third Conference of the Parties (COP 3),⁸⁴ was nine years after the treaty was signed and six years after it entered into force. A number of Parties were able to submit only interim reports by that date, however, and some others did not report at all. As a result, COP 4 required Parties that had not yet done so to submit complete reports by 31 December 1998 (Decision IV/14). As of 1 July 1999, the CBD reports that 113 Parties had submitted national reports, of which 38 were interim reports. COP 5 is expected to decide on the timing and content requirements for future reports. In taking this decision, the COP will consider synthesis reports prepared by the Secretariat on the basis of the information contained in the national reports.

5.4.1.5. Scope and content.

Parties to the Convention have endorsed specific recommendations and requirements for the scope and content of the national reports. Due in part to uneven implementation of these recommendations, however, new guidelines are currently in development.

^{84/} Full text of all COP Decisions is available at <www.dainet.de/FIZ-AGRAR/CHMDOC/eng.html>.

Article 26 of the CBD provides the initial guidance for the scope and content of the national reports by stating that each Party must report on measures taken for implementation of the Convention and their effectiveness in meeting its provisions. The annex to Decision II/17 provided more specific guidelines for the scope and content of the first national report. Reports should include an:

"Executive summary: a brief summary of the action plan report, stating succinctly the importance of biodiversity, the commitment to the Convention, the mandate, the participants list, the biotic wealth and national capacity, the goals and gaps, strategic recommendations and characteristics of the action (who will do what, when, where, with what means and funding).

Introduction: describe why biodiversity is important to the country and its local communities. Explain the Convention and the nation's commitment to its provisions. Present the aim of the national biodiversity action plan and specify to whom it is directed.

Background: describe the legal and policy framework that provides the mandate and instructions for preparing the action plan report. Provide a short summary of the nation's biotic assets, capacity (human resources, institutions, facilities, and funding) and ongoing programmes. Explain the institutional arrangements and responsibilities, with a view to informing people of the manner in which the strategic recommendations will be implemented.

Goals and objectives: state the vision for biodiversity and its place in the society, focusing on its protection, scientific understanding, sustainable use, and on the equitable sharing of its benefits and costs. The specific targets to meet the local, national, and international goals in terms of protecting, assessing, utilizing, and benefiting from biodiversity and its components need to be determined.

Strategy: summarize the gaps between the current situation in the country and the stated vision, goals and objectives. Summarize the strategic recommendations, including the activities, policies, and tasks that have been selected for implementation to cover the gaps. Assign relative priorities to each.

Partners: describe the public and private entities, communities and industries that have participated in the process and have agreed to be responsible for particular activities and investments.

Action: present the detailed activities, tasks and policies to be implemented. Explain which partner (Ministry, industry, indigenous group, NGO, or university) will implement each item, where, and what measures the partners will employ.

Schedule: present a timetable for the implementation of the various tasks, reflecting the priorities that have been assigned. Note signposts to help signal progress or delay.

Budget: provide the budget for the plan of action, showing funding requirements for operating expenses, capital purchases, transport, field costs, etc. List the personnel needed by category of skill

or background, the facilities and services required, and possible international technical and financial cooperation.

Monitoring and evaluation: explain the measures to be used for tracking the results of the action plan and for monitoring changes in the economy, environment and society. Give the indicators that will be used. Present the individuals and organizations who will carry these responsibilities and how they were selected. Note the audience for the reports, along with the document's content and timing of implementation.⁸⁵

However, when the first reports were received in December 1998, it was clear that there had been different levels of adherence to these guidelines. Some countries adhered strictly to these guidelines for scope and content, while others used them only as loose templates and some did not follow them at all. At COP 4, Decision IV/14 requested the SBSTTA to study ways to increase compliance with prescribed guidelines as part of its consideration of the timing and specific, substantive focus of subsequent reports. Preliminary guidance given as part of this decision is contained in the Annex to Decision IV/14:⁸⁶

1. A standard format should be developed which would allow comparability, but provide enough flexibility to give appropriate scope to reflect national conditions and capacities.
2. The focus of subsequent national reports should be consistent with the work programme of the Convention, taking into account decisions of the fourth meeting of the Conference of the Parties.
3. Information contained in national reports should include, insofar as possible, a report on the progress of the implementation of the National Biodiversity Strategy and Action Plans, and on lessons learned, including identification of gaps in national capacity for policy research and analysis, along with technical and financial requirements for meeting needs identified in the National Biodiversity Strategies and Action Plans and the possible use of nationally developed indicators.

There have been a number of other Decisions by which the COP has requested Parties to include further particulars in their national reports. For example, Decision III/6, para 4, calls for standardized information on financial support provided by developed country Parties for the purposes of the Convention. It is hoped that all the requirements and recommendations regarding scope and content of the national reports will be consolidated in the SBSTTA/COP 5 review.

5.4.6. Methods of development, including provisions for guidelines and required formats.

Several COP Decisions have created required and recommended methods, processes, guidelines and formats for the preparation and submission of National Reports. Decision II/7 provided guidelines, a format, and a list

^{85/} The Annex to Decision II/17 is available at <www.dainet.de/FIZ-AGRAR/CHMDOC/eng.htm>.

^{86/} www.dainet.de/FIZ-AGRAR/CHMDOC/eng.htm

of resources to refer to when developing, drafting and submitting national reports.⁸⁷ The Decision also advised Parties to "collaborate with relevant organizations," and to take into consideration existing methods and detailed guidelines for developing SBSAPs and subsequent reports. It drew specific attention to the WRI/UNEP/IUCN publication, "National Biodiversity Strategies: Guidelines Based on Early Country Experiences"⁸⁸ and the UNEP Publication, "Guidelines for the Preparation of Biodiversity Country Studies."

These methods, guidelines and forms were developed to assist Parties prepare standardized and complete reports. As noted, Parties have not all used them to equal extent, however, as can be seen in the reports available for review on the Secretariat's Clearing House Mechanism,⁸⁹ and revised guidelines and/or methods to encourage adherence to them are under discussion. The prescribed format for the outline of the reports is currently: (a) Executive summary; (b) Introduction; (c) Background; (d) Goals and objectives; (e) Strategy; (f) Partners; (g) Action; (h) Schedule; (i) Budget; (j) Monitoring and evaluation; and (k) Sharing of national experience.⁹⁰

5.4.7. Funding aspects, including cost of development and sources of funding.

Developing country are eligible to receive financial assistance to develop SBSAPs and national reports. Article 20 states that "Developed country Parties shall provide new and additional financial resources to enable developing countries to meet the agreed full incremental costs to them of implementing measures which fulfil the obligations of this Convention..." Such obligations include developing SBSAPs and developing and submitting national reports.⁹¹ Article 39 established the GEF as the interim institution operating the financial mechanism.

COP Decisions have also made specific funding provisions relating to SBSAPs and national reports. Decision II/6 requested that the interim financial structure assist in preparing national reports and biodiversity surveys. Decision III/5 provided extensive "additional guidance to the GEF in the provision of financial resources" to help developing country Parties implement the Convention. Decision IV/13 requested the GEF to continue to provide financial assistance for the preparation of national reports."

^{87/} Document available through the German Clearing House Mechanism (the Clearing House website for all COP decisions and treaty text) at <www.dainet.de/FIZ-AGRAR/CHMDOC/eng.htm>. Clicking on COP 4 will take you to an index of all of the decisions in COP 4.

^{88/} See <www.wri.org/biodiv/nbp-summ.html> for the executive summary of the document.

^{89/} www.biodiv.org/natrep/index.html

^{90/} Available as the Annex to Decision II/17, <www.dainet.de/FIZ-AGRAR/CHMDOC/eng.htm>.

^{91/} Detailed information on the financial mechanism under CBD can be found in document UNEP/POPS/INC.2/INF.4, prepared for POPs INC 2.

Most financial assistance is provided through the GEF. Other assistance is provided bilaterally or through other arrangements. Donors included developed countries, and international, regional and non-governmental organizations.

GEF funding comes from the Core Trust Fund set up for the CBD. Developing country are eligible for support when undertaking "biodiversity enabling activities" which include the development of biodiversity surveys and the preparation of first national reports.⁹² GEF also supports capacity building activities related to the clearing house mechanisms, including computer hardware, software, training and access. Eligible Parties must submit a proposal for approval by the GEF. The requirements and criteria for these projects are detailed in the GEF document "Operational Criteria for Enabling Activities: Biodiversity," available at <www.gefweb.org/wprogram/enact/bio/inf11_~1.pdf>. Details of approved GEF enabling activities can be found at <www.gefweb.org/wprogram/enact/back.htm>.

The document, "Report of the GEF to the Fourth Meeting of the Conference of the Parties to the Convention on Biological Diversity," states that between 1 July 1996 and 31 December 1997,⁹³ GEF financed 93 biodiversity enabling activity projects. According to the report, "all of these projects have been developed with the full collaboration of the recipient country and all of them address to some extent the preparation of national reports" (page 6). The total GEF financing for all activities exceeded \$17 million (US Dollars). The average level of support given to individual countries was approximately \$192,994. Although the support provided to individual Parties ranged from \$25,380 to \$942,500, the vast majority received between \$100,000 and \$300,000. Indeed, of the 93 Parties that received funding during this period, only seven Parties received less than \$100,000, only four received more than \$299,999, and only one received more than \$350,000.

5.4.8. Technical assistance aspects, including assistance in development of NAP.

Developing country are eligible for technical assistance to during the preparation and implementation of SBSAPs and of national reports under the very general provisions of Articles 17, 18, 20 and 21 and under the specific provisions of subsequent Decisions.⁹⁴ Among these are Decision III/4 which requested governments, international organizations and scientific and technical institutions to "facilitate regional workshops" to gain a clearer understanding of scientific and technical needs at the local and regional levels. Decision III/5 requested GEF to support "human and institutional capacity building" programs for Governments. Decision IV/16 which called upon "the Executive Secretary to organize regional/subregional

^{92/} The GEF has also provided assistance to some CEIT Parties.

^{93/} This is the reporting period covered by the Report of the GEF to the Fourth Meeting of the Conference of the Parties Prepared on 27 February, 1998.

^{94/} Detailed information on financial and technical assistance mechanisms under CBD can be found in document UNEP/POPS/INC.2/INF.4, prepared for POPs INC 2.

meetings to consider ways and means of implementing the Convention and the decisions of the COP" (paragraph 5).

Most technical assistance is provided as a product of GEF financial assistance. Other technical assistance is provided. Donors included developed countries, international, regional and non-governmental organizations, private firms, and consultants. The three GEF implementing agencies (UNDP, UNEP, and the World Bank) provide the technical assistance to Parties receiving GEF enabling activity support. Many enabling activity projects also include funding for expert consultants. The GEF provides technical assistance (capacity building activities) for the clearing house mechanism and provides funding for purchases of computers, software, hardware, and training.

CBD also established the Clearing House Mechanism to serve as an important source of technical assistance for the Parties. Intended to promote scientific and technical cooperation, the Clearing House Mechanism provides an online database of advice and support to the Parties.⁹⁵

5.4.9. Review and approval process for NAP.

NBSAPs and national reports do not require formal approval by the COP or a subsidiary body but the information contained therein is reviewed by the COP and its subsidiary bodies. However, to receive support from the GEF, national reports and associated proposals are reviewed by the GEF as part of their normal procedures. Also, as national reports are official documents, they do require some formal approval process within the submitting country itself. Finally, the CBD regime is developing a peer review process, with the assistance of WCMC. The details of this were announced and discussed at the last meeting of SBSTTA and will be discussed at the next COP.

5.4.10. Review of the NAP Mechanism.

The information contained in national reports is reviewed by the COP and used as part of the COP's consideration of implementation issues under the CBD. Article 23.4 requires the COP to "keep under review the implementation of this Convention." In doing so, Article 23.4 (a) requires the COP to "Establish the form and interval for transmitting the information to be submitted in accordance with Article 26 [Reports] and consider such information as well as reports submitted by any subsidiary body..."

The Secretariat and the Parties use the information provided in the reports and action plans to examine and improve the implementation process. National Reports serve an informational, supervisory, and evaluative function by ensuring that Parties take a proactive role in implementing the Convention. It also allows systematic review of the success of specific methods. Decision II/17 outlined this objective by requiring that the first national reports focus on measures taken to implement Article 6 and the development of NBSAPs. Following the submission of the first national reports, the COP requested the Secretariat to prepare a

synthesis of the information contained in the national reports. The resulting document, UNEP/CBD/4/11/Rev.1, is available on the secretariat web page at <www.biodiv.org/cop4/pdf/cop4-11RE.pdf>. The information provided in that report was examined at COP 4 and is being used during the ongoing deliberations concerning the scope, content and intervals of future national reports.⁹⁶

5.4.11. Requirements for updating.

As noted above, Article 23.4 (a) requires the COP to "Establish the form and interval for transmitting the information to be submitted in accordance with Article 26." The first national report focused on the development and content of the SBSAPs. The scope, content and interval for the second are under discussion. The question as to whether future reports will continue to require information on the further development of NBSAPs and their implementation cannot be known until the COP 5 takes a decision, however it appears that whether or not Parties decide to focus on other articles in subsequent reports, there will continue to be a requirement to provide the COP with information on the status of implementation of NBSAPs.⁹⁷

5.4.12. Requirements and methods for dispersing information regarding NAP

All national reports submitted by Parties as well as the synthesis reports prepared the Secretariat are publicly available on the CBD website, which also contains COP documents and other information. This is in accordance with Article 18(3) which required the Parties to create a clearing house mechanism to facilitate the exchange of information; and Decision 11/7, paragraphs 6 and 7, which state that, "Parties shall submit their national reports in one of the working languages of the Conference of the Parties and, for the benefit of others, encourages Parties to also make available their reports electronically and, where possible, on the Internet; ... national reports submitted by Parties will not be distributed as official documents of the Conference of the Parties, but will be made available to Parties, upon request, and in the language of submission.."

5.5. Protocol to the Convention on Long-Range Transboundary Air Pollution on Persistent Organic Pollutants (LRTAP POPs Protocol).

The 1979 Convention on Long-range Transboundary Air Pollution (LRTAP) was the first internationally legally binding instrument to deal with problems of air pollution on a broad regional basis. Since its entry into force in 1983 the Convention has been extended by seven protocols: 1984 Protocol on Long-term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP); 1985 Protocol on the Reduction of Sulphur Emissions or their

^{96/} Decision IV/14 <www.biodiv.org/cop4/FinalRep-/decisions/14.html>.

^{97/} This is implied in the annex to Decision IV/14.

Transboundary Fluxes by at least 30 per cent; 1988 Protocol concerning the Control of Nitrogen Oxides or their Transboundary Fluxes; 1991 Protocol concerning the Control of Emissions of Volatile Organic Compounds or their Transboundary Fluxes; 1994 Protocol on Further Reduction of Sulphur Emissions; 1998 Protocol on Heavy Metals; and 1998 Protocol on Persistent Organic Pollutants (POPs). In 1996, negotiations began on a new protocol on nitrogen oxides and related substances that addresses photochemical pollution, acidification and eutrophication.

The LRTAP Convention establishes a common institutional framework for the administration and operation of the Convention and all its Protocols. The Parties meet and take action through the Convention's Executive Body which is the equivalent of a COP. Secretariat functions for the Convention and all of its Protocols are provided by the Secretariat of the Economic Commission for Europe (ECE). The obligations, institutional framework, implementation strategies, reporting requirements, and control measures in the seven LRTAP Protocols, including LRTAP POPs, are intentionally similar and as integrated as possible. The institutional framework attempts to link scientific research to policy, in part through a mapping programme and five cooperative programmes for assessing and monitoring the effects of air pollution.

The Executive Body adopted the Protocol on Persistent Organic Pollutants in 1998. It focuses on a list of 16 substances that have been singled out according to agreed risk criteria.⁹⁸ These include eleven pesticides, two industrial chemicals and three by-products/contaminants. The ultimate objective is to eliminate discharge, emission and loss of POPs into the environment. The Protocol bans the production and use of some products outright (aldrin, chlordane, chlordecone, dieldrin, endrin, hexabromobiphenyl, mirex and toxaphene). Others are scheduled for elimination at a later stage (DDT, heptachlor, hexachlorobenzene, PCBs). The Protocol severely restricts the use of DDT, HCH (including lindane) and PCBs. The Protocol includes provisions for dealing with the wastes of products that will be banned. It also obliges Parties to reduce their emissions of dioxins, furans, PAHs and HCB below their levels in 1990 (or an alternative year between 1985 and 1995). For the incineration of municipal, hazardous and medical waste, it lays down specific limit values. Additional information on the LRTAP POPs Protocol and LRTAP Convention, including treaty texts, selected documents and scientific data, institutional frameworks, and other information, can be obtained from the Secretariat and/or from its website.⁹⁹ The Protocol is not yet in force.

^{98/} Article 1.7 (Definitions), reads in part, "For the purposes of the present Protocol... 7. "Persistent organic pollutants" (POPs) are organic substances that: (i) possess toxic characteristics; (ii) are persistent; (iii) bio-accumulate; (iv) are prone to long-range transboundary atmospheric transport and deposition; and (v) are likely to cause significant adverse human health or environmental effects near to and distant from their sources".

^{99/} <www.unece.org/env/env_eb.htm>. Information in the preceding paragraphs was drawn from similar paragraphs at this site.

5.5.1. Presence and definition of NAP mechanism.

The LRTAP POPs Protocol requires each Party to develop and report on plans to meet its obligations under the Protocol. Article 7.1 requires Parties to "develop strategies, policies and programmes in order to discharge its obligations under the present Protocol."¹⁰⁰ Article 9.1(a) requires Parties to report "information on the measures that it has taken to implement the present Protocol."¹⁰¹ These elements are consistent with an "action plan" mechanism as understood in this paper.

However, these and other NAP-related provisions appear in several different articles within the Protocol (e.g. articles 3, 7, 9, 10, and 11) and are not linked by a common procedural term such as "action plan", "country programme" or "national communication". In addition, although the requirements to develop and report plans are expressly linked through articles 7 and 9, the recent adoption of the Protocol means that neither the Parties nor the Protocol's administrators have had the time to develop clear procedural links or the terms to describe them (except for those common to all Protocols to the LRTAP Convention). Therefore, this paper refers to this set of procedures in the LRTAP POPs Protocol as "NAP-related", while recognizing that such provisions have not been fully developed nor integrated.¹⁰²

5.5.2. Objectives.

The Protocol does not specify individual objectives for the NAP-related requirements. The objective of the NAP-related requirements are therefore derivative of the overall objective of the LRTAP POPs Protocol: "to control, reduce or eliminate discharges, emissions and losses of persistent organic pollutants" (Article 2). It

^{100/} "Article 7: Strategies, Policies, Programmes, Measures and Information. 1. Each Party shall, no later than six months after the date on which this Protocol enters into force for it, develop strategies, policies and programmes in order to discharge its obligations under the present Protocol ..."

^{101/} "Article 9: Reporting. 1. Subject to its laws governing the confidentiality of commercial information:
 (a) Each Party shall report, through the Executive Secretary of the Commission, to the Executive Body, on a periodic basis as determined by the Parties meeting within the Executive Body, information on the measures that it has taken to implement the present Protocol; (b) Each Party within the geographical scope of EMEP shall report, through the Executive Secretary of the Commission, to EMEP, on a periodic basis to be determined by the Steering Body of EMEP and approved by the Parties at a session of the Executive Body, information on the levels of emissions of persistent organic pollutants using, as a minimum, the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP. Parties in areas outside the geographical scope of EMEP shall make available similar information to the Executive Body if requested to do so. Each Party shall also provide information on the levels of emissions of the substances listed in annex III for the reference year specified in that annex. 2. The information to be reported in accordance with paragraph 1(a) above shall be in conformity with a decision regarding format and content to be adopted by the Parties at a session of the Executive Body. The terms of this decision shall be reviewed as necessary to identify any additional elements regarding the format or the content of the information that is to be included in the reports. 3. In good time before each annual session of the Executive Body, EMEP shall provide information on the long-range transport and deposition of persistent organic pollutants.

^{102/} It should be noted that all the NAP-related requirements are part of the common institutional structure under the LRTAP Convention. The POPs Protocol's language, structure and requirements follow that of previous LRTAP protocols.

remains to be seen how the future design and implementation of the NAP-related provisions can be crafted to augment their link to, and ability to support, this goal.

5.5.3. Nature of obligation to develop NAP.

All Parties are required to develop and report implementation plans under the Protocol. Some variation exists concerning specific data-reporting requirements depending on whether a Party lies within the geographic scope of the Cooperative Programme for Monitoring and Evaluation of the Long-Range Transmission of Air Pollutants in Europe (EMEP).

All Parties must "develop strategies, policies and programmes in order to discharge its obligations" (Article 7.1) and to report "information on the measures that it has taken to implement" the Protocol (Article 9.1(a)). All Parties must collect and report information on production and sales of the substances listed in Annex I and II to the Protocol (Article 3.8),¹⁰³ to report emission baselines for substances listed in Annex III (Article 9.1(b));¹⁰⁴ and to develop, maintain and report emission inventories for substances listed in Annex III (Article 3.8).¹⁰⁵ Some differences exist concerning the technical standards for these reports depending on whether a Party does or does not lie with the geographic scope of the EMEP.

Most Parties (those that lie within the geographical scope of the EMEP) must also report emissions of POPs on a periodic basis, (Article 9.1(b)). The remaining Parties must report if requested to do so (Article 9.1(b)). The reporting obligations for all Parties are qualified by the phrase "Subject to its laws governing the confidentiality of commercial information" (Article 9.1).

5.5.4. Timing of Obligations.

The Protocol establishes clear requirements for when Parties must fulfill their obligations or states that such requirements will be established in the future. Specifically, Parties must develop their implementation plans

^{103/} Together, Annex I and II currently list Aldrin, Chlordane, Chlordecone, DDT, Dieldrin, Endrin, HCH, Heptachlor, Hexabromobiphenyl, Hexachlorobenzene, Mirex, PCB, and Toxaphene. Other substances may be added in the future thru the procedure for adding substances established in Decision 1998/2 (EC/EB.Air.60, decisions 1998/2).

^{104/} Annex III currently lists PAHs, Dioxins, Furans, and Hexachlorobenzene. Other substances may be added in the future thru the procedure for adding substances established in Decision 1998/2 (EC/EB.Air.60, decisions 1998/2).

^{105/} "Article 3: BASIC OBLIGATIONS. [paragraph 8] 8. Each Party shall develop and maintain emission inventories for the substances listed in annex III, and shall collect available information relating to the production and sales of the substances listed in annexes I and II, for those Parties within the geographical scope of EMEP, using, as a minimum, the methodologies and the spatial and temporal resolution specified by the Steering Body of EMEP, and, for those Parties outside the geographical scope of EMEP, using as guidance the methodologies developed through the work plan of the Executive Body. It shall report this information in accordance with the reporting requirements set out in article 9 below." The text for Articles 7 and 9 is contained in previous footnotes.

"no later than six months after" the Protocol enters into force (Article 7.1). Parties must provide reports on these measures, as well as their data reports "on a periodic basis" to be determined by the Executive Body (Articles 9.1(a) and 9.1(b)).

5.5.5. Scope and content.

The Protocol does not yet provide formal guidance regarding the specific information that must be included in the implementation plans and reports on those plans. However, Article 9.2 states that Parties, meeting within the Executive Body, will decide on the "format and content" to be used in compiling these reports. The Executive Body has established a common framework, including very specific guidelines for scope and content, for common reporting under all the LRTAP Protocols. The Executive Body is preparing guidelines and forms for voluntary reporting on POPs. When the LRTAP POPs Protocol enters into force, a formal decision is expected to add these guidelines for reporting on POPs to those that already exist for substances controlled under the other Protocols.

The Protocol itself does contain guidance regarding several data-reporting requirements. Such data would appear likely to be included in future "format and content" provisions. The current presentation of existing scope and content provisions for data-reporting are present in Articles 3 and 9. Collectively, the Protocol requires:

- (a) Parties within the geographical scope of the EMEP to report emissions of POPs, "using, as a minimum, the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP" (Article 9.1(b));
- (b) Parties outside the geographical scope of the EMEP to report "similar information" on emissions of POPs if requested to do so (Article 9.1(b));
- (c) Parties to collect and report information on production and sales of Annex I and II substances (currently: Aldrin, Chlordane, Chlordecone, DDT, Dieldrin, Endrin, HCH, Heptachlor, Hexabromobiphenyl, Hexachlorobenzene, Mirex, PCB, and Toxaphene). Parties within the geographical scope of the EMEP must use, as a minimum, the methodologies and the temporal and spatial resolution specified by the Steering Body of EMEP. Parties in areas outside the geographical scope of EMEP must use "as guidance the methodologies to be developed through the work plan of the Executive Body" (Article 3.8). Methodologies for emission inventories for some POPs have been developed. These are under constant review so as to improve their accuracy.
- (d) All Parties to report information on the levels of baseline emissions for particular "reference" or baseline years for Annex III substances (Article 9.1(b) and Annex III; currently, Annex III lists PAHs, Dioxins, Furans, and Hexachlorobenzene).

(b) All Parties to develop, maintain, and report emission inventories for PAHs, Dioxins, Furans, and Hexachlorobenzene (Article 3.8).

5.5.6. Methods of development, including provisions for guidelines and required formats.

There are currently no required or recommended methods of development, processes, guidelines, or formats which the Parties have agreed to use in developing and reporting their implementation plans. However, as noted above, Article 9.2(a) states that decisions regarding conforming formats and content for these reports will be taken in the future. The Executive Body has established a common framework, including very specific guidelines for scope and content, for common reporting under all the LRTAP Protocols. The Executive Body is preparing guidelines and forms for voluntary reporting on POPs. When the LRTAP POPs Protocol enters into force, a formal decision is expected to add these guidelines for reporting on POPs to those that already exist for substances controlled under the other Protocols.

5.5.7. Funding aspects, including cost of development and sources of funding.

5.5.8. Technical assistance aspects, including assistance in development of NAPs.

There are no provisions for providing financial or technical assistance to the Parties in support of their NAP-related activities. Article 5 does contain language to encourage exchange of information and technology among Parties and Article 8 contains language to encourage research, development, monitoring and cooperation. Although Parties could conceivably use these rather general provisions to request assistance from other Parties in developing and monitoring inventories and emissions of controlled substances such assistance would not have to be provided, and the lack of such assistance would not impact a Party's obligation to develop, implement and report on the NAP-related provisions.

5.5.9. Review and approval process for NAP.

The Protocol requires a review of the information provided by Parties. Implementation plans and reports do not require formal approval prior to their respective commencement or submission but they, and the various data reports, are subject to subsequent review by the Parties through the Executive Body and its subsidiary bodies regarding their compliance with the requirements of the Protocol. These reviews and the documents they produce are also used to examine implementation across Parties as well as to facilitate the exchange of information between Parties.¹⁰⁶

Specifically, Article 10.1 states that the Parties "shall , at Meetings of the Executive Body, review information supplied by the Parties" and other bodies.¹⁰⁷ By extension, this means that both the

^{106/} E.g. EB.AIR/1998/3, especially paragraph 24.

^{107/} "Article 10: REVIEWS BY PARTIES AT SESSIONS OF THE EXECUTIVE BODY 1. The Parties shall, at sessions of the Executive Body, pursuant to article 10, paragraph 2 (a), of the Convention, review the information

implementation plans required in Article 7 and the reporting requirements laid out in Articles 3.8 and 9 will be reviewed with respect to their adequacy in meeting each Party's obligations under the Protocol. In addition, Article 11 establishes that the Implementation Committee of the LRTAP Convention will regularly review each Parties' compliance with the Protocol.¹⁰⁸ One of the most significant results of these provisions is that the information provided by Parties under the POPs Protocol will be combined with that reported under the other Protocols and included in future documents similar the "1998 Major Review of Strategies and Policies For Air Pollution Abatement."¹⁰⁹

5.5.10. Review of the NAP mechanism.

Article 9.2 states that Parties "shall review" the formats and content of the required reports on measures taken to implement the Protocol. There is not a specific requirement to review the NAP-related mechanisms as a whole. More broadly, Article 10.3 obligates Parties to "review the sufficiency and effectiveness of the obligations set out" in the Protocol as a whole, which would of course include all NAP-related provisions.¹¹⁰

5.5.11. Requirements for updating.

The Protocol contains specific requirements for Parties to update, on a periodic basis, the information they must provide regarding efforts to implement the Protocol as well as their emissions of POPs (Article 9.1(a) and Article 9.1(b), respectively). The intervals for these updates will be set in future decisions.

5.5.12. Requirements and methods for dispersing information regarding NAP.

All reports submitted under the LRTAP Convention are summarized by the Secretariat in a draft report. The Executive Body then examines the draft report and Parties have the opportunity to review the information and

supplied by the Parties, EMEP and other subsidiary bodies, and the reports of the Implementation Committee referred to in article 11 of the present Protocol.

2. The Parties shall, at sessions of the Executive Body, keep under review the progress made towards achieving the obligations set out in the present Protocol.

3. The Parties shall, at sessions of the Executive Body, review the sufficiency and effectiveness of the obligations set out in the present Protocol. Such reviews will take into account the best available scientific information on the effects of the deposition of persistent organic pollutants, assessments of technological developments, changing economic conditions and the fulfillment of the obligations on emission levels. The procedures, methods and timing for such reviews shall be specified by the Parties at a session of the Executive Body. The first such review shall be completed no later than three years after the present Protocol enters into force."

^{108/} "Article 11: COMPLIANCE. Compliance by each Party with its obligations under the present Protocol shall be reviewed regularly. The Implementation Committee established by decision 1997/2 of the Executive Body at its fifteenth session shall carry out such reviews and report to the Parties meeting within the Executive Body in accordance with the terms of the annex to that decision, including any amendments thereto."

^{109/} EB.AIR/1998/3 and EB.AIR/1998/3/Add.1.

^{110/} The text of these articles is contained in previous footnotes.

to suggest amendments to the report. Once this process is completed the report is published and publicly available.

In this way, Parties have full access to the information contained in the required reports on implementation, inventories, and emissions. No requirements or restrictions exist regarding providing such information to the general public and in practice documents are available from the Secretariat. To date, no clearing-house mechanism has been established but the website does contain emissions data and summaries of information on the implementation of the 1985 and 1988 Protocols.

5.6. The Basel Convention on the Control of Transboundary Hazardous Wastes and Their Disposal

The 1998 Basel Convention on the Control of Transboundary Hazardous Wastes and Their Disposal (Basel Convention) aims to reduce the threat posed by hazardous wastes and otherwise protect human health and the environment by minimizing the generation and movement of such wastes and controlling those wastes. The Convention obligates Parties: to minimize the generation of hazardous waste; to control and reduce international movements of hazardous waste; to prevent and punish illegal traffic; to ensure environmentally sound management of hazardous wastes; to ensure availability of adequate disposal facilities; to notify and gain the consent of import and transit countries prior to shipment; to use movement and tracking forms; and to report regularly on these and other obligations.

The Conference of Parties has established several subsidiary bodies to assist it in its deliberations. Among these are: the Technical Working Group which has a mandate to prepare technical guidelines, to work on the hazard characterization and classification of wastes, and to provide technical advice and guidance on implementation; and the Open-ended Ad Hoc Committee for the Implementation of the Basel Convention (Implementation Committee) which has a mandate to review the main activities and documents under the Basel Convention and to contribute to the implementation of the Convention. Additional information on the Basel Convention, its control measures, reporting requirements, institutional components, and nap-related provisions can be found in the relevant sections of document UNEP/POPs/INC.2/Inf.4, prepared for POPs INC 2, in the documents referenced in the discussion below, and online at the website maintained by the Basel Secretariat.¹¹¹

5.6.1. Presence and definition of NAP mechanism.

The Basel Convention requires each Party to develop and to report on plans to meet its obligations under the Convention. Article 4.4 requires Parties to "take legal, administrative and other measures to implement and

¹¹¹ <www.unep.ch/basel/>. The Secretariat's website contains the text or reference numbers of a significant number of key documents and other materials relevant to this discussion.

enforce the measures of the Convention".¹¹² Article 13.3(c) requires Parties to report on "measures adopted by them in implementation of this Convention."¹¹³ These elements are consistent with an "action plan" mechanism as understood in this paper.

These and other NAP-related provisions appear in several different Articles within the Convention,¹¹⁴ as well as many subsequent Decisions by the COP,¹¹⁵ but are not linked by a common procedural term such as "action plan", "country programme", "national communication", etc. Therefore, this paper refers to the set of procedures in Article 4.4, Article 13.3 and related provisions under the Basel Conventions as "NAP-related".

It should be noted that despite the absence of a specific referent, the totality of the control and reporting obligations under the Basel Convention appear to contain an *de facto* NAP mechanism as an almost implicit component.¹¹⁶ Defining the limits of that mechanism in relation to the rest of the Convention can be extremely difficult, however, particularly within the limited framework of this information paper. This reflects the number, variety and dynamic density of the integrated policy, implementation and reporting requirements under the Basel Convention that are consistent with more explicit NAP mechanisms under other MEAs. Therefore, although this sub-section presents a short summary of the NAP attributes with respect to the Basel Convention, it is necessary to draw specific attention to several documents that provide the detailed information needed for a fuller, more accurate understanding: "Basel Convention on the Control of Transboundary Wastes and their Disposal, 1989 and Decisions Adopted by the First (1992), Second (1994), Third (1995) and Fourth (1998) Meetings of the Conference of Parties (Basel Convention Series/SBC No:98/006); "Instruction Manual: Control System for Transboundary Movements of Hazardous Wastes and Other Wastes (Basel Convention Series/SBC No:98/003); and "Compilation of Country Fact Sheets (Based on Reports from Contracting Parties for the Year 1993)", (Basel Convention Series/SBC No:96/001 and No:96/002).¹¹⁷

5.6.2. Objectives.

^{112/} "ARTICLE 4. GENERAL OBLIGATIONS. [paragraph 4] 4. Each Party shall take appropriate legal, administrative and other measures to implement and enforce the provisions of this Convention, including measures to prevent and punish conduct in contravention of the Convention."

^{113/} The full text of Article 13, Transmission of Information, is contained in section 5.6.1.5 below and contains many NAP-related reporting requirements.

^{114/} E.g. Articles 4, 5, 6, 10, 11, 13, 14 and 16.

^{115/} E.g. Decisions I/2, I/3, I/11-I/13, I/17, I/19, I/22 (see in particular paragraphs 1, 3-6), II/4-II/6, II/12, II/13, II/17-II/19, II/25, III/6-III/8, III/10, III/11, III/13, III/17, IV/3-IV/5, and, in particular, II/17, II/26, III/8 and IV/14.

^{116/} E.g. construct and compare the totality of NAP related provisions in just Articles 4,-6, 10, 11, 13, 14 and 16 and Decisions I/2, I/3, I/11-I/13, I/17, I/19, I/22, II/4-II/6, II/12, II/13, II/17-II/19, II/25, III/6-III/8, III/10, III/11, III/13, III/17, IV/3-IV/5 and IV/14.

^{117/} All these documents are either available online <www.unep.ch/basel/index.html> or can be requested through the Secretariat's website.

The Convention does not specify individual objectives for the NAP-related requirements. Therefore, these can be considered derivative of the overall objective of the Basel Convention. The Basel Convention is first and foremost a global legal instrument to protect human health and the environment from adverse effects due to the generation, treatment, disposal and transboundary movements of hazardous wastes. The Basel Convention seeks to: a. reduce transboundary movements of hazardous wastes and other wastes to a minimum consistent with their environmentally sound management; b. treat and dispose hazardous waste and other wastes as close as possible to the source of generation; and c. minimize the generation of hazardous wastes and other wastes in terms of quantity and hazardousness.

Another approach is to deduce the objectives from the functional role played by the NAP related provisions. From a review of the relevant Articles, COP Decisions and other information sources, one can deduce that the objective of the set of NAP-related planning, implementation, coordination, and reporting requirements in the Basel Convention is to establish a set of comprehensive and integrated national, regional and global mechanisms for the effective implementation of the Basel Convention.

5.6.3. Nature of obligation to develop NAP.

The nature of the obligation to undertake NAP-related activities is essentially equal and universal. All Parties are required to develop and to report on measures it will, or has taken, to implement and enforce the Convention.¹¹⁸

5.6.4. Timing of Obligations.

There is no timing requirement for the creation and implementation of the NAP-related measures under Article 4.4. However, the Convention requires annual reports, at a minimum, on these measures under Article 13 and related COP Decisions.

5.6.5. Scope and content.

In broadest terms, the scope and content of the NAP-related implementation plan and corresponding actions includes: designation of National Competent Authorities and Focal Point; developing inventories; developing appropriate national legislation to implement various obligations under the Convention and COP Decisions, in particular those in Articles 4-10; planning and implementing actions to fulfill these and related obligations; and reporting on these requirements and the implementation of environmentally sound management of hazardous waste.

^{118/} See, in particular, Article 4.4 and 13, respectively.

The specific scope and content of NAP-related requirements to develop and implement policy are defined through: the specific control measures and related obligations under the Convention¹¹⁹; the broad obligation created in Article 4.4 to "take legal, administrative and other measures to implement and enforce the measures of the Convention"; and the series of subsequent decisions of the COP that provided more explicit guidance regarding implementation. Among the most important of these are: Decisions I/3, II/26 and III/8 which called for an approved the "Manual for the Implementation of the Basel Convention" (hereafter referred to as, Manual for Implementation);¹²⁰ and Decision IV/14 which adopted the "Instruction Manual: Control System for Transboundary Movements of Hazardous Wastes and Other Wastes" (Instruction Manual).¹²¹ These documents clearly outline the steps that Parties must take to implement the Convention.

The framework for the scope and content of NAP-related reporting requirements are provided under Article 13, in particular paragraphs 2 and 3. The "Instruction Manual," as well as a series of "Technical Guidelines" also provide relevant details. Article 13, "Transmission of Information," reads,

"1. The Parties shall, whenever it comes to their knowledge, ensure that, in the case of an accident occurring during the transboundary movement of hazardous wastes or other wastes or their disposal, which are likely to present risks to human health and the environment in other States, those states are immediately informed.

2. The Parties shall inform each other, through the Secretariat, of: (a) Changes regarding the designation of competent authorities and/or focal points, pursuant to Article 5; (b) Changes in their national definition of hazardous wastes, pursuant to Article 3; and, as soon as possible; (c) Decisions made by them not to consent totally or partially to the import of hazardous wastes or other wastes for disposal within the area under their national jurisdiction; (d) Decisions taken by them to limit or ban the export of hazardous wastes or other wastes; (e) Any other information required pursuant to paragraph 4 of this Article.

3. The Parties, consistent with national laws and regulations, shall transmit, through the Secretariat, to the Conference of the Parties established under Article 15, before the end of each calendar year, a report on the previous calendar year, containing the following information: (a) Competent authorities and focal points that have been designated by them pursuant to Article 5; (b) Information regarding transboundary movements of hazardous wastes or other wastes in which they have been involved, including: (i) The amount of hazardous wastes and other wastes exported, their category, characteristics, destination, any transit country and disposal method as stated on the

^{119/} See, in particular: Article 3, National Definitions of Hazardous Wastes; Article 4, General Obligations; Article 5, Designation of Competent Authorities and Focal Point; Article 6; Transboundary Movement between Parties; Article 7, Transboundary Movement from a Party through States which are not Parties; Article 8, Duty to Re-import; Article 9, Illegal Traffic; and Article 10, International Co-operation.

^{120/} Go to <www.unep.ch/basel/index.html>, click on "Working Documents", click on title.

^{121/} Basel Convention Series/SBC No:98/003; <www.unep.ch/basel/index.html>.

response to notification; (ii) The amount of hazardous wastes and other wastes imported, their category, characteristics, origin, and disposal methods; (iii) Disposals which did not proceed as intended; (iv) Efforts to achieve a reduction of the amount of hazardous wastes or other wastes subject to transboundary movement; (c) Information on the measures adopted by them in implementation of this Convention; (d) Information on available qualified statistics which have been compiled by them on the effects on human health and the environment of the generation, transportation and disposal of hazardous wastes or other wastes; (e) Information concerning bilateral, multilateral and regional agreements and arrangements entered into pursuant to Article 11 of this Convention; (f) Information on accidents occurring during the transboundary movement and disposal of hazardous wastes and other wastes and on the measures undertaken to deal with them; (g) Information on disposal options operated within the area of their national jurisdiction; (h) Information on measures undertaken for development of technologies for the reduction and/or elimination of production of hazardous wastes and other wastes; and (i) Such other matters as the Conference of the Parties shall deem relevant.

4. The Parties, consistent with national laws and regulations, shall ensure that copies of each notification concerning any given transboundary movement of hazardous wastes or other wastes, and the response to it, are sent to the Secretariat when a Party considers that its environment may be affected by that transboundary movement has requested that this should be done."

5.6.6. Methods of development, including provisions for guidelines and required formats.

The Basel Convention provides an extensive array of methods, guidelines and recommended and required formats for developing, implementing and reporting on NAP-related activities. These are enunciated in Articles in the Convention, in COP Decisions, and in documents prepared by the Secretariat in response to specific requests by the COP. They include, but are not limited to: recommended methods and processes; policy tools; policy guidance; model legislation; technical tools; technical guidance; technical assistance; expert consultants; regional centers; guidelines; samples; formats; and forms. For more specific information on particular examples, see the series of "Working Documents" on the Basel Secretariat website, including: "Instruction Manual"; "Manual for Implementation;" "Model National Legislation;" "Framework Document on the Preparation of Technical Guidelines for the Environmentally Sound Management of Wastes Subject to the Basel Convention," and eight "Technical Guidelines" on the environmentally sound management of wastes covered by the Basel Convention and of disposal operations.¹²²

Of particular note for the purposed of this paper are the efforts of the Secretariat and Implementation Committee to develop and distribute several documents including the: "Instruction Manual" which clearly outline the steps that Parties must take to implement the strict control system under the Convention; "Model National Legislation" to assist Parties "take legal or administrative measures to enforce the provisions of this

^{122/} <www.unep.ch/basel/index.html>, click on Working Documents.

Conventions as required under (Article 4.4);¹²³ and the questionnaire and other materials developed by the COP, its subsidiary bodies and the Secretariat to guide and facilitate reporting under Article 13.¹²⁴

5.6.7. Funding aspects, including cost of development and sources of funding.

There are provisions for providing funding to assist Parties fulfill some NAP-related obligations. There are no eligibility requirements, although an emphasis is placed on assisting developing countries and CEITs. There is no specific list of agreed activities for which funding can be received. However, assistance clearly focuses on capacity building and implementation activities.¹²⁵ Funding sources include a "technical trust fund," funded by voluntary donations from developed countries, as well as bilateral assistance and assistance-in-kind from Parties and international, regional and non-governmental organizations. In general, the Secretariat coordinates the distribution of much of this assistance. Funding from these sources has been used to help: develop national plans, policies, and regulatory institutions; build domestic and regional institutional capacity; conduct inventories; develop and assist specific project implementation; organize workshops and training seminars; etc.

Specifically, Article 14 states that "Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature" to assist with implementation, technical assistance and regional issues. Decision I/7 and subsequent decisions (II/27, II/21, III/28, IV/22) established "a technical cooperation trust fund to support developing countries and other countries in need of technical assistance in the implementation of the Basel Convention" (I/7, paragraph 5) and called on Parties to contribute to this fund.¹²⁶ Many other Decisions (e.g. Decision II/20, II/21, III/20, III/21, III/26, III/28, IV/4, IV/10 among others) call on Parties and international and regional organizations to provide financial support for training, seminars and a variety of other (specified and non-specified) national and regional implementation activities.

5.6.8. Technical assistance aspects, including assistance in development of NAPs.

There are a variety of provisions for providing technical assistance to Parties to fulfill NAP-related obligations. Most relate to implementation, some to reporting. Specific language calling for technical assistance can be found throughout the Convention and many subsequent COP decisions. The document,

^{123/} <www.unep.ch/basel/index.html>, click on Working Documents, click on Model National Legislation...". The original documentation includes UNEP/CHW.1/10 and UNEP/CHW/C.2/5. The relevant Decisions are I/12, II/5 and III/6.

^{124/} Original documentation includes Article 13, Decision II/17, Decision III/17, and Decision IV/3.

^{125/} Some of these activities could be considered outside the scope of NAP provisions under some other MEAs but they are clearly part of the broader set of NAP-related provisions under Basel.

^{126/} Annex II of I/7 set the initial 1993-1994 budget for training activities at \$550,000 (U.S.).

"Current and Planned Technical Assistance Activities (UNEP/CHW/C.1/4/23), prepared for the fourth meeting of the Implementation Committee provides an outline of recent activity.

The Convention does not specify a unified mechanism for providing, channeling and/or organizing technical assistance for NAP-related obligations (or otherwise). Although there are no formal eligibility requirements for receiving technical assistance, emphasis is placed on assisting developing countries and CEITs. At the same time, technical cooperation among other types of Parties is not uncommon. There is no specific list of agreed activities eligible for NAP-related technical assistance. However, the emphasis is on capacity building and implementation activities.¹²⁷ There are no mandated, specific funding levels to support technical assistance. Sources of technical assistance include activities supported by the "technical trust fund," other Parties, international, regional and non-governmental organizations, and consultants and consulting firms. Activities supported include, but are not limited to: developing and evaluating national plans, policies, and regulatory institutions; building domestic and regional institutional capacity; conducting inventories; developing and assisting specific implementation projects; responding to waste emergencies; training; monitoring; information provision; reporting; etc. The Secretariat coordinates the distribution of some but not all types of this assistance.¹²⁸ The Secretariat is also instrumental in provision of technical assistance with regard to information provision (Instruction Manual; etc), diffusion of regulatory models (Model National Legislation) reporting assistance (the questionnaire), etc. The specific enabling texts that call on Parties and other actors to provide technical assistance, or which outline specific aspects of that assistance, include: Article 10 on international cooperation;¹²⁹ Article 14 on

^{127/} Again, some of these activities could be considered outside the scope of NAP provisions under some other MEAs but they are clearly part of the broader set of NAP-related provisions under Basel.

^{128/} Indicative examples of the enabling text outlining aspects of this role include, but are not limited to, the relevant sections of Article 16 and of Decisions I/20, I/23, II/4, II/21, IV/20, IV/11, and IV/16.

^{129/} ARTICLE 10. INTERNATIONAL CO-OPERATION. 1. The Parties shall co-operate with each other in order to improve and achieve environmentally sound management of hazardous wastes and other wastes. 2. To this end, the Parties shall: (a) Upon request, make available information, whether on a bilateral or multilateral basis, with a view to promoting the environmentally sound management of hazardous wastes and other wastes, including harmonization of technical standards and practices for the adequate management of hazardous wastes and other wastes; (b) Co-operate in monitoring the effects of the management of hazardous wastes on human health and the environment; (c) Co-operate, subject to their national laws, regulations and policies, in the development and implementation of new environmentally sound low-waste technologies and the improvement of existing technologies with a view to eliminating, as far as practicable, the generation of hazardous wastes and other wastes and achieving more effective and efficient methods of ensuring their management in an environmentally sound manner, including the study of the economic, social and environmental effects of the adoption of such new or improved technologies; (d) Co-operate actively, subject to their national laws, regulations and policies, in the transfer of technology and management systems related to the environmentally sound management of hazardous wastes and other wastes. They shall also co-operate in developing the technical capacity among Parties, especially those which may need and request technical assistance in this field; (e) Cooperate in developing appropriate technical guidelines and/or codes of practice. 3. The Parties shall employ appropriate means to cooperate in order to assist developing countries in the implementation of subparagraphs a, b, c and d of paragraph 2 of Article 4. 4. Taking into account the needs of developing countries, co-operation between Parties and the competent international organizations is encouraged to promote, inter alia, public awareness, the development of sound management of hazardous wastes and other wastes and the adoption of new low-waste technologies.

financial aspects;¹³⁰ Article 16 on Secretariat functions;¹³¹ Decision III/21 and IV/11 urging technical assistance; Decisions I/13, II/19, III/19, IV/4 on establishing regional and sub-regional centers for training and technology transfer; Decisions I/20, II/20, III/20, IV/10 on training and seminars ; Decisions II/18, III/18 and IV/15 on the creation of an online, Information Management System on Wastes (IMSW) to assist Parties in reporting, to obtain information, and to cooperate when implementing the Convention;¹³² Decisions I/7, II/27, III/28, IV/22 on 'Institutional, Financial and Procedural Arrangements;' and decisions concerning the creating and distribution of implementation and reporting support materials and documents, including "Model

^{130/} Article 14. Financial Aspects. 1. The Parties agree that, according to the specific needs of different regions and subregions, regional or sub-regional centres for training and technology transfers regarding the management of hazardous wastes and other wastes and the minimization of their generation should be established. The Parties shall decide on the establishment of appropriate funding mechanisms of a voluntary nature.

^{131/} ARTICLE 16. Secretariat. 1. The functions of the Secretariat shall be: ... (g) To receive and convey information from and to Parties on: -- sources of technical assistance and training; -- available technical and scientific know-how; -- sources of advice and expertise; and -- availability of resources with a view to assisting them, upon request, in such areas as: -- the handling of the notification system of this Convention; -- the management of hazardous wastes and other wastes; -- environmentally sound technologies relating to hazardous wastes and other wastes, such as low- and non-waste technology; -- the assessment of disposal capabilities and sites; -- the monitoring of hazardous wastes and other wastes; and -- emergency responses; (h) To provide Parties, upon request, with information on consultants or consulting firms having the necessary technical competence in the field, which can assist them to examine a notification for a transboundary movement, the concurrence of a shipment of hazardous wastes or other wastes with the relevant notification, and/or the fact that the proposed disposal facilities for hazardous wastes or other wastes are environmentally sound, when they have reason to believe that the wastes in question will not be managed in an environmentally sound manner. Any such examination would not be at the expense of the Secretariat; (i) To assist Parties upon request in their identification of cases of illegal traffic and to circulate immediately to the Parties concerned any information it has received regarding illegal traffic; (j) To co-operate with Parties and with relevant and competent international organizations and agencies in the provision of experts and equipment for the purpose of rapid assistance to States in the event of an emergency situation; ...

^{132/} This system is currently in its second stage of development. This includes detailed design work and the testing of information collection questionnaires. The third stage, that could be launched in 2000, would involve software development and data acquisition. For more information see document UNEP/CHW/C.1/4/11, 27 May 1999.

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National Legislation",¹³³ "Manual for Implementation"¹³⁴, "Instruction Manual"¹³⁵, notification guidelines, instructions and forms,¹³⁶ and various technical guidelines.¹³⁷

5.6.9. Review and approval process for NAP.

The Basel Convention requires that the Secretariat create, and the COP and subsidiary bodies consider, compilations, summaries, reviews and reports on the information provided by Parties under Article 13 and related provisions. National implementation plans and "transmission of information" (Article 13) do not require formal approval prior to their respective commencement or submission. However, they are examined by the Secretariat which compiles their information and creates analytical summaries. Some of these are then reviewed by the Implementation Committee, and their reports and all of the documents prepared by the Secretariats are then considered by the COP. In essence, the NAP-related information supplied by Parties under Article 13 is the raw data for comprehensive analyses by the COP regarding implementation of various aspects of the Convention.

Specifically, Article 16.1(b) requires the Secretariat "to prepare and transmit reports based upon information received in accordance with Articles 3, 4, 6, 11 and 13 as well as upon information derived from meetings of subsidiary bodies established under Article 15 as well as upon, as appropriate, information provided by relevant intergovernmental and non-governmental entities;" Decisions I/11, II/17, III/17 and IV/3 reinforced and expanded that charge. Decision I/11 instructed the Secretariat to prepare an "analytical summary" of the information and submit it to the Implementation Committee "for evaluation". Decision II/17 instructed the Secretariat to compile all the information received under Article 13 for 1993 into a comprehensive, single document and distribute that document to Parties, non-Parties, and non-governmental organizations. Decision III/17 endorsed the summarization of national information into annual Country Fact Sheets (see example below) as well as the preparation of statistical tables on the import, export and generation of hazardous wastes. Among the documents produced and disseminated under the terms of these and related provisions are: "Report and Transmission of Information under the Basel Convention (1996)",¹³⁸

^{133/} Decision I/12, II/5 AND III/6. For document, go to: <www.unep.ch/basel/index.html>; click on "Working Documents"; click on title.

^{134/} Decisions I/3, II/26 and III/8. For document, go to: <www.unep.ch/basel/index.html>; click on "Working Documents"; click on title.

^{135/} Decisions IV/14. For document, go to: <www.unep.ch/basel/index.html>; click on "Working Documents"; click on title.

^{136/} E.g. Decisions I/21, II/16, and III/16. For document, go to: <www.unep.ch/basel/index.html>; click on "Working Documents"; click on title.

^{137/} E.g. Decisions I/19, II/13, III/13, IV/23, IV/24. For documents, go to: <www.unep.ch/basel/index.html>; click on Working Documents; click on Model National Legislation..."

^{138/} Basel Convention Series/SBC No:99/003, Geneva, May 1999.

"Compilation of Country Fact Sheets" and meeting documents: UNEP/CHW/C.1/1/5;
UNEP/CHW/C.1/1/Inf.3; UNEP/CHW/C.1/2/15; UNEP/CHW/C.1/2/Inf.5; UNEP/CHW.C.1/4/18;
UNEP/CHW/C.1/4/19; UNEP/CHW/C.1/4/23; UNEP/CHW/C.1/4/Inf.3; and UNEP/CHW.C.1/4/Inf.8.

		Country Fact Sheet			
Entry into force		Competent Authority		Focal Point	
National Definition of Hazardous Waste					
In order to be a hazardous waste in Canada, a waste must either be found on an inclusionary list (of some 3000					
Statistics 1994					
Quantities of Hazardous Wastes and Other Wastes, Generated, Imported and Exported					
		Total amount (tonnes)			
		Article 13		Others	
Generation					
Transboundary Movement		Export			
		Import			
For Disposal Operations		Export			
		Import			
For Recovery or Re-use Operations		Export			
		Import			
Transboundary Movement Reductions Measures					
Disposal/Recovery Facilities					

National Legislation							
prohibited be it for recycling or disposal.							
Bilateral, Multilateral and Regional Agreements							
Technical Assistance and Training Available							
Name of Institution Address	Notification System	Hazardous Waste Management	Environmentally Sound Technologies	Assessment of Disposal Capabilities and Sites	Monitoring	Emergency Response	Identification of cases of Illegal Traffic

5.6.10. Review of the NAP mechanism.

Article 15.5 states that the COP "shall keep under continuous review and evaluation the effective implementation of this Convention." In practice this has resulting in a dynamic process in which the COP reviews information provided under Article 13 and related provisions and takes Decisions. This process has led to significant additions to NAP-related procedures, in particular the development and adoption of new implementation, reporting and review provisions and documents (including the country fact sheet).

5.6.11. Requirements for updating.

The Convention establishes specific requirements for Parties to update information on NAP-related plans, implementation, and reports. Most prominently, Article 13.2b requires annual (and implicitly updated) reports on information on a long list of specific implementation topics. Article 13.2a requires essentially immediate updates on a narrower list of topics: changes in the designation of national authorities and/or focal points; changes a Party's definition of hazardous wastes; decisions made by Parties not to consent to the import of hazardous wastes or other wastes for disposal; decisions them to limit or ban export of hazardous wastes or other wastes; and information concerning notifications regarding the movement of wastes.¹³⁹

5.6.12. Requirements and methods for dispersing information regarding NAPs.

National "transmissions of information" under Article 13 are not necessarily public documents and are not regularly distributed. However, the Convention and several COP Decisions establish explicit provisions for dispersing summaries and assessments of the information contained in these NAP-related reports.

As outline above, Article 13 requires Parties to report information on implementation plans and actions. Article 16 instructs the Secretariat to prepare and transmit reports based upon this information to the Conference of the Parties. Decision I/11 and several subsequent decisions request the Secretariat to prepare analytical summaries and other compilations of this information for consideration by the COP and its

^{139/} See section 5.6.1.5 above for the full text of Article 13.

subsidiary bodies. Decision II/17 requested that the Secretariat to compile all the information received under Article 13 into a single document and distribute that document to Parties, non-Parties, and non-governmental organizations. Decision II/18 established the IMSW, an electronic information system and integrated telecommunications network to improve data gathering, organization, treatment and dissemination, and to provide assistance to developing countries in the collection". Decision IV/15 urged the Secretariat to develop further the IMSW "including information and documentation on information received in relation to Articles 13 and 16, as well as documentation on and reports of Basel Convention meetings, newsletters and publications." As noted, among the documents produced and disseminated under the terms of these provisions are: "Report and Transmission of Information under the Basel Convention (1996)", "Compilation of Country Fact Sheets"; and many meeting documents.¹⁴⁰

^{140/} E.g. UNEP/CHW/C.1/1/Inf. 3, UNEP/CHW/C.1/2/Inf.5, UNEP/CHW.C.1/4/18, UNEP/CHW/C.1/4/19, UNEP/CHW/C.1/4/23, UNEP/CHW/C.1/4/Inf.3, and UNEP/CHW.C.1/4/Inf.8.