



**VIRTUAL WORKING GROUP ON ISSUES OF CONCERN
REQUEST FOR ELECTRONIC FEEDBACK**

Group Mandate:

- a. Review Annex B of SAICM/IP.4/2 and identify possibilities for compromise; or alternative text in areas of divergence; or identify gaps;
- b. Develop proposals for draft procedures for the identification, nomination, selection, review and prioritization of the issues of concern; determining the need for further work on an issue of concern; and duration for considering issues of concern, drawing on experience from existing for a.

Instructions for providing electronic feedback:

Please provide electronic feedback on:

Part (i) Annex B responding to part (a) and (b) of the mandate.

Part (ii) Identification, nomination, selection, review and prioritization of the issues of concern; determining the need for further work on an issue of concern.

Part (iii) Proposals on how to deal with existing emerging policy issues.

Please submit your feedback and proposals to the SAICM Secretariat at saicm.chemicals@un.org, with a copy to delfina.cuglievan@un.org by **Friday, 06 November 2020**.

Submission from the following organizations and stakeholders:

Health and Environment Justice Support (HEJSupport)
Swedish Society for Nature Conservation (SSNC)
Pesticide Action Network (PAN International)
groundWork South Africa
Women Engage for a Common Future (WECF)
Armenian Women for Health and Healthy Environment (AWHHE)
Toxisphera
Center for Environmental Justice and Development (CEJAD)
Commonweal

For questions, please contact:

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PART (i) Feedback on Annex B of SAICM SAICM/IP.4/2 responding to part (a) and (b) of the group mandate.

**please try to insert comments in revisions mode below*

ANNEX B¹

Issues of ~~international~~ concern

I. Definition

1. An issue of ~~international~~ concern that warrants concerted action is an issue involving any phase in the life cycle^[2] of chemicals^[3] and ~~associated~~ waste, which has not yet been generally recognised, or has been recognized but is insufficiently addressed, or arises as a potential concern from current levels of scientific data and information^[4] ~~taking into account differing scientific capacities and the ability to detect~~ ~~assess the impact of~~ the chemicals under consideration ~~and taking into account the precautionary approach,~~ and which may have ~~significant~~ adverse ~~impact~~ effects on human health and/or the environment.

II. Criteria

1. ~~The following criteria are to be used during the process of scientifically assessing a~~ ~~to trigger the~~ nomination for an issue of ~~international~~ concern:

- a. ~~Demonstrated significant adverse~~ Adverse effect on human health and/or the environment ~~in at least [3][xx] of the following] has to be identified] taking into account the following information:]~~ Adverse effect on human health and/or the environment in at least 3 of the following criteria:
 - (i) ~~Toxicity;~~
 - (ii) Bioaccumulation;
 - (iii) Toxicity for reproduction;
 - (iv) Mutagenicity;
 - (v) Exposure data ~~gaps;~~
 - (vi) Harm to vulnerable populations;
 - (vii) ~~Ecosystem impacts;~~
 - (viii) ~~Ecotoxicity;~~
 - (ix) Persistence;
 - (x) ~~Carcinogenicity;~~
 - (xi) ~~Endocrine disruption;~~
 - (xii) ~~Other toxicities⁵;~~
 - (xiii) Intergenerational effects;
 - (xiv) Ability of spreading widely, e.g. via supply chains for products;
 - (xv) Environmental contamination

Commented [Gä1]: The deleted text in is captured by footnote 4.

Commented [Gä2]: Il-defined word. Significant can mean different things to different persons. For some it is statistically significant scientific datasets for negative impacts; for others something else. It can be a loophole that some stakeholders who rather do not see additional Issues of Concern refer to, e.g. in cases where the precautionary principle may be warranted due to strong indications of adverse impacts, but lack of statistically significant proofs. It could complicate the approval of additional Issues of Concern.

¹ Outcome of IP3 thematic group C on mechanisms to support implementation.

² Including all stages from the extraction of raw material and/or design to the waste stage.

³ In particular substances, groups of substances, mixtures, materials and products.

⁴ Taking into account differing scientific capacities in the sensitivity to detect the chemicals under consideration.

⁵ E.g. neurotoxicants, strong sensitizers, immuno toxicity, inhalation toxicity etc.

- b. Whether or not the issue is being addressed by the chemicals and waste related MEAs or other bodies, at the regional or international level;
- c. ~~Whether or not the issue is of relevance in at least one [xx] of the five UN regions;~~
- d. The issue has not yet been generally recognised, or has been recognized but is insufficiently addressed, or arises as a potential concern from current levels of science based data and information.}
- e. The issue of concern has impacts on the possibility of fulfilling the 11 basic elements of the Overall Orientation and Guidance.
- f. The issue has impact on the possibility of meeting the Agenda 2030 goals and related targets, as well as a number of targets under other international agreements such as the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNFCCC) to fulfil several Sustainable Development Goals.

Commented [Gä3]: The Stockholm Convention applies only to the Arctic/Antarctic.

Commented [Gä4]: The added e) and f) are reflected in b) section III: Information Requirements.

III. Information Requirements

1. To nominate an issue of ~~international~~ concern, the following information ~~must~~ should be provided:
 - a. ~~Science based demonstrated~~ Adverse effects on human health and/or the environment, ~~taking into account~~ including inter alia ~~women, children and other~~ vulnerable populations, biodiversity ecosystems and any toxicological and exposure data ~~gaps~~;
 - b. ~~Issues are integral to the vision of the Beyond 2020 Framework, are ongoing, and need to be addressed to~~ meet the requirement of the eleven basic elements of the Overall Orientation and Guidance Document ~~chemicals management~~⁶. Furthermore, the extent to which action is needed on the issue in order ~~for countries~~ to meet the Sustainable Development Goals by 2030 should be ~~included considered~~;
 - c. Extent to which the issue is being ~~successfully~~ addressed by ~~chemicals and waste related MEAs or~~ other bodies, at the regional or international level, and how the proposed action is related to, complements, or does not duplicate such effort;
 - d. Extent to which the problem is relevant ~~in at least one [xx] of the five UN regions~~, particularly taking into account the needs of ~~developing countries /countries with economies in transition~~ low and middle income countries⁷;
 - e. Extent to which the issue is of a cross-cutting nature including at the sectoral level;
 - f. Existing knowledge and perceived gaps in understanding about the issue.

IV. Mechanisms for adoption of issues of ~~international~~ concern and for monitoring their progress

1. The mechanism to adopt an issue should include:

A. Identification, Nomination, Selection, Review and Prioritization

1. Issues ~~shall~~ should be ~~selected and prioritized~~ adopted by a decision of the ~~relevant body~~⁸ and adopted by ICCM, based on the ~~criteria identified under section II~~ an assessment of the information

⁶ Consideration should be given to how the proposed action will further basic chemicals management as per the 11 basic elements in the Overall Orientation and Guidance.

⁷ Place holder from a representative of the University of Cape Town.

⁸ This may include a body that focuses on the science policy interface that will be further elaborated following review of the UNEP report. Document SAICM/IP.4/INF/3 reports on linkages with other clusters related to chemicals and waste management and options to coordinate and cooperate on areas of common interest and will be available for IP4.

submitted under section III} above {and in a precautionary manner}. The process for submitting an issue for consideration by the {relevant body}{ICCM} shall {should} include:

- a. Nomination of issues of {international} concern:
The nomination procedure will be published on the Strategic Approach website. The process for nominating issues of {international} concern is open to any stakeholder. {To promote communication at the national level, nominations should be communicated to Focal Points. Regions may also wish to add the subject to their meeting agendas}. Because issues of {international} concern will arise and evolve over time; nominations will be allowed at any point. However, nominations must be submitted {with sufficient time to allow for a thorough {scientific} a assessment of the nomination against the criteria as stated in II.1 a with the view to providing a recommendation} six months prior to a {decision by}{meeting of the ICCM} {the relevant {assessment} body}. This {process}{periodic call for the nomination of issues} will serve to encourage systematic monitoring and regular discussion on issues of {international} concern among stakeholders.
- b. {Proponents are encouraged to include proposed actions to be considered in moving forward on issues of concern, such as:
 - (i) Outlining how the proposed issue meets the {definition of issues of {international} concern}{criteria under section II above};
 - (ii) Establishment of a multi-stakeholder subsidiary body for each issue that will be charged with developing a work plan and providing technical assistance to countries and sectors in the implementation of the relevant parts of the work plan development of work plans and overseeing their implementation by relevant stakeholders at the national and sectoral levels, and periodically review the outcomes.;
 - (iii) {Proposed {solutions}{actions}}{required financial needs and technical assistance} that can be implemented within the proposed timeline by stakeholders including how they would address the identified issue of concern.;
 - (iv) {Presentation of draft work plan, with SMART actions and timelines, taking into account the measures set out in section D below. This could include scoping work to refine the workplan over time where appropriate.};
 - (v) Extent to which there are opportunities for {synergies}{linkages with other issues} and collaboration and if the actions {project} builds upon existing knowledge on a related issue has been demonstrated;
 - (vi) {Multi stakeholder/ multi sectoral and/or sponsor support that has been indicated for implementation.};
 - (vii) Further consideration could be given to milestones the likelihood of for achieving progress on the issue within a specific timeframe based on preparedness for action;
 - (viii) What regional and/or international collaboration is needed to address the issue.}

Commented [Gä5]: This proposed addition was already submitted May 2020 by our group to the Secretariat, upon its request for input to the compilation document.

Commented [Gä6]: (iii) can be replaced by (ii), as (ii) is much more relevant, and will support refining of the workplan in (iv).

B. Mechanisms for implementation

1. {Implementation of actions to address issues of {international} concern should be guided by the proposed work plan.};
2. {The {secretariat}{ICCM} should {establish}{agree on} a multi-stakeholder committee to {prepare}{agree on} a proposed workplan.};
3. The {ICCM} {secretariat} in consultation with a multi-stakeholder committee} should agree on {and implement} the {proposed}{agreed} work plan {with clear timelines and milestones.};
4. {All stakeholders should implement the agreed workplan.};

5. All stakeholders ~~{in a position to do so}~~ are encouraged to ~~{facilitate}~~~~{take}~~ actions ~~{in line with the agreed workplan with clear timelines and milestones}~~ and/or provide ~~{required}~~ funding ~~{and necessary assistance}~~ towards the implementation of ~~{proposed}~~~~{agreed}~~ activities ~~{, which should be registered and transparent to all}~~.

6. All stakeholders shall report periodically on the actions they have taken to implement the relevant parts of the work plan. Stakeholders shall provide the reason why they have not carried out the agreed actions.

C. Tracking progress including monitoring and reporting against milestones

1. The secretariat, in consultation with a multi-stakeholder committee, will oversee monitoring and reporting back from stakeholders, and guide progress towards implementation of the workplan, through:

- a. reports to meetings of the relevant body, and at regular intervals as identified in the proposed workplan prepared in accordance with section A, above;
- b. periodic reviews within intersessional periods, and/or as requested by the Bureau;
- c. reporting on progress as outlined in the proposed workplan;
- d. *where further work on an Issue of Concern is needed, preparing resolutions for the consideration of ICCM requesting specific actions by the governance bodies of relevant international instruments*.

D. Criteria for determining the need for further work on an issue⁹

1. In some cases, there may be rationale for significantly advancing a particular issue of ~~{international}~~ concern, likewise, there may be rationale for concluding work on a particular issue of ~~{international}~~ concern.

- a. Determining the need for further work on an issue will be based on the results of a progress evaluation. *In considering whether further work requiring elevated obligations for stakeholders is necessary, the conditions and triggers described under b shall be used.*
- b. *Elevated action on an Issue of Concern is justified by a)meeting one of the triggers below, and b) if the IoC at the same time contributes to key strategies for the fulfillment of at least one SDG target in one UN region:*

- (i) Failure to reduce acute poisoning and/or chronic effects by chemicals that are IoCs¹⁰.
- (ii) Failure to reduce the levels of chemicals that are IoCs in human and environmental samples⁹.
- (iii) Failure to reduce the volume of the production, use and disposal of substances of very high concern relevant to an IoC¹¹.
- (iv) Insufficient monitoring of human and environmental impacts by an IoC¹².
- (v) Significant costs for society in the absence of action to address an IoC, including healthcare costs for individuals and the state; loss of IQ and productivity; loss of pollinators, natural biological control of pests, and other ecosystem services; loss of biodiversity; and costs of chemical contamination of natural resources, such as air, soil

⁹ Additional text was provided by the representative of European Environment Bureau on behalf of a group of NGOs in reference to this section, as outlined in their information document "[New Mechanism of Action: criteria for elevation of obligations to progress SAICM Issues of Concerns \(IoCs\) in the post 2020 multilateral regime for chemicals and waste \(updated version 30 September 2019\)](#)".

¹⁰ Data sources include primary data from academic research and national and international monitoring programmes, as well as peer reviewed review articles, and UN documents, such as the Global Chemicals Outlook.

¹¹ Statistics from the OECD, national governmental statistics agencies, and industry trade organizations, etc.

¹² Data sources include primary data from academic research and national and international monitoring programmes, as well as peer reviewed review articles, and UN documents, such as the Global Chemicals Outlook.

Commented [Ga7]: This proposed addition was already submitted May X 2020 by our group to the Secretariat, upon its request for input to the compilation document.

Commented [Ga8]: This proposed addition was already submitted May X 2020 by our group to the Secretariat, upon its request for input to the compilation document.

Commented [Gä9]: This proposed addition was already submitted to the Secretariat in May 2020 by our group, upon the request for input to the compilation document.

It builds on a reference document first submitted to IP3, and updated to IP4 (http://www.saicm.org/Portals/12/documents/meetings/IP4/stakeholders/IoC_2020_New_Mechanism_of_Action.pdf).

and water including but not limited to large-scale environmental clean-up and remediation costs⁹.

- (vi) National regulations have failed to achieve sufficient improvement in the IoC. SAICM/IP.4/2¹³.
 - (vii) Regional regulations for addressing an IoC are in place, or under development¹⁴.
 - (viii) Failure to establish an effective, transparent multi-stakeholder working platform on an IoC.
 - (ix) Failure to make available the information necessary for addressing an IoC¹⁵.
 - (x) Failure to reduce the level of disposal and contamination of waste of relevance to an IoC^{9,16}.
- c. A full explanation of the rationale on a way forward should be provided by the secretariat, in consultation with a multi-stakeholder committee, to the relevant body following the progress evaluation of the activities carried out in accordance with the workplan.

¹³ IoC is not part of the national implementation plans; IoC is not included in national budgets; no national regulations developed to address particular IoC; no control measures are applied to monitor results on addressing IoC; the IoC has global dimensions and cannot be addressed efficiently by regulative measures in a single country, e.g. due to globalized trade.

¹⁴ Regulations in one or two regions advance the IoC beyond SAICM and move it to the next level with increased obligation at the regional level, for example, the EDCs regulation in the EU. Such regional regulation is an acknowledgement of the necessity of an obligatory approach. These criteria are necessary to create a level playing field for all countries, so that those that are proactive in protecting human health and the environment from chemical threats are not disadvantaged on the global market. It reflects the Rotterdam Convention where regulatory action in two UN regions stimulates the listing of a chemical or pesticide under the Convention.

¹⁵ Confidential business information currently takes precedence over transparency, despite the clear message in SAICM that information on chemicals relating to the health and safety of humans and the environment should not be regarded as confidential.

¹⁶ This could, for example, be plastic waste, or waste that mainly end up in and is handled by informal sectors, and hence may be handled improperly and spread in the environment in an uncontrolled fashion.

Rationale

For further work on an IoC, a new mechanism for action is needed for critically important IoCs for progressing the SGDs.

Refers to

PART (ii) Identification, nomination, selection, review and prioritization of the issues of concern; determining the need for further work on an issue of concern.

and

PART (iii) Proposals on how to deal with existing emerging policy issues.

Explanation

It is clear from the Independent Evaluation of SAICM 2006-2015 that some progress in the work has been made for the present IoCs, although mostly limited to information gathering and with few concrete hazard/risk reduction measures¹⁷. This picture was corroborated and strengthened by the recent UNEP Assessment Report on IoC¹⁸, where it was called for a significant step up and increased ambition level in the IoC work, not excluding from binding actions.

In addition, a paper on **New Mechanism of Action: elevation of obligations to progress SAICM Issues of Concerns (IoCs) in the post 2020 multilateral regime for chemicals and waste**¹⁹ prepared by a group of non-governmental organisations for IP4 provides a clear vision on how to advance the work on Issues of Concern to the level with increased obligations on stakeholders. Case studies highlighting the work on existing IoC are provided for Chemicals in Products²⁰ and Highly Hazardous Pesticides²¹.

We need to be mindful of both strengths and weaknesses of SAICM, including of its successor that will also be a voluntary agreement.

- Work with some IoCs, or aspects of them, may be suitable to continue within the frames of the voluntary successor to SAICM, but according to significantly improved workplans

¹⁷ Independent evaluation of SAICM from 2006-2015

(http://www.saicm.org/Portals/12/documents/meetings/IP3/INF/SAICM_IP3_INF3_Final-IndependentEvaluation.pdf).

¹⁸ An assessment report on Issues of Concern

(<https://wedocs.unep.org/bitstream/handle/20.500.11822/33809/IOCA.pdf?sequence=1&isAllowed=y>)

¹⁹ http://www.saicm.org/Portals/12/documents/meetings/IP4/stakeholders/IoC_2020_New_Mechanism_of_Action.pdf

²⁰ <http://www.saicm.org/Portals/12/documents/meetings/IP4/stakeholders/Case-CiP-Increased-obligations.pdf>

²¹ <http://www.saicm.org/Portals/12/documents/meetings/IP4/stakeholders/Case-HHPs-PAN-INT.pdf>

with clear and smart time-limited goals, targets and milestones, established by multi-stakeholder committees.

- Yet for other aspects in the work with a specific IoC, in particular aspects that contribute to key strategies for the fulfilment of one or several SDG targets, considerably elevated obligations may be necessary to advance the work with the pace required. Here a voluntary approaches may be insufficient.

What the ICCM lacks today is the mandat, and a mechanism, by which it can recommend IoCs, or aspects of them, for consideration by appropriate external fora to adopt decisions on increased obligations. Such external fora could be the UNEA or UNGA. Potential platforms for hosting increased obligations for IoCs, or aspects of them, are existings conventions, if they allow for the inclusion of new protocols/elements, or if no suitable convention is available, a new binding instrument may have to be created.

Suggested way forward

To trigger the consideration of an IoC, or an aspect of it, for increased obligation, an evaluation of the IoC should be performed. This specific evaluation should not be based on evaluations of multi-year workplans for IoCs in the years ahead under the successor to SAICM, rather in relation to the key functions of the IoCs in relation to the SDGs, insufficient progress for the IoCs already established by earlier evaluations, national and regional policy developments of relevance to the management of the IoCs, etc. These specific evaluations should be possible to do on a needs basis, if necessary immediately. Our group proposed a set of “trigger criteria” for such an evaluation already for IP3, and updated them for IP4²².

This would give the necessary power and flexibility to the successor to SAICM to more properly adress IoCs. IoCs, or aspects of them, that are suitable for contiuned work under the voluntary successor to SAICM will be followed up and evaluated in relation to the workplans. IoCs, or aspects of them, that are critical to address immediately, will be subjected to the trigger evaluation for increased obligations.

The evaluation according to the trigger criteria could be performed by a permanent or *ad hoc* science-policy interface, and if the evaluators come to the conclusion that continued voluntary actions under the successor to SAICM are insufficient, the ICCM should formulate a resolution with the recommendation for an appropriate external forum to adopt necessary decisions to further investigate how to increase obligations, as described above.

²² New Mechanism of Action: elevation of obligations to progress SAICM Issues of Concerns (IoCs) in the post 2020 multilateral regime for chemicals and waste (http://www.saicm.org/Portals/12/documents/meetings/IP4/stakeholders/IoC_2020_New_Mechanism_of_Action.pdf).

Lack of this mechanism in the successor to SAICM, and the mentioned ICCM mandate, puts us at risk of perpetuating slow progress of critically important LoCs (or critical aspects of them) for the fulfilment of SDGs under voluntary actions.

Our suggestion should not be in conflict with the mandate of the ICCM and the vision, principles and scope of the successor to SAICM.

Please also note that our workgroup, in response to a call by the Secretariat in the spring 2020, gave our input to the compilation document from IP3. For some reason, our input is neither reflected in the present version, nor on the webpage. In our input, we have added suggestions for language in all relevant sections of the compilation document to support the proposed trigger criteria evaluation for LoCs, and the necessary mandate of the ICCM. Thus, one needs to have a holistic understanding to see the relevance of our suggested additions.