

- Moreover, two-thirds of the Parties present and voting in an annual Meeting can permit "the level of production or consumption that is necessary to satisfy uses agreed by them to be essential".¹⁴ This provision was added in 1990 in London for halon gases, but was extended to many other controlled substances two years later in the face of growing industry concerns about the viability of identifying suitable substitute chemicals. A work programme is underway to identify specific essential uses. While this mechanism has not been used yet, it clearly allows Parties a procedure for justifying non-compliance with the original intent of the Protocol, while continuing to ban trade with non-Parties.¹⁵
- LDCs which are Parties (all except Bahrain, Malta, Singapore and the United Arab Emirates) are entitled to delay for ten years compliance with the phase-out schedule.¹⁶
- These same LDCs can claim an exemption from implementing any or all phase-out obligations if technical assistance financing (including through the Multilateral Fund established under the Protocol) and actual technology transfer "under fair and most favourable conditions" are felt by an LDC to be "inadequate". This unilateral decision will stand in practice unless overturned in a Meeting of the Parties by a triple majority mechanism requiring a two-thirds vote overall, representing at least a majority of eligible LDCs and of other Parties. Not an easy threshold to overcome.¹⁷

2.2 The Basel Convention

Over the last 30 years, billions of tonnes of hazardous wastes have been dumped or otherwise disposed of in landfills. Industrialized countries account for 95 percent of the global production of such wastes. The transboundary movement of

¹⁴ Articles 2A.4, 2B.2, 2C.3, 2D.2, 2E.3, 2G.1

¹⁵ The agreed definition of "essential" is not narrowly drafted - see Decision IV/24, Handbook, pp. 35-6. In the November 1993 Bangkok Meeting, the Parties decided that there was no justification for granting halon production/consumption exemptions for 1994.

¹⁶ Article 5.1; Decisions I/12E and III/3(d), Handbook, pp. 38-9.

¹⁷ Articles 5.6, 5.9, 10 and 10A.