

## **Points Discussed Through the Working Groups**

### **Suggested Points to be discussed through the working group**

#### **Questions – National Circumstances:**

- Is there already in place a specific legal and international framework on chemicals, pesticide, hazardous waste management?
- Does this frame work address hazardous waste, pesticides and industrial chemicals?
- Does it address issues relating to the import and export of hazardous chemicals, pesticides, and hazardous waste ? how?
- Is this framework functioning adequately ? if not, what difficulties have been encountered?
- Does the frame work already contain provisions to implement the Rotterdam, Stockholm, Basel Conventions Convention? The other instruments described part II of this Guide?
- What would be involved if country decides to amend or enhance existing laws (including regulation) to implement the Rotterdam, Stockholm, Basel Conventions and other related instruments?

#### **Questions – Rule of Law and Issues of capacity:**

- Are there any basic obstacles to the implementation of national laws to regulate chemicals and pesticides and hazardous waste? If so, what are they? For example, is there a lack of capacity and resources to implement the law?
- If there a problem of fragmentation in these laws? A lack of clarity in terms of what they require, by whom, etc?
- Is there problem in generation public awareness of the laws, or a sense of commitment to follow the law?
- What specific action should be taken to address these issues that might assist the implementation of the Rotterdam, Stockholm, Basel Conventions?

#### **Questions – Structure and design of laws:**

- What is covered (regulated products, activities)
- What exactly are the objectives, definitions of key terms, basic standards and obligations.
- Who is subjects to the various obligations (e.g. for proper labeling of pesticides?)
- When has a violation occurred ? Who is responsible for it? ( e.g. for mislabeled pesticides?)
- Who is responsible for taking action to enforce the laws in cases of non - observance? With methods? And what penalties for violations?
- Are rights available to seek compensation if harmed? By what methods? How is compensation measured? Does it include economic loss? Environmental harm?

### **Questions – Application of Key Concepts and Principles:**

- Do national laws reflect these key concepts and principles?
- Does the legal framework at the national level include effective means to operationalize these in practice? For example:
  - Does this framework provide a basis to address' potential harms from toxic chemicals , pesticide and hazardous waste throughout the life-cycle, from extraction and development through use, trade, handling, storage and disposal?
  - Does the framework help to prevent harms from chemicals before they occur? For example, does it provide incentives to use substances or practices that are less harmful to health and the environment?
  - Does it provide for a science-based process, and a precautionary approach? Is there adequate legal authority to gather good scientific information?
  - Does it provide a system to inform the public and communities about the presence and release of toxic chemicals?
  - Does it recognize the possibility that certain communities (e.g., indigenous communities), groups or sub-populations (e.g., children, the elderly) are particularly at risk? How does it address this concern?
  - By which means is public participation achieved in the law and policy process?

### **Questions – Implementation of International Instruments:**

- Have efforts been made to implement the FAO Code of Conduct into national legal systems? What is the status of these efforts?
- Have efforts been made to implement the Stockholm Convention into the national legal system? What is the status of these efforts?
- Have efforts been made to implement the Basel Convention, and other instruments mentioned in Part IT? What is the status of these efforts?
- Have efforts been made to develop an improved chemicals management system under existing capacity building initiatives, including those of FAO, UNEP, UNITAR and other organizations? What is the status of these efforts?

### **Questions – Institutional Basis:**

- Are there adequate financial and other resources to implement and enforce national laws on chemicals , chemicals and hazardous wastes? If not, how should the shortfalls be addressed?
- What steps could be taken to ensure sufficient resources to implement the Rotterdam, Stockholm, Basel Conventions?
- Does the legal framework establish a sufficiently clear division of responsibility among national authorities responsible to implement and enforce the relevant laws? If not, in what respect are there overlaps and gaps?
- Is there a sufficiently clear division of responsibility between national and sub-national authorities in these regards? If not, where are the overlaps and gaps?

- What steps could be taken to resolve any problems in these regards?
- Is there transparency and public participation in the work of the responsible institutions?

### **Questions – Problems, Goals and Priorities:**

- What is the problem? Examples:
  - Effects on farm workers from use of pesticides
  - Effects on public from pesticide residues, chemicals and hazardous waste on foods
  - Effects of factory workers from exposure to toxics
  - Effects on people and wildlife of water and air contamination produced by industrial emissions/discharge, runoff. from agriculture or urban areas, emissions from transport, handling and disposal, accidents
- What are the sources of this problem? Examples:
  - Lack of an adequate legal framework to prevent or control these problems?
  - Inability - or lack of political will - to implement and enforce existing legal framework?
  - Illegal trade in regulated substances?
  - Problems of observance of conditions of use (e.g., protective equipment is unavailable or not used; users cannot read label instructions; mislabeling; etc.)?
  - Underlying social and economic factors (methods of production and agriculture, other)?
- Do the national laws intend to cover all of only some of these problems? How is civil society involved in the development of goals and priorities?
- Do the laws integrate goals, priorities and commitments from international instruments (see Part IT of this Guide)?
- Do the laws specify a chosen level of protection against potential harms? What is this level of protection? Does it take into account particular risks for certain groups, e.g., children, others?

### **Questions – Regulatory System for Pesticides:**

- Does the legal framework provide for a registration system?
- Is it functioning effectively? How so or how not?
- Are the conditions on the use of pesticides being observed by users? If not, or if it is not feasible or possible to enforce these conditions, is effective action being taken to redress the situation? Is consideration given to precautionary action?
- Does the legal framework contain provisions to implement the obligations of the Rotterdam, Stockholm, Basel Conventions? Other international instruments?
- Does it provide a supportive framework to pursue other actions noted above, such as JPM?

### **Questions – Institutions Responsible for Chemicals Management:**

- Who is the DNA in your country (if there is one)?
- Which national administrative authority or authorities has primary responsibility to implement regulatory systems relevant to pesticides? chemicals?
- Which administrative authority or authorities has primary responsibility to implement national laws and regulations relevant to the Rotterdam, Stockholm, Basel Conventions? Possibilities:
  - Environmental Ministry
  - Ministry of Agriculture
  - Ministry of Health
  - Inter-Ministerial Committee represented by various ministries
- Does this administrative authority have adequate authority and status to carry out its responsibilities? For example, is it responsible for:
  - Developing and coordinating relevant policy matters?
  - Drafting regulations, as needed, to enable implementation?
  - Administering and implementing the relevant laws and regulations to carry out the various obligations of the Rotterdam, Stockholm, Basel Conventions?
  - Monitoring observance of these laws and regulations?
  - Enforcing those laws and regulations?
- Are other administrative authorities involved? Who are they possibilities:
  - Ministry of Industry/Commerce
  - Ministry of Trade
  - Customs officials; Other
- Is there a clear division of responsibility between the authorities? Is it followed in practice? Are there adequate means to coordinate among the responsible authorities?
- Are any sub-national authorities involved in activities to implement the Rotterdam, Stockholm, Basel Conventions? If so, is there a clear division of responsibility between the national and sub-national authorities? Are there adequate means to coordinate among the responsible authorities

### **Questions – Enabling Civil Society Participation:**

- Does the legal framework provide civil society with notice and an opportunity 11 to comment on:
  - Proposed regulations relevant to chemicals management?
  - Proposed decisions relating to the registration or re-registration of pesticides? Or the licensing for use of industrial chemicals?
- Are there other means by which civil society can participate in this law and policy process, e.g., through advisory bodies or commissions? If so, do these promote effective public participation?
- Do those injured by exposures to pesticides and/or industrial chemicals, including those covered by the Rotterdam, Stockholm, Basel Conventions and other instruments, have legal rights to bring claims for recovery? Are these effective?
- Is there a means by which members of the public can challenge action inaction

by the government, such as a failure to enforce protective laws relating to pesticides and chemicals?

- Are there systems to require polluters to provide public information about toxic substances and emissions in communities (based on community right to know)?
- Are there sufficient mechanisms and procedures to enable effective participation in the decision making process by groups that might be at particular risk from pesticides and industrial chemicals?