

# Thematic Workshop on Synergies for Capacity Building under International Agreements Addressing Chemicals and Waste Management

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## Summaries of International Agreements

### TWS 8-5

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**IOMC**

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



Geneva Environment Network



Secretariat of the Basel Convention  
United Nations Environment Programme



UNEP



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## **1. UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)**

The Aarhus Convention was adopted in 1998 at the Fourth Ministerial Conference in the 'Environment for Europe' process and establishes that sustainable development can be achieved only through the involvement and active participation of all stakeholders, and links government accountability to environmental protection.<sup>1</sup> The Convention elaborates on Principle 10 of the Rio Declaration, which establishes the public's right to access to information, to participation in decision making and to justice in environmental matters. The Convention grants the public rights and imposes obligations on Parties and public authorities based on these three "pillars." Although the Convention remains regional in scope, the ethos of the Convention seems to be gaining broader support and forging a new process for public participation in the negotiation and implementation of international agreements. The WSSD Declaration and Plan of Implementation reiterated the importance of transparency, accountability and civil society involvement in many different decision-making contexts.

National implementation of the Convention involves taking the necessary legislative, regulatory and other measures to establish and maintain the Convention's provisions. For instance, information on the environment, or affecting the environment (such as development plans), held by public authorities must be accessible to any party without a need for the party to state a particular interest, unless the information is especially exempted. Governments must also develop national information systems and procedures that ensure systematic and periodic dissemination of environmental information, such as national pollutant inventories or registers (PRTRs).<sup>2</sup> These systems must also provide sufficient product information to enable consumers to make informed environmental choices. Public participation requirements apply to specific activities (such as those usually requiring an EIA), plans, programmes and policies, as well as executive regulation and legally binding normative instruments. Public participation processes must include public notice and detailed information of the proposed activity, transparent opportunities for comment and involvement, reasonable timeframes and full disclosure on the process. The access-to-justice provisions of the Convention are closely linked to its first two pillars; that is, the public has access to a judicial or non-judicial review procedure if its rights to information or participation have not been dealt with in accordance to the Convention. The public may also challenge acts and omissions by private persons or the government that contravene national law relating to the environment.

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<sup>1</sup> <<http://www.unece.org/env/pp/>>

<sup>2</sup> An extra-ordinary meeting of the Parties held on 21 May 2003 in Kiev, Ukraine in the framework of the fifth 'Environment for Europe' Ministerial Conference adopted a Protocol on Pollutant Release and Transfer Registers (PRTRs).

## **2. Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal**

The most well-known international agreement relevant to hazardous wastes management is the 1989 Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal. As with the chemicals management agreements, the Basel Convention requires that countries coordinate at the national level and have the capacity to gather information about the types and amounts of wastes in their country. The overall goal of the 1989 Basel Convention is to protect human health and the environment from generation and transboundary movements of hazardous wastes.<sup>3</sup> The scope of the Convention is broad including hazardous wastes (based on their intrinsic hazard properties), chemical wastes, and other wastes with the aim of keeping transboundary movements to a minimum. Treatment and disposal of such wastes should be kept as close as possible to where they are generated. The active promotion of the transfer and use of cleaner technology to reduce waste generation is also encouraged especially through the activities of the Basel (sub)regional centers. All such actions are seen within the concept of environmentally sound management of hazardous wastes and other wastes. Regionally the Basel Convention has been strengthened by implementation of the Bamako and Waigani Conventions as well as the Protocol to the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution from Land-based Sources. More recently the Protocol on Liability and Compensation for Damage resulting from Transboundary Movements of Hazardous Wastes and their Disposal and the Basel Declaration on Environmentally Sound Management have been adopted to further the aims of the Convention.

National activities have usually centred on building capacity for prevention, minimization, recycling, recovery and disposal of hazardous wastes and other wastes, especially through information exchange. Promotion of financial and other economic instruments has also been implemented in some countries leading to more environmentally sound and efficient management of such wastes. Efficient recovery and recycling of wastes has also contributed to a reduction in transboundary movements as is shown by the decreasing amounts of wastes reported by many countries to the COP. The environmentally sound management of POPs wastes including PCBs that are under discussion is an initiative where national synergies could lead to maximizing institutional efficiency.

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<sup>3</sup> <[www.basel.int](http://www.basel.int)>

### **3. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Chemical Weapons Convention, CWC)**

The CWC, which came into effect on 29 April 1997, is aimed at eliminating an entire category of weapons of mass destruction under strict and effective control that is largely outside the scope of this summary. However, it also covers chemicals and activities not prohibited under the Convention. These include the so-called dual-purpose chemicals and their precursors. Indeed the exchange of scientific and technical information, and the production, processing and use of such chemicals for purposes not prohibited under the Convention, are permitted. Imports and exports of scheduled chemicals are also permitted subject to the conditions as laid down in the Convention and the relevant decisions that have been taken by the policy making organs of the organisation. Inspections of scheduled chemical production facilities as well as other chemical production facilities producing by synthesis discrete organic chemicals, including chemicals containing phosphorus, sulfur and fluorine, are included as part of the verification regime.

National implementation of the Convention involves adoption of measures by each State Party to fulfill its obligations under the Convention. In particular, it includes the enactment of necessary legislation to prohibit activities which are not permitted under the Convention, setting up National Authorities which are to serve as national focal points for implementation of the Convention, and bringing national regulations concerning trade in chemicals into line with the provisions of the Convention. In order to facilitate national implementation, technical assistance, training of personnel, and legal assistance aimed at capacity building are provided by the Technical Secretariat of the OPCW. As with other Conventions, activities are undertaken through the National Authorities which assist in briefing national scientific and technological communities and the public at large on the requirements of the Convention. Synergies between the CWC and other relevant treaties could strengthen national chemicals management.<sup>4</sup>

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<sup>4</sup> <[www.opcw.org](http://www.opcw.org)>

#### **4. International Code of Conduct on the Distribution and Use of Pesticides (Revised version)**

The 2002 version of the FAO International Code is a revised version of the 1985 Code of the same name. Provisions for PIC originally drafted in the earlier Code were removed from the revised version, as the Rotterdam Convention specifically addressed this important issue. The Code was developed in response to a growing concern regarding the appropriateness of supplying pesticides to countries that lack the infrastructure to register pesticides and thereby ensure their safe use. The objectives of the Code are to establish voluntary standards of conduct for all public and private entities engaged in, or associated with the trade, distribution and use of pesticides, particularly where there is inadequate or no national legislation to regulate pesticides. The standards set forth in the Code focus on risk reduction, protection of human health and the environment, and support for sustainable agriculture developed by adopting various procedures. The Code details responsibilities of governments to legislate, regulate and enforce such actions as well as establish information exchange networks between regulatory authorities on actions for banned or severely restricted pesticides. Establishment of appropriate educational, advisory, extension and health care services are also included. Under the Code industry is responsible for adhering to standards of manufacture, distribution and advertising of pesticides especially in countries that lack appropriate legislation or means of implementing regulations. They also have to ensure that pesticides are adequately tested in terms of risk and that pesticides are adequately labelled and packaged. In addition, the Code contains an Annex 1 which lists other international instruments relevant to the Code and pesticides.

At the national level, cooperation between all organizations and institutions involved or associated with the trade and application of pesticides is required under the Code. The Code applies to governments, industry and has implications for workers in terms of protection of their health and environment as a consequence of actions. Clearly, all national organizations involved in pesticides should examine how best to co-operate to implement legislation and exchange information on related activities under the Stockholm and Rotterdam Conventions and the Code.<sup>5</sup>

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<sup>5</sup> <[www.fao.org/WAICENT/FAOINFO/AGRICULT/AGP/AGPP/Pesticid/Code/PM\\_Code.htm](http://www.fao.org/WAICENT/FAOINFO/AGRICULT/AGP/AGPP/Pesticid/Code/PM_Code.htm)>



## 5. The Globally Harmonized System of Classification and Labelling of Chemicals (GHS)

The 2002 UN Globally Harmonized System for the Classification and Labelling of Chemicals (GHS) is an important new tool that countries can draw upon to develop national chemical hazard communication systems by providing a basis for the establishment of comprehensive chemical safety programs. It represents an important step in harmonizing national chemical hazard communication systems worldwide and has a great potential to improve chemical safety across all relevant sectors. The GHS is a consistent and coherent approach to identifying the hazards of chemicals, and providing information on these hazards and associated protective measures to users or those who may be exposed. The system is structured so that appropriate elements for classification and communication, which consider the target population, can be selected. Those who then use chemicals can take the proper steps to protect themselves and the environment.

The non-binding GHS covers all hazardous chemical substances, dilute solutions and mixtures and addresses how labels and safety data sheets should be used to convey information about their hazards, and how to protect people from these effects. Food additives, pesticide residues, pharmaceuticals and cosmetic products intended for consumer use are not covered under the GHS in terms of labelling for intentional intake. However, these types of chemicals *are* covered where workers may be exposed, and in transport if potential exposure warrants. The GHS also provides a basis for safety training and health promotion. Target populations include employers, workers, including those involved in transport, consumers, and emergency responders. Others who provide services to these people will also find the information useful (e.g., doctors, nurses, safety engineers and occupational hygienists). The GHS includes harmonized criteria for the definition of physical hazards (such as flammability), health hazards (such as carcinogenicity) and environmental hazards. These internationally-developed criteria are used to evaluate the hazards of both substances and mixtures.<sup>6</sup> Governments have been invited to take the necessary steps, through appropriate national procedures and/or legislation, to implement the GHS as soon as possible and no later than 2008 (a target also agreed at WSSD and IFCS Forum IV). It is expected that other international agreements, such as those listed above, will be amended in their various aspects in order to be conformity with the classification criteria and hazard communication elements (e.g. labels and safety data sheets) of the GHS.

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<sup>6</sup> <[www.unece.org/trans/danger/publi/ghs/ghs.html](http://www.unece.org/trans/danger/publi/ghs/ghs.html)>

## 6. ILO Chemicals Convention 1990, No. 170

The Convention represents one of the most far-reaching international agreements in the area of chemicals management and specifically addresses the protection of workers from harmful effects of chemicals at the workplace. It applies to all branches of economic activity in which chemicals are used and covers all chemicals and provides specific measures in respect of hazardous chemicals. The Convention requires that classification systems be established and that all chemicals should be marked to indicate their identity. Hazardous chemicals should be labelled to provide essential information on their classification, their hazards and safety precautions to be observed. Because of the tripartite composition of the ILO under whose jurisdiction the Convention was negotiated, governments, suppliers, employers and workers all have responsibilities for the safe management and handling of chemicals. Governments are required to develop national policies on safety in the use of chemicals at work and that may include measures to prohibit and/or restrict the use of certain chemicals.<sup>7</sup> Suppliers that may include manufactures, importers and distributors are required to ensure that chemicals are properly classified and labelled and that safety data sheets are provided to employers. Employers have an obligation to ensure that workers are not exposed to chemicals exceeding national or international limits, they are provided with safety data sheets and to train workers on all aspects of safety in the use of chemicals in the workplace. Employers are also required to assess the risks associated with use the use of chemicals and identify options to protect workers throughout all stages of the life-cycle of the chemical. Workers have an obligation to co-operate with their employers and to take all reasonable steps to minimize or avoid risk.

At the national level countries are required to develop coherent policies on safety in the use of chemicals at work in order to reduce the incidence of chemically induced illnesses. The establishment of information exchange mechanisms to obtain information from suppliers of chemicals, and to provide such information to workers is an essential national activity. So too is the provision of appropriate preventive measures and facilities to workers to protect them from chemical hazards.<sup>8</sup> There is much scope for synergistic activities especially concerned with information exchange between the Stockholm, Rotterdam, and ILO Chemicals Conventions and the International Code of Conduct, especially with regard to issues of hazard, risk, labeling and packaging and chemicals management generally. In this respect, particular attention should also be paid to the more recently established GHS.

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<sup>7</sup> The related *ILO Convention Concerning Safety and Health in Agriculture (184)* also requires that countries have appropriate national systems establishing specific criteria for the importation, classification, packaging and labelling of chemicals used in agriculture, and for their banning or restriction.

<sup>8</sup> <[www.ilo.org/public/english/protection/safework/standard.htm](http://www.ilo.org/public/english/protection/safework/standard.htm)>

## **7. ILO Prevention of Major Industrial Accidents Convention 1993, No. 174**

The purpose of this Convention, adopted in 1993, is the prevention of major accidents involving hazardous substances and the limitation of the consequences of such accidents. It applies to major hazard installations and defines a major accident as a “sudden occurrence such as a major emission, fire or explosion in the course of an activity within a major hazard installation, involving one or more hazardous substances and leading to a serious danger to workers, the public or the environment...”.

The Convention requires, in consultation with representatives of employers, workers and other interested parties, the formulation and implementation of a coherent national policy concerning the protection of employees, the community and the environment, against risk from major hazards. The policy must be periodically reviewed and promote the use of the best available safety technologies. The competent authority must establish a system for the identification of major hazard installations depending on the types of substances. Employers are required to establish a well documented system for identification and analysis of hazards, technical measures, organisational measures, emergency plans, measures to limit the consequences of a major accident and lessons to be learnt after discussions with the workers’ representatives. Other major provisions include: the preparation of a safety report containing technical, management and operational information covering the hazards and risks of a major hazard facility and its control; reporting of all major accidents; establishment of off-site emergency plans; and siting policy for the separation of a proposed major hazard facility from residential areas, public facilities and existing major hazard facilities.<sup>9</sup>

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<sup>9</sup> <http://www.ilo.org/ilolex/cgi-lex/convde.pl?C174>

## **8. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade**

The 1998 Rotterdam Convention is an important instrument for formally obtaining and disseminating the decisions of importing countries as to whether they wish to receive future shipments of certain hazardous chemicals (including pesticides) and severely hazardous pesticide formulations, and for ensuring compliance to these decisions by exporting countries. Substances for export that come within the terms of Convention must be packaged and labeled in a manner that is adequately protective of human health and the environment. Thirty-one chemicals are subject to the Convention: 21 pesticides, five industrial chemicals and five severely hazardous pesticide formulations. Further chemical substances can be notified for action under the Convention.

Developing countries, usually as the importers of scheduled chemicals, directly participate in the decision-making process, as exports can only take place with their prior informed consent (PIC). For this procedure to work countries have to strengthen their national infrastructure and institutions to ensure that the importers within their jurisdiction possess the necessary scientific, technical and legal information to be able to manage these chemicals safely and in line with the Convention. As with other Conventions, the role of the Customs Departments in verifying the imported substance is an important provision. The technical assistance necessary for the strengthening of national institutions can be provided by countries with more advanced programmes for regulating chemicals.<sup>10</sup>

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<sup>10</sup> <[www.pic.int](http://www.pic.int)>

## 9. Stockholm Convention on Persistent Organic Pollutants (POPs)

The objective of the 2001 Stockholm Convention is to protect human health and the environment from persistent organic pollutants (POPs). POPs are chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in the fatty tissue of living organisms and are toxic to humans and wildlife. The Convention initially targets 12 POPs for reduction and eventual elimination, nine of which are pesticides: aldrin, dieldrin, chlordane, DDT, endrin, heptachlor, hexachlorobenzene, mirex, toxaphene; two are industrial chemicals: hexachlorobenzene (which is also used as a pesticide) and polychlorinated biphenyls (PCBs); and two families of unintentionally produced chemicals: dioxins and furans. Continued use of DDT is allowed for vector control until safe, affordable and effective alternatives are in place. Parties must make determined efforts to identify, label and remove PCB containing equipment by 2025, and manage those wastes in an environmentally sound manner no later than 2028. In addition the Convention sets up a process for selecting additional chemicals which have POPs characteristics to be included in Annex A (elimination), Annex B (restriction) and Annex C (release reduction from unintentional production). The Convention establishes arrangements for the purpose of providing technical assistance and promoting the transfer of technology to developing countries and countries with economies in transition. It also establishes a financial mechanism for the provision of adequate and sustainable financial resources to developing country Parties and Parties with economies in transition to assist in their implementation of the Convention. On an interim basis, the institutional structure of the Global Environment Facility (GEF), has been designated the principal entity entrusted with the operations of the financial mechanism.

Under the Convention, Parties are required to develop and implement a plan for the implementation of their obligations. These national implementation plans (NIPs), should as appropriate, include action plans designed to characterize and address the release of unintentionally produced POPs, promoting *inter alia*, the use of best available techniques (BAT) and best environmental practices (BEP) for existing and new sources. The development of National Implementation Plans for POPs by developing countries and countries with economies in transition who have signed the Convention or who are a Party to it, are eligible for funding by the GEF.<sup>11</sup>

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<sup>11</sup> <[www.pops.int](http://www.pops.int)>

## **10. Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer (as either adjusted and/or amended)**

The 1985 Vienna Convention, its 1987 Montreal Protocol and subsequent amendments are aimed at protecting the ozone layer from various human activities. The Convention encourages intergovernmental cooperation on research, systematic observations of the ozone layer, monitoring CFC production and the exchange of relevant information on human activities. The Convention is concerned with the indirect effect of chemical substances on the ozone layer. When CFCs breakdown they release chlorine atoms that gives rise to the ozone depletion. Similarly, bromine atoms are released by halon breakdowns that have a similar impact. The Vienna Convention is a framework Convention and does not contain legally binding controls or targets. The Montreal Protocol was designed to reduce the production and consumption of a number of CFCs and several halons following agreed phase-out schedules that are based on scientific and technical assessments. Amendments to the Protocol have adjusted the phase-out schedules, introduced new controlled substances to the list (currently at 96 substances) and introduced other types of control measures. A range of alternative chemical substances have been developed and commercialized allowing developed countries to end the use of CFCs faster than originally anticipated. The Montreal Amendment to the Protocol included provision to ban exports of used, recycled and reclaimed substances other than for destruction, to discourage illegal sales of these substances.

The Multilateral Fund has provided financial assistance to developing countries so they can comply with the provisions of the Protocol and its amendments, including the use of safe alternatives and related technologies. Developing countries have had a grace period before they had to start their phase-out schedules which recognizes the fact that developed countries while being responsible for the bulk of total emissions, have more financial and technological resources available for adopting alternative substances. Legislation to prevent illegal traffic in CFCs and the prevention of smuggling relies on action by national governments to both introduce statutory controls and more enforcement actions by customs departments especially through harmonized chemical classification and labeling systems.<sup>12</sup>

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<sup>12</sup> <[www.unep.org/ozone/](http://www.unep.org/ozone/)>

## **11. United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances**

The Convention was adopted in 1988 response to the growing trend in the illicit production of, demand for, and traffic in, narcotic drugs and psychotropic substances. Illicit traffic has been seen as a serious threat to the health and welfare of people that adversely affects the economic, cultural and political functions of countries. The Convention centers on strengthening and enhancing legal measures for international cooperation aimed at suppressing international trafficking. The Convention reinforces the earlier Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances. Agreed measures to achieve the aims, include monitoring of international trade in the substances and proper labeling and documentation of legitimate trade. Prior to an export, the exporter is required to obtain details from the competent authority of the importer.

National activities include strengthening and enhancing of domestic legislative systems to establish illicit trafficking as a criminal offence. Developing countries can receive mutual legal assistance and support under the Convention, including specific training programmes for law enforcement and customs department officials. Strengthening of customs departments to prevent illegal traffic can also be considered in the light of a joint awareness programme to restrict illegal traffic in hazardous wastes and in banned or severely restricted pesticides. This would promote the ability of a country to more efficiently manage such substances.<sup>13</sup>

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<sup>13</sup> <[www.incb.org/e/conv/1988/index.htm](http://www.incb.org/e/conv/1988/index.htm)>