

# Laws and international standards on pesticides

## About this sub-section

This sub-section will help us to:

- identify national legislation on pesticides
- identify international and other standards on pesticides
- use these laws and standards to tackle problems
- track information on pesticides

## Introduction

### National laws

Because pesticides are toxic chemicals, and therefore hazardous, public policy dictates that their approval and registration, classification, labelling, packaging, manufacture, formulation, import, export, marketing, advertising, sale, supply, transport, storage, availability, use, and disposal should be regulated by law.

Regulation varies from country to country. Some aspects of regulation are made the subject of laws, with sanctions if they are broken. Other aspects are the subject of Codes of Practice, or even voluntary agreements.

Agriculture often tends to be omitted or specifically excluded from the general labour laws and the occupational health and safety regulations of many countries. However, most countries now have legislation on pesticide registration and control (albeit basic and under-resourced in many cases), because:

- in addition to the risks of farmer and agricultural worker exposure, pesticides also affect public health, food safety (pesticides residues), air and water quality, soil health, wildlife
- pesticides can even be transported in the air or by sea/water between countries and regions/hemispheres

### International regulation/instruments

International laws or even voluntary standards are now increasingly driving and/or influencing the development of national laws and standards on pesticides. Hence it is important that we learn about international laws and standards which we can use to create our own national laws or to expand and/or strengthen existing national laws and standards.

An important instrument is the voluntary *United Nations Food and Agriculture's (FAO) International Code of Conduct on the Distribution and Use of Pesticides*, Revised 2002 (see below). The Code attempts to establish a minimum international standard for monitoring the standards of governments and the pesticide industry. Though voluntary, the international pesticide industry, as represented by transnational manufacturing companies, has stated that it will seek to ensure that companies abide by the standards laid down in the Code.

Much international regulation tends to be by means of conventions or agreements. Most international conventions, such as conventions of the International Labour Organisation (ILO), have first to be ratified by countries

and then translated by them into national law when they become enforceable nationally. However, in the case of non-compliance there are generally no effective international sanctions which can be applied. (See Chapter 6 of this Manual for more details).

By contrast, an increasing number of new, legally-binding international Conventions on chemicals management, have now been adopted and are in the process of ratification. These new type of Conventions, such as the Rotterdam and Stockholm Conventions discussed below, include articles which potentially allow for international sanctions to be applied and enforced in the case of non-compliance via an international court/tribunal.

### **Enforcement**

The monitoring and enforcement of regulations, in whatever form it may take, is a problem everywhere in industrialised and developing countries, and those with economies in transition. Government labour inspectorates the world over are generally understaffed and under-resourced - even where they have sufficient legal powers in the first place to enforce health, safety and environmental standards in the workplace.

Similarly, worker HS&E representative schemes, or worker HS&E reps on joint worker-management health and safety committees, often do not exist. Or, where the legal right for worker HS&E representatives exists, they are poorly organised, trained and under-funded.

### **Trade unions and workers HS&E representatives**

Where they exist, legally recognised worker HS&E representatives can save needless deaths and poisonings from pesticides.

But action by worker HS&E representatives on HS&E laws in agriculture poses special difficulties. Small numbers of workers are often employed in many agricultural undertakings scattered over wide geographical distances. Normal, legal arrangements for health and safety representation are difficult to apply. This is why the IUF wants to see schemes based on external worker representatives who will visit agricultural undertakings in a given area. The IUF refers to these as '*roving*' health and safety representatives meaning that these representatives would visit farms and plantations where they themselves are not employed. See Appendix 1 of this Manual for a fuller discussion of IUF's call for roving safety representative schemes in agriculture.

### **Shortcomings in the law**

In general, the system of regulations and enforcement that exist in developed countries do not properly represent the interests of trade unions, community, consumer, or environmental groups. The problem is far worse in developing countries and countries in transition.

Often laws, where they exist, are shrouded in secrecy. Basic toxicity data on pesticides and evaluation criteria are protected by 'commercial confidentiality/trade secrets'. Manufacturers or governments often have no legal obligation to make public such data for independent reviews. In countries such as the USA, Canada, Sweden and Denmark, Freedom of

Information laws enable citizens to find out what has been decided and on what basis.

## **Applying pesticides laws**

### **ACTIVITY Applying pesticides laws**

#### **AIMS**

To help us to:

- identify relevant laws on pesticides in our country
- apply the law to problems

#### **TASK**

In your small group, select two health and safety problems related to pesticides that have previously been raised during the course.

Use the worksheet on the following page to:

- identify relevant parts of your national legislation (your educator will supply you with a summary)
- plan what to do next

Elect a spokesperson to report back with your key points

## Applying the law Worksheet

Name	Union and workplace
Problem: brief description of the pesticide problem	Which parts of the law can help?
What does the law say?	Who is responsible?
How can you use the law to get things done?	What do you plan to do next?

## **Collective bargaining**

Your union can use collective bargaining to overcome some of the limitations in your country's pesticides health and safety legislation. Often the bargaining process can bring about improvements in the workplace much more quickly than waiting for national legislation to change. In many countries, Collective Bargaining Agreements (CBA's) can be enforced in the courts or through tribunals because they have legal status through:

- the relationship between the trade union and the employer
- the incorporation of the contents of the CBA into the individual contracts of workers

## **Using standards from International Labour Organisation Conventions**

### **ACTIVITY Applying the ILO Conventions to pesticides**

#### **AIMS**

To help us to:

- identify relevant Conventions
- apply the Conventions to problems with pesticides

#### **TASK**

In your small group, select two health and safety problems that have previously been raised on the course.

Use the worksheet on the following page to:

- identify relevant ILO Conventions (see summaries below)
- identify how the standards help to tackle problems with pesticides
- plan what to do next

Elect a spokesperson to report back with your key points

## Applying ILO standards Worksheet

Name	Union and workplace
Problem: brief description of the problem with a pesticide	Which ILO Conventions are relevant?
What does the Convention say?	Who is responsible?
How can you use the standards in the Convention to get things done?	What do you plan to do next?

## **International Conventions, Standards and Instruments**

International conventions, standards and instruments which you can use to strengthen your own national laws include:

(see also Sections 3 & 6 of this manual)

### **International Labour Organization (ILO)**

The main Conventions, along with their non-binding Recommendations, relevant to pesticides health and safety are:

- Convention No 184 on Safety and Health in Agriculture plus Recommendation No 192
- Convention No 155 concerning occupational safety and health and the working environment (the framework ILO convention on safety and health) plus Recommendation No 164
- Convention No 161 concerning occupational health services plus Recommendation No 171

### **ILO Convention No 184 on Safety & Health in Agriculture**

For a full explanation of this new legal instrument, see Section 6 of this Manual. Convention No 184 lays down the following requirements in respect of pesticides and chemicals management:

#### *Article 12: Sound management of chemicals*

The competent authority shall take measures, in accordance with national laws and practice, to ensure that:

- (a) there is an appropriate national system establishing specific criteria for the importation, classification, packaging and labelling of chemicals used in agriculture and for their banning or restriction;
- (b) those who produce, import, provide, sell, transfer, store or dispose of chemicals used in agriculture comply with national or other recognized safety and health standards, and provide adequate and appropriate information to the users in the appropriate official language or languages of the country and, on request, to the competent authority; and
- (c) there is a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals so as to avoid their use for other purposes and to eliminate or minimize the risks to safety and health and to the environment.

#### *Article 13*

1. National laws and regulations or the competent authority shall ensure that there are preventive and protective measures for the use of chemicals and handling of chemical waste at the level of the undertaking.
2. These measures shall cover, inter alia:
  - (a) the preparation, handling, application, storage and transportation of chemicals;
  - (b) agricultural activities leading to the dispersion of chemicals;
  - (c) the maintenance, repair and cleaning of equipment and containers for chemicals; and

(d) the disposal of empty containers and the treatment and disposal of chemical waste and obsolete chemicals.

In addition, Recommendation No 192 provides the following guidance:

*Sound management of chemicals*

Paragraph 7. (1) The measures prescribed concerning the sound management of chemicals in agriculture should be taken in the light of the principles of the Chemicals Convention and Recommendation, 1990, and other relevant international technical standards.

(2) In particular, preventive and protective measures to be taken at the level of the undertaking should include:

(a) adequate personal protective equipment and clothing, and washing facilities for those using chemicals and for the maintenance and cleaning of personal protective and application equipment, at no cost to the worker;

(b) spraying and post-spraying precautions in areas treated with chemicals including measures to prevent pollution of food, drinking, washing and irrigation water sources;

(c) handling or disposal of hazardous chemicals which are no longer required, and containers which have been emptied but which may contain residues of hazardous chemicals, in a manner which eliminates or minimizes the risk to safety and health and to the environment, in accordance with national law and practice;

(d) keeping a register of the application of pesticides used in agriculture;

(e) training of agricultural workers on a continuing basis to include, as appropriate, training in the practices and procedures or about hazards and on the precautions to be followed in connection with the use of chemicals at work.

For other HS&E information provided by the ILO see the following webpage:  
<http://www.ilo.org/public/english/protection/safework/index.htm>

### **UN Food and Agriculture Organisation (FAO)**

The *FAO International Code of Conduct on the Distribution and Use of Pesticides*, which was updated in 2002, is intended to be used by countries as a set of guiding principles for the distribution, handling and effective use of pesticides. It is voluntary but establishes a minimum international standard for monitoring the standards of governments and the pesticide industry. It lays down the responsibilities of governments, manufacturers and distributors. The issues covered by the Code include the regulation, availability, distribution, and health aspects of pesticide use, as well as advertising, labelling, packaging, storage, disposal and the principle of Prior Informed Consent (see below).

The Code is designed to assist countries in introducing necessary improvements in national capacities and capabilities in the effective management of pesticides, as well as to establish standards for industries manufacturing and trading in pesticides.

The FAO Code is a key reference document which trade unions and non-governmental organisations have regularly used to help improve national standards on pesticides HS&E and to ensure that pesticide companies meet high standards.

Experience with the Code has shown that its use has been instrumental in assisting many countries to initiate and/or strengthen pesticide management activities.

### **UNFAO/UNEP and the Prior Informed Consent Convention**

The legally-binding *Rotterdam Convention on the Prior Informed Consent Procedure (PIC) for Certain Hazardous Chemicals and Pesticides in International Trade* 1998 is administered through a joint secretariat. The UN Food and Agriculture Organisation (FAO) is responsible for pesticides, and the United Nations Programme for the Environment (UNEP) for industrial chemicals.

Pending the Convention's entry into force (following ratification by 50 countries), a voluntary, interim Prior Informed Consent (PIC) procedure (based on the Convention) is in operation.

The PIC Convention is an information exchange, notification and consent procedure. It aims to ensure that international shipment of a *chemical that has been banned or severely restricted* in any country in order to protect human health or the environment, or, *severely hazardous pesticide formulations causing health or environmental problems under conditions of use in developing countries*, do not proceed without the *prior consent* of the government of the importing country, based on *prior information* on the hazards of the chemical, and prevention and control measures etc, from the exporter (or via the importer) of that substance.

Exporting countries are required to give *prior* notification to importing countries of the intended export of a PIC list chemical, and the exporter has to supply *prior information* to the importing country government on the nature of the chemical, its hazards, prevention measures etc (including notifying their own national government). The importing country evaluates this information. It then either gives or refuses its *consent* as to whether to allow import, or sets conditions on the import. The exporter is bound to abide by the consent decision even if it does *not* permit import. Exporting country governments then have a duty to ensure that their exporters abide by the consent decision and do *not* export where consent has been refused.

Chemicals and pesticides included in the PIC procedure are put on a PIC list, at the request of governments provided they meet the criteria laid down in the Convention. Trade unions and NGOs can play an important role in collecting information/reports of poisonings and incidents from specific pesticides with a view to their Governments using such data to request that the pesticides causing these problems are put on the PIC list and subject to the PIC procedure. *Severely hazardous pesticide formulations* currently on the PIC list include: monocrotophos, methamidophos, phosphamidon, methyl parathion, parathion.

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## Note

*Banned pesticide* means a pesticide for which all uses have been prohibited by final regulatory action, in order to protect human health or the environment. It includes a pesticide that has been refused approval for first-time use or has been withdrawn by industry either from the domestic market or for further consideration in the domestic approval process and where there is clear evidence that such action has been taken in order to protect human health or the environment. (FAO International Code of Conduct on the Distribution and Use of Pesticides, Revised Version 2002)

*Severely restricted pesticide* means a pesticide for which virtually all use has been prohibited by final regulatory action in order to protect human health or the environment, but for which certain specific uses remain allowed. It includes a pesticide that has, for virtually all use, been refused for approval or been withdrawn by industry either from the domestic market or from further consideration in the domestic approval process, and where there is clear evidence that such action has been taken in order to protect human health or the environment. (FAO International Code of Conduct on the Distribution and Use of Pesticides, Revised Version 2002)

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## **UNEP Stockholm Convention on Persistent Organic Pollutants 2000**

The legally-binding Stockholm Convention on Persistent Organic Pollutants (POPs) when in force following ratification, will introduce bans, phase outs, clean production, or other actions to eliminate POPs. Nine pesticides are currently included in the Convention: aldrin, dieldrin, DDT, endrin, chlordane, hexachlorobenzene, mirex, toxaphene, and heptachlor.

## **UN World Health Organisation (WHO)**

The International Programme on Chemical Safety (IPCS) is a joint programme of three UN organisations - ILO, UNEP and WHO each dealing with different aspects of chemical safety. The IPCS's main roles are to:

- establish the scientific basis for the sound management of chemicals
- strengthen national capabilities and capacities for chemical safety

### *WHO Recommended Classification of Pesticides by Hazards and Guidelines to Classification*

The Classification and guidelines have gained widespread acceptance by national governments. The document is arranged as follows:

*Part I: The Classification of Pesticides by Hazard as recommended by the WHO.* This part is not subject to periodic review and the classification table and text can only be changed by resolution of the World Health Assembly of the WHO:

- Class 1a: Extremely Hazardous
- Class 1b: Highly Hazardous
- Class II: Moderately Hazardous

- Class III: Slightly Hazardous
- Category IV: List of technical products unlikely to present acute hazard in normal use.

*Part II: Guidelines to Classification*, which are revised at two yearly intervals. Individual products are classified in a series of tables, according to the oral or dermal toxicity of the technical product, and its physical state. The tables are subject to review periodically.

#### *Other useful IPCS publications*

- *International Chemical Safety Cards (ICSCs)* summarise essential product identity data and health and safety information on chemicals; they are designed for use at workplace level  
<http://www.cdc.gov/niosh/ipcs/icstart.html>
- *Data Sheets on Pesticides (PDS)* contain health and safety information on pesticides that are widely used in agriculture and/or public health programmes, and that have high or unusual toxicity records
- *Health and Safety Guides (HSGs)* provide concise information on risks from exposure to chemicals, with practical advice on medical and administrative issues; they are designed for a wide range of administrators, managers, and decision-makers
- *Environmental Health Criteria* provide assessments of the effects of chemicals on human health and the environment; they are designed for scientific experts responsible for risk evaluation, enabling relevant authorities to establish policies for the sound use of these chemicals

All this information is now available - free of charge - on compact disks and web pages <http://www.inchem.org>

#### **UN Codex Alimentarius Commission**

The Codex Alimentarius Commission (CAC) is a joint programme of FAO and WHO. Through the CAC, governments agree on international minimum standards for pesticide and chemical residues in food. The Commission publishes the Codex Alimentarius List which forms the basis of international Maximum Residue Limits (MRLs) set by the FAO.

#### **Intergovernmental Forum on Chemical Safety (IFCS)**

The IFCS is a political forum where governments, intergovernmental organisations, trade unions, industry, scientific bodies, and public-interest non-governmental organisations (NGOs) meet to:

- develop and coordinate policies on the environmentally sound management of toxic chemicals
- provide advice and make recommendations to governments, intergovernmental organisations, industry, trade unions, scientific bodies, and public-interest NGOs

The IFCS oversees and coordinates the implementation of Agenda 21, Chapter 19 on the *Environmentally-Sound Management of Toxic Chemicals*. Agenda 21 is the programme of action on environment and sustainable

development agreed on by governments and other stakeholders at the United Nations Conference on Environment and Development (UNCED) 1992. Governments and other stakeholders reaffirmed their commitment to the effective implementation of Agenda 21 in paragraph 27 of the Declaration of the World Summit on Sustainable Development 2002

The IFCS works on all six programme areas of Chapter 19:

- Programme A: Expanding and accelerating international assessment of chemical risks
- Programme B: Harmonisation of classification and labelling
- Programme C: Information exchange on toxic chemicals and chemical risks
- Programme D: Establishing of risk reduction programmes
- Programme E: Strengthening of national capabilities for management of chemicals
- Programme F: Prevention of illegal international traffic in toxic and dangerous products

The IFCS has a system of national focal points in member countries, an up-to-date list of which can be obtained from the IFCS website

<http://www.who.int/ifcs/>

(Check if you have a an IFCS national point in your country and make contact, and discuss your work and activities with them)

## **Collective bargaining**

Often the bargaining process can bring about improvements in the workplace much more quickly than waiting for national legislation to change, which can be a very slow process. Encourage your union to develop agreements on the use of chemicals, using as a basis the provisions in the ILO Conventions No 184 on Safety and Health in Agriculture and No 170 Concerning Safety in the Use of Chemicals at Work 1990.

### **ACTIVITY ILO Conventions and other standards**

#### **AIMS**

To help us to:

- identify the key ILO Conventions and other standards
- practise the skills of presenting information

#### **BACKGROUND**

A union general secretary has been asked to attend a tripartite meeting by the Government, which is concerned about the problem of banned pesticides being used in their country. Currently the national laws are very weak in all aspects relating to pesticides. The union general secretary wants to be briefed by the union health and safety adviser prior to the tripartite meeting on the type of international standards that are relevant to pesticides.

#### **TASK**

The group will be split into groups of union general secretaries, union health and safety advisers and observers. Using the pages above on ILO Conventions and other standards:

- the union health and safety advisers will be asked to prepare to brief the union general secretary and answer questions
- the union general secretaries will think about questions that they would like to ask
- the observers will prepare a checklist of points they will watch out for during the interview

You will then be divided into groups of three, one union general secretary, one union health and safety adviser, and one observer. The union health and safety adviser will brief the union general secretary and answer questions. The observer should watch and listen, and note down the main points of the conversation.

Observers will report back, giving the key points to the larger group.