

# Developing & Strengthening National Legislation and Policies for the Sound Management of Chemicals

Observations and Conclusions of an  
International Expert Meeting  
Geneva, Switzerland  
22-25 June 1999

Final Report



**IOMC**

**INTER-ORGANIZATION PROGRAMME FOR THE SOUND MANAGEMENT OF CHEMICALS**  
A cooperative agreement among UNEP, ILO, FAO, WHO, UNIDO, UNITAR and OECD

**IFCS**

## **About the Series of Thematic Workshops on Priority Topics of National Chemicals Management Capacity Building...**

The Series of Thematic Workshops on Priority Topics of National Chemicals Management Capacity Building provides a forum to facilitate an exchange of experience and to identify practical steps which interested countries can take to systematically address certain chemicals management priority topics. The series addresses priorities which have been identified by countries through National Profiles and in the context of National Programmes for the Sound Management of Chemicals and which have also been highlighted through the Intergovernmental Forum on Chemical Safety (IFCS). Many of these topics (e.g. chemicals legislation) are inter-sectoral in nature and cut across the activities of various ministries and interested parties at the national level. For this reason, integrated and co-ordinated approaches, which take into consideration the perspective of all interested parties and build upon existing international experience, are considered of great importance.

The workshops are co-ordinated by UNITAR and involve interested countries, IOMC Participating Organizations, industry, public interest groups, and other interested parties. Thematic workshops on the following topics have been held:

- \* Strengthening National Information Systems and Information Exchange for the Sound Management of Chemicals, September 1998
- \* Strengthening National Awareness Raising and Education for Chemicals Management, October 1998
- \* Developing and Strengthening National Legislation and Policies for the Sound Management of Chemicals, June 1999
- \* Strengthening National Capacities for Risk Management Decision-Making for Priority Chemicals, October 1999

The reports of the workshops are meant to serve as practical inputs to country-based initiatives in the respective areas and may also highlight certain issues which may require further attention at the international level.

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## Executive Summary

The thematic workshop on *Developing & Strengthening National Legislation and Policies for the Sound Management of Chemicals* was the third in a Series of Thematic Workshops on Priority Topics of National Chemicals Management Capacity Building and took place in Geneva, Switzerland, from 22-25 June 1999. It was organized by UNITAR in co-operation with the Intergovernmental Forum on Chemical Safety (IFCS) as well as several international organizations, including FAO, ILO, OECD, UNEP, UNIDO, WHO, and the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons (OPCW). The event brought together some 100 representatives from developing countries, countries with economies in transitions, small island developing states, countries with advanced chemicals legislation, international organizations, and non-governmental organizations, including industry, public interest groups, and labour unions.

The workshop concluded that many countries have enacted legislation for the management of chemicals, but that unacceptable risks to health, safety, and environmental quality continue primarily because the underlying laws and regulations are often fragmented across sectoral boundaries with no unifying policy mechanisms, and because of a shortage of resources for their effective enforcement. Governments should therefore review their chemicals legislation, including regulations and regulatory structures, to ensure that they efficiently and effectively promote the sound management of chemicals in a manner which is consistent with the guiding principles given in Section 5 of the report.

The workshop also concluded that laws should be kept simple and based on a general policy framework and related principles. Such a policy framework should: adhere to sound principles of risk management, as appropriate; be consistent with international obligations, norms, and standards; respect the responsibilities of other sectors of governments, including subordinate levels of government in the country; favour co-operation among all stakeholders; promote the use of sound information in decision-making; acknowledge socio-economic, cultural, and ethical factors and be sensitive to the importance of economic development (however, health protection and safety should always take precedence over economic considerations); be fair, equitable, and transparent; ensure that information on risks to health and safety are effectively communicated; address the issues of accountability and liability; and be flexible and applied in a way that does not hinder creativity and innovation.

More specifically participants agreed and recommended that countries should:

- establish, through legal means, a national co-ordinating committee which is policy-level and advisory (i.e. non-executing) in nature as a mechanism to co-ordinate relevant activities within the government sector;
- focus initial efforts on regulatory measures to develop a hazard and chemical safety communication scheme for dangerous chemicals;

- accept or take into consideration hazard information (e.g. testing data) and risk assessments generated in other countries; and
- formalize the process for making national risk management decisions for priority chemicals by law in order to enhance transparency for all stakeholders.

It was also highlighted that voluntary initiatives are useful adjuncts to legislation in the management of the risks from chemicals. Voluntary initiatives should therefore be encouraged, but never be regarded as a substitute for effective governmental control.

Conclusions of particular relevance to capacity building activities of international organizations and other actors include, inter alia, the following:

- international organizations should enhance their activities to widely disseminate relevant information and documents on all aspects of developing and implementing chemicals legislation to developing countries and countries with economies in transition;
- capacity building activities conducted under various chemicals management related conventions should have a component which strengthens the overall legal infrastructure for all dangerous chemicals;
- through co-operation of international organizations and other parties of interest, the following resource documents should be developed:
  1. a “check list” and/or questionnaire to assist countries in diagnosing and assessing their national legislative and policy infrastructure, for industrial/consumer chemicals and pesticides respectively, in a systematic way;
  2. a guidance manual which analyses various international agreements which have a chemicals component to assist countries in identifying national implementation issues which cut across various international agreements, e.g. import/export control;
  3. additional modules in the document series *Chemicals Management Instruments: A Series of Resource Documents for Countries Making Choices* focussing on topics such as MSDSs, classification and labelling, and licensing/permitting; and
  4. a correspondence instruction training manual on chemicals legislation to reach out to the broadest possible target audience.

In summary, participants concluded that the workshop provided a unique opportunity to reflect on experiences and to discuss key issues in the area of legislation and policies for the sound management of chemicals. UNITAR was encouraged to widely distribute the report of the workshop in both paper and electronic formats, and to report on the workshop to the IFCS at the next opportunity.

## 1. Introduction

This report aim to provide pragmatic ideas countries may want to consider in taking action to fit their national needs.

The thematic workshop on *Developing & Strengthening National Legislation and Policies for the Sound Management of Chemicals* was the third in a Series of Thematic Workshops on Priority Topics of National Chemicals Management Capacity Building. It was organized by UNITAR in co-operation with the Intergovernmental Forum on Chemical Safety (IFCS) as well as several international organizations, including FAO, ILO, OECD, UNEP, UNIDO, WHO, and the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons (OPCW). The workshop brought together some 100 representatives from developing countries, countries with economies in transitions, small island developing states, countries with advanced chemicals legislation, international organizations, and non-governmental organizations, including industry, public interest groups, and labour unions.

The conclusions contained in this report aim to provide pragmatic ideas which countries may want to consider in taking action to fit their national needs. The workshop conclusions are also expected to shape further discussions among IOMC Participating Organizations, as well as others interested in providing assistance, to respond to the recommendation issued by Forum II and ISG3 for enhanced capacity building in this area.

### 1.1 Background

Legislation in many countries so fragmented and complex that it is difficult to implement and enforce.

Chemicals legislation can in many ways be considered an essential basis and tool for government action in order to safeguard the population and the environment from risks posed by chemicals. Legislation enables a government body to take, within the legislative limits, certain actions, e.g. to prevent and/or control risks posed by dangerous chemicals and enforce its chemical regime. Legislation also provides a predictable normative framework within which government, producers, traders, and users of chemicals can operate. This is evidenced in the fact that industry is often favourable to appropriate, scientifically sound regulation, particularly when it serves to level the playing field and when it increases the predictability of the context in which companies operate.

Developing/strengthening national legislation and policies for the sound management of chemicals has been identified as one of the top five priorities in 91% of the countries which have prepared a National Profile and agreed on national priorities for chemicals management

capacity building<sup>1</sup>. With regard to pesticides, most developing countries and countries with economies in transition already have regulatory frameworks in place, although significant problems are being faced related to implementation and enforcement. For industrial and consumer product chemicals, legislation in many countries is either lacking or so fragmented and complex that it is difficult to implement and enforce.

Reflecting the importance countries place on chemicals management legislation, the topic also received considerable attention from the Intergovernmental Forum on Chemical Safety (IFCS) during its discussions of Programme Area E of Chapter 19 of Agenda 21 which addresses strengthening national capacities and capabilities for the sound management of chemicals. In 1994, Forum I agreed that “Comprehensive guidelines for chemicals legislation and enforcement should be elaborated as soon as possible, taking into account, inter alia, the principles of the 1990 ILO Chemicals Convention (No.170)”. Forum II, which took place in Ottawa (February 1997), reiterated this priority for action by issuing a recommendation which invited "IOMC Participating Organizations, in concert with the Forum, to prepare guidelines on effective national legislation for chemicals management".

Over the past years, international organizations, as well as countries, through bi-lateral projects, have organized and implemented technical assistance activities to assist countries in developing and strengthening their chemicals/pesticides legislation. In addition, a wealth of documents related to chemicals legislation has been prepared by, and is available through, various international organizations and national governments.<sup>2</sup> Recently, chemical industry associations, such as CEFIC and CMA, have also launched outreach activities, such as the organization of international workshops and preparation of guidance materials related to legislation for industrial chemicals.

Despite the progress made by some countries and the significant efforts made by the international community, participants in the third meeting of the Intersessional Group (ISG3) of the IFCS, when meeting in Yokohama in December 1998, agreed that “chemicals management legislation, policy and enforcement were a high priority for capacity building” and requested IOMC Participating Organizations “to develop practical guidance that would assist countries in developing such legislation and policies, including means for enforcement and

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<sup>1</sup> The report of the IFCS/UNITAR Survey on National Profiles (IFCS/ISG3/98.14B) is available on the Internet at [www.ifcs.ch](http://www.ifcs.ch).

<sup>2</sup> See Annex I of IFCS/ISG3/98.09, available on the Internet at [www.ifcs.ch](http://www.ifcs.ch).



identification of training needs”.

## 1.2 Workshop Objectives

The workshop on *Developing & Strengthening National Legislation and Policies for the Sound Management of Chemicals* served the objectives to:

1. identify and systematically document the problems countries are facing in developing, implementing, and enforcing chemicals legislation and policies;
2. identify strategies, steps and/or “best practices” countries may want to consider when endeavouring to strengthen their national chemicals legislation, including regulatory and administrative aspects, with an emphasis on practical, flexible solutions;
3. promote the development of national chemical safety legislation/regulations which implement, are consistent with, and/or are complementary to, recognized international agreements and technical standards;
4. identify the needs of countries for external assistance and/or for additional guidance material;
5. determine practical ways in which international organizations and others interested in providing external support could best assist countries in their efforts; and
6. catalyse further action at all levels.

## 1.3 Introductory Presentations

**Compliance with laws and regulatory instruments, and not merely their enactment, ought to be the policy objective.**

*Roy Hickman*, President, IFCS, welcomed participants and noted the importance of chemicals in the modern world. He also noted that benefits attributed to chemicals have, at times, been gained at the cost of workers’ health and the environment. Mr. Hickman suggested that a primary role of government is to promote the social well-being of its people, and develop policies aimed at protecting public interest in health, safety, and environmental quality. He suggested that laws, codes, and formal and informal orders and rules are tools - which may collectively be regarded as “regulation” - that have proven useful in helping governments in pursuit of these policy goals. He stressed that it is important to realize, however, that regulation is but one approach to

attain the overall objective of chemical safety. Other risk management tools include information, education, and voluntary agreement on best practices and product standards. “Regulation is justified when the risk is substantial and cannot be reasonably controlled in other ways”, stated Mr. Hickman. “Experience gained in many countries shows that enactment of wise laws can achieve remarkable improvements in workers’ health and environmental quality”. He observed, however, that laws and regulatory standards that are not well crafted (e.g. failing to take into account the prevailing local and regional circumstances) could stifle the pace of innovation, affect competitiveness, and have adverse economic consequences.

Addressing the features of good regulation, Mr. Hickman stressed the importance of stakeholder consultation and transparency in the regulatory process. He noted that compliance with laws and regulatory instruments, and not merely their enactment, ought to be the policy objective. While penalties and other enforcement tools are essential to prevent flagrant disregard of the law, to resort to enforcement to obtain compliance indicates a failure to change undesirable practice through information, education, and suasion. Gathering evidence, its analysis, and argumentation in Courts of Law, Mr. Hickman suggested, is expensive and time consuming; it does not directly improve a situation until the legal process has run its course.

Challenging the participants to share “best practices”, including voluntary approaches to risk management, Mr. Hickman also encouraged participants to exchange views about obtaining political commitment and the resources that will be needed to implement the conclusions of the workshop.

*Mr. Marcel Boisard*, Executive Director, UNITAR, welcomed participants on behalf of UNITAR and highlighted the importance of the collaborative nature of the workshop in exploring innovative concepts on strengthening national capabilities for developing and strengthening national legislation and policies for the sound management of chemicals. He expressed his gratitude to representatives from countries, governmental institutions, and non-governmental organizations for their participation and support for the workshop. He made particular reference to UNITAR’s international partners which provided support and co-organized the workshop, namely IFCS, OPCW, ILO, FAO, WHO, UNIDO, UNEP, and OECD. Mr. Boisard also gave special recognition to the Swiss Government, in particular the Swiss Development Cooperation, for its financial support of the workshop.

*Mr. Achim Halpaap*, Senior Programme Co-ordinator, UNITAR,

**Results of workshop will be distributed with the goal to assist countries to strengthen national legislation and policies.**

presented an overview of international milestones and the historical evolution of chemical safety legislation and policies, thereby offering a global and historical context for the workshop. He also identified various challenges which are commonly faced in developing a national legal infrastructure for the sound management of chemicals. Mr. Halpaap discussed encouraging recent developments and emerging trends in this area and stressed relevant recommendations made by IFCS. He then offered guidance on the general framework of the workshop, emphasizing the objectives of the workshop - such as facilitating the exchange of experiences and catalyzing further action - and ways in which these objectives might be addressed. He concluded that the results of the workshop would be distributed through the IFCS mechanism with the goal to assist countries in their efforts to develop and strengthen national legislation and policies for the sound management of chemicals.

Following the opening and introductory presentation, Sessions I - IV featured a series of panel presentations and discussions which provided an opportunity for participants to better understand the situations and challenges in developing countries, countries with economies in transition, and small island developing states<sup>3</sup>, and to hear a range of views from the perspective of non-governmental organizations, international organizations, and countries with advanced chemicals management schemes<sup>4</sup> (see also Annex 1 for the Workshop Agenda).

During Session 1, entitled *Understanding Situations and Challenges in Developing Countries and Countries with Economies in Transition*, representatives from The Gambia, Cameroon, Pakistan, Thailand, Indonesia, Micronesia, Bulgaria, Slovenia, and Mexico gave brief presentations which highlighted the current situation in their countries. Emphasis was placed on examples of successful approaches, practical problems faced, and issues which are particularly challenging.

During Session 2, which was entitled *The Perspective of Countries with Advanced Chemicals Management Schemes*, representatives of Germany, Canada, the United States of America, and Switzerland made short presentations through which they shared the experience gained over the past years with certain legislative approaches and policies. Emphasis was placed on approaches which have worked well and/or which have been difficult to implement. Lessons learned which may

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<sup>3</sup> In the context of this publication and unless otherwise stated, the term “developing country” includes small island developing states.

<sup>4</sup> Copies of all presentations can be obtained from UNITAR upon request.

**Lessons Learned from Countries  
With Advanced Chemicals Management Schemes**

The presentations and contributions by countries with advanced chemicals management schemes highlighted several important lessons which were learned in the course of developing and implementing chemicals legislation. Some key issues, which may be of relevance for developing countries and countries with economies in transition include the following:

- Development of national inventories and notification schemes for new chemicals have been resource intensive undertakings and are not necessarily recommended to countries that have limited resources and that are in the early stages of developing their legal/regulatory schemes.
- Significant technical work has been undertaken in particular in the area of testing, hazard identification, classification, and labelling, etc. which may be of direct relevance to developing countries and countries with economies in transition. Countries with testing programmes are encouraged to collaborate with OECD with regard to mutual acceptance of data.
- Chemical-by-chemical risk assessment is expensive and time-consuming. If a country wants to conduct comprehensive risk assessments of chemicals for regulatory purposes, a significant technical and human resource infrastructure must be in place.
- New risk reduction/management efforts are initiated in some countries which are based on risk/hazard evaluations rather than comprehensive risk assessments.
- Disclosure laws, hazard and chemical safety communication and Right-to-Know policies, with appropriate attention to the issue of confidential business information and the legitimate need to adequately protect proprietary data, are important tools to inform users of chemicals and the public about the hazards and potential risks associated with chemicals.
- Voluntary initiatives can, under certain conditions, be an effective complement to regulatory/command-and-control schemes.

be of particular relevance to developing countries and countries with economies in transition were also highlighted.

During Session 3, entitled *The Perspective of International Organizations*, representatives of UNEP, FAO, WHO/IPCS, UNIDO, OECD, OPCW, and UNITAR provided brief overviews, from the perspective of their respective organizations, on how various agreements and programmes developed at the international level may shape, or contribute to, the development and implementation of national legislation and policies for the sound management of chemicals.

During Session 4, *The Perspective of Non-Governmental Organizations*, representatives from ICCA, GCPF, the Pesticides Trust, and IUF provided their perspectives as key parties outside the government sector involved in activities related to the sound management of chemicals.

## 1.4 Thematic Discussions and Working Groups

During the second part of the workshop, important themes and challenges which emerged during the presentations were further addressed through working groups. These group sessions enabled participants to share experiences in depth, and to examine the advantages and limitations of different legislative approaches and administrative techniques for the sound management of chemicals.

**Group sessions enabled participants to share experiences.**

A first series of working groups addressed issues in relation to implementation and enforcement of national legislation and policies as well as cross-sectoral issues related to all chemicals. Specific topics included the identification of opportunities and drawbacks of developing framework legislation for chemicals, integrated implementation of international agreements, and voluntary industry initiatives. Building upon these discussions, a second series of working groups featured country case study simulation exercises based on fictitious country scenarios, for an agriculture-based developing country, a transition country with a formerly centralized economy, an industrializing country, and a small island developing state. On the basis of the working group discussions and conclusions, a third series of working groups identified opportunities for strengthening external assistance in support of national initiatives.

## 1.5 Content of Final Report

**Practical suggestions and guiding principles summarized in Chapter 5.**

The plenary presentations as well as the outcomes of the working groups provide the basis for, and are reflected throughout, the remaining sections of this report. Chapter 2 provides an overview of the existing situation with regard to chemicals legislation in developing countries and countries with economies in transition. Chapter 3 identifies main challenges and bottlenecks with regard to chemicals legislation as put forward by participants. A summary of discussions on key topics which were debated in more depth is provided in Chapter 4 and addresses the topics of developing a simple legal/regulatory scheme for industrial and consumer chemicals; sectoral and/or framework legislation; legislative issues related to risk reduction/management; voluntary industry initiatives; and international and regional dimensions of national chemicals management legislation. Practical suggestions and guiding principles for countries for strengthening their chemicals legislation are summarized in Chapter 5. Finally, Chapter 6 provides recommendations to enhance training and capacity building in this area.

## 2. Summary of the Existing Situation in Developing Countries and Countries with Economies in Transition

Presentations and discussions during the workshop highlighted a number of typical characteristics of the chemicals management legislation in developing countries and countries with economies in transition. While it is recognized that countries share these features to varying degrees and that generalizations may be misleading, the following provides an indicative description of the existing situation with regard to chemicals legislation as identified by participants.

### 2.1 Types of Laws and Regulations Used in Managing Chemicals

Legal chemicals management framework typically determined by a combination of different types of laws.

Legal requirements which influence the management of chemicals can be found in a variety of legislation and typically the legal chemicals management framework of a country is determined by a combination of different types of laws. These include general environmental legislation; legislation addressing specific sectors such as agriculture and transport; legal instruments addressing different stages in the life cycle of chemicals, specific protection objectives and/or target groups; and legal instruments addressing different categories of substances.

Through chemicals-related provisions embedded in specific aspects of sectoral laws (e.g. laws on transport, agriculture, health, non-proliferation), various government ministries typically hold responsibilities for chemicals management. Sectoral laws also give the relevant ministries/agencies the mandates and budgets to establish capacities which are of relevance to chemicals management, such as inspectorates, libraries and data-bases, laboratory facilities, scientific expertise, training and extension services, etc. Such responsibilities often represent only a small fraction of their overall mandates.

### 2.2 Existing Legal Frameworks for Chemicals

#### *Pesticides*

The FAO Code of Conduct on the Distribution and Use of Pesticides, which was adopted in 1985 and amended in 1989, provides an overall umbrella under which many developing countries and countries in economic transition have introduced registration schemes for pesticides as well as other regulatory control instruments, such as licensing and permitting schemes, professional certification programmes, import control legislation, etc. In addition, the recently adopted Rotterdam

### **The Perspective of International Organizations**

Several international organizations provided an overview of their activities and experiences which may be of direct or indirect relevance for countries which are in the process of strengthening their chemicals management legislation. The following were some main issues put forward:

- |          |   |
|----------|---|
| WHO/IPCS | highlighted the potential value of several of its guidelines for the setting of health related standards, e.g. for water and air quality.   |
| UNEP     | reported on its significant programmes to support countries in developing their general environmental legislation.  |
| ILO      | introduced several ILO Conventions, Codes of Practice and ILO Standards which address issues such as MSDS, classification and labelling systems, etc.   |
| FAO      | highlighted the importance of the FAO Code of Conduct which has for many countries provided a key reference for setting up legislation and regulation for the safe use of pesticides.   |
| UNIDO    | referred to the importance of focussing on the implementation of existing legislation with emphasis on small and medium-size enterprises.   |
| OECD     | introduced its project on mutual acceptance of data and welcomed participation of additional developing countries and countries with economies in transition in this initiative.  |
| UNITAR   | drew attention to the importance of effective co-ordination of legislative initiatives among key ministries concerned and linking relevant efforts to ongoing multi-stakeholder processes such as the preparation of National Profiles.                   |
| OPCW     | noted the close linkage of implementing obligations under the Chemicals Weapons Convention and the general infrastructure for the management of chemicals such as import and export control mechanisms, licensing, data reporting, laboratory capacities. |



Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade can be considered a strong catalysing factor to strengthen regulation of pesticides in countries.

Many countries have achieved significant progress in strengthening their pesticides-related legislative provisions.

A large number of developing countries and countries with economies in transition have achieved significant progress in strengthening their pesticides-related legislative provisions and capabilities and in formulating innovative approaches adapted to country-specific situations. Many other countries, however, do not yet have any regulatory schemes for pesticides in place. There are also examples where countries have attempted to adopt the elaborate pesticide control schemes of developed countries. More recently, new developments have shaped policies for the sound management of pesticides, such as the initiation of Product Stewardship and Responsible Care Programmes by the agro-chemicals industry and the growing interest and commitment of countries to introduce Integrated Pest Management (IPM) schemes.

### *Other Chemicals*

Legislation addressing industrial and consumer product chemicals is sometimes absent.

While a range of instruments and control approaches are now in place in many countries for industrial and consumer chemical products (ranging from Material Safety Data Sheets to restrictions on the production, marketing, and use of substances for which the risks to human health and/or the environment are considered unacceptable), some countries reported the absence of any legislation addressing industrial and consumer product chemicals, apart from some limited control of individual chemicals or control elements which address certain stages of the chemical life cycle, e.g transport. Other countries, in turn, reported the existence of up to 50 different pieces of legislation, regulations, etc. addressing certain aspects of chemicals management. While most countries treat pesticides separately from industrial and consumer product chemicals in their regulatory schemes, one country cited the recent adoption of a law which covers both pesticides and other hazardous chemicals.

For countries with economies in transition in particular, many laws and regulations are in place but require modernization, such as the streamlining of administrative procedures as well as harmonization with other countries, especially major trading partners.

Some of the instruments and issues of relevance to industrial and consumer product chemicals are addressed through international

agreements and conventions, such as ILO Convention 170 which is concerned with chemical safety at the workplace and the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Chemicals and Pesticides in International Trade. In addition, industry has initiated voluntary schemes, such as Responsible Care, which are considered complementary to national legal and regulatory measures in many countries.

### **2.3 Implementation of International Agreements**

Many countries indicate their obligations under international agreements often not effectively implemented.

A number of countries have made progress towards implementation of international agreements dealing with chemicals, such as the Chemical Weapons Convention, the Montreal Protocol, ILO Convention 170, and the voluntary Prior Informed Consent (PIC) procedure under the London Guidelines and FAO Code of Conduct. Also, many countries have signed, and are in the process of ratifying, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Chemicals and Pesticides in International Trade. While these international agreements have provided a normative framework for chemicals legislation in countries and triggered action on the part of governments, many countries indicate that their obligations under such agreements are often not effectively implemented.

### 3. Challenges and Bottlenecks Identified by Countries

Following are some of the most commonly cited challenges and bottlenecks related to the further development and effective implementation of chemicals legislation and policies in developing countries, small island developing states, and in countries with economies in transition.

#### 3.1 Fragmentation of Existing Legislation, Overlaps and Inconsistencies

Relevant legislative requirements typically dispersed under numerous sectoral laws.

Many countries reported that, rather than having a cohesive legal and regulatory framework for chemicals, the relevant legislative requirements are typically dispersed under numerous sectoral laws (e.g. transport, agriculture, health, environment, non-proliferation). This can make it difficult for regulated parties to understand, and comply with, the various legal requirements and can lead to duplication of effort and inefficient use of resources on the part of government. For example, one participant cited a case (subsequently resolved) in which three regulations under different ministries were in existence which included requirements for Material Safety Data Sheets (MSDSs), each with its own format. Lack of clear definition of terminology and/or different interpretation of legal terminology was also cited as a problem, leading to inconsistencies in how the various ministries interpret, implement, and enforce the laws.

#### 3.2 Gaps in the Existing Legal Infrastructure

Many countries lack a functioning classification system for hazardous chemicals.

A significant number of developing countries still report substantial gaps in the legal framework. Many countries report the absence or insufficiency of legislation covering the life cycle stages that follow importation and production. Inadvertent gaps in this type of “patchwork” legal scheme can also mean that certain stages of the life cycle, certain user groups and/or certain categories of chemicals are not adequately addressed. For example, the protection of workers in the agricultural sector through occupational health and safety legislation was cited as one area which is not adequately covered in many countries. In particular, a serious need remains for legislation to reduce the risks resulting from handling and use of hazardous chemicals, both by professional users (in industry and/or agriculture) and consumers. Additionally, a number of countries do not have legal provisions concerning treatment and disposal of obsolete chemicals and pesticides, and chemical wastes. Finally, legislation governing the control of accidents and accidental releases is considered insufficient in many countries.

Many countries lack a functioning classification system for hazardous chemicals. This may adversely affect the effectiveness of other legal provisions. For example, a number of countries have adopted restrictive conditions (e.g. a prohibition on sale to non-industrial users) that apply to “hazardous substances” generally. For these provisions to become enforceable, however, regulatory authorities require the use of a classification system, or an alternative form of chemicals listing, that indicates which substances qualify as hazardous. Closely related to this, many countries also report that packaging and labelling requirements still need to be further developed.

### **3.3 Lack of Effective Co-ordination, Unclear Division of Responsibility and Conflicting Mandates**

Lack of co-ordination and information exchange among various ministries prevents effective implementation of relevant sectoral legislation.

Often, a lack of co-ordination and information exchange among various ministries concerned with chemicals management prevents the effective implementation of relevant sectoral legislation. Conflicts of interest among ministries may also exist due to their differing mandates and policy objectives. For example, the Ministry of Agriculture, responsible for registering pesticides, may have as its highest priority the promotion of agricultural productivity, while the Ministries of Health and Environment, respectively, are seeking to protect human health and the environment as their central goal. In some cases, more than one ministry may consider that it holds the primary responsibility and mandate for chemicals management, leading to tensions and lack of collaboration between them. In addition, in some countries with a federal structure, the division of responsibility between the federal and state levels is not effectively resolved.

Several countries have established, or are in the process of establishing, national co-ordinating committees for the sound management of chemicals in order to overcome some of the above difficulties. However, in some cases, such committees lack clear mandates, may exclude ministries that should have been included, or may lack clearly defined functions. Other countries reported that a multitude of specialized committees already exists, thereby imposing a burden on individuals who are serving on more than one committee.

### **3.4 Insufficient Resources/Capacities and Lack of an Enabling Environment**

Human resources and expertise, as well as technical and laboratory facilities, are essential to ensure the creation, implementation, and enforcement of scientifically sound legislation and are currently not

Awareness raising, education, and training considered essential to implementation of legal or regulatory scheme.

sufficient in many countries, in particular developing countries. For example, expertise of relevance to the development of laws and regulations, e.g. in the form of legal draftsmen and technical experts, is often lacking. Similarly, existing laboratories may not be in a position to conduct analysis which is required to monitor regulatory compliance. Lack of expertise and capacities also affect the ability of the regulated community to comply with legal requirements. Participants noted that human resource capacities to address chemical safety issues may be lacking in some companies, especially smaller companies.

While these obstacles and difficulties are generally well-known, budgetary constraints limit the ability of government agencies (as well as, to some extent, private companies) to tackle these challenges effectively. Countries report an insufficiency, or even complete absence, of resources allocated for implementation. Within government, many countries therefore depend on external funding for developing/maintaining the technical infrastructure, e.g. laboratories.

A large number of developing countries and countries with economies in transition report that they lack legal arrangements of a more supporting, or facilitating, nature. For instance, very few developing countries have requirements imposing chemical testing and/or risk assessments, or submission of test results and assessments, prior to importation or marketing. The absence of this kind of facilitating, knowledge-producing legislation is one of the reasons for the unavailability or insufficiency of chemical hazard, chemical safety, and risk information with which many developing countries contend. This reported insufficiency of data may in turn limit the opportunities for a country to develop additional legal instruments to manage or control chemicals. However, in developing regulations which facilitate the submission of data/information, countries should be pragmatic and, to some extent, limit the information to be submitted to enable sufficient focus on their highest priority issues first.

More generally speaking, lack of awareness and concern throughout the society on issues of chemicals management and safety was identified as a factor which inhibits effective implementation. In particular the lack of awareness among decision-makers, combined with a 'perceived' complexity of legislation for industrial and consumer chemicals, can pose an obstacle to developing and enforcing legislation. Participants stressed that awareness raising, education, and training are considered essential to the successful implementation of any legal or regulatory scheme, and that the existence and content of the law will be irrelevant if it is not understood and implemented at the grassroots level (e.g. in facilities, by end users, local judges). Another factor in many countries

is the weakness of tort and liability law, which can pose a barrier to compliance and enforcement. Other bottlenecks include cultural issues, illiteracy, and the existence of many local languages.

## 4. Summary of Key Discussion Topics

A number of specific topics emerged to be of particular interest to participants in the context of workshop discussions. Main themes which were addressed in more detail through working groups, included:

- practical ways to develop a simple legal/regulatory scheme for industrial and consumer chemicals;
- pros and cons of addressing chemicals through sectoral and/or framework chemicals legislation;
- legislative issues related to risk assessment and management;
- voluntary industry initiatives; and
- international and regional dimensions of legislating chemicals.

### 4.1 Developing a Legal/Regulatory Scheme for Industrial and Consumer Chemicals

An MSDS scheme and a hazard-based classification and labelling system potentially useful and cost-effective.

The meeting developed a number of recommendations and suggestions for countries with very limited resources and are in the early stages of developing their legal and regulatory schemes for industrial and consumer chemicals. For countries which have no legislation on industrial and consumer chemicals in place, the focus on hazard and chemical safety communication through the development of an MSDS scheme (i.e. requiring an MSDS for chemicals entering the country) and a hazard-based classification and related labelling system were highlighted as potentially useful and cost-effective starting points. These instruments require relatively few resources and are consistent with a pragmatic and step-wise approach. Use should be made of internationally accepted standards and schemes as far as these are available and applicable. Particular reference was made to ongoing discussions to develop a Globally Harmonized System for the Classification and Labelling of Chemicals (GHS).

Other control elements which should be considered by countries when developing legislation for industrial and consumer product chemicals include the following (in no particular order):

- enacting provisions to allow risk reduction/management measures, including, if appropriate, marketing and use restrictions, for priority chemicals (e.g. chemicals included in international agreements and those identified as priority chemicals at the national level);

- import/export control legislation;
- licensing and permitting schemes; and
- development of a register of products on the market based on MSDSs collected by government.
- Only if these basic building blocks are in place and enforced, countries may want to consider further approaches such as inventories of existing chemicals and notification schemes for new chemicals.

## 4.2 Addressing Chemicals Through Sectoral and/or Framework Chemicals Legislation

Each country needs to consider pros and cons prior to initiating action.

In order to overcome existing problems of fragmentation and scattering of chemical control instruments in a plethora of different legal documents (e.g. laws, acts, decrees, regulations, notifications) and to achieve better coverage of the entire life cycle of chemicals, many countries are contemplating or carrying out legal reform. The possible establishment of an overarching, “framework type” legislation for chemicals, possibly within an omnibus law on environmental protection, has been put forward by some countries as a means for addressing chemicals management legislation in a more effective manner.

Such a framework-type legislation could target various categories of chemicals (e.g. pesticides, pharmaceuticals, industrial chemicals) and could lay down provisions covering the entire life cycle of chemical substances, from conception to disposal (the “cradle-to-grave” approach). Another approach mentioned was the development of a very simple “framework” chemicals law which would establish general principles and mechanisms of co-operation and leave the development of more specific and/or implementing regulations to the various ministries and sectoral legislation.

While the idea of a framework chemicals law is conceptually appealing, each country would need to consider pros and cons prior to initiating action on a framework law on chemicals. The following section highlights some of the main points made during the discussions.



### ***Potential Benefits of Addressing Chemicals Through a Framework Law***

Potential benefits which could result from the establishment of a framework law on chemicals include, for example, the following:

- A framework chemicals law would ensure coherence with regards to chemicals issues dealt with under various sectoral/specialized legislation, and thereby provide a simpler and more comprehensive regulatory coverage of chemicals which would facilitate its implementation and enforcement;
- Obligations under various international agreements dealing with chemicals could be more easily integrated in the national legislative context and implemented in a more co-ordinated way;
- A comprehensive treatment of chemicals in a framework chemicals law would allow the integration of environmental and occupational health issues from a life cycle perspective, thereby addressing all stages of the chemical life-cycle; and
- A framework chemicals law could lay down and formalize co-operation on chemicals management issues among concerned ministries as well as principles for the involvement of other non-governmental groups, such as industry, NGOs, academia, etc.

### ***Potential Drawbacks of Addressing Chemicals Through a Framework Law***

A framework chemicals law would ensure coherence.

Potential concerns and drawbacks highlighted by participants which would need to be considered by countries prior to developing a framework law on chemicals include the following:

- A framework chemicals law may lead to potential concentration of power for a certain ministry which may be undesirable in some contexts;
- Resistance may be encountered from those who have benefited from the status quo, in particular those who may stand to lose certain privileges (e.g. the ability to collect fees);
- It may be time consuming to develop a comprehensive chemicals law, in particular if the intention is to cover (i.e. to “take over”) all aspects of chemicals management;

- Due to different use pattern and regulatory needs, a framework law may not be an appropriate tool for addressing all categories of chemical substances (e.g. pharmaceuticals); and
- Due to lack of precedent and experiences in other countries, framework law may prove difficult to develop and/or justify and thereby derail or detract attention and resources away from other more important efforts.

National chemicals management policy could serve as a blueprint for addressing chemicals management.

Given the potential challenges in addressing chemicals through a framework chemicals law, participants highlighted that, alternatively, an integrated or consolidated national chemicals management policy could be developed which would serve as a blueprint for all players and actors in addressing chemicals management. This would be useful regardless of whether or not a framework chemicals law is adopted and also regardless of the scope of the framework chemicals law. Follow-up action could include the identification of amendments needed to bring existing legislation into line with the comprehensive policy.

Participants also noted that “integration” could take various forms and could also be seen as a continuous or incremental process. Speed and intensity would depend upon the national programme and resources, achieved with a step-by-step approach building upon and improving with experience.

### 4.3 Legislative Issues Related to Risk Assessment and Risk Management

Process for making national risk management decisions for priority chemicals should be formalized by law.

During the course of the workshop, legislative aspects of risk assessment and risk reduction/management emerged as a theme of interest. Issues and conclusions reached include the following:

- The process for making national risk management decisions for priority chemicals should be formalized by law in order to enhance transparency for all stakeholders;
- A comprehensive risk assessment based on detailed hazard evaluation and exposure assessment procedures has been the accepted procedure for countries with a well developed regulatory system (e.g. OECD Member States). In certain cases, however, risk reduction/management efforts are being initiated in some countries based on risk/hazard evaluations rather than comprehensive risk assessments (see also Text Box on Lessons Learned from Countries with Advanced Chemical Management Schemes);

- Risk assessment is usually a complex and time consuming process and therefore difficult to be carried out by developing countries and countries with economies in transition with serious limitations in regulatory infrastructure and human and financial resources. For these countries, regulatory or risk management action for chemicals with simpler data requirements and/or virtually no exposure data, may be based on hazard evaluation. For chemicals with exposure data and/or legal requirements for a full set of data for registration, an appropriate risk evaluation approach should be adopted;
- In developing and implementing their regulation, countries which have limited resources should consider formally accepting or taking into consideration hazard information (e.g. testing data) and as appropriate risk assessments generated in other countries. Efforts should focus on complementing this information with data and risk characteristics which specifically address the conditions of use in the country. The legal/regulatory scheme should allow for acceptance of validated data generated in other countries and internationally as appropriate;
- Replacing substance-by-substance approaches with a criteria-based approach which would address groups or categories of substances which meet certain criteria (e.g. carcinogenicity, mercury compounds) may be practical and effective in certain cases. Such approaches, however, require careful evaluation and may only be applied in cases where risk reduction/management measures are required; and
- It is recognized that a government's decision to restrict or otherwise regulate a chemical will take into account other factors apart from scientific considerations, such as economic and social factors.

#### 4.4 Voluntary Industry Initiatives

Voluntary industry initiatives a complement to, and not a replacement for, regulation and government action.

While voluntary action on the part of industry was recognized as a potentially important contribution to national efforts to manage chemicals safely, particularly in countries where government resources are limited, participants stressed that voluntary industry initiatives should be seen as a complement to, and not a replacement for, regulation and government action. It was noted that voluntary industry action can lead to a situation in which government steps back and, in effect, abandons its role in ensuring sound chemicals management. This is a situation to be avoided. A legal framework is considered important as a basis for voluntary initiatives. However, in the case where a legal/regulatory scheme is still being developed, it is not necessary to

wait for its full development before voluntary action can be taken.

### ***Driving Forces and Conditions for Success***

Voluntary agreements work best under certain regulatory or market conditions.

Market reforms and privatization can be a driver for voluntary industry action, as industries anticipate increased competition and thus wish to reduce input costs, improve their public profile, etc. Other driving forces for industry initiatives in developed as well as developing countries can include the threat of regulation as well as the desire of industry to enhance its credibility, increase efficiency and profit, and to stand out as a leader in the field. One driving force which may not be so relevant for developing countries without well-developed liability laws and related legal provisions is the desire of industry to reduce liability.

It was noted that voluntary agreements work best under certain regulatory or market conditions. Reportedly, voluntary initiatives are often effective when participating industry is well organized and cohesive and when it is unlikely that competitor products from non-participating companies will be introduced to the detriment of the former onto the market.

### ***Opportunities for Industry to Contribute to Sound Chemicals Management***

Industry should be encouraged to apply self-supervision.

Industry, in the context of product stewardship and other commitments, is playing an increasing role in providing training related to the sound management of chemicals/pesticides. In order to avoid duplication of effort and to ensure suitable content and coverage of such programs (e.g. vis-a-vis government training requirements for certification and licensing), it was noted that joint training activities and/or a clear division of responsibility should be pursued.

To the fullest extent possible, industry should be encouraged to apply self-supervision, in particular in the area of hazard and chemical safety communication. In this context, it was highlighted that multi-national corporations with activities in developing countries and countries in transition can foster voluntary industry action in such countries by playing a mentoring role to smaller industries operating in the country.

## 4.5 International and Regional Dimensions of Legislating Chemicals

Discussions during the workshop highlighted that due consideration of pertinent developments outside the country should also be taken. Two issues which were considered of particular importance relate to the implementation of international agreements to which a country is or may become a party and issues in relation to regional harmonization and/or economic integration.

### *Integrated and Co-ordinated Implementation of International Agreements*

Growing number of international agreements requires integrated and co-ordinated approaches at the national level.

International agreements and conventions have affected and will continue to affect national legislation, regulations, and policies for the sound management of chemicals. These various instruments have been/are being negotiated under the auspices of several international organizations, such as UNEP, FAO, and ILO and, following the ratification at the national level, are often implemented through national counterpart ministries of the respective international organizations. However, the growing number of international agreements dealing with chemicals requires integrated and co-ordinated approaches at the national level.

While each of these agreements has its precise objectives and purpose, some of the regulatory and policy instruments required to implement the obligations under various agreements at the national level are often similar, if not the same. Examples of such instruments include: classification and labelling requirements; regulatory provisions for production, marketing, and use restriction; inspections (compliance); import/export control requirements; emission inventories; trade statistics and record keeping; enforcement (sanctions); etc. In some cases, integrated and co-ordinated implementation of such instruments at the national level could potentially minimize costs for government as well as for the regulated community.

Countries should therefore develop a mechanism to explore opportunities for developing such linkages between the instruments created under various international agreements. Recognizing that traditional linkages between UN agencies/convention secretariats and their counterpart ministries can make it difficult for one ministry/agency to serve as the co-ordinator for implementation of international agreements, a commission or task force under the head of the government, or under an existing national co-ordinating committee,

A commission or task force should be set up to oversee co-ordinated implementation

should be set up to oversee co-ordinated implementation of international agreements by various concerned ministries. It was also noted that international convention secretariats could foster such efforts by assisting countries in thinking through how implementation of conventions at the country level could be done in a more integrated way.

***Opportunities for Co-operation/Harmonization at the Regional and International Levels***

Careful review of international standards a valuable starting point.

In light of increasing international trade and the growing relevance of chemicals-related standards and norms for the trade in goods, there is a need to take due account of international/regional regulations and norms when developing national chemicals legislation. Harmonizing regulations (e.g. on classification and labelling, the transport of hazardous materials) and norms (e.g. on maximum residue limits of agricultural products) with major trading partners is one important area where an effective national chemicals legislation will need to take account of developments outside the national borders. A careful review of international standards (e.g. for MSDS) as well relevant norms and regulations of major trading partners is considered a valuable starting point in this regard.

Similarly, there may be opportunities to harmonize national legislation and/or regulations (e.g. for the registration of pesticides, the accreditation of quality control laboratories) with neighbouring countries, in order to facilitate trade but also to make more efficient use of available resources.

In this context, legislation can be seen as an instrument which allows the sharing of scarce resources among countries for activities which would otherwise have to be conducted by all countries individually at much higher costs. Harmonized legislation on controlled substances also means that enforcement will be facilitated in the event of diversions or illicit trade and states will be in a position to co-operate and provide legal assistance.

## 5. Practical Suggestions and Guiding Principles

A number of practical suggestions and guiding principles emerged through the workshop, which may be of practical value for countries which are in the process of developing and/or strengthening their existing legislative framework.

- ***A comprehensive assessment of the existing legislative situation should be a starting point for action***

Conducting an analysis of existing laws and policies, including their implementation, should be a starting point for any effort to revise, strengthen or build upon the national legal/regulatory scheme. Chapter 19 of Agenda 21, international agreements, etc. can be used as useful reference points when analysing the comprehensiveness and content of the national legal framework for chemicals/pesticides. An analysis of the related institutional and administrative structures and activities should also be undertaken. Countries which have already prepared National Profiles should use these as a basis for further analysis.

- ***Clear goals and priorities should be developed and agreed upon by all stakeholders***

As part of the process of initiating action to strengthen the legal framework, clear goals should be defined and priorities should be set in order to ensure that limited resources and time will be spent on the most important aspects. A broad involvement of stakeholders should be ensured in this process to promote the identification of suitable national goals/objectives. In this context, participants noted the importance of having a clear sense of what is actually needed and why, in order to avoid embarking upon unnecessary or misguided efforts. For example, it was noted that prior to embarking on the drafting of new legislation, it may be worthwhile to first look at how the existing legal framework, however imperfect, might be more effectively used and how effectiveness and use of existing regulations could be enhanced.

In some cases, it was noted, a country may view the development of a new law as a means to solve its problems and thus may embark upon such an effort before it has assessed the available policy options and selected some or all of its policy priorities. Trying to enact new legislation before the major policy issues are worked out is problematic and should be avoided. A country might also feel compelled to update legislation simply because it is old. The fact that a law is old does not necessarily mean that government resources should be spent developing

a new one. Whether a law needs to be replaced should be determined by a broad and detailed assessment.

- ***Relevant international developments as well as existing standards/norms should be taken into consideration***

In shaping national chemicals legislation, regional as well as international developments and priorities, should be considered. These may relate to the types of chemicals being considered for regulation in the country as well as to general national obligations under regional trade agreements or international conventions, etc. Consequently, existing regional and international approaches, norms and standards should be consulted and used as an input into the development of the national legal/regulatory scheme, as appropriate. This may include guidelines produced by international organizations, regional or economic groupings, especially those which are major trading partners or which the country seeks to join. Established norms (e.g. on Good Laboratory Practice (GLP)) should be adopted into national legal/regulatory schemes, as appropriate.

- ***Means should be explored to access and learn from relevant experiences in other countries***

Finding out about the experiences and approaches taken by other countries should be an integral step for developing and strengthening legislation. An important aspect of learning from the experiences of other countries is to look at the resource inputs (e.g. time, money) and the anticipated reductions/management in risk. International organizations can also be a valuable source of information, guidance, and expertise with regard to country experiences<sup>5</sup>.

- ***Laws should be kept simple and provide flexibility***

Laws should be kept simple. A simple law, which lays out the general framework and principles and allows for more detailed aspects to be addressed through implementing rules and regulations, is more flexible and adaptable to changing needs and circumstances. This is important, given the often difficult and time-consuming task of amending or

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<sup>5</sup> To document existing experience with regard to specific instruments and to make this information available to interested countries, UNEP Chemicals and UNITAR, in collaboration with other interested partners, have initiated the development of a document series entitled *Chemicals Management Instruments: A Series of Resource Documents for Countries Making Choices* (also referred to informally as the “tool book”). Each module in the series provides practical information on a specific chemicals management policy instrument, including information and perspectives provided by countries which have implemented the instrument in the context of their national programmes.



passing new laws.

Participants, particularly those from countries with advanced chemicals management schemes, noted that certain command-and-control regulatory approaches can be inflexible and thus may not be well suited to sectors characterized by rapid technological development. Other more flexible means may also be needed to deal with chemical safety issues in small and medium-sized industries. A mixture of command-and-control and other means is likely to be needed.

- ***Laws should be geared towards building an information/knowledge base***

Certain chemicals-related information/data is vital for implementing and enforcing many aspects of chemicals legislation (as well as for the sound management of chemicals more generally), e.g. for the development of risk reduction/management measures, problem identification, priority setting, risk assessment, data reporting for international control regimes. National legislation should provide the necessary legal basis for obtaining such data. Legal provisions requiring the automatic reporting to government of new information regarding substantial or significant risks, and/or incidents of poisonings, pollutant releases and transfers, etc., should also be considered. Opportunities to enforce and control compliance with chemicals legislation can be expected to increase once record-keeping and registering practices are established or strengthened.

In addition, effective flow of hazard and chemical safety information on chemicals and chemical products from suppliers to end users is important for reducing risks and should be embedded in national legislation. Particularly when a government is ill equipped to ensure that information reaches the end user (e.g. due to resource constraints), information (e.g. on hazards and safe use) should go directly from producer to the user/consumer.

- ***Laws and policies should be tailored to national capacities and the right issues***

Legislation should be adapted to countries specific circumstances and available resources, in particular their capacities for implementation and enforcement. When considering the types of laws, policies, and instruments/measures to be put into place, countries should carefully assess whether they are of the appropriate scale (e.g. in terms of resource requirements) and whether they address the right issues and needs. In the words of one participant, countries should select the right

tool for the job: “a hammer for a nail, a screwdriver for a screw”.

Countries should also pursue ways to “do more with less” and legislative/regulatory approaches with a low administrative burden should be explored. Particularly when resources are very scarce, focussing national efforts on the development of risk reduction/management measures for identified priority chemicals can be a practical way forward.

- ***Chemicals management laws and policies should promote the principle of pollution prevention***

Laws and policies which are focussed on prevention should be promoted. Once chemicals are on the market, it becomes more difficult to impose new restrictions on their use or to put into place other risk reduction/ management measures. Similarly, prevention of environmental and health impacts is preferable to addressing such problems after they have arisen. With specific reference to pesticides, participants recommended that Integrated Pest Management (IPM) should be incorporated into policy instruments to achieve rationalized use of all appropriate IPM technologies/approaches which may reduce exclusive reliance on chemicals.

- ***Involvement of a broad range of stakeholders should be ensured when strengthening the legislative scheme***

A transparent and participatory process, with the involvement of all stakeholders, should be used in the development/revision of the legal/regulatory scheme. This will enable a more thorough analysis of the existing situation/issues, will foster buy-in and acceptance, and will promote a sense of shared responsibility among government, industry and other sectors of society.

- ***Mechanisms for national inter-ministerial co-ordination should be formalized through legal means***

One of the key issues raised during the workshop was the importance of having an effective means for co-ordination among relevant ministries and agencies. This is particularly important in light of the broad and multi-sectoral nature of chemicals management which can require action and responsibility on the part of a dozen or more ministries and agencies. The workshop recommended that countries should establish, through legal means, a single national committee, which is policy-level and advisory (i.e. non-executing) in nature, to be responsible for co-ordinating all aspects of national chemicals management.

While countries have been taking different approaches as to the mandate and relation of such non-statutory bodies to existing committees, a clear legislative basis and mandate is considered by many countries to be an essential requirement for its proper functioning. Such a national co-ordinating committee for the sound management of chemicals should be “owned” by all participating ministries. It should not take over the task of existing committees working on specialized issues (e.g a pesticides board). However, such specialized committees should be linked to the overall co-ordinating mechanism.

- ***The legal framework should be comprehensive and opportunities for integration should be pursued***

Chemicals legislation should cover all stages of the chemical life cycle including import/export, production/manufacturing, formulation, transport, distribution (domestic and export), storage, use, and disposal. Coverage of main user groups and scenarios should also be considered. For example, legal protection for employees, which is often already in place in many sectors, should be extended to cover all workplace situations, including agriculture. Also, linking legislative aspects and/or policy instruments - such as import control, chemical emissions inventories such as pollutant release and transfer registers (PRTRs), etc. - for various groups of chemicals rather than addressing each separately can enhance integration, efficiency and user-friendliness.

- ***Chemicals legislation should be linked to other chemicals management issues as well as the national environmental and development context***

Within a national chemicals management scheme, chemicals legislation is one key element for ensuring the sound management of chemicals. Other important elements include, for example, chemicals information systems, the technical and laboratory infrastructure, education and awareness-raising, etc. In recognition of this, an increasing number of countries therefore do not develop chemicals legislation in isolation, but within the context of a broader national programme for the sound management of chemicals. An agreed national programme with strategic goals can be a driving force for pursuing improvement of national chemicals legislation.

Furthermore, national chemicals legislation should also be embedded in, or linked to, national environmental and development policies and objectives. Considering that poor chemicals management practices will have a detrimental impact on environmental resources (e.g. water and

soil quality), as well as on the sustainability of a number of economic sectors (e.g. agriculture, textile industry), sound chemicals legislation should be understood as a means for contributing to sustainable economic and social development.

## 6. Opportunities for Strengthening External Assistance in Support of National Initiatives

To complement national efforts to strengthen chemicals management legislation and policies, several priority areas were highlighted for which external advice and capacity building support were considered a priority. These include, inter alia:

Enhance skills of personnel responsible for monitoring law/regulation implementation.

- enhancing the skills of personnel responsible for monitoring the implementation of laws/regulations;
- training/awareness raising for prosecutors, magistrates, judges, etc.;
- activities aimed to help countries identify problems and possible measures to be taken. Checklists/decision guides should be further developed to assist countries in taking systematic steps to assess their legal infrastructure and to consider options in accordance with their priorities;
- upgrading of laboratories in support of enforcement; and
- training/information on how funding mechanisms (fees) operate in other countries.

More specifically, workshop participants agreed upon several recommendations on how countries could be better assisted in developing/strengthening national legislation and policies for the sound management of chemicals:

- A “check list” and/or questionnaire should be developed, as a tool to assist countries in diagnosing and assessing their national legislative and policy infrastructure, for industrial/consumer chemicals and pesticides respectively, in a systematic way.
- A manual should be prepared which analyses various international agreements which have a chemicals component and would help countries in identifying national implementation issues which are cross-cutting in nature. Such a manual should identify policy instruments/approaches (e.g import/export control, emissions inventories, hazard and chemical safety communication requirements) which may be needed under various conventions. It might also provide a listing of chemicals that are addressed in more than one convention.

- Additional modules in the UNEP/UNITAR series *Chemicals Management Instruments: A Series of Resource Documents for Countries Making Choices* should be developed addressing topics such as MSDSs, classification and labelling, licensing/permitting, etc. Country pilot studies should be implemented to “test” the use of the draft modules.
- The development of a correspondence training manual addressing chemicals legislation should be pursued as a means to address the need in many countries, and in particular developing countries and countries with economies in transition, for training and education to strengthen the skills and knowledge of those who are involved in the development, implementation, and enforcement of environmental laws. Such a manual could be prepared as part of the series of correspondence instruction courses on environmental law being developed by UNITAR, together with UNEP and IUCN's Commission on Environmental Law.
- Capacity building activities conducted under various chemical management-related conventions should have a component which strengthens the overall legal infrastructure for all dangerous chemicals, not just those addressed through the respective agreement.
- Policy related training activities in the area of pesticides should not just focus on instruments addressing the safe use of pesticides but also address instruments promoting the rational use of pesticides and pest control technologies/approaches, including IPM.

Relevant information on developing and implementing chemicals legislation should be widely disseminated.

International organizations should enhance their activities to widely disseminate relevant information and documents on all aspects of developing and implementing chemicals legislation to developing countries and countries with economies in transition.

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## **Annex A: Workshop Agenda**

**Tuesday, 22 June 1999**

**09:00 Opening**

- Mr. M. A. Boisard, Executive Director, UNITAR
- Mr. R. Hickman, President, IFCS

**09:30 Introductory Presentation on Workshop Topic, Objectives and Methodology**

- - Mr. A. Halpaap, UNITAR

**10:00 Session 1: Understanding Situations and Challenges in Developing Countries and Countries with Economies in Transition - Plenary Presentations**

Representatives from developing countries and countries with economies in transition will give brief presentations of 10-15 minutes in length which highlight the current situation in their countries as far as chemicals legislation and policies are concerned. Emphasis will be placed on examples of successful approaches, practical problems faced, and issues which are particularly challenging.

**Speakers:**

- Ms. F. J. Ndoeye, National Environment Agency, The Gambia
- Mr. D. A. Sama, Ministry of Environment, Cameroon
- Mr. T. K. Iqbal, Ministry of Petroleum and Natural Resources, Pakistan
- Mr. S. Thiptaradol, Ministry of Health, Thailand
- Mr. S. Ichsan, Ministry of Manpower, Indonesia
- Ms M. J. Mace, Department of Justice, Micronesia
- Ms. S. Raykova, Ministry of Environment, Bulgaria
- Ms. K. Krajnc, Ministry of Health, Slovenia
- Ms. R. Alatorre Eden Wynter, National Institute of Ecology, Mexico

13:00 LUNCH BREAK

**14:00 Continuation of Session 1 Presentations (if required)**

### **Session 2: The Perspective of Countries with Advanced Chemicals Management Schemes - Plenary Presentations**

Representatives from countries with advanced chemicals management legislation/schemes will make short presentations of 10-15 minutes in length through which they will share the experience gained over the past years with certain legislative approaches and policies. Emphasis will be placed on approaches which have worked well and/or which have been difficult to implement. Lessons learned which may be of particular relevance to developing countries and countries with economies in transition will also be highlighted.

#### **Speakers:**

- Ms. K. Vormann, Environment Agency, Germany
- Mr. M. Brownstein, Health Canada
- Mr. C. Blunck, U.S. EPA
- Mr. H.P. Saxer, BUWAL, Switzerland

### **16:00 Session 3: The Perspective of International Organizations - Plenary Presentations**

Representatives from international organizations will provide brief overviews, from the perspective of their respective organizations, on how various agreements and programmes developed at the international level may shape or contribute to the development and implementation of national legislation and policies for the sound management of chemicals.

#### **Speakers:**

- Mr. J. Takala, ILO
- Ms. M. Yeater, UNEP
- Ms. J. Vapnek, FAO
- Mr. M. Ruse, WHO/IPCS
- Ms. M. R. Sanchez-Osuna, UNIDO
- Ms. D. Turnheim, OECD
- Ms. L. Tabassi, OPCW
- Ms. E. Phipps, UNITAR



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**Wednesday, 23 June 1999****09:00 Session 4: The Perspective of Non-Governmental Organizations - Plenary Presentations**

Representatives from industry a public/labor interest groups will provide the perspectives of non-governmental organizations related to national legislation and policies for the sound management of chemicals.

**Speakers:**

- Mr. J.H. Moore, ICCA
- Mr. J. Brassel, GCPF
- Ms. B. Dinham, Pesticides Trust
- Mr. P. Hurst, IUF

**11:00 Session 5: Exchanging Experiences and Identifying Lessons Learned - Working Groups**

- Introduction to Working Groups (Plenary)
- Working Group Discussions

**Theme 1: Implementation and Enforcement of National Legislation and Policies for Certain Groups of Chemicals**

Working Groups 5-A & 5-B will, for pesticides and industrial/consumer chemicals respectively, provide the opportunity for a more in-depth exchange of experience gained and lessons learned on the development, implementation and enforcement of national legislation and policies.

WG 5-A      Pesticides

WG 5-B      Industrial Chemicals

**Theme 2: Cross-Sectoral Issues Related to All Chemicals**

Working Groups 5-C, 5-D, and 5-E will address legislative and policy issues which are of relevance for all chemicals and which countries may wish to consider in their efforts when developing integrated chemicals management approaches at the national level. Additional guidance for the working groups will be provided during the workshop.

WG 5-C      Sectoral vs. Framework Legislation

WG 5-D Co-ordinated Implementation of International Agreements

WG 5-E Voluntary Industry Programmes and Initiatives

12:30 LUNCH BREAK

**14:00 Continuation of Working Groups**

**15:30 Working Group Presentations - Plenary**

### **Thursday, 24 June 1999**

**09:00 Session 6: Country Case Study Simulation Exercises - Working Groups**

- Introduction to Working Groups (Plenary)
- Working Group Discussions

Taking previous plenary and working group discussions into consideration, parallel working groups will work through hypothetical country scenarios which reflect typical situations in countries. Recommendations and practical solutions will be developed to address the identified problems and challenges.

WG 6-A Strengthening National Chemicals Legislation and Policies in a “Typical” **Developing Country With A Major Agricultural Sector**

WG 6-B Strengthening National Chemicals Legislation and Policies in a “Typical” **Developing Country With A Growing Industrial and Consumer Sector**

WG 6-C Strengthening National Chemicals Legislation and Policies in a “Typical” **Country with an Economy in Transition**

WG 6-D Strengthening National Chemicals Legislation and Policies in a “Typical” **Small Island State**

12:30 Lunch Break

**14:00 Working Group Presentations - Plenary**

**16:00 Session 7: How Can Countries Be Best Supported in their Efforts to Strengthen National Legislation and Policies - Plenary Discussion**

Participants will have the opportunity to point out the types of information, advice and support which would be most suitable to support the efforts of countries to strengthen national chemicals management legislation and policies.

### Friday, 25 June 1999

#### 09:00 Session 8: Development of Practical Guidance and Training Material - Working Groups

This series of working groups relates to the request of the IFCS that further practical guidance be developed to assist countries in “developing enforceable legislation and policies, including control mechanisms and identifying training needs”. Working groups will provide input to the possible development of further documents/tools which may be of practical value for countries committed to taking action.

- Introductory Discussion
- Working Groups

Possible Topics:

- |        |  |
|--------|--|
| WG 8-A | Development of a Checklist/Decision Guide to Assist Countries in Diagnosing, Strengthening and Implementing National Legislation and Policies for <b>Industrial/Consumer Product Chemicals</b> |
| WG 8-B | Development of a Checklist/Decision Guide to Assist Countries in Diagnosing, Strengthening and Implementing National Legislation and Policies for <b>Pesticides</b>                            |
| WG 8-C | Development of a Checklist/Decision Guide to Assist Countries in Identifying Opportunities for <b>Integrating/ Linking Legislative and Policy Measures for Various Groups of Chemicals</b>     |
| WG 8-D | Development of a <b>Correspondence Instruction Training Manual</b> on Chemicals Legislation  |
| WG 8-E | Further Development of the UNEP/UNITAR <b>Resource Series on Chemicals Managements Instruments</b> ("Tool Book")   |

#### 11:30 Working Group Presentations - Plenary

12:30 LUNCH BREAK

**14:00 Session 9: Review of Workshop Conclusions and Recommendations**

The secretariat will table the main observations and conclusions of the workshop for discussion and possible adoption by participants.

The workshop is expected to end no later than 4:00 pm.

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