

The NGO Forum for Health is grateful to the Co-Chairs for a brief and lucid summary of SAICM’s first meeting of the intersessional process held in Brasilia on February 7-9, 2017. In the spirit of that multistakeholder process and of further building along SAICM’s constructive approach to the management of chemicals and waste for its next stage, 2020 to 2030 and beyond, the NGO Forum for Health is pleased to submit the following input and to underscore **nine major comments**. Reference to the Co-Chairs’ summary is made wherever relevant.

1. In reference to:

a. **paragraph 2**, under **“Introduction”**, where the Co-Chairs report that:

“ICCM resolution IV/4 specifies that the work of the intersessional process is to be informed by the 2030 Agenda for Sustainable Development”;

b. the **sixth bullet point** under **“Vision” on page 2**, where the Co-Chairs recall that:

“*[A future platform for sound management of chemicals and waste beyond 2020]* should take into account the 2030 Agenda for Sustainable Development in its entirety and particular goals 3, 6 and 12 recognizing that the sound management of chemicals and waste is an essential prerequisite for sustainable development while respecting the integrated nature of the Sustainable Development Goals”; and

c. the **fifth bullet point** under **“Scope” on page 3**, where the Co-Chairs conclude that:

“There are several Sustainable Development Goals where clear connections can be made and where measurable objectives and milestones and supplementary indicators could be developed in support of the 2030 Agenda”.

COMMENT 1. An SDG that already refers precisely to hazardous chemicals should be highlighted

It would be useful and constructive to make specific and fully elaborated reference to Sustainable Goal 3.9 that makes particular mention of hazardous chemicals:

SDG 3.9: “By 2030, substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination”.

Importantly, SDG 3.9 underscores the health objective of the management of chemical and waste, thereby validating and strengthening SAICM’s agenda and “the prevention or minimization of significant adverse effects on human health” as stated in the Co-Chairs’ first bullet point under “Vision”.

2. In reference to:

a. the **ninth bullet point** under **“Vision” on page 2**, where the Co-Chairs advance that:

“The vision should be complementary to and foster coordination *with the work of other multilateral environmental agreements or frameworks, whether legally binding or voluntary*, while avoiding duplication and overlap and should promote policy coherence at all relevant levels” (emphasis added); and

b. the **second bullet point** under **“Governance” on page 3**, where the Co-Chairs understanding was that:

“Some participants advocated the exploration of more elements, as well as potential elements that would be legally binding. Potential legally binding elements could also be explored”, and

c. the **sixth bullet point** under “**Governance**” on **page 3**, where the Co-Chairs stipulate that:

“The future platform needs to *link sectors and promote synergies*, fill gaps and coordinate with decision-making bodies of the participating organizations of the Inter-Organization Programme for the Sound Management of Chemicals (IOMC) and other relevant agencies and organizations. This could include augmenting the current stakeholder-based arrangements for the International Conference on Chemicals Management (i.e. Governments, non-governmental organizations and intergovernmental organizations) so that *sectors (e.g. agriculture, environment, health and labour) can play a more formal role*. There are opportunities to *link sectors in implementing the 2030 Agenda for Sustainable Development*” (emphasis added).

COMMENT 2. Relevant legally binding frameworks already exist in other sectors

It is well to recall that specific existing binding frameworks that can be leveraged in order to advance the SAICM agenda already exist. The NGO Forum for Health is pleased to have this opportunity to remind the Co-Chairs of the specific points they raised in this regard at the intersessional meeting on two occasions on behalf of the **Trade Unions and Labour Major Group**, and takes the opportunity to add them in appendix here for information, as they are absent on the SAICM meeting webpage.

- Very specifically, there are four Conventions of the International Labour Organization that signal a targeted objective to protect workers from identified chemicals, namely:

C013 - White Lead (Painting) Convention, 1921 (No. 13), *Convention concerning the Use of White Lead in Painting*

C136 - Benzene Convention, 1971 (No. 136), *Convention concerning Protection against Hazards of Poisoning Arising from Benzene*

C162 - Asbestos Convention, 1986 (No. 162), *Convention concerning Safety in the Use of Asbestos*

C170 - Chemicals Convention, 1990 (No. 170), *Convention concerning Safety in the use of Chemicals at Work*

- Moreover, there are a further eight ILO Conventions that address specific job-related exposure to chemicals (such as in commerce and offices, construction, industry, mines and agriculture) and/or specific hazards due to chemicals (such as radiation and cancer), namely:-

C115 - Radiation Protection Convention, 1960 (No. 115), *Convention concerning the Protection of Workers against Ionising Radiations*

C120 - Hygiene (Commerce and Offices) Convention, 1964 (No. 120), *Convention concerning Hygiene in Commerce and Offices*

C139 - Occupational Cancer Convention, 1974 (No. 139), *Convention concerning Prevention and Control of Occupational Hazards caused by Carcinogenic Substances and Agents*

C148 - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), *Convention concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration*

C167 - Safety and Health in Construction Convention, 1988 (No. 167), *Convention concerning Safety and Health in Construction*

C174 - Prevention of Major Industrial Accidents Convention, 1993 (No. 174), *Convention concerning the Prevention of Major Industrial Accidents*

C176 - Safety and Health in Mines Convention, 1995 (No. 176), *Convention concerning Safety and Health in Mines*

C184 - Safety and Health in Agriculture Convention, 2001 (No. 184), *Convention concerning Safety and Health in Agriculture*

- Finally and importantly, there are a further three ILO Conventions that address the institutional mechanisms and frameworks to ensure the application of all the aforementioned technical occupational safety and health Conventions, notably:

C155 - Occupational Safety and Health Convention, 1981 (No. 155), *Convention concerning Occupational Safety and Health and the Working Environment*

C161 - Occupational Health Services Convention, 1985 (No. 161), *Convention concerning Occupational Health Services*

C187 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), *Convention concerning the promotional framework for occupational safety and health*

COMMENT 3. Broad benefit of the protection of workers through occupational safety and health

It is important to note that Conventions that protect workers from exposure to hazardous chemicals and waste and that control their utilization bring society-wide benefits. The potential benefit of protecting workers from toxic chemicals cannot be overestimated. A large proportion of the exposure of humans to toxic chemicals is in the workplace and in the production methods that are chosen by enterprises. Control of toxic chemicals in the workplace not only saves the lives and health of workers, but has major side benefits of protecting the health and environment of the communities in which the workers live and work and the health of their families. Removing toxic chemicals from production not only means that workers can no longer contaminate the world outside their workplace with residual toxicity, but that eventually the presence of the toxic substances will diminish everywhere. When the workplace leads in controlling toxic products, not only do workers benefit, but so does the health of persons of all ages and so does their common environment.

COMMENT 4. Limited inclusion to date of existing relevant binding legislation than can be used to leverage the SAICM agenda

Regrettably, the full potential benefit of leveraging ILO Conventions in all the aforementioned areas has been by-passed to date. In the “Global Plan of Action of the Strategic Approach to International Chemicals Management”, Table B. (“List of possible work areas and their associate activities actors, targets/timeframes, indicators of progress and implementation aspects”), only three ILO Conventions are mentioned under the work area of Occupational health and safety¹:

C170 - Chemicals Convention, 1990 (No. 170), *Convention concerning Safety in the use of Chemicals at Work*

C174 - Prevention of Major Industrial Accidents Convention, 1993 (No. 174), *Convention concerning the Prevention of Major Industrial Accidents*

C184 - Safety and Health in Agriculture Convention, 2001 (No. 184), *Convention concerning Safety and Health in Agriculture*

- The failure to utilize the full scope of the work area on occupational safety and health to the benefit of workers and all society undermines the potential impact of ILO standards. In reality, the ILO standard-setting process – and its outcomes – are unique in resulting from dialogue between employers, workers and their governments. The process designs well utilized and proven pathways by which we can collectively work at a common goal of removing toxic substances and achieve it in a measure that assures the common good.

¹ Occupational health and safety (OHS) and occupational safety and health (OSH) are interchangeable. The ILO prefers to use occupational safety and health.

COMMENT 5. A process to review the occupational safety and health standards of the ILO is underway, perfectly timed to benefit the future SAICM platform with links to labour

The NGO Forum for Health is pleased to bring to your attention a forthcoming activity at the ILO that is of special relevance to the agenda on chemicals and that is very timely. In November 2011, the ILO's Governing Body (GB) decided to establish "a Standards Review Mechanism (SRM) with the objective of ensuring that the ILO has in place a clear and robust body of up-to-date international labour standards that responds to the needs of the world of work, the protection of workers and promotion of sustainable enterprises." Subsequently, in March 2015, the ILO's GB established a Tripartite Working Group (TWG) under the Standards Review Mechanism (SRM) composed of 32 members, 16 of whom from Governments, and 8 each from Employers and Workers to meet once a year for a week to move the work forward. Their First and Second meetings were held in February and October 2016 when the TWG organized and ordered its work. At the second meeting in October 2016, occupational safety and health standards were pushed to the top of the SRM agenda and to be addressed in September 2017:

"within the strategic objective of social protection, it was agreed that the set of instruments concerning occupational safety and health, and specifically those subtopics relating to general provisions and *specific risks*, would be reviewed at the third meeting of the SRM TWG. This would involve the examination of 19 instruments (see table 2)" (emphasis added). [...]

Table 2. Instruments proposed for examination at the third meeting of the SRM TWG (September 2017)

Occupational safety and health: General provisions:

Occupational Health Services Convention, 1985 (No. 161)
Prevention of Industrial Accidents Recommendation, 1929 (No. 31)
Occupational Health Services Recommendation, 1985 (No. 171)

Occupational safety and health: Specific risks:

White Lead (Painting) Convention, 1921 (No. 13)
Guarding of Machinery Convention, 1963 (No. 119)
Maximum Weight Convention, 1967 (No. 127)
Benzene Convention, 1971 (No. 136)
Asbestos Convention, 1986 (No. 162)
Chemicals Convention, 1990 (No. 170)
Prevention of Major Industrial Accidents Convention, 1993 (No. 174)
Anthrax Prevention Recommendation, 1919 (No. 3)
Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4)
White Phosphorus Recommendation, 1919 (No. 6)
Guarding of Machinery Recommendation, 1963 (No. 118)
Maximum Weight Recommendation, 1967 (No. 128)
Benzene Recommendation, 1971 (No. 144)
Asbestos Recommendation, 1986 (No. 172)
Chemicals Recommendation, 1990 (No. 177)
Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)

Footnote:

In line with its terms of reference, the SRM TWG decided to authorize the attendance of eight advisers to assist the Government members at its third meeting in September 2017. The Office was tasked with determining the feasibility of the establishment of a side room where the groups could invite a limited number of additional technical experts to provide advice, while not participating directly in the meeting of the SRM TWG. The SRM TWG Officers may decide, at a later date and after further consideration, whether representatives of relevant international organizations and other ILO bodies should be invited to attend the meeting. "

The TWG agreement was endorsed by decision of the ILO GB in March 2017, and the meeting is to take place on 25 to 29 September 2017 at the ILO. As can be observed, the occupational safety and health

(OSH) Conventions and Recommendations to be examined concern chemicals in the majority² as well as the broader frameworks that serve to define, administer and govern OSH.

The NGO Forum for Health deems this review process to be of substantial interest to SAICM and of relevance to the future SAICM platform. According to the footnote to the aforementioned Table 2, there is provision for eight advisers in Government delegations as well as for inviting "a limited number of additional technical experts" and there is moreover a decision still to be made on the participation of "representatives of relevant international organizations" (which is part of the SRM TWG terms of reference).

This may be a critical entry point for the IOMC partners and the IOMC process.

COMMENT 6. The review mechanism for ILO OSH Conventions now underway obviates criticism of their possible archaism or obsolescence

Criticism of ILO Conventions includes arguments that national standards and/or evidence-based science dictate a higher standard for limiting exposure to hazardous chemicals than in the case of some older ILO Conventions (notably the Benzene Convention, 1971 (No. 136)), which is precisely being squarely addressed by the ILO SRM. The importance of this review process to ensure up-to-date and science-based applicability of ILO Conventions should therefore be neither underestimated nor ignored.

COMMENT 7. The review mechanism has been given further substantial support by the Conference Committee on the Application of Standards of the International Labour Conference (ILC) at their June 2017 meeting.

Based on input from the Committee of Experts on the Application of Conventions and Recommendations (CEACR), the ILC's Conference Committee on the Application of Standards held a substantive discussion of the "General Survey on the occupational safety and health instruments concerning the promotional framework, construction, mines and agriculture" earlier requested by the Governing Body. Even if the General Survey concerned only the sectors of construction, mines and agriculture, the instruments included in the survey refer to very specific issues in regard to chemicals, which are cited immediately below. The Conventions included in the General Survey were:

- C167 - Safety and Health in Construction Convention, 1988 (No. 167), *Convention concerning Safety and Health in Construction* [See Article 28
HEALTH HAZARDS
1. Where a worker is liable to be exposed to any chemical, physical or biological hazard to such an extent as is liable to be dangerous to health, appropriate preventive measures shall be taken against such exposure.]

- C176 - Safety and Health in Mines Convention, 1995 (No. 176), *Convention concerning Safety and Health in Mines* (Entry into force: 05 Jun 1998)
[See Article 9
Where workers are exposed to physical, chemical or biological hazards the employer shall:
(a) inform the workers, in a comprehensible manner, of the hazards associated with their work, the health risks involved and relevant preventive and protective measures;
(b) take appropriate measures to eliminate or minimize the risks resulting from exposure to those hazards;
(c) where adequate protection against risk of accident or injury to health including exposure to adverse conditions cannot be ensured by other means, provide and maintain at no cost to the worker suitable protective equipment, clothing as necessary and other facilities defined by national laws or regulations; and
(d) provide workers who have suffered from an injury or illness at the workplace with first aid, appropriate transportation from the workplace and access to appropriate medical facilities.]

² With the few exceptions of guarding of machinery, maximum weight and anthrax.

- C184 - Safety and Health in Agriculture Convention, 2001 (No. 184), *Convention concerning Safety and Health in Agriculture*
[See SOUND MANAGEMENT OF CHEMICALS

Article 12

The competent authority shall take measures, in accordance with national law and practice, to ensure that:

- (a) there is an appropriate national system or any other system approved by the competent authority establishing specific criteria for the importation, classification, packaging and labelling of chemicals used in agriculture and for their banning or restriction;
- (b) those who produce, import, provide, sell, transfer, store or dispose of chemicals used in agriculture comply with national or other recognized safety and health standards, and provide adequate and appropriate information to the users in the appropriate official language or languages of the country and, on request, to the competent authority; and
- (c) there is a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals so as to avoid their use for other purposes and to eliminate or minimize the risks to safety and health and to the environment.

Article 13

1. National laws and regulations or the competent authority shall ensure that there are preventive and protective measures for the use of chemicals and handling of chemical waste at the level of the undertaking.

2. These measures shall cover, inter alia:

- (a) the preparation, handling, application, storage and transportation of chemicals;
- (b) agricultural activities leading to the dispersion of chemicals;
- (c) the maintenance, repair and cleaning of equipment and containers for chemicals; and
- (d) the disposal of empty containers and the treatment and disposal of chemical waste and obsolete chemicals.]

COMMENT 8. The International Labour Office has been asked to launch a ratification and implementation campaign for C187 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), *Convention concerning the promotional framework for occupational safety and health*

Furthermore, follow-up of the General Survey included the decision of the Committee to ask the International Labour Office to campaign for the ratification and implementation of C.187 - Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). Together with the forthcoming Standard Review Mechanism's initial review of standards on OSH issues, the ratification campaign of C. 187 will put OHS on the front burner for all sectors at the ILO.

3. In reference to:

a. The **first bullet point** of "**Vision**" on page 2:

"A future platform for the sound management of chemicals and waste beyond 2020 should be built on the vision set out in resolution 1/5 of the United Nations Environment Assembly and referred to in resolution IV/4 of the International Conference on Chemicals Management, namely, "to achieve the sound management of chemicals *throughout their life cycle* and of hazardous wastes in ways that lead to the prevention or minimization of significant adverse effects on human health and the environment, as an essential contribution to the three dimensions of sustainable development" (emphasis added);

b. The **sixth bullet point** of "**Scope**" on page 3:

"At the global, regional and national levels, scope could take into consideration, inter alia, linkages to prevention policies; new emerging issues; climate change; a broadened health agenda; institutional strengthening; *the life cycle approach*; the potential contribution of sustainable chemistry; sustainability; gender; and vulnerable populations, in particular indigenous peoples, women, children and, through them, future generations" (emphasis added); and

c. The **seventh and eighth bullet points** under "**New and emerging issues**" on page 4:

“Reflection on and consider the implementation of a *life cycle approach*” (emphasis added).

“Give priority to the identification of hazardous chemicals in products and *throughout their life cycles*” (emphasis added).

COMMENT 9. The life cycle of hazardous chemicals should be referred to as such to avoid confusion with the life cycle approach to health

Each reference to the life cycle of hazardous chemicals and of their waste needs to be made clear when it is mentioned. It needs to be fully qualified for two reasons: first, because it is an important foundation for the inclusion of waste as inseparable from all other aspects such as production, marketing and distribution in the domain of chemicals management; and, second, because the life cycle approach has a specific meaning in the field of health, where it refers to the health of persons throughout their life, taking account of the characteristics of each stage of life from conception to oldest age. As health is also mentioned at least twice when the life cycle is mentioned, it would be helpful to make clear that it is the life cycle of each chemical - whether an input chemical, intermediate chemical, output chemical, and its full process until its disposition and/or containment as waste – that is being discussed.

End of commentary

Appendix 1

SAICM

First meeting of the intersessional process considering the Strategic Approach

Brasilia, 7-9 February 2017

Opening statement from the **Trade Unions and Labour Group**, 7 February

I'm Odile Frank of the NGO Forum for Health speaking on behalf of the Trade Unions and Labour Group. Thank you for giving us the floor.

Looking beyond 2020 and into the future is a unique opportunity to enhance the actions and impact of SAICM and it is as a constructive contribution to SAICM that we are making the following remarks.

I'm going to address two issues: health and workers.

In regard to health, it appears to us that whether the objective of managing chemicals and waste is to preserve human health or the environment, the finality is the same: ultimately, protecting the environment serves to preserve human health as well as the future of the human species and the global biota. Health is central to the SAICM and to the multilateral environmental agenda.

Co-chairs, the trade unions and labour are dismayed by the slow progress on protecting health, given its urgency. Some have characterized the slow progress as due to complacency. As many have already pointed out in this meeting, there has been progress, but too little and too slowly.

In regard to workers, we are concerned about the failure to respect workers' rights. I am talking about the right of workers to know the nature of the substances they are dealing with in the workplace; to refuse or withdraw themselves when dealing with dangerous chemicals or waste; or to shut down production of dangerous chemicals or waste or processes that use them; to participate in decision-making that concerns their workplace; and to enjoy the right to health, which they share with all society. All of these rights are enshrined in instruments of public international law.

In this regard, protecting the health of workers has a multiplicative benefit on protecting the health of all societies. Furthermore, whereas a share of the global population may be protected in the workplace, workers in the informal economy are rarely protected, and this is where a large number of women earn their livelihood. So the protection of all workers is central to the benefit of all our societies.

We submit that the major reason that progress has been slow is the voluntary nature of any change that has occurred, and that we need to strengthen regulation, and enforce it. Now, bearing in mind that SAICM was not initially designed for that purpose, our proposal is to leverage the available public international law on the health of workers to speed up progress on protecting health in the management of chemicals and waste.

We also submit that whereas some partnerships don't work, social dialogue between governments, workers and employers in the International Labour Organization has successfully produced instruments of public international law – especially Conventions – since its creation in 1919

nearly a century ago. The Organization has adopted 186 Conventions since, but one of the very first Conventions, adopted in 1921, is the White Lead (Painting) Convention, designed to protect especially women and child workers.

Co-chairs, it has taken 100 years to ban lead in white paint, and yet there is still a large amount of lead paint in the housing stock of many countries, including developed countries, that must be removed. We cannot imagine a similar rate of progress for all the other sources of harm to human health from chemicals and waste, such as, for example, and also, especially, asbestos.

The International Labour Organization has adopted 12 Conventions that directly address the prevention and protection of workers from exposure to hazardous chemicals, by focussing on the chemicals themselves, or the sector of work where the exposure is known to occur. A further 3 Conventions address the institutional mechanisms and frameworks to ensure the application of occupational health and safety Conventions and other standards.

Finally, we should point out that whether a member State has ratified a Convention or not, the Convention is legally binding on each member State by virtue of their membership in the Organization. According to the ILO Constitution, member States that have not ratified a Convention must report on what they are doing to comply with the Convention in the meantime, and on action being taken to achieve ratification.

We are convinced that leveraging this body of public international law to speed up progress in protecting human health from chemicals and waste will strengthen the SAICM's strategic approach and that this improvement relative to the voluntary process will already enhance implementation of the 2020 agenda.

Moreover, this regulatory approach must have a central strategic role in the post-2020 SAICM agenda, especially to achieve consistency with the overarching objective of the Sustainable Development Goals to "transform our world".

This is our proposal.

Thank you.

Appendix 2

SAICM

First meeting of the intersessional process considering the Strategic Approach

Statement on Item 5b from the **Trade Unions and Labour Group**, 8 February 2017

I'm Odile Frank of the NGO Forum for Health speaking on behalf of the Trade Unions and Labour.

The contact with other multistakeholders has been an unique part of the SAICM, including a true seat at the table for Trade Unions and Labour, and more broadly, civil society. This open and equal multistakeholder process must be maintained and enhanced beyond 2020.

The multistakeholder process not only enables dialogue and discussion on positions and views, but also, importantly, exchange of information and an understanding of the common values that unite us and the values that divide us. Regardless of their nature, understanding the partners in this process is very valuable to all our efforts, individual and collective, to manage the impact of chemicals and waste on human health.

The major challenge for us is to answer the question whether we can actually meet the pressing and urgent needs of formal and informal workers exposed to harmful chemicals worldwide, and the consequences for their families and communities with what is still a largely voluntary process.

Yesterday, we presented our proposal for the post 2020 SAICM agenda which was to leverage public international law into the process in order to speed up the benefits to human health of better management of chemicals and waste.

Today, I would like to speak to specific issues.

Trade Unions and Labour are especially concerned that we cannot achieve a global ban on the mining and use of asbestos, despite the work on the Rotterdam Convention, the existence of an ILO Convention that entered into force in 1989 and which is binding for all Member states, and the continuing work and guidance of the World Health Organization on ceasing its mining and use. We cannot afford to take 100 years to ban asbestos as we did for lead in white paint. And you heard just now from Dr Maria Neira of the World Health Organization that still two thirds of countries do not even have a legal mechanism to ban lead in paint, whereas lead is still causing substantial mortality and morbidity.

More generally, we are deeply concerned about the need to increase the participation of workers in the decisions regarding their exposure to harmful chemicals, especially if participation in the formal sector can have a secondary impact on the exposure of workers in the informal sector, for which opportunities to intervene are rarer. And such participation is rendered even more difficult in an economic environment in which workers are facing the revolution in automation and robotics, which are too frequently cited to weaken their negotiating power.

The fundamental challenge is to bring to bear clear evidence from scientific research and to give scientific findings a clear pathway to the decision-making table at multilateral and global levels, and ultimately at national level.

We look forward to a multistakeholder SAICM that is strengthened and enhanced by increased employment of the full range of binding legislation that is available in public international law and that is compatible and consistent with the global agenda of the Sustainable Development Goals.

We therefore endorse the proposal from CIEL to engage in a review of the Governance alternatives for SAICM as we look beyond 2020 and look forward to the process and its outcome.

Thank you.