

September 9, 2005



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Re: Comments of the North American Metals Council on  
Strategic Approach to International Chemicals Management

Dear Messrs. Brown and Auer:

The North American Metals Council (“NAMC”), a group of thirty trade associations and companies that focuses on cross-metals issues, appreciates the opportunity to submit comments on the documents prepared for the upcoming third Preparatory Committee (“PrepCom 3”) meeting on the Strategic Approach to International Chemicals Management (“SAICM”). NAMC’s comments include several specific points relating to the draft meeting documents available at <http://www.unep.ch/saicm/meeting/prepcom3/en/Default.htm>, set forth below, and the attached more general discussion of NAMC’s views on SAICM.

Specific Concerns Relating to Draft PrepCom 3 Documents. In addition to the general points discussed in the attached document entitled “NAMC’s Views,” NAMC has the following specific concerns regarding two of the PrepCom 3 draft documents.

(1) Draft Global Plan of Action.

(a) “Heavy metals.” The draft Global Plan of Action contains several troubling references to the term “heavy metals,” misleadingly implying that some scientific or reasoned determination has been reached that all metals exceeding an unspecified threshold molecular weight are “particularly hazardous” in a manner comparable to proven carcinogenic compounds or highly toxic pesticides. In fact, the term “heavy metals” has no accepted definition and bears little established relationship to hazard or risk -- indeed, as the term is commonly used, it could encompass much of the Periodic Table of the Elements, including elements universally accepted as safe such as iron. This inappropriate use of the term “heavy metals” appears in multiple places in the draft Global Plan of Action, specifically paragraphs 5 (d) and 7 of the Executive Summary, and paragraphs 62 (assuming the bracketed language remains), 63 (“activities” column), 65 (“indicators of progress” column), and 66. If there is a need to focus on metals, we would suggest that language be used that identifies particular compounds or uses of concern and at a minimum refers to “metals posing serious risks for human health and the environment.” This formulation is used in some places in the draft Global Plan of Action (see, *e.g.*, paragraph 63 (“Concrete measures” column), and should be consistently used throughout the document.

(b) “Legally binding instrument.” Paragraphs 66 and 67 are contradictory. Paragraph 66’s call for a legally binding instrument on “mercury and possibly other heavy metals of global concern” is contrary to the outcome of the February 2005 UNEP Governing Council meeting, which considered and declined to adopt such a course of action. See, *e.g.*, the press release relating to UNEP Governing Council decision 23/9, <http://www.unep.org/Documents.Multilingual/Default.Print.asp?DocumentID=424&ArticleID=4740&l=en>. Paragraph 67 is more accurate; it should be retained and paragraph 66 deleted.

(2) Draft Overarching Policy Strategy.

a) Statement of Needs.

- The discussion at page 4 of the Statement of Needs presents an unbalanced, worst-case view of the situation. For example, the statement in paragraph 6 (d) that “[t]here is limited or no information, or access to existing information, in relation to the thousands of chemicals currently in use,” is overly broad and inaccurate in its implication that this conclusion extends to all chemicals, *i.e.*, “the thousands of chemicals in use.” At a minimum, this statement should be modified to read. “...in relation to **many** chemicals currently in use.” (Emphasis on added language.)

- Paragraph 6 (e) also overstates the case when it says that “[c]ountries at all levels of development lack the capacity to implement current requirements for the sound management of chemicals at the national, subregional, regional and global levels.” This is by no means true of the United States and numerous other countries; at the least, a qualifier is needed such as “**some** countries at all levels....” (Emphasis on added language.)
- The discussion in paragraph 7 also is overly broad in describing the adverse effects of chemicals on human health. In the second sentence, the word “some” should be inserted before the word “chemicals” because the statement does not apply to all chemicals. In addition, we would suggest rewording the next-to-last sentence to read: “Measures are needed to **assess**, remove from circulation or limit the harmful effects of **exposures to** chemicals that could cause....” (Emphasis on added language.)
- Another overgeneralization appears in paragraph 8 (a), and can be remedied by inserting the highlighted words in the following sentence: “Science-based standards, harmonized risk assessment and management principles and methodologies and the results of hazard and risk assessment are not available to all actors and the pace of scientific research **in some cases** is too slow;”. (Emphasis on added language.)
- Paragraph 9 (c) is unbalanced and should be modified as follows: “The social and economic aspects of chemicals on human health, society and the environment, including **benefits, as well as** liability, compensation, and redress issues, have not been adequately **identified and** addressed **in many jurisdictions.**” (Emphasis on added language.)

b) Objectives.

- In Paragraph 14 of the Risk Reduction section, the following changes should be made:
  - in paragraph 14 (c ), the words “risk assessment and” should be added before “risk management”;
  - in paragraph 14 (d), the words “according to Principle 15 of the Rio Declaration on Environment and Development,” should be added after the phrase “[t]o apply precautionary measures”;
  - in paragraph 14 (f), the word “instruments” should be replaced with the word “programs” or another more suitable term, given that after consideration as recently as the February 2005 UNEP Governing Council meeting, there has been no agreement that a “global instrument” is needed or appropriate to address “mercury and other heavy metals of global concern. In addition, as noted above, the term “heavy metals,” standing alone, has no accepted meaning and needs to be accompanied by an appropriate risk-based qualifier; and

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→ paragraph 14 (h) should be revised to eliminate redundant use of the word “alternatives” and the assumption that “substitution” always produces net benefits and is necessarily preferable to other risk management approaches -- the revised sentence should read: “To ensure the development and implementation of and further innovation in, cleaner production, affordable sustainable technologies and **safer** alternatives to chemicals of special concern in order to promote substitution, **if appropriate**, best available techniques and best environmental practices;”. (Emphasis on added language.)

c) Principles and Approaches.

- Section VI of the Overarching Policy Strategy includes contradictory formulations of precaution, including in paragraph 20 (a) (ii) the approach delineated in Principle 15 of the Rio Declaration on Environment and Development, and in paragraph 20 (b) (v) a more loosely worded reference to “*precaution*, as further elaborated and defined in multilateral chemicals and wastes conventions and agreements.” The latter reference to precaution in paragraph 20 (b) (v) should be deleted because it is too open-ended and imprecise and because the more appropriate reference to precaution already appears in paragraph 20 (a).

Respectfully submitted,

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Chairman