

# La Paz Agreement

TREATIES AND OTHER INTERNATIONAL ACTS SERIES 10827 ENVIRONMENTAL COOPERATION Agreement Between the UNITED STATES OF AMERICA and MEXICO Signed at La Paz August 14, 1983 NOTE BY THE DEPARTMENT OF STATE Pursuant to Public Law 89-497, approved July 8, 1966 (80 Stat. 271; 1 U.S.C. 113)- ". . . the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof." For sale by the Superintendent of Documents, US Government Printing Office Washington, DC 20402 MEXICO Environmental Cooperation Agreement signed at La Paz August 14, 1983; Entered into force February 16, 1984.

## AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA

The United States of America and the United Mexican States, RECOGNIZING the importance of a healthful environment to the long-term economic and social well-being of present and future generations of each country as well as of the global community; RECALLING that the Declaration of the United Nations Conference on the Human Environment, proclaimed in Stockholm in 1972,[] called upon nations to collaborate to resolve environmental problems of common concern; NOTING previous agreements and programs providing for environmental cooperation between the two countries; BELIEVING that such cooperation is of mutual benefit in coping with similar environmental problems in each country; ACKNOWLEDGING the important work of the International Boundary and Water Commission and the contribution of the agreements concluded between the two countries relating to environmental affairs; REAFFIRMING their political will to further strengthen and demonstrate the importance attached by both Governments to cooperation on environmental protection and in furtherance of the principle of good neighborliness; Have agreed as follows: 1 Department of state Bulletin July 24,1972, P. 116.

ARTICLE 1 The United States of America and the United Mexican States, hereinafter referred to as the Parties, agree to cooperate in the field of environmental protection in the border area on the basis of equality, reciprocity and mutual benefit. The objectives of the present Agreement are to establish the basis for cooperation between the Parties for the protection, improvement and conservation of the environment and the problems which affect it, as well as to agree on necessary measures to prevent and control pollution in the border area, and to provide the framework for development of a system of notification for emergency situations. Such objectives shall be pursued without prejudice to the cooperation which the Parties may agree to undertake outside the border area.

ARTICLE 2 The Parties undertake, to the fullest extent practical, to adopt the appropriate measures to prevent, reduce and eliminate sources of pollution in their respective territory which affect the border area of the other. Additionally, the Parties shall cooperate in the solution of the environmental problems of mutual concern in the border area, in accordance with the provisions of this Agreement.

ARTICLE 3 Pursuant to this Agreement, the Parties may conclude specific arrangements for the solution of common problems in the border area, which may be annexed thereto. Similarly, the Parties may also agree upon annexes to this Agreement on technical matters.

ARTICLE 4 For the purposes of this Agreement, it shall be understood that the "border area" refers to the area situated 100 kilometers on either side of the inland and maritime boundaries between the Parties.

ARTICLE 5 The Parties agree to coordinate their efforts, in conformity with their own national legislation and existing bilateral agreements to Address problems of air, land and water pollution in the border area.

ARTICLE 6 To implement this Agreement, the Parties shall consider and, as appropriate, pursue in a coordinated manner practical, legal, institutional and technical measures for protecting the quality of the environment in the border area. Forms of cooperation may include: coordination of national programs; scientific and educational exchanges; environmental monitoring; environmental impact assessment; and periodic exchanges of information and data on likely sources of pollution in their respective territory which may produce environmentally polluting incidents, as defined in an annex to this Agreement.

ARTICLE 7 The Parties shall assess, as appropriate in accordance with their respective national laws, regulations and policies, projects that have significant impacts on the environment of the border area, that appropriate measures may be considered to avoid or mitigate adverse environmental effects.

ARTICLE 8 Each Party designates a national coordinator whose principal functions will be to coordinate and monitor implementation of this Agreement, make recommendations to the Parties, and organize the annual meetings referred to in Article 10, and the meetings of the experts referred to in Article 11. Additional responsibilities of the national coordinators may be agreed to in an annex to this Agreement. In the case of the United States of America the national coordinator shall be the Environmental Protection Agency, and in the case of Mexico it shall be the Secretaría de Desarrollo Urbano y Ecología, through the Subsecretaría de Ecología.

ARTICLE 9 Taking into account the subjects to be examined jointly, the national coordinators may invite, as appropriate, representatives of federal, state and municipal governments to participate in the meetings provided for in this Agreement. By mutual agreement they may also invite representatives of international governmental or non-governmental organizations who may be able to contribute some element of expertise on problems to be solved. The national coordinators will determine by mutual agreement the form and manner of participation of non-governmental entities.

ARTICLE 10 The Parties shall hold at a minimum an annual high level meeting to review the manner in which this Agreement is being implemented. These meetings shall take place alternately in the border area of Mexico and the United States of America. The composition of the delegations which represent each Party, both in these annual meetings as well as in the meetings of experts referred to in Article 11, will be communicated to the other Party through diplomatic channels.

ARTICLE 11 The Parties may, as they deem necessary, convoke meetings of experts for the purposes of coordinating their national programs referred to in Article 6, and of preparing the drafts of the specific arrangements and technical annexes referred to in Article 3. These meetings of experts may review technical subjects. The opinions of the experts in such meetings shall be communicated by them to the national coordinators, and will serve to advise the Parties technical matters.

ARTICLE 12 Each Party shall ensure that its national coordinator is informed of activities of its cooperating agencies carried out under this Agreement. Each Party shall also ensure that its national coordinator is informed of the implementation of other agreements concluded between the two Governments concerning matters related to this Agreement. The national coordinators of both Parties will present to the annual meetings a report on the environmental aspects of all joint work conducted under this Agreement and on implementation of other relevant agreements between the Parties, both bilateral and multilateral. Nothing in this Agreement shall prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the Water Treaty of 1944.[<sup>1</sup>] 1 Treaty relating to the utilization of waters of the Colorado and

Tijuana Rivers and of the Rio Grande. Signed at Washington Feb. 3, 1944 and supplementary protocol signed Nov. 14, 1944. TS 994; 59 Stat. 1219.

ARTICLE 13 Each Party shall be responsible for informing its border states and for consulting them in accordance with their respective constitutional systems, in relation to matters covered by this Agreement.

ARTICLE 14 Unless otherwise agreed, each Party shall bear the cost of its participation in the implementation of this Agreement, including the expenses of personnel who participate in any activity undertaken on the basis of it. For the training of personnel, the transfer of equipment and the construction of installations related to the implementation of this Agreement, the Parties may agree on a special modality of financing, taking into account the objectives defined in this Agreement.

ARTICLE 15 The Parties shall facilitate the entry of equipment and personnel related to this Agreement, subject to the laws and regulations of the receiving country. In order to undertake the monitoring of polluting activities in the border area, the Parties shall undertake consultations relating to the measurement and analysis of polluting elements in the border area.

ARTICLE 16 All technical information obtained through the implementation of this Agreement will be available to both Parties. Such information may be made available to third parties by the mutual agreement of the Parties to this Agreement.

ARTICLE 17 Nothing in this Agreement shall be construed to prejudice other existing or future agreements concluded between the two Parties, or affect the rights and obligations of the Parties under international agreements to which they are a party.

ARTICLE 18 Activities under this Agreement shall be subject to the availability of funds and other resources to each Party and to the applicable laws and regulations in each country.

ARTICLE 19 The present Agreement shall enter into force upon an exchange of Notes stating that each Party has completed its necessary internal procedures.[']

ARTICLE 20 The present Agreement shall remain in force indefinitely unless one of the Parties notifies the other, through diplomatic channels, of its desire to denounce it, in which case the Agreement will terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any arrangements made under this Agreement.

ARTICLE 21 This Agreement may be amended by the agreement of the Parties.

ARTICLE 22 The adoption of the annexes and of the specific arrangements provided for in Article 3, and the amendments thereto, will be effected by an exchange of Notes.[1]

ARTICLE 23 This Agreement supersedes the exchange of Notes, concluded on June 19, 1978 with the attached Memorandum of Understanding between the Environmental Protection Agency of the United States and the Subsecretariat for Environmental Improvement of Mexico for Cooperation on Environmental Programs and Transboundary Problems.[2] DONE in duplicate, in the city of La Paz, Baja California, Mexico, on the 14th of August of 1983, in the English and Spanish languages, both texts being equally authentic. 1 Annexes subsequently agreed to by the parties are on file in the Office of Treaty Affairs, Department of State. 2 TIAS 9264; 30 UST 1574. 3 Ronald Reagan. 4 George P. Shultz. 5 De la Madrid. 6 B. Sepulveda.

## *Annex I*

### ANNEX I TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES FOR SOLUTION OF THE BORDER SANITATION PROBLEM AT SAN DIEGO, CALIFORNIA - TIJUANA, BAJA CALIFORNIA

Taking note of the extensive discussions held in the last two years between the Governments of the United States of America and the United Mexican States regarding the border sanitation problems in San Diego, California, and Tijuana, Baja California, and cognizant of the obligations adopted by both governments in approving minute 270 of the International Boundary and Water Commission, United States and Mexico (IBWC), signed April 30, 1985 in Ciudad Juárez, Chihuahua, and the special conditions and recommendations adopted on March 6, 1985 by the Inter-American Development Bank in its loan to the Banco Nacional de Obras y Servicios Públicos, S.A. for the expansion and improvement of the potable water supply and sewerage systems of Tijuana (Document PR-1414), the Governments of the United States of America and the United Mexican States have agreed as follows:

1. That, as provided in Articles 6 and 7 of the Agreement on Cooperation for the Protection and improvement of the Environment in the Border Area, and noting Paragraph 7 of the special conditions and recommendations adopted on March 6, 1985 by the Inter-American Development Bank in its loan to the Banco Nacional de Obras y Servicios Públicos, S.A. for the expansion and improvement of the potable water supply and sewerage systems of Tijuana (Document PR-1414), the United States of America and the United Mexican States agree to cooperate in accordance with their prevailing national legislation in order to anticipate and consider the effects and consequences that the works planned may have on environmental conditions in the Tijuana-San Diego zone and, if necessary, agree on a determination of the measures necessary to preserve environmental conditions and ecological processes.
2. That the two governments will hold periodically bilateral consultations through the IBWC in order to address the concerns of both Parties regarding Mexico's plans for the construction of the waste-water treatment facilities included in the second stage of the integrated project.
3. That, as agreed upon in Minute 270, in case of breakdown or interruption in service of the system, Mexico will take special measures to make immediate repairs; and, if Mexico so requests through the IBWC, the United States Section will be responsible for making arrangements so that its country may provide assistance to Mexico in order to ensure that the repairs are carried out immediately through the IBWC and under its supervision.
4. That the two governments will consult immediately on any matter brought to their attention as a result of the joint monitoring of the construction, operation and maintenance of the disposal and treatment facilities conducted by both sections of the IBWC in accordance with Article 2 of the 1944 Water Treaty and Resolution No. 10 of IBWC Minute 270, with a view to taking timely corrective action.
5. Should there develop, despite the best efforts of both parties, sewage spills from Tijuana into the United States, the National Coordinators will consider additional joint actions or measures which each might take in their respective territories to remedy the situation. Done at San Diego on this 18 day of July, 1985 in duplicate, in the English and Spanish languages, both texts being equally authentic. Name For the United States Name For the United Mexican States: of America:

## *Annex II*

ANNEX II TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES REGARDING POLLUTION OF THE ENVIRONMENT ALONG THE INLAND INTERNATIONAL BOUNDARY BY DISCHARGES OF HAZARDOUS SUBSTANCES The Government of the United States Of America and the Government of the United Mexican States; In recognition of Article 3 of the Agreement between the United States of America and the United Mexican States on Cooperation for the Protection and Improvement of the Environment in the Border Area; Aware of the importance of preserving the environment along the joint inland international boundary; Recognizing that pollution by hazardous substances causes or may cause damage to the environment along the joint inland boundary and may constitute a threat to the public health and welfare; Have agreed as follows:

ARTICLE I For the purpose of this Agreement: (a) "A polluting incident" means a discharge or the threat of a discharge of any hazardous substance on one side of the inland international boundary of a magnitude which causes, or threatens to cause, imminent and substantial adverse effects on the public health, welfare, or the environment. (b) "Environment" means the atmosphere, land, and surface and ground water, including the natural resources therein, such as fish, wildlife, forests, crop and rangeland, rivers, streams, aquifers and all other components of the ecosystem. (c) "Hazardous substances" means elements and compounds which if discharged present or may present an imminent and substantial danger to the public health, welfare or the environment according to the laws of each party and the determination of the Joint Response Team (JRT.). The JRT and its responsibilities are defined in Appendix II. (d) "Border area along the joint inland international boundary" means the non-maritime area which is the area situated 100 km on either side of the inland international boundary.

ARTICLE II The Parties agree to establish the "United States-Mexico Joint Contingency Plan" (hereafter, "The Plan") regarding polluting incidents of the border area along the joint inland international boundary of discharges of hazardous substances. The object of the Plan is to provide cooperative measures to deal effectively with polluting incidents.

ARTICLE III The Parties, consistent with their means, commit themselves to the development of response plans designed to permit detection of the existence or the imminent possibility of the occurrence of polluting incidents, within their respective areas and to provide adequate response measures to eliminate to the extent possible the threat posed by such incidents and to minimize any adverse effects on the environment and the public health and welfare.

ARTICLE IV The coordinating authority for the Plan for the United States of America is the United States Environmental Protection Agency. The coordinating authority for the Plan for the United Mexican States is the Secretaría de Desarrollo Urbano y Ecología.

ARTICLE V The Parties will consult and exchange up-to-date information under the Plan.

ARTICLE VI A joint response with respect to a polluting incident will be implemented upon agreement of the Parties in accordance with the plan. When a joint response is implemented, the measures necessary to respond to the polluting incident will also be determined by agreement of the Parties in accordance with the Plan.

ARTICLE VII Nothing in this Agreement shall be construed to prejudice other existing or future Agreements concluded between the two Parties, or affect the rights and obligations of the Parties under international agreements to which they are a party. Nothing in this Agreement shall prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the Water Treaty of 1944.

ARTICLE VIII The Parties may, through an exchange of notes, add technical Appendices to this Agreement, or amend existing Appendices. The Appendices to this Agreement and any additional agreed Appendices shall form an integral part of the Agreement.

ARTICLE IX Pursuant to this Agreement, the Parties may conclude specific arrangements for the solution of common problems in the border area.

ARTICLE X The National Coordinators shall be responsible for the development of an implementation schedule and putting the Plan into effect.

#### ARTICLE XI

(1) This Agreement shall enter into force upon the date of an exchange of notes informing each Party that the other Party has completed its necessary internal procedures.

(2) The present Agreement shall remain in force indefinitely unless one of the Parties notifies the other, through diplomatic channels, of its desire to denounce it, in which case the Agreement will terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any arrangements made under this Agreement. Done at San Diego on this 18 day of July, 1985 in duplicate, in the English and Spanish languages, both texts being equally authentic. Name For the United States of America: Name For the United Mexican States:

#### JOINT CONTINGENCY PLAN APPENDIX I

##### 1. On-scene Coordinator

1.1. An soon as the Agreement enters into force each Party will designate, without waiting for a polluting incident to occur, officials responsible for exercising in its territory the functions and responsibilities described in section 1.2. Said officials will have the title of "On-Scene Coordinator (OSC). Each Party will also designate officials who will have advisory and liaison functions. Said officials will have the title of "Advisory and Liaison Coordinator" (ALC). Each Party will divide its territory into areas and will designate OSCs and ALCs for each of those areas.

1.2 The functions and responsibilities of the On-Scene Coordinator will be:

- (a) To coordinate and direct measures related to the detection of polluting incidents;
- (b) To coordinate and direct response measures;
- (c) To authorize the use of dispersants and other chemical products in accordance with their respective laws and national policy, provided that such use:

- (I) prevents or substantially reduces the risk to human life and health or the risk of fire;
- (ii) prevents or reduces a threat to the environment; or
- (iii) appears to be the most effective method to reduce the overall adverse effects of the polluting incident.

(d) To determine the facts concerning the polluting incident, including the nature, quantity and location of the pollutant the direction and probable time of travel of the pollutant; the available resources and those required and the potential impacts on public health an welfare and on the environment;

(e) To determine priorities and to decide when to initiate a joint response in accordance with this Agreement;

(f) To notify immediately the two Chairmen of the Joint Response Team (JRT) (see Appendix II) about every polluting incident which has occurred, or which is in imminent danger of occurring, which in the judgment of the OSC may require the initiation of a joint response.

- (g) To recommend to the Chairman of the JRT of his country that he formally propose to the Chairman of the JRT of the other Party the initiation of the joint response envisaged in Article VI, for a specific pollution incident;
- (h) To make detailed situation reports to the Joint Response Team (JRT) described in Appendix II about all aspects of the polluting incident and of the response operation.
- (I) To keep a journal of the events occurring during the polluting incident which will be available to the JRT.
- (j) To recommend to the Co-Chairmen of the JRT, after consultation with the ALC, the termination of a joint response action;
- (k) To prepare and submit to the JRT, with the advice of the ALC, a final report on each polluting incident, which includes any recommendation for the handling of future incidents;

1.3 If response action is required in the territories of both Parties, the OSC's of both Parties will coordinate the measures to be adopted through the collaboration of both ALC's.

1.4 In accordance with national legislation and as soon as the Agreement enters into force, special customs, immigration and other necessary authorization mechanisms will be sought by each Party.

## APPENDIX II

### 2. Joint Response Team (JRT)

2.1. As soon as the Agreement enters into force, the coordinating authorities of each party will designate, without waiting for a polluting incident to occur, its members on the JRT and will communicate its designations to the other Party.

2.2 The United States coordinating authorities will designate the U.S. Co-Chairman of the JRT. The Mexican coordinating authorities will designate the Mexican Co-Chairman of the JRT.

2.3 When the JRT meets in the United States of America, the U.S. Co-Chairman will preside. When the JRT meets in Mexico, the Mexican Co-Chairman will preside.

2.4 As soon as the U.S. and Mexican sections of the JRT are designated, the Co-Chairmen jointly will call a first meeting to begin developing procedures for a carrying out of a joint response to a polluting incident. The JRT will meet as many times, both in periodic planning meetings and in emergency meetings, as may be decided by the Co-Chairmen.

2.5 Upon being notified of a polluting incident the Co-Chairman of the JRT will immediately acknowledge receipt of the notification. They will consult and may decide to formally propose to their respective National Coordinators the initiation of the joint response. If the National Coordinators decide to initiate a joint response, the U.S. National Coordinator shall immediately notify its decision to the United States Department of state and the Mexican National Coordinator shall immediately notify its decision to the Mexican Secretariat of Foreign Relations. Each Party shall promptly notify the other through diplomatic channels whether it agrees to initiate a Joint response.

2.6 When the two Parties have agreed to initiate a joint response to a polluting incident, the functions and responsibilities of the JRT will be the following:

- (a) Based on the OSC's initial notification, advise the OSC under Appendix I, paragraph 1.2, about measures needed to respond to the incident and what resources under Appendix I, are available to carry out those measures.
- (b) To evaluate and make recommendations concerning the measures taken by the OSC.
- (c) To provide continuing advice to the OSC.
- (d) To consider the journal and reports of the OSC and recommend to the National Coordinators improvements needed in the Plan.
- (e) Based on the reports of the OSC, to assess the possible impacts of though polluting incident and to recommend measures necessary to mitigate the adverse effects of such incident.
- (f) To take measures to coordinate and use to the maximum the resources which agencies or persons of the United States of America, or of the United Mexican States, or of a third party can contribute.

2.7. The JRT wilt make decisions by the agreement of the Co-Chairmen.

2.8. Upon the recommendation of the OSC and the ALC to terminate the joint response, the Co-Chairmen shall consult with the National Coordinators and the joint response may be terminated by mutual agreement. The U.S. National Coordinator shall immediately notify the decision to the U.S. Department of State and the Mexican National Coordinator to the Mexican Secretariat of Foreign Relations.

### *Annex III*

ANNEX III TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES REGARDING THE TRANSBOUNDARY SHIPMENTS OF HAZARDOUS WASTES AND HAZARDOUS SUBSTANCES

PREAMBLE The Government of the United States of America ("the United States"), and the Government of the United Mexican States ("Mexico") ("the Parties"), Recognizing that health and environmental damage may result from improper activities associated with hazardous waste; Realizing the potential risks to public health, property and the environment associated with hazardous substances; Seeking to ensure that activities associated with the transboundary shipment of hazardous waste are conducted so as to reduce or prevent the risks to public health, property and environmental quality, by effectively cooperating in regard to their export and import; Seeking also to safeguard the quality of public health, property and environment from unreasonable risks by effectively regulating the export and import of hazardous substances;

Considering that transboundary shipments of hazardous waste and hazardous substances between the Parties, if carried out illegally and thus without the supervision and control of the competent authorities, or if improperly managed could endanger the public health, property and environment, particularly in the United States/Mexico border area; Recognizing that the close trading relationship and the long common border between the Parties make it necessary to cooperate regarding transboundary shipments of hazardous waste and hazardous substances without unreasonably affecting the trade of goods and services;

Reaffirming Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm, which provides that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction; Recognizing that Article 3 of the Agreement between the Parties on Cooperation for the Protection and Improvement of the Environment in the Border Area of 1983 provides that the Parties may conclude specific arrangements for the solution of common problems in the border area as annexes to that Agreement; Have agreed as follows:



## ARTICLE I Definitions

1. "Designated Authority" means, in the case of the United States, the Environmental Protection Agency and, in the case of Mexico, the Secretariat of Urban Development and Ecology through the Subsecretariat of Ecology.
2. "Hazardous waste" means any waste, as designated or defined by the applicable designated authority pursuant to national policies, laws or regulations, which if improperly dealt with in activities associated with them, may result in health or environmental damage.
3. "Hazardous substance" means any substance, as designated or defined by the applicable national policies, laws or regulations, including pesticides or chemicals, which when improperly dealt with in activities associated with them, may produce harmful effects to public health, property or the environment, and is banned or severely restricted by the applicable designated authority.
4. "Activities" associated with hazardous waste or hazardous substances means, as applicable, their handling, transportation, treatment, recycling, storage, application, distribution, reuse or other utilization.
5. "Country of export" means the Party from which the transboundary movement of hazardous waste or hazardous substances is to be initiated.
6. "Country of Import" means the Party to which the hazardous waste or hazardous substances are to be sent. This does not include "transit", as meaning transport of hazardous waste or hazardous substances through the territory of a Party without being imported through its Customs under applicable laws and regulations.
7. "Consignee" means the facility in the country of import which will ultimately receive the hazardous waste or hazardous substances.
8. "Exporter" means the physical or juridical person, whether public or private, acting on his behalf or as a contractor or subcontractor expressly or implicitly defined as exporter under the national laws and regulations of the country of export which specifically govern hazardous waste or hazardous substances.
9. "Banned or severely restricted" means final regulatory action, as designated or defined by the applicable designated authority, pursuant to national policies, laws or regulations.
  - a) Prohibiting, cancelling or suspending all or virtually all registered uses of a pesticide for human health or environmental reasons.
  - b) Prohibiting or severely limiting the manufacture, processing, distribution or use of a chemical for human health or environmental reasons.

## ARTICLE II General Obligations

1. Transboundary shipments of hazardous waste and hazardous substances across the common border of the Parties shall be governed by the terms of this Annex and their domestic laws and regulations.
2. Each Party shall ensure, to the extent practicable, that its domestic laws and regulations are enforced with respect to transboundary shipments of hazardous waste and hazardous substances, and other substances as the Parties may mutually agree through appendices to this Annex, that pose dangers to public health, property and the environment.
3. Each Party shall cooperate in monitoring and spot-checking transboundary shipments across the common border of hazardous waste and hazardous substances to ensure, to the extent practicable, that such shipments conform to the requirements of this Annex and its national laws and regulations. To this effect, a program of cooperation in this area should be concluded through an Appendix to this Annex, including the exchange of information

resulting from the monitoring and spot-checking of transboundary shipments which may be useful to the other Party.

#### HAZARDOUS WASTE ARTICLE III Notification to the Importing Country

1. The designated authority of the country of export shall notify the designated authority of the country of import of transboundary shipments of hazardous waste for which the consent of the country of import is required under the laws or regulations of the country of export, with a copy of the notification simultaneously sent through diplomatic channels.

2. The notification referred to in paragraph 1 of this Article shall be given at least 45 days in advance of the planned date of export and may cover an individual shipment or a series of shipments extending over a twelve-month or lesser period and shall contain the following information for each shipment:

- a) The exporter's name, address, telephone number, identification number and other relevant data required in the country of export.
- b) By consignee, for each hazardous waste type:
  - i) A description of the hazardous waste to be exported, as identified by the waste identification number(s) and the shipping description(s) required in the country of export.
  - ii) The estimated frequency or rate at which such waste is to be exported and the period time over which such waste is to be exported.
  - iii) The estimated total quantity of the hazardous waste in units as specified by the manifest or documents required in the country of export.
  - iv) The point of entry into the country of import.
  - v) The means of transportation, including the mode of transportation and the type of container involved.
  - vi) A description of the treatment or storage to which the waste will be subjected in the country of import.
  - vii) The name and site address of the consignee.

3. In order to facilitate compliance with the requirements of the importing country for the exporter to provide information and documents additional to those described in paragraph 2 of this Article, the designated authority of the exporting country will cooperate by making such requirements for information and documents known to the exporter. To that end, the country of import may list such additional required information and documents in appendices to this Annex.

4. The designated authority of the country of import shall have 45 days from the date of acknowledgement of receipt of the notification provided in paragraph 1 of this Article within which to respond to such notification, indicating its consent, with or without conditions, or its objection to the export.

5. The country of import shall have the right to amend the terms of the proposed shipment contained in the notification in order to give its consent.

6. The consent of the country of import provided pursuant to paragraphs 4 and 5 of this Article, may be withdrawn or modified at any time, pursuant to the national policies, laws or regulations of the country of import.

7. Whenever the designated authority of a country of export requires notification of or is otherwise aware of a transboundary shipment that will be transported through the territory of the other Party, it shall, in accordance with its national laws and regulations, notify that Party.

ARTICLE IV Readmission of Exports The country of export shall readmit any shipment of hazardous waste that may be returned for any reason by the country of import.

HAZARDOUS SUBSTANCES ARTICLE V Notification of Regulatory Actions

1. When a Party has banned or severely restricted a pesticide or chemical, its designated authority shall notify the designated authority of the other Party that such action has been taken either directly or through an appropriate intergovernmental organization.
2. The notice referred to in paragraph 1 of this Article shall contain the following information, if available:
  - (a) the name of the pesticide or chemical that is the object of the regulatory action;
  - (b) a concise summary of the regulatory action taken, including the timetable for any further actions that are planned. If the regulatory action bans or restricts certain uses but allows other uses, such information should be included;
  - (c) a concise summary of the reason for the regulatory action, including an indication of the potential risks to human health or the environment that are the grounds for the action;
  - (d) information concerning registered pesticides or substitute chemicals that could be used in lieu of the banned or severely restricted pesticide or chemical;
  - (e) the name and address of the contact point to which a request for further information should be addressed.

ARTICLE VI Notification of Exports

1. If the country of export becomes aware that an export of a hazardous substance to the country of import is occurring, the designated authority of the country of export shall notify the designated authority of the country of import.
2. The purpose of such notice shall be to remind the country of import of the notification regarding regulatory action provided pursuant to Article 5 and to alert it to the fact that the export is occurring.
3. The notice referred to in paragraph 1 of this Article shall contain the following information, if available:
  - (a) the name of the exported hazardous substance;
  - (b) for banned or severely restricted chemicals, approximate date(s) of the export;
  - (c) a copy of, or reference to, the information provided at the time of the notification of the regulatory action;
  - (d) name and address of the contact point for further information.

ARTICLE VII Timing of the Notifications

1. Notification of regulatory actions, required pursuant to Article 5, shall be transmitted as soon as practicable after the regulatory action has been taken, and in any event not later than 90 days following the taking of such action.
2. When a Party has banned or severely restricted chemicals or pesticides prior to the entry into force of this Annex, its designated authority shall provide an inventory of such prior regulatory actions to the designated authority of the other Party.
3. Notification of exports required pursuant to Article 6, shall be provided at the time the first export of a hazardous substance is occurring to the Country of import following the regulatory action and should recur at the time of the first export of the hazardous substance each subsequent year to that country.

4. When the hazardous substance being exported has been banned or severely restricted prior to the entry into force of this Annex, the first export following the regulatory action shall be considered to be the first export following the provision of the inventory referred to in paragraph 2 of this Article.

ARTICLE VIII Compliance with Requirements in the Importing Country In order to facilitate compliance with the requirements in the importing country for the import of hazardous substances, the designated authority of the country of export will cooperate by making such requirements, including expected information and documents, known to the exporter. To that end, the country of import may list such requirements, information and documents in appendices to this Annex.

ARTICLE IX Readmission of Exports The country of export shall readmit any shipment of hazardous substances that was not lawfully imported into the country of import.

GENERAL PROVISIONS ARTICLE X Additional Arrangements

1. The Parties shall consider and, as appropriate, establish additional arrangements to mitigate or avoid adverse effects on health, property and the environment from improper activities associated with hazardous waste and hazardous substances. Such arrangements may include the sharing of research data as well as the definition of criteria regarding imminent and substantial endangerment and emergency responses, and may be included in appendices to this Annex.

2. The Parties shall consult regarding experience with transboundary shipments of hazardous wastes and hazardous substances and, as problems are identified in the special circumstances of the United States-Mexico border relationship may include through appendices to this Annex, additional cooperation and mutual obligations aimed at achieving when necessary a more stringent control of transboundary shipments, such as provisions to bring uniformity in those relating to both hazardous wastes and hazardous substances regarding compulsory notification to and consent by the importing country for each transboundary shipment, as may become permitted by new national laws and regulations adopted by the Parties.

ARTICLE XI Hazardous Waste Generated From Raw materials Admitted In-Bond Hazardous waste generated in the processes of economic production, manufacturing, processing or repair, for which raw materials were utilized and temporarily admitted, shall continue to be readmitted by the country of origin of the raw materials in accordance with applicable national policies, laws and regulations.

ARTICLE XII Information Exchange and Assistance

1. The Parties shall, to the extent practicable, provide to each other, mutual assistance designed to increase the capability of each Party to enforce its laws applicable to transboundary shipments of hazardous waste or hazardous substances and to take appropriate action with respect to violators of its laws.

(a) Such assistance may generally include:

- (i) the exchange of information;
- (ii) the provision of documents, records and reports;
- (iii) the facilitating of on-site visits to treatment, storage, or disposal facilities;
- (iv) assistance provided or required pursuant to any international agreements or treaties in force with respect to the Parties, or pursuant to any arrangement or practice that might otherwise be applicable;
- (v) emergency notification of hazardous situations; and
- (vi) other forms of assistance mutually agreed upon by the Parties.

(b) Save in exceptional circumstances, requests for assistance made pursuant to this Article shall be submitted in writing and translated into the language of the requested State.

(c) The requested State shall provide the requesting State with copies of publicly available records of government departments and agencies in the requested State.

(d) The requested State may provide any record or information in the possession of a government office or agency, but not publicly available, to the same extent and under the same conditions as it would be available to its own administrative, law enforcement, or judicial authorities.

2. The Parties may establish in an appendix to this Annex a cooperative program relating to the exchange of scientific, technical, and other information for purposes of the development of their own respective regulatory mechanisms controlling hazardous waste and hazardous substances

ARTICLE XIII Protection of Confidential Information The Parties shall adopt procedures to protect the confidentiality of proprietary or sensitive information conveyed pursuant to this Annex, when such procedures do not already exist.

#### ARTICLE XIV Damages

1. The country of import may require, as a condition of entry, that any transboundary shipment of hazardous waste or hazardous substances be covered by insurance, bond or other appropriate and effective guarantee.

2. Whenever a transboundary shipment of hazardous waste or hazardous substances is carried out in violation of this Annex, of the national laws and regulations of the Parties, or of the conditions to which the authorization for import was subject, or whenever the hazardous waste or hazardous substances produce damages to public health, property or the environment in the country of import, the competent authorities of the country of export shall take all practicable measures and initiate and carry out all pertinent legal actions that they are legally competent to undertake, so that when applicable in accordance with its national laws and regulations the physical or juridical persons involved:

- a) return the hazardous waste or hazardous substances to the country of export;
- b) return in as much as practicable the status quo ante of the affected ecosystem;
- c) repair, through compensation, the damages caused to persons, property or the environment. The country of import shall also take, for the same purposes, all practicable measures and initiate and carry out all pertinent legal actions that its authorities are legally competent to undertake.

The country of export shall report to the country of import all measures and legal actions undertaken in the framework of this paragraph, and shall cooperate with the country of import, on the basis of this Annex or of other bilateral treaties and agreements in force between the Parties, and to the extent permitted by its national laws and regulations, to seek in its courts the satisfaction of those matters covered in subparagraphs a) to c) of this paragraph.

3. The provisions of this Annex shall not be deemed to abridge or prejudice the Parties' national laws concerning transboundary shipments, or liability or compensation for damages resulting from activities associated with hazardous waste and hazardous substances.

#### ARTICLE XV Effect On Other Instruments

1. Nothing in this Annex shall be construed to prejudice other existing or future agreements concluded between the Parties, or affect the rights or obligations of the Parties under international agreements to which they are Party.

2. The provisions of this Annex shall, in particular not be deemed to prejudice or otherwise affect the functions entrusted to the International Boundary and Water

Commission, in accordance with the 1944 Treaty on the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande.

ARTICLE XVI Appendices Any appendices to this Annex may be added through an exchange of diplomatic notes and shall form an integral part of this Annex.

ARTICLE XVII Amendment This Annex, and any appendices added hereto, may be amended by mutual agreement of the Parties through an exchange of diplomatic notes.

ARTICLE XVIII Review The Parties shall meet at least every two years from the date of entry into force of this Annex, at a time and place to be mutually agreed upon, in order to review the effectiveness of its implementation and to agree on whatever individual and joint measures are necessary to improve such effectiveness.

ARTICLE XIX Entry into Force This Annex shall enter into force upon an exchange of diplomatic notes between the Parties stating that each Party has completed its necessary internal procedures.

Article XX Termination This Annex shall remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its desire to terminate it, in which case the Annex shall terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any agreements made under this Annex.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Annex. DONE at Washington, in duplicate, this twelfth day of November, 1986 in the English and Spanish languages, both texts being equally authentic. Names FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: Names FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

#### *Annex IV*

ANNEX IV TO THE AGREEMENT BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA AGREEMENT OF COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND THE UNITED MEXICAN STATES REGARDING TRANSBOUNDARY AIR POLLUTION CAUSED BY COPPER SMELTERS ALONG THEIR COMMON BORDER P R E A M B L E The Government of the United States of America ("the United States"), and the Government of the United Mexican States ("Mexico"), ("the Parties"), Recognizing public concern for health and environmental damage resulting from air pollution caused by copper smelters along their common border; Taking note that such public concern led to consultations between the Parties in the framework of their Agreement on Cooperation for the Protection and Improvement of the Environment in the Border Area of 1983 ("the 1983 Agreement"); Taking note also with satisfaction that such consultations led to the taking by each of the Parties, in their respective territories, of measures which will yield an improvement of the air quality in the border area; Recognizing that the decision in the United States to close the Phelps Dodge copper smelter in Douglas, Arizona, by January 15, 1987, will constitute a significant contribution to the protection of the environment in the border area; Recognizing also that the efforts already in progress in Mexico to establish a high efficiency plant for the processing of sulphur dioxide to sulphuric acid, in the Mexicana de Cobre La Caridad copper smelter in Nacozari, Sonora, by June 1, 1988, will constitute a significant contribution to the protection of the environment in the border area; Considering the importance for the Parties to ensure the implementation of the above described measures, as well as the need to contemplate the adoption of other measures to further protect and improve air quality from activities by copper smelters in the border area; Reaffirming Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm, which provides that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause

damage to the environment of other States or of areas beyond the limits of national jurisdiction; Desirous to cooperate effectively to protect public health and welfare from the effects of air pollution caused by copper smelters in the border area; and Recalling that Article 3 of the 1983 Agreement provides that the Parties may conclude specific arrangements for the solution of common problems in the border area as annexes to that Agreement, Have agreed as follows:

#### ARTICLE I Emissions Reduction Measures

1. The United States undertakes to ensure that in the event that the Phelps Dodge copper smelter in Douglas, Arizona, recommences smelting after January 15, 1987, or that any other copper smelter is established in its side of the border area in the future, such smelter will be subject upon commencement of smelting operations to the taking of effective measures necessary to ensure that sulphur dioxide emissions shall not exceed .065 percent by volume during any six-hour period.

2. In the United States other existing copper smelters in its side of the border area, whether currently operating or not, will continue to be subject to effective control measures necessary to protect the environment from sulphur dioxide emissions, as provided by applicable state and federal law.

3. Mexico undertakes to ensure that operations of the Mexicana de Cobre la Caridad copper smelter in Nacozari, Sonora, after 1 June 1988, or the establishment of any other copper smelter in its side of the border area in the future, will upon commencement of operations be subject to the taking of effective measures necessary to ensure that sulphur dioxide emissions shall not exceed .065 percent by volume during any six-hour period. Until that date, the Nacozari smelter will continue operating at a maximum average sulphur dioxide emissions limit that does not exceed any ambient concentration up to 0.13 parts per million during any twenty-four hour period.

4. Mexico undertakes to ensure that any future expansion of the smelting capacity of the Compania Minera de Cananea copper smelter in Cananea, Sonora, will be subject, at the time of commencement of such expanded operations, to the taking of effective measures to ensure that sulphur dioxide emissions shall not exceed .065 percent by volume during any six-hour period.

5. For the purpose of determining compliance with the .065 emissions limitation established in this Annex,

a) Six-hour average sulphur dioxide concentrations shall be, calculated and recorded daily for the four consecutive six-hour periods of each operating day, beginning at 12 a.m.

b) Each six-hour period shall be contiguous one-hour average sulphur dioxide concentrations.

c) One-hour average emissions concentrations shall be computed from four or more data points equally spaced over each one-hour period.

6. The Parties shall endeavor to take, subject to the availability of resources, any other appropriate interim emissions reduction measures intended to protect public health and welfare from air pollution caused by copper smelters in the border area.

#### ARTICLE II Emissions Monitoring, Recordkeeping and Reporting Systems

1. Any copper smelter that, in accordance with this Annex, will be required to comply with the emissions limitation of .065 percent by volume during any six-hour period, shall install, operate and maintain continuous emissions monitoring, recordkeeping and reporting systems, on the following bases:

a) For the purpose of monitoring emissions of sulphur dioxide, the monitoring system shall be installed, calibrated and maintained by the owner or operator of any copper smelter to which this Article applies,

with zero and span checks to be performed daily and a quality assurance program.

b) For the purpose of recordkeeping, all records of emissions shall be kept for two years following the dates of such emissions, and:

i) other information to be kept on file may include continuous monitoring system, monitoring device and performance testing measurements, all continuous monitoring system or monitoring device calibration checks adjustments or maintenance performed on these systems or devices, and all other information that the competent national authority may require be kept.

ii) the smelter owner or operator shall be required to keep a monthly record of the total smelter charge.

iii) The copper smelter owner or operator shall be required to submit to the competent national authority, on a quarterly basis, written reports of sulphur dioxide emissions that exceed .065 percent by volume during any six-hour period as well as the following information: The magnitude of any emissions which exceed .065 percent by volume during any six-hour period, and the date and time of commencement and completion of each time period of these emissions. - Specific identification of each six-hour period in which emissions exceed .065 percent by volume during startup, shutdown or malfunctions of the smelter, the nature and cause of any malfunction, if known, and the corrective actions taken. The date, time, and duration of each period during which the continuous monitoring system was inoperative, except for zero and span checks, and the nature of the system repairs or adjustments.

2. The emissions monitoring, recordkeeping and reporting systems referred to in paragraph 1 of this Article, are aimed at availing each Party with adequate information to enable it to undertake whatever practicable measures are regarded as appropriate, or to enable the Parties to cooperate to that end, and in no way shall such resulting information be interpreted so as to alter the commitments of the Parties specified in Article I of this Annex or in any of its other provisions.

3. The Parties shall consult in order to find effective means of cooperation, to ensure the most immediate means for the prompt and full implementation of the provisions in this Article.

ARTICLE III Atmospheric Monitoring Facilities The Parties shall continue to consult concerning their existing atmospheric monitoring facilities located in the border area, and will continue to cooperate to enhance effective monitoring.

#### ARTICLE IV Working Group of Technical Experts

1. The Parties confirm the binational body established by the First Annual Meeting of National Coordinators, in the spirit of Article 11 of the 1983 Agreement, of technical experts known as the U.S.-Mexico Air Quality working Group ("Working Group"). The working Group shall be co-chaired by officials who shall be appointed by and report to the United States and Mexican Coordinators ("National Coordinators") as provided for under Article 8 of the 1983 Agreement. The Working Group shall meet on a regular basis and shall include participation, as appropriate or necessary, of state and local officials from both countries.



2. The Working Group shall meet at least once every six months to review progress in abating smelter pollution in the border area, as contemplated by this Annex and, if necessary, to make findings on additional corrective measures for recommendation to the National Coordinators. The Working Group shall submit all its recommendations and its evaluation of the Parties' compliance with the terms of this Annex in a bi-annual report to the National Coordinators. The National Coordinators shall, by mutual agreement, implement such recommendations as they deem appropriate.

3. The National Coordinators shall forward all Working Group reports to the respective Foreign Ministries in each country, namely, the Department of State, in the case of the United States, and the Secretariat of External Relations, in the case of Mexico, and shall recommend, taking into account Working Group reports, such additional action as may be needed to further the purposes of this Annex.

4. The Parties shall, consistent with their respective domestic legislation and regulations, exchange information and data on copper smelters in their respective border states, and also ensure that the Working Group is provided with complete information, including atmospheric and emissions monitoring data in the border area and other information either existing or which may become available as a result of this Annex.

ARTICLE V Legislative Authority The Parties will promote legislative authority, as may be necessary, to provide for the abatement of transboundary air pollution caused by copper smelters. The Parties shall continue to consult with respect to these matters.

ARTICLE VI Effect on Other Instruments

1. Nothing in this Annex shall be construed to prejudice other existing or future agreements concluded between the Parties, or affect the rights or obligations of the Parties under international agreements to which they are Party.

2. The provisions of this Annex shall, in particular, not be deemed to prejudice or otherwise affect the functions entrusted to the International Boundary and Water Commission, in accordance with the 1944 Treaty on the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande.

ARTICLE VII Appendices Any appendices to this Annex may be added through an exchange of diplomatic notes and shall form an integral part of this Annex.

ARTICLE VIII Amendment This Annex, and any appendices added hereto, may be amended by mutual agreement of the Parties through an exchange of diplomatic notes.

ARTICLE IX Review The Parties shall meet at least every two years from the date of entry into force of this Annex, at a time and place to be mutually agreed upon, in order to review the effectiveness of its implementation and to agree on whatever individual and joint measures are necessary to improve such effectiveness.

ARTICLE X Entry into Force This Annex shall enter into force upon an exchange of diplomatic notes between the Parties stating that each Party has completed its necessary internal procedures.

ARTICLE XI Termination This Annex shall remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its desire to terminate it, in which case the Annex shall terminate six months after the date of such written notification. Unless otherwise agreed, such termination shall not affect the validity of any agreements made under this Annex.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Annex. DONE at Washington, in duplicate, this twenty-ninth day of January, 1987, in the English and Spanish languages, both texts being equally authentic. NAME FOR THE GOVERNMENT OF

THE UNITED STATES OF AMERICA: NAME FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES:

*Annex V*

ANNEX V TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA AGREEMENT OF COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION The Government of the United States of America ("the United States") and the Government of the United Mexican States ("Mexico") ("the Parties"), Recognizing that health and environmental damage may result from emissions of air pollutants in urban areas; Realizing that the transport of air pollutants occurs from border cities of the United States to border cities of Mexico and from border cities of Mexico to border cities of the United States; Seeking to ascertain the magnitude of such air pollutant transport and the physical mechanisms facilitating this transport; Realizing that certain adjacent areas in the United States and in Mexico fail to meet their countries' respective ambient air quality standards for various pollutants; Seeking to ensure a reduction in air pollution concentrations for the benefit of their citizens living in urban areas along the United States-Mexico border; Reaffirming Principle 21 of the 1972 Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm, which provides that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or areas beyond the limits of national jurisdiction; Recognizing that Article 3 of the Agreement between the Parties on Cooperation for the Protection and Improvement of the Environment in the Border Area of 1983 ("the 1983 Agreement") provides that the Parties may conclude specific arrangements for the solution of common problems in the border areas as annexes to that Agreement, Have agreed as follows:

ARTICLE I DEFINITIONS

1. "Study area" means each specific geographic area of urban air pollution concern which the Parties agree to subject to the requirements of this Annex, as listed in the appendices to this Annex.
2. "Selected pollutants" means those air contaminants chosen by the Parties for each "study area", as listed in the appendices to this Annex.
3. "Major stationary source" means any stationary source with emissions greater than 97 metric tons (100 tons) per year for which there is a specific air pollution control standard in force, any other source with emissions greater than 243 metric tons (250 tons) per year, and any other stationary source which the Parties mutually so designate for the purposes of this Annex.
4. "Air pollution control standards" means technologically-achievable limits for controls on air pollution emissions from stationary sources (e.g., New Source Performance Standards and Limites de Emision para Fuentes Nuevas).
5. "Ambient air quality standards" means critical ambient levels of air pollutants (e.g., the National Ambient Air Quality Standards and la Norma Mexicana de Calidad del Aire).
6. "Mobile sources" means automotive, bus or truck vehicles, off-road vehicles, waterborne vessels, and aircraft.
7. "Area sources" means all emitters of air contaminants other than major stationary sources and mobile sources.
8. "Industrial classification" means a system of classifying various industrial activities by organizing them into comparable types (e.g., the Standard Industrial Classification (SIC) Code and el Sistema Nacional de Informacion de Fuentes Fijas (SNIFF)).
9. "Emission point type" means the small-scale source of pollutant release, namely stack, fugitive, volume, or line.

## ARTICLE II GENERAL OBLIGATIONS

1. For each study area, the Parties shall detail in their respective territory the magnitude of emissions of selected pollutants and the name, type, and location of each source of pollution, if it is a major stationary source,
2. For each study area, the Parties shall identify in their respective territory the nature and magnitude of control requirements, if any, for each major stationary source needed to conform to the air pollution control standards applicable to that source type and shall identify relatively simple and quickly initiated controls and/or changes in management practice to reduce air pollution from each major stationary source not meeting applicable air pollution control standards.
3. For each study area, the Parties shall estimate in their respective territory the emissions of the selected pollutants due to the activities of all mobile and area sources.
4. The Parties shall issue a joint report incorporating their findings under (1), (2), and (3) above within six months of making such findings.
5. Each Party shall, in its territory, perform ambient monitoring of common selected pollutants and meteorological parameters in each study area in such a way as to ascertain the pollution concentrations arising from each separate urban area and those concentrations due to the interaction of pollutants originating from both urban areas.
6. Each Party shall issue reports at agreed-upon intervals of time, but not longer than yearly intervals, detailing the results of monitoring carried out under (5) above.
7. Each Party shall, in its territory, perform monitoring to the extent necessary to successfully support the use of a state-of-the-art mathematical air modeling analysis. The Parties shall perform the modeling analysis in order to assess accurately the effect of changes in emission levels from each source type within the study area on the ambient concentrations of the related pollutants within the study area.
8. Monitoring in each study area will continue for a period of two years from the commencement Of each study, at which Point the Parties will decide whether further monitoring is desired.

## ARTICLE III COMPILING AIR POLLUTION EMISSION INFORMATION AS OUTLINED IN INVENTORIES AND SOURCE IN ARTICLE II

1. For the Purposes Of Article II, each Party shall compile air Pollution emission inventories and source information with respect to its territory.
2. The emission inventories shall be based upon emission factors that are mutually acceptable to both Parties.
3. Each Party shall list the emissions of each major stationary source in its territory in mutually agreed-upon conventional units of measure with the source's address and industrial classification; for each separate emission point in the major stationary source, each Party shall list the emissions, latitude and longitude, emission point type, stack diameter, stack height, stack gas exit velocity, stack gas exit temperature, width, length, and height, where applicable. 4. Utilizing the information obtained under (2) and (3) above, each Party shall identify those major stationary sources in its territory that do not meet applicable air Pollution control standards for each selected pollutant. For all such sources, the Parties shall, based upon site visits and/or good engineering practice:
  - (a) identify the type and extent of Pollution control equipment which would be required to bring each such source into conformity with applicable air pollution control standards for each selected pollutant; and
  - (b) identify relatively simple and quickly initiated controls and/or changes in management practice to reduce air pollution from each such source.

The Parties shall also identify the approximate percentage of emissions reduction of each selected pollutant that would result from such controls and/or changes in management practice. Participants designated by one Party for agreed site visits in the territory of the other Party shall have the status of observers.

## ARTICLE IV PERFORMANCE OF MONITORING AND MODELING AS OUTLINED IN

## ARTICLE II

1. For the purposes of Article II, each Party shall perform the tasks related to monitoring and modeling with respect to its territory.
2. Each Party shall, in its territory, locate and operate monitors in each study area in numbers sufficient to fulfill the goals of this Annex to assess ambient concentrations of the selected pollutants.
3. Each Party shall, in its territory, locate and operate meteorological stations in numbers sufficient to fulfill the goals of this Annex; these stations shall monitor for the following parameters on a continuous basis: wind speed, wind direction, and temperature.
4. All details relating to the nature, number and placement of the monitoring devices used in (2) and (3) above shall be mutually agreed upon by the Parties.
5. Analysis associated with monitoring and quality assurance shall be conducted in a manner mutually agreed upon by the Parties.
6. The state-of-the-art mathematical modeling analysis shall be either a dispersion modeling analysis or a receptor modeling analysis or both, as mutually agreed upon by the Parties; supplementary analyses may be authorized by mutual consent of the Parties.

**ARTICLE V HARMONIZATION OF STANDARDS** In order to make more effective the implementation of this Annex, the Parties shall jointly explore ways to harmonize, as appropriate, their air pollution control standards and ambient air quality standards in accordance with their respective legal procedures.

**ARTICLE VI PROTECTION OF CONFIDENTIAL INFORMATION** The Parties shall adopt procedures to protect the confidentiality of proprietary or sensitive information conveyed pursuant to this Annex, when such procedures do not already exist.

**ARTICLE VII EFFECT ON OTHER INSTRUMENTS** Nothing in this Annex or its appendices shall be construed to prejudice other existing or future agreements concluded between the Parties, or affect the rights or obligations of the Parties under international agreements to which they are party.

**ARTICLE VIII IMPLEMENTATION** Implementation of this Annex is dependent upon the availability of sufficient funding.

**ARTICLE IX APPENDICES** Appendices to this Annex may be added through an exchange of diplomatic notes and shall form an integral part of this Annex.

**ARTICLE X AMENDMENT** This Annex, and any appendices added hereto, may be amended by mutual agreement of the Parties through an exchange of diplomatic notes.

**ARTICLE XI REVIEW** The National Coordinators under the 1983 Agreement or their designees shall meet at least every year from the date of entry into force of this Annex, at a time and place to be mutually agreed upon, in order to review the effectiveness of its implementation and to agree on whatever individual and joint measures are necessary to improve such effectiveness.

**ARTICLE XII ENTRY INTO FORCE** This Annex shall enter into force after signature when each Party has informed the other through diplomatic note that it has completed the internal procedures necessary for the Annex to enter into force.

**ARTICLE XIII TERMINATION** This Annex shall remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its desire to terminate it, in which case the Annex shall terminate six months after the date of such written notification.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Annex. Done at Washington, in duplicate, this third day of October, 1989 in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: FOR THE GOVERNMENT OF THE UNITED MEXICAN STATES: APPENDIX ANNEX V TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES ON COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA AGREEMENT OF COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNITED MEXICAN STATES REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION For the purposes of Annex V, the Parties agree to define Study Area "A" as: El Paso County, Texas; that part of the State of New Mexico that is both south of latitude 32 degrees 00 minutes North and east of longitude 106 degrees 40 minutes West; and that part of the State of Chihuahua that is both north of latitude 31 degrees 20 minutes North and east of longitude 106 degrees 40 minutes West. For Study Area "A", the Parties agree to define as selected pollutants the following: ozone, nitrogen oxides, non-methane hydrocarbons, carbon monoxide, sulfur dioxide, particulate matter, and lead. APPENDIX I ANNEX V TO THE AGREEMENT BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA ON THE COOPERATION FOR THE PROTECTION AND IMPROVEMENT OF THE ENVIRONMENT IN THE BORDER AREA AGREEMENT FOR COOPERATION BETWEEN THE UNITED MEXICAN STATES AND THE UNITED STATES OF AMERICA REGARDING INTERNATIONAL TRANSPORT OF URBAN AIR POLLUTION Recalling that in the preamble to Annex V the Parties affirm their intention to ensure a reduction in air pollution concentrations for the benefit of their citizens living in the urban areas along the United States-Mexico border; and Recognizing the importance of the participation of the local communities in carrying out the efforts to achieve this objective; The Parties, having decided to establish a Joint Advisory Committee for the Improvement of Air Quality (hereinafter "The Committee") in the Ciudad Juarez, Chihuahua/El Paso, Texas/Doña Ana County, New Mexico Air Basin (hereinafter "air basin"), Have agreed as follows:

**DEFINITION** The air basin is defined as the geographic area that includes El Paso County, Texas, and those parts of Doña Ana County, New Mexico and the metropolitan area of Ciudad Juarez, Chihuahua that are within 100km of the border.

**OBJECTIVE** The Committee is established for the purpose of developing and presenting recommendations to the Air Work Group established under the La Paz Agreement regarding strategies for the prevention and control of air pollution in the air basin.

**SCOPE OF ACTIVITIES** The Committee may develop recommendations for the Air Work Group on:

- a) The joint development of studies and analyses on air quality monitoring and modeling, and air pollution prevention and abatement strategies in the air basin;
- b) Exchanges of information on air quality matters such as air quality data, air emissions data, and data on compliance with each Party's air standards;
- c) Technical assistance programs, technology exchanges, and training in areas relevant to preventing and reducing air pollution in the air basin;
- d) Environmental education and outreach programs for the general public relevant to preventing and reducing air pollution in the air basin;
- e) Exploring strategies to prevent and reduce air pollution in the air basin, including recommendations on emissions trading and other economic incentives as well as improving the compatibility of air quality programs in the air basin; and f) Such other air quality improvement issues as the Committee may deem to be pertinent to the air basin and as may be recommended by the Parties.

The Parties will provide a guidance document to the Committee detailing more specific subject areas which the Committee should consider. This guidance document may be updated periodically by the Parties. The recommendations may include analyses of the estimated costs, and possible financial sources, to implement the recommendations. The recommendations may also address the availability of technology and training necessary for their implementation.

**STRUCTURE AND ORGANIZATION** The Committee will consist of 20 persons, ten of whom are to be selected by each Party, in close consultation with state and local governmental officials and the public in the air basin. The ten U.S. representatives invited to serve on the Committee will include

- (i) one representative of the federal government;
- (ii) one representative from each of the governments of the States of Texas and New Mexico;
- (iii) one representative from local government in El Paso, Texas;
- (iv) one representative from local government in Doña Ana County, New Mexico; and
- (v) five persons, residing in the air basin, who are not employed by federal or any state or local government. At least one of these five persons will be a representative of the business community and at least one will be a representative of a non governmental organization, a major portion of whose activities concerns air pollution.

The ten Mexican representatives invited to serve on the Committee will include

- (i) one representative of the National Institute of Ecology (INE-SEMARNAP) ;
- (ii) one representative of the Federal Attorney for Environmental Protection ;
- (iii) one representative of the federal health and welfare agency (SSA) ;
- (iv) one representative of the environmental authorities of the State of Chihuahua (v) one representative of the environmental authorities of the Municipality of Ciudad Juarez; and
- (vi) five Mexican citizens, residing in Ciudad Juarez, who are not employed by federal, state, or local government. At least one of these five persons will be a representative of the private sector, at least one will be a representative of a non governmental organization, a major portion of whose activities concerns air pollution, at least one will be a representative of the academic institutions of Ciudad Juarez, and at least one will be a representative of the Consulting Council for Sustainable Development in the Northern Region.

One federal representative from each side will preside over the Committee. The Committee will make decisions by consensus. The Committee will establish its own rules of procedure, subject to approval by the Parties. Meetings of the Committee will generally be open to the public. The Air Work Group will consider the recommendations of the Committee and inform the Committee of any action taken pursuant to such recommendations. The recommendations of the Committee will not be binding on the Air Work Group or the Parties.

**REVIEW AND TERMINATION** The Parties will periodically review the implementation of this Appendix. This Appendix will remain in force indefinitely, unless one of the Parties notifies the other in writing through diplomatic channels of its intention to terminate it or Annex V, in which case the Appendix shall terminate six months after the date of such notification.