

**VIEWS OF THE UNITED STATES ON EMERGING POLICY ISSUES DISCUSSIONS
WITH THE FRIENDS OF THE SECRETARIAT**
(8 January 2009)

The United States wishes to relay its concerns over the discussions and recommendations emanating from conference calls of the Friends of the Secretariat (FTS) group and the evolution of views on emerging policy issues in preparation for the second International Conference on Chemicals Management (ICCM 2). In particular, we are concerned with how the criteria discussed at the informal Open-Ended Technical and Legal Working Group (OELTWG) meeting in Rome were applied to the submissions on emerging policy issues and do not believe there was consensus across the views expressed on the December FTS group call. Further, it is our belief that the submission on perfluorinated chemicals (PFCs) meet the criteria agreed to in Rome, and discussions at ICCM2 can “focus attention” and promote “cooperative action” on PFCs to help developing countries, countries with economies in transition, developed countries, industry and stakeholders to address an emerging issue that can help facilitate risk reduction consistent with SAICM’s objectives. In addition, we remain concerned about how the emerging issues recommended by the FTS group will be further elaborated for the ICCM 2 discussion. More concretely, we support the two submissions relating to nanotechnology that proposed information exchange at ICCM 2. In this respect, we support the OECD on behalf of the IOMC and other interested participants to lead this information exchange as it has been the lead organization, together with its Members, non-Members and other interested participants, that is advancing nanotechnology environment, health and safety issues in international fora. If the OECD is unable to lead these discussions for ICCM2, we propose that the country chairing its Working Party on Nanomaterials (WPMN) should lead preparations accordingly. The U.S. also has additional reservations with aspects of the recent guidance to prepare for ICCM 2 on emerging policy issues. The following describes in detail our concerns regarding the process to date.

The Conference decides the agenda and final issues for discussion and/or consideration

First, it is not the view of the U.S. that there is “agreement” on the set of issues that is currently slated for discussion or detailed consideration on the ICCM 2 agenda with respect to emerging policy issues and as penned in the summary of the last FTS call on 12 December, 2008. Participants should be reminded that the agenda for ICCM 2 is not final until agreed at the Conference by participants and in accordance with the Conference’s rules of procedure (RoP) which have yet to be finalized. Therefore, it is our view that participants may introduce other issues for discussion and/or consideration by and at the Conference as each participant sees fit. Of course and in the interim, the FTS group is a useful mechanism to facilitate progress and organize matters, but the group does not supersede the Conference or what participants may undertake consistent with the forthcoming rules. The United States with UNEP is sponsoring an international workshop on PFCs in February and also intends to host a side event at ICCM-2 in coordination with other submitters on the issue and interested participants. These meetings will help focus attention on the issues and some of the meeting outcomes from these activities could inform and introduce proposals for further cooperative action for the Conference’s consideration and endorsement. We anticipate such action to be feasible and consistent with the RoP and prerogatives of Conference participants.

The screening criteria for emerging policy issues, including threshold definitional and answers to initial submission questionnaire, need to be applied and supplied respectively

From a few additional discussions with representatives on the last FTS group call, it seems that there were a wide array of views on the state of agreement with the set of emerging policy issues and additional concerns with the application of screening criteria. While submissions were annotated for consideration by the FTS group, it appears that the process to narrow the issue set for

discussion at the ICCM 2 did not fully apply the criteria from the informal OELTWG meeting in Rome or the threshold definition of an emerging policy issue or, in some instances, the proponents did not supply complete answers to the submission questionnaire. In addition, the time was too limited to conduct a robust regional consultation. As a result, some issues that meet the screening criteria, such as PFCs, are not currently on the agenda for ICCM 2. Some issues currently slated for the agenda may also contradict some of the criteria, not satisfy others, and remain incomplete or open-ended.

Put another way, some of the issues on the FTS group list may, more appropriately, help focus attention, but not be ripe as a priority for cooperative action. Such an interpretation or outcome would be consistent with Art. 24 (j) of the OPS as well as proposals put forward in the Paper on U.S. Views on ICCM 2 (see Sept. 2008 document posted at: <http://www.saicm.org/documents/OELTWG/Informal%20discussions/ID%20INF8%20US%20on%20ICCM2.pdf>) to promote outcomes that enhance capacity for the sound management of chemicals and particularly those related to emerging policy issues. In such a manner, technical discussions on any number of the FTS group's list and other emerging policy issues may help bolster knowledge across participants, foster enhanced application of risk management best practices and encourage coordination and collaboration on chemicals management. This last item is critical as the FTS group's list of emerging policy issues, at present, may benefit from some attention to simply relay the array of ongoing activities that may help address some of the potential concerns associated with some of the issues.

It's somewhat unfortunate, however, that such issues will now take up limited time at ICCM 2 especially when: screening criteria might have pointed to redundancies or potential for duplication; it is readily apparent that any number of events or fora have discussed and addressed some of the issues at length; and the strong interest in coherence with Conference outcomes to avoid creating potential conflicts with the work of other bodies. Along these lines, participants may find some of the views incorporated in the U.S. paper (see link above) of interest as background on emerging policy issues are compiled, panels structured or presentations developed, and, where appropriate, various outcomes are considered (see e.g., the bullet list further below) with the FTS' group set of issues including any broader issues of potential interest to participants. It is thus our view that the FTS group list does not equate to or impose any limitation on what issues might be appropriate for focused attention or arise to a priority for cooperative action.

We would also urge the Secretariat to prepare a paper for consideration and endorsement at ICCM2 that delineates the criteria and process for selecting emerging policy issues along the lines discussed at the OELTWG so as to avoid such outcomes in the future.

The Process Forward Needs to be Informed by Submissions, Open to All and Guided by Transparency and Consensus

The process forward would benefit from enhanced transparency, discussion and consensus. On the outset, various submissions proposed different types of actions on the same emerging policy issues for ICCM 2. Greater transparency is necessary for how such discrepancies might be resolved for issues that are to be discussed and possibly considered by the Conference. The current treatment of each submission would benefit from a consistency check with its original submission, intent, other comments and subsequent views. For example, there are three submissions on nanotechnology, two of which are clearly focused on information exchange, and one that includes information exchange but also other proposals.

As stated before, the OECD is the lead organization advancing nanotechnology issues internationally, and they should have a lead responsibility in preparing to address the issue at ICCM 2; or the country chairing the OECD's WPMN.

Some submissions may have also failed to include how the definition of an emerging policy issue was met or to include a clear, feasible proposal for cooperative action. Notwithstanding that a subset of issues is now slated for detailed consideration at ICCM 2 when such detail may be lacking, how such details are filled-in with the agreement of the FTS group and interested participants while avoiding potential conflicts is of paramount importance to a successful ICCM 2.

A range of possible outcomes are appropriate and need to be fully weighed with existing activities before being submitted for consideration by the Conference

The current guidance put forward by the Secretariat may assist with further evaluation and elaboration against emerging policy issue screening criteria, but the lead author process and proposed guidance falls short in providing for a fulsome review of relevant and current work on an issue as well as considering the full range of possible outcomes that are available to participants and the Conference. Such perspectives were reinforced in our U.S. submission at the informal OELTWG regarding emerging policy issues where we also highlighted a variety of options that might be considered by the Conference versus the sole leaning of the current guidance paper toward negotiated resolutions:

- Governments, civil society, and industry could (and already have) use the Conference as an opportunity to make specific commitments on inter-sessional workshops, partnership activities, etc., on a bilateral, regional, or multilateral basis.
- the Conference could focus attention on an issue through discussion in advance and during the week;
- information on an issue could be compiled and disseminated through Secretariat's clearinghouse function including other IOMC organizations;
- an issue could be furthered through additional regional meetings or workshops for enhanced awareness and actions by interested participants;
- priorities or pledges might be identified for further emphasis by SAICM participants, e.g., intersessional trainings, regional or bilateral exchanges, etc.;
- an issue could be referred to other fora for potential consideration and follow-up and participants could get involved in other fora as appropriate;
- the Conference could consider deferring an outcome to inform a decision once more information is available and reviewed;
- An issue could be a topic for a UNEP Chemical Information Exchange Network (CIEN) discussion or training exchanges and webinars via other IOMC organizations or participants; and
- the Conference could consider all the scientific, technical and socio-economic information related to the submissions, and those issues that are considered a priority for ICCM could be included in the high level chair's summary.

Such outcomes are all possible and potentially valid depending on an issue, interest, needs and support. The path forward may not, in all instances, require a lead author or result in the status quo of negotiated resolutions. We believe that the Secretariat should take a more direct leadership role in developing background papers on emerging policy issues and should consult with lead organizations (i.e. those that made the proposal), technical experts, and the FTS (or Bureau or other body designated with such a responsibility on behalf of the Conference) to clarify necessary information and identify actions the Conference may wish to consider drawing largely from submissions and how agreed screening criteria are met. Some may suggest that the Conference adopt a resolution as a form of further collaborative action on a given topic; other actions such as creation of a partnership, a series of training workshops, or even using the Conference itself as an

opportunity to share information and forge relationships would also constitute further collaborative action. The creation of a training workshop or other such actions would depend on the commitment of lead agencies and actors to ensure proper follow through at or after ICCM 2 and therefore appropriate consultation by the Secretariat with such interested actors would be necessary. The broader FTS group and interested participants should inform this path and be open to a range of possible outcomes that transition from progress on paper to progress toward our common 2020 goal.

Conclusion

As stated before, we do not subscribe to the narrow construction that this is the sole list of emerging policy issues that might receive detailed consideration at ICCM 2 as participants remain free to submit other proposals for consideration by the Conference consistent with its rules of procedure. We believe a range of options are available to participants and the Conference to enhance understanding and action on emerging policy issues and that fuller consideration of the range of collaborative actions should be advanced by the Secretariat in the process of developing the agenda for ICCM2. We agree that further work is needed in the long-term to fine-tune a procedure and associated outcomes on emerging policy issues and request the Secretariat to prepare a paper that lays out criteria and process for endorsement at ICCM2 and makes arrangements for time at the Conference to discuss this issue as is necessary. We appreciate the effort by the Secretariat and involved participants to help develop criteria and hone issues for discussion, we are optimistic that we can improve the process and apply the criteria with greater confidence in the future and we look forward to working cooperatively with the FTS group and participants in the lead up to ICCM 2.