



**United Nations  
Environment  
Programme**



Distr.  
GENERAL

UNEP/CHW.6/35  
11 October 2002

ORIGINAL: ENGLISH

CONFERENCE OF THE PARTIES TO THE BASEL  
CONVENTION ON THE CONTROL OF  
TRANSBOUNDARY MOVEMENTS OF  
HAZARDOUS WASTES AND  
THEIR DISPOSAL

Sixth meeting  
Geneva, 9-13 December 2002

Item 8 (a) of the provisional agenda\*

INSTITUTIONAL ARRANGEMENTS

Note by the secretariat

I. BACKGROUND

1. The issue of reviewing, streamlining and reducing the number of the subsidiary bodies of the Basel Convention was raised at the first session of the Working Group for Implementation (29-31 May 2002). Some representatives made proposals aimed at enhancing the organization of the meetings. The Working Group requested the secretariat to prepare an exploratory paper on the proposed improvements, based on written submissions from the Parties, to be provided to the secretariat before 31 July 2002.
2. The secretariat received written submissions from Canada, Germany and New Zealand, contained in Annex II to the present note.
3. In the course of the last 10 years of operation of the Convention, the Conference of the Parties has taken a number of decisions on institutional arrangements, presented below:
  - (a) Article 15, paragraph 5 (e), of the Basel Convention provides that the Conference of the Parties "establish such subsidiary bodies as are deemed necessary for the implementation of the Convention";

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\* UNEP/CHW.6/1

(b) In accordance with the above provision, the Conference of Plenipotentiaries on the Global Convention on the Control of Transboundary Movements of Hazardous Wastes, held in March 1989, invited the Executive Director of the United Nations Environment Programme to:

- (i) Set up an Ad hoc Working Group of legal and technical experts to consider the necessity of establishing mechanisms for the implementation of the Convention as provided for in Article 15, paragraph 5 (e) (Resolution 1);
- (ii) Establish, pending a decision by the Parties at their first meeting on how to implement Article 12 of the Convention, an ad hoc working group of legal and technical experts to develop elements which might be included in a Protocol on liability and compensation (Resolution 3);
- (iii) Establish a technical working group to prepare draft technical guidelines for the environmentally sound management of wastes subject to the Convention for consideration by the Parties at their first meeting (Resolution 8).

(c) The first meeting of the Conference of the Parties established the Open-ended Ad Hoc Committee (Decision 1/2), decided to extend the mandate of the Technical Working Group (Decision 1/19), and also established the Ad Hoc Working Group of Legal and Technical Experts to consider and prepare a draft protocol on liability and compensation (Decision 1/5);

(d) The second meeting of the Conference of the Parties decided to expand its Bureau when convened between two meetings of the Conference of the Parties, to include five additional representatives of the Governments who had served as officers of the previous Bureau of the Conference of the Parties and established a mandate for this new subsidiary body (Decision II/27);

(e) The third meeting of the Conference of the Parties requested the Expanded Bureau to convene a meeting of a special informal working group (later named as the Consultative Sub-group of Legal and Technical Experts), if possible, in conjunction with the Ad hoc Working Group of legal and technical experts to consider and develop a Protocol on liability to consider the issues related to establishing an emergency fund (Decision III/3);

(f) The third meeting of the Conference of the Parties also decided that the Expanded Bureau should also include those Parties elected to chair the Open-ended Ad hoc Committee, the Technical Working Group and the Ad Hoc Working Group of Legal and Technical Experts (Decision III/28);

(g) The fourth meeting of the Conference of the Parties extended the mandate of the Ad hoc Working Group of Legal and Technical Experts to finalise the draft Protocol (Decision IV/19);

(h) The fifth meeting of the Conference of the Parties decided to reorganise the subsidiary bodies of the Convention as follows (Decision V/34):

- (i) Expanded Bureau (EB);
- (ii) Working Group for Implementation (WGI);
- (iii) Technical Working Group (TWG); and
- (iv) Legal Working Group (LWG).

(i) Several other decisions of the fourth and fifth meetings of the Conference of the Parties requested the Technical Working Group and the Legal Working Group to jointly consider issues which had a bearing on both the technical and legal aspects. Consequent to these decisions, *de facto*, a new

subsidiary body was created and named the Joint Meeting of the Technical and Legal Working Groups.

## II. IMPLEMENTATION

4. Pursuant to Decision V/34, the following meetings were scheduled during the period 2000-2002:

TWG-16 and LWG-1	3-5 April / 6-7 April 2000
TWG-17 and LWG- 2	9-11 October / 12-13 October 2000
TWG-18 and LWG-3	18-20 June / 21-22 June 2001
TWG-19, JTL-1 and LWG-4	14-15 January / 16-17 January / 18-19 January 2002
LWG-5, TWG-20, JTL-2 and WGI-1	21-22 May / 23-24 May / 27-28 May / 29-31 May 2002
COP-6	9-13 December 2002

5. Also pursuant to Decision V/34, the following meetings of the Expanded Bureau were scheduled:

EB-1	31 March 2000
EB-2	14 October 2000
EB-3	11 June 2001
EB-4	17 November 2001
EB-5	20 April 2002
EB-6	23 September 2002
EB-7	8 December 2002

6. With regard to the organization of these meetings, the following constraints were experienced:

(a) The meetings of the Technical Working Group and the Legal Working Group and their joint meetings as well as the meeting of the Working Group for Implementation were held back to back, and the duration of each combined session was limited to one week (plus three additional days for the first meeting of the Working Group for Implementation), to reduce meeting costs and pool resources available to support participation of delegates from developing countries and countries with economies in transition in these meetings;

(b) The Joint Meetings of the Technical and Legal Working Groups were convened twice to deal with issues assigned to both Groups by the Conference of the Parties, in addition to the regular sessions of the two Working Groups. Furthermore the same topics, e.g. the dismantling of ships, were assigned to both Working Groups to discuss their different aspects;

(c) Participation of delegates from developing countries and countries with economies in transition financed by the secretariat was limited to one per country, and no more than an average of 50 delegates attended each combined session, due to lack of budgetary resources;

(d) The meetings of the subsidiary bodies were conducted in English only, due to budgetary constraints.

### III. PROPOSED ACTION

7. The practical experience gained from the implementation of the relevant decisions of the Conference of the Parties suggests that any institutional arrangements for the implementation of the Convention, if they are to be effective, should be complemented by an efficient operational framework. Namely, reorganization or merging of subsidiary bodies of the Basel Convention alone cannot improve the current situation; adequate consideration should be given to providing the necessary conditions for such bodies to work effectively. The following appear to be some essential requirements for the “work environment” to support the successful functioning of any institutional arrangement:

(a) The agenda, duration and timing of the meetings of the subsidiary bodies are conducive to producing outcomes in a timely and effective manner, namely:

- (i) Clear mandates and delineation of the work plans of the subsidiary bodies should be given by the Conference of the Parties, in order to avoid overlapping of mandates;
- (ii) Streamlining and prioritization of topics of the work plans;
- (iii) Allocation of adequate meeting time to ensure timely conclusion of any given item;
- (iv) Provision of sufficient time for preparatory work between meetings to allow high quality and timely inputs by the secretariat as well as the Parties and other stakeholders;
- (v) Flexibility in the organization of work to implement the work plans, including the use of small in-session or intersessional expert groups, relying on various means of communication, including e-mail and internet or ad hoc meetings;
- (vi) Adequate representation of legal, technical and other expertise required at the meetings for the deliberation of assigned topics;
- (vii) Facilitation of language services, including the translation of pre-session and in-session documents;
- (vii) Effective and reliable inter-session communication systems and mechanisms.

(b) The process of programme implementation and decision-making is participatory, effective and broad-based, in order to promote the universal application of the Convention:

- (i) Equitable representation of developing countries and countries with economies in transition in the Conference of the Parties and in the meetings of its subsidiary bodies;
- (ii) Enhanced regional inputs in the discussions and decisions of the Conference of the Parties and in the meetings of its subsidiary bodies.

8. In this respect the issue of the “working environment” should be carefully looked into when discussing any institutional arrangements.

9. Furthermore, issues such as participation and language services are not matters which can be resolved without a facilitative decision on the budget or other supporting measures.

10. Taking into account these considerations, as well as the written submissions received from some Parties, the Parties may wish to review the following options:

## Option I

11. The subsidiary bodies of the Conference of the Parties to the Basel Convention will be:

- (a) Expanded Bureau (EB);
- (b) Legal/Implementation Working Group (LIWG); and
- (c) Technical Working Group (TWG).

### *Expanded Bureau*

12. The Expanded Bureau will be composed of thirteen members: five members of the present Expanded Bureau, five members of the Expanded Bureau of the previous meeting, the Chair of the Technical Working Group and the Chair and the Vice-Chair of the Legal/Implementation Working Group.

13. The existing mandate of the Expanded Bureau remains unchanged.

14. The Expanded Bureau will meet every six months between the meetings of the Conference of the Parties. The meetings of the Expanded Bureau will be conducted in English only.

### *Legal/Implementation Working Group*

15. The Legal/Implementation Working Group will be composed of the representatives of all the interested Parties and will take over the functions performed by the Working Group for Implementation and those performed by the Legal Working Group. It may establish sessional sub-working groups to address specific issues such as legal, socio/economic, or administrative/institutional matters. Its terms of reference will be:

- (a) To provide general policy and operational direction to the secretariat concerning the implementation of the Convention;
- (b) To consider and advise the Conference of the Parties on issues relating to policy, legal, institutional and other aspects of the implementation of the Conference of the Parties;
- (c) To consider matters related to administrative or financial matters of the Basel Convention;
- (d) To consider matters related to the bilateral, multilateral and regional agreements or arrangements;
- (e) To examine the reports submitted by the Parties in accordance with the requirements of article 13 of the Basel Convention;
- (f) To identify the specific needs of different regions and sub-regions for training and technology transfer and to consider ways and means of ensuring the establishment and functioning of the regional centres for training and technology transfer;
- (g) To prepare its work plan for consideration by the Conference of the Parties;

- (h) To act as the preparatory meeting of the Conference of the Parties, including the preparation of draft decisions for consideration and adoption by the Conference of the Parties;
- (i) To perform any other functions as may be entrusted to it by the Conference of the Parties;
- (j) To report to the Conference of the Parties on the activities it has carried out between meetings of the Conference of the Parties<sup>1</sup>.

16. The Legal/Implementation Working Group will meet annually for a period of one week, unless otherwise decided by the Conference of the Parties, in accordance with its work plan. The meetings of the Working Group are conducted in English only, except when it acts as the preparatory meeting of the Conference of the Parties which will be provided with translation and interpretation in English, French and Spanish.

*Technical Working Group*

17. The Technical Working Group will be an open-ended working group and will be composed of representatives of all the interested Parties with the following mandate:

- (a) To operate as the body for reviewing the lists of wastes contained in Annex VIII or Annex IX of the Convention;
- (b) To provide guidance on issues of classification and hazardous characterization of wastes;
- (c) To provide scientific and technical advice needed for the implementation of the Convention in accordance with its work plan approved by the Conference of the Parties;
- (d) To prepare technical guidelines;
- (e) To provide guidance on any other technical matters referred to it by the Conference of Parties;
- (f) To prepare its work plan for consideration and adoption by the Conference of the Parties;
- (g) To perform any other functions as may be entrusted to it by the Conference of the Parties;
- (h) To report to the Conference of the Parties through the Legal/Implementation Working Group on the activities it has carried out between meetings of the Conference of the Parties.

18. The Technical Working Group will meet annually for a period of one week between the meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties, in accordance with its work plan. The meetings will be conducted in English only.

19. A proposed schedule of meetings of the Conference of the Parties and its subsidiary bodies for 2003-2004 is as follows:

<sup>1</sup> Functions designated under decision V/34, para. (g), are integrated with those under para. (d) of the same decision in the proposed terms of reference.

TWG-21 <sup>2</sup>	May/June 2003
LIWG-1	September /October 2003
TWG-22	January/February 2004
LIWG-2	March/April 2004
COP-7	September/October 2004

20. The budgetary implications of the proposed schedule of meetings of the Legal/Implementation Working Group and the Technical Working Group are presented in Annex I (Option I) to this note.

Explanatory note

21. The advantages of this option are:

- (a) Streamlining of the mandates of the subsidiary bodies without major reorganization;
- (b) Reduction, through the merger of the Legal Working Group and the Working Group for Implementation, of the number of meetings of subsidiary bodies;
- (c) Provision of sufficient time for the work of the Technical Working Group to ensure effective delivery of work;
- (d) More time for certain legal issues in contact groups;
- (e) Opportunity to consider issues currently within the mandate of the Working Group for Implementation (e.g. Basel Convention Regional Centres, budget) annually;
- (f) Increased time for the preparatory work of the Technical Working Group and the Legal/Implementation Working Group;
- (g) Greater opportunity for supporting participation of appropriate experts from developing countries and countries with economies in transition to address issues before the Legal/Implementation Working Group;
- (h) Flexibility in the organization of the work of subsidiary bodies according to specific needs identified in the work plans, including priority programme activities, the number of meetings and the necessary financial resources.

**Option II**

22. The subsidiary bodies of the Conference of the Parties to the Basel Convention will be:

- (a) Expanded Bureau (EB); and
- (b) Open-ended Working Group (OEWG).

<sup>2</sup> The large number of tasks entrusted to the Technical Working Group may require inter-sessional work to enable progress between meetings of the Technical Working Group.

*Expanded Bureau*

23. The Expanded Bureau will be composed of thirteen members: five members of the present EB, five members of the Expanded Bureau of the previous meeting, the Chair and the two Vice-Chairs of the Open-ended Working Group.

24. The existing terms of reference of the Expanded Bureau should be reviewed by the Conference of the Parties with the following considerations:

(a) The mandate of the Expanded Bureau may be limited to administrative and financial issues and to enhancing Party input intersessionally on other issues;

(b) Decisions with a policy content should be referred to all Parties for endorsement – for example through a more formalized requirement for a general call for comment;

(c) Representation on the Expanded Bureau should remain on a regional basis, with equitable geographic balance and a balance of developing and developed country participation;

(d) Participation in Expanded Bureau meetings should be open, with observers able to participate but not to vote. Observers could also, in special circumstances, have the ability to request that specific issues are placed on the agenda for discussion at the Expanded Bureau meeting and be able to speak on that item at the meeting;

(e) A more formalized processing may be established for ensuring regional input into the discussions and decisions of the Expanded Bureau, and for reporting back to the regions following the meeting;

(f) The Expanded Bureau will meet every six months between the meetings of the Conference of the Parties. The meetings of the Expanded Bureau will be conducted in English only.

25. The Expanded Bureau will meet every six months between the meetings of the Conference of the Parties. The meetings of the Expanded Bureau will be conducted in English only.

*Open-ended Working Group*

26. An Open-ended Working Group will be created through the merger of the Technical Working Group, the Legal Working Group and the Working Group for Implementation.

27. The Open-ended Working Group will be composed of the representatives of all the interested Parties and will take over the functions performed by the Technical Working Group, the Legal Working Group and the Working Group for Implementation.

(a) The Open-ended Working Group will have one Chair, and two Vice-Chairs (one Legal Chair and one Technical Chair) to allow it to cover the breadth of issues. The Vice-Chairs may act as facilitators of the ad hoc expert groups set up to deal with specific aspects of the issues under consideration;

(b) The Open-ended Working Group should consider issues in accordance with the work plan adopted by the Conference of the Parties in a holistic manner within the Open-ended Working Group. The Open-ended Working Group should have the ability to set up small ad hoc expert groups within the framework of the meeting to deal with specific aspects of an issue (e.g legal implications);



(c) Should additional intersessional work be needed on an issue, outside the Open-ended Working Group timetable, the Open-ended Working Group should consider giving a specific short term mandate to a small informal group of experts to work electronically or in ad hoc meetings, with a progress report to the next Open-ended Working Group;

(d) The Open-ended Working Group should normally meet for one week at a time, and three times between the meetings of the Conference of the Parties - with the third meeting functioning as a preparatory meeting for the Conference of the Parties, to consider the budget, approve the agenda for the Conference of the Parties, and finalise arrangements and draft decisions;

(e) The Conference of the Parties should consider the intersessional agenda for the Open-ended Working Group to ensure that the agenda is not overloaded. If possible, the Conference of the Parties should set priorities for each task and should also consider setting a time limit as to when results could be expected for each task;

(f) Subject to the provision of adequate budgetary resources, documents for the meetings of the Open-ended Working Group should be available in three UN languages (English, French and Spanish) and meetings should have simultaneous interpretation in three UN languages;

(g) Given the broader mandate necessary for an Open-ended Working Group, subject to the provision of adequate budgetary resources, two delegates from each developing country and country with economies in transition should be funded at each meeting.

28. The terms of reference of the Open-ended Working Group are:

(a) To assist the Conference of the Parties in developing and keeping under continuous review the implementation of the work plan, specific operational policies and decisions necessary for the implementation of this Convention as is specified in Article 15;

(b) To consider and advise the Conference of the Parties on issues relating to policy, technical, legal, institutional and other aspects of the implementation of the Convention;

(c) To consider matters related to the budget of the Convention;

(d) To perform any other functions as may be entrusted to it by the Conference of the Parties;

(e) To report to the Conference of the Parties on the activities it has carried out between meetings of the Conference of the Parties.

29. A proposed scheduling of meetings of the Conference of the Parties and its subsidiary bodies for 2003-2004 will be as follows:

OEWG-1	April/May 2003
OEWG-2	October/November 2003
OEWG-3	March 2004
COP-7	September/October 2004

30. The budgetary implications of the proposed schedule of meetings are presented in Annex I (Option II) to this note.

Explanatory Note

31. This option merges the existing subsidiary bodies into only one subsidiary body or working group. This new working group could cover the technical and legal issues that were previously addressed by the three working groups, i.e. Technical and Legal Working Groups and the Working Group for Implementation. The advantages of this arrangement would be that duplication of debates, complex procedural matters and difficulties in allocation of work would be avoided and it would offer Parties greater flexibility in addressing wide-ranging issues to different subsidiary bodies.

**Option III**

32. The subsidiary bodies of the Conference of the Parties to the Basel Convention will be:

- (a) Expanded Bureau (EB);
- (b) Open-ended Working Group (OEWG); and
- (c) Technical Committee (TC).

33. The Expanded Bureau will be composed of thirteen members: five members of the present Bureau, five members of the Bureau of the previous meeting, the Chair and the two Vice-Chairs of the Open-ended Working Group.

34. The existing mandate of the Expanded Bureau will remain unchanged.

35. The Expanded Bureau will meet every six months between the meetings of the Conference of the Parties. The meetings of the Expanded Bureau will be conducted in English only.

*Open-ended Working Group*

36. An Open-ended Working Group will be created through the merger of the Technical Working Group, the Legal Working Group and the Working Group for Implementation.

37. The composition of the Open-ended Working Group and its terms of reference, method of operation, frequency of meetings, language facilities and participatory formulae are the same as those described in paragraphs 27-29 above.

*Technical Committee*

38. The Technical Committee will be composed of 30 government-designated experts of the Parties interested and has the following mandate:

- (a) To operate as the body for reviewing the lists of wastes contained in Annexes VIII or IX of the Convention;
- (b) To provide guidance on issues of classification and hazardous characterization of wastes;
- (c) To provide scientific and technical advice needed for the implementation of the Convention in accordance with its work plan approved by the Conference of the Parties;
- (d) To prepare technical guidelines;

- (e) To provide guidance on any other technical matters referred to it by the Conference of the Parties or by the Open-ended Working Group;
- (f) To prepare its work plan for consideration by the Open-ended Working Group and adoption by the Conference of the Parties;
- (g) To perform any other functions as may be entrusted to it by the Conference of the Parties or by the Open-ended Working Group;
- (h) To report to the Conference of the Parties through the Open-ended Working Group on the activities it has carried out between meetings of the Conference of the Parties.

39. The members of the Committee will be appointed by two Co-Chairs based on nominations submitted by Parties through the secretariat, in accordance with the criteria established by the Conference of the Parties. The Technical Committee will have two Co-Chairs, one from a developed country and another from a developing country who will be appointed by the Conference of the Parties. The membership of the Technical Committee will consist of government-designated experts in environmentally sound management of chemicals and hazardous wastes. The members of the Technical Committee will be appointed to promote a geographical and expertise balance.

40. The Technical Committee will meet up to 3 times for a period of one week each between the meetings of the Conference of the Parties, unless otherwise decided by the Conference of the Parties in accordance with its work plan. The meetings will be conducted in English only. Participation of experts from developing countries and countries with economies in transition will be funded at each meeting

41. The proposed schedule of meetings are:

TC-1	April 2003
OEWG-1	September 2003
TC-2	November 2003
OEWG-2	March 2004
TC-3	April 2004
OEWG-3 / COP-7	October 2004

42. The budgetary implications of the proposed schedule of meetings are presented in Annex I (Option III) to this note.

#### Explanatory note

43. The advantages of this option are:

- (a) Streamlining of the subsidiary bodies through the merger of the Technical Working Group, the Legal Working Group and the Working Group for Implementation;
- (b) Provision of required technical inputs to the work of the Open-ended Working Group through the Technical Committee;
- (c) Increased opportunities for supporting participation of appropriate experts from developing countries and countries with economies in transition to address issues before the Open-ended Working Group and the Technical Committee;

(d) Flexibility in the organization of work of subsidiary bodies according to specific needs identified in the work plans, including priority programme activities, the number of meetings and the necessary financial resources;

(e) Improved language services.

#### **Option IV**

44. The subsidiary bodies of the Basel Convention for the period 2003-2004 and their mandates will remain unchanged, except for the following adjustments:

(a) The Legal Working Group will meet in conjunction with the annual meetings of the Working Group for Implementation between the meetings of the Conference of the Parties. Each combined session will meet for a period of one week;

(b) The Technical Working Group will meet annually between the meetings of the Conference of the Parties for a period of one week at each session.

45. A proposed schedule of meetings of the Conference of the Parties and its subsidiary bodies for 2003-2004 is as follows:

TWG-21	May/June 2003
LWG-6/ WG I-2	September/October 2003
TWG-22	January /February 2004
LWG-7/WGI-3	March/April 2004
COP-7	September/October 2004

46. The budgetary implications of the proposed schedule of meetings are presented in Annex I (Option IV) to this note.

47. The reorganization of the institutional arrangements will be considered by the Working Group for Implementation which will prepare a recommendation for adoption by the Conference of the Parties at its seventh meeting. An intersessional ad hoc working group may review the experience gained during 2003-2004, examining available options including those suggested in the present note and recommend an appropriate model to the Working Group for Implementation.

#### Explanatory Note

48. This option will consider the question of institutional arrangements for the Basel Convention in two phases. The two-year period 2003-2004, during which meetings of the subsidiary bodies will be rearranged to streamline their work, will provide an opportunity for the WGI to assess the degree and extent of the institutional reorganization required for the effective implementation of the Convention, including the periodicity of the Conference of the Parties. A full consideration of the reorganization of institutional arrangements will take place at the seventh meeting of the Conference of the Parties, taking into account all available options.

Annex I**Option I**

<b>A - Conference Servicing *</b>								<b>B - Travel Support</b>
<b>Number of meetings per biennium</b>	<b>Meeting Schedule</b>	<b>Cost for conference servicing as in Option I</b>	<b>Cost for conference servicing English only</b>	<b>Cost for conference servicing E,F &amp; S</b>	<b>Cost for conference servicing 6 UN languages</b>	<b>Translated pages*** of meeting documents (pre-, in- and post session)</b>	<b>Remarks</b>	<b>Cost for participation of developing country delegates **</b>
Legal / Implementation Working Group	September / October 2003	32,500	32,500	250,000	350,000	100 + 50 + 50	Proposed option I servicing in English only	320,000
Legal / Implementation Working Group	March / April 2004	250,000	32,500	250,000	350,000	100 + 50 + 50	Proposed option I servicing in English, French and Spanish.	320,000
Technical Working Group - 21	May / June 2003	32,500	32,500	290,000	450,000	200 + 50 + 50	Proposed option I servicing in English only.	320,000
Technical Working Group - 22	January/February 2004	32,500	32,500	290,000	450,000	200 + 50 + 50	Proposed option I servicing in English only.	320,000
<b>Sub-total</b>		<b>347,500</b>	<b>130,000</b>	<b>1,080,000</b>	<b>1,600,000</b>			<b>1,280,000</b>
<b>A+B</b>	<b>Grand total</b>	<b>1,627,500</b>	<b>1,410,000</b>	<b>2,360,000</b>	<b>2,880,000</b>			

**Option II**

<b>A - Conference Servicing *</b>								<b>B - Travel Support</b>
<b>Number of meetings per biennium</b>	<b>Meeting Schedule</b>	<b>Cost for conference servicing as in Option II</b>	<b>Cost for conference servicing English only</b>	<b>Cost for conference servicing E,F &amp; S</b>	<b>Cost for conference servicing 6 UN languages</b>	<b>Translated pages*** of meeting documents (pre- , in- and post session)</b>	<b>Remarks</b>	<b>Cost for participation of developing country delegates **</b>
Open-ended Working Group 1	April / May 2003	330,000	32,500	330,000	530,000	300 + 50 + 50	Proposed option II servicing in English, French and Spanish.	320,000
Open-ended Working Group 2	October / November 2003	330,000	32,500	330,000	530,000	300 + 50 + 50	Proposed option II servicing in English, French and Spanish.	320,000
Open-ended Working Group 3	March 2004	330,000	32,500	330,000	530,000	300 + 50 + 50	Proposed option II servicing in English, French and Spanish.	320,000
<b>Sub-total</b>		<b>990,000</b>	<b>97,500</b>	<b>990,000</b>	<b>1,590,000</b>			<b>960,000</b>
<b>A+B</b>	<b>Grand total</b>		<b>1,950,000</b>	<b>1,057,500</b>	<b>1,950,000</b>	<b>2,550,000</b>		

**Option III**

<b>A - Conference Servicing *</b>								<b>B - Travel Support</b>
<b>Number of meetings per biennium</b>	<b>Meeting Schedule</b>	<b>Cost for conference servicing as in Option III</b>	<b>Cost for conference servicing English only</b>	<b>Cost for conference servicing E,F &amp; S</b>	<b>Cost for conference servicing 6 UN languages</b>	<b>Translated pages*** of meeting documents (pre- , in- and post session)</b>	<b>Remarks</b>	<b>Cost for participation of developing country delegates **</b>
Open-ended Working Group 1	September 2003	330,000	32,500	330,000	530,000	300 + 50 + 50	Proposed option III servicing in English, French and Spanish.	320,000
Open-ended Working Group 2	March 2004	330,000	32,500	330,000	530,000	300 + 50 + 50	Proposed option III servicing in English, French and Spanish.	320,000
Open-ended Working Group 3 *	October 2004	0	0	0	0	300 + 50 + 50	Meeting to be convened as the preparatory segment of COP7 (included in its budget)	320,000
Technical Committee (in English only in all options)	April 2003 November 2003 April 2004	97,500				No translation planned for this committee	Number of meetings depending on the requests of the COP.	240,000
<b>Sub-total</b>		<b>757,500</b>	<b>162,500</b>	<b>757,500</b>	<b>1,157,500</b>			<b>1,200,000</b>
<b>A+B</b>	<b>Grand total</b>	<b>1,957,500</b>	<b>1,362,500</b>	<b>1,957,500</b>	<b>2,357,500</b>			

## Option IV

A - Conference Servicing *								B - Travel Support
Number of meetings per biennium	Meeting Schedule	Current arrangement	Cost for conference servicing English only	Cost for conference servicing E,F & S	Cost for conference servicing 6 UN languages	Translated pages*** of meeting documents (pre- , in- and post session)	Remarks	Cost for participation of developing country delegates **
Technical Working Group - 21	May / June 2003	32,500	32,500	290,000	450,000	200 + 50 + 50	Current arrangement IV servicing in English only.	320,000
Technical Working Group - 22	January / February 2004	32,500	32,500	290,000	450,000	200 + 50 + 50	Current arrangement IV servicing in English only.	320,000
Legal / Implementation Working Group	September / October 2003	32,500	32,500	250,000	350,000	100 + 50 + 50	Current arrangement IV servicing in English only.	320,000
Legal / Implementation Working Group	March / April 2004	32,500	32,500	250,000	350,000	100 + 50 + 50	Current arrangement IV servicing in English only.	320,000
<b>Sub-total</b>		<b>130,000</b>	<b>130,000</b>	<b>1,080,000</b>	<b>1,600,000</b>			<b>1,280,000</b>
<b>A+B</b>	<b>Grand total</b>	<b>1,410,000</b>	<b>1,410,000</b>	<b>2,360,000</b>	<b>2,880,000</b>			

\* Conference servicing covers expenses related to the venue of the meeting, basic staffing, translation of meeting documents up to limit mentioned and interpretation of the plenary session in languages marked. Costing is in US dollars.

\*\* Developing country participation costed at 80 delegates sponsored out of 110 qualified.

\*\*\* The current cost of editing of English is US\$35 per page and the cost of translation is US\$125 per page per language.



Annex IIComments by Canada, Germany and New Zealand1. Comments by Canada

July 26, 2002

RE: Comments on Institutional Arrangements for the Basel Convention

In the intersessional period between COP 5 and COP 6, there were a considerable number of meetings of the various working groups. This large number of meetings, as well as some confusion about overlapping mandates of the groups resulted in meetings that were perhaps not as effective as they could have been. In an effort to reduce the overlaps and ensure effective participation and use of resources, Canada welcomes the opportunity to contribute to the discussion on institutional arrangements for the Basel Convention and wishes to offer the following comments.

We would encourage the Secretariat to develop for consideration at COP 6 a document that not only compiles all submissions, but also includes options or scenarios for meetings of the subsidiary body(ies) of the Basel Convention. In developing these options, we would suggest that the Secretariat gather information on and take into consideration how subsidiary bodies of the multilateral environmental agreements are working. As well, it would be useful for the discussion to have costs and potential savings, if any, identified for the various options to allow for a cost benefit analysis of a reduced number of meetings.

The Secretariat may wish to give consideration to collapsing the existing subsidiary bodies into only one subsidiary body or working group. This new working group could cover the technical and legal issues that were previously addressed by the three working groups, ie. Technical, Legal and Joint working groups. It could have two co-chairs, one with technical expertise and one with legal expertise. The advantages this arrangement would be that duplication of debates and procedural matters and difficulties in allocation of work would be avoided and it would offer Parties greater flexibility to address issues.

With respect to scheduling meetings, we would suggest limiting the duration of the meeting to five days, as meetings of longer duration can become taxing on delegations, as well as the resources of the Secretariat. In addition, sufficient time should be allowed between meetings for progress on issues to be made. One possible scenario would be to have two meetings between the COPs to discuss technical and legal issues and one to discuss implementation issues at least six months before the COP. The new working group could also function as the current Working Group for Implementation.

In order to make effective use of the time at the meetings and to ensure positive results for COP, we would suggest including a time limit as to when results could be expected for each issue.

We trust that you will find these comments useful. Please do not hesitate to contact me should you require further information.

## 2. Comments by Germany

1. At COP 5 in December 1999 a new structure of the subsidiary bodies has been adopted in decision V/34 creating a Legal Working Group (LWG) and a Working Group for Implementation (WGI) in addition to the Technical Working Group (TWG). Because a number of issues were delegated to both the TWG and the LWG by certain COP 5 decisions, joint meetings of the TWG and the LWG (here abbreviated as JTL) were held. After three years of practice it seems appropriate to discuss at COP 6 whether this structure should be kept or if a different structure may be more efficient.

2. Since 2000 the following sessions were scheduled (all back to back except the COP):

TWG 16 and LWG 1:	3-5 April/6-7 April 2000
TWG 17 and LWG 2:	9-11 October/12-13 October 2000
TWG 18 and LWG 3:	18-20 June/21-22 June 2001
TWG 19, JTL 1 and LWG 4:	14-15 January/16-17 January/18-19 January 2002
LWG 5, TWG 20, JTL2 and WGI 1:	21-22 May/23-24 May/27-28 May/29-31 May 2002
COP 6:	9-13 December 2002

3. The experience has shown that there should be at least six month between two sessions of a body and that one period of sessions should last no more than one week. In addition, the COP should be held some months before the end of the biennium.

4. In order to increase the efficiency of the work it seems appropriate to look into options to reduce the number of subsidiary bodies and to avoid, if possible, the delegation of an issue to more than one subsidiary body in order to avoid joint meetings.

5. In order to avoid joint meetings in future, some draft decisions for COP 6 could be changed, inter alia:

- With regard to the analysis of issues related to Annex VII, the WGI could be mandated instead of both the TWG and the LWG.
- With regard to the draft guidance elements for bilateral, multilateral or regional agreements or arrangements, the WGI could, if any further work is decided by COP 6, be mandated instead of both the TWG and the LWG. It is noted that this issue is anyhow within the mandate of the WGI pursuant to decision V/34.
- With regard to the implementation of the Basel Declaration and the Strategic Plan, the respective subsidiary body should look into the issues within its mandate.

6. After a quick look into the issues before the TWG, LWG and WGI in 2003 and 2004, it seems to be an option to merge the LWG and the WGI into a new body (here abbreviated as LIWG) by merging the mandates as contained in paras. 4 and 8 of decision V/34. Under the assumption that the mechanism for promoting implementation and compliance is adopted at COP 6, the future workload of the LWG does not seem high. If the LWG and the WGI would be merged, this would mean that the LIWG could meet a week which would e. g. give:

- more time for certain legal issues in contact groups, since in the past it was always difficult to make much progress on legal issues in a two day LWG session.

- the opportunity to consider issues currently within the mandate of the WGI such as issues related to the regional centres (e. g. the functioning of the centres and the status with regard to the Framework Agreements) or to the budget (e. g. the reserve and fund balance) already in 2003.

7. The following schedule seems to be one option which takes into account the criteria mentioned in para. 3 above (each session lasting one week):

TWG 21	May/June 2003
LIWG 1	September 2003
TWG 22	January 2004
LIWG 2	March/April 2004
COP 7	September/October 2004

This would mean 5 weeks of meeting time per biennium (2 weeks in the year without a COP and 3 weeks in the year with a COP) compared to 6 weeks in the draft budget in doc. UNEP/CHW/WGI/1/2. In the period 2000-2002 there were also about 2 weeks in the year without a COP and 3 weeks in the year with a COP (if the sessions in January 2002 are counted for 2001).

8. It would be welcomed if the secretariat could in more detail look at the issues before the TWG, LWG and WGI in 2003 and 2004, i.e. the draft work programmes, and which issues may be finalized until COP 7 as well as into the related budgetary implications. This would enable COP 6 to make an appropriate decision on the future structure and meeting schedule of the subsidiary bodies.

9. In addition it seems that the issues in the mandate of the LWG should be updated since a number of issues listed in para. 8 of decision V/34 have been finalized or further developed. It is suggested to formulate the issues in para. 8 more general as has been done in para. 7 for the TWG.

### 3. Comments by New Zealand

1. Following decisions taken at COP5 in December 1999 (COP Decision V/34) the institutional infrastructure of the Basel Convention was reorganised. The reconstructed subsidiary bodies of the Convention, as established following this reorganisation, have provided a new operating environment for the work undertaken in the intersessional period. New Zealand considers that it is timely, therefore, to take the opportunity provided by COP6 and evaluate the new arrangements put in place by the decisions taken at COP5. It would also provide us with an opportunity to take a fresh look at how best to serve the needs of the Convention in the next intersessional period.

2. Important progress has been made on a number of key issues since COP5. But, conversely, there are also a number of areas where the new institutional infrastructure has resulted in some unease about the plethora of meetings of subsidiary bodies. At the same time there has been some concern about a possible lack of transparency in decision making and lack of clarity about the process and desirable outcomes, and confusion about overlaps of mandate and lines of authority. This in turn has led to a lack of progress on some issues. There has also been some ongoing concern over funding constraints that limit the coverage of participation by developing country delegations and the ability of all delegations to participate equally in an English-only environment.

3. Taking these concerns into account, and in the light of the experiences with the Convention's institutional infrastructure in the period since COP5, New Zealand considers that some rationalisation of the subsidiary bodies of the Convention would be useful. This would provide an opportunity for further improvements to the process begun at COP5, and would contribute to a better focus as we move the issues forward in the next intersessional period.

4. New Zealand welcomes the opportunity to contribute to the discussion on the infrastructure of the Basel Convention. We note that Parties have been asked to make submissions to the Secretariat on these issues **by 31 July** and wish to submit the following comments for consideration in the preparation of an options paper on possible alternatives for discussion at COP6.

#### I. Working Groups

5. There have been five scheduled meetings of the Technical Working Group (TWG) and five of the Legal Working Group (LWG) in the intersessional period, in addition to two meetings of the Joint Working Group (JWG) and one meeting of the Working Group for Implementation (IWG). Given other commitments this ambitious schedule of meetings has often allowed little time between meetings to make substantive progress on the issues under discussion, and has at times placed considerable strain on scarce resources.

6. Our experience has been that the mandates of the different groups have also not been as precise as they could have been. In some cases the different aspects of the same issue are considered in different groups, while in other cases the same issue is discussed in two or three of the meetings. Our view is that this has resulted in something of a lack of overall accountability and contributed to a lack of coherence on some issues, and to a lack of progress on others. This, in addition to the broad agenda given to the Working Groups at COP5, has meant that a number of issues will return to COP6 unfinished.

7. At the same time budget shortfalls have meant that participation from developing country parties has been severely limited. This has, in our view, been exacerbated by the number of meetings scheduled during the intersessional period. But these limits, plus the use of English as the sole working language in the Working Groups, has severely restricted the ability of developing country parties to take an active part in the intersessional work of the Convention.

8. In consideration of these issues, and taking into account the more integrated nature of the work now being undertaken under the auspices of the Basel Convention, we make the following comments as one suggested option for a different approach to intersessional work.

- The TWG, LWG, JWG and IWG should be fused into a single subsidiary body - an Open Ended Working Group (OEWG).
- Issues to be dealt with intersessionally should be considered in a holistic manner within the OEWG. However, the OEWG should have the ability to set up small ad hoc expert groups within the framework of the meeting to deal with specific aspects of an issue (eg legal implications).
- The OEWG could have one Chair, and two vice-chairs (one legal co-chair and one technical co-chair) to allow it to cover the breadth of issues. The vice-chairs could act as facilitators of the ad hoc experts groups set up to deal with specific aspects of the issues under consideration.
- Should additional intersessional work be needed on an issue, outside the OEWG timetable, the OEWG should consider a specific short term mandate to a small informal group of experts to work electronically, with a progress report to the next OEWG.
- The OEWG should normally meet for one week at a time, and three times between COPs - with the third meeting functioning as a preparatory meeting for the COP, to consider the budget, approve the agenda for the COP, and finalise arrangements and draft resolutions. There should be at least nine months between each meeting.
- The COP should be encouraged to consider the intersessional agenda for any subsidiary body of the Convention as a whole, to ensure that the agenda is not overloaded. If possible the COP should set priorities for each task during consideration of the workload, and should also consider attaching a “sunset” clause - or time limit - for each activity.
- To allow for equal opportunity for active participation in the meeting, documents for the meetings of the OEWG should be available in at least three of the UN languages (English, French and Spanish) and meetings should, if possible, have simultaneous interpretation in all six UN languages available.
- Given the broader mandate necessary for an OEWG, every effort should be made to ensure that developing country participation has the necessary expertise available at the meeting. This could mean both technical and legal expertise, and therefore consideration should be given to having two delegates from each developing country funded at each meeting (with the reduced number of meetings, the costs for funding for developing country participation and translation/interpretation should be more affordable).

## II. The Expanded Bureau

9. The mandate of the Expanded Bureau is addressed in Decision V/24 paragraph 3. It is to provide, within the policy agreed by the Conference of the Parties, general policy and operational direction to the Secretariat between COPs; provide guidance and advice to the Secretariat on the preparations for meetings and any other matters brought to it by the Secretariat in the exercise of its functions; oversee development and execution of the Secretariat's budget and keep the Convention's financial resources and expenditure under review; perform any functions requested by the IWG, especially administrative tasks, taking into account the need for rational use of limited available financial resources; and to perform any other functions that may be entrusted to it by the Conference of the Parties.

10. The Expanded Bureau as established under Decision V/34 comprises 13 members: five members of the present Bureau, five members of the Bureau of the previous meeting of the Conference of the Parties, and the Chairs of the LWG, TWG and IWG. Representation on the Bureau is therefore decided on a regional basis, with equitable geographic balance and a balance of developing and developed country participation, and Bureau members theoretically represent the interests of their constituent group.

11. The Expanded Bureau generally meets at least twice a year. Meetings of the bureau have traditionally been open to observers. However, this practice was discontinued at COP5, and the bureau meetings are now closed. The agendas and documentation for each meeting are still available in electronic form in advance of each Bureau meeting, and the President of the Bureau meets with interested Geneva-based missions for an hour prior to each Bureau meeting to listen to their views on issues of concern. There is, however, no formal mechanisms to allow for regional group input into Bureau discussions, and there is no debriefing of regional groups by Bureau representatives after Bureau meetings, although the report of the Bureau meetings is available electronically.

12. The length of time between Conferences of the Parties, and the broad scope of the mandate for the Expanded Bureau (as set out in paragraph 9 above), means that the Expanded Bureau has a substantive role in developing policies and programmes for the Convention in the intersessional period. The closing of the meetings of the Expanded Bureau in the period since COP5 has led to some concern about the transparency of the intersessional decision making process, and also some concern about the substantive nature of a number of the decisions taken in the Bureau meetings (eg decisions with substantive financial implications and the proposed Industry Partnership programme).

13. In consideration of these issues, we make the following comments as suggested options for a different approach to the work of the Bureau in the intersessional period.

- The Conference of the Parties should give some consideration to the mandate of the Bureau, perhaps limiting its absolute authority to administrative and financial issues, and to enhancing Party input intersessionally on other issues.
- Although a broader mandate is necessary, given the length of time between Conferences of the Parties, some consideration could be given to a process whereby decisions with a policy content would be referred to all Parties for endorsement - for example through a more formalised requirement for a general call for comment.
- Membership of the Expanded Bureau should remain at thirteen members: five members of the present Bureau, five members of the Bureau of the previous meeting of the Conference of the Parties, and the Chair and vice-chairs of the proposed OEWG.
- Representation on the Bureau should remain on a regional basis, with equitable geographic balance and a balance of developing and developed country participation.
- Participation in Bureau meetings should be open, with observers able to participate but not vote (based on the same lines as the Standing Committee of the CITES Convention). Observers could also, in special circumstances, have the ability to request that specific issues are placed on the agenda for discussion at the Bureau meeting and be able to speak to that item at the meeting.
- Some consideration could be given to a more formalised process for ensuring regional input into the discussions and decisions of the Expanded Bureau, and for reporting back to the regions following the meeting.

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