

University of Cape Town's CHEMICALS NETWORK

Issue: 1 of 2020

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Discussion Forum Digest

This discussion was entitled “Differences and similarities between chemicals and pesticide legislation” and was presented by Cecilia Westöö and Helena Casabona from The Swedish Chemicals Authority (KemI). The focus of this discussion was on how chemicals and pesticides management differ, with a special focus on differences in legislation. Furthermore, this discussion explored where countries are with their pesticide and chemical legislation as well as what roles all stakeholders fulfil in chemicals legislation implementation, enforcement and compliance.

ABOUT THE PRESENTERS



Helena Casabona has worked for the Swedish Chemicals Agency (KemI) since 1996. She is a biologist and toxicologist by training and has held different positions at the Agency over the years, both as a technical expert and manager. Her main focus has been pesticide related tasks with an emphasis on human health hazard and risk assessment. She is now working as a strategic adviser at the International unit and is involved in different development cooperation projects, including the International Training Programme in chemicals management.

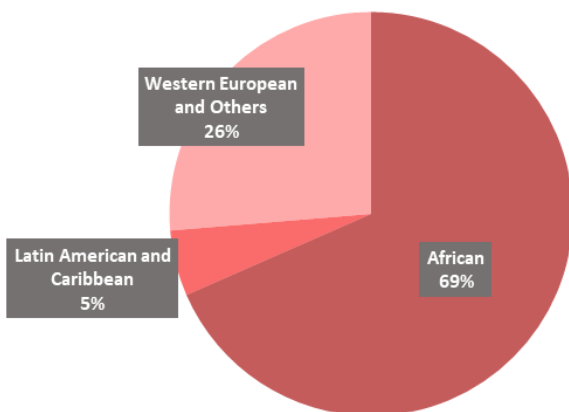


Cecilia Westöö has worked for the Swedish Chemicals Agency (KemI) since 2004. She is a chemist by training and has held different positions at the Agency over the years. Her main focus has been tasks related to chemicals legislation like enforcement and development of chemicals legislation within EU. She is now working as a Senior adviser in the International unit. Her main activities and responsibilities include, giving advice regarding chemicals risk management, establishment of institutional capacity and enforcement.

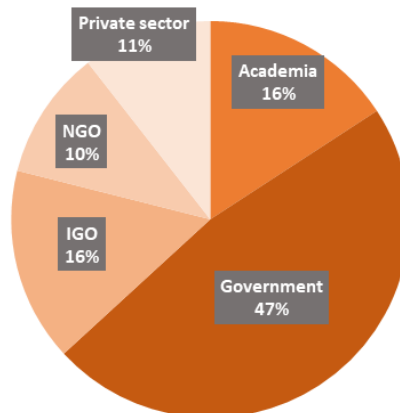
ATTENDANCE BREAKDOWN

ATTENDEES: 19

Regional representation

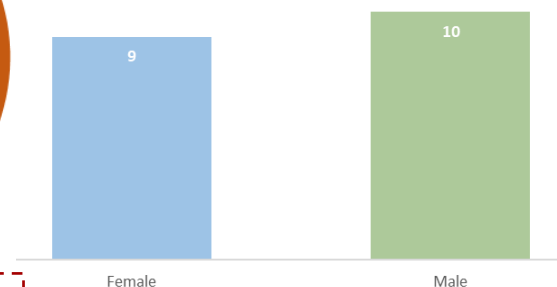


Sector representation



Key:
 IGO = Intergovernmental Organisations
 NGO = Non-governmental Organisations

Gender representation



KEY MESSAGES FROM THE DISCUSSION

1. Many countries lack an overarching chemicals framework legislation, although pesticides usually are regulated according to a specific pesticides' legislation.
2. Restrictions and bans of certain chemicals can be executed in many countries through permits and provisions in the pesticides legislation or by referring to environmental acts incorporating the conventions (e.g. Stockholm and Rotterdam).
3. An overarching chemicals legislation which covers all chemicals from the cradle to the grave may preferably contain basic principles on e.g. roles and responsibilities and requirements for classification and labelling according to the GHS. Downstream legislations for specific uses of chemicals such as pesticides, veterinary products and cosmetics can all refer to the same overarching legislation.

CONTRIBUTIONS FROM THE PARTICIPANTS IN ATTENDANCE

Question 1:

Explain how pesticides and chemicals (industrial and consumer) are legislated/regulated in your country or the country you work in. Make clear if and what the main differences are between the regulating for pesticides and chemicals?

SOUTH AFRICA (Academia)	<ul style="list-style-type: none"> - Pesticide legislation is old. - Pieces of a chemicals legislation but not no overarching chemicals policy or bill.
MOZAMBIQUE (NGO)	<ul style="list-style-type: none"> - Mozambique has the National Implementation Plan.
SURINAME (Government)	<ul style="list-style-type: none"> - Legislation that regulates the import of pesticides and other chemicals. - Separate legislation for the use of pesticides. - Other chemicals are to be regulated by the Environmental Framework Act, however, this act is new (April 2020) and not fully implemented yet. - The Environmental Framework covers the basics, but we are working on the implementing decrees. - A Caribbean model was used for the draft.
SWEDEN (Government)	<p>The key message in the presentation is that due to the purpose (designed to control and kill) pesticides often need to be approved before they are placed on the market.</p> <p>Another key message is that part from the approval system for pesticides, there are many similarities between chemicals and pesticides legislation.</p> <p>Within the EU, some of the key principles are put into one overarching chemicals legislation. Other pieces of legislation refer to the overarching one.</p>
KENYA (Government)	<ul style="list-style-type: none"> - Act to regulate importation, exportation, manufacture, distribution and use of products used for the control of pests and of the organic function of plants and animals and for connected purposes. - Toxic and hazardous chemicals and materials management are covered under the environment management act.
NIGERIA (Private Sector)	<ul style="list-style-type: none"> - All chemicals were regulated by Nafdac under the same legislation of Act 2004 until recently in 2019 when pesticide registration regulations were put forward, which distinguished pesticides from the general chemicals.
SOUTH AFRICA (Government)	<ul style="list-style-type: none"> - No overarching legislative framework yet for chemicals. - Pesticides are controlled under an Act administered by the Department of Agriculture - Industrial chemicals are controlled by a number of Acts including Regulations promulgated under (1) National Environmental Management Act (2) Occupational Health and Safety Act (3) Hazardous Substances Act.

Poll 1 Results (N=5)

Our country has the following (multiple responses allowed):

Out of date pesticide legislation:	3
Up to date pesticide legislation:	2
Drafting chemicals bill or legislation:	2
Basic chemicals legislation framework for all chemicals:	1
No basic chemicals legislation:	1

Poll 2 Results (N=4)

What are the main challenges your country faces with pesticide legislation?

- “There is still no harmonised or proper coordination among the regulatory bodies in Kenya.”
- “Outdated legislation.”
- “Compliance from the end users.”
- Implementation.”

Question 2:

If you have an overarching chemical policy or chemicals legislation in place, which sectors are covered (environment, labour, consumers etc)?

If you do not have an overarching chemical policy or legislation in your country, how are your chemicals managed?

AFRICA INSTITUTE (IGO)	<ul style="list-style-type: none">- In the SADC region most countries lack an overarching legislation or have bits and pieces of legislation that are not comprehensive.- Interested in establishing how the overall chemicals management systems work in African countries.- It seems most countries struggle with simple data and monitoring.- Data is key, as we need to know what, where and how much so that we can be able to monitor. A SADC harmonized body would work as long as it is given enough teeth to enforce.
MOZAMBIQUE (NGO)	<ul style="list-style-type: none">- National registration of Mozambique adopted the National Environmental Policy (NEP) in 1997 a framework document, which gives direction on elements to be considered to mainstream environmental matters into sectoral policies.- NEP provides framework to achieve sustainable development; ensure sustainability, security, and equitable use of resources to meet the basic needs of the present population without compromising those of the future generations, without degrading the environment or risking health or safety.- Advocates for development and application of environmentally friendly pests control methods without specific reference to POPs are the main objectives of the policy framework.- Mozambique participates and implements relevant bilateral, sub-regional, regional, and international treaties including the Bamako, Basel, Rotterdam and Stockholm conventions.- The reviewed and updated NIP II provides the legal and institutional framework for sustainable management of the POPs, other chemicals as well as the health and human being issues, impact and risk assessments, prevention and control of pollution, waste management, the blue economy issues, environmental quality and standards, public participation.
SURINAME (Government)	<ul style="list-style-type: none">- Overarching legislation exists but has not yet been implemented.- The preparations are ongoing and include setting up the authority, standard operating procedures, chemical registry, etc.
SWEDEN (Government)	<ul style="list-style-type: none">- Challenges include the following:<ul style="list-style-type: none">- Getting all the EU Member States to agree on all the different parts of the legislation.- Getting harmonised enforcement.- In all countries enforcement is a national matter but to get a level playing field, enforcement must be harmonised.
KENYA (Government)	<ul style="list-style-type: none">- The chemical coordinating bodies can address the challenges if the available legislations are harmonised.
NIGERIA (Private Sector)	<ul style="list-style-type: none">- According to legislation, pesticide is defined as any chemical substance or mixture of substances intended for preventing, destroying, repelling or mitigating the effect of any pests of plants and animal and shall include herbicides, insecticides, rodenticides, fungicides, molluscides, nematocides, repellents, attractants, insect growth regulators used in agriculture, public health, horticulture, food storage or a chemical substance used for similar purpose”.- All other chemicals like paints, soap etc are categorized under chemicals- Existing overarching chemical policy stakeholders include ministries like agriculture, environment and health and other sectors like the industries producing the chemicals, customs, and other law enforcement agencies

	<ul style="list-style-type: none"> - Sole registration body is National Agency on Food and Drug Administration and Control. - All imported chemicals must go through Customs and National Drug Law enforcement agency before going through Nafdac for registration, it is a stepwise process from CUSTOM-NDLEA-NAFDAC.
SOUTH AFRICA (Government)	<ul style="list-style-type: none"> - No overarching legislative framework yet. - Currently chemicals management are managed in a fragmented manner <ul style="list-style-type: none"> - Pesticides are managed by the Ministry of Agriculture - Industrial chemicals are management by Ministry of Environment (especially those controlled by the international conventions) and the Ministry of Health. - The Ministry of Health also controlled the residues of chemicals in food. - Ministry of Trade and Industry investigates the importation and exportation of chemicals and those used as disinfectant used in hard surfaces. - Ministry of Labour investigates the exposure of employees working with these chemicals (occupational exposure). - Challenges include the following <ul style="list-style-type: none"> - Possible duplication of efforts on enforcement of compliance to the chemical legislations. - Over regulation on each chemical i.e. the need to comply with a number of regulatory frameworks for some chemicals and if you are a new player in can be difficult to know which laws to comply with.
UGANDA (Government)	<ul style="list-style-type: none"> - Currently have a legislation on control of pesticide but not on other chemicals.
ZIMBABWE (NGO)	<ul style="list-style-type: none"> - Environmental Management Agency Act. - This act stipulates labelling requirements for all hazardous substances, classification of all chemicals and assessing the relevance of the information.

Poll 3 Results (N=3)

What are the main challenges your country faces with chemicals legislation?

- “The main challenge with chemicals legislation in eSwatini is that the chemical management bill is not yet gazetted. Policy makers are not well informed on the need of the legislation and hence there is very little being done to control chemicals currently.”
- “Implementing the legislation as well as monitoring and enforcement networks.”
- “No chemical registry.”

Poll 4 Results (N=8)

Kemi’s Guidance Document “Legislation on chemicals placed on the market”:

I have read this:	2
I have used this many times:	2
I have it but have not read it:	2
I have never seen or used it:	2

Question 3:

**Do you have possibilities to ban, restrict or not approve products within your current pesticides / chemicals legislation? If there is no legislation, how are these actioned in your country?
Give examples of how pesticides and chemicals are banned, restricted, or not approved in your country or the country you work in.**

MOZAMBIQUE (NGO)	<ul style="list-style-type: none"> - With regard the national provision to phase out HHPs banned and existing registered pesticides there are two central instruments: <ul style="list-style-type: none"> - Ministerial Diploma 153/2002 of 11 September 2002 (Pesticides Regulation) and Decree 6/2009 of 31 March 2009 (Pesticides Management Regulation).
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	<ul style="list-style-type: none"> - Pesticides registered with the National Directorate of Agriculture and Silviculture (DNAS), under the current Ministry of Agriculture and Food Security (MASA), can be used in Mozambique. - These include a list of pesticides products that are classified according to their toxic potential (Article 9). <ul style="list-style-type: none"> - Out of the 188 registered pesticides, 109 are class III; 67 class II and only 12 class I (being Class I the most toxic ones). - Composition and physical-chemical characteristics of the pesticides proposed for registration are to conform to the specifications from the World Health Organization (WHO) and the United Nations Food and Agricultural Organization (FAO) and should appear on the label.
SURINAME (Government)	<ul style="list-style-type: none"> - There are possibilities to approve or restrict chemicals through the permitting process. - No chemical registry yet. - The legislation does allow regulation of all chemicals that may have an environmental impact - The GHS system not yet used but there are plans to use it. - Chemical management is part of our Environmental Framework Act, which regulates activities. - Environmental Health and safety criteria apply depending on the type of activity.
SOUTH AFRICA (Government)	<ul style="list-style-type: none"> - There is a legislation to ban and restrict pesticides (administered by Ministry of Agriculture). - These can either not be registered for use in agriculture or registered if found to be problematic or causing a negative impact on the environment can therefore be severely restricted or banned. - Recently banned the use of chemicals (industrial POPs) using the Environmental management legislation (administered by Ministry of Environment). - The current setup is inadequate to manage chemicals. - An overarching legislative framework is required.
ESWATINI (Private sector)	<ul style="list-style-type: none"> - Current pesticide legislation contains sections of possibilities for banning or restricting some product. - Legislation is not yet operational. - Restrictions are currently actioned through the Environmental Authority (EEA), which is a government institution mandated to act a focal point and national designed authority for the international conventions like Rotterdam and Stockholm. - Normally, EEA holds national stakeholder engagements for review and input before any restrictions can be approved. - Enforcement of the approved restrictions remain very weak.

Poll 5 Results (N=5)

What are the main challenges your country faces with chemicals legislation?

- “Chemicals in products.”
- “Chemicals and mixtures for which the current test systems are not really designed or where criteria are lacking.”
- “Chemicals needed in specific processes but at the same time are toxic to health and environment.”
- “Chemicals in toys.”

Poll 6 Results (N=5)

Which of the following is correct?

Pesticides are classified under the WHO system:	5
GHS has not been implemented:	2
GHS has been implemented:	0
Pesticides are not classified under the WHO system:	0
Other:	0

Key resources:

- Kemi Guidance “Legislation on chemicals placed on the market” Section 4.2 page 14, Boundaries between legislation <https://www.kemi.se/publikationer/vagledning-om-kemikaliekontroll-for-andra-lander/legislation-on-chemicals-placed-on-the-market>
- Kemi Guidance “Legislation on chemicals placed on the market” Section 4.5 page 18, Limitations on trade and use <https://www.kemi.se/publikationer/vagledning-om-kemikaliekontroll-for-andra-lander/legislation-on-chemicals-placed-on-the-market>
- Kemi Guidance “Risk reduction of chemicals”, chapter 8 - Risk reduction instruments, <https://www.kemi.se/en/publications/guidance-on-national-chemicals-control-for-other-countries/risk-reduction-of-chemicals>
- UNEP Guidance – Benefits of Chemicals Control <https://wedocs.unep.org/bitstream/handle/20.500.11822/28399/ChemControl.pdf?sequence=1&isAllowed=y>
- UNEP Guidance - Enforcement of Chemicals Control Legislation <https://wedocs.unep.org/bitstream/handle/20.500.11822/28402/ChemContLeg.pdf?sequence=1&isAllowed=y>
- UNEP Guidance - National Authority for Chemicals Control: Structure and Funding <https://wedocs.unep.org/bitstream/handle/20.500.11822/28403/ChemContAut.pdf?sequence=1&isAllowed=y>
- UNEP Guidance – Risk Reduction Tools for Chemicals Control https://wedocs.unep.org/bitstream/handle/20.500.11822/28400/ChemControl_Guid.pdf?sequence=1&isAllowed=y

Chemical Network: The Chemical Network is a non-partisan online forum established by the Division of Environmental Health (DEH) at the University of Cape Town’s (UCT) School of Public Health and Family Medicine. It was established as part of a knowledge management and sharing project supported by the Swedish Chemicals Authority (Kemi). *This forum has been produced with financial assistance from Sweden, through the Swedish International Development Cooperation Agency (SIDA), which has been arranged by the Swedish Chemicals Agency (Kemi). The views herein shall not be taken to reflect the official opinion of SIDA or the Swedish Chemicals Agency.*

If you have any question or require clarification on this initiative, please contact UCT at chemicallistserver@gmail.com.

If you are not already a member, to join the Chemical Network at:

https://forms.office.com/Pages/ResponsePage.aspx?id=NUNFkk5Wz0ywsCREW4wD9xEG1M2Og-dLiLP1a0l63_JUMk9STUk1OThJVfIzVFdKVktMNIg4TVVHUjQIQCN0PWcu

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