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**Rotterdam Convention on the Prior  
Informed Consent Procedure for Certain  
Hazardous Chemicals and Pesticides in  
International Trade  
Conference of the Parties  
Third meeting**

Geneva, 9–13 October 2006

Item 6 (b) of the provisional agenda\*

**Issues arising out of previous meetings  
of the Conference of the Parties:  
Study of possible options for lasting  
and sustainable financial mechanisms**

## **Study of possible options for lasting and sustainable financial mechanisms**

### **Note by the Secretariat**

1. At its second meeting, the Conference of the Parties considered a study (UNEP/FAO/RC/COP.2/10), prepared in response to the request in decision RC-1/5, on the possible options for lasting and sustainable financial mechanisms which will enable developing countries to implement adequately the provisions of the Convention.
2. Also at its second meeting, the Conference of the Parties requested the Secretariat to examine in more detail the options set forth in document UNEP/FAO/RC/COP.2/10, taking into account the discussions on the matter during that meeting, and to report on its findings to the Conference of the Parties at its third meeting.
3. The report prepared by the Secretariat, as requested by the Conference of the Parties at its second meeting, is annexed to the present note.

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\* UNEP/FAO/RC/COP.3/1.

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## Annex

### Further examination of possible options for lasting and sustainable financial mechanisms for implementation of the Rotterdam Convention

#### Contents

Executive summary.....	3
Acronyms and abbreviations .....	7
I. Introduction .....	8
A. Background and purpose of study.....	8
B. Scope and structure of study .....	8
II. Additional costs of implementation.....	9
A. Defining additional costs and the baseline .....	9
B. Foundational chemicals management capacity .....	10
C. Areas of implementation that may entail additional costs.....	12
III. Existing financial mechanisms: recent developments.....	19
A. Basel Convention Technical Cooperation Trust Fund .....	19
B. Multilateral Fund of the Montreal Protocol.....	22
C. Global Environment Facility.....	25
D. Financial mechanism of the Stockholm Convention.....	28
E. Global Mechanism of the Desertification Convention.....	30
F. Strategic Approach to International Chemicals Management (SAICM) .....	32
IV. Further examination of options for consideration by the Conference of the Parties .....	35
A. Developing a strategy for securing financial resources.....	35
B. Addressing foundational chemicals management capacity needs.....	36
C. Addressing assistance needs for implementation of the specific provisions of the Rotterdam Convention .....	38
References .....	40

## Executive summary

1. At its first meeting, the Conference of the Parties to the Rotterdam Convention requested the Secretariat to conduct a study of possible options for lasting and sustainable financial mechanisms that would enable developing countries to implement the provisions of the Convention adequately. In considering the Secretariat's report, at its second meeting the Conference of the Parties requested the Secretariat to examine in more detail the options set forth in document UNEP/FAO/RC/COP.2/10, taking into account the discussions held on the subject, and to report on its findings to the Conference of the Parties at its third meeting.

2. The present study responds to that request. The study incorporates, by reference, and builds upon the information presented in the aforementioned study ("the COP.2/10 study"), including the options set forth therein. It provides additional relevant information which has become available since the COP.2/10 study was prepared and it examines that information within the context of the need for adequate and sustainable financing for implementation of the Rotterdam Convention by developing countries. The study further examines and elaborates options for consideration by the Parties in addressing assistance needs for the implementation of the Convention, and it concludes by suggesting an integrated, overarching approach that incorporates and builds upon many of the options identified in the COP.2/10 study.

### A. Additional costs of implementation

3. After an introduction, the study begins in its chapter II by reviewing areas of Rotterdam Convention implementation that may entail additional costs at the national level. Having a clear idea of the totality of national implementation costs could greatly assist Parties in their decision-making on a Rotterdam Convention financial mechanism. While preparing an estimate of what the overall funding needs actually are is beyond this study's scope, chapter II is intended to assist in the process by discussing some considerations that may affect how additional costs are defined and calculated, and by identifying, in a series of tables, those areas of implementation that may entail additional costs.

4. The study raises some considerations that may affect how additional costs are defined and calculated. The baseline against which one would gauge whether or not an implementation cost is additional may vary, depending on how one defines it. Because most developing countries (especially least developed countries) have far fewer existing capacities for sound chemicals management than developed countries have, the areas of Rotterdam Convention implementation that may entail additional costs for them, when measured against their baselines of existing capacity for sound chemicals management, will in most cases be far broader than for most developed countries. This observation suggests that it may be inappropriate to assume that the scope of the areas of Rotterdam Convention implementation that may entail additional costs will be the same for developing and developed countries.

5. The overall difference between the chemicals management capacity baselines of highly developed countries and those of many developing countries represents their respective differences in "foundational chemicals management capacity." Foundational chemicals management capacity is the basic governance framework which a country needs to support effective management of chemicals throughout their life cycles. It refers not to the specific actions which a country must take to satisfy its obligations under a multilateral treaty such as the Rotterdam Convention, but instead to the underlying chemicals management capacities which countries should have, and which they may build upon to support their implementation of Rotterdam Convention and fulfil their obligations under that and other chemicals treaties. Both the Global Environment Facility (GEF) secretariat, in fulfilling the role of GEF as an operational entity of the Stockholm Convention financial mechanism, and the International Conference on Chemicals Management (ICCM) have expressed intentions to address the foundational chemicals management capacity needs of developing countries. Such assistance could have the added benefit of increasing the ability of developing country Parties to contribute to the achievement of Rotterdam Convention objectives.

6. The foundational chemicals management capacities that may be associated with the various obligations under the Rotterdam Convention are identified in a series of tables in the latter section of chapter II.

## B. Existing financial mechanisms: recent developments

7. In chapter III, the study revisits five of the six existing financial mechanisms that the COP.2/10 study reviewed, by describing notable developments that have occurred since the preparation of the former study and then by placing those developments within the context of a possible strategy for securing financial resources under the Rotterdam Convention. (Chapter III does not review the Kyoto Protocol's Adaptation Fund further because the mandatory levy/tax approach used by that Fund is infeasible under the Rotterdam Convention's current structure and did not garner support from any Parties at the second meeting of the Conference of the Parties.) Additionally, the study reports upon financial considerations that were among the Strategic Approach to International Chemicals Management (SAICM) provisions adopted by the International Conference on Chemicals Management in Dubai, United Arab Emirates, in February 2006.

8. **Basel Convention** on the Control of Transboundary Movements of Hazardous Wastes and their Disposal: Reliance upon the Basel Convention's Technical Cooperation Trust Fund as the sole or primary source of funds to assist developing countries in their implementation of the Convention still is not viewed as a viable strategy by the majority of Basel Convention Parties. Hence, the Basel Conference of the Parties, Open-ended Working Group and secretariat are engaged in concerted efforts to develop further and implement a multifaceted resource mobilization strategy.

9. **Montreal Protocol** on Substances That Deplete the Ozone Layer: A plain reading of the Montreal Protocol's Article 10 suggest that nothing in the text precludes the possibility that future arrangements may be made for the Protocol's Multilateral Fund to serve other environmental issues beyond ozone depletion. The extent to which infrastructure already funded through the Multilateral Fund could be used in implementation of the Rotterdam Convention will vary from Party to Party. All but a few Parties have already nominated one or more designated national authorities (DNAs), and these DNAs are mostly part of the technical units that deal with the regulation of chemicals (pesticides and/or industrial chemicals). Being part of these units provides for easy access to the national regulatory system and to the necessary reviews and data. It may be difficult for Parties to provide notifications and otherwise participate in the prior informed consent process if their DNAs were established in offices away from the regulatory authorities. Further, the initial, additional expense for the DNAs, and ultimately the full cost, would not be covered by the Multilateral Fund replenishment. Instead, it would have to come from contributions to the Rotterdam Convention special voluntary Trust Fund or from other sources.

10. **Global Environment Facility:** The study briefly recounts three important developments regarding GEF, including implementation of the new Resource Allocation Framework (RAF), the fourth GEF replenishment, and the release of the third Overall Performance Study (OPS3). Because GEF continues to be the most important source of multilateral financial support for developing country implementation under many of the global environmental agreements, a strategic, multifaceted approach to securing financial resources under the Rotterdam Convention should include plans for accessing GEF resources for both the near and longer terms. However, the rules of the GEF Instrument and the challenges which the GEF faces also suggest that access to GEF may not, by itself, fully satisfy the resource needs of Rotterdam Convention developing country Parties, and they may thus not wish to focus exclusively on gaining access to GEF.

11. **Stockholm Convention** on Persistent Organic Pollutants: As documented in the study and in other sources, there is scope in GEF Operational Program 14 (OP#14) for undertaking foundational capacity work that has a broader application than just persistent organic pollutants (POPs), and countries should be encouraged to identify those opportunities and to reflect them in their national implementation plans and subsequent project proposals. Rotterdam Convention Parties may wish to consider using the Stockholm Convention financial mechanism to support their foundational capacity-building needs for sound chemicals management. Such an approach would be one pursued by individual developing countries which are Party to both the Stockholm and Rotterdam conventions, by including such needs in their national implementation plans and by preparing and submitting GEF project proposals that include foundational capacity-building components.

12. **United Nations Convention to Combat Desertification** in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa: Though still too soon to gauge success, the Desertification Convention has entered a new phase in which it may access GEF resources, and in which its Global Mechanism will focus on assisting Parties in their efforts to tap potentially much greater official development assistance (ODA) resources by mainstreaming sustainable land management into their national development strategies. ODA funding allocations are made on the basis

of the national priorities articulated by recipient countries, and environmental needs are rarely if ever presented as being among those priorities. Consequently, these large resources are not directed towards sound chemicals management capacities in developing countries, including the capacities needed to implement the Rotterdam Convention. The current resource mobilization strategies of both the Basel and Desertification conventions attach great weight to the potential benefits of tapping into these resources through mainstreaming. Rotterdam Convention Parties may wish to give consideration to following the examples of these Conventions.

13. **Strategic Approach to International Chemicals Management (SAICM):** The International Conference on Chemicals Management (ICCM) adopted SAICM in Dubai, United Arab Emirates, in February 2006, including a Quick Start Programme (QSP). QSP is intended to provide seed money in support of initial capacity-building and implementation activities in developing countries. While QSP is time-limited, and its funds are modest, there is scope for developing country Parties to access assistance from QSP that can further their implementation of the Rotterdam Convention. An additional, potentially significant part of the “financial considerations” of SAICM encourages developing countries to integrate SAICM objectives into their requests for development assistance, and indicates that technical support to help them do this will be provided if needed.

### C. Further examination of options for consideration by the Conference of the Parties

14. Based upon the options identified in the COP.2/10 study and the developments and the considerations which this study reports in respect to the five reviewed financial mechanisms (plus the SAICM financial considerations), chapter IV draws together relevant elements identified in the study and suggests that pursuing them in an integrated fashion could comprise, in essence, a further, overarching option. This overarching option incorporates and builds upon many of the nine COP.2/10 study options. Others are not included. For example, continuing the status quo (doing nothing new) would, by its very nature, preclude pursuing an integrated, overarching approach, so it is not included. Three other options were deemed by this study to be infeasible at this time: using the Montreal Protocol’s Multilateral Fund; establishing a new, stand-alone financial mechanism for the Rotterdam Convention; and imposing a levy on importers and/or exporters. Consideration of any or all of these options remains, of course, in the hands of the Parties.

15. Chapter IV presents three categories of suggested actions that could be taken by individual Parties or by the Conference of the Parties as a whole.

16. **“Developing a strategy for securing financial resources”** recognizes that there are various funding sources that can support some but not all Rotterdam Convention implementation actions, and suggests that there would be benefit in Parties’ developing an integrated approach towards accessing them. Such an approach could be comprised in whole or part by components identified in the study, including: greater coordination and consultation with the secretariats of other relevant conventions and financial mechanisms, especially those in the chemicals and wastes cluster; a significant focus on obtaining support for the development of foundational chemicals management capacities in developing countries; and an equally significant focus on addressing needs of developing countries related to implementation of the specific provisions of the Convention. The Conference of the Parties could:

- (a) Request the Secretariat to draft an approach for securing financial resources for consideration and possible adoption by the Conference of the Parties at its fourth meeting;
- (b) Provide information on which to base an assessment of the cost of implementing the Convention in developing countries;
- (c) Indicate the priorities for securing resources to assist developing countries in implementing the provisions of the Convention.

17. Under **“addressing foundational chemicals management capacity needs”**, Rotterdam Convention developing country Parties and the Conference of the Parties, where appropriate, might:

- (a) Use their national implementation plans under the Stockholm Convention as a basis for defining gaps in their chemicals management infrastructure for implementation of the Rotterdam Convention, and seek funding from GEF in their capacities as Parties to the Stockholm Convention to support their development of foundational capacities for sound chemicals management;

(b) Seek assistance from the SAICM Quick Start Programme (QSP) by proposing projects that will build foundational capacities in sound chemicals management necessary for their adequate implementation of the Rotterdam Convention;

(c) Integrate (mainstream) sound chemicals management objectives into their national development assistance requests:

- (i) By proposing projects to QSP that support mainstreaming activities;
- (ii) By requesting the SAICM secretariat to facilitate the identification of donors that will provide them with technical support to assist them in mainstreaming and encouraging donors to provide such support;
- (iii) By requesting the Rotterdam Convention Secretariat to explore, in consultation with the relevant secretariats, the establishment of an institutionally distinct coordinating mechanism for securing financial resources;
- (iv) By inviting the relevant United Nations agencies to propose ways in which they might provide relevant capacity-building and training to developing country Parties.

18. **“Addressing assistance needs for implementation of the specific provisions of the Rotterdam Convention”** identifies some options for the consideration of the Rotterdam Convention Conference of the Parties:

(a) Identify specific commitments under the Rotterdam Convention that might be funded by GEF under its current mandate and urge the GEF to include more Rotterdam-Convention-related activities among its priorities for OP#14;

(b) Lay the groundwork for GEF to establish a sound chemicals management focal area and become a financial mechanism of the Convention:

- (i) By requesting the Secretariat to commission an independent study to clarify those aspects of Rotterdam Convention implementation that bring global benefits;
- (ii) By inviting competent authorities to coordinate at the national, regional, and global levels to facilitate enhanced access to GEF for activities related to the sound management of chemicals;
- (iii) In coordination with the Basel and Stockholm conventions and ICCM, by inviting GEF to establish a new focal area relevant to the sound management of chemicals throughout their life cycles, and to consider becoming a financial mechanism of the Rotterdam Convention.

## Acronyms and abbreviations

CAP	Compliance Assistance Programme
DNA	designated national authority
EIT	economy in transition
FAO	Food and Agriculture Organization of the United Nations
GEF	Global Environment Facility
GEF-3	third GEF replenishment
GEF-4	fourth GEF replenishment
ICCM	International Conference on Chemicals Management
IFAD	International Fund for Agricultural Development
IOMC	Inter-Organization Programme for the Sound Management of Chemicals
ODA	official development assistance
ODS	ozone-depleting substances
OECD	Organisation for Economic Co-operation and Development
OP#14	Operational Program 14 (GEF)
OPS3	Third Overall Performance Study (GEF)
POPs	persistent organic pollutants
QSP	Quick Start Programme (SAICM)
SAICM	Strategic Approach to International Chemicals Management
UNCCD	United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organization
UNITAR	United Nations Institute for Training and Research

## **Further examination of possible options for lasting and sustainable financial mechanisms for implementation of the Rotterdam Convention**

### **I. Introduction**

#### **A. Background and purpose of study**

1. At its first meeting, the Conference of the Parties of the Rotterdam Convention requested the Secretariat to conduct a study of possible options for lasting and sustainable financial mechanisms that would enable developing countries to implement the provisions of the Convention adequately.<sup>1</sup> The Secretariat responded to that request by preparing and submitting the study in document UNEP/FAO/RC/COP.2/10 (“the COP.2/10 study”). On considering the report of the Secretariat, at its second meeting the Conference of the Parties requested the Secretariat to examine in more detail the options set forth in that study, taking into account the discussions held on the subject at that meeting, and to report on its findings to the Conference of the Parties at its third meeting.

2. The purpose of this study is to facilitate decision-making during the third meeting of the Conference of the Parties in respect to lasting and sustainable financial arrangements to assist developing country Parties in their implementation of the Rotterdam Convention. The study does this by providing additional, relevant information that has become available since preparation of the COP.2/10 study; by examining that information within the context of the need for adequate and sustainable financing for implementation of the Rotterdam Convention by developing countries; and by identifying and further elaborating options for consideration by the Parties in addressing assistance needs for the implementation of the Convention.

#### **B. Scope and structure of study**

3. This study incorporates, by reference, and builds upon the information presented in the COP.2/10 study, including the options set forth therein. The present study considers developments that have occurred in respect to select multilateral environmental agreements and their financial mechanisms since the time of the COP.2/10 study. It takes into account interviews and communications with relevant secretariats and other stakeholders.

4. The study is presented in four chapters. Additionally, there is a references section after chapter IV that includes web addresses for most of the documents cited in the study.

5. Chapter I (the present chapter) is the introduction.

6. Chapter II discusses areas of Rotterdam Convention implementation that may entail additional costs. This discussion is intended to assist in the process of developing information on the additional costs to developing countries of implementing the Convention and its prior informed consent procedure at the national level. Chapter II does this, first, by discussing some considerations that may affect how additional costs are defined and calculated and, second, by identifying, in tabular format, those areas of Convention implementation that may entail such additional costs.

7. Chapter III revisits five of the six existing financial mechanisms that the COP.2/10 study reviewed, and which served as the basis for the nine options offered in that study. (Chapter III does not further review the Kyoto Protocol’s Adaptation Fund, because the mandatory levy/tax approach used by that Fund is infeasible under the Rotterdam Convention’s current structure and did not garner support from any Parties at the second meeting of the Conference of the Parties.) For each of these five existing mechanisms, chapter III provides an update of notable developments that have occurred since the preparation of the COP.2/10 study, followed by an examination of why those developments may be relevant to the considerations of the Conference of the Parties to the Rotterdam Convention. Additionally, chapter III includes a report upon financial considerations that were among the SAICM provisions adopted by the International Conference on Chemicals Management in Dubai, United Arab Emirates, in February 2006.

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<sup>1</sup> Decision RC-1/5: Establishment of a financial mechanism for the implementation of the Rotterdam Convention. UNEP/FAO/RC/COP.1/33, annex I (2004).



8. Based upon the options identified in the COP.2/10 study and the developments and considerations which this study reports in respect to the five reviewed financial mechanisms (plus the SAICM financial considerations), chapter IV draws together relevant elements identified in chapter III and suggests that pursuing these in an integrated fashion could comprise, in essence, a further, overarching option. Chapter IV is organized in three sections, each of which contains specific, suggested actions that could be taken by individual Parties or by the Conference of the Parties as a whole. They include (a) developing a strategy for securing financial resources; (b) addressing foundational chemicals management capacity needs; and (c) addressing assistance needs for implementation of specific provisions of the Rotterdam Convention.

9. The integrated, overarching approach suggested in chapter IV incorporates and builds upon many of the options identified in the COP.2/10 study. Others are not included. Continuing the status quo (doing nothing new) would, by its very nature, preclude pursuing an integrated, overarching approach. Three other options were deemed by this study to be infeasible at this time, namely, using the Montreal Protocol's Multilateral Fund; establishing a new, stand-alone financial mechanism for the Rotterdam Convention; and imposing a levy on importers and/or exporters. Consideration of any or all of these options remains, of course, in the hands of the Parties.

## II. Additional costs of implementation

10. A fundamental challenge in considering the options for a financial mechanism to support implementation of the Rotterdam Convention is the lack of information about the totality of national costs of implementation. In considering what the financial assistance needs of Rotterdam Convention Parties may be (and thus what resource capacities a Rotterdam financial mechanism or strategy for securing financial resources may require), Parties should know what the additional costs of implementing the Convention at the national level could be. This part of the study is intended to assist that process by discussing some considerations that may affect how additional costs are defined and calculated, and by identifying, in a series of tables, those areas of implementation that may entail additional costs.

11. Determining what the overall financial assistance needs of Rotterdam Parties may be would require (a) identifying areas of implementation that may entail additional costs, (b) determining which areas apply to individual developing countries, (c) estimating the costs to each developing country of implementing its respective areas, (d) estimating any cost savings that could be achieved by taking regional or other coordinated approaches, and then (e) totalling all the estimates together. This study examines only the first of these steps. Depending on how comprehensive an effort is made, undertaking the remaining steps could be a complex, resource-intensive task that is beyond this study's scope. Nevertheless, having a clear idea of the totality of national implementation costs could greatly assist Parties in their decision-making for a Rotterdam Convention financial mechanism. Parties may wish to consider requesting additional work on this aspect.

### A. Defining additional costs and the baseline

12. The first step, identifying Rotterdam Convention implementation areas that may entail additional costs, is affected by how one defines additional costs and the baseline. Additional costs at the national level may be defined broadly as the additional economic burden on a country resulting from its choice to become a Party to the Rotterdam Convention and to implement all the Convention's applicable commitments fully.<sup>2</sup>

13. An additional consideration in whether an implementing activity may entail additional costs is whether the activity is required under the Convention; in other words, whether the activity is mandatory or discretionary. Parties may, however, wish to use caution in applying the mandatory or discretionary nature of a Convention commitment as a rule in any decision on additional costs, because some discretionary parts of the Convention may be crucial to the ability of developing countries to contribute to achieving the Convention's objectives. The Article 6 procedures for severely hazardous pesticide formulations would fall within this crucial, yet discretionary, category.

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<sup>2</sup> This is in contrast to the incremental cost concept used by the Global Environment Facility, which is much narrower, because the GEF may meet the incremental costs of activities only to the extent that they "achieve global environmental benefits". See Global Environment Facility, Instrument for the Establishment of the Restructured Global Environment Facility, paras. 2-3 (1994, as amended 2002) (hereinafter "GEF Instrument").

14. Regardless of whether a broad or narrow definition of additional costs is used, the baseline against which one would gauge whether or not a cost is additional or not may vary from country to country, depending on how one defines it. For the purposes of a Rotterdam Convention financial mechanism, the baseline could be set (a) at the existing level of chemicals management capacity in a given country, or (b) at an existing or projected level at which a country has achieved the basic capacities for sound chemicals management, but has not yet become a Party to the Rotterdam Convention and has therefore not implemented the Convention's specific requirements. The first baseline approach could result in the identification of substantial implementation areas entailing additional costs for many Rotterdam Convention Parties. Conversely, implementation areas entailing additional costs under the Convention would be fewer and narrower if the second baseline approach were used for all Parties.

15. For example, in an Organisation for Economic Co-operation and Development (OECD) country with a well-developed chemicals management capacity, the baseline will be quite high, i.e., the baseline will be the high level of chemicals management capacity that the country already has. Thus, the additional costs of implementing Rotterdam Convention requirements in such a country would be proportionately low, because that country will need to implement only the limited, specific commitments articulated in the Convention, such as naming a Designated National Authority (DNA), having someone prepare and mail the required notifications to the Secretariat, fine-tuning export regulations to ensure that exporters comply with articles 11–13, and having someone prepare and forward export notifications to importing countries.

16. For most developing countries, the baseline will be much, much lower, because most developing countries have far fewer technical, administrative, legal, and other capacities required for sound chemicals management than do highly developed countries. In many developing countries, complying with Rotterdam commitments may not simply entail, for example, naming a DNA or fine-tuning export and import regulations. Instead, such countries may need to establish – from the very beginning or nearly so – offices that can receive and process information about chemicals via the internet and other sources, identify and assess chemical risks as they may apply to their specific national situations, and make informed and timely import decisions about these chemicals; these countries may need to hire, train and outfit customs officials, enact and implement procedures that allow them to screen and regulate the movement of hazardous chemicals, etc. Thus, the areas of Rotterdam Convention implementation that may entail additional costs for most developing countries (especially least developed countries), when gauged against their baselines of existing capacity for sound chemicals management, will in most cases be far broader – and the needs within those areas far greater – than will be the case for most developed countries.

17. This conclusion suggests that it may be inappropriate to assume that the scope of the areas of Rotterdam Convention implementation that may entail additional costs will be the same for highly developed countries and for developing countries (especially least developed countries).

## **B. Foundational chemicals management capacity**

18. The overall difference between the chemicals management capacity baselines of highly developed countries and those of many developing countries is their differences in foundational chemicals management capacity. “Foundational chemicals management capacity” may be defined as the basic governance framework – such as legal, technical, administrative, institutional, civic, and policy capabilities – which a country must have to support effective management of chemicals throughout their life cycles.<sup>3</sup> Foundational chemicals management capacity refers not to the specific actions which a country must take to satisfy its obligations under a multilateral treaty such as the Rotterdam Convention; rather, it refers to the underlying chemicals management capacities that the country should have and on which it would build to support its implementation of those specific treaty obligations.

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<sup>3</sup> Agenda 21 identifies eight essential elements (basic foundational capacities) of a national programme (governance regime) for the sound management of chemicals, including: (a) adequate legislation, (b) information gathering and dissemination, (c) capacity for risk assessment and interpretation, (d) establishment of risk management policy, (e) capacity for implementation and enforcement, (f) capacity for rehabilitation of contaminated sites and poisoned persons, (g) effective education programmes, and (h) capacity to respond to emergencies. See Agenda 21, Chapter 19, Programme Area E, “Strengthening National Capabilities and Capacities for Management of Chemicals” (1992); see also paper submitted by the Government of Canada on a phased approach to implementation of the strategic approach to international chemicals management, p. 3 (SAICM/PREPCOM.3/INF/10) (2005).

19. In the context of implementation of, and compliance with, the Rotterdam Convention, a country possessing foundational chemicals management capacity could implement the Convention effectively by adopting, implementing, and enforcing legislation that deals only with the specific terms articulated in the Convention commitments. In other words, such a country would not have to develop the underlying capacity needed to support implementation of those specific terms, because that underlying capacity is already part of the country's foundational chemicals management capacity. Conversely, a country that lacks the basic governance framework for chemicals – including legal, policy, and institutional capabilities – may find it difficult or impossible to comply with its Convention commitments until it acquires those underlying capacities.

20. The GEF secretariat has, on several occasions, noted the relationship between implementation of the Stockholm Convention and the advancement of foundational chemicals management capacity. For example, the GEF secretariat has stated that:

“Actions taken in support to the Stockholm Convention lend themselves logically to the advancement of ‘foundational’ capacities essential for broader sound management of chemicals in a country.”<sup>4</sup>

21. Under the heading “Opportunities for Advancing ‘Foundational’ Capacities for Sound Chemicals Management”, the GEF secretariat has also said:

“[A]ctivities developed for the POPs focal area should be designed to build capacity that can be cross-cutting to or have synergies with management of other toxic and hazardous chemicals, including development of policy and legislative frameworks; inventory development; development of models for managing POPs or other contaminants; environmentally sound management of wastes; and creating infrastructure for chemicals management.”<sup>5</sup>

22. The broad objective of the Stockholm Convention – “to protect human health and the environment from persistent organic pollutants” – and the wide array of technical requirements under that treaty support the GEF contention that there should be significant overlap between “actions taken in support to the Stockholm Convention [and] the advancement of ‘foundational’ capacities essential for broader sound management of chemicals in a country”.

23. Support for the development of foundational chemicals management capacity in developing countries, and also countries with transitional economies, is also a key objective of SAICM. The SAICM Overarching Policy Strategy,<sup>6</sup> adopted at the International Conference on Chemicals Management in Dubai in February 2006, includes among its objectives:

(a) To increase the capacity for the sound management of chemicals throughout their life cycles in all countries as needed, especially in developing countries and countries with economies in transition;

(b) To narrow the widening gap in capacities between developed countries on the one hand and developing countries and countries with economies in transition on the other hand.

24. Thus, both the Stockholm Convention and SAICM create potentially significant opportunities for addressing the foundational chemicals management capacity needs of developing countries. These needs overlap the foundational capacities which Rotterdam Convention Parties may need to support their implementation of their Rotterdam Convention commitments. The extent to which Rotterdam Convention Parties may be able to utilize financial resource opportunities available under the Stockholm Convention and SAICM is considered later in this study, in chapter III below.

<sup>4</sup> *Report of the Global Environment Facility to the first meeting of the Conference of the Parties of the Stockholm Convention on Persistent Organic Pollutants*, para. 36, UNEP/POPS/COP.1/INF/11 (2005).

<sup>5</sup> *GEF's Work in Support to the Implementation of the Stockholm Convention: Opportunities for Advancing Global Sound Management of Chemicals*, para. 50, UNEP/POPS/COP.1/INF/30 (2005) (originally submitted to the Preparatory Committee for the Development of a Strategic Approach to International Chemicals Management at its second meeting as document SAICM/PREPCOM.2/INF/16); see also GEF Council, *Operational Program on Persistent Organic Pollutants [DRAFT] (OP#14)*, para. 10 (b), GEF/C.22/Inf.4 (2003) (stating that expected outcomes of GEF-supported interventions on POPs include strengthening the “policy and regulatory framework to facilitate environmentally sound management of POPs and other chemicals”).

<sup>6</sup> International Conference on Chemicals Management, *Strategic Approach to International Chemicals Management: Comprising the Dubai Declaration on International Chemicals Management, the Overarching Policy Strategy and the Global Plan of Action* (issued by the SAICM secretariat, 18 May 2006, pending formal publication), [www.chem.unep.ch/saicm/standalone\\_txt.pdf](http://www.chem.unep.ch/saicm/standalone_txt.pdf).

25. Compared to the Stockholm Convention and SAICM, the objective of the Rotterdam Convention is narrower and encompasses sound chemicals management in a less comprehensive (albeit very important) way:

“The objective of this Convention is to promote shared responsibility and cooperative efforts among Parties in the international trade of certain hazardous chemicals ... by facilitating information exchange about their characteristics, by providing for a national decision-making process on their import and export and by disseminating these decisions to Parties.”<sup>7</sup>

26. In view of this narrower objective, the Convention cannot be seen as a primary vehicle for providing the financial resources necessary to assist developing countries in the acquisition of foundational capacities for sound chemicals management. It is similarly unrealistic, however, to expect that all developing countries will be able to comply fully with their Rotterdam Convention commitments if they do not possess an adequate level of foundational chemicals management capacity. Hence, an approach for securing financial resources for the Rotterdam Convention might be most effective if it were part of a broader effort to facilitate developing country access to resources that address their needs for foundational chemicals management capacity, in addition to the specific requirements of the Rotterdam Convention. Such an approach might need to be strategic and multifaceted, identifying and taking advantage of a variety of opportunities that are found both within and beyond the procedures, mechanisms, and institutions created under the Rotterdam Convention.

### C. Areas of implementation that may entail additional costs

27. This section contains a series of tables that identify areas of Rotterdam Convention implementation that may entail additional costs. Each table presents an implementation area associated with a particular Convention article. The legal nature of the article (i.e., mandatory or discretionary) is identified in the table heading.

28. Each table has three columns. The first column, “Obligations,” summarizes the specific obligations found in that article. The second column, “Implementation requirements,” identifies the actions which a Party may need to take in order to implement those obligations.

29. The third column, “Assumed underlying foundational capacities”, suggests some of the underlying capacities that may be related to undertaking successfully the actions identified in the “Implementation requirements” column. These underlying capacities will assist in implementation of the Convention but are not always required. The extent to which they are considered to be among the additional costs of implementing the Convention will depend on how decision makers treat the factors discussed in sections A and B of chapter II above.<sup>8</sup>

30. An additional question that also warrants mention concerns the “staging” of specific Rotterdam implementation requirements and the acquisition of foundational chemicals management capacities; in other words, what may be the best order in which developing countries should implement their Rotterdam Convention obligations to achieve the best results, taking into account limitations that may be posed by their foundational capacities in sound chemicals management. This study does not propose that developing countries should delay implementation of their obligations under the Rotterdam Convention until they have achieved a high level of foundational chemicals management capacity; rather, it concludes that developing countries should, contingent on available resources, be able to undertake the implementation of many, if not most, of their Convention obligations even if they lack many underlying capacities. Nevertheless, their ability to comply fully with Convention requirements and to contribute to the achievement of Convention objectives may be jeopardized if they do not possess those underlying foundational capacities. Appropriate guidance from relevant United Nations and national agencies should assist governments in determining the best answer to this staging question, taking into account their specific national situations and needs.

<sup>7</sup> Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, art. 1 (1998).

<sup>8</sup> Note that the tables do not identify capacities that may be needed to participate in Conferences of the Parties or other Rotterdam Convention meetings.

**Article 4: Designated national authorities (DNAs)**

Legal nature: Mandatory for all Parties

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>Designate DNA (art. 4.1)</li> <li>Provide sufficient resources for DNA (art. 4.2)</li> <li>Provide Secretariat with name and address of DNA (art. 4.3)</li> </ul>	<ul style="list-style-type: none"> <li>Amend legislation to provide DNA with necessary administrative authority</li> <li>Provide DNA with necessary financial resources and allocate funds in budget</li> <li>Hire sufficient staff and/or train/reassign existing staff to enable DNA to perform its functions</li> <li>Provide DNA with adequate information and communication technology, such as computers, internet access, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Existence of general institutional and physical infrastructures to support the use of information and communication technologies, including for international communications</li> <li>Procedures to gather data and exchange information at the national level, with other countries, and with international organizations</li> <li>Mechanisms to facilitate coordination between various ministries and ensure cooperation at the international level with relevant institutions</li> <li>Capacities for raising awareness among stakeholders</li> </ul>

**Article 5: Procedures for banned or severely restricted chemicals**

Legal nature: Mandatory for all Parties that have adopted final regulatory actions

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>Notify Secretariat of final regulatory actions (art. 5.1)</li> <li>Notify Secretariat upon entry into force of final regulatory actions in effect at that time (art. 5.2)</li> </ul>	<ul style="list-style-type: none"> <li>Ensure sufficient regulatory framework to gather and submit required information</li> <li>Designate national authority responsible for providing notifications and ensure sufficient authority and responsibility</li> <li>Provide DNA with sufficient resources, including information and communication technology</li> </ul>	<ul style="list-style-type: none"> <li>Institutional capacities and procedures for coordination and communication among different agencies responsible for chemicals management</li> <li>Administrative, regulatory, and legal capacities to take regulatory action to ban or restrict chemicals in order to protect human health or the environment</li> </ul>

**Article 6: Procedures for severely hazardous pesticide formulations**Legal nature: Discretionary, applies to any developing country or EIT country Party<sup>9</sup>

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>Propose new Annex III listings of severely hazardous pesticide formulations (art. 6.1)</li> <li>Proposals must contain information specified in Annex IV, Part 1 (art. 6.1)</li> </ul>	<ul style="list-style-type: none"> <li>Ensure sufficient regulatory framework to enable authorities to gather and submit required information</li> <li>Select a national authority responsible for proposals and ensure sufficient authority and responsibility</li> </ul>	<ul style="list-style-type: none"> <li>Basic framework of pesticides legislation</li> <li>Institutional and technical capacities for hazard and risk assessment and analysis, including ability to track and document use patterns, exposure incidents, adverse effects, etc.</li> </ul>

<sup>9</sup> Although developing countries are not required to propose new Annex III listings, their ability to do so may be an important factor in the degree to which they are able to protect their environmental health interests and contribute towards achievement of the Convention's objectives.

Obligations	Implementation requirements	Assumed underlying foundational capacities
	<ul style="list-style-type: none"> <li>Provide that authority with sufficient resources including information and communication technologies</li> </ul>	<ul style="list-style-type: none"> <li>Institutional capacities and procedures for coordination, communication, and information-sharing between various agencies responsible for chemicals management</li> </ul>

**Article 10.1-8: Obligations in relation to imports of chemicals listed in Annex III**

Legal nature: Mandatory for all Parties

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>Implement appropriate administrative and legislative measures to ensure timely decisions with respect to the import of listed chemicals (art. 10.1)</li> <li>Transmit timely responses to the Secretariat regarding consent to import listed chemicals (art. 10.2, 10.4, 10.5)</li> <li>Include description of any legislative or administrative measures upon which response decision is based (art. 10.6)</li> <li>Transmit import responses with respect to each chemical listed in Annex III to Secretariat upon entry into force (art.10.7)</li> <li>Make import responses available to those concerned within Party's jurisdiction (art. 10.8)</li> </ul>	<ul style="list-style-type: none"> <li>Ensure that responsible authorities are able to effectively use information contained in decision guidance documents as basis for making informed import decisions</li> <li>Provide DNA with sufficient authority to gather specified information and make decisions regarding import responses received</li> <li>Establish consequences for DNA's failure to submit import responses</li> <li>Enact and implement procedures to communicate import decisions to authorities responsible for controlling imports</li> <li>Establish monitoring and reporting procedures regarding imports of Annex III substances, including training and authority for customs officials to gather and compile information</li> <li>Ensure information concerning imports is disseminated to stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>Basic framework of national legislation for regulating pesticides and chemicals, including capacities for risk analysis and regulatory decision-making</li> <li>Regulatory and other tools including:                         <ul style="list-style-type: none"> <li>Pesticides/chemicals registration system</li> <li>Post-registration review</li> <li>Civil society involvement</li> <li>Legislative bans or controls</li> <li>Import and export measures, including to enable customs officials and others to establish and implement necessary controls</li> <li>Provisions for proprietary information</li> <li>Data collection, monitoring and reporting relating to production, use, import and export</li> </ul> </li> <li>Institutional capacities necessary to implement national legislation, such as:                         <ul style="list-style-type: none"> <li>Infrastructure for risk assessment and risk management decision-making (includes establishing agencies and providing them with sufficient staff, financial and technical resources)</li> <li>Mechanisms for coordinating and communicating between different national agencies</li> <li>Functioning, sufficiently staffed and equipped customs service</li> </ul> </li> </ul>

**Article 10.9: Obligations relevant to domestic production for domestic use, and import from any source**

Legal nature: Mandatory for all Parties that do not consent to import or consent only under specified conditions

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>Prohibit or restrict all sources of import and domestic production in the same manner as import bans or restrictions taken under Article 10.4</li> </ul>	<ul style="list-style-type: none"> <li>Enact or amend chemicals regulations to ensure harmonization of treatment between domestic production for domestic use and all imports</li> <li>Ensure that import controls are simultaneously applied to imports from all sources</li> <li>Ensure that regulatory system at national level is capable of enforcing restrictions</li> </ul>	<ul style="list-style-type: none"> <li>Functioning chemicals regulatory system at the national level, as discussed above, that is sufficiently strong to enforce controls on domestic production of chemicals for domestic use</li> <li>Capacity to control imports, including a well-functioning and trained customs service</li> </ul>

**Article 11: Obligations in relation to exports of chemicals listed in Annex III**

Legal nature: Mandatory for all Parties that export listed chemicals

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>Communicate received import responses to concerned entities within jurisdiction (art. 11.1)</li> <li>Ensure that exporters comply with import decisions within six months</li> <li>Advise and assist importing Parties upon request and as appropriate to obtain further information and to strengthen their capacities to manage chemicals throughout their life cycles</li> <li>If a Party fails to transmit an import response, exporting Parties must ensure that chemicals listed in Annex III are not exported to them from their territory unless under an applicable exception (art. 11.2)</li> </ul>	<ul style="list-style-type: none"> <li>Enact or amend laws to provide authority to regulate or ban export of listed chemicals; must include procedural requirements, e.g., exporter notice to DNA of its intention to export an Annex III substance to a Party that has failed to provide an import response</li> <li>Ensure that DNA has sufficient legal authority to oversee compliance</li> <li>Establish procedures to ensure that import decisions are communicated to authorities responsible for controlling exports, including customs officials</li> <li>Specify consequences for violations by exporters</li> <li>Ensure that DNA has sufficient resources for disseminating information on import decisions and gathering information on exporter's intentions to export chemicals</li> <li>Train staff of authorities responsible for controlling imports (including customs officials) regarding labelling and harmonized customs code, etc.</li> </ul>	<ul style="list-style-type: none"> <li>Effective customs regulations and functioning, well-trained customs authority</li> <li>Enforcement/compliance authorities</li> <li>Existence of adequate information and communication technology infrastructures</li> </ul>

**Articles 12 and 13: Export notification and information to accompany exported chemicals**

Legal nature: Art. 12, mandatory for all Parties, but obligation may cease in certain situations; Art 13, mandatory except Art. 13.3, which is discretionary

Obligations	Implementation requirements	Assumed underlying foundational capacities
<p><b>Export notification (art. 12)</b></p> <ul style="list-style-type: none"> <li>• Provide an export notification to importing Parties, including specified information, whenever a Party exports a chemical that is banned or severely restricted in its territory (art. 12.1)</li> <li>• Exporting Parties must adhere to timing requirements, provide updated export notifications and second notifications in certain circumstances (art. 12.2–4)</li> <li>• Importing Parties may waive notice requirement and must acknowledge receipt of first export notification received from exporting Party (art. 12.2, 12.4)</li> </ul> <p><b>Information to accompany exported chemicals (art. 13)</b></p> <ul style="list-style-type: none"> <li>• Use Harmonized System customs codes, when available, for each chemicals shipment (art. 13.1); label all exports of Annex III or banned or severely restricted chemicals (art. 13.2); send safety data sheets of chemicals used for occupational purposes to importers (art. 13.4); provide information on the label/safety data sheet in one or more official languages of importing Party, as far as practicable (art. 13.5)</li> <li>• Parties may require special labelling for chemicals that are subject to national labeling requirements (art. 13.3)</li> </ul>	<ul style="list-style-type: none"> <li>• Ensure that exporting Party DNA has authority to gather information required for export notifications</li> <li>• Should include provisions specifying that an exporter shall notify the DNA when it intends to export from the territory of the Party any substance that has been banned or severely restricted by the Party</li> <li>• Enact, implement, and enforce legal obligations regarding the use of customs codes, labelling, and safety data sheets</li> <li>• Laws may include provisions regarding non-observance of obligations and specify consequences for violations</li> <li>• Ensure that there are institutional capacities for information exchange and coordination between the relevant authorities</li> <li>• Train customs officers to enable them to determine whether export notification and information requirements are met</li> </ul>	<ul style="list-style-type: none"> <li>• Ability to track and regulate imports and exports of chemicals</li> <li>• An adequately trained and functioning customs system</li> <li>• Capacity to manage licensing, tracking, and labelling systems for chemicals</li> </ul>

**Article 14: Information exchange**

Legal nature: Article 14.12, mandatory for all Parties; Article 14.5, discretionary

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>• Facilitate (a) exchange of scientific, technical, economic and legal information concerning chemicals; (b) provision of publicly available information on domestic regulatory actions relevant to objectives of Convention; and (c) provision to other Parties of information on domestic regulatory actions that substantially restrict one or more uses of chemical</li> </ul>	<ul style="list-style-type: none"> <li>• Amend or adopt legislation to enable information exchange at national and international level in terms of Article 14</li> <li>• Amend or adopt legislation to protect confidential business information without violating transparency provisions of Article 14.3</li> <li>• Provide authorities with technical capacities required for information exchange,</li> </ul>	<ul style="list-style-type: none"> <li>• Capacity to receive, interpret and apply lessons learned from exchange of information concerning chemicals</li> <li>• Corporation law and practice that is sufficiently developed to provide guidance on standards for confidential business information, including application of exceptions</li> <li>• Ability of governments to interpret and respond to information about transit</li> </ul>



Obligations	Implementation requirements	Assumed underlying foundational capacities
<p>(art. 14.1)</p> <ul style="list-style-type: none"> <li>• Protect confidential information as mutually agreed, subject to specified exceptions (art. 14.2–3)</li> <li>• Party requiring information on transit movements through its territory of listed chemicals may report its need to the Secretariat, which shall inform all Parties accordingly (art. 14.5)</li> </ul>	<p>especially information and communication technologies</p> <ul style="list-style-type: none"> <li>• May provide information to the public and other Parties by establishing publicly accessible data bases or internet sites</li> </ul>	<p>movements of goods across their territories</p> <ul style="list-style-type: none"> <li>• Existence of general infrastructure in which information and communication technology may be used</li> </ul>

**Article 15: Implementation of the Convention**

Legal nature: Mandatory for all Parties

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>• Take measures necessary for the effective implementation of the Convention, which may include legislative and administrative measures, the establishment of national registers and databases, encouragement of initiatives by industry to promote chemical safety, and promotion of voluntary agreements (art. 15.1)</li> <li>• Ensure that the public has appropriate access to information on chemicals handling, accident management, and safer alternatives (art. 15.2)</li> <li>• Cooperate in the implementation of the Convention at subregional, regional, and global levels (art. 15.3)</li> </ul>	<ul style="list-style-type: none"> <li>• Implement all the obligations described above</li> <li>• Establish opportunities for public access to information on chemicals handling, etc. by, e.g., creating internet sites and distributing printed documents</li> <li>• Provide authorities with technical capacities to enable international cooperation and information exchange, especially using information and communication technologies</li> </ul>	<ul style="list-style-type: none"> <li>• All the foundational capacities listed in respect to other provisions of the Convention</li> <li>• Procedures to ensure timely and effective notice to the public</li> <li>• Knowledge and experience in dealing with intergovernmental organizations</li> </ul>

**Article 16: Technical assistance (in particular, for developing countries and EITs)**

Legal nature: Mandatory for all Parties

Obligations	Implementation requirements	Assumed underlying foundational capacities
<ul style="list-style-type: none"> <li>• Cooperate in promoting technical assistance for the development of infrastructure and capacity necessary to manage chemicals to enable implementation of the Convention</li> <li>• Provide technical assistance, including training, to other Parties</li> </ul>	<ul style="list-style-type: none"> <li>• Amend legislation to confer upon DNAs and others, as appropriate, authority and responsibility to cooperate in promoting and receiving technical assistance</li> <li>• Provide authorities with technical capacities and resources required for</li> </ul>	<ul style="list-style-type: none"> <li>• Existence of general infrastructure in which information and communication technology may be used</li> </ul>

<b>Obligations</b>	<b>Implementation requirements</b>	<b>Assumed underlying foundational capacities</b>
	international cooperation and information exchange, especially with information and communication technology	

### III. Existing financial mechanisms: recent developments

31. The financial mechanisms study presented to the Conference of the Parties at its second meeting identified and reviewed several existing financial mechanisms of multilateral environmental agreements. The study suggested that these mechanisms could be viewed as illustrating different “models”, which in turn served as the bases for the nine options offered by the study for consideration to the Conference of the Parties at that meeting. Among the reviewed mechanisms were:

- (a) The Basel Convention Technical Cooperation Trust Fund;
- (b) The Multilateral Fund of the Montreal Protocol on Substances that Deplete the Ozone Layer;
- (c) The Global Environment Facility (GEF);
- (d) The financial mechanism of the Stockholm Convention on Persistent Organic Pollutants;
- (e) The Global Mechanism of the United Nations Convention to Combat Desertification.

32. This chapter of the present study describes notable developments regarding those mechanisms that have occurred since the preparation of the COP.2/10 study.<sup>10</sup> For each mechanism, there is first an update section, followed by a relevance section that places the information in the update within the context of a possible strategy for securing financial resources for the Rotterdam Convention. Additionally, this chapter reports upon financial considerations that were among the SAICM provisions adopted by the International Conference on Chemicals Management in Dubai, United Arab Emirates, in February 2006.

#### A. Basel Convention Technical Cooperation Trust Fund

33. The Basel Convention Technical Cooperation Trust Fund is a voluntary fund intended to assist developing countries and other countries in need of technical assistance in their implementation of the Basel Convention. As reported in the COP.2/10 study, the Technical Cooperation Trust Fund – which is similar in concept to the Rotterdam Convention’s special voluntary Trust Fund – has historically generated revenues that consistently and often dramatically fall short of projected needs.

##### 1. Update

###### (a) A new senior programme officer for resource mobilization

34. Both the Basel Convention secretariat and the Parties are devoting significant attention to developing and implementing strategies for resource mobilization and sustainable financing. All professional staff at the secretariat are working on resource mobilization to some extent. Additionally, a senior programme officer for partnerships and resource mobilization joined the secretariat in September 2005. Three developed countries funded the new post through voluntary contributions. The resource mobilization responsibilities of the senior programme officer include creating a network for identifying potential donors, organizing and working toward implementation of the Basel Convention resource mobilization strategy, and assisting in training personnel at the Basel Convention regional centres in resource mobilization. An important dimension of the resource mobilization strategy, and a key part of the senior programme officer’s work plan, is to assist developing country Parties in requesting and receiving capacity-building assistance by incorporating (mainstreaming) environmentally sound management of wastes into their country assistance, sustainable development and poverty reduction strategies.

<sup>10</sup> Chapter III does not further review the Kyoto Protocol’s Adaptation Fund, because the mandatory levy/tax approach used by that Fund is infeasible under the Rotterdam Convention’s current structure and did not garner support from any Parties at the second meeting of the Conference of the Parties.

**(b) Study on sustainable financing**

35. In response to requests from the Basel Convention Conference of the Parties and Open-ended Working Group, a revised study on sustainable financing for the Convention was prepared and presented to the Open-ended Working Group at its fifth session, in April 2006.<sup>11</sup> The study identified options for short-term, medium-term and longer-term future actions.

36. For the short term, the study recommended a reorientation of the Basel Convention Technical Cooperation Trust Fund to enhance its “strategic resource leveraging power”:

(a) By preparing a limited list of key strategic priorities that would be identified under an explicit agenda item to be addressed by the Conference of the Parties at each of its meetings;

(b) By using contributions to fund awareness-raising within prospective recipient and donor countries about one of those strategic priorities, to provide seed money for developing proposals to donor agencies on behalf of Parties and to provide co-financing seed money to leverage partnerships with other donors for those strategic priorities;

(c) By directing donor contributions to one of the listed strategic priorities and giving the secretariat discretion regarding their specific use;

(d) By reducing high transaction costs for donors and recipients by encouraging Parties to increase their minimum contributions to the Fund to an amount (e.g., \$100,000) agreed upon by the Parties;

(e) By reducing the UNEP 13 per cent programme support charge by at least half as applied to the Technical Cooperation Trust Fund.

37. Also for the short term, the study recommended that countries and regional organizations should take actions:

(a) To access funding from bilateral sources more readily by meeting the framework outlined under the Paris Declaration on Aid Effectiveness;<sup>12</sup>

(b) To explore bilateral and multilateral aid possibilities together;

(c) To take into account the many overlaps and synergies between capacity-development programmes and actions to ensure that they are integrated into broader development and sustainable development strategies.

38. For the medium term, the study recommended that at its eight meeting the Conference of the Parties should take steps to request the GEF Council:

(a) To identify from the GEF perspective linkages and synergies between Basel Convention implementation needs and the GEF core mandate, focal area operational programmes and strategic priorities;

(b) To identify areas where activities related to Basel Convention implementation might be funded by GEF without requiring changes to the current GEF mandate;

(c) To prepare a report on those recommendations for further consideration by the Open-ended Working Group and by the Conference of the Parties at its ninth meeting.

39. The study also suggested that the Conference of the Parties might wish to request the secretariat to commission an independent study to clarify those aspects of Basel Convention implementation that bring global benefits, with a view to preparing for deliberations related to the potential role of GEF as a financial mechanism for the Basel Convention.

<sup>11</sup> *Examination of Article 14 of the Basel Convention, with a view to determining the legal and institutional feasibility of appropriate and predictable financial mechanisms of the Basel Convention*, UNEP/CHW/OEWG/5/INF/16 (March 2006).

<sup>12</sup> Paris High-Level Forum, *Paris Declaration on Aid Effectiveness: Ownership, Harmonisation, Alignment, Results and Mutual Accountability* (2005). The Paris Declaration was one of the outputs of a High-level Forum attended by development officials and ministers from 91 countries and 26 donor organizations, in which they committed their institutions and countries to continuing and increasing efforts in harmonization, alignment, and managing development aid for results, and in which they listed a set of actions and indicators to accelerate and monitor progress in those areas.

40. For the longer term, the study proposed that at its ninth meeting the Basel Convention Conference of the Parties might formally request GEF to become a financial mechanism for the Basel Convention, with progress towards that goal starting at the negotiations over the fifth GEF replenishment (anticipated to take place in 2010).

**(c) Fifth session of the Open-ended Working Group**

41. At the fifth session of the Open-ended Working Group, in April 2006, much of the debate on sustainable financing centred on proposals concerning GEF. Unable to reach consensus on the item, the Open-ended Working Group identified three options for consideration by the Conference of the Parties at its eighth meeting, in November–December 2006.<sup>13</sup> The options include:

(a) Exploring the feasibility of making a formal request to GEF regarding the establishment of a new focal area to include the scope of the Basel Convention and making GEF a financial mechanism of the Convention;

(b) Exploring with GEF options for furthering access to GEF as a financial mechanism of the Convention;

(c) Exploring with GEF possibilities for furthering access to financing in support of the Convention without GEF necessarily serving as a Basel Convention financial mechanism.

42. The Open-ended Working Group also requested the Basel Convention Executive Secretary to support current efforts by Basel Convention Parties to obtain funding by completing “a generic funding rationale”, for consideration by the Conference of the Parties at its eighth meeting, which, among other things, would reflect the benefits to the global environment associated with implementation of the Convention.<sup>14</sup>

43. The secretariat hosted a side event at the fifth session of the Open-ended Working Group entitled “Resource Mobilization Capacity-building.” An additional side event on resource mobilization is planned for the eighth meeting of the Conference of the Parties with speakers from financial institutions and donor agencies who will describe processes and procedures for accessing funds. In addition, the secretariat plans to convene a training and awareness-raising course in the third quarter of 2006 as a way to provide information directly to the Basel Convention regional centres and national representatives on how to mainstream environmentally sound management of wastes into their country assistance strategies, sustainable development strategies, poverty reduction strategies, health protection strategies and other programmes.

**2. Relevance**

44. Recent events under the Basel Convention continue to demonstrate that reliance upon its Technical Cooperation Trust Fund as the sole or primary source of funds to assist developing countries in their implementation of the Convention is not viewed as a viable strategy by the majority of Basel Convention Parties. Hence, the Basel Convention Conference of the Parties, Open-ended Working Group and secretariat are engaged in concerted efforts to further develop and implement a multifaceted resource mobilization strategy. There have been proposals from some Parties for a major part of that strategy to include enhancing and formalizing access to GEF funds in support of the environmentally sound management of wastes. This has been resisted by other Parties. There have also been proposals that developing country Parties should strive to access the far greater resources available through official development assistance by mainstreaming environmentally sound management of wastes into their country assistance, sustainable development and poverty reduction strategies.

45. In the case of the Basel Convention, in addition to the senior programme officer who has been hired to head the Partnerships and Resource Mobilization Unit, all Professional secretariat staff are involved in resource mobilization to some extent. This level of involvement from the secretariat has required financial support from the core operational budget, supplemented by sufficient voluntary contributions from willing donors.

<sup>13</sup> *Report of the Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal on the work of its fifth session*, decision OEWG-V/5: Sustainable financing, UNEP/CHW/OEWG/5/5 (April 2006).

<sup>14</sup> *Ibid.*, para. 1.

46. The long-term financial resource needs under the Rotterdam Convention may be much less than those of the Basel Convention, depending on how one defines them. That is because the Basel Convention's institutional and technical needs continue to expand as that Convention moves from its first phase of setting up a framework for controlling the transboundary movement of hazardous wastes into the present phase of emphasizing full implementation and enforcement of treaty commitments and the minimization of hazardous waste generation.

47. In contrast, the areas of Rotterdam implementation that involve additional costs (as identified in chapter II above) are more limited, and they will probably remain relatively fixed over time unless they are understood to include the acquisition of foundational chemicals management capacity. If foundational capacity is considered among the additional cost areas of Rotterdam Convention implementation, then the required resources for a Rotterdam Convention financial mechanism will be much larger.

48. Regardless of whether or not the commitments under the Rotterdam Convention are interpreted to include foundational chemicals management capacity, a strategy for securing financial resources under the Convention would probably be most effective and efficient if it were placed within an overarching, coordinated framework for securing financial resources for all of the major chemicals agreements. Insofar as the Basel Convention is concerned, that would mean greater communication, coordination and collaboration between the Basel and Rotterdam convention secretariats on all matters related to their programme implementation and consequent strategies for securing financial resources in areas of common interest.

49. For example, if the Basel Convention secretariat were convening a training and awareness course on mainstreaming environmentally sound management of wastes into country assistance, sustainable development and poverty reduction strategies, such a course could be co-sponsored or supported in some way by the Rotterdam Convention Secretariat, and Rotterdam Convention Parties could be invited to participate. This could represent an efficient use of resources because the strategies and skills for mainstreaming taught at the workshop would largely be the same whether they focused on the transboundary movement of chemicals as wastes or as commodities, and because in many cases the individuals attending the training may represent their countries in both the Rotterdam and Basel conventions. (This idea presupposes that the Rotterdam Convention Secretariat is sufficiently staffed to engage in such collaboration and coordination.)

50. Similarly, any exploration of the possibility of expanding the mandate and operational programmes of GEF so that they include additional areas of chemicals management beyond those related to POPs may be most effective if that exploration is done in concert with the relevant chemicals management conventions and approaches. By proposing that such a focal area should apply to integrated chemicals management at all stages of the chemical life cycle, Basel and Rotterdam convention Parties could work together towards a common, comprehensive solution in respect of GEF rather than a fragmented one.

## **B. Multilateral Fund of the Montreal Protocol**

### **1. Overview**

51. The Multilateral Fund for the Implementation of the Montreal Protocol continues to serve the implementation needs of the Protocol's developing country Parties effectively. Rather than providing an update of pertinent developments since the COP.2/10 study, this section provides further details about some aspects of the Fund that may be especially relevant to the considerations of Rotterdam Convention Parties.

52. The Multilateral Fund is the only global financial mechanism that is replenished with mandatory, assessed contributions from developed countries and dedicated to providing financial assistance to developing countries in their implementation of a single multilateral environmental agreement. Much of the Montreal Protocol's success may be traced to the level of financial resources that have been made available through the Multilateral Fund, the disbursements of which are based on needs assessments and have been successfully directed towards meeting the Protocol's objectives.

53. A key function of the Multilateral Fund has been providing the funding to establish and maintain national ozone units in every developing country Article 5 Party to the Protocol. (It should be noted that the Fund, as a financial mechanism, does not implement projects. Implementation is the responsibility of the Fund's four multilateral and 12 bilateral implementing agencies.) National ozone units are now functioning in 141 countries. Although their institutional location differs from country to

country, most are located in ministries of environment.<sup>15</sup> Funding is intended to enable each national ozone unit to maintain at least one full-time staff member and to cover basic office and communication expenses, even in the smallest countries. Responsibilities of national ozone units may include:

- (a) Designing, monitoring, and implementing the ozone-depleting substance (ODS) phase-out country programme;
- (b) Developing policy related to implementation of the Montreal Protocol, including initiating needed changes to environmental legislation;
- (c) Establishing an ODS monitoring and licensing system;
- (d) Surveying and collecting ODS data;
- (e) Coordinating with relevant ministries and domestic authorities, including trade, foreign affairs, industry, customs, etc.;
- (f) Selecting the enterprises to be assisted by the Multilateral Fund;
- (g) Facilitating awareness training through the press, radio and television, public workshops, printed media and educational institutes;
- (h) Cooperating with international organizations and institutions;
- (i) Participating in and organizing regional network meetings and other events.<sup>16</sup>

54. Establishment of the national ozone units has permitted developing countries to maintain a continuous link with Multilateral Fund assistance and a channel of communication to the national agencies that implement Fund projects. One of the benefits of creating the national ozone units has been the steady improvement in mandatory annual reporting to the Ozone Secretariat on consumption and production of ozone-depleting substances, which by 2004 had reached a rate of 96 per cent compliance for recipient developing countries.<sup>17</sup>

55. The Multilateral Fund has supported the creation of nine regional and subregional networks, which collectively form a global network for the 141 national ozone units. Those networks provide a forum for partners to discuss regional issues and disseminate information and gather feedback about the Fund.

56. Since 2000 the Multilateral Fund has also funded the UNEP Compliance Assistance Programme, which has enabled UNEP to assign staff to the regions and deliver more timely advice and assistance to individual countries and the regional networks.<sup>18</sup> The Compliance Assistance Programme provides training assistance to national ozone units and technical support, enforcement assistance and customs training to countries.

## 2. Relevance

57. Since the establishment of GEF in 1991, no new, stand-alone, mandatory financial mechanism has been established for any global multilateral environmental agreement, nor has there been an expansion or creation of an additional mechanism within UNEP. In the light of that history, this study concludes that, in the present political climate, the feasibility of reaching a consensus among Rotterdam Convention Parties to establish a new financial mechanism modelled after the Multilateral Fund is extremely low.

58. Accordingly, the Multilateral Fund is not presented in this study as a financial mechanism model that might be recreated for the Rotterdam Convention. Instead, the Fund is presented because of proposals that the infrastructure of the national ozone units which have been established in each of the Montreal Protocol's developing country Parties could be relevant to the Rotterdam Convention.

<sup>15</sup> Executive Committee of the Multilateral Fund, *Final Report on the 1999 Evaluation of Institutional Strengthening Projects and Draft Follow-up Action Plan*, para. 9, UNEP/OzL.Pro/ExCom/30/6 (2000).

<sup>16</sup> UNIDO, *The Montreal Protocol: National Ozone Units*, document number 16690 (expires 30 December 2006).

<sup>17</sup> Multilateral Fund for the Implementation of the Montreal Protocol, *Creating a Real Change for the Environment* (2005).

<sup>18</sup> *Ibid.*

**(a) Relevance of the national ozone units**

59. In identifying options that collectively might comprise a multifaceted strategy for securing financial resources under the Rotterdam Convention, this study considers whether developing country needs for implementation assistance might be met in part by utilizing infrastructures that have already been established under other multilateral agreements. It has been proposed that the infrastructures created under the Multilateral Fund, especially the system of national ozone units, may provide a quick, cost-effective way to meet some of those needs.

60. The Multilateral Fund financed the establishment of national ozone units in all 141 Article 5 countries. Expanding the national ozone units also to house Rotterdam Convention DNAs has been proposed as a way to facilitate compliance with the Rotterdam Convention, without the necessity and cost of establishing from the beginning a separate office for each DNA. There is a similarity between several of the necessary functions of the national ozone units and DNAs: both must have the ability to gather data and exchange information at the national level, with other countries, and with international organizations; both must play a coordinating role between various ministries and must ensure cooperation at the international level with relevant institutions; and both the national ozone units and DNAs should monitor implementation of their respective programmes within their countries. Also, they may both be responsible for raising awareness among stakeholders concerning their areas of chemicals regulation. The requirements of the Rotterdam Convention suggest that DNAs may be involved, along with customs authorities, in compliance tracking, especially insofar as imports and exports of restricted and banned chemicals are concerned; national ozone units are responsible for the establishment of an ODS monitoring and licensing system, including the control of imports. Housing Rotterdam Convention DNAs within the national ozone units, if adopted, might be most useful in small and least developed countries that may have minimal or no chemicals management capacity beyond that housed in their national ozone units.

61. The difficulty with this proposal is that there is little overlap in both the chemicals covered by the Montreal Protocol and the Rotterdam Convention and in the national arrangements for managing them. Rotterdam Convention DNAs are mostly part of the technical units that deal with the regulation of chemicals (pesticides or industrial chemicals). Being part of these units offers easy access to the national regulatory system and to the necessary reviews and data. It may be difficult for Parties to provide notifications and otherwise participate in the prior informed consent process if their DNAs were established in offices away from the regulatory authorities. All but four Rotterdam Convention Parties have designated one or more DNAs. In addition, the initial additional expense for DNAs, and ultimately the full cost, would not be covered by the Multilateral Fund replenishment. Rather, it would have to come from contributions to the Rotterdam Convention special voluntary Trust Fund or from other sources.

**(b) Montreal Protocol article 10**

62. An additional question that may arise, should Rotterdam Convention Parties wish to explore further the possibility of utilizing the national ozone units for Rotterdam Convention implementation, is whether there might be any legal impediments. Article 10 of the Montreal Protocol establishes the Protocol's financial mechanism, which includes the Multilateral Fund. Paragraph 1 of that article states that the financial mechanism is established for "purposes of providing financial and technical co-operation, including the transfer of technologies, to Parties operating under ... Article 5 of this Protocol to enable their compliance with the [Protocol's] control measures..." This implies that it may be beyond the mandate of the financial mechanism for the Multilateral Fund to serve any purpose beyond enabling compliance with the Protocol's control measures.

63. However, article 10, paragraph 10, states that the financial mechanism may be able to serve additional purposes:

"The financial mechanism set out in this Article is without prejudice to any future arrangements that may be developed with respect to other environmental issues."

64. A plain reading of this paragraph suggests that nothing in article 10 precludes the possibility that "future arrangements" may be made for other environmental issues, such as implementation support for the Rotterdam Convention. Therefore, under such a reading, it would not be necessary to amend the Montreal Protocol if its Parties were to decide to enter into an arrangement with the Rotterdam Convention that would permit the Multilateral Fund to provide support for Rotterdam Convention Parties to utilize the augmented national ozone units for Rotterdam Convention implementation. To



implement such an expansion would require a request from the Rotterdam Convention's Conference of the Parties and an appropriate decision by the Montreal Protocol's Meeting of the Parties.

### C. Global Environment Facility

65. GEF serves as the operational entity for several major multilateral environmental agreements, and as a financial mechanism for the Desertification Convention (UNCCD). It operates "as a mechanism for international cooperation for the purpose of providing new and additional grant and concessional funding to meet the agreed incremental costs of measures to achieve agreed global environmental benefits."<sup>19</sup> GEF could conceivably serve the Rotterdam Convention in three ways:

- (a) By financing some Rotterdam-Convention-related activities under the current POPs focal area as defined in Operational Program 14 (OP#14),<sup>20</sup>
- (b) By serving as a financial mechanism specifically for the Rotterdam Convention;
- (c) By financing Rotterdam-Convention-related activities through a new or expanded focal area dedicated to a cluster of chemicals management conventions and agreements.

#### 1. Update

66. In the interim since preparation of the COP.2/10 study, GEF has adopted a Resource Allocation Framework for allocating resources to countries (initially in two focal areas), negotiated the fourth GEF replenishment and undertaken its third Overall Performance Study. Additionally, it concluded a memorandum of understanding with the Desertification Convention Conference of the Parties formalizing the arrangements under which it will serve as a financial mechanism for UNCCD, and it finalized a memorandum of understanding with the Stockholm Convention Conference of the Parties to give effect to article 14 of the Convention to be, on an interim basis, "the principal entity entrusted with the operations of the financial mechanism" for the Stockholm Convention.

#### (a) Resource Allocation Framework

67. The GEF Resource Allocation Framework "is a system for allocating resources to countries in a transparent and consistent manner based on global environmental priorities and country capacity, policies and practices relevant to successful implementation of GEF projects."<sup>21</sup> The GEF Council adopted the Resource Allocation Framework at a special meeting in September 2005. The Framework is intended to make GEF funding allocations more equitable, transparent, predictable and effective by assigning eligible countries with numerical scores based on their potential to generate global environmental benefits in a particular focal area (the "GEF Benefits Index") and on their capacity, policies, and practices relevant to successful implementation of GEF programmes and projects (the "GEF Performance Index").

68. At the beginning of each replenishment period, a country's index scores are used to determine its allocation of the resources available for each focal area. Upper limits and minimum thresholds are set for how much of the available resources may be allocated to any one country. The allocations are not entitlements to GEF resources but instead constitute an "envelope" against which countries may request GEF grants. Unused allocations at the end of a replenishment period are not carried over for a country into the next replenishment period; rather, they are carried over as part of the total funds available for the new allocation in the replenishment period.

69. During the fourth replenishment period the GEF will apply the Resource Allocation Framework to the climate and biological diversity focal areas. The Framework is under discussion, however, at the fourth replenishment talks (ongoing at the time of this study's preparation) for possible application to other focal areas in the future. In an address to the Stockholm Convention Conference of the Parties at its second meeting, in May 2006, the GEF Chief Executive Officer said that the Resource Allocation Framework could bring increased transparency, more coherent planning at the country level, and increased equity. Nevertheless, he acknowledged that the Framework has been controversial and even

<sup>19</sup> GEF Instrument, para. 2.

<sup>20</sup> See OP#14, *supra* note 5.

<sup>21</sup> GEF Council, *The GEF Resource Allocation Framework*, 1, GEF/C.27/Inf.8/Rev.1 (2005). Most of the information about the RAF in this study is derived from this paper.

divisive, and expressed the view that it might need to be adapted before being applied to the POPs focal area.<sup>22</sup> The Stockholm Convention Conference of the Parties, in its decision SC-2/11:

“...invites the Global Environment Facility to consult with the Convention Secretariat with regard to its future work on the Resource Allocation Framework as it relates to the Convention without prejudice to any further decision on the application of the Resource Allocation Framework to the persistent organic pollutants focal area and to report on this issue to the Conference of the Parties at its third meeting...”<sup>23</sup>

**(b) Fourth replenishment (GEF-4)**

70. The details of the outcome of the fourth replenishment were uncertain at the time of preparation of this study. At the GEF Council meeting in June 2006, however, the GEF Chief Executive Officer informed the Council that agreement had been reached on a replenishment at least as large as GEF-3.

71. Replenishment decisions on the allocation of programming resources between and within the focal areas are usually based upon a programming document prepared by GEF secretariat staff. The programming document is, in turn, informed by “working draft” strategy papers for each of the focal areas. The “Working Draft GEF POPs Strategy” states that “Proposals derived from the [national implementation plans] of many countries can be expected to include and build on foundational capacities aimed at completing the basic governance framework (law, policy and institutional capabilities) for chemicals within the country.”<sup>24</sup> The Working Draft recognizes additional, important reasons why the fourth replenishment should support foundational capacity-building for chemicals management:

“[P]roperly designed foundational capacity-building projects promote synergies, and avoid potential serious inefficiencies, between POPs management activities consistent with the Stockholm Convention and the global sound management of chemicals more broadly... The primary motivation for the GEF’s involvement will be the POPs focal area core mandate, but foundational capacity-building projects would be leveraging highly beneficial synergies for the global sound management of chemicals, and offsetting future costs to donor and recipient countries.”<sup>25</sup>

**(c) Third Overall Performance Study**

72. The third GEF Overall Performance Study (OPS3) was released by the GEF Evaluation Office in June 2005.<sup>26</sup> OPS3 is the first performance study prepared since the monitoring and evaluation unit became independent from GEF management. Among the major recommendations of OPS3 were:

- (a) At the focal area level:
  - (i) Clarify the strategic direction of each focal area;
  - (ii) Devise more pragmatic project impact definitions;
- (b) At the country level:
  - (i) Cultivate a stronger country programme focus;
  - (ii) Incorporate Resource Allocation Framework concepts into ranking projects at the country level;
  - (iii) Track sustainability and catalytic effects;
- (c) Strengthen two-way communication between GEF and convention secretariats;
- (d) Establish a formal information management function;
- (e) Strengthen the role of the GEF secretariat as the network administrative office for GEF;

<sup>22</sup> Leonard Goodman, Chief Executive Officer and Chairman of the GEF, Address at the Second Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants, Geneva (1 May 2006).

<sup>23</sup> Conference of the Parties to the Stockholm Convention, decision SC-2/11, *Additional Guidance to the Financial Mechanism*, para. 8, UNEP/POPS/COP.2/30 (May 2006).

<sup>24</sup> Meeting of the Fourth Replenishment, *GEF POPs Strategy (Working Draft)*, 9, GEF/R.4/Inf.10 (2005).

<sup>25</sup> Ibid.

<sup>26</sup> Global Environment Facility Evaluation Office, *OPS3: Progressing Toward Environmental Results: Third Overall Performance Study of the Global Environment Facility* (Executive Version) (June 2005).

(f) Clarify roles and responsibilities for all GEF partners, especially the implementing and executing agencies.

73. Specifically regarding the POPs focal area, OPS3 observed that “[d]emonstration projects have begun under OP#14 without clear instruction from the Convention on how to calculate incremental costs, leading to some difficulties in terms of identifying and calculating incrementality for certain projects.”<sup>27</sup> (It should be noted that at its second meeting the Conference of the Parties to the Stockholm Convention asked GEF to clarify its approach to the application of incremental costs, without providing GEF with any additional guidance on how it should calculate them.<sup>28</sup> The Conference of the Parties has also indicated that the issue of calculating incremental costs will be included in its second review of the financial mechanism, to be conducted by the Conference of the Parties at its fourth meeting.<sup>29</sup> OPS3 also called upon the GEF implementing agencies “to find opportunities to leverage infrastructure and capacity in chemicals management from within other chemicals management protocols and initiatives,” particularly the Rotterdam and Basel conventions.<sup>30</sup>

## 2. Relevance

74. As the only multipurpose, multi-convention financing facility for multilateral environmental agreements, GEF continues to be the most important source of multilateral financial support for developing country implementation under many of the global environmental agreements, and it continues to be a primary focus of many developing countries and countries with economies in transition (EIT) in their quest for dedicated revenue streams to assist in their implementation of other multilateral agreements and approaches, such as the Basel and Rotterdam conventions and SAICM. A strategic, multifaceted approach to securing financial resources under the Rotterdam Convention should thus include plans for accessing GEF resources for both the near and longer terms.

75. However, the rules of the GEF Instrument and the developments reported above in the update also suggest that access to the GEF may not, by itself, fully satisfy the resource needs of Rotterdam Convention developing country Parties, and they may thus not wish to focus exclusively on gaining access to GEF. Regarding the GEF Instrument, paragraph 3 reads as follows:

“The agreed incremental costs of other relevant activities under Agenda 21<sup>31</sup> that may be agreed by the Council shall also be eligible for funding insofar as they achieve global environmental benefits by protecting the global environment in the focal areas.”<sup>32</sup>

76. The prior informed consent procedure of the Rotterdam Convention is among the activities listed under the “Information exchange on toxic chemicals and chemical risks” programme area identified in chapter 19 of Agenda 21. Thus, there is no question that Rotterdam implementation activities satisfy the Agenda 21 requirement of paragraph 3 of the GEF Instrument.

77. To be eligible for GEF funding, however, such activities must also protect the global environment in the focal areas. They must therefore arguably be related in some way to the reduction and elimination of releases of POPs into the environment, as may be elaborated in Operational Program 14, and they must result in global environmental benefits. As discussed above in chapter II, section B, of this study, and below, the foundational chemicals management capacities needed to implement the Stockholm Convention overlap the foundational capacities that underpin implementation of the Rotterdam Convention. Nevertheless, it may be helpful for all stakeholders to have a clear understanding of how enhancing foundational chemicals management capacity in support of the Rotterdam Convention, or successfully implementing the prior informed consent procedure, will result in global environmental benefits.

78. In respect of the developments reported above in the update, the new Resource Allocation Framework and the administratively independent GEF Evaluation Office are recognized as steps by GEF in achieving greater accountability and analytical rigour in its operations. The independent evaluation of OPS3 generally supported the Resource Allocation Framework at an “abstract level” and recommended that GEF should incorporate Resource Allocation Framework concepts in ranking projects at the country level.

<sup>27</sup> Ibid., 27.

<sup>28</sup> See decision SC-2/11, *supra* note 23, paras. 5, 7.

<sup>29</sup> Decision SC-2/10, *Financial Resources and Mechanism*, para. 12.

<sup>30</sup> OPS3, *supra* note 26, at 27.

<sup>31</sup> *Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3–14 June 1992* (United Nations publication, Sales No. E.93.I.8 and corrigenda) vol. I: *Resolutions Adopted by the Conference*, resolution 1, annex II.

<sup>32</sup> GEF Instrument, para. 3.

79. The continuing calls for GEF reform have coincided with uncertainty about future funding levels, and suggestions from some major donors that their future environmental aid strategies may focus more on increased, country-driven official development assistance in fulfilment of the Millennium Development Goals, and possibly less on multilateral funding of environmental agreements.

#### **D. Financial mechanism of the Stockholm Convention**

80. The financial mechanism of the Stockholm Convention supports developing country Parties and Parties with economies in transition in meeting the agreed full incremental costs of implementing measures that fulfil their obligations under the Convention. Article 14 of the Convention nominates GEF "...on an interim basis, [to] be the principal entity entrusted with the operations of the financial mechanism..."

##### **1. Update**

###### **(a) Memorandum of understanding**

81. The memorandum of understanding between GEF and the Stockholm Convention on operation of the Convention's financial mechanism came into effect when the GEF Council approved it in November 2005. Pursuant to the memorandum of understanding, GEF provided the Stockholm Convention Conference of the Parties at its second meeting with a report on its activities during the year 2005. In addition to outlining project activities undertaken by GEF in the POPs focal area, the GEF report stated that the strategy under development in Operational Program 14:

"emphasises national implementation plan implementation and capacity building in the framework of a country's infrastructure for chemicals management, seeking to maximize coordination and potential synergies with other chemicals-related conventions and agreements, and *assisting those countries that lag the farthest behind to establish basic foundational capacities for the sound management of chemicals*" (emphasis added).<sup>33</sup>

###### **(b) Review of the financial mechanism**

82. The draft report on the first review of the financial mechanism was considered by the Conference of the Parties at its second meeting.<sup>34</sup> The review, required under article 13 of the Stockholm Convention, covered GEF activities from when the Convention opened for signature in May 2001 to July 2005. Among the draft report's 15 recommendations were suggestions:

- (a) That the Convention should address the issue of adequacy and sustainability of POPs funding;
- (b) That GEF should provide analytical reports of its co-financing, and that an assessment should be made of the co-financing arrangements of the existing GEF POPs portfolio;
- (c) That there should be a more in-depth understanding of how the Parties and GEF can operationalize the GEF constructs of incremental costs and global environmental benefits;
- (d) That Parties should explore and develop other entities of the Convention's financial mechanism in addition to GEF;
- (e) That GEF should try to be more effective in identifying other sources of finance for POPs activities from multilateral, bilateral and private sources.

###### **(c) Decisions of the Conference of the Parties on financial resources taken at its second meeting**

83. At its second meeting, the Conference of the Parties to the Stockholm Convention adopted decisions on the financial mechanism and resources; additional guidance to the financial mechanism; and terms of reference for the effectiveness evaluation, which set up a process for developing a preliminary assessment of funding needs followed by a later, more in-depth assessment. The plenary meeting and contact group addressed the application by GEF of incremental cost principles; the availability of funds from GEF and other sources; uncertainty about the outcomes of the fourth GEF

<sup>33</sup> Conference of the Parties of the Stockholm Convention, *Report of the Global Environment Facility on its activities in support of the implementation of the Stockholm Convention*, para. 7, UNEP/POPs/COP.2/28 (2006).

<sup>34</sup> Conference of the Parties of the Stockholm Convention, *Draft report on the first review of the financial mechanism*, UNEP/POPs/COP.2/INF/9 (2006).

replenishment and how those outcomes might impact the financial mechanism's sustainability and effectiveness; and whether the Convention should pursue other "operational entities" for the financial mechanism, in addition to GEF.

84. In its financial resources and mechanism decision, the Conference of the Parties asked the Secretariat to solicit information and begin work toward mobilization of resources beyond those available through GEF. The decision also determined that the second review of the financial mechanism should include an assessment of the GEF principles of incremental cost and global environmental benefits as they pertain to POPs activities, and an assessment of the adequacy, sustainability and predictability of the financial mechanism's funding.

85. The decision on additional guidance to the financial mechanism contained instructions to the GEF to clarify its approach to the application of incremental costs criteria, and to provide the Conference of the Parties with more in-depth analyses of its financing, including co-financing. The decision also asked GEF to consult with the Stockholm Convention secretariat with regard to future work by GEF on the Resource Allocation Framework as it relates to the Stockholm Convention.

## 2. Relevance

86. Chapter II, section B, of this study suggests that the foundational capacities for sound chemicals management needed to support implementation of the Stockholm Convention overlap those required to support implementation of the Rotterdam Convention. Thus, the extent to which the Stockholm Convention financial mechanism may support the acquisition of foundational chemicals management capacity in developing countries should be of deep interest to Rotterdam Convention Parties because they may not need to contemplate such assistance within the scope of a Rotterdam Convention financial mechanism if it can be obtained through the Stockholm Convention financial mechanism and made available at the national level.

87. The POPs focal area and OP#14 include those foundational capacities within their scope. The extent to which GEF may be able to operationalize this view will depend on the degree to which developing country Stockholm Parties express such needs in their national implementation plans and project proposals, and on the flexibility with which GEF applies its incremental costs and global environmental benefits principles. GEF POPs projects, especially those in least developed countries, can and should include prominent foundational capacity components that simultaneously and at no additional cost enhance the ability of Rotterdam Convention Parties to implement their Convention commitments. Clear guidance by Stockholm Convention Parties on this point could permit the GEF secretariat to act decisively in favour of an inclusive synthesis between the requirement for global environmental benefits and the need for foundational chemicals management capacities in developing countries.<sup>35</sup> It should be noted that many Parties are nearing completion of their national implementation plans or have already completed them. However, there is still an opportunity for Stockholm Convention Parties to reflect Rotterdam Convention needs in their implementation of their national implementation plans.

88. An added, critical consideration in evaluating the potential success of this approach is what the overall trend will be in the future for multilateral finance of global environmental agreements. The replenishment is, in its essence, a political process subject to political uncertainty. Nonetheless, the provision by developed countries of the agreed full incremental costs for developing countries to implement their Stockholm Convention obligations is a binding, mandatory requirement of the treaty.<sup>36</sup> Although article 13 states that the Stockholm financial mechanism may include "other entities providing multilateral, regional and bilateral financial and technical assistance", GEF remains the principal operational entity of that mechanism and, as such, is the major available medium through which developed countries channel the resources required to meet this treaty obligation.

89. Individual countries that are party to both the Rotterdam and Stockholm conventions may wish to consider supporting their foundational capacity-building needs for implementing the Rotterdam Convention by preparing and submitting to the Stockholm Convention financial mechanism project proposals that include foundational capacity-building components that cover both conventions.

<sup>35</sup> The GEF Office of Evaluation is undertaking a review of incremental cost principles applied by GEF.

<sup>36</sup> See Stockholm Convention on Persistent Organic Pollutants (POPs), art. 13.2 (2001).

## E. Global Mechanism of the Desertification Convention

90. The Global Mechanism is a coordinating (resource mobilization) mechanism established under the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD or Desertification Convention). The Global Mechanism is administered by the International Fund for Agricultural Development (IFAD), a specialized agency of the United Nations that was established as an international financial institution in 1977.

### 1. Update

91. GEF formally became a financial mechanism of UNCCD in October 2005 when at its seventh meeting the Conference of the Parties adopted a memorandum of understanding between the Convention and GEF. While the memorandum of understanding suggests that GEF and the Global Mechanism will be strategic partners, with the Global Mechanism identifying opportunities to mobilize and channel co-financing resources for GEF project proposals, the implementing and executing agencies of GEF such as UNDP and the World Bank already serve this function by utilizing their traditional co-funding areas.

92. Rather than competing with or duplicating the efforts of the implementing and executing agencies, the Global Mechanism's new management team is focusing significantly on supporting and facilitating the mainstreaming of integrated sustainable land management principles into the overarching development frameworks of developing country Parties and donor countries and institutions.

#### (a) Mainstreaming

93. In the context of international financial assistance for sustainable development, mainstreaming refers to the integration of sustainable development objectives such as sound chemicals management into national development policies and plans. For developing countries, this means including these objectives in their development assistance requests by integrating them into their sustainable development strategies, country assistance strategies and poverty reduction strategy papers. The largest amounts of donor funds, by far, are those granted in the form of official development assistance (ODA). Recent international initiatives and reforms such as the Monterrey Consensus,<sup>37</sup> the Paris Declaration on Aid Effectiveness<sup>38</sup> and the OECD Framework for Common Action Around Shared Goals<sup>39</sup> all emphasize that ODA, whether delivered through bilateral or multilateral channels, should respond to the needs of recipient countries by aligning with the priorities of those countries as they have identified them in their national development strategies.

94. Nevertheless, developing countries only rarely include any environmental considerations in their national development strategies, and sound chemicals management is almost never included. This may be attributable to a number of factors: there may be insufficient understanding among government officials of the linkages between environment and development; there may be a belief that prioritizing environmental protections will mean that other pressing needs may go unfulfilled; and the authorities responsible for environmental management may be in ministries that are institutionally weak so that they are not well integrated into national development decision-making and planning processes.

95. Because ODA funding allocations are made on the basis of the national priorities articulated by recipient countries, and because environmental needs are rarely if ever presented as being among those priorities, these large resources are not directed towards sound chemicals management capacities in developing countries, including the capacities needed to implement the Rotterdam Convention. The current resource mobilization strategies of both the Basel and Desertification conventions attach great weight to the potential benefits of tapping these resources through mainstreaming. UNCCD has an institutional advantage because it has the greater capacities and resources of the Global Mechanism to undertake the effort.

<sup>37</sup> United Nations General Assembly, Monterrey Consensus of the International Conference on Financing for Development, A/CONF.198/11 (2002).

<sup>38</sup> Paris Declaration on Aid Effectiveness, *supra* note 12.

<sup>39</sup> Meeting of the OECD Development Assistance Committee and the Environment Policy Committee at Ministerial Level, Framework for Common Action Around Shared Goals (4 April 2006).

**(b) Consolidated strategy and enhanced approach**

96. The Global Mechanism's managing director spelled out a new "consolidated strategy and enhanced approach" in detail in his report to the Conference of the Parties at its seventh meeting on the activities of the Global Mechanism.<sup>40</sup> The report observed that agreements such as the Millennium Development Goals and the changing understanding of resource allocation for development create a new environment for resource mobilization that needed to be addressed in new ways. At the country level, resource allocation is increasingly subject to national-level negotiations within governments to identify their development priorities. As a result, the report said, the level of finance for implementation of UNCCD will depend increasingly on the political will of governments to identify sustainable land management as a national priority.

97. The Global Mechanism will strive "to provide country partners responsible for UNCCD implementation with the tools they need to compete for the allocation of resources in this emerging 'development market place' or to align with other sectors." It will do this:

- (a) By supporting countries in their efforts to improve their national action plans by embedding them within overarching national development frameworks;
- (b) By contributing to governments' management of mainstreaming processes by facilitating the mobilization of relevant resources including instrumental resources, human resources, knowledge and information resources and financial resources;
- (c) By supporting domestic approaches to sustainable land management financing by developing, in close collaboration with partners, strategies to improve the investment climate and to create an enabling environment to increase investments in sustainable land management;
- (d) By serving as a broker institution for partnerships at all levels, including by building on the comparative advantage of partners such as bilateral and multilateral development partners, governments, business and civil society, and by broadening the partnership base to include new actors such as the media, philanthropic organizations, etc.

98. While all of these functions are intended to assist countries in their development and implementation of national strategies to implement UNCCD, they will be carried out within broader frameworks such as poverty reduction and rural development. Because it does not have unlimited resources, the Global Mechanism will retain its scope as a facilitating body that does not develop profound in-house expertise but makes knowledge, information, and advisory services available from sources outside the Global Mechanism. It will make targeted interventions to help foster best practices and regional interaction rather than attempting to service all countries equally. The Global Mechanism will support three types of intervention:

- (a) Longer-term interventions (three to five years), in a limited number of interested countries, that focus on mainstreaming and partnership-building;
- (b) On a demand basis, smaller-scale, targeted interventions that include mainstreaming, partnership-building and creating an enabling environment for resource mobilization;
- (c) Policy processes and operational partnerships at the regional and international levels such as organizing expert consultations on particular issues deriving from mainstreaming processes.

**2. Relevance**

99. The Desertification Convention has experienced serious difficulty in attracting adequate, sustained finance that enables developing countries to realize its objectives. Though still too early to gauge success, the Convention has entered a new phase in which it may access GEF resources, and in which its Global Mechanism will focus on assisting Parties in their efforts to tap potentially much greater resources by mainstreaming sustainable land management into their national development strategies.

100. By having GEF serve as a financial mechanism to UNCCD, developing country Parties are reasonably assured that they may access multilateral funding for land degradation and sustainable land management projects, even if their national focal point on desertification issues is unable to prevail in national-level negotiations to establish sustainable land management as a national development priority.

<sup>40</sup> *Report of the Managing Director of the Global Mechanism of the United Nations Convention to Combat Desertification on Behalf of the President of the International Fund for Agricultural Development to the Seventh Session of the Conference of the Parties, ICCD/CRIC(4)/4 (2005).*

Nevertheless, GEF, ultimately, can make only a partial contribution to solving the broader problems that UNCCD seeks to address. GEF funding is limited by incremental costs and global environmental benefits criteria, by the modest amounts available to the land degradation focal area, by the historical failure of project partners to catalyse significant ratios of co-financing, and by the uncertain resource base in future replenishments. Thus, the Global Mechanism's consolidated strategy and enhanced approach to facilitate developing country Parties' efforts to tap more diversified and deeper funding sources is intended to serve as a crucial complement to GEF and to place the resource mobilization strategies of UNCCD Parties within the greater context of addressing rural development and poverty reduction.

101. UNCCD has adopted a diverse, multifaceted strategy for securing financial resources. The Basel Convention is already pursuing such a path. Such an approach may have relevance to the Rotterdam Convention. All three conventions face a similar challenge: they must overcome the reality that their respective issues, insofar as they pertain primarily to the needs of developing countries, may not be a priority for all States, and the ministries in charge of implementing the conventions at the national level historically have had very little influence in setting the development, country assistance and poverty reduction strategies of their governments.

102. Acquiring or accessing resources to enhance institutional capacity will be essential if the Rotterdam Convention is to play a meaningful role in securing financial resources on behalf of its developing country Parties. Various approaches could be taken:

(a) The Rotterdam Convention Secretariat could consult closely on an informal basis with the Managing Director of the Global Mechanism to explore how the objectives, approaches, and experiences of the Mechanism may be relevant to resource mobilization under the Rotterdam Convention, recognizing that the Rotterdam Convention and UNCCD may be understood as specialized approaches that each contribute towards achieving an overarching sustainable development goal;

(b) The Rotterdam Convention, acting collectively within a cluster of chemicals management initiatives, including SAICM, could establish an institutionally distinct coordinating mechanism similar in function to the Global Mechanism. This approach would be more cost-effective (and presumably more feasible) than establishing such a mechanism for the Rotterdam Convention alone; alternatively, this approach could be undertaken on a less formal basis by one of the relevant United Nations agencies.

## **F. Strategic Approach to International Chemicals Management (SAICM)**

### **1. Overview**

103. SAICM was established by the International Conference on Chemicals Management (ICCM) at its first meeting in Dubai, United Arab Emirates, in February 2006. The overall objective of SAICM is to achieve the sound management of chemicals throughout their life cycles so that, by 2020, chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment. SAICM is a voluntary, non-legally-binding instrument comprised of three documents: the Dubai Declaration on International Chemicals Management, the Overarching Policy Strategy and the Global Plan of Action, which is recommended for use and further development as a working tool and guidance document.<sup>41</sup>

104. The establishment of SAICM was driven by the recognition of the growing gaps between the capacities of developed and developing countries to manage chemicals safely, the need to improve synergies between existing instruments and processes and the growing sense of urgency regarding the need to assess and manage chemicals more effectively. The key expectation of SAICM for most developing countries was to address their need for greater and more effective access to the financial, technical and knowledge resources required to develop foundational capacity in all aspects of sound chemicals management.

105. Future meetings of ICCM to evaluate SAICM implementation and take stock of progress are scheduled for 2009, 2012, 2015 and 2020. Governments, non-governmental organizations and other stakeholders are invited to establish focal points to serve as conduits for communication on SAICM matters. The Inter-Organization Programme for the Sound Management of Chemicals (IOMC) will continue to perform a coordinating function for intergovernmental activities. Regional meetings may be

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<sup>41</sup> International Conference on Chemicals Management, *Strategic Approach to International Chemicals Management: Comprising the Dubai Declaration on International Chemicals Management, the Overarching Policy Statement and the Global Plan of Action* (2006).



held during the intersessional periods, subject to availability of funding. A SAICM secretariat has been established by UNEP, with UNEP and the World Health Organization (WHO) taking lead roles within their areas of expertise. The secretariat is co-located with the UNEP chemicals and waste cluster in Geneva.

## 2. Financial considerations

106. The SAICM documents frequently and broadly note the connection between the ability of developing countries to achieve sound chemicals management and the availability of adequate financial assistance. The Overarching Policy Strategy states that financial arrangements for the SAICM include, among other things:

“Making more effective use of and building upon existing sources of relevant global funding, including by inviting the Global Environment Facility and the Montreal Protocol and its Multilateral Fund within their mandates to consider whether and how they might support implementation of appropriate and relevant Strategic Approach objectives and to report.”<sup>42</sup>

107. Though little headway was made regarding GEF, subparagraph 19 (c), “Integration of the Strategic Approach objectives into multilateral and bilateral development assistance co-operation”, of the financial considerations section of the Overarching Policy Strategy encourages developing countries to integrate SAICM objectives into their requests for development assistance and indicates that technical support to help them do this will be provided if needed. It encourages donors to respond positively to those requests as one important element of the country assistance that they provide in support of sustainable development. The subparagraph also invites United Nations specialized agencies to integrate SAICM objectives into their work programmes.

108. The presence of this language in SAICM (which includes language to similar effect in the Dubai Declaration) could help strengthen the awareness of government authorities responsible for chemicals management in developing countries that official development assistance, including bilateral assistance directed toward fulfilment of the Millennium Development Goals, represents a sizeable portion of potential aid funding that has been almost untapped in support of sound chemicals management capacity. Also, the language may strengthen the negotiating hand of chemicals management authorities as they seek to obtain inclusion of sound chemicals management among the development goals in their national governments’ sustainable development, country assistance and poverty reduction strategy papers. The negotiating positions of chemicals management authorities might be further enhanced by additional study identifying the costs which a developing country may incur if it does not adopt and implement sound chemicals management practices, e.g., environmental clean-up costs, medical costs, lost worker productivity, etc.

109. If Rotterdam Convention Parties elect to pursue relevant strategies identified in this study, they may wish to refer to provisions of SAICM Overarching Policy Strategy subparagraph 19 (c), particularly those stating that donors will provide technical support to developing country efforts to integrate SAICM objectives into national development assistance documents, and that donors will respond to developing country requests “by recognizing Strategic Approach objectives as an important element of bilateral aid agency cooperation”.

## 3. Quick Start Programme

110. ICCM adopted a Quick Start Programme aimed at providing seed money in support of initial capacity-building and implementation activities in developing countries, least developed countries, small island developing States and countries with economies in transition, consistent with their national priorities and SAICM objectives. It will include a trust fund and multilateral, bilateral and other forms of cooperation. QSP will seek to enhance synergies with processes initiated under relevant chemicals and wastes multilateral environmental agreements. Strategic priorities for enabling activities under the Programme include:

- (a) Development or updating of national chemical profiles and the identification of capacity needs for sound chemicals management;
- (b) Development and strengthening of national chemicals management institutions, plans, programmes and activities, building upon efforts to implement international chemicals-related agreements and initiatives;

<sup>42</sup> Ibid., Overarching Policy Strategy, para. 19 (d).

(c) Undertaking analysis, inter-agency coordination and public participation activities to integrate (mainstream) the sound management of chemicals into national strategies and thereby inform development assistance cooperation priorities.<sup>43</sup>

111. ICCM invited UNEP to establish the Quick Start Programme Trust Fund on a voluntary, time-limited basis. The Trust Fund will be open to receive contributions for five years. Expectations are that the Fund may receive total contributions of as much as \$20 million during that time. Funds may be disbursed for a maximum of seven years. Developing countries and countries with economies in transition are eligible to apply for QSP funding; civil society networks may also be eligible in “exceptional circumstances”. Trust Fund allocations will be between \$50,000 and \$250,000 per project. Unlike projects funded by GEF, QSP project funding is not restricted by incremental costs or global environmental benefits considerations.

112. The application procedure for the Quick Start Programme Trust Fund was established on a trial basis in May 2006. A second round of applications for funding from the Trust Fund is scheduled to follow six months after the 18 August 2006 close of the first, trial round.<sup>44</sup>

#### 4. Relevance

113. Although the Conference in Dubai considered the idea of initiating a process to explore the possibility of an expanded GEF chemicals management focal area, the ICCM outcomes did not reflect such an initiative. However, the SAICM documents did not close the door to the possibility of a GEF chemicals focal area, and numerous governments indicated their intention to pursue talks to adopt a chemicals focal area for the fifth GEF replenishment, scheduled for the close of the present decade. Such an initiative may provide an opportunity for supporting the Rotterdam Convention within the frameworks of all chemicals agreements.

114. In respect to support for Rotterdam Convention implementation, including foundational capacities in sound chemicals management, SAICM may therefore be useful to Rotterdam Convention developing country Parties in at least two ways, both of which could be important parts of an overall strategy for securing financial resources:

(a) The provisions of the SAICM Overarching Policy Strategy pertaining to mainstreaming (subparagraph 19 (c)) indicate that donors will provide technical support to developing country efforts to integrate SAICM objectives into national development assistance documents, and that donors will respond to developing country requests “by recognizing Strategic Approach objectives as an important element of bilateral aid agency cooperation”. Those chemicals management officials who wish to pursue mainstreaming may refer to these provisions to help catalyse support from prospective donors and implementing agencies. They may also wish to refer to the provisions to strengthen their arguments that sound chemicals management, including the foundational management capacities needed for implementation of the Rotterdam Convention, should be included in the development, country assistance, and poverty reduction strategies and papers of their national governments;

(b) Seed money for projects to support foundational chemicals management capacities, and also other aspects of Rotterdam implementation, may be available through the Quick Start Programme. Because QSP is, for now, envisaged as a short-term mechanism for SAICM implementation, and because its resources will probably be modest, it will probably not provide a full or long-term solution to the need for adequate and sustained financial resources in support of developing country implementation of the Rotterdam Convention. Nevertheless, Quick Start Programme Trust Fund funding may be easier to access than GEF funds; QSP projects will not require a POPs nexus; and they should not be subject to the GEF incremental costs and global environmental benefits considerations. In addition, one of the Programme’s strategic priorities is to “build upon efforts to implement international chemicals-related agreements and initiatives”. Thus, the chances are reasonably good that developing countries may receive assistance from QSP that can further their implementation of the Rotterdam Convention, if they request it and if the Trust Fund has sufficient resources.

<sup>43</sup> Executive Board of the Quick Start Programme, *Report of the first meeting of the Executive Board of the Quick Start Programme of the Strategic Approach to International Chemicals Management*, Appendix I, “Strategic priorities and institutional arrangements for the Quick Start Programme,” SAICM/EB.1/5 (May 2006).

<sup>44</sup> UNEP Chemicals, *Strategic Approach to International Chemicals Management*, “Quick Start Programme Trust Fund,” [www.chem.unep.ch/saicm/qsptf.htm](http://www.chem.unep.ch/saicm/qsptf.htm) (visited May 26, 2006).

## IV. Further examination of options for consideration by the Conference of the Parties

115. Based upon the options identified in the COP.2/10 study and the developments and considerations presented above in chapters II and III of the present study, this chapter further examines and elaborates a range of options that collectively might form the basis for a strategy for securing financial resources under the Rotterdam Convention. This further examination incorporates the following assumptions:

(a) That the development of foundational capacities for sound chemicals management is a genuine need of most developing country Parties to the Rotterdam Convention; without such capacities, their ability to comply with Convention requirements and to contribute to achievement of its objectives is jeopardized;

(b) That it is unlikely that the Convention can serve as the primary vehicle for providing the financial resources needed to assist developing countries in the acquisition of foundational chemicals management capacities;

(c) That, instead, those needs for foundational capacities may be most effectively addressed within the broader frameworks of the international chemicals and wastes agreements cluster and overarching sustainable development strategies, such as the Millennium Development Goals and the Monterrey Consensus;

(d) That a strategic approach to securing financial resources under the Rotterdam Convention is necessary as an important part of those broader frameworks and for the effective implementation of the Convention;

(e) That such an approach should be multifaceted, should explore and take advantage of all reasonably available opportunities and should utilize existing institutions and processes whenever it is feasible to do so.

116. This further examination of options is organized in three sections: (a) developing a strategy for securing financial resources; (b) addressing foundational chemicals management capacity needs; and (c) addressing assistance needs for implementation of the specific provisions of the Rotterdam Convention. Each section contains suggested actions that could be taken by individual Parties or by the Conference of the Parties as a whole. "Developing a strategy for securing financial resources" suggests that the Convention could benefit from the development and adoption of a strategic, multifaceted approach towards securing financial resources. (It should be noted that pursuing the resource mobilization strategy outlined here will require the secretariat to be fully staffed and funded.)

117. Although sections A and B may have significant overlaps in practice, they are treated separately for clarity of presentation and because they entail somewhat different strategic approaches. "Addressing foundational chemicals management capacity needs" includes accessing GEF funding through the Stockholm Convention financial mechanism, seeking assistance from the SAICM Quick Start Programme and integrating (mainstreaming) sound chemicals management objectives into national development assistance requests. "Addressing assistance needs for implementation of the specific provisions of the Rotterdam Convention" includes broadening the practical coverage of the present GEF Operational Program 14 and laying the groundwork for GEF to establish a sound chemicals management focal area and to become a financial mechanism of the Convention.

### A. Developing a strategy for securing financial resources

118. In the light of the financial resource needs of developing country Parties to the Convention, including their needs for foundational chemicals management capacities, the Conference of the Parties may wish to consider devising a comprehensive, multifaceted strategy for securing financial resources that is intended to respond to the challenges and opportunities of the changing environment for international sustainable development assistance. Such a strategy could be comprised in whole or in part by the components identified in this chapter of the study, including greater coordination and consultation with the secretariats of other relevant conventions and financial mechanisms, especially those in the chemicals and wastes cluster; a significant focus on obtaining support for the development of foundational chemicals management capacities in developing countries; and an equally significant focus on addressing needs of developing countries related to implementation of the specific provisions of the Convention.

119. The Conference of the Parties could consider taking the following actions:

(a) **Request the secretariat to draft an approach for securing financial resources for consideration and possible adoption by the Conference of the Parties at its next meeting.** The Conference of the Parties could also request the secretariat to prepare the draft in consultation with secretariats that are engaging, or have recently been engaged, in the development of similar strategies and approaches, such as the secretariat of the Basel Convention, the Managing Director of the UNCCD Global Mechanism and others. The approach should address two categories of actions:

- (i) Those actions that are consistent with broader chemicals management;
- (ii) Those actions that are specific to the Rotterdam Convention;

(b) **Invite Parties to provide information on which to base an assessment of the cost of implementing the Convention in developing countries;**

(c) **Request the secretariat to propose priorities for securing financial resources to assist developing countries to implement the provisions of the Convention.**

## **B. Addressing foundational chemicals management capacity needs**

120. As described throughout this study, foundational chemicals management capacity is an essential component of a country's ability to implement the Convention adequately and contribute to achievement of its objectives. The Rotterdam Convention could, in principle, support the foundational capacity needs of developing countries through the special voluntary Trust Fund. However, contributions to that Trust Fund have been very limited, and the Trust Fund's assets are in high demand for support to developing countries to attend meetings and to support the programme of regional delivery of technical assistance. The regional delivery of technical assistance programme can and should include workshops, skill sharing and pilot projects to address the foundational chemicals management capacity needs of developing country Parties. Nevertheless, because there is no reasonable expectation that the voluntary Trust Fund will receive sufficient, unearmarked contributions to allow the Secretariat to solicit, evaluate and finance projects upon request of individual developing country Parties, no project application procedures have been set in place, and the Trust Fund does not currently present an opportunity for developing country Parties to seek resources in support of addressing their specific national foundational capacity needs.

121. Potential opportunities do, however, exist for such funding. These include the Stockholm Convention financial mechanism, the SAICM Quick Start Programme and official development assistance, which might be accessed by countries that include sound chemicals management as a priority in their sustainable development, country assistance and poverty reduction strategy papers.

### **1. Stockholm Convention financial mechanism**

122. Funding to support the foundational chemicals management capacity needs of developing countries should be available from GEF in its capacity as an operational entity of the Stockholm Convention financial mechanism, as part of Operational Program 14.

123. Individual developing countries which are Party to both the Stockholm and Rotterdam conventions may wish to take the following actions:

(a) **Use their national implementation plans under the Stockholm Convention as a basis for defining gaps in their chemicals management infrastructure for implementation of the Rotterdam Convention.** The Rotterdam Convention Secretariat, in conjunction with the United Nations Institute for Training and Research (UNITAR), is field testing supplementary guidance to assist countries in doing this;<sup>45</sup>

(b) **In their capacity as Parties to the Stockholm Convention, seek funding from GEF, including arrangements for appropriate co-finance, to support their development of foundational capacities for sound chemicals management.**

124. In support of those actions by individual Parties, the Conference of the Parties to the Rotterdam Convention may wish to consider inviting the Conference of the Parties to the Stockholm Convention to consider providing additional guidance to GEF to include within the priorities of its Operational Program 14 support for the development of foundational capacities in sound chemicals management,

<sup>45</sup> See decision RC-2/4: *Regional and national delivery of technical assistance*, paras. 13–14, UNEP/FAO/RC/COP.2/19 (2005).

with particular priority being given to projects that accomplish synergistic benefits for the implementation of other international chemicals and wastes conventions and agreements, including the Rotterdam Convention.

## 2. SAICM Quick Start Programme

125. The Quick Start Programme is intended to provide seed money to developing countries in their efforts to shrink the “widening gap” in sound chemicals management capacities between developed and developing countries. While the Quick Start Programme Trust Fund is scheduled to receive contributions for only five years, project funding from it is not limited by GEF incremental costs or global environmental benefits criteria.

126. Individual developing country Parties to the Rotterdam Convention may wish to Propose projects to the Quick Start Programme that will build foundational capacities in sound chemicals management necessary for their adequate implementation of the Rotterdam Convention.

## 3. Mainstreaming sound chemicals management objectives into national development assistance requests

127. Sizeable development assistance flows to build foundational capacities in sound chemicals management are potentially available to developing countries that mainstream sound chemicals management objectives into their national development assistance requests. Perhaps the biggest obstacle to doing so is that chemicals management authorities in many countries are often housed in institutionally or politically weak ministries that have difficulty influencing national-level decision-making on development assistance priorities. Targeted assistance and interventions may enhance the ability of chemicals management authorities to influence that decision-making successfully.

128. Recognizing that official development assistance could support both foundational and Rotterdam-Convention-specific needs, individual developing country Parties may wish to take the following actions:

(a) Propose projects to the SAICM Quick Start Programme that support activities directed at enabling the implementation of sound chemicals management objectives by mainstreaming them into national development strategies, noting that this type of enabling activity is among the strategic priorities of the Quick Start Programme;

(b) Request the SAICM secretariat to facilitate the identification of donors that will provide them with technical support to assist them in integrating sound chemicals management objectives into their national development assistance requests, noting that the provision of such technical support is among the financial considerations included in the SAICM Overarching Policy Strategy at subparagraph 19 (c) (i);

(c) Engage in discussions with environmental or other relevant ministries in donor countries to identify potential funding sources within those countries.

129. In support of the above actions by developing countries, individual developed country (donor) Parties and other governments may wish to take the following actions:

(a) Communicate to the SAICM secretariat and individual developing country Parties their willingness to provide the technical support identified in action item (b) above;

(b) Respond favourably to requests by and work in partnership with developing countries by recognizing sound chemicals management objectives as an important element of bilateral aid agency cooperation in support of sustainable development, as set forth in the SAICM Overarching Policy Strategy at subparagraph 19 (c) (ii).

130. To encourage and support the above actions by individual Parties, the Conference of the Parties to the Rotterdam Convention may wish to consider taking the following actions:

(a) Request the secretariat to consult with the Basel Convention secretariat, the SAICM secretariat, the Managing Director of the Global Mechanism of UNCCD and other appropriate entities to help identify ways in which the secretariat might, as part of a multifaceted strategy for securing financial resources, assist Rotterdam Convention developing country Parties in their efforts to integrate sound chemicals management objectives into their national development assistance requests;

(b) Invite the SAICM secretariat to develop procedures and mechanisms for implementing the provisions of subparagraph 19 (c) of the SAICM Overarching Policy Strategy in respect to the development assistance needs of Rotterdam Convention developing country Parties;

(c) Encourage donor countries to provide developing countries, upon request, with technical support to assist them in integrating sound chemicals management objectives into their national development assistance requests, as provided for in subparagraph 19 (c) of the SAICM Overarching Policy Strategy;

(d) Encourage donor countries to respond promptly and favourably to such requests from developing countries;

(e) Request the Rotterdam Convention Secretariat to explore, in consultation with the secretariats of relevant multilateral chemicals and wastes conventions and approaches, the establishment of an institutionally distinct coordinating mechanism similar in approach to the Global Mechanism of UNCCD;

(f) Alternatively to (e), invite the relevant United Nations agencies to propose ways in which they might provide capacity-building and training to developing country Parties to the Convention to assist them in integrating sound chemicals management objectives into their national development assistance requests.

### **C. Addressing assistance needs for implementation of the specific provisions of the Rotterdam Convention**

131. A strategic, multifaceted approach for securing financial resources under the Rotterdam Convention may include components that focus on addressing both the foundational chemicals management capacity needs of developing countries and their needs related to implementation of the specific provisions of the Convention. There may often not be a “bright line” dividing these two general needs areas. In addition, a particular strategy – such as individual countries seeking assistance through the Quick Start Programme or mainstreaming sound chemicals management into their national development assistance strategies – may be able to address both areas of need at the same time.

132. This section identifies possible complementary options for addressing implementation needs related to the specific provisions of the Convention. The options include seeking near- and long-term support from GEF. An additional option of continued use of the Rotterdam Convention special voluntary Trust Fund is noted.

#### **1. Global Environment Facility**

##### **(a) Stockholm Convention financial mechanism**

133. In addition to seeking funding for the development of foundational capacities in sound chemicals management, Parties may wish to explore the possibility that GEF might fund projects under Operational Program 14 that enable developing countries to implement specific obligations under the Rotterdam Convention. The Conference of the Parties may wish to consider taking the following actions:

(a) Invite GEF to identify specific commitments under the Rotterdam Convention that might be funded by GEF under its current mandate, including through the provision of co-finance, and to prepare a report of its findings for consideration by the Conference of the Parties at its fourth meeting;

(b) Urge GEF to include more Rotterdam-Convention-related activities among its priorities for Operational Program 14.

##### **(b) Sound chemicals management focal area**

134. For the longer term, Rotterdam Convention Parties may wish to lay the groundwork for a future GEF Council decision establishing GEF as a financial mechanism of the Convention under a sound chemicals management focal area. Parties may wish to begin this effort immediately, with progress towards that goal possibly starting at the negotiations over the fifth GEF replenishment (anticipated to take place in 2010). The Conference of the Parties may wish to consider taking the following actions:

(a) Request the secretariat, in consultation with the GEF secretariat, to commission an independent study to clarify those aspects of Rotterdam Convention implementation that bring global benefits, with a view to determining the eligibility of Rotterdam Convention implementation projects under the current GEF mandate, and also to preparing for deliberations related to the potential role of GEF as a financial mechanism for the Rotterdam Convention;

(b) Invite competent authorities and focal points to pursue opportunities to coordinate at the national, regional and global levels to further the objective of enhanced access to GEF for activities related to the sound management of chemicals throughout their life cycles;

(c) In coordination with the Basel and Stockholm conventions and the International Conference on Chemicals Management, develop a proposal to GEF for it to establish a new focal area relevant to the sound management of chemicals throughout their life cycles, and request GEF to consider becoming a financial mechanism of the Rotterdam Convention.

## **2. Rotterdam Convention special voluntary Trust Fund**

135. Based upon the experience of the Basel Convention with its voluntary Technical Cooperation Trust Fund, and the performance of the Rotterdam special voluntary Trust Fund to date, this study concludes that a strategy for securing financial resources for the Rotterdam Convention will not be successful if it relies solely on this type of fund to address the capacity-building resource needs of its developing country Parties. Nevertheless, the voluntary Trust Fund can serve a useful purpose as part of a multifaceted strategy for securing resources, especially during a transitional time while the strategy is being developed and implemented. As it has in the past, the Conference of the Parties may wish to continue to encourage donors to contribute generously to the fund.

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