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Southern perspective**

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International Chemicals Management and SAICM Background Paper for the 7th Global Civil Society Forum

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Introduction

The main purpose of this paper is to provide background information to the participants of the UNEP's 7th Global Civil Society Forum (GCSF), to be held in Dubai, United Arab Emirates, from 5 to 6 February, 2006 prior to the Ninth Special Session of the UNEP Governing Council/Global Ministerial Environment Forum (9th SS.GC/GMEF), scheduled from 7 to 9 February 2006.

International Chemicals Management is one of the three major issues that will be addressed during the 9th SS.GC/GMEF, where the Ministers of Environment will be invited to adopt the results of the International Conference on Chemicals Management (ICCM) scheduled to be held in Dubai concomitantly with the GCSF. At the ICCM, Ministers of Environment, Health and other government ministers and officials, intergovernmental organizations and representatives from civil society and private sector will be finishing the negotiation process of Strategic Approach for International Chemical Management (SAICM) and adopting its High Level Declaration, Overarching Policy Strategy and Global Plan of Action. The SAICM will provide a blueprint for how the global community will accomplish the goal set out in the Plan of Implementation of the World Summit on Sustainable Development (WSSD) to "achieve by 2020 that chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment."

This paper intends to summarize and highlight the major aspects concerning the international negotiation process of the SAICM, the main demands of developing world governments and stakeholders and the main issues expected to be negotiated at the ICCM, in a way which complement the background paper produced by CIEL (Center for International Environment Law) on International Chemicals Management.

Chemicals in the world

In our modern world, more than 100.000 chemicals are produced and used. Information on uses, releases and impacts on health and the environment are scarce, and not available worldwide. The chemical industry sector is responsible for significant contributions on national's Gross Domestic Product (GDP) not just in developed nations, but also in several developing countries and countries with economies in transition. For nations such as China, India, South Africa, Brazil and Argentina, the chemical industry sector plays an important role in the economy. However, legal frameworks and infrastructure for research, management, monitoring, measuring and prevention of impacts in human health and environment resulting from chemicals production and uses, are not set up properly in several countries and many times can be considered very fragile or inexistent. As a consequence, many cases regarding human and environmental contamination hugely illustrates this common situation throughout the globe.

Furthermore, a sound management of chemicals is essential if we aim to protect health and the environment from damages caused by chemicals throughout their life cycles. Achieving sustainable development and protecting the rights of next generations implies in a toxics free future in which food, water, soil and air do not contain chemical pollutants that have the potential to cause harm to human health and the environment. Workers, communities and vulnerable groups, including women and children, should no longer be exposed to or suffer injuries caused by such chemicals.

Strategic Approach for International Chemicals Management - SAICM

The Rio Declaration on Environment and Development set out a series of principles, regarding Inter-generational Equity (Principle 3), Precaution (Principle 15), Proportionality (Principle 4), Internalization of Costs (Polluters Pay – Principle 16), Public Participation (Principle 10), Right to Know (Principle 10), Cooperation Among States (Principle 7) and Liability and Compensation (Principle 13 and 16). The later Agenda 21 recommends in its chapters 19 and 20 the need of a coordinated and integrated approach to achieve a sound management of chemicals and waste.

In February 2002, the Governing Council of the United Nations Environment Programme (UNEP) decided that there was a need for further development of a strategic approach to international chemicals management (SAICM) and endorsed the Bahia Declaration and Priorities for Action Beyond 2000 of the Intergovernmental Forum on Chemical Safety (IFCS) as the foundation of that approach. The decision requested UNEP to work in consultation and collaboration with Governments, participating organizations of the Inter-Organization Programme for the Sound Management of Chemicals (IOMC), IFCS, and other stakeholders.

The SAICM initiative was endorsed by the World Summit on Sustainable Development (the Johannesburg Summit) in September 2002. That endorsement came in the context of the Summit's Plan of Implementation, which set a goal 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.

The Johannesburg Plan of Implementation also set a target of 2005 for the completion of SAICM.

The pathway to develop SAICM was based in a concept of an open-ended consultative process, which had taken the form of preparatory meetings leading to the convening of an international conference on chemicals management (ICCM). It accounted with active collaboration by the full range of stakeholders, including different government ministers and officials, international organizations and representatives from civil society and private sector. Three Preparatory Committee (Prep Com) meetings were held, and inter-sectional regional consultations took place in order to get inputs from the African Region, Asia-Pacific, Latin America and Caribbean (GRULAC), Central and Eastern Europe and EU-JUSSCANNZ (European Union and Japan, the US, Switzerland, Canada, Australia, Norway and New Zealand).

As a result of the Preparatory Committee meetings and regional consultation, SAICM had take a form based on a three-tiered structure, which had gained widespread support and which included a global plan of action, an overarching policy strategy and a ministerial declaration. Other main decision agreed was about the non-legally binding character that SAICM embodied.

It should be highlighted here the importance of the African and GRULAC regional meetings that happened before the Prep Com2 in Kenya, October 2004. Those meetings had set the starting-point of work for the later Prep Com2 and Prep Com 3, in which were addressed fundamental issues regarding the need to bridge the widening gap in chemicals management capacity, between developed and developing nations and nations with economies in transitions.

The participation of a broad range of stakeholders since the beginning of the process guaranteed a transparent, inclusive, multisectorial and multi-stakeholder view, highlighting priorities, such as capacity building, to enable the integration of chemical safety issues into national development and poverty reduction strategies, prevention of illegal international traffic in toxic, hazardous, banned and severely restricted chemicals and chemical products and waste. It also demonstrated the need for new, additional and sustainable resources for proper SAICM implementation and the need for deeper engagement from all stakeholders.

The Prep Com3 took place in Vienna, from 19th to 24th of September 2005. During the whole week delegates from governments, intergovernmental organizations, worker's unions, NGOs and private sector discussed the contents of the drafts of the High Level Declaration, Overarching Policy Strategy and the Global Plan of Action. Consensus were reached in considerable amount of text, but indeed, there were several and crucial points of discordance, and they will require further negotiations in ICCM next February.

SAICM Three-Tiered Structure

Although the negotiations have not been completely finished, is indeed already a consensus that SAICM will be developed in a three-tiered structure, composed by:

- High Level Declaration, which briefly describes the reasons SAICM is needed and makes general statements about the firm commitment that governments and stakeholders have regarding SAICM and its implementation. It also highlights the non-legally binding, multi and cross-sectorial participatory character, precaution application and consideration about the full life-cycle perspective of chemicals.
- Overarching Policy Strategy that flows from the commitments expressed in the High Level Declaration, describing in chapters the scope of SAICM, more specific needs that have spurred its development, the specific objectives divided in sections that complies risk-reduction, knowledge and information, governance, capacity-building and technical cooperation, illegal international traffic, and chapters on financial considerations, principles, approaches, implementation and taking stock of progress.
- Global Plan of Action is a guidance document and has been structured into work areas and associated activities that may be taken by stakeholders in order to pursue the commitments and objectives expressed in the High-level Declaration and the Overarching Policy Strategy. It also sets a list of common global priorities that should be considered for appropriate cooperative action. The work areas and their associated activities, designated actors, targets and time frames and indicators of progress are grouped in a table according to five categories of objectives contained at the Overarching Policy Strategy, and are closely interconnected. Some activities did not reach consensus and were marked for further consideration.

Civil Society Contribution

Civil society organizations together with worker's unions, represented by International Conference of Free Trade Unions (ICFTU), have been major participants on the development of chemicals management international policies, such as the Basel Convention, Rotterdam Convention, Convention 184 and 170 of International Labour Organization, Stockholm Convention, among others. Several regional and international networks have been set up and cover different aspects within the chemical agenda. Some of them are: PAN (Pesticide Action Network), Basel Network, IPEN (International POPs Elimination Network), GAIA (Global Alliance for Incineration Alternatives) and Health Care Without Harm, with overlapping membership within them. IPEN, together with PAN, have played a lead role in the Stockholm Convention and IPEN has expanded its focus to become the main NGO network involved in the SAICM.

Prior to the Prep Com1, held in Thailand in November 2003, IPEN general assembly agreed in a position statement that contributes for the SAICM further discussions. In April 2004, a group of African NGOs attended a workshop in Arusha, Tanzania and the result was the Eastern Africa Statement on SAICM, which was further presented at the first African Regional meeting on SAICM held in Abuja, Nigeria in May 2004, and several of its main points were incorporated in the Abuja Statement on SAICM. Waste management in Philippines, childcare and chemical safety in Argentina, physicians and public health in Kenya, monitoring and evaluation in Russia, all are just some few examples of broad working areas covert by NGOs and their expertise that had contributed towards SAICM.

The next paragraphs summarize some of the major concerns and positions from several contributions across the globe that were, in one way or another, incorporated by the SAICM process:

- The advancement of chemical safety is a necessary part of the efforts by governments and societies to achieve the goal of sustainable development and poverty reduction;
- Achieving chemical safety will require active assistance from all relevant intergovernmental organizations; bi-lateral and multi-lateral aid agencies; and other development institutions;
- The GEF Assembly should consider expanding the currently rather narrow POPs Focal Area into something more comprehensive, supporting a wider range of chemical safety objectives, starting with those to be identified in the SAICM;
- Beginning immediately, and at the latest by 2020, to phase out the production and use of chemicals that are persistent or bio-accumulative, or that are carcinogenic, mutagenic, toxic to reproduction or endocrine disruptors, or are of equivalent concern;
- Apply the substitution principle, ensuring that hazardous chemicals, products and processes are replaced with safe alternatives;
- Default right-to-know, that encompasses full information about all chemicals, including chemicals in products, data on their intrinsic properties and their effects on human health and the environment, and information on their alternatives;
- Enhance each country's national institutional framework for implementing chemical safety across all the relevant ministries and government agencies. The end goal is to enable governments to establish not only the necessary laws and regulations, but also the infrastructure, the monitoring capacity and the enforcement ability;
- Adopt the precautionary principle, under which preventive measures are to be taken when there are reasonable grounds for concern, even when the evidence is inconclusive of a causal relationship between an activity and its effects;
- Attention must be given to preventing the exposure of the most vulnerable groups, such as children, pregnant women, ill-nourished people, sick people and the elderly;
- SAICM should provide frameworks to assure that international investors contribute to the advancement of chemical safety; promote high standards for the new or modified facilities in which they invest; and refrain from transferring dirty technologies and processes to countries least capable of protecting their people and their environment;
- Should help enable clean technology transfer and should promote clean production as an important component of country development and poverty reduction strategies;
- SAICM must incorporate strategies and activities to implement sustainable agriculture and to reverse and eliminate harms to health and the environment caused by the misuse of pesticides;
- Should promote waste minimization, with emphasis on those materials that exhibit toxicity in their ordinary life cycles;
- SAICM should develop an effective approach for ensuring corporate liability and compensation, particularly in identifying and holding appropriate parties responsible for damage to human health and the environment.

Moreover, as stated before, the negotiations have not been completed and a few key issues still have to be addressed at the ICCM. The next session aims to illustrate briefly those points, the actors and their major positions on it.

What's next for ICCM in Dubai in February 2006?

At the ICCM countries delegations and stakeholders will face few but important main points where consensus could not be reached. Issues related with the full adoption of the precautionary principle, new and additional resources for SAICM implementation, and the intention to characterize SAICM as a voluntary initiative will be the main focus for further discussions.

"We want to be safe, not to be sorry" with this words at the opening session in Prep Com3, Mr. Wutscher, Secretary-General, Austria's Federal Ministry of Agriculture, Forestry, Environment and Water Management stressed it was essential that a global managing system for chemicals should be led by precaution and prevention. But indeed, this was one of the key issues where agreement was not reached. Some delegations from developed countries mainly from America, could not agree with the more broad way the word *precaution* was stated at the Principle and

Approaches of the Overarching Policy Strategy. European delegations and the majority of developing countries opposed to the removal of this word, as it is a basic principle regarding the protection of human health and the environment. The isolated position assumed by very few developed nations was enough to stop countries moving towards an agreement. It deserves special attention the fact that the United States delegation was very inflexible in many key issues and in several times it has proposed weak language throughout the whole SAICM text.

There was no agreement in the financial considerations entire section; it is without any doubt the more sensitive issue for developing nations and nations with economies in transition. The constrains were within the use of the word *additional* resources and as for developing countries, additional resources are strictly necessary for SAICM progress. The original language, supported by all regional meetings apart from EU-JUSSCANNZ, included *new* and *additional* resources, meaning that resources, which are already available, will not be transferred from a development agenda or aid towards SAICM because it needs to be *additional*. If just the term *new* was maintained, this situation could perfectly happen, since resources that are new to SAICM could have been transferred from other initiatives. There were several attempts to reach an agreement, but at the end of the meeting the entire financial considerations section was marked for further discussions in Dubai.

Within the Global Plan of Action, developed countries, mainly from the American continent, tried to delete all mentions in the section of *activities* and *work area* regarding Liability and Compensation. Fortunately, an agreement maintaining the *work area* on Liability and Compensation, but marking the related *activities* as “not reached consensus”, was conceived.

The use of the term *voluntary* to describe SAICM was other key issue with no agreement reached. Once more, some developed nations wanted to add the term *voluntary* in the 3 main documents of the strategic approach. It was strongly refuted by the African group, many Latin American countries, European delegations, Arabic countries, many Asian developing countries and numerous NGOs. SAICM is a non-legally binding instrument, that offer a blueprint and a pathway with guidance to all stakeholders, but transforming it in a voluntary initiative is a long way backwards. Countries and stakeholders have already committed to SAICM development and implementation. It is not acceptable that governments decide that protecting the health of their population and the environment is voluntary. The use of the term *voluntary* describing the whole SAICM can badly compromise all the efforts made to set up an effective international chemicals management approach.

Negotiators in Dubai need to come to an agreement. SAICM is a huge step forward in the way that a global community should manage chemicals in the near future. We cannot forget the 2020 goal and our need to work hard in order to achieve it.

If, as major donors, developed countries do not agree with *new*, *additional* and *sustainable* resources for the SAICM implementation process, they will leave the developing nations alone in a very difficult and hard task to provide the necessary health and environment protections for their own populations.

Furthermore, some developed nations should not maintain themselves in an isolated position defending SAICM as a voluntary initiative and they need to commit to the SAICM implementation.

And finally, precaution and prevention needs to be the lead principles and be broadly applied on the way that chemicals should be dealt with from now on. Global society cannot accept their children been born with a chemical heritage.

Useful Links:

ACPO, www.acpo.org.br
Agenda 21, www.un.org/esa/sustdev/documents/agenda21/index.htm
Basel Action Network (BAN), www.ban.org
Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal (Basel Convention), www.basel.int
Center for International Environmental Law (CIEL), www.ciel.org
CropLife International, www.croplife.org
Food and Agriculture Organisation (FAO), www.fao.org
Global Alliance for Incinerator Alternatives (GAIA), www.no-burn.org
Global Environment Facility (GEF), www.gefweb.org
Global High Production Volume (HPV) Chemical Initiative, www.cefic.be/activities/hse/mgt/hpv/hpvinit.htm
Greenpeace Toxics Campaign, www.greenpeace.org/international/campaigns/toxics
Health Care Without Harm, www.noharm.org
Intergovernmental Forum on Chemical Safety (IFCS), www.who.int/ifcs
International Conference of Free Trade Unions (ICFTU), www.icftu.org
International Council of Chemicals Associations (ICCA), www.icca-chem.org
International Labour Organisation (ILO), www.ilo.org
International Maritime Organization (IMO), www.imo.org
International POPs Elimination Network (IPEN), www.ipen.ecn.cz
Inter-Organization Programme for the Sound Management of Chemicals (IOMC), www.who.int/iomc
Millennium Development Goals (MDGs), www.un.org/millenniumgoals
Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol), www.unep.org/ozone/index.asp
Organisation for Economic Co-operation and Development (OECD), www.oecd.org
Pesticide Action Network (PAN), www.pan-international.org
Registration, Evaluation, and Authorization of Chemicals (REACH), <http://ecb.jrc.it/REACH/>
Rio Declaration on Environment and Development (Rio Principles), www.un.org/documents/ga/conf151/aconf15126-1annex1.htm
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (Rotterdam Convention), www.pic.int/index.html
Stockholm Convention on Persistent Organic Pollutants (POPs) (Stockholm Convention), www.pops.int
Strategic Approach to International Chemicals Management (SAICM), www.chem.unep.ch/saicm
UN Framework Convention on Climate Change (UNFCCC), www.unfccc.int
UNEP Chemicals, www.chem.unep.ch
UNEP GC/GMEF 2005 Decision 23/9 on Chemicals Management (including Mercury Programme), www.unep.org/gc/gc23/documents/GC23-Proceedings.doc (at page 38)
United Nations Development Programme (UNDP), www.undp.org
United Nations Industrial Development Organization (UNIDO), www.unido.org
United Nations Institute for Training and Research (UNITAR), www.unitar.org
World Bank, www.worldbank.org

World Health Organization (WHO), www.who.int

World Summit on Sustainable Development (WSSD) Plan of Implementation,
www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/WSSD_PlanImpl.pdf

WWF Toxics Campaign, www.worldwildlife.org/toxics