

Institutional Arrangements
for a draft Convention for the
Protection of the Ozone-Layer

Text prepared
by the Secretariat

1. Background

1. Pursuant to the UNEP Governing Council decision 9/13B (May 1981), work aimed at the elaboration of a Global Framework Convention for the Protection of the Ozone Layer was initiated. By the Ad Hoc Working Group of Legal and Technical Experts for the Elaboration of a Global Framework Convention for the Protection of the Ozone Layer (hereafter referred to as the Ad Hoc Working Group, its first session was held in Stockholm 20-28 January 1982 in Stockholm. The report of the Working Group on the Progress of its work was submitted by the Executive Director to the tenth session of the UNEP Governing Council. The Working Group took note of the report and adopted decision 10/17 in which it approved the recommendations made by the Working Group for its future work, and requested the Executive Director to convene a second session of the Working Group in autumn 1982 and to submit to the Governing Council at its eleventh session a further report on the work of the Working Group. 1/

3. Among its recommendations the Ad Hoc Working Group recommended that a special paper should be prepared by UNEP on the institutional arrangements of a Convention, in particular on the role and functions of UNEP, should that arrangement be preferred. Financial, logistical and practical implications for UNEP should be highlighted. 2/

4. Accordingly, the present paper has been prepared. In preparing this paper, a number of relevant international instruments were examined as follows:

1/ Report of the Governing Council of the United Nations Environment Programme to the General Assembly on the work of its Tenth Session. 10/17 Protection of the Ozone Layer p.43 - 44.

2/ UNEP/WG.69/10, 1 February 1982, paragraph 36(iv).

Convention on Narcotic Drugs - Single Convention on Narcotic Drugs (New York, 30 March 1961);

Vienna Convention - Vienna Convention on the Law of Treaties (Vienna, 23 May 1969)

International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (Brussels, 29 November 1969);

The Agreement for the Establishment of a Commission for Controlling the Desert Locust in Northwest Africa (Rome November 1970);

Convention on Wetlands - Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar, 2 February 1971);

Convention on Protection against Hazards of Poisoning - Convention concerning Protection against Hazards of Poisoning arising from Benzene (Geneva 23 June 1971)

Convention on the Establishment of an International Foundation for Compensation for Oil Pollution Damage (Brussels, 18 December 1971);

Oslo Convention Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft (Oslo, 15 February 1972);

Convention for the Protection of Natural Heritage - Convention for the Protection of the World Cultural and Natural Heritage (Paris, 16 November 1972);

London Convention - Convention on the Prevention of Marine Pollution by Dumping of Wastes and other Matter (London, 29 December 1972);

CTTES Convention - Convention on International Species of Wild Fauna and Flora (Washington, 3 March 1973);

MARPOL Convention - International Convention for the Prevention of Pollution from Ships (London, 2 November 1973);

Helsinki Convention - Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki, 22 March 1974);

Paris Convention - Convention for the Prevention of Marine Pollution from Land Based Sources (Paris, 4 June 1974);

Barcelona Convention - Convention for the Protection of the Mediterranean Sea Against Pollution (Barcelona, 16 February 1976);

Kuwait Convention - Kuwait Regional Convention for Co-operation on the Protection of the Marine Environment from Pollution (Kuwait, 24 April 1978);

Convention on the Conservation of Migratory Species - Convention on the Conservation of Migratory Species of Wild Animals (Bonn, 23 June 1979);

Geneva (ECE) Convention - Convention on Long-Range Transboundary Air Pollution (Geneva, 13 November 1979);

Athens Protocol - Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (Athens, 17 May 1980);

Convention on the Conservation of Antarctic Marine Living Resources (Canberra 20 May 1980);

Abidjan Convention - Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan, 23 March 1981);

Draft Convention on the Law of the Sea - Third United Nations Conference on the Law of the Sea (Drafting Committee Working Paper, 7 June 1982)
General Assembly Resolution - 2997 (XXVII) - Institutional and Financial Arrangements for International Co-operation;

Finland/Norway/Sweden Draft - Draft International Convention for the Protection of the Stratospheric Ozone Layer. Text submitted by the Delegations of Finland, Norway and Sweden to the first session of Ad Hoc Working Group of Legal and Technical Experts for Elaboration of a Global Framework Convention for the Protection of the Ozone Layer (UNEP/WG.69/3, 1 January 1982).

5. The document "Protection of the Ozone Layer" introduced by the delegations of Finland and Sweden during the Ad Hoc Meeting of Senior Government Officials Expert in Environmental Law (Montevideo 28 October to 6 November 1981 3/ underlined that co-operation for the protection of the Ozone Layer must be flexible in operation. Adaptation to changing circumstances and constantly developing new knowledge and experience must be made as simple as possible, and ways must be kept open for new co-operative efforts to be initiated without delay. To meet this need, it was thought that the main body of the Convention could best be shaped as a broad framework laying down basic principles.

With regard to the institutional aspects, the above document noted that in decision 9/13B, the Governing Council explicitly recognized "the ..mandate of the United Nations Environment Programme in protecting and enhancing the global environment". Since it may be decided by the Ad Hoc to entrust the initial drafting of a Convention to UNEP, it is logical that, when a Convention is concluded, UNEP should be given permanent functions in its implementation. It is therefore conceivable that UNEP will act as performing secretariat and other functions and also - as part of its over-all environmental monitoring responsibilities - continue its monitoring and assessment functions as well as co-ordinating necessary scientific research.

3/ Report of the Ad Hoc Meeting of Senior Government Officials Expert in Environmental Law, UNEP/GC.10/5/Add.2, Appendix 1.

Also in the "Draft recommendations on legal aspects and elements of a global framework convention for the protection of the stratospheric ozone layer" ^{4/} it was emphasised that a policy-making organ responsible for the implementation of the provisions of the Convention should be ^a part of the basic institutional arrangements.

6. The Ad Hoc Meeting's specific recommendations for initial actions are that United Nations Environment Programme should continue to strengthen its co-ordinating role as regards research, monitoring and assessment of the ozone layer, in particular through the Co-ordinating Committee on the Ozone Layer mechanism, and expand the dissemination of information on the problems of the Ozone Layer ^{5/}

II Secretariat

7. There was general agreement at the first session of the Working Group that the Secretariat function would be provided within the framework of United Nations Environment Programme. It was mentioned, however, that undertaking should be in conformity with United Nations Environment Programme's catalytic and co-ordinating role.

8. The designation of the international organizations or chief administrative officer of the organization to be responsible for Secretariat duties in relation to the conventions are provided for in a number of international agreements. ^{the} ^{its} ^{g./} Convention on Narcotic Drugs provides in ^{its} Article 16 that the Secretariat services of the Commission and the Board shall be furnished by the Secretary General; London Convention in Article XIV provides that the Contracting Parties shall designate a competent organization existing at the time of that meeting to be responsible for Secretariat duties. In the MARPOL Convention the Secretariat functions are not explicitly assigned to Int'l Maritime Organization, although the Meeting of the Contracting Parties designated ^{as the Secretariat.} ^{Under the Geneva (ECE)} Convention secretariat functions are to be carried out by the Executive Secretary of the Economic Commission for Europe (Article 11 of the Convention).[↑]

In the case of the Convention for the Protection of the World Cultural Natural Heritage, the secretariat functions have been discharged by a secretariat appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organization. (UNESCO).

Article VII of the Agreement for the Establishment of a Commission for the Desert Locust ^(FAO) stated that the Director-General of the Food and Agriculture Organization shall provide the Secretary and staff of the Commission, which ^{the} form ^{the} Secretariat. They, for administrative purposes shall be responsible to him and shall be appointed under the same terms and conditions as the staff of the FAO.

^{4/} This document was introduced in connection with the Ad Hoc Meeting of Senior Government Officials Expert in Environmental Law discussion on the protection of the ozone layer by the delegations of Finland, Sweden and Switzerland. Id. Appendix II.

9. Some recent international treaties concerning environmental protection designate the United Nations Environment Programme as the Secretariat. Such a provision is contained in the Article 13 of the Barcelona Convention and Article 16 of the Abidjan Convention. According to the Barcelona Convention the United Nations Environment Programme has been designated by the Contracting Parties as the organization responsible for carrying out the secretariat functions for the Convention and their protocols and for acting as the over-all co-ordinator of the activities agreed upon within the framework of the Action Plan.

For the Kuwait Convention, UNEP assumed responsibility for the secretariat function of the action plan and the Convention in the interim period leading to the first meeting of the Council. Responsibility for the secretariat functions was assumed ^{the} by the secretariat of the regional organization in January 1981. Also/CITES Convention stated in Article XII that: "Upon entry into force of the present Convention, a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme. To the extent and in the manner he considers appropriate, he may be assisted by suitable inter-governmental or non-governmental international or national agencies and bodies technically qualified in protection, conservation and management of wild fauna and flora."

The Secretariat established for the purposes of the Convention on the Conservation of Migratory Species provided similarly to ^{the} CITES Convention that the Secretariat is provided by the Executive Director of UNEP, who may be assisted by appropriate organization.

10. Through the assignment to United Nations Environment Programme of Secretariat functions its role in assisting the implementation of international conventions concerning the protection of the environment has been increasing. In this context, the doubts voiced in the past about the appropriateness of the United Nations Environment Programme undertaking the responsibility of carrying out Secretariat functions because it is a mere subsidiary organ of the General Assembly are not valid any longer in view of the established precedents.

11. As concerns the position of United Nations Environment Programme, as a secretariat to the conventions it may be useful to recall the General Assembly Resolution 2997 (XXVII) which reads as follows:

11. Decides that a small secretariat shall be established in the United Nations to serve as a focal point for environmental action and co-ordination within the United Nations system in such a way as to ensure a high degree of effective management;

2. Decides that the environment Secretariat shall be headed by the Executive Director of the United Nations Environment Programmeand who shall be entrusted, inter alia, with the following responsibilities:.....

e) to provide, at the request of all parties concerned, advisory services for the promotion of international co-operation in the field of the environment".....

12. The designation of United Nations Environment Programme as the organization responsible for carrying out the secretariat functions is financially

advantageous because such a solution does not need the creation of a new body but is using bodies existing in the framework of United Nations Environment Programme. It has to be, however, emphasized that realization of such a function would certainly need staff administrative support, equipment and miscellaneous components. The cost of these will depend upon the level of activity and responsibilities assigned to the secretariat. One possible budget is proposed here for discussion purposes.

Estimated Cost for Establishing a Secretariat in Nairobi for
the Convention for the Protection of the
Ozone
Layer

1000	<u>PROJECT PERSONNEL COMPONENT</u>		<u>1st Year</u> \$		<u>2nd Year</u> \$	<u>Total</u> \$
1100	<u>Project Personnel</u>					
	1101 Lawyer (1 P-4/06)	12m/m	70,500*/	12m/m	70,500*/	141,000
	1102 Scientist (1P-4/06)	12m/m	70,500*/	12m/m	70,500*/	141,000
1200	Consultants (Fee, travel and per diem)	4m/m	30,000	4m/m	30,000	60,000
1300	<u>Administrative Support</u>					
	1301 Administrative Assistant (1 G-9/05)	12m/m	15,100**/	12m/m	15,100**/	30,200
	1302 Secretaries (2 G-7/05)	24m/m	26,300**/	24m/m	26,300**/	52,600
1600	Travel on Official Business		5,000		5,000	10,000
1900	Component Total		217,400		217,400	434,800
4000	<u>EQUIPMENT COMPONENT</u>					
4100	Expendable Equipment (Supplies and materials)		800		800	1,600
4200	Non-Expendable Equipment (Furniture and equipment)		9,500		-	9,500
4900	Component Total		10,300		800	11,100
5000	<u>MISCELLANEOUS COMPONENT</u>					
5100	Maintenance of Equipment		200		200	400
5200	Reporting Costs		5,000		5,000	10,000
5300	Sundry		2,000		2,000	4,000
5900	Component Total		7,200		7,200	14,400
99	<u>GRAND TOTAL</u>		234,900		225,400	460,300

*/ Base salary plus P/Adj, Ass. All., D/All. (3 dependants), Med. Subs, P/Fund (14%), Education Gr., A/Leave, travel to and from duty station on recruitment and separation minus S/Ass. and S/Ass: A/Leave (since this estimation is for two years home leave is not included).

**/ Base salary plus D./All. (5 dependants), P/Fund (14%) and A/Leave minus S/Ass. and S/Ass: A/Leave.

13. Concerning the functions of the Secretariat, it was considered that they should be restricted to administrative functions. This was added in connexion with secretariat functions proposed in Finland/Norway/Sweden Draft which provided for the Secretariat between others the following functions:

- to undertake scientific and technical studies in accordance with programmes authorized by the conference of the parties for the fulfilment of the obligations of the present convention:—to collect, analyse and present to the conference of the parties and the scientific-technical committee established under article 9 and the Working Groups the information provided by the parties to the present convention in accordance with article 3:
- to analyse and present to the conference of the parties the national report submitted by the parties in accordance with article 4 and request from parties such further information as might be necessary to ensure the implementation of the present convention:

During the first session of the Working Group it was suggested that the undertaking of scientific and technical studies should be left to Co-ordination Committee on Ozone Layer or, as the case may be, to a scientific-technological committee.

Thus the secretariat functions provided under the Draft Convention are mainly of rather administrative character. Similarly such functions are provided for the secretariats of other conventions concerning the environmental protection (e.g.)

Article XVIII of the Kuwait Convention,

Article 11 of the Geneva (ECE) Convention,

Article 16 of the Abidjan Convention).

However, there also exist conventions in which the Secretariat functions are broader e.g., eg. in the CITES Convention the Secretariat functions are as follows: -

.. "to undertake scientific and technical studies in accordance with programmes authorized by the Conference of the Parties as will contribute to the implementation of the present convention,...to study the reports of Parties, and to request from Parties such further information with respect thereto as it deems necessary to ensure implementation of the present Convention,....

to make recommendation (emphasis added) for the implementation of the aims and provisions of the present Convention, including the exchange of information of a scientific or technical nature"....

One of the important functions of the Secretariat provided on the Draft Convention is "to ensure the necessary co-ordination with other relevant and international bodies, and in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of the Secretariat functions." The implementation of this function would require the establishment of simple co-ordinating mechanisms within the secretariat which use existing relevant and international bodies and which would deal with these institutions as may be required for the effective realisation of the secretariat functions.

16. Draft Convention provides also that for a situation when the United Nations Environment Programme is no longer able to provide the Secretariat (e.g. UNEP's mandate as a catalytic organization, other organizations changes, financial situation) the Conference of the Contracting Parties or a diplomatic conference shall make alternative arrangements for the Secretariat. A comparable provision is included in Convention on the Conservation of Migratory Species (Article IX paragraph 3). It seems that such a provision may be very useful for the event of changing circumstances.

II. Conference of the Contracting Parties

17. There was general agreement at the first session of the Working Group that there should be a Conference of the Contracting Parties. It was proposed that the Convention should provide for the convening of the first meeting of the Conference at a specified time after the Convention's entry into force and that the Conference itself should decide on the convening of further meetings (paragraph 24 of the Report).
18. Periodic meetings of the Contracting Parties are provided under Article 14 of the London Convention, Article 14 of the Barcelona Convention, Article 14 of the Athens Protocol, Article 17 of the Abidjan Convention and other international instruments requiring review and adjustment of their technical provisions. A similar provision is contained in the Finland/Norway/Sweden Draft (Article 7).
19. Usually the details concerning the convening of ordinary and extraordinary meetings of the Contracting Parties or other bodies created by conventions are determined in the conventions (e.g. Article 12 of the Helsinki Convention, Article 14 of the Barcelona Convention, Article XVII of the Kuwait Convention, Article 17 of the Abidjan Convention).
- However, they are also conventions in which the meetings of the Contracting Parties or other bodies created by the conventions are determined by the Conference itself in its i.a. rule of procedure. Such an approach is provided, e.g., in Article 16 of the Oslo Convention and Article 15 of the Paris Convention.
20. During the first session of the Working Group some experts proposed that interim institutional arrangements should be provided, pending the entry into force of the Convention (paragraph 24 of the Report). This proposal, however, is not introduced in the present text as it would require a separate resolution to be effective prior to the entry into force of the Convention.

Similar steps were taken in the case of the Barcelona Convention, the Kuwait Convention, the Abidjan Convention and the Geneva (ECE) Convention.

21. In every international agreement there is a general rule according to which Contracting Parties are bound to co-operate in achieving the purposes of this agreement.

In the Draft Convention for the Protection of the Ozone Layer such an obligation is contained in Article 2 (General Obligations - Alternatives 1-3).

It can easily be agreed that the Contracting Parties have a basic obligation to contribute to the realization of the purposes postulated by a treaty. This is one of the principle tasks of the Conference of the Contracting Parties provided in Article 6.

The wording of the Draft Convention allows members the opportunity to make future decisions as to the best way to realize its institutional ends, and the means to be used.

22. The Draft Convention does not elaborate upon the different kinds of decisions that may be taken by the Conference of the Contracting Parties. These may be of an internal nature, such as the adoption of the rules of procedure and financial rules for itself and for its subsidiary bodies, and adoption of the financial provisions for the functioning of the Secretariat (paragraph 2), as well as establishment of such scientific, technical or legal working group as are deemed necessary in the implementation of the Convention (paragraph 3 (viii)). The adoption of the financial rules would likely be a decision that entails direct financial obligations for the Contracting Parties. Thus, it is to be expected that a Contracting Party in advance of that decision gets an approval from the appropriate organs (e.g. Ministry of Finance) in the respective State.

23. Article 6 paragraph 3 of the Draft Convention contains a list of various duties of the Conference of the Contracting Parties. It shall i.a. "consider reports", and "review the state of the ozone layer". However, the adoption of a programme and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer, the adoption of a programme for research and monitoring, scientific and technological co-operation, defining of common policies, strategies and measures for minimizing the release of substances causing or likely to cause modification of the ozone layer and adoption of the recommendation or any other measures relating to the Convention are expected to be the subjects of future decisions of the Conference of the Contracting Parties. This applies, as well, to the adoption of amendments to the Convention, as well as to adoption of protocols and annexes thereto.

As implied above, the nature of decisions can vary considerably. The decisions adopted by the Conference of the Contracting Parties may be of different character, depending on their purpose. Some of them are meant to be implemented rapidly, others may again be meant to be only of a programmatic character, setting goals to be reached step by step.

In the present draft form of the Conventions Working Groups established by the Conference of the Contracting Parties cannot adopt decisions aimed directly at the Contracting Parties or International Organizations. Working Groups can only provide suggestions and results of their work.

The Committee provided for in Article 8 (Alternative 1) is a body for co-operation between the representatives of the Contracting Parties and does not exercise any control over them. It is just an 'advisory' body to the Conference of the Contracting Parties.

The Draft Convention does not juridically compel the Contracting Parties to accept the recommendations of the Advisory Committee. The recommendations formulated by the Committee are to be submitted for the consideration of the Conference of the Contracting Parties. (Alternative 1).

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21. In the Article 15 paragraph 1 of the Draft Convention there exists an alternative where regional economic integration organizations constituted by Sovereign States could be Contracting Parties to the Convention. These would be the organizations which have competence in respect to the negotiation, conclusion and application of international agreements in matters covered by the Convention. It is proposed in paragraph 2 of Article 15 that, in matters within their competence, such regional economic organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the Convention attributes to their member States but, in such cases, the Member States of these Organizations shall not be entitled to exercise such rights individually.

The participation of such organizations in the Conference of the Contracting Parties needs more definition which could probably be provided in the rules of procedure of the Conference of the Contracting Parties.

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One of the possible approach to this question is the solution adopted for the Convention on the Conservation of Antarctic Marine Living Resources which provides for European Community the participation in the Convention by both the European Community and its member countries and their representation on the Commission to be established, provided that there is no multiple or double voting on any issue.

III. Scientific-Technological Advisory Body/Mechanisms

Article 8 of the draft Convention relate to the creation, functions and institutional make-up of the Scientific-technological advisory body or mechanisms.

The establishment of the scientific-technological advisory bodies or mechanisms as subsidiary bodies to the Conference of the Contracting Parties is very important because of complexity of the issues involved in the ozone layer protection.

Considering the highly specialized nature of these problems, the question of the institutional arrangements in the field of science and technology received much attention during the first session of the Working Group (paragraph 22 of the Report). Three basic possible alternative were proposed:

1. the establishment of a new scientific and technological body in addition to Co-ordinating Committee on the Ozone Layer;
2. direct provision of services to the Conference of the Parties by the Co-ordinating Committee on the Ozone Layer;
3. the merger of the two bodies, with the amendment of Co-ordinating Committee on the Ozone Layer's mandate so that it could serve as a scientific body to the Conventions, supplemented by an extended bureau for proposing policy recommendations to meetings of the Conference of the Parties.

24. There was a consensus on the desirability of using, as far as possible, the expertise of CCOL and on the need to avoid duplication of work between CCOL and any proposed new scientific-technological committee or other bodies. A consensus was ultimately established that the scientific activities of CCOL should be expanded to include socio-economic and technological aspects. While reassurance was given that CCOL could be adapted to assume the role envisaged for the scientific-technological committee, it was argued, on the other hand, that there might be some legal problems concerning the present composition of CCOL, whose members included non-State entities, whereas the proposed technical organ under the convention would consist only of the Parties to the convention.

In the light of the above propositions it seems to be useful to clarify the status of the Co-ordinating Committee on the Ozone Layer and the possibilities to use this body for the purposes of the Convention.

25. Co-ordinating Committee on the Ozone Layer (CCOL) was established by the UNEP Governing Council decision 84 C(V) of 25 May 1977 (A/32/25). In that decision the Governing Council recalled that the Meeting of Experts designated by Governments, Intergovernmental and Non-Governmental Organizations on the Ozone Layer held at Washington, D.C., from 1 to 7 March 1977 recommended the

adoption of a world plan of action on the ozone layer and the establishment by UNEP of a committee to enable UNEP to exercise a broad co-ordinating and catalytic role aimed at the integration and co-ordination of research efforts related to the ozone layer. Institutional arrangements provided in this document are as follows:

1. The Action Plan will be implemented by UN bodies, specialized Agencies, international, national, intergovernmental, and non-governmental organizations and scientific institutions.

2. The UNEP should exercise a broad coordinating and catalytic role aimed at the integration and coordination of research efforts by arranging for:

- collation and dissemination of information on ongoing and planned research activities
- presentation and review of the results of research
- identification of further research needs
- appropriate encouragement of such research

3. In order for UNEP to fulfill that responsibility it should establish a Coordinating Committee on the Ozone Layer composed of representatives of the agencies and non-governmental organizations participating in implementing the Action Plan as well as representatives of countries which have major scientific programmes contributing to the Action Plan. The Committee should meet with sufficient regularity to meet its responsibilities. The Committee should be provided with secretariat services adequate to carry out the activities noted in the above section.

The Committee should make recommendations relevant to the continuing development and coordination of the Action Plan to the Executive Director who will report these to the Governing Council.

4. While much of the work included in the Action Plan is being and will be undertaken at the national level, and is the financial responsibility of countries, there is a continuing need for coordination of the planning and

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execution of monitoring and research related to particular segments of the Action Plan. This need can most effectively be met by the specialized Agencies as indicated in the recommendations.

5. Each Agency should arrange for the provision of scientific advice relevant to its needs and those of the Co-ordinating Committee on the Ozone Layer. In addition, the Executive Director of UNEP may from time to time convene a multidisciplinary panel of experts to provide broadly-based scientific advice on the Action Plan.

6. UNEP should consider the need for and feasibility of establishing special co-ordinating mechanisms or procedures for certain areas of interdisciplinary research included in the recommendations, such as photobiology, which presently lack such co-ordinating facilities."

7. The functions assigned to the Co-ordinating Committee on the Ozone Layer described in the World Plan of Action on the Ozone Layer, are as follows:

- to promote a co-ordinated research and monitoring programme to clarify the basic dynamical, photochemical and radiative aspects of the ozone layer and to evaluate the impact of man's activities on the ozone balances.
- to promote and co-ordinate a wide variety of investigations of the impact of ozone layer modification and increased ultra-violet (UV-B) radiation on man, the biosphere and climate.
- to encourage the support at the national and international level of studies of the socio-economic impact of predicted ozone layer depletions and of alternative courses of actions to limit or control identified ozone-depleting emissions to the atmosphere.
- to make recommendations relevant to the continuing development and co-ordination of the Action Plan.

8. In connection of the above, Alternative 3 proposed during the first session of the Working Group was not introduced in the text of the Draft because the CCOL is composed of representatives of Member States, United Nations Organizations and non-governmental organizations, all with equal status. It is then difficult to envisage to the CCOL to act as the scientific-technological Committee without altering its membership as well as its terms of reference. Such an alteration would require action on the part of Governing Council which established it, and might also be detrimental to the present successful operation of the CCOL.

In addition CCOL should not be the only scientific and technical body whose advice is sought. It should be pointed out also that the CCOL may report to a different set of governments than those composing the Conference of the Contracting Parties, and that the CCOL is not necessarily of the same lifetime as the Convention. Further, the CCOL is a scientific body that has no experience in, or inclination to get into, socio-economic and technology fields.

At the same time, there is no doubt that the CCOL should serve as appropriate the Conference of the Contracting Parties and/or other bodies or mechanisms which would be created.

32. In the present draft of the convention Alternative 1 creates an Advisory Committee consisting of the representatives of the Contracting Parties, not more than one from any one Party. Functions of this Committee are described in the convention but it is provided that the Advisory Committee should perform also such other functions as may be deemed necessary by the Conference of the Parties.

This Committee may call upon the CCOL and other bodies and also convenes its own working groups, ad hoc or standing, as needed. The representatives to this bodies should have suitable qualifications and to this end the Conference of the Contracting Parties shall seek the nominations of such candidate experts from governmental and non-governmental legal, scientific and technical organizations. Rules concerning the operation of the advisory mechanism, e.g. qualifications of experts, could be detailed in the rules of procedure of the Conference of the Contracting Parties.

Similar body- the Scientific Council is provided in the Article VIII of the Convention on the Conservation of Migratory Species as an advisory body on scientific matters established by the Conference of the Parties. According to this Convention any Party may appoint a qualified expert as a member of the Scientific Council. In addition, the Scientific Council shall include as members qualified experts selected and appointed by the Conference of the Parties; the numbers of these experts and the criteria for their selection shall be as determined by the Conference of the Parties. The Conference should determine the functions of the Scientific Council, which may include e.g. -
- providing scientific advice to the Conference of the Parties, to the Secretariat and to any body set up under this Convention, - recommending research and the co-ordination of research, evaluating the results of such research;
- recommending to the Conference of the Parties solutions to problems relating to the scientific aspects of the implementation of this Convention.

A ~~further~~ similar Scientific Committee as a consultative body is provided also for in the Convention on the Conservation of Antarctic Marine Living Resources.

The role of this Committee is to provide expert and independent advise to a Commission. In carrying out its functions, the Scientific Committee shall have regard to the work of other relevant technical and scientific organizations and to the scientific activities conducted within the framework of the Artactic Treaty.

33. Alternatives 2 and 3 of the Article 8 delays and gives to the Conference of the Contracting Parties the task of conceptualizing and initiating the necessary mechanisms to carry out the responsibilities provided under Article 6 of the Convention. These Alternatives provide also that the Conference of the Parties shall request from CCOL and other scientific bodies necessary e.g. scientific, socio-economic and technological advice. Relevant to this, Article XIV of the London Convention states that the Contracting Parties shall keep under review the implementation of the Convention and may, inter alia

invite the appropriate scientific body or bodies to collaborate with and to advise the Parties or the Organization on any scientific or technical aspects relevant to that Convention. Alternative 3 of the draft of the Convention for the Protection of the Ozone Layer provides, that this Conference of the Contracting Parties as a part of such mechanisms shall establish ad hoc or standing advisory bodies.

A similar approach is in practice as provided for implementation of the CITES Convention. On the third meeting of the Conference of the Parties (New Delhi, 1981) there was established a Technical Expert Committee of the Conference of the Parties consisting of one or more technical experts from all interested Parties which shall e.g. hold such meetings as are determined necessary by the Chairman, identify by means of the continual review of the annual reports of the Parties and other techniques, problems with enforcement of the convention and provide guidance to the secretariat and Parties on measures that may be undertaken to remedy these problems, review the implementation of the Convention and make recommendations for harmonization of documents and procedures, and draft resolutions for consideration by the Conference of the Parties. It may be added that the second meeting of the Conference of the Parties (San José, 1979) established the Standing Committee of the Conference of Parties with the functions to provide guidance and advise to the secretariat on the implementation of the Convention, and to act as Bureau at meetings of the Conference of the Parties, in accordance with rules of procedure. The Standing Committee consists of no more than nine Parties, who shall be nominated by the Conference of the Parties which shall ensure that the major geographical regions should be represented.

34. The financial costs of the scientific advisory body/mechanisms depend upon:

- the rate of changes of the state of the ozone layer, the extent and trends of its modification and possible effects;
- the consequent timing and necessity of deriving recommendations as to regulatory actions e.g. protocols in the foreseeable future;
- the aggressiveness, quality and detail desired in the performance of the functions;
- the extent of co-operation desired in the fields of technology development and transfer;
- the extent to which members themselves provide data and information of direct utility;
- the degree of continuity and institutional memory desired in the performance of the advisory functions;
- the style of operation, e.g. extent^{of}/use of permanent staff versus use of consultants, ad hoc working groups, travel, participation in relevant meetings of other bodies, etc;
- location of the body and available administrative support;
- the extent of support and advance preparations for meetings provided by the secretariat to the convention.

For the present, until members decide that the state of the ozone layer warrants regulatory action, it would seem that the principal active functions of an advisory committee would be those given as (ii) (iv) and (v) of Article 8 alternative 1 paragraph 2. For these functions and for the present, it would seem to the UNEP secretariat that annual meetings of such a committee, with several interim efforts by consultants and/or working groups would suffice.

IV Depositary

35 According to Article 76 of the Vienna Convention the designation of the depositary of a treaty may be made by the negotiating States, either in the treaty itself or in some other manner. The depositary may be one or more States, an international organization or the Chief Administrative Officer of the organization.

The designation of the Chief Administrative Officer of the organization as depositary of conventions are provided for in a number of international agreements.

Secretary General of the United Nations is rather often designated as the depositary of the international conventions. e.g. Geneva (ECE) Convention, Draft Convention on the Law of the Sea, Convention on Narcotic Drugs. Article IV of the Convention relating to Intervention on the High Seas stated that the Convention shall be deposited with the Secretary General of the Organization. The same option is provided in the Article V of the Protocol relating to Intervention on the High Seas of Marine Pollution by Substances other than Oil. Secretary General of IMCO is also provided as depositary for the Convention relating to Civil Liability :

(Article 5) as well as for the
Convention on the Establishment of an International Fund :
(Article 33).

Director-General of the United Nations Educational, Scientific and Cultural Organization perform functions of the depositary for the Convention on Wetlands of
(Article 9).

7) According to Article I paragraph 5 of this Convention
"Organization" means the Intergovernmental Maritime Consultative
Organization (IMCO - actually IMO).

The Convention for the Protection of Natural Heritage
also designate the Director-General of the United Nations Educational,
Scientific and Cultural Organization as a depositary of this Convention
(Article 31).

The Agreement for the Establishment of a Commission for the
Desert Locust^{8/} stated the Director General of the Food
and Agriculture Organization of the United Nations the depositary of this
Agreement.

✓ Director-General of the International Labour Office is as provided in
Article 15-19 a depositary for the Convention on Protection against
Hazards of Poisoning.

^{8/} As amended by the Commission at its Sixth Session (4-6 April 1977) and
approved by the FAO Council at its Seventy Second Session (8-10 November 1977).

The Finland/Norway/Sweden Draft provided, that the depositary functions should be assumed by the Executive Director of United Nations Environment Programme. However, in the light of the discussion during the 10th session of the Governing Council concerning the problem of Executive Director of United Nations Environment Programme as depositary of the conventions such a provision was not introduced in this Draft of the Convention.

According to the legal opinion of the United Nations Secretariat sent from New York during the 10th session of Governing Council - 28 May 1982, the only depositary of multilateral treaties in the United Nations is the Secretary General. Only the Secretary-General may be designated as depositary in treaties to be deposited with United Nations. This is in accordance with the long-standing practice based on the need to preserve uniformity of policies and procedures, particularly in matters of participation or reservations. Such practice, as it was mentioned above, was codified in Article 76 paragraph 1 of the Vienna Convention.

Similar opinion was expressed in the cable to the Legal Liaison Officer in Geneva Office of the United Nations, 29 of August 1979 as regards the position of the Secretary-General with respect to the discharge of administrative and depositary functions in relation to treaties concluded under the auspices of the United Nations.^{9/} This opinion stated that all treaties concluded under United Nations auspices should be worded to confer depositary or administrative functions on the Secretary-General only and not on any subordinate official because the United Nations Charter centralizes the authority and responsibility for Secretariat action in the Secretary General. It is for him to decide which subordinate official will in fact perform functions on his behalf. He has assigned all depositary functions to the Office of Legal Affairs because it is of the extreme importance that those functions be performed in legally correct and absolutely consistent manner and that all information on United Nations treaties be available in and published by one office.

Then in theory it exists the possibility that Secretary-General of the United Nations may decide to perform _____ in fact functions of the depositary on his behalf as regard to this convention to the Executive Director of United Nations Environment Programme. However, in the light of above opinion Secretary General of the United Nations assigned all depositary functions to the Office of Legal Affairs. In the future the possibility to perform functions of the depositary on behalf of the Secretary-General of the United Nations for the conventions concerning the environmental protection concluded under the auspices of the United Nations, to the Executive Director of United Nations Environment Programme cannot be excluded.

^{9/} Juridical Yearbook 1974, opinion number 25

It cannot be excluded also that in the future the Secretary-General of the United Nations may assign all depositary functions as concerne the conventions of environmental protection concluded under the auspices of the United Nations to the United Nations Environment Programme Secretariat.

However, in the light of the above opinions obtained from United Nations Secretariat these possibilities were not introduced in the present draft of the Convention.

The functions of the depositary are generally prescribed in the Article 77 of the Vienna Convention and for this reason the functions cited in the Article 21 paragraph 2 are not exhaustive. In the present draft of the Convention are cited only some of the basic depositary functions, it means the distribution^{of} the information to the Contracting Parties on the signature of the convention and any protocols, on the deposition of instruments of ratification, acceptance, approval or accession, on the date of the entry into force of the Convention and protocols thereto, on notification of withdrawal, on adoption of amendments to the convention and protocols on adoption of new annexes and ammendments of any annexes.

Then open still the question if the contribution of each Contracting Parties should be equal.

The financial activities of the Conference of the Contracting Parties Secretariat and scientific-technological Advisory body/mechanism should be conducted in accordance with financial regulations adopted by the Conference of the Contracting Parties and should be subject to an [annual] [biennial] audit.

Each Contracting Parties should meet its own expenses arising from attendance at meetings of the Conference of the Contracting Parties and scientific-technological advisory body/mechanisms.