

Input on the formulation of a potential “Bonn Declaration on the International Management of Chemicals and Waste”/a High-level Declaration

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1. Retain all substance from the Dubai Declaration on International Chemicals Management

It is paramount for a “Bonn Declaration on the International Management of Chemicals and Waste”/a High-Level Declaration to retain all the substance that was formulated in the Dubai Declaration on International Chemicals Management and even go beyond. The renewal of previous commitments in different international policy areas has been used too often to roll back progressive approaches, infringe on granted rights or redefine promises made. In the case of the outcome of the 5th International Conference on Chemicals Management (ICCM5), such an approach would be particularly damaging.

While the High-level Declaration (HLD) probably will not be the place to dig deeper into the substance of the sound management of chemicals and waste (SMCW), there is agreed language to be found and concepts to take note of that have not been present in 2006. Most noteworthy in this regard, obviously, is the 2030 Agenda on Sustainable Development.

2. Update the Declaration in accordance with the 2030 Agenda on Sustainable Development

The 2030 Agenda on Sustainable Development is certainly among the most remarkable pieces of international diplomacy of the past decade. It prominently features new approaches to international sustainability that the HLD or further outcomes of ICCM5 need to incorporate. This is not to say that the only job is to make an HLD ‘2030-compatible’, but rather to make use of all the language agreed upon in 2015. Just a few bullet-points on examples:

» Structure

While most of the attention given to the 2030 Agenda is focused on the Sustainable Development Goals (SDGs), it is important to note, that the Agenda contains much more. Indeed, its structure could be a good starting point for how to build a HLD. The Preamble (chapter 1 of the Agenda) sets out the overall goals of the Agenda in strong words and sets the scene for why it will be indispensable to implement it. The Declaration (chapter 2) spells out (a) the vision of the Agenda and therefore the level of ambition (e.g. a toxic-free circular economy), it gives (b) analysis as well as an (c) outlook into the possible futures, it mentions not just (d) the measurable goals, but also the (e) means of implementation and the (f) follow-up, reporting and review. The Declaration therefore could be a good template for the HLD in that it summarizes all the specificities that should be spelled out in the overall ICCM5 outcome.

» Dimensions of Sustainability

Another remarkable trait of the Agenda is that it features a holistic understanding of sustainability or sustainable development that distinguishes it from, for example, the Millennium Development Goals and other more development-oriented agendas. As outlined in the five 'Ps' of the Preamble (People, Planet, Prosperity, Peace, Partnership), sustainability consists of social, ecologic, economic, societal and political dimensions. All those should be included when formulating the HLD. This goes both ways: The ICCM5 outcome will affect all dimensions of sustainability, just as all dimensions will have to be taken into account to make the outcome successful. In other words, coherence is at the core of who will need to implement the ICCM5 outcome (health, agriculture, trade actors, for example), but will also have to incorporate their views into what constitutes SMCW. Only with this approach in mind can the HLD become a template for further adoptions at the UN General Assembly or the UN Environment Assembly.

» Mention all stakeholders and define their potential contributions

The 2030 Agenda is very clear in that it attributes roles to all potential stakeholders: Governments, international organizations, the private sector, philanthropy, and civil society. If there is something to be improved about the Agenda, however, it is that the potential contributions and tasks of these stakeholders is not spelled out in enough detail and with view of stakeholders' capacities and their legitimacy. While, for example, states have the duty to respect, protect and fulfill human rights, capacities and abilities of civil society organization lie elsewhere. The HLD therefore should use the template of the Dubai Declaration and specify what role the various actors can and should play.

» Leave no-one behind

One of the more prominent themes of the 2030 Agenda is the notion to "Leave No-One Behind". This, obviously, is no new feature and in different terminology is formulated in the Dubai Declaration. Nevertheless, it must not be forgotten in the HLD – and it should make specific mentions of vulnerable groups like women, indigenes communities, and others.

» Recognize the Action Areas of the Addis Ababa Action Agenda

Unfortunately, the means of implementation outlined in the 2030 Agenda have not gotten the level of attention they deserve. The fact, that a parallel international process under the headline of "Financing for Sustainable Development" was undergone and completed in Addis Ababa just months before the adoption of the 2030 Agenda seems to have gone unnoticed even by many SDG experts.

However, the outcome of that process, the Addis Ababa Action Agenda (AAAA) is a great document for checking whether all means of implementation are being considered in any given international process. While the AAAA varies in the level of detail it attributes to different instruments, its so called Action Areas make for a great check-list:

(1) Domestic public resources (taxes, (user) fees, etc.); (2) Domestic and international private business and finance (regulatory frameworks to better align private sector incentivized with public goals, §36); (3) International cooperation (ODA, climate finance, south-south cooperation etc.); (4) International trade; (5) Debt; (6) Systemic issues (including governance issues, but also so-called innovative sources of finance like an air ticket levy); (7) Science and technology.

All these areas should be recognized to varying degrees in spelling out how to implement any sustainable development agenda like the SMCW. What is important to note is that different from what its name might suggest, the FfSD process deals with non-financial (i.e. regulatory) means of implementation as well.

» Follow-up, reporting and review

A novelty in the field of sustainable development is the inclusion of proper follow-up and review mechanisms in the 2030 Agenda. While the debate on the substance of these mechanisms is ongoing (for example, on whether the Voluntary National Reviews at the High-level Political Forum on Sustainable Development (HLPF) are an effective tool), it seems worthwhile to learn from these experiences. Certainly, any follow-up mechanism will need to include:

- » a scientific base and a well-designed science-policy interface like the Global Sustainable Development Report preparation mechanism, or even better the International Panel on Climate Change or the International Panel on Biodiversity and Ecosystem Services;*
- » reporting from special rapporteurs on issues under SMCW, including issues of concern/emerging policy issues;
- » reporting from various levels of governance (global, regional, national, sub-national) with a focus on national reports;
- » a compilation of United Nations information on the state under review;
- » interactive dialogue between reporting states and the parties and stakeholders to the HLD. Learning from HLPF, ample time for these dialogues needs to be allowed for;
- » the formal inclusion of the all relevant stakeholders in reporting through *inter alia* shadow reporting (and accompanying whistle-blower protection);
- » a dual focus on best practice, but maybe even more importantly, on lessons learned and problems that require international cooperation to be solved;
- » periodicity, so that progress can be properly monitored. It seems adequate that Governments report in a three to four year cycle, so that improvements can properly be monitored;
- » and last, but not least, time-bound goals, targets and indicators (that may not need to be spelled out in the HLD, but should be alluded to).

» Levels of implementation

Very important to the success of any given project like the SAICM Beyond 2020 is that it takes into account all necessary levels of implementation: global, regional, national, sub-national. This will have to feature, in return, in all sections of the HLD, as it does in the 2030 Agenda: Different levels of government have different tasks in SMCW. Targets, indicators and milestones will have to be “level sensitive”. It may be sensible to formulate global goals, but just as well local ones. Means of implementation may be located within various spaces: Making trade rules SMCW compliant can be dealt with at the global or (inter-)regional level, but certainly not at the local. Providing international finance is not separate, but likewise not identical to economic instruments for the internalization of external costs etc.

* This is of particular importance if the issues of ICCM5 are to gain greater public awareness. That SMCW is – at least in comparison with other environmental issues like climate change or biodiversity loss – less prominent, also seems to stem from the fact that its issues are rather complex and no communicable through single fact like the 1.5°C target. A science-policy interface could be the place to develop not just scientific knowledge, but also communication tools in this regard.

For Governments, it is of particular importance to take note of their ability to act on various levels and with different vectors. As, for example, the German Sustainable Development Strategy spells out, states can implement international agreements at home, they can make sure that their footprint (which is of particular importance to chemicals management) is not infringing on the 'space' of others (also at the global level), and they can engage in multi- and/or bilateral cooperation to enable others in their attempts to achieve sustainable development (in German: Umsetzung in, mit und durch Deutschland that roughly translates into "implementation in, with and by Germany").

3. Retain and invoke the Principles of the Rio Declaration on Environment and Development

While the 2030 Agenda certainly is the guideline for all current endeavors towards sustainable development in all its dimensions, the principles of the Rio Declaration on Environment and Development remain the gold standard of what should guide any international agreement, be it voluntary or not. It features, amongst other things, the following vital principles, that should not just be mentioned in the HLD to pay lip service to the Rio process, but should in fact guide considerations at ICCM5. While some of these principles are at the core of the ICCM5 outcome for sure, some will need more deliberation in how they can properly be implemented, particularly with regard to means of implementation. None of the principles must be ignored or diluted in the HLD.

Principle 3: The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.

Principle 7: [...] In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command.

Principle 8: To achieve sustainable development and a higher quality of life for all people, States should reduce and eliminate unsustainable patterns of production and consumption and promote appropriate demographic policies.

Principle 9: States should cooperate to strengthen endogenous capacity-building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge, and by enhancing the development, adaptation, diffusion and transfer of technologies, including new and innovative technologies.

Principle 10: Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. [...]

Principle 13: States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage. States shall also cooperate in an expeditious and more determined manner to develop further international law regarding liability and compensation for adverse effects of environmental damage caused by activities within their jurisdiction or control to areas beyond their jurisdiction.

Principle 14: States should effectively cooperate to discourage or prevent the relocation and transfer

to other States of any activities and substances that cause severe environmental degradation or are found to be harmful to human health.

Principle 15: In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

Principle 16: National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, [...].

4. Make good use of established Human Rights principles

The system established by the various declarations on Human Rights, including *inter alia* the Universal Declaration, the International Covenant on Civil and Political Rights, and the Covenant on Social, Economic and Cultural Human Rights is based on certain principles, that could (and should) guide the formulation of a High-level Declaration as well as any other outcome of ICCM5. To mention just the most noteworthy ones:

- » All human rights are indivisible and interdependent. This alludes to the fact that we cannot concentrate on single rights, but always need to have all of them at heart. This is the rights-equivalent to the “interlinkages and integrated nature of the Sustainable Development Goals” as outlined in the Preamble to the 2030 Agenda. For example, the right to health will only be realized, if the rights to participation in political decision-making are being exercised – or the voices of vulnerable groups would be ignored.
- » The enjoyment of Human Rights is strongly founded in the notion of non-discrimination. This could be highlighted in the HLD in the paragraphs mirroring §§23/24 of the Dubai Declaration.
- » The Human Rights system has developed a lot of guidance on how businesses, be they national or international, can and need to play a role in the protection of rights. The UN Guiding Principles on Business and Human Rights as well as the deliberations of the Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights should be taken into consideration when formulating what role the private sector can/should play in the implementation of the ICCM5 outcome.
- » All people have the right to participate in and access information relating to the decision-making processes that affect their lives and well-being. Rights-based approaches require a high degree of participation by communities, civil society, minorities, women, young people, indigenous communities and other identified groups.
- » States and other duty-bearers are answerable for the observance of human rights. In this regard, they have to comply with the legal norms and standards enshrined in international human rights instruments. Where they fail to do so, aggrieved rights-holders are entitled to institute proceedings for appropriate redress before a competent court or other adjudicator in accordance with the rules and procedures provided by law. Individuals, the media, civil society and the international community play important roles in holding governments accountable for their obligation to uphold human rights.
- » On the part of states and governments, Article 2 of the International Covenant on Economic, Social and Cultural Rights states: “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and

technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.” If poisoning with chemicals or toxic wastes is regarded as an infringement of the right of persons to health (and other rights), taking this article seriously should be reflected in the HLD; particularly in the sections outlining the means of implementation. A glimpse into the Maastricht Principles on the Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights could help further elaborate and strengthen commitment of donor countries.

- » Furthermore, the notion that States overall have to respect, protect and fulfill human rights could, if voiced in the HLD, lead to a greater level of commitment for the ICCM5 outcome while retaining its voluntary nature. In short, if understood as a process that is part of the progressive realization of human rights, the ICCM5 outcome could gain legitimacy.

5. Issues of Concern

The maybe single most innovative and important aspect of SAICM is the fact that it is substantively not limited to what was known and problematized in 2006, but that it has the ability to notice new emerging policy issues and/or issues of concern. This should feature prominently in the HLD. It should be ensured that issues of concern (IoC) that have been identified by SAICM until 2020 are not wiped of the table simply because they are no longer emerging or new. As the “Assessment Report on IoC” of September 2020 spells out, it is particularly these issues that need further attention, awareness, capacity and financial resources.

For each IoC, the same elements that are deemed necessary for any SAICM Beyond 2020 should be recognized: work plans and targets, milestones and indicators, formalized follow-up and review with reporting, means of implementation (including legally binding instruments), open and transparent participation and science-policy interaction.