

## Preparations for the first meeting of the **Open-ended Legal and Technical Working Group**

Summary of submissions received in response to the secretariat's consultation note

27 March 2008

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### **Background**

1. On 26 July 2007,<sup>1</sup> the secretariat issued a consultation note on preparations for the first meeting of the Open-ended Legal and Technical Working Group (OELTWG) of the International Conference on Chemicals Management (ICCM), which is to take place in late 2008. Stakeholders were invited to comment, by 28 February 2008, on the consultation note which summarized views expressed by regional groups on the role of the meeting and proposed a provisional agenda, venue, date, participation formula and budget for the meeting.

2. The consultation note was discussed at the meeting of EU-JUSSCANNZ countries, held in Paris on 12 February 2008, and at the meeting of the Latin American and Caribbean region, held in Panama City from 14 to 16 February 2008. Submissions were made by the African and the Central and Eastern European regions; the European Union; the Governments of Mexico, Norway, Switzerland, the United States and Yemen; the Association pour la Valorisation de l'Environnement et pour la Promotion d'une Gestion Rationnelle des Produits Chimiques (AVEPGRC); the Development for People and Nature Association (DPNA); the International Council of Chemical Associations (ICCA); the International POPs Elimination Network (IPEN); the International Trade Union Confederation (ITUC); and the Society of Environmental Toxicology and Chemistry (SETAC). In addition, during regional meetings in 2006 and 2007 prior to the issuing of the secretariat's consultation note, the African, Asia-Pacific and Central and Eastern European regions and the EU-JUSSCANNZ countries made some preliminary observations on their expectations for the OELTWG meeting.

3. The consultation note, submissions and a compilation of views expressed at earlier regional meetings may be viewed on the SAICM web site at <http://www.chem.unep.ch/saicm/OELTWG/Open-ended.htm>. The secretariat thanks all stakeholders who provided feedback on the proposed OELTWG meeting arrangements. The views expressed by stakeholders are summarized in the annex A of the present document, which is accompanied by additional budget information in Annex B. A similar document has been prepared concerning preparations for ICCM2 and is available on the SAICM web site at <http://www.chem.unep.ch/saicm/iccm/ICCM2/iccm2.htm>.

### **Further consultations**

4. In order to resolve outstanding OELTWG (and ICCM2) planning issues the secretariat will facilitate a teleconference on 7 April 2008 teleconference for the stakeholder representatives listed below:

- (a) Governments will be represented by the five official SAICM regional focal points (Argentina, Japan, Nigeria, Romania and the United Kingdom).

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<sup>1</sup> Reissued on 17 December 2007 after editing and translation.

(b) Intergovernmental organizations will be represented by FAO (presumptive host of the OELTWG meeting), ILO (chair of the Inter-Organization Programme for the Sound Management of Chemicals), UNEP (convenor of the ICCM) and WHO (UNEP's principal institutional partner in organizing ICCM2).

(c) Non-governmental organizations (NGOs) will be represented by the Environmental Health Fund (for public interest NGOs), the International Council of Chemical Associations (for industry), the International Trade Union Council (for the labour sector) and the International Society of Doctors for the Environment (for the health sector).<sup>2</sup>

5. It should be noted that in the absence of an ICCM or OELTWG bureau, the above group has been invited informally by the secretariat to assist it in preparing for the OELTWG meeting and ICCM2 by providing a link to stakeholder groups.

#### Outstanding issues

6. The secretariat invites participants in the 7 April 2008 teleconference to consider, in particular, the following questions and to consult constituents, as appropriate:

- a) Should the agenda of the OELTWG meeting be expanded to cover issues beyond ICCM rules of procedure or not? If so,
  - (i) What issues should be added to the agenda?
  - (ii) Should participation be broadened?
  - (iii) Should the meeting be conducted in the six UN languages?
- b) Are any additional donors in a position to commit funding in the near future for either a restricted or an expanded meeting? If not, what are the proposed fallback options for the meeting?
- c) Is the number of days proposed for the meeting appropriate and can the booking for Rome in October 2008 now be confirmed?
- d) What documents will be required for the OELTWG and
  - (i) who should prepare them (e.g. SAICM secretariat, a consultant, individual stakeholders, a working group);
  - (ii) by what procedure (e.g. a submissions process if appropriate in some cases); and
  - (iii) by when?
- e) What is the preferred bureau formula for the OELTWG?

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<sup>2</sup> In the absence, for the time being, of any agreed procedure for determining NGO representation in SAICM consultations, the secretariat invited all registered SAICM NGO focal points to confer amongst themselves and nominate representatives in three categories: industry, public interest NGOs and trade unions. A health sector NGO proposed an additional category of "health/science", subsequently modified to "health".

## Annex A

### Summary of submissions on arrangements for the first meeting of the Open-ended Legal and Technical Working Group

*Note: The term “stakeholders” is used in relation to each of the entities that expressed views. Stakeholders vary from individual Governments and organizations to regional groups and networks that include multiple organizations. Stakeholders associated with the various viewpoints are indentified in the footnotes.*

Issue	Submissions
Agenda/scope	<p>There are two main points of view as to the agenda and scope of the OELTWG meeting:</p> <ol style="list-style-type: none"><li data-bbox="457 630 1942 880">1. <b>RESTRICTED.</b> Several stakeholders supported an OELTWG agenda limited to the development of ICCM rules of procedure, which was the task specifically identified by ICCM1.<sup>3</sup> Variations on this position included limiting the agenda to “issues related to procedure”<sup>4</sup> or addressing additional issues only if and when the primary task of developing ICCM rules of procedure has been achieved.<sup>5</sup> One stakeholder was open to the inclusion of additional issues but felt there would be insufficient time in a three-day meeting to deal with matters other than the central item of ICCM rules of procedure.<sup>6</sup> One stakeholder was of the view that it would be more appropriate to deal with additional ICCM2 preparatory issues through a consultation process facilitated by the secretariat rather than at the OELTWG meeting.<sup>7</sup> Several stakeholders suggested specific matters to be taken up by the OELTWG when developing ICCM rules of procedure (see below).</li><li data-bbox="457 912 1942 1026">2. <b>EXPANDED.</b> Other stakeholders considered that it would be possible and appropriate for the OELTWG to address a fuller range of issues, beyond ICCM rules of procedure, in order to ensure adequate preparation for ICCM2.<sup>8</sup> The inclusion of the word “technical” in the name of the OELTWG was cited by some as indicating a broader function for the body. Additional agenda items that have been suggested include:</li></ol>

<sup>3</sup> The United States and DPNA.

<sup>4</sup> Asia-Pacific.

<sup>5</sup> ICCA.

<sup>6</sup> Mexico.

<sup>7</sup> The United States.

<sup>8</sup> Central and Eastern Europe, the European Union, Norway, Switzerland, IPEN and ITUC.

Issue	Submissions
	<ul style="list-style-type: none"> <li>a) Further elaboration and planning of the ICCM2 agenda.<sup>9</sup></li> <li>b) Documents for ICCM2 – what is needed and who should prepare them;<sup>10</sup></li> <li>c) Design of the high-level segment of ICCM2;<sup>11</sup></li> <li>d) Contact groups at ICCM2;<sup>12</sup></li> <li>e) Emerging policy issues (including how to bring them to the attention of the ICCM and how to deal with them).<sup>13</sup></li> <li>f) The process for possible addition of new activities to the Global Plan of Action (proposal of the working group of certain EU-JUSSCANZ countries chaired by Spain).<sup>14</sup></li> <li>g) The future of IFCS (and its contributions to SAICM) and the process for a decision on this.<sup>15</sup></li> <li>h) The process for setting priorities for the next inter-sessional period up until ICCM3 – related to QSP objectives.<sup>16</sup></li> <li>i) Establishment of a permanent bureau for SAICM.<sup>17</sup></li> <li>j) Modalities for reporting on SAICM implementation (work supported by Canada and the IPSC).<sup>18</sup></li> <li>k) Evaluation of and guidance on implementation (including how it will be evaluated and how to take strategic decisions to ensure effective implementation).<sup>19</sup></li> <li>l) Financial and technical resources for implementation of SAICM.<sup>20</sup></li> <li>m) Evaluation of the performance of the financing of SAICM.<sup>21</sup></li> </ul>

<sup>9</sup> IPEN.

<sup>10</sup> The European Union.

<sup>11</sup> The European Union.

<sup>12</sup> The European Union.

<sup>13</sup> The European Union, Switzerland.

<sup>14</sup> The European Union, Norway, Switzerland, IPEN, ITUC.

<sup>15</sup> EU, Norway, IPEN.

<sup>16</sup> The European Union.

<sup>17</sup> Norway.

<sup>18</sup> Switzerland.

<sup>19</sup> Switzerland, IPEN.

<sup>20</sup> Norway, Switzerland.

<sup>21</sup> Switzerland.

<sup>22</sup> Switzerland.

Issue	Submissions
	<p>n) Review and update of SAICM.<sup>22</sup></p> <p>o) Information exchange, scientific and technical cooperation and relationship to IFCS.<sup>23</sup></p> <p>p) Formalization of a procedure for those who wish to make proposals to or express positions for ICCM2.<sup>24</sup></p>
OELTWG bureau	<p>Several stakeholders advocated a small OELTWG bureau comprising a chair and two vice-chairs, in line with the provision in the PrepCom rules of procedure that subsidiary bodies should have no more than three officers.<sup>25</sup> One region favoured the bureau formula used “during the PrepComs”, though it is not clear whether this was a reference to the five-person bureau of the PrepCom itself or the above provision relating to subsidiary bodies (or the expanded bureau convened twice by the PrepCom President).<sup>26</sup></p> <p>One stakeholder network proposed that the OELTWG agree on an “interim” ICCM bureau that would work with the SAICM secretariat in further preparing ICCM2.<sup>27</sup> Others called for the OELTWG bureau to be the same as for ICCM2.<sup>28</sup></p> <p>Several stakeholders supported the recommendation that regional groups should consult and agree on nominations for the bureau in advance of the meeting and communicate these to the secretariat.<sup>29</sup></p>
OELTWG rules of procedure	<p>Several stakeholders supported use of the PrepCom rules of procedure to govern the OELTWG proceedings.<sup>30</sup> However, one stakeholder did so on the condition that the rules be adapted to provide that decisions would be taken by consensus, meaning a consensus amongst Governments.<sup>31</sup></p>

<sup>23</sup>Switzerland

<sup>24</sup>IPEN.

<sup>25</sup>The United States and ICCA.

<sup>26</sup>Africa.

<sup>27</sup>IPEN

<sup>28</sup>Norway and Switzerland.

<sup>29</sup>Norway and ICCA.

<sup>30</sup>Asia-Pacific, Norway and the United States.

<sup>31</sup>The United States.

ICCM rules of procedure	<p>There was widespread support among stakeholders for using the PrepCom rules of procedure as the basis for the OELTWG’s work to develop ICCM rules of procedure.<sup>32</sup> One of these stakeholder signalled that it would wish to modify the rules to provide for decision-making on the basis of consensus and would also want Rotterdam and Stockholm Convention rules of procedure to be taken into account.<sup>33</sup></p> <p>Various stakeholders noted their expectation that the development of ICCM rules of procedure would entail discussion of decision-making provisions, the composition and role of the ICCM bureau and the possible creation of subsidiary bodies,<sup>34</sup> the election at each ICCM session of a bureau whose term of office would run through to the next session of the ICCM, the establishment of an “extended bureau” with multi-stakeholder representation, the roles and functions of regional groups, the creation of inter-sessional working groups and expert groups as needed and approved by the bureau,<sup>35</sup> the status of regional economic integration organizations,<sup>36</sup> the levels and type of services to be provided, and the level of participation to be accorded to non-governmental actors.<sup>37</sup></p>
Documents	<p>Several stakeholders supported an approach whereby stakeholders would develop positions on issues that will be on the OELTWG agenda and circulate their proposals in advance of the OELTWG meeting so that other stakeholders could reflect on them.<sup>38</sup> One stakeholder proposed that documents prepared by the secretariat should be circulated approximately four to six months in advance of the OELTWG meeting to allow sufficient time for review.<sup>39</sup></p>
Participation	<p>While one stakeholder expressed support for the limited participation formula outlined in the secretariat’s consultation note,<sup>40</sup> another called for this to be expanded so that travel funding would be provided for at least two representatives for every “sub-region”.<sup>41</sup> Several others called for broad multi-sectoral and multi-stakeholder participation, including provision of travel funding for one representative from each developing country.<sup>42</sup> In some cases, support for broad participation was linked to the expansion of the OELTWG agenda.<sup>43</sup></p>

<sup>32</sup> Africa, Asia-Pacific, Norway, the United States, ICCA and IPEN

<sup>33</sup> The United States.

<sup>34</sup> Mexico, the United States and ICCA.

<sup>35</sup> IPEN.

<sup>36</sup> ICCA.

<sup>37</sup> The United States.

<sup>38</sup> Norway, ICCA.

<sup>39</sup> The United States.

<sup>40</sup> The United States.

<sup>41</sup> Africa.

<sup>42</sup> Central and Eastern Europe, the European Union, Latin America and the Caribbean, Norway, Switzerland, Yemen, DPNA, IPEN and ITUC.

<sup>43</sup> The European Union, Norway and IPEN.

Venue and dates	There was support from many stakeholders for the proposed OELTWG venue and dates: FAO, headquarters, Rome, 22-24 October 2008. <sup>44</sup> However, support from some was contingent upon agreement to expand the agenda of the OELTWG beyond the development of ICCM rules of procedure. These stakeholders recommended that if the OELTWG agenda was not expanded, or if funding was not forthcoming to support the broad participation required for an expanded meeting, then the meeting should be reduced to one day only and should be held on a date as close as practicable to ICCM2 and/or back-to-back with or on the margins of another international meeting such as IFCS Forum VI (Dakar, 15-19 September 2008), Rotterdam Convention COP4 (Rome, 27-31 October 2008) or the 25 <sup>th</sup> session of UNEP Governing Council (Nairobi, 16-20 February 2009). <sup>45</sup>
Languages	One stakeholder supported the cost-saving measure of conducting the OELTWG in English only. <sup>46</sup> Others called for, variously, the provision of Arabic, French and Spanish interpretation. <sup>47</sup>
Budget	Several stakeholders highlighted the need to conserve resources, including for ICCM2, and supported measures proposed in the secretariat's consultation note to limit costs to approximately \$180,000. <sup>48</sup> Another stakeholder, in advocating the expansion of the OELTWG agenda and broader participation, acknowledged that this would entail a substantially greater cost (\$600,000 to \$800,000 by one estimate) and that "very early" commitments by donors would be required. <sup>49</sup> Several indicated that financial support for the OELTWG would be conditional upon expansion of the agenda, or vice versa. <sup>50</sup> Several stakeholders called for an OELTWG budget to allow for more than regional representation, such as funding for one participant from each developing country. <sup>51</sup> <b><i>Additional budget information prepared by the secretariat is included in the annex B of the present document.</i></b>

<sup>44</sup> Africa, Norway, Switzerland, DPNA and ICCA.

<sup>45</sup> Central and Eastern Europe, the European Union and Norway.

<sup>46</sup> ICCA.

<sup>47</sup> Africa, Latin America and the Caribbean, Yemen and AVEPGRC.

<sup>48</sup> The United States and ICCA.

<sup>49</sup> The European Union.

<sup>50</sup> Central and Eastern Europe, the European Union and IPEN.

<sup>51</sup> Latin America and the Caribbean and Switzerland.

## Annex B

### Draft budgets prepared by the secretariat for the first meeting of the Open-ended Legal and Technical Working Group

Option 1: Restricted (an English-only meeting with travel funding for a limited number of regional representatives and non-governmental organizations)

<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>

Option 2: Expanded (a six-language meeting with travel funding for one participant from each developing and transition economy country and a limited number of non-governmental organizations and provision for editing and translation of additional meeting documents associated with an expanded agenda)

<b>Item</b>	<b>Estimated cost (US \$)</b>
Conference services	138,322
Participants travel <sup>52</sup>	688,960
Miscellaneous	10,000
<i>Total</i>	<i>837, 282</i>

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<sup>52</sup> This figure does not take into account some expected savings in cases where the official representative funded to attend the OELTWG meeting is also the official representative who will attend Rotterdam COP4 the following week. As this depends on who is actually nominated by Governments to attend the two meetings it is difficult to predict the magnitude of savings in advance of the registration process.