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Report from a Nordic Seminar

Global Chemicals and Waste Governance
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Dr. Tuula Honkonen and Dr. Sabaa A. Khan

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INTRODUCTION

This report is an outcome of an expert seminar 'Global Chemicals and Waste Governance Beyond 2020' that took place between 16 and 17 January 2017 at the House of Estates in Helsinki, Finland. The seminar was funded by the Nordic Council of Ministers and was hosted by Finland's Ministry of the Environment.

The Nordic seminar brought together 50 policymakers and international experts in the field of international environmental law and global chemicals and waste governance from governments, the SAICM Secretariat, UN bodies (UN Environment, ONCHR and IPCC) and universities (the University of Eastern Finland and the University of Massachusetts Boston). The information basis of the seminar was comprised of a recent Nordic report entitled 'Chemicals and Waste Governance beyond 2020 – Exploring Pathways for a Coherent Global Regime' commissioned by the Nordic Council of Ministers.

The purpose of the seminar was to explore forms and functions for the effective global governance of chemicals and waste beyond 2020. A number of presentations were made to understand the status quo of global chemicals and waste management and to identify solutions for addressing existing gaps in implementation. Five parallel workshops were conducted focusing on reporting and indicators, stakeholder participation and sectoral engagement, the science–policy interface, funding and capacity building, and awareness raising and information management. Lastly, based on the 'form follows function' principle, possible governance models for the post-2020 framework were explored.

The seminar was organised with the aim of supporting the intersessional process mandated by the fourth session of the International Conference on Chemicals Management (ICCM4) to prepare recommendations regarding the Strategic Approach to International Chemicals Management (SAICM) and the sound management of chemicals and waste beyond 2020. The emphasis was to inform the first meeting of the intersessional process to be held from 7 to 9 February 2017 in Brasilia, Brazil.

More information about the results of the Nordic seminar, including associated material, can be found on the seminar website: www.ym.fi/beyond2020.

SESSION I: 'FRAMING THE DISCUSSIONS'

Co-Chair: Ms **Pirkko Kivelä**, Ministerial Adviser, Ministry of the Environment, Finland

Opening words of welcome were offered by Ms **Tuula Varis**, Director General of the Ministry of the Environment of Finland, who encouraged participants to utilise the Nordic seminar as an opportunity to engage openly, positively and boldly on the future of SAICM. Emphasising the need to build on SAICM's strengths and address its gaps, she highlighted that pollution was reclaiming its prominence on the global agenda and encouraged participants to explore how SAICM and the broader contemporary chemicals and waste regime could build on this momentum.

Global governance of hazardous substances, the trajectory of past regime creation and challenges for the future, Ms Kerstin Stendahl, Deputy Secretary of the IPCC Secretariat

Ms Stendahl provided a concise overview of global chemicals and waste governance, with a focus on how it has evolved, the new challenges that it faces, and what can be carried forward to the post-2020 agenda. In discussing the trajectory of the existing regime, Ms Stendahl pointed out that the triggers for negotiating international conventions have mainly stemmed from concerns related to civil society. In this regard, she noted that chemicals and waste are an inherent part of the immense challenges facing human societies worldwide, such as food insecurity, climate change and water scarcity. She referred to the importance of ensuring that transparency, accountability, outreach and communication are important tasks of any new regime and must involve as many stakeholders as possible. Noting that SAICM, the Rio Summits and the Agenda 2030 for Sustainable Development have given a holistic dimension to global chemicals and waste governance, she also signalled the synergies process of the Basel, Rotterdam and Stockholm Conventions and the establishment of the Special Program by the 1st session of UNEA, in its Resolution 1/5, as being important success stories and valuable contributions to the holistic evolution of the broader international governance regime. Ms Stendahl further pointed out that the protection of human health and the environment requires collaboration across sectors, and underscored the argument that effective decision-making must be informed by a wide range of evaluative approaches, perceptions and responses to risks.

The Intersessional Process and the Strategic Approach and the sound management of chemicals and waste beyond 2020, Ms Brenda Koekkoek, Programme Officer of the SAICM Secretariat

Ms Koekkoek informed participants about the intersessional process. She elaborated a tentative timeline for the intersessional process:

- 1st intersessional meeting, (7-9 February 2017, Brasilia, Brazil)
- 2nd intersessional meeting (March 2018)
- OEWG3 (October 2018)
- 3rd intersessional meeting (June 2019)
- ICCM5 (September 2020)

Elaborating on expectations for the intersessional process, she also highlighted key points of the agenda of the first meeting to be held in Brasilia. She noted the Bureau's preparation of a thought-starter¹ that outlines a number of sound management of chemicals and waste (SMCW) topics, including vision and scope, emerging and ongoing challenges, the role of sustainable chemistry, the science–policy interface, governance, the 2030 Agenda, measuring progress and reviewing commitments, and financing. She encouraged participants to embrace seminar discussions as an opportunity to visualise the future, as well as the bridge that we are collectively building to get there.

Generating policy insights relevant for beyond 2020 through Global Chemicals Outlook-II, Dr Achim Halpaap, Head of the Chemicals and Waste Branch, Economy Division, UN Environment

Dr Halpaap first addressed the links between the Global Chemicals Outlook-II (GCO-II) with Sustainable Development Goals (SDGs) and the Beyond 2020 process. He then elaborated on the GCO-II priority topics for analysis and followed up on exploring options for goals and targets. Dr Halpaap referred to the mandate for GCO-II established in UNEA-2 Resolution 2/7, in particular, to assess progress towards the 2020 goal, address emerging policy issues as well as other issues where emerging evidence indicates a risk to human health and the environment, and to provide options for implementation of relevant SDGs and targets up to and beyond 2020. Drawing attention to the SDGs, he emphasised that every single SDG depends in one way or another on the sound management of chemicals and waste. He further explained that the SDGs could be unpacked into three categories:

- Core targets:** SDG targets that directly relate to chemicals and waste and its impacts (12.4, 3.9);
- Development targets:** SDG targets with key development objectives that require sound management of chemicals and waste for effective implementation, and
- Enabling targets:** SDG targets that are important enablers for the sound management of chemicals and waste.

Turning to the Beyond 2020 process, Dr Halpaap emphasised the need to articulate a clear vision for beyond 2020, as the climate agenda has done with regard to global warming by aiming for a decarbonised world by 2050. He explained that GCO-II's backcasting approach starts with a vision and works backwards from there, to identify what actions, policies and programmes must be agreed to achieve that goal. In this regard, he noted that the

¹ The 'Thought starter for the first meeting of the intersessional process' is available online at: http://www.saicm.org/images/saicm_documents/Beyond_2020/IP1/meetingdocs/Rev/IP_1_4_Thought_Starter.pdf.

GCO-II Steering Committee has identified key management topics relevant until and beyond 2020. Moving on to the question of how to proceed from analysis to targets, he noted that targets can be developed in relation to chemicals and waste, drawing inspiration from the Aichi Biodiversity Targets and the SDG model of having goals and targets. He signalled that this would help all stakeholders focus their contemporary work on a number of the most important topics. Finally, Dr Halpaap encouraged the seminar participants to consider in their discussions whether a set of 'sustainable chemicals and waste management goals' would be valuable and feasible, and if so, what chemicals management topics, sectors and priorities they should cover.

SESSION II: 'SUCCESS STORIES AND CHALLENGES IN ACHIEVING THE 2020 TARGET'

Co-Chair: **Ms Pirkko Kivelä**, Ministerial Adviser, Ministry of the Environment, Finland

How does ECHA support and promote the implementation of the 2020 target, now and in the future? Mr Jukka Malm, Deputy Executive Director of the European Chemicals Agency (ECHA)

Mr Malm provided an overview of how the EU REACH and CLP regulations contribute to the implementation of the 2020 goal that was adopted by governments at the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002. He introduced the principles of REACH and discussed the results of the ECHA's second progress report on REACH and CLP, published in May 2016. While the report reveals there is no urgent need to amend REACH, several areas for improvement have been signalled in the proposal of 28 recommendations and commitments relevant to Member States and six legislative measures. Mr Malm provided some insight into the scope of progress achieved so far, including:

- classification information on 130,000 chemicals;
- 56,000 registration dossiers for 14,700 substances;
- the identification of 173 substances of very high concern (SVHCs);
- 20 new restrictions on the use of dangerous substances to reduce risks; and
- 238 CLH opinions delivered by the Committee for Risk Assessment.

Mr Malm also outlined the benefits that REACH and CLP have brought to citizens and industries, including improved safety information across the entire chemicals industry, better supply chain communication and understanding of customer needs, improved worldwide reputation of EU suppliers, and higher consumer confidence based on transparency,

safe use of hazardous substances and progressive substitution of SVHCs. Raising the question of what success in 2020 will look like, Mr Malm noted that success factors had been developed to assess how REACH and CLP have contributed towards meeting the 2020 goal, in concert with ECHA's accredited stakeholder organisations, Commission Services and Member State Authorities. He explained each of the four themes that are addressed by these success factors, namely the availability of robust data on chemicals in Europe, effective regulatory risk management, effective communication in the supply chain, and step-change for citizens, businesses and regulators.

The SAICM 2020 Objective in the European Union – successes and challenges, Mr Jürgen Helbig, International Chemicals Policy Coordinator at the EU Commission

Mr Helbig noted that the REACH regulation was an example of concrete implementation on the ground, and subsequently elaborated on the five objectives of the SAICM Overarching Policy Strategy (OPS). On 'Risk reduction', he stated that the EU has a long history of risk reduction and that EU legislation provides baseline protection for human and environmental health. Some basic principles applied by the EU include the precautionary and substitution principles. Moreover, first attempts at addressing cumulative risk assessment of certain pesticides have been undertaken. On important challenges that lay ahead, he mentioned the areas of chemical mixtures, nanomaterials, endocrine disruptors and chemicals in products.

Regarding the 'Knowledge and information' objective of the OPS, Mr Helbig drew attention to the important role played by various agencies as well as the eChemPortal, the globally harmonised system of classification and labelling of chemicals (GHS), and ECHA's inventory for chemical safety data, PRTRs and monitoring programmes (on maximum residue levels of pesticides and water as well as biomonitoring). Challenges identified in this regard include completeness of information, dispersion of information, monitoring, and suitability of information for the general public.

On the issues of 'Governance', Mr Helbig recalled the importance of separating risk assessment and risk management, in the interest of ensuring the full independence of scientific study and analysis. In the area of capacity building, he noted that EU chemicals management stakeholders were highly trained, and provided capacity-building support for developing countries. Challenges remained with respect to the availability of highly qualified staff and the continuity of staff after training.

Finally, addressing the topic of 'Illegal international traffic', Mr Helbig outlined the substantive progress made in this regard, including legislation and penalties, implementation of the Rotterdam and Basel Conventions, training of customs officers and inspectors, and the establishment of tracking systems, control enforcement and alert systems. He noted, however, that resources for controls and international cooperation were still limited and presented significant challenges.

Success stories and challenges in achieving the 2020 target: Perspectives from Brazil,
Ms Leticia Reis de Carvalho, Director of the Ministry of the Environment of Brazil

Ms Reis de Carvalho began with an overview of Brazil's chemical industry, which is the largest in Latin America and the sixth largest worldwide. She then examined the timeline of development of chemicals legislation in Brazil, from vegetable sanitary defence measures in 1934 to the most recent measures enacted in 2016 regarding cadmium and lead in jewellery. Turning to Brazil's strengths with respect to achieving the 2020 target, she noted efforts under the National Commission on Chemicals Safety (CONSAQ), where all chemical safety issues are discussed and which involves the federal government, the chemicals industry and civil society in a multi-stakeholder approach engaging 22 institutions. She highlighted the development of an action plan for the 2020 goal based on the Overall Orientation and Guidance (OOG) of SAICM and efforts to elaborate a draft law proposal on industrial chemicals. Other mechanisms that strengthen Brazil's capacity to achieve the 2020 goal include the mandatory workplace ISO Technical Standard on GHS, industry voluntary initiatives such as the Responsible Care and Global Product Strategy, as well as the mainstreaming of chemicals education at all levels through the Working Group on Chemical Safety Education under CONSAQ. Furthermore, Ms Reis de Carvalho drew attention to various international cooperative efforts between Brazil and Sweden, the EU, Japan and Canada.

Addressing challenges Brazil faces in achieving the 2020 goal, Ms Reis de Carvalho drew attention to the knowledge gap on types, volumes and uses of chemicals, and pointed to international trade issues such as Brazil importing substances already prohibited or restricted in exporting countries and the difficulty in imposing measures in this regard. There was also a lack of clarity on the sharing of responsibilities between various institutions and of comprehensive legislations, as well as difficulties in the implementation of international conventions and agreements. She then provided some insight into current draft legislation that is being developed to fulfil the governance gap on industrial chemicals. Comprehensive legislation being drafted aims to minimise the adverse impacts on health and the environment resulting from the production, import and use of harmful chemicals. Shifting to the draft law on the registration, assessment and control of industrial chemicals, she explained that the Registry of Chemicals/national inventory phase was expected to generate knowledge on the chemicals landscape of the country, gather information to identify priority substances for evaluation, facilitate a response to international requests received, and enhance transparency for civil society actors by strengthening knowledge on what substances are used in Brazil and the hazard classification according to the GHS. She then moved on to outline expectations of the chemicals assessment phase under the draft law. Chemicals assessments are expected to be transparent, based on science, and to use available information where possible to reduce costs. Stakeholder participation is encouraged, in particular, with industry providing data and collaborating on hazard and risk assessments. She then explained the next steps to be taken in the process of adoption of the draft law on chemicals. She concluded by outlining opportunities and challenges to implementation, emphasising that Brazil is indeed in the process of adopting a chemicals management regulation, and is working towards strengthening its chemicals management framework as a whole. At the same time, she noted that challenges remain, particularly the lack

of adequate infrastructure and human resources. In this regard, improvements were necessary with respect to upgrading government infrastructure, developing specialised human resources, outreach measures and training programmes. Moreover, industry technical capacity and stakeholder commitment also need to be strengthened.

SESSION III: 'CROSS-CUTTING ISSUES FOR THE POST-2020 FRAMEWORK'

Co-Chair: Ms **Mona Mejsen Westergaard**, Senior Advisor of the Danish Environmental Protection Agency

Building on the 2030 Agenda for Sustainable Development, Ms Annika Lindblom, Ministerial Adviser of the Ministry of the Environment of Finland

Ms Lindblom pointed out that the 17 SDG goals will steer governmental and other stakeholder action in the near future and emphasised that SDGs require all countries to ensure that their policies are on the sustainability track. This requires interlinked responses, specifically a multifaceted and integrated approach to addressing the SDGs. She highlighted SDGs with the clearest links to chemicals and waste management, including targets 3.9, 6.3, 12.4, 12.5 and 14.1. Ms Lindblom explained that the realisation of the SDGs will require integrated policy strategies aimed at balancing short- and medium-term goals with socio-economic gains and longer-term benefits, and also a nexus approach whereby SDGs are addressed together, not one at a time in separate policy instruments. According to Ms Lindblom, the trade-offs' perspective on the environment and development has to be replaced with one aimed at sustainable synergistic solutions. Hence, interlinkages and synergies between food systems, biodiversity, climate mitigation, nutrient pollution, freshwater use and chemicals and waste management need to be explored and moved forward. Ms Lindblom highlighted that the SDGs are an integral part of the SAICM intersessional process and that the latter's mandate actually includes the development of recommendations regarding measurable objectives in support of Agenda 2030. She concluded by outlining the follow-up and review processes of the 2030 Agenda.

Protection from chemical and waste pollution as a human right, Mr Baskut Tuncak, UN Special Rapporteur on the human rights implications of the environmentally sound management and disposal of hazardous substances and wastes, OHCHR

Mr Tuncak noted that states have an obligation to protect citizens from human rights abuses, including abuses from exposure to hazardous substances. He also stressed that businesses have a corresponding responsibility to respect and exercise due diligence in their activities and business relationships. He proceeded by providing some examples of how

human rights apply to the area of chemicals, drawing attention to national systems for the protection of human rights from toxins, pollution and contamination. He also listed human rights standards relevant to chemicals management, notably the prevention of exposure, especially among the most vulnerable, the protection of food, water and housing from contamination, a safe working environment and freedom from the worst forms of child labour, global measures for chemicals of global concern, the realisation of the right to information and participation, the realisation of the right to effective remedies for damages caused by toxic chemical use, and businesses conducting human rights due diligence and accountability. Mr Tuncak concluded by elaborating on the important rights-based elements that should be integrated into a post-2020 framework. This would involve through legally binding obligations, including the requirement to have effective national systems in place, a comprehensive treaty on chemicals of global concern, due diligence by businesses for toxins, and stronger worker protections. The post-2020 framework would provide mechanisms for accountability, transparency and cooperation, a national systems review body modelled on the UN universal periodic review of human rights, and synergised with UN human rights bodies. Moreover, the post-2020 framework would serve as an incubator for emerging issues.

Making National Reporting Efficient: Lessons Learned from Global Environmental Conventions, Dr Maria Ivanova, Associate Professor at the University of Massachusetts, Boston

Dr Ivanova focused, from a governance perspective, on outlining the first findings of a large-scale research project under which data on country reporting rates and the rates of compliance with reporting obligations under MEAs is collected and analysed. The data and analysis of country reporting rates seek answers to the following questions: What do reports measure? Why? What is the purpose? How do they measure it? How often? Who is the audience? How are reports used? The compliance rate study concentrates on the following questions: Do countries comply with reporting obligations under the conventions? Why or why not? How can compliance be improved? The presentation by Dr Ivanova took a closer look at four different MEAs: the Basel, Stockholm and Ramsar Conventions, and CITES. A number of tables and diagrams were presented to highlight the research data gathered so far on reporting and compliance rates. National reporting templates under the studied MEAs were also analysed, pointing out the amount and kinds of information required to be provided in the national reports. Interestingly, the Ramsar Convention had the highest reporting rates, even though its reporting templates had one of the highest requests for information. The high reporting level under the Ramsar Convention resulted from the Secretariat's active support for and follow-up of reporting. Dr Ivanova also highlighted some region- and country-specific data on reporting and compliance rates, including implementation indexes and the singling out of top performers (countries) under the studied conventions. She stressed the importance of stronger engagement from the secretariats in using information so that states see that their reports submitted under MEAs matter and are used in the policy-making and development of the regimes. Dr Ivanova argued for an approach of "name and claim" to be adopted instead of "name and shame" so that good reports get the recognition that they deserve.

SESSION IV: 'FUNCTION OF THE POST-2020 FRAMEWORK'

Co-Chair: Ms **Nina Cromnier**, Director General of the Swedish Chemicals Agency

Functions of the post-2020 framework, Dr Tuula Honkonen, Researcher at the University of Eastern Finland

Dr Honkonen's presentation summarised the functions that are needed for effective chemicals and waste governance, pointing out relevant gaps and strengths in the current SAICM framework. The presentation was based on the study *Chemicals and Waste Governance Beyond 2020: Exploring Pathways for a Coherent Global Regime*, co-authored by fellow UEF researcher Sabaa A. Khan and Dr Honkonen. An assessment of the five functions provided by Dr Honkonen is elaborated below in a nutshell:

Reporting and use of indicators

Measuring and reporting on progress under the current SAICM framework is lacking effectiveness. This is principally due to low reporting rates and the fact that there is no meaningful account of global implementation and progress towards the 2020 goal under SAICM. In addition, the current indicator framework is problematic in that it often measures the existence of certain mechanisms instead of providing information on their actual implementation and enforcement. The current indicator framework is in need of revision: new indicators could be developed with the OOG document as a starting point. Overall, there is a need to learn from the models and experiences under other international regulatory instruments and to explore synergies.

Multi-stakeholder and multi-sectoral participation

Multi-stakeholder and multi-sectoral participation is a key feature of SAICM and is one of its strengths. The broad scale of stakeholders currently participating in SAICM and the various ways that they engage in the framework and its activities, ranging from direct contributions to policy-making to capacity building and information sharing. Recommendations include scaling up the participation of the private sector – particularly downstream users – within the post-2020 framework for the sound management of chemicals and waste and ensuring and increasing inter-agency coordination, especially at the national level.

Science–policy interface

SAICM has objectives and ambitions relating to access to information on chemicals and their effects, and to accelerating scientific research. However, SAICM currently has no mechanism to realise an effective science–policy interface. The latter could be enhanced in various ways, depending on the level of ambition: by more effective use of existing scientific panels and assessments, or by creating a new institution such as a specific expert panel linked to the post-2020 framework, or an independent intergovernmental panel. The added value of establishing a new mechanism or institution in this regard should always be studied and considered.

Funding and capacity building

The current inadequate level of funding for the sound management of chemicals and waste is a challenge that is hampering implementation, especially in developing countries. UNEP's 'Integrated approach to financing sound management of chemicals and wastes' could be part of the solution to the problem, together with the realisation of efficiency gains and the mobilisation of new funding through innovative methods, including the use of economic instruments. It is of utmost importance that the implementation gap in the sound management of chemicals and waste between developed and developing countries is narrowed in the future.

Public awareness and information management

Awareness raising and information management have in key roles in ensuring transparency, public participation and accountability in the sound management of chemicals. In this regard, the role of SAICM in facilitating public access to information and knowledge of chemicals and the risks of chemicals should be re-considered. There is even scope for a larger role, especially concerning awareness raising of emerging chemicals management issues within the post-2020 framework. The clearing house mechanism of SAICM needs to be reformed with a re-examined purpose, scope and practical realisation.

RESULTS FROM THE BREAK-OUT GROUPS

1. Reporting and indicators

The group underlined that it is important that NGOs, the industry and the scientific community at the national level are engaged to produce measurable information. Regional workshops are also needed to facilitate reporting. Furthermore, it was considered equally important to increase secretariat capacity to compile reports. There is a need for a feedback mechanism from the secretariat/entity in charge of compiling reports (in line with existing practices under the Ramsar Convention and the Montreal Protocol). If the post-2020 framework entails an obligation to prepare national action plans, there is a need to provide incentives/rewards so that the best plans get recognition and supplementary funding.

The group considered that the most important chemicals- and waste-related SDGs could form the reporting framework, but should be complemented by indicators derived from the OOG. It is also important to make a strong link to the follow-up and review mechanism of the 2030 Agenda.

Regarding links between the future reporting framework and other chemicals- and waste-related conventions, the group concluded that there is a need for an institutional mechanism that would build on the reports from the BRS Conventions, the Minamata Convention and the post-2020 framework and that would transmit it to the High-Level Political Forum.

The group explored how the 11 basic elements of the OOG could be developed into action-oriented indicators and proposed that basic element 1 (legal frameworks), for example, could include indicators on the development of pesticides legislation, industrial chemical legislation and/or GHS standards. Basic element 6 (industry participation), in the meantime, could include indicators, such as responsible care being fully implemented and industry associations put in place that deal with relevant chemicals. Similarly, indicators could be developed for all other basic elements.

2. Stakeholder participation and sectoral engagement

The group first discussed the importance of informing all possible stakeholders of the possibility to participate. Different mechanisms, such as lists of accredited stakeholders and e-mail lists could be used for this purpose. It was considered equally important to ensure that both stakeholders and the inviting institution are aware of all the benefits (e.g. increased transparency and influence) of active participation.

The group agreed that a voluntary framework brings about more information and ideas, more open dialogue and flexibility compared to a legally binding framework for participation.

On the question of how to scale up private sector participation, it was highlighted that the post-2020 framework could act as a kind of showroom for new initiatives coming from the private sector, possibly acting as a machine to raise standards in other sectors. It was recognised that downstream users can learn from each other, for example through CIP projects. There are also opportunities for downstream users to learn from different tools and best practices concerning data dissemination and the safe use of chemicals. It might also be worth trying to use the waste sector or downstream users to push the chemical industry to HBCD-free material cycles, for example.

It was recognised that different sectors are not currently participating equally in international chemicals and waste management. To ensure broad sectoral participation, there is perhaps a need to move away from a focal point approach towards broader sectoral participation. Monitoring and reporting should be used to enable the actors to see a holistic picture. Visibility of the actions could perhaps create positive competition between sectors.

3. Science–policy interface

The group found the role of science in the post-2020 framework to be to identify and prioritise issues requiring action. It was recognised that there are already various panels, assessments and organisations that have a mandate and that do valuable work in bringing science to the international chemicals and waste management sector. The science–policy interface of the post-2020 framework would essentially harness the science that someone else is doing and compile it to inform decision-makers. It was suggested that one way of materialising this would be to establish an “editorial board” that would function in a multi-stakeholder, inclusive and regionally balanced way. However, even with that kind of body, it is still the scientific experts that need to do the main work. The new body could produce thematic reports, with tasks coming from the ICCM.

4. Funding and capacity building

It was recognised that external funding alone will not meet the needs of developing countries for taking appropriate measures to implement sound management of chemicals and waste in line with new and existing goals. In addition to the funding being available, the issue of accessibility is a reoccurring concern among developing countries. Donors are continuously working to improve accessibility in many funds. The group considered the idea of whether consolidated guidance could ameliorate the fragmentation problem of financing.

It was also recognised that there is a need to create space for knowledge-sharing at the regional and global level on economic instruments. It is important to note, however, that economic instruments – such as fees, recovery systems and taxes – require legislation. Furthermore, the instruments are different in chemicals-producing and importer/consumer countries.

The group noted that the donor base for the sustainable management of chemicals and waste is currently diminishing. Prioritisation of SMCW by developing countries in national development plans or other planning instruments is a prerequisite for steering development funds towards chemicals and waste management. Lack of prioritisation also restricts bilateral and regional financing (through ODA) as funding can only be allocated to the sound management of chemicals and waste if the recipient developing country prioritises it. It was recognised that Agenda 2030 and SDGs can help countries to mainstream chemicals into their development plans.

With regard to the means to better involve the private sector and make the multi-stakeholder approach more visible in the post-2020 regime, it was noted that the dialogue with stakeholders should be strengthened beyond the traditional means and traditional partners (i.e. to extend it to food production). The international climate regime could provide a model with its Global Climate Action Agenda. In addition, the Montreal Protocol could offer a model for industry involvement. It was also recognised that the Climate & Clean Air Coalition (CCAC) has attracted private financing through partnerships that act and implement measures efficiently without the traditional regulatory model. In any case, the partnerships to be established should offer visibility for the private partners.

Capacity building is important for countries to be able to integrate the sound management of chemicals and waste with other policies. Furthermore, it is important to visualise the link between chemicals and waste management and health, gender, food security, economic development and the circular economy. International training programmes are needed in the countries and regions in this respect.

5. Awareness raising and information management

The group first discussed what is meant by awareness raising and information management. It was concluded that these mechanisms generally aim to consolidate scientific and technical knowledge for the purpose of disseminating it as broadly as possible, and to encourage information exchange and cooperation between relevant stakeholders.

The group then moved to address questions related to the SAICM clearing house mechanism (CHM). The participants recognised that the CHM is not functioning in a desirable manner. It was noted that the mechanism was not well-defined when it was established, and even today there is no clarity on its purpose or usership. Before a feasible new mechanism is developed, the group required clarity with regard to the following questions: Do we need a clearing house? What information should it contain? Who would use this information? Since the coverage of SAICM is broad, it would need an information system to act as an umbrella in the future. The participants pointed out that empirical data continues to be missing from different regions on their specific needs in information management. As a present critical gap, the group identified the lack of country data on restricted chemicals and product safety measures. More generally, it was concluded that regions need to better communicate their needs in terms of awareness raising and information management in international chemicals and waste management. The first practical step for countries is to engage with the independent evaluator of SAICM. Furthermore, the group highlighted the need for awareness raising efforts to focus on the linkages of chemicals and waste to SDGs, climate change and human rights. The efforts should adopt a multi-stakeholder approach.

After the break-out groups had presented their findings, a panel consisting of Dr **Achim Halpaap**; Mr **Sam Adu-Kumi**, Director of the Environmental Protection Agency of Ghana; Ms **Carolyn Vickers**, Team Leader of the Chemical Safety Area of the WHO, and Mr **Jorge Peydro-Aznar**, Lead Negotiator from the EU Commission, discussed the functions of the post-2020 framework. The panellists pointed out that the sound management of chemicals and waste is not only a chemicals issues but is also relevant to health, culture, education and so on. This is important to bear in mind considering that many features of the post-2020 framework, including the scope, remain undefined. Regarding reporting, the panellists stressed its role in showing where we are in relation to the implementation of SMCW. They further emphasised the importance of developing appropriate capacity indicators and of sharing self-assessments, etc. that increase awareness of all parties, including the recipients and creators of the reports. On the issue of stakeholder participation, the panel reminded the audience that participation is not a measure of success in itself, but that

effective models need to be studied. As regards the science–policy interface, the panel argued that the issue could be more a matter of an implementation gap, since a considerable amount of chemicals and waste-related information already exists. On the issue of capacity building, the panel pointed out that it should not only come from outside, but institution-building, for example, needs to be carried out at the national level.

SESSION V: 'POSSIBLE FORM OF THE POST-2020 FRAME- WORK'

Co-Chair: Ms **Johanna Lissinger Peitz**, Senior Adviser and Chief Negotiator Climate Change, Ministry of the Environment and Energy, Sweden

Options for the Institutional Form of the Post-2020 Framework, Dr Sabaa A. Khan, Researcher at the Centre for Climate Change, Energy and Environmental Law, University of Eastern Finland

Dr Khan's presentation covered institutional forms of the post-2020 regime, as elaborated in the study *Chemicals and Waste Governance Beyond 2020: Exploring Pathways for a Coherent Global Regime*, co-authored by fellow UEF researcher Tuula Honkonen and Dr Khan. The presentation first addressed progress towards the 2020 goal, drawing on feedback received from regional surveys undertaken by the SAICM Secretariat. She drew particular attention to the problem of mainstreaming sound management of chemicals in national development or sustainable development planning, noting that at least three regions attributed this governance gap to a lack of stakeholder awareness of the scale of the problem of chemical pollution and the cost of inaction. She further pointed out the challenges to mainstreaming SMCW and to achieving the 2020 goal brought upon by the international circulation of hazardous products and waste through international trade, emphasising the lack of transparency, responsibility and accountability mechanisms to deal with the adverse effects of hazardous or 'toxic' trade. She noted that the slow pace of progress towards the 2020 goal needed to be addressed. The flow of products across borders required countries to advance implementation beyond their borders, and thus the global governance landscape needed to be further developed. She asked participants to consider what could realistically be achieved from pursuing the present approach and what could be added through a broadened international legal framework.

Turning to legal frameworks, Dr Khan briefly examined characteristics of international environmental law, noting that in the international chemicals regime, separate instruments had been developed in response to specific challenges and thus the resulting international governance framework for chemicals contained many gaps. She then elaborated on problems with the current approach, noting that it was ineffective and unrealistic to address one chemical at a time in separate legal instruments, and that the legal mandates of existing

treaties were too limited to integrate the entirety of hazardous materials in global production and trade. She proposed that in carrying SAICM forward, the OOG document be used as a fundamental building block, along with Agenda 2030. She went on to explain the various elements and options for the post-2020 institutional form contained in the report.

In designing the post-2020 regime, there were various possible options reflecting various levels of ambition. Dr Khan stressed that any new regime, voluntary or legal, should reaffirm the central importance of SMCW to Agenda 2030, be based on the OOG, and be discussed and negotiated in a body such as the ICCM that implicates corporate and civil society stakeholders alongside governmental actors. By overviewing trends in recently adopted international environmental agreements, the Nordic report suggests that any new globally-scaled agreement on hazardous chemicals and waste is likely to rely on transparency and compliance facilitation rather than traditional enforcement. Additionally, periodically enhanced commitments, openness, transparency, civil society monitoring and industry engagement are likely to be seen as preferred mechanisms for accountability and effectiveness. The Nordic report proposes that the future SMCW regime should be geared towards strengthening regulatory and practical commitments relating to the life cycle of chemicals in global production and use, be procedurally-oriented in its legal outcome, and seek to affirm the voluntary guidance of international standards rather than create substantive norms, so that the length of the negotiating process could be closer to that of the Paris Agreement than the Minamata Convention.

Voluntary approaches explored in the Nordic report include an incremental improvements framework approach based on SAICM and framed in the context of SDGs and international chemicals and waste treaties, as well as a national action plan approach precisely focused to implement the OOG. The advantage of voluntary approaches is that they can cover a broader scope, be more substantively demanding, and provide more precise obligations and accountability mechanisms than international legal instruments. After outlining the various elements of voluntary approaches, Dr Khan presented the rationale and basic elements of a global treaty approach, as well as alternative treaty approaches. The Nordic report proposes that a global framework agreement for the life cycle management of chemicals and waste would be the preferred approach from a human health and environmental protection perspective. At the same time, the framework agreement approach presents significant challenges and potential negative outcomes such as treaty congestion, lowest common denominator standards, and complex, costly negotiations. Moreover, the existence of an agreement does not guarantee effectiveness.

The Nordic report suggests that from a governance gap, trade and human rights point of view, a legally binding agreement is necessary for the life cycle management of hazardous materials. However, it carefully notes the impediments to such an approach (costs, time and others) and emphasises the broad benefits of a national voluntary action plan approach. Under all approaches, the OOG is taken to provide the functions based on which the suggested forms have been designed.

Following Dr Khan's presentation, discussion about the form was initiated by a panel com-

prising Ms **Nina Cromnier**, Director General of the Swedish Chemicals Agency, Dr **Maria Ivanova**, Associate Professor at the University of Massachusetts Boston, Ms **Kerstin Stendahl**, Deputy Secretary of the IPCC Secretariat, Dr **Nils Simon**, Senior Project Manager at Adelphi, and Ms **Anne Daniel**, General Counsel at the Department of Justice Canada. While there appeared to be consensus among the panellists that a treaty approach for beyond 2020 may not be easy, feasible or effective, they expressed differing views as to how to move forward. While some panellists argued that a voluntary approach needed to be pursued, other panellists and seminar participants suggested that a combination of both regulatory and voluntary approaches were necessary. A bottom-up approach and usage of national action plans appeared to garner some support in the discussion. In any case, it was agreed that the task beyond 2020 goes beyond SAICM.

Ultimately, the forms pursued will depend on how the functions of the post-2020 regime are identified. There is a need to map the functions that the post-2020 is required to deliver. The OOG is addressing some of these functions, and the SAICM today defines others. In assessing the question of form, there needs to be an understanding as to which format best addresses the different functions, legal measures, short-term projects, partnerships, etc. that are considered essential for the post-2020 framework. Furthermore, it will be imperative to ask what is needed to create ownership among stakeholders, including countries, cities and industries. A panel representative stressed that the post-2020 framework should be country-driven. It is important to define the drivers for implementation on the ground and for country ownership, and to think of ways in which a global regime could become such a driver.

Many participants underlined the significance of the SDGs for the development of the global chemicals governance. The momentum around the SDGs should be used to also draw attention to the chemicals and waste-related aspects of the goals, the timeframe of the 2030 Agenda for Sustainable Development could be used as a milestone for the global chemicals governance, and the SDGs could be used to strengthen the chemicals- and waste-related mandates of various UN bodies.

The current international chemicals and waste management regime is characterised by fragmentation. Fragmentation is often seen as a negative phenomenon in international law, but it was pointed out that it also has a positive side in the sense that not one size fits all solutions. Some panellists and participants suggested that the fragmentation of international environmental law should instead be viewed as multiplicity. From this perspective, the division of work between the existing conventions is not problematic. Other participants argued that perceptions of chemicals and waste needed to be broadened to include products that contain hazards, and that the existing scope of the international treaties was thus insufficient. Overall, the panellists and participants agreed that decisions regarding the post-2020 regime should be made in an inclusive, multi-stakeholder forum such as the ICCM.

Enhancing knowledge, awareness and engagement of the public through a holistic approach to chemicals and waste remained a key concern for beyond 2020. We should aim for a regime that is equipped to address tomorrow's problems

Wrap-up of the seminar, Mr Niko Urho, Senior Adviser at the Ministry of the Environment of Finland.

Mr Urho started his presentation by describing the status quo in the international chemicals and waste management. Accordingly, SAICM can be given recognition in that it has catalysed action to achieve sound management of chemicals and waste; however, it is unable to cope with the magnitude of the problem. The gap between developed and developing countries has widened. The current global regulatory approach to chemicals remains incomplete and narrow. Furthermore, new emerging problems, such as plastic pollution, require effective concerted action.

Within this challenging setting, the need for an effective and holistic post-2020 framework on the sound management of chemicals and waste is evident. Mr Urho highlighted the recommendation shared by the Nordic report and the seminar participants that the development of the post-2020 framework should be guided by the lifecycle approach. Moreover, the concepts of sustainable chemistry, green design and the circular economy provide new opportunities for streamlining chemicals and waste in all sectors of society. The post-2020 framework should also reflect the fact that protection from chemicals and waste pollution is a precondition for the enjoyment of human rights. Mr Urho further stressed that the 2030 Agenda for Sustainable Development, and the SDGs related to chemicals and waste in particular, should form the fundamental basis for the post-2020 framework due to their overarching and cohesive vision. Within this context, parties need to remember the integrated nature of the SDGs: it is important to try to show the interlinkages to other sectors, e.g. the links between chemicals and waste management and human health, economy, etc.

Mr Urho continued by presenting the outcomes of the Nordic report and seminar with regard to the key functions of the policy framework for the post-2020 era, stressing the roles of risk assessment and management, national chemicals management schemes and the approach of multiplicity instead of fragmentation. Concerning reporting and indicators, there is admittedly a need to develop measurable objectives in support of the 2030 Agenda. The development of the objectives and indicators under the post-2020 framework should be coordinated with the indicators under the 2030 Agenda. It can be concluded that the chemicals- and waste-related SDGs should form the reporting framework, complemented by indicators deriving from the OOG. In general, reporting under the post-2020 framework should have an enhanced focus on implementation and progress assessment. To improve the effectiveness of reporting, there should be a feedback mechanism from the secretariat/entity in charge of compiling reports.

As regards participation, it could be concluded that engaging the private sector, particularly the downstream users, is important. Best practices or the CIP programme could be used to inform others. In general, there is a need for more strategic agenda setting and selection of sectoral themes that are time-bound to achieve targets. Many seminar participants stressed that ‘as many stakeholders as possible are needed’. Regarding the science–policy interface, Mr Urho concluded that the post-2020 framework should have an effective science–policy interface that is currently lacking from SAICM. There is a need for harnessing existing

science and for compiling, synthesising and bringing it to the guidance of decision-makers. A seminar break-out group came up with the idea of an inclusive and regionally balanced multi-stakeholder editorial board to take up the task, but various other options exist.

On funding and capacity building, Mr Urho recognised the current inadequate level of funding and stressed the role of the guidance to GEF in its chemicals and waste focal area. Institutional strengthening is important as well, and the Special Programme provides new opportunities in this respect. Furthermore, the possibilities of using economic instruments, including taxes, should be explored. Finally, with regard to awareness raising and information management, Mr Urho highlighted the importance of making linkages between chemicals and waste and SDGs, climate change and human rights. One critical global information gap is the lack of country data on restricted chemicals and product safety measures. As a concrete question for the development of the post-2020 framework, the fate of the clearing house mechanism needs to be re-examined.

Finally, regarding the options for the institutional form of the post-2020 framework, there are a number of possible ways to proceed. First, the new framework could comprise a new international framework agreement on the life cycle management of hazardous chemicals, in order to avoid fragmentation and to scale up action. It could adopt legally binding protocols to address different groups of chemicals. Second, the post-2020 framework could be a mixed instrument, with regulatory/legally binding and voluntary elements, like the national action plan mechanism. Third, the post-2020 framework could remain with the same structure and functions as SAICM, but the deficiencies in its functions should be addressed and the current strengths should be maintained. As supplementary elements, the post-2020 framework could include coalitions on specific topics, with voluntary sign-up processes. The scenarios are not mutually exclusive and ‘milestones’ are needed for the development of the chemicals and waste regime until 2040 or 2050.

Finally, Mr Urho reiterated the SAICM Secretariat’s (Ms Koekkoek’s) request to the seminar participants, and for all other interested stakeholders, to consider what we want from the intersessional process. This is necessary to know in order to form a basis for decision-making regarding the post-2020 framework for the sound management of chemicals and waste.

This summary report was compiled by Dr Tuula Honkonen and Dr Sabaa A. Khan from the University of Eastern Finland.