North American Metals Council Views on SAICM

1. **The Nature of SAICM**: There is much confusion as to what SAICM purports to be and what it reasonably can be expected to achieve. In our view, SAICM –

   - Should provide mechanisms and modalities for coordinating and maximizing the effectiveness of current international, regional, national, and private sector programs targeting priority chemicals of concern for effective risk management.
   - Through capacity building and other means, should attempt to bridge the gap between developed and developing nations with respect to chemical information, sound risk management, and the safe use of chemicals.
   - More generally, as stated in the Plan of Implementation adopted at the 2002 World Summit on Sustainable Development (WSSD), should foster actions designed to ensure that, by 2020, chemicals are produced and used throughout the world in ways that minimize significant adverse effects on human health and the environment.

   Conversely, SAICM –

   - Should not be framed as an international legal regime that displaces (or requires changes in) national and sub-national legal structures for chemical regulation.
   - Should not duplicate chemical regulation efforts already underway pursuant to existing multinational environmental agreements.
   - Should not demonize "chemicals" – but, instead, should acknowledge that "chemicals" (minerals/metals production, for example) can make an essential contribution to sustainable development and the alleviation of poverty in developing countries .

2. **Terminology**: SAICM inappropriately targets "heavy metals" (without definition or explanation) as substances of priority concern. That terminology is inapt, and the implications drawn from its use are unjustified.

   - Given the context in which the term is being used, it needs, at the very least, a qualification such as: "Heavy metals whose production, use, and post-use management pose serious threats to human health or the environment."
   - At the same time, SAICM needs to recognize that new hazard and risk assessment methodologies (like the Unit World Model) are being developed for metals and inorganic metal compounds. SAICM should encourage the use of these methodologies to identify those metal species and uses that are properly the subject of enhanced concern.

3. **Risk Management**: SAICM must not substitute an ill-defined, overly expansive "precautionary principle" and simplistic hazard evaluations for scientifically-based risk/exposure assessments that are performed as part of a comprehensive approach to risk management.

   - The risk management process should take account of economic and social factors as well as potential risks.

- Moreover, SAICM should encourage a life cycle approach to evaluating the risks and benefits of a chemical and potential alternatives. Life cycle analysis should reflect energy usage, product functionality/efficiency, recycling/reuse capabilities, and similar factors – rather than focusing solely on potential risks at a particular life cycle stage.

4. **<u>Substitution and Elimination</u>**: SAICM goes too far in designating substitution and elimination as mandatory risk management strategies based solely on the known (or presumed) hazard characteristics of a chemical or class of chemicals.

    - Substitutes may be easy to postulate, but whether substitution is desirable is a far more complex issue than its proponents seem to recognize. Analytical rigor is needed in evaluating the reasonableness and desirability of substituting one chemical for another in designated uses. In addition to the competing risks presented by the alternative materials, consideration must be given to feasibility, functionality, cost, resource efficiency, energy usage, and net benefits evaluated on a life cycle basis.

    - Eliminating the production and use of broad categories of chemicals (CMRs, PBTs, endocrine disruptors, and "heavy metals") by 2020 – as called for in the SAICM "Concrete Measures" paper – is neither realistic, nor sensible, nor compatible with U.S. law. Moreover, it goes far beyond the objective for SAICM agreed to in the 2002 WSSD Plan of Implementation, which speaks of producing and using chemicals "in ways that lead to the minimization of significant adverse effects on health and the environment."

        - It will not be practical to eliminate the production and use of all chemicals falling within these broad categories because many of them (*e.g.*, "heavy metals") are naturally occurring substances whose production (even unintentionally) cannot be avoided.

        - Moreover, chemicals falling in these broad categories have such a wide array of important uses that it is unrealistic to imagine that appropriate substitutes (*see* previous discussion) can be found for all applications.

        - In any event, it is far from clear that society would realize a net benefit by eliminating all production and use of these chemicals, rather than regulating them in ways that minimize potential risks while allowing society to reap the important benefits they provide. *See* Point 3 above.

        - Finally, eliminating the production and use of a chemical based solely on its hazard classification is incompatible with U.S. law. Section 6 of the Toxic Substances Control Act authorizes the Government to mandate such action only when the production and use of the chemical is found to present an unreasonable risk of injury to health or the environment – taking into account the magnitude of exposure, the benefits of the chemical and the availability of substitutes, the economic consequences of banning production and use, and alternative actions that could eliminate or reduce the risk to a sufficient extent. SAICM's approach ignores these factors.