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**Conference of the Parties to the Basel Convention
on the Control of Transboundary Movements of
Hazardous Wastes and Their Disposal
Eleventh meeting**

Geneva, 28 April–10 May 2013

Item 4 (g) of the provisional agenda*

**Matters related to the implementation of the Convention:
operations and work programme of the Open-ended
Working Group for 2014–2015**

Operations and work programme of the Open-ended Working Group for 2014–2015

Options for operations of the Open-ended Working Group

Note by the Secretariat

I. Introduction

1. At its meeting on 12 and 13 November 2012, the Expanded Bureau of the Conference of the Parties concluded that, in its current format, the Open-ended Working Group was not making optimum use of available resources and expertise. The Secretariat was requested to prepare, in consultation with the Expanded Bureau, different options for the operation of the Open-ended Working Group for consideration by the Conference of the Parties at its eleventh meeting.

II. Options for the operation of the Open-ended Working Group

2. Possible options for the operation of the Open-ended Working Group are as follows:

(a) Option A: continuing the approach used for the eighth meeting of the Open-ended Working Group in 2012. Under this option, the Group would have open-ended membership, involving all parties and observers in the consideration of a work programme to be approved by the Conference of the Parties during four days of plenary sessions conducted in the six official languages of the United Nations;

(b) Option B: modified meeting format. Under this option, the Group would keep the same institutional arrangement¹ but its meetings would be organized as follows: three days of legal and technical preliminary meetings in English only to discuss and resolve substantive issues, followed by two days of plenary sessions in the six official languages of the United Nations to review the outcomes of the preliminary meetings and to make decisions. This option is currently in the programmes of work and proposed budgets for the biennium 2014–2015;²

* UNEP/CHW.11/1.

¹ Decision VI/36.

² UNEP/FAO/CHW/RC/POPS/EXCOPS.2/3.

(c) Option C: establishing a technical subsidiary body. Under this option, the Group would dissolve the Open-ended Working Group and establish a technical subsidiary body, to be called the Scientific and Technical Committee, and instruct this body to take up scientific and technical work required by the Conference of the Parties to the Basel Convention. Work formerly undertaken by the Open-ended Working Group and not assigned to the Scientific and Technical Committee would be taken up by the Conference of the Parties, or the Conference of the Parties may decide to include in the work programme of the Committee for Administering the Mechanism for Promoting Implementation and Compliance of the Basel Convention (Implementation and Compliance Committee) any work formerly undertaken by the Open-ended Working Group that may fall within the Compliance Committee's general review mandate. In line with the terms of reference adopted by decision VI/12, in addition to its mandate to consider any submission made to it with a view to determining the facts and root causes of the matter of concern and to assist in its resolution, the Compliance Committee has been given the mandate to review, as directed by the Conference of the Parties, general issues of compliance and implementation under the Basel Convention relating, among others, to:

- (i) Ensuring the environmentally sound management and disposal of hazardous and other wastes;
- (ii) Training customs and other personnel;
- (iii) Accessing technical and financial support, particularly for developing countries, including technology transfer and capacity-building;
- (iv) Establishing and developing means of detecting and eradicating illegal traffic, including investigating, sampling and testing;
- (v) Monitoring, assessing and facilitating reporting under article 13 of the Convention;
- (vi) Implementing and complying with specified obligations under the Convention.

In line with this mandate, Compliance Committee members are to have expertise relating to the subject matter of the Convention, in scientific, technical, social, economic, legal and other domains.

3. These options were made available to the Expanded Bureau. One member of the Expanded Bureau submitted comments, identifying the advantages and disadvantages of the various options put forward and expressing a preference for option C. The member suggested that, were the Conference of the Parties to decide in favour of option C, it might also wish to consider holding the meetings of the future Scientific and Technical Committee with the same frequency as those of the Compliance Committee and setting its membership at the same size as that of Compliance Committee.

4. Option C is described in further detail below.

III. Technical subsidiary body

A. Terms of reference

5. The new technical subsidiary body may perform scientific and technical functions assigned to it by the Conference of the Parties, such as the development of technical guidelines, consideration of amendments to annexes VIII and IX to the Convention, and the classification and hazard characterization of wastes.

6. In the spirit of achieving synergies, the terms of reference of the technical subsidiary body may be aligned with those of the Chemical Review Committee of the Rotterdam Convention and the Persistent Organic Pollutants Review Committee of the Stockholm Convention, with a view to enhancing cooperation and coordination with those subsidiary bodies. Draft terms of reference for a future technical subsidiary body are set out in the annex to the present addendum, without formal editing.

B. Work programme

7. The work programme of the technical subsidiary body may be adopted at each ordinary meeting of the Conference of the Parties, taking into account the objectives and goals of the strategic framework for the implementation of the Basel Convention for the period 2012–2021³ and the various tasks of the Conference of the Parties.

³ Annex to decision BC-10/2.

8. For the biennium 2014–2015, the tasks set out in the draft work programme of the Open-ended Working Group, as reflected in document UNEP/CHW.11/20 on the operations and work programme of the Open-ended Working Group for 2014–2015, may be characterized as scientific and technical work, or work of the Conference of the Parties or, if articulated as a “general issue of implementation and compliance”, work within the mandate of the Compliance Committee, as listed in table 1 below.

9. The topics characterized as scientific and technical work may be included in the work programme of the technical subsidiary body for 2014–2015.

Table 1

Topics of the draft work programme of the Open-ended Working Group for 2014–2015

<i>Topics of the draft work programme of the Open-ended Working Group for 2014–2015</i>	<i>Body to which the topic could be assigned</i>
1. Strategic issues	
(a) Strategic framework	COP or STC and ICC, jointly
(b) Cartagena Declaration on the Prevention, Minimization and Recovery of Hazardous Wastes and Other Wastes	COP or STC and ICC, jointly
(c) Consultations with the Committee for Administering the Mechanism for Promoting Implementation and Compliance of the Convention	ICC
2. Scientific and technical matters	
(a) Follow-up to the Indonesian-Swiss country-led initiative: developing guidelines for environmentally sound management	STC
(b) Technical guidelines	STC
(c) Amendments to the annexes to the Basel Convention	STC
(d) Classification and hazard characterization of wastes	STC
3. Legal, compliance and governance matters	
(a) Follow up to the Indonesian-Swiss country-led initiative: providing further legal clarity	COP or ICC
4. Technical assistance	
(a) Basel Convention regional and coordinating centres	COP or ICC
5. International cooperation and coordination	
(a) Basel Convention Partnership Programme	COP (overall) and STC (guidelines)
(b) Environmentally sound dismantling of ships	COP (technical assistance) and STC (guidelines)
(c) Cooperation between the Basel Convention and the International Maritime Organization	STC and ICC
(d) Other international cooperation and coordination	COP
(e) Enhancing cooperation and coordination among the Basel, Rotterdam and Stockholm conventions	COP
6. Resource mobilization and financial resources	
(a) Resource mobilization and sustainable financing	COP
7. Programme of work and budget	
(a) Programme budget and other financial matters	COP
Other matters	
(a) Basel Waste Solutions Circle	COP

Abbreviations: COP: Conference of the Parties; ICC: Implementation and Compliance Committee; STC: technical subsidiary body (Scientific and Technical Committee)

C. Procedure for the review or adjustment of the lists of wastes set out in annexes VIII and IX to the Basel Convention

10. In its decision VIII/15, the Conference of the Parties adopted the revised procedure for the review or adjustment of the lists of wastes contained in annexes VIII and IX to the Basel Convention. According to the procedure, the Open-ended Working Group is to consider and review applications for the placement of wastes under or removal from annexes VIII and IX and is to transmit its decisions in a report to the Conference of the Parties for its adoption.

11. If it is decided that the Scientific and Technical Committee is to be established, the above-mentioned procedure should be revised to replace references to the Open-ended Working Group with references to the Scientific and Technical Committee.

D. Back-to-back meetings and joint sessions

12. For topics that would best be considered by both subsidiary bodies, namely the technical subsidiary body and the Compliance Committee, or in instances in which a topic is allocated to one body but consultations with the other body would be valuable, back-to-back meetings of the two bodies could be held or they could meet for one day in joint session. The Indonesian-Swiss country-led initiative, the Strategic Framework and the implementation of the Cartagena Declaration are examples of topics that would benefit from such arrangements.

13. The meetings should take place between meetings of the Conference of the Parties and should be scheduled so that applications for new entries to annexes VIII or IX to the Basel Convention can be submitted to the next meeting of the Conference of the Parties for its consideration.

IV. Financial implications

A. Option A: continuing the approach used for the eighth meeting of the Open-ended Working Group in 2012

14. Continuing the approach used for the eighth meeting of the Open-ended Working Group in 2012 (four days of plenary sessions in the six official languages of the United Nations) would cost as much as the eighth meeting of the Open-ended Working Group (general trust fund component: \$429,300; voluntary trust fund component: \$550,000).

15. At the eighth meeting of the Open-ended Working Group, a total of 30 requests for funding were approved out of a total of 103 and four donor countries (Finland, Germany, Norway and Switzerland) contributed voluntary funding for travel support in the amount of \$138,415. The Working Group met in plenary for less than half of the time available during the four-day meeting and convened contact groups to consider legal and technical issues.

B. Option B: modified meeting format

16. Instead of four-day plenary sessions, the new format provides three days of legal and technical pre-meetings in English only, followed by two days of plenary sessions in the six official languages of the United Nations. This has been reflected in the programmes of work and proposed budgets for the biennium 2014–2015⁴ at zero nominal growth (general trust fund component: \$382,838; voluntary trust fund component: \$602,888).

C. Option C: establishing a technical subsidiary body

17. If the technical subsidiary body, composed of 31 members, were to be established and its meetings conducted once every two years in English only, the estimated costs would be similar to the proposed budget for the tenth meeting of the Chemical Review Committee of the Rotterdam Convention (general trust fund component: \$309,961; voluntary trust fund component: \$0).

18. If the meetings of the technical subsidiary body were to be conducted in the six languages of the United Nations, the estimated costs would be similar to the proposed budget for the tenth meeting of the Persistent Organic Pollutants Review Committee of the Rotterdam Convention (general trust fund component: \$470,297; voluntary trust fund component: \$24,260).

⁴ UNEP/FAO/CHW/RC/POPS/EXCOPS.2/3.

V. Proposed action

19. The Conference of the Parties may wish to adopt a decision along the following lines:

Option A: continuing the approach used for the eighth meeting of the Open-ended Working Group in 2012, or option B: modified meeting format

The Conference of the Parties,

*[Noting the modification in the conduct of the meetings of the Open-ended Working Group as adopted in decision BC-11/[] on financing and budget for the biennium 2014-2015;]*¹

1. *Adopts* the work programme of the Open-ended Working Group for 2014–2015 set out in the annex to the present decision;²
2. *[Decides* to further consider institutional arrangements of the subsidiary bodies of the Basel Convention at its twelfth meeting, including the following options:
 - (a) To dissolve the Open-ended Working Group;
 - (b) To establish a technical subsidiary body of the Basel Convention to take up scientific and technical work formerly undertaken by the Open-ended Working Group;
3. *Requests* the Secretariat to prepare a document outlining the above options, including their financial implications and the draft terms of reference of the technical subsidiary body for consideration by the Conference of the Parties at its twelfth meeting.]

Option C: Establishing a technical subsidiary body

The Conference of the Parties

1. *Decides* to dissolve the Open-ended Working Group;
2. *Also decides* to establish a technical subsidiary body of the Basel Convention, known as the Scientific and Technical Committee;
3. *Further decides* to mandate the Scientific and Technical Committee to take up scientific and technical work formerly undertaken by the Open-ended Working Group and other scientific and technical work required by the Conference of the Parties;
4. *Adopts* the terms of reference of the Scientific and Technical Committee as set out in annex I³ to the present decision;
5. *Also adopts* the work programme of the Scientific and Technical Committee for 2014–2015 as set out in annex II⁴ to the present decision;
6. *Decides* to revise the procedure for the review or adjustment of the lists of wastes contained in annexes VIII and IX to the Basel Convention set out in decision VIII/15, to replace references to the Open-ended Working Group with the Scientific and Technical Committee.

¹ This paragraph would only apply to option B.

² To be prepared on the basis of the draft work programme set out in the annex to document UNEP/CHW/COP.11/20 with any amendments deemed necessary.

³ To be prepared on the basis of the draft terms of reference set out in the annex to the present document with any amendments deemed necessary.

⁴ To be prepared on the basis of the draft work programme set out in the annex to document UNEP/CHW/COP.11/20 with any amendments deemed necessary.

Annex

Draft terms of reference for the technical subsidiary body of the Basel Convention

Mandate

1. The Scientific and Technical Committee (hereinafter referred to as the “Committee”) is a subsidiary body to the Conference of the Parties of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal established in accordance with paragraph 3 of Article 15 of the Convention. The Committee shall perform the functions assigned to it by the Conference of the Parties to the Convention.

Membership

2. The members of the Committee shall be appointed by the Conference of the Parties on the basis of equitable geographical distribution, taking into account gender and the need for a balance between different types of expertise.

3. The Committee shall consist of 31 members drawn from the regions¹ as follows:

African States: 8

Asian and Pacific States: 8

Central and Eastern European States: 3

Latin American and Caribbean States: 5

Western European and other States: 7

4. Members of the Committee shall be government-designated experts in waste management from Parties.

5. When designating experts, Parties within a region shall have due regard to a balance between different types of expertise and between genders, and ensure that expertise in health and environment is represented. Parties shall provide curricula vitae, to be submitted to the Conference of the Parties, for the designated experts.

6. The Governments listed in appendix I shall each formally designate one expert and, through the Secretariat, provide their names and relevant qualifications to the Conference of the Parties by 1 August 2013. Such experts shall serve as members of the Committee on an interim basis, pending formal confirmation of their appointment by the Conference of the Parties at its twelfth meeting.

7. For the purposes of these initial appointments and in order to promote an orderly rotation of membership, one half of the members of each region shall be nominated for an initial term of two years, and the remaining members of each region shall be nominated for an initial term of four years, commencing from the date of appointment by the Conference of the Parties.²

8. Subject to the provisions of paragraphs 6 and 7 above, each member shall serve for a term of four years from the date of appointment, and for no more than two consecutive terms.

9. A new list of Governments to replace the list in appendix I shall be adopted, consistent with the provisions indicated in paragraph 2, at subsequent meetings of the Conference of the Parties so that vacancies created by outgoing members may be filled. Any vacancy arising during an intersessional period shall be filled in accordance with such procedure as the region concerned may determine and the qualifications of the new member shall be circulated to the Parties to the Convention through the Secretariat.

¹ Five groups of States referred to in section 1, paragraph 1 of General Assembly resolution 2997 (XXVII) of 15 December 1972.

² For those regions for which the number of members is an odd number, the phrase “one half of the members of such region” shall be interpreted to mean the nearest whole number less than one half of the number of members in that region. Accordingly, if a region has five members, one half of that number will be taken to mean two.

Invited experts

10. The Committee may invite no more than 30 experts who are not members of the Committee, with due consideration to the balance between developed and developing countries, to support it in its work.

Other participants

11. The meetings of the Committee shall be open to:

- (a) Parties to the Convention, which shall be treated as observers in accordance with the rules of procedure of the Conference of the Parties for the purpose of their participation in the Committee;
- (b) Observers, in accordance with the rules of procedure of the Conference of the Parties.

Conflict of interest

12. Each member of the Committee as well as each invited expert shall sign a declaration of interest as set out in appendix II prior to participating in the work of the Committee.

13. The Conference of the Parties shall decide on individual cases of conflict of interest concerning members of the Committee and invited experts.

Officers of the Committee

14. The Conference of the Parties shall elect the Chair of the Committee, and the Committee shall thereafter elect from among its members a Vice-Chair. Elections shall take into account geographical and gender balance among the officers.

Administrative and procedural matters

15. The Committee shall apply, *mutatis mutandis*, the rules of procedure of the Conference of the Parties, unless otherwise provided in these terms of reference.

16. The Committee may establish such arrangements as are necessary to facilitate its work.

17. The Chair and the Vice-Chair of the Committee may exercise the right to vote.

Work programmes

18. The Committee shall work in an efficient and timely manner, in accordance with the work programme adopted by the Conference of the Parties.

Meetings

19. The Secretariat, in consultation with the officers of the Committee, shall prepare a provisional agenda for each meeting of the Committee. The provisional agenda shall be communicated to all Parties and observers at least six weeks before the opening of the Committee meeting.

20. The Committee should meet at least once every two years, subject to availability of funds and work requirements. Meetings shall take place between meetings of the Conference of the Parties and be scheduled so that applications for new entries to Annex VIII or IX to the Basel Convention can go forward to the next meeting of the Conference of the Parties for consideration.

21. Meeting documents shall be distributed at least six weeks in advance of the meeting.

22. The Committee may establish ad hoc working groups to work during meetings and intersessionally. Such groups shall be chaired by at least one member of the Committee and may consist of members of the Committee as well as invited experts and observers. The establishment of formal subcommittees should be avoided.

Language of meetings

23. The working language of the meetings will be English.

Recommendations and reports to the Conference of the Parties

24. The Committee may make recommendations to the Conference of the Parties on these terms of reference and the organization and operation of the Committee.

25. Decisions, recommendations and meeting reports of the Committee shall be publicly available and easily accessible in the six official languages of the United Nations.

Budget

26. Financial support, i.e., travel and daily subsistence allowance, shall be made available to Committee members and invited experts from developing countries and countries with economies in transition for participation in meetings of the Committee according to United Nations practice. When considering the invitation of experts, the Committee shall take into account the availability of resources.

Appendix I

List of Governments identified by the Conference of the Parties at its eleventh meeting to nominate a member to the Scientific and Technical Committee

African States

2 years: (4 Parties) 4 years: (4 Parties)

Asian and Pacific States

2 years: (4 Parties) 4 years: (4 Parties)

Central and Eastern European States

2 years: (1 Party) 4 years: (2 Parties)

Latin American and Caribbean States

2 years: (2 Parties) 4 years: (3 Parties)

Western European and other States

2 years: (3 Parties) 4 years: (4 Parties)

Appendix II

Declaration of conflict of interest

Name:

Designating Government:

Term of office:

Have you or your partner any financial or other interest in the subject matter of any meeting or work of the Scientific and Technical Committee in which you will be involved that might be considered as constituting a real, potential or apparent conflict of interest? If yes, please give details in the box below.

Yes: No:

Declaration: I hereby declare that the disclosed information is correct and that no other situation of real, potential or apparent conflict of interest is known to me. I undertake to inform you of any change in these circumstances, including if an issue arises during any meeting or the conduct of any work.

Signature

Date
