

Reissued after editing and translation  
17 December 2007

## **Preparations for the first meeting of the Open-ended Legal and Technical Working Group of the International Conference on Chemicals Management**

### **Consultation note**

1. The present note discusses preparations for the first meeting of the Open-ended Legal and Technical Working Group of the International Conference on Chemicals Management, which is to take place in late 2008. It has been prepared by the Strategic Approach to International Chemicals Management (SAICM) secretariat for consultation with SAICM stakeholders. It sets out the mandate for the meeting, summarizes views expressed by regional groups on the role of the meeting and proposes a provisional agenda, venue, date, participation formula and budget for the meeting. **SAICM stakeholders are invited to submit comments to the secretariat on the proposed meeting arrangements by 28 February 2008 by e-mail at [saicm@chemicals.unep.ch](mailto:saicm@chemicals.unep.ch) or by fax to +41 22 797 3460.** Any comments submitted will be posted on the SAICM web site.

### **A. Mandate of the Working Group and the views of regional groups**

2. At its first session, held in Dubai from 4 to 6 February 2006, the International Conference on Chemicals Management agreed to apply the rules of procedure of the Preparatory Committee for the Development of a Strategic Approach to International Chemicals Management, *mutatis mutandis*, to that session, on the understanding that it would adopt its own rules of procedure at its second session.

3. The Conference also agreed that the groundwork for its second session on the rules of procedure would be laid by an open-ended legal and technical working group, which would meet a few months prior to the second session. The second session of the Conference has been tentatively scheduled to take place in Geneva from 11 to 15 May 2009, immediately after the fourth meeting of the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants and immediately before the sixty-second World Health Assembly.

4. During regional meetings of SAICM stakeholders from Central and Eastern Europe,<sup>1</sup> Asia and the Pacific<sup>2</sup> and the member States of the European Union (EU) and of the "JUSSCANNZ" group of countries (Japan, United States, Switzerland, Canada, Australia, Norway and New Zealand),<sup>3</sup> stakeholders discussed the possibility of expanding the role of the first meeting of the Working Group to that of a general preparatory meeting for the second session of the Conference. There was some support for this idea among stakeholders from Central and Eastern Europe, but no consensus was reached. Participants at the Asia-Pacific meeting made a number of proposals on additional issues that could be taken up by the Working Group in preparation for the second session of the Conference, but the meeting participants ultimately concluded that the Working Group should deal with procedural and not substantive issues. The EU-JUSSCANNZ countries proposed that the secretariat prepare a draft provisional agenda and annotated provisional agenda for the second session of the Conference to facilitate consultation with stakeholders and noted that it might be necessary for the Working Group to resolve any outstanding issues in that regard. Stakeholders from the African and Latin American and Caribbean regions have not yet had an opportunity to consider the role of the Working Group at its first meeting.

### **B. Provisional agenda and annotated provisional agenda**

5. Drafts of the provisional agenda (SAICM/OELTWG.1/1) and annotated provisional agenda (SAICM/OELTWG.1/1/Add.1) for the first meeting of the Working Group are attached, for comment, in Annexes A and B respectively. In the light of the above, the agenda proposed by the secretariat

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1 Riga, 4–6 December 2006.

2 Bangkok, 21–23 May 2007

3 Paris, 12 June 2007.

includes a single specified substantive item of business, “preparation of the rules of procedure of the International Conference on Chemicals Management and its subsidiary bodies”, with the flexibility to take up additional issues, if the meeting participants agree, under “other matters”.

6. In the interest of efficiency it would be desirable for the Working group to agree at the outset on a document to be used as the basis for its deliberations. Several participants at meetings of the African region,<sup>4</sup> the Central and Eastern European region and the EU-JUSSCANNZ countries, and the Asia-Pacific meeting participants as a whole, advocated the use of the rules of procedure of the Preparatory Committee as a model for the rules of the Conference. They argued, among other things, that the Preparatory Committee rules were broadly compatible with those of other relevant bodies such as the conferences of the parties to chemicals-related conventions, would be easily adaptable and had ensured an open, transparent and multi-sectoral process for the development of SAICM that had provided for the full participation of all stakeholders. Subject to the further views of stakeholders and the decision of the Working Group itself, the secretariat accordingly proposes in the annotated provisional agenda that the Working Group consider using the rules of the Preparatory Committee as a basis for the preparation of the rules of procedure of the Conference.

7. The secretariat also proposes that the Working Group consider using the Preparatory Committee rules, *mutatis mutandis*, to govern its own proceedings in the absence of any agreed rules for the Conference and its subsidiary bodies.

### **C. Preparation for the first meeting of the Working Group**

8. During the course of the above-mentioned regional meetings, participants signalled that a number of issues might require particular attention during the Working Group’s development of rules of procedure for the Conference. These included provisions for decision-making, the membership structure and role of a bureau, the establishment of subsidiary bodies and the status of regional economic integration organizations. Stakeholders may wish to develop positions on such issues and, through the secretariat, circulate proposals in advance of the first meeting of the Working Group in order to give other stakeholders the opportunity to reflect upon them.

9. To ensure a smooth start to the meeting, regional groups are encouraged to agree on nominations for the bureau of the Working Group and to communicate them to the secretariat in advance of the meeting. Assuming that the Working Group agrees to use the Preparatory Committee rules of procedure, *mutatis mutandis*, as proposed above, the bureau would comprise a chair and up to two vice-chairs, one of whom could serve as rapporteur.<sup>5</sup> In addition, it may be prudent to identify an experienced international lawyer who could chair a legal drafting group, which could be established with the mandate of transforming the concepts expressed during plenary sessions of the Working Group into legal text suitable for the rules of procedure of the Conference.

### **D. Venue and date**

10. The secretariat has provisionally scheduled the first meeting of the Working Group to be held at the headquarters of the United Nations Food and Agriculture Organization (FAO) in Rome from Wednesday, 22 October, to Friday, 24 October 2008. The fourth meeting of the Conference of the Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade will take place at the same venue the following week. The reasons for this scheduling include:

- (a) The kind offer made by FAO to make its meeting facilities available free of charge;
- (b) The possibility of reducing costs by sharing certain conference servicing expenses with the fourth meeting of the Conference of the Parties to the Rotterdam Convention;
- (c) The convenience for delegates who would normally plan to attend both meetings;
- (d) The potential to increase developing country participation at the first meeting of the Working Group by sharing travel costs with the fourth meeting of the Conference of the Parties to the Rotterdam Convention;

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4 Cairo, 11–14 September 2006.

5 Rule 18.2, rules of procedure for the Preparatory Committee for the Development of a Strategic Approach to International Chemicals Management.

- (e) The potential to boost coordination and synergies between representatives responsible for SAICM and the Rotterdam Convention, respectively;
- (f) The opportunity to raise the profile of SAICM within FAO.<sup>6</sup>

## **E. Participation formula and languages**

11. Funding could be sought to facilitate the participation at the Working Group meeting of representatives from Governments of all developing and transition economy countries and a number of non-governmental organizations. Anticipated resource constraints and the limited agenda of the Working Group suggest, however, that a smaller meeting may be more conducive to effective discussion of the rules of procedure. In that regard, several participants at the Central and Eastern European regional meeting proposed that the Working Group be structured in a way similar to the expanded Bureau of the Preparatory Committee.<sup>7</sup> Participants at that meeting also emphasized that geographical and sectoral balance should be taken into account when selecting participants. At the African regional meeting it was agreed that, subject to available funding, at least one representative from each subregion of Africa should be encouraged to attend the meeting of the Working Group.

12. The assessment of the secretariat is that while a limited “expanded Bureau” style participation formula would be more economical and might enable a more focused discussion, the Conference’s designation of the meeting as “open-ended” implies the need for a broader participation formula. A further obstacle to the use of the expanded Bureau model is that there is currently no President of the Conference with the authority to create such a structure for the Working Group. Bearing in mind also the secretariat’s obligation to facilitate maximum multi-stakeholder participation in the intersessional work of the Conference,<sup>8</sup> the secretariat proposes the following approach for comment by stakeholders:

- (a) Participation in the Working Group meeting would be open to all interested stakeholders;
- (b) Subject to the availability of resources, full travel funding (airfare and daily subsistence allowance) would be provided to each of the official SAICM regional focal points from developing and transition economy countries,<sup>9</sup> to at least five Government subregional representatives from developing and transition economy countries from each of the African, Asia-Pacific, Central and Eastern European and Latin American and Caribbean regions<sup>10</sup> and to representatives from a minimum of three diverse non-governmental organizations<sup>11</sup> (total: at least 25 fully funded participants);
- (c) Subject to the availability of resources, partial funding (additional daily subsistence allowance) would be provided for a minimum of 20 stakeholders<sup>12</sup> expected to participate in the fourth

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6 At its one hundred and thirty-first session, held in Rome from 20 to 25 November 2006, the FAO Council “recognized that the successful implementation of SAICM depended on smooth interdisciplinary cooperation at the national, regional and United Nations level, and stressed the need for the agriculture sector to be fully involved in the SAICM process.” The Council “endorsed SAICM and recognized the FAO role in the implementation of SAICM to the extent possible within existing resources.”

7 The expanded Bureau was convened by the President of the Preparatory Committee in accordance with Rule 10.2 of the Committee’s rules of procedure. The expanded Bureau comprised members of the Bureau of the Preparatory Committee plus two additional Government representatives from each region and a selection of non-governmental and intergovernmental participants. The additional Government representatives were nominated by the regional groups at their regional consultations. Representatives of non-governmental organizations were invited in consultation with global umbrella groups and inter-governmental organizations were selected by the President.

8 SAICM Overarching Policy Strategy, paragraph 28 (a).

9 Currently only the African and Latin America and Caribbean regional representatives fall into this category.

10 The nomination of subregional representatives would be facilitated by the SAICM regional focal points and/or decided at regional meetings.

11 The non-governmental organizations could include those from the public interest, labour and science sectors. The secretariat would seek the assistance of key umbrella groups in facilitating nominations but is of the view that the current absence of any formal, overall representation arrangement for non-governmental stakeholders in the SAICM process is a barrier to effective consultation. This is a gap that non-governmental organizations may wish to address among themselves at the second session of the Conference.

12 The secretariat would invite funding requests from stakeholders interested in participating in the fourth session of the Conference of the Parties to the Rotterdam Convention and would then make a selection in consultation with SAICM regional focal points, taking into account the need for geographical and sectoral balance, the availability of resources and, if necessary, other distinguishing qualifications such as whether applicants are SAICM national focal points.

meeting of the Conference of the Parties to the Rotterdam Convention to enable them to attend the first meeting of the Working Group.

13. Taking into account the above-mentioned proposal and the participation of unfunded participants, the secretariat estimates that between 150 and 180 participants will attend the first meeting of the Working Group.

14. While translation of documents and interpretation would ideally be provided in all six official languages of the United Nations,<sup>13</sup> stakeholders may wish to consider making do with a more limited service, bearing in mind the need to conserve resources for the second session of the Conference, the relatively small number of participants expected to attend the meeting and its narrow agenda. The estimated costs of holding the meeting in English only, in English, French and Spanish and in all six official languages of the United Nations are provided in section F, below.

15. Regardless of whether full translation and interpretation services can be afforded for the meeting itself, the report of the meeting would subsequently be issued in all six official languages of the United Nations for consideration by the Conference at its second session.

## **F. Budget**

16. Taking into account the above-mentioned proposals, the estimated costs of the Working Group are set out in the following table. It should be emphasized that these are initial estimates and subject to refinement on the basis of official quotations for conference services, confirmation of cost-sharing with the fourth meeting of the Conference of the Parties to the Rotterdam Convention and the identification of funded participants.

### **Initial budget estimate for first meeting of the Working Group, October 2008 (English only)**

<b>Item</b>	<b>Estimated cost (US \$)</b>
Conference services	50,000
Full travel funding for 25 participants	90,000
Partial travel funding for 20 participants	33,400
Miscellaneous	10,000
<i>Total</i>	<i>183,400</i>

Note: The estimated additional cost of holding the meeting in English, French and Spanish is \$26,000 and in all six official languages of the United Nations \$75,000.

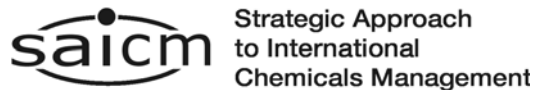
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13 Arabic, Chinese, English, French, Russian and Spanish.

## Annex A: Draft provisional agenda



SAICM/OELTWG.1/1



Distr.: General  
Draft: 17 December 2007

Original: English

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### Open-ended Legal and Technical Working Group of the International Conference on Chemicals Management

#### First meeting

Rome, 22–24 October 2008

### Draft provisional agenda

1. Opening of the meeting.
2. Organizational matters:
  - (a) Election of officers;
  - (b) Adoption of the agenda;
  - (c) Organization of work.
3. Preparation of the rules of procedure of the International Conference on Chemicals Management and its subsidiary bodies.
4. Other matters.
5. Adoption of the report of the meeting.
6. Closure of the meeting.

## Annex B: Draft annotated provisional agenda



SAICM/OELTWG.1/1/Add.1



Distr.: General  
Draft: 17 December 2007

Original: English

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### Open-ended Legal and Technical Working Group of the International Conference on Chemicals Management

First meeting

Rome, 22–24 October 2008

Agenda item 2 (b)

#### Adoption of the agenda

### Draft annotated provisional agenda

#### Item 1. Opening of the meeting

1. The first meeting of the Open-ended Legal and Technical Working Group of the International Conference on Chemicals Management will be opened at 10 a.m. on Wednesday, 22 October 2008, at the headquarters of the Food and Agriculture Organization of the United Nations (FAO) in Rome, Italy.
2. Opening and welcoming statements will be delivered.

#### Item 2. Organizational matters

3. In the absence of rules of procedure for the International Conference on Chemicals Management and its subsidiary bodies, the Working Group may wish to agree to use the rules of procedure of the Preparatory Committee for the Development of a Strategic Approach to International Chemicals Management, *mutatis mutandis*, to govern the conduct of its work at its first meeting. The rules of procedure of the Preparatory Committee are reproduced in document SAICM/OELTWG.1/2..
- (a) **Election of officers**
4. Subject to agreement on the rules of procedure to be used at the meeting, the Working Group will elect its chair and up to two vice-chairs. A vice-chair may also be designated to act as rapporteur.
  5. Upon election, the Chair will preside in accordance with the rules of procedure agreed by the Working Group.
- (b) **Adoption of the agenda**
6. The Working Group may wish to adopt its agenda on the basis of the provisional agenda set out in document SAICM/OELTWG.1/1.
- (c) **Organization of work**
7. The Working Group may wish to meet from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m. each day, subject to adjustments as necessary.

### **Item 3. Preparation of the rules of procedure of the International Conference on Chemicals Management and its subsidiary bodies**

8. The Working Group will have before it a note by the secretariat (SAICM/OELTWG.1/2) recalling the agreement reached by the International Conference on Chemicals Management at its first session that the groundwork for its second session on the issue of rules of procedure would be laid by an open-ended legal and technical working group. In the light of recommendations made by various regional groups at their intersessional meetings, the Working Group may wish to consider using the rules of procedure of the Preparatory Committee, set out in the annex to the note by the secretariat, as a possible basis for the rules of procedure for the Conference.

9. The Working Group may wish to discuss options for rules of procedure with a view to presenting draft rules for consideration by the Conference at its second session, which will be held in Geneva from 11 to 15 May 2009. If necessary, the Working Group may wish to consider establishing a legal drafting group to assist in the transformation of concepts expressed during plenary sessions of the Working Group into legal text suitable for the draft rules of procedure.

### **Item 4. Other matters**

10. The Working Group may wish to consider other matters raised by members of the Working Group in the course of the meeting.

### **Item 5. Adoption of the report of the meeting**

11. The report of the meeting will be prepared by the Rapporteur. At its final session, on the afternoon of Friday, 24 October, the Working Group will be invited to consider the text of the report reflecting the discussions in the plenary sessions of the meeting through Thursday, 23 October. The Working Group may wish to adopt the report, with any amendments it may wish to make, on the understanding that in keeping with the practice followed by the Preparatory Committee the text of the report pertaining to the Friday sessions of the meeting will be prepared by the Rapporteur, in cooperation with the secretariat, and incorporated in the report under the authority of the Chair of the Working Group. The final report of the meeting would then be circulated after the closure of the meeting.

### **Item 6. Closure of the meeting**

12. It is expected that the meeting will be closed by the Chair of the Working Group by 6.00 p.m. on Friday, 24 October 2008.