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International Legislative and Regulatory Frameworks

Executive Summary

Over the past two decades, legislative and regulatory frameworks have been developed that address environment–health linkages. In the area of chemicals control alone, separate binding agreements (Rotterdam, Stockholm and Basel Conventions) co-exist with nonbinding agreements such as the Global Harmonization System. A new initiative known as the Strategic Approach to International Chemicals Management (SAICM) addresses the growing gaps between the capacities of different countries to manage chemical safety. However, the extent to which these instruments have been streamlined within existing national legislation has not been formally documented. It is apparent that these instruments are not currently deployed or adequately equipped. The dumping of hazardous substances in the city of Abidjan, Côte d’Ivoire in August 2006, demonstrated sharply the need for the recognition of the inextricable link between health and the environment at all levels, and for coordinated actions. This unfortunate occurrence revealed weaknesses in the international and national regulatory mechanisms and their implementation, and brought to light institutional and operational deficiencies and a dramatic lack of capacity to manage hazardous wastes in an environmentally sound manner. The need for an integrated institutional framework addressing human health and the environment cannot be overstated. The Revised International Health Regulations (2005) now being implemented in all African countries provide a more cohesive approach to health and environment risk management. Despite the many efforts undertaken by African countries, the level of awareness and understanding of these environmental agreements among country-level policy makers remains limited. In order to facilitate a coordinated national implementation of conventions and international agreements that relate to health and the environment, governments may wish to consider establishing inter-sectoral mechanisms to monitor and to make policy proposals for the implementation of existing and future conventions and international agreements, and build their local capacity to raise awareness on these instruments.

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Acronyms and Abbreviations

GEO	Global Environment Outlook
GHS	Globally Harmonized System of Classification and Labeling of Chemicals
IHR	International Health Regulations
POPs	Persistent organic pollutants
SAICM	Strategic Approach to International Chemicals Management

1. Background

1. Environmental influences on human health are governed through a number of local, national, regional and international legislations. These include laws to prevent water, soil, air and noise pollution; developmental or land use planning laws; laws governing health, sanitation, occupational health and safety; laws concerned with radiological exposure, food-borne toxins, pesticides and pharmaceuticals; and trade and transportation laws.
2. The existing legislation and regulatory frameworks in many African countries were developed soon after independence, based heavily on the laws of colonizing countries. Today, many of these traditional legislative frameworks are no longer appropriate for dealing with the unanticipated effects of environmental risks to human health, particularly chemicals on biological systems.
3. Chemicals remain one of the most regulated areas in all countries. National laws generally require the registration of pesticide formulations before they can be marketed for use on specific crops, and set out limits of concentrations of chemicals in a specific medium, in order to minimize the risks they pose. The area of chemicals control illustrates the many lessons learnt as developed economies have grappled with the emergence of new and unfamiliar hazards in establishing or developing their legislative framework. It also demonstrates an area where challenges remain for developed and developing countries alike, and where opportunities exist to strengthen health and environment linkages. For instance, the Strategic Approach for International Chemicals Management (SAICM) provides a major impetus to the development and implementation of strengthened chemicals-related legislation through a multi-sectoral approach.
4. Over the past two decades, legislative and regulatory frameworks have been developed in the context of a growing and active environmental consciousness. This has been particularly true for a diversity of global multilateral environment agreements, such as the Vienna Convention; the Montreal Protocol; the Convention on Biodiversity and related Protocol; the Basel Convention; the Stockholm Convention; the Rotterdam Convention and the Revised International Health Regulations. The Bamako Convention is an example of a regional-level framework.
5. The number of these conventions and agreements and their broad ratification in recent years has been remarkable. In the area of chemicals control alone, three separate binding agreements exist (Rotterdam, Stockholm and Basel Conventions) together with non-binding agreements such as the Globally Harmonized System for the Classification and Labeling of Chemicals (GHS). The new Strategic Approach to International Chemicals Management (SAICM) has been adopted at the global level in recognition of the growing gaps between the capacities of different countries to manage chemicals safely, the need to improve synergies between existing instruments and processes, and a growing sense of urgency

regarding the need to assess and manage chemicals more effectively to achieve the 2020 goal articulated in paragraph 23 of the Johannesburg Plan of Implementation.

6. African countries have been active in the negotiation processes of these conventions, and their contribution in the development process has also been remarkable. Most of the countries have further become parties to these conventions through ratification. However, their enforcement of these instruments remains challenged by a lack of adequate and predictable resources. Moreover, the extent to which these instruments have been streamlined within national legislations has not been formally documented. But it is apparent that these instruments are not currently deployed and adequately equipped to fully serve their purpose within African countries.
7. Today in Africa, some industrial chemicals such as arsenic, cadmium, lead and mercury, which are heavily controlled or withdrawn in developed countries, continue to be used, with major environmental and health consequences. African farmers use large amounts of chemical pesticides. And as much as 50,000 tonnes of obsolete stockpiles of pesticides contaminate soil, water, air and food both for domestic consumption and export .

Case Study - *The Probo Koala* incident: the costs of inaction

The dumping of hazardous substances in the city of Abidjan, Côte d'Ivoire in August 2006, serves to demonstrate the need to recognize and reinforce the inextricable link between health and the environment at all levels.

In the early hours of 21 August 2006, residents of several parts of the city awoke to a thick and suffocating smell. It was discovered that 528 cubic metres of wastes derived from the ship *The Probo Koala* had been dumped at a number of sites around the district of Abidjan. Such wastes were found to contain highly concentrated hydrogen sulphide, sodium hydroxide and mercaptans. This incident had huge consequences to human health and the environment.

Seven people are reported to have died and more than 44,000 have sought medical treatment as a result. To respond to the medical needs of the victims of this incident, a medical response system was gradually put in place in the district of Abidjan in 32 sanitary centres, backed by 20 mobile medical units to attend to those exposed to the toxic wastes, who had general, neurological, respiratory, digestive, visual and skin disorders. The government of Côte d'Ivoire's preliminary estimate of the associated financial implications of this emergency, in respect of losses sustained to the economic, social, environment and health sectors, amounted to USD 130 million.

This incident illustrated that there exist gaps in the international, and corresponding national regulatory mechanisms and their implementation. Such gaps are presently under consideration among the relevant intergovernmental organizations, as a means to secure political and regulatory cohesion to prevent and deal with such occurrences in future. Such concerted decision-making may be achieved through the recognition of the linkages between human health and the environment. The Basel Convention's primary objective is the protection, by strict control, of human health and the environment from adverse effects that may result from the generation and management of hazardous wastes. To this end, the Convention is underpinned by the notion of "environmentally sound management," which entails taking all practicable steps to ensure hazardous wastes are managed in a manner that will achieve this

primary objective. The protection of human health and the environment reflect a common goal, which should be pursued jointly. This joint pursuit should similarly be extended in the implementation of other international instruments, thus allowing for a comprehensive legislative framework.

The incident in Côte d'Ivoire also brought to light institutional and operational deficiencies, as well as a dramatic lack of capacity to manage wastes in an environmentally sound manner. The National Commission of Inquiry on Hazardous Wastes in the District of Abidjan, in considering the response to this incident, concluded that there were deficiencies in organization and control on the part of the administrations concerned, illustrating weaknesses in the mechanisms for delegation, execution, coordination and control of authority. The Commission also found that there were insufficient regulations, and the people responsible lacked an understanding of the relevant laws and procedures. Furthermore, there was no emergency response plan and shortcomings in the information flow between the relevant national administrations, including a failure to observe the administrative hierarchy, also came to light and served to impede an expeditious response to this incident.

Such findings thus demonstrate the need for an integrated institutional framework addressing human health and the environment, which will effectively respond to such incidents. This might be achieved through the establishment of health and environmental coordination units, which fosters a culture of information exchange and mutual support between differing administrations.

In pursuing coherence between health and environmental considerations on chemicals and wastes, such coordination units might be tasked with information gathering, risk assessment, monitoring and response. This might also be achieved through the establishment of poison control centres in key locations which would allow for the consequences of the mismanagement of chemicals and wastes on health and the environment to be addressed in concert.

2. Issues and Challenges

8. The rapid development of international and national regulations to do with health and the environment has led to a complex and often fragmented set of arrangements with numerous requirements at national and international levels. However, the Revised International Health Regulations (2005) now being implemented in all African countries provide a more cohesive approach to health and environment risks management, and require countries to strengthen their surveillance, notification and response mechanisms for all events of international concern.
9. The UN reform process emerged in part from a growing concern that all too often, global agenda and national actions falter as a result of institutional rivalries, potentially leading to a waste of resources and duplication of efforts. Identifying inter-linkages offers opportunities to enhance the coordination and synergy among the existing legal instruments. This can ensure greater implementation effectiveness and maximize the use of limited resources, increase the impact in decision making and strengthen the necessary capacity building for implementation at the country level. Such processes will remain key to the success of international and national legislative frameworks.
10. The effective implementation of international agreements requires that the policies of the health and environment sectors are aligned with each other, and that there exist strong institutional mechanisms that allow effective collaboration

among different sectors. This can only occur if the health sector is informed of the provisions and objectives of these conventions and based on this, delineate the critical role it should play in their implementation. Furthermore, collaboration across legislative frameworks can strengthen the integration of environmental concerns into the development agenda.

11. Despite the many efforts undertaken by countries themselves and the various Convention Secretariats, the level of awareness and understanding of these environmental agreements within country-level policy makers remain limited. Furthermore, the necessary inter-sectoral collaboration mechanisms, where they exist, are weak. There are still—as evidenced by the DDT issue in certain countries—conflicting policies between health and environment that continue to impact negatively on implementation, while this could be avoided by creating win-win situations through mutually developed holistic approaches.

3. Proposed Actions

12. In order to facilitate coordinated national implementation of conventions and international agreements that bear on health and environment, governments may wish to consider:
 - a) Establishing intersectoral mechanisms to monitor and make policy proposals for the implementation of existing and future conventions and international agreements, supported where necessary by technical expert subcommittees.
 - b) Establishing, where appropriate, national focal points to act as the principal interlocutors with the respective secretariats of Conventions and international agreements; these focal points would form a component part of the national intersectoral coordination mechanism.
 - c) Building the local capacity in the Conventions and international agreements related to health–environment inter-linkages, and facilitating reporting to raise public awareness.
 - d) Establishing more effective mechanisms for the implementation and enforcement of national legislations and regulations.

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