

LEGAL CASE STUDY - JAMAICA

The implementation of the Rotterdam Convention



Food and Agriculture Organization
of the United Nations

December 06

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A. List of Abbreviations

CARICOM	Caribbean Community
COTED	Council for Trade and Economic Development of CARICOM
CARPIN	Caribbean Poison Information Network
DNA	Designated National Authority
FAO	Food and Agriculture Organization of the United Nations
INP	Integrated National Programme for the Sound Management of Chemicals and Hazardous Wastes in Jamaica
LDUC	Land Development and Utilization Commission
MOA&L	Ministry of Agriculture and Lands
MOH	Ministry of Health
MOLG&E	Ministry of Local Government and Environment
NEPA	National Environment and Planning Agency
NRCA	Natural Resources Conservation Authority
PIC	Prior Informed Consent procedure
PCA	Pesticides Control Authority
PRAD	Pharmaceutical and Regulatory Affairs Department
SRD	Standards and Regulations Division
TPD	Town Planning Department
UNDP	United Nations Development Programme
WHO	World Health Organization

B. Acknowledgements

The very kind assistance of the PCA, especially its Registrar, Mrs. Hyacinth Chin-Sue Walters, is acknowledged and very much appreciated in outlining the framework of the management of hazardous chemicals and pesticides in Jamaica.

C. Terms of Reference

The terms of reference were to develop a case study of Jamaica's experience in developing/amending national legislative and regulatory frameworks in order to implement the Rotterdam Convention.

The Consultant was specifically required to:

- Review the context of chemicals management within Jamaica prior to signing the Convention.
 - Examine actions taken at the national level to revise and/or strengthen the legal and regulatory framework after signing the Convention.
 - Look at further actions that may be needed to achieve effective implementation of the Convention in Jamaica to enable effective implementation.
 - Provide conclusions and lessons learned of possible interest to other countries.
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D. Introduction

The management of hazardous chemicals and pesticides is of paramount importance to Jamaica as a small island developing state facing these and many other challenges within the context of increasing global trade and production.

Jamaica acceded to The Rotterdam Convention on the Prior Informed Consent Procedure For Certain Hazardous Chemicals and Pesticides in the International Trade (the Rotterdam Convention/the Convention) on August 20, 2002. -The Convention came into force for Jamaica on February 20, 2004.

The Pesticides Control Authority (PCA) is the Designated National Authority (DNA) under the Convention. - Focus was, therefore, mostly directed on the PCA and its work prior and subsequent to Jamaica's accession to the Convention.

Jamaica is one of four territories in the Region which are parties to the Convention. -The other three are Belize, Suriname and Dominica. - As the first of two Caribbean islands to sign, Jamaica is, indubitably, the vanguard although she still has many inroads to make in order to perfect her management of hazardous chemicals and pesticides.

Consultations were held with various persons employed in governmental ministries/agencies involved in the implementation of the Convention without whose input this report could not have been compiled.

1 - Pre-Rotterdam Convention: Jamaica's chemicals management prior to signing

1.1 - Institutional and legislative frameworks

Jamaica's importation of hazardous chemicals and pesticides falls primarily under the aegis of the Ministry of Health (MOH) and specific agencies/divisions. -The Ministry of Local Government and Environment and specific agencies are involved in the management and disposal of hazardous wastes and possible deleterious effects on human health and the environment.

The relevant agencies/divisions within the MOH are the Pesticides Control Authority (PCA) and the Standards and Regulations Division (SRD).

The relevant legislations for consideration in this Report are the Pesticides Act and Precursor Chemicals Act, which are implemented by the PCA and SRD respectively.

1.2 - Pesticides Control Authority

Pesticides importation was once governed by the Standards and Regulatory Division (which Division now has responsibility for chemicals, other than pesticides – see 1.3 below) up until 1992 when the PCA opened its door to the public. - PCA is governed by the Pesticides Act which was promulgated in 1975. -Although on the books since 1975, the PCA was actually established in 1992 with assistance from the German Technical Cooperation Project. -**The Pesticides Act** is *“an Act to make provision for regulating the importation, manufacture, sale and use of pesticides, for the licensing of pest control operators and for matters connected therewith or incidental thereto”*.

The PCA is a body corporate which, inter alia, registers pesticides; licenses persons to import or manufacture registered pesticides; authorizes persons to sell restricted pesticides; considers and determines applications and deals with all aspects of the importation, manufacture, packaging, preparation for sale, sale, disposal and use of pesticides.

The PCA Board comprises representatives from public sector organizations who are involved in pesticide control such as the Environmental Health Unit and Standards and Regulations Division of MOH, Government Chemist, the Ministries of Agriculture and Lands (MOA&L) and Local Government and Environment (MOLG&E), the Attorney General's Chambers, and a private sector representative from the pesticide trade and a member of the public.

The implementation of the Act is undertaken by a Registrar appointed by the Authority. - The Second Schedule of the Act contains prohibited pesticides which cannot be brought into or used in the Island-. The Third Schedule contains Restricted Pesticides-. The PCA issues import licences only for pesticides that are registered. It maintains a Register of pesticides and a database on imports. -The Pesticides Regulations, 1996 govern the registration, importation, manufacture of pesticides, the selling of restricted pesticides and pest control operations. -The Pesticides (Amendment) Regulations, 1999 and 2004 seek to amend and amplify the 1996 Regulations.

The detailed working of the Act and Regulations is as follows. -The PCA appoints a Registrar and other employees who are responsible for the “proper carrying out of the provisions” of the Act. -No person can manufacture, import, advertise or sell any pesticide unless that pesticide is registered and has first obtained a licence to import or manufacture such pesticide.

Pesticide means *“any product, organism, substance or thing that is manufactured, represented, sold or used as a means of directly or indirectly controlling, preventing, destroying, mitigating, attracting or repelling any pest and includes (a) any compound or substance that enhances or modifies or is intended to enhance or modify the physical or chemical characteristics of a pesticide to which it is added; and (b) any active ingredient used for the manufacture of a pesticide.”* -The Act has an established regime for the use of restricted and prohibited pesticides.

Prohibited pesticide means *“any pesticide of which the possible effects on the environment, plants, animals or human beings are considered by the Minister to be too dangerous to justify its use”* which is specified in the Second Schedule of the Act, whereas restricted pesticide means *“any pesticide specified in the Third Schedule and any preparation or mixture containing such pesticide...”* - No prohibited pesticide can be brought into or used in the Island. -The Minister may, after consultation with the Authority, amend the Second Schedule by order and this order may provide for the withdrawal from sale or use and the disposal of any pesticide added to the list of prohibited pesticides-. Annex III pesticides would fall under the Second Schedule of the Act.

There is a prohibition on packaging, labelling or advertising of *“any pesticide in a manner that is false, misleading or deceptive is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety, or is inconsistent with the information supplied to the Authority (the PCA) at the time of the application for registration”*. -Even though there is provision for the PCA to make regulations with regard to labelling and packaging, none have been developed as the PCA uses the national labelling standards which are the responsibility of the Jamaica Bureau of Standards. -Regulation 17 of the 1996 Regulations speaks to the use of the national labelling standards as specified by the Bureau of Standards but also states that the PCA may require such additional information as the PCA considers necessary in the interest of public safety.

Persons wishing to register a pesticide shall apply to the PCA for a licence so to do and the PCA may either issue or refuse such registration. -In the event of refusal, the PCA shall inform the applicant in writing as to its reasons for refusal-. The registration may be subject to such conditions as the PCA deems fit. -Similarly, persons wishing to manufacture or sell such pesticides must obtain a licence and persons, such as pest control operators and servicemen, -also need to be licensed and trained in the safe use and handling of pesticides so as to prevent *“unreasonable adverse effect on the environment and injury to humans and animals”* (Regulation -15A(3) of the 1996 Regulations). -A pest control operator may also be required to be insured or to provide a guarantee or bond of such amount specified by the PCA for *“the reimbursement of persons who may suffer damage as a result of the operation of the pest control operator”* or *“any costs incurred in cleaning up or in mitigating any adverse effect on the environment”* (Regulation 15F of the 1996 Regulations).

Quite a number of pesticides listed in Annex III of the Convention appear in the Second and Third Schedules of the Act, which deal with prohibited and restricted pesticides respectively , most of which were already prohibited prior to Jamaica’s accession to the Convention. -Some thirty two pesticides are listed in the Second Schedule and over one hundred and sixty in the Third Schedule-.

In the 1990s PCA exported obsolete pesticides for disposal.

1.3 - Standards and Regulations Division

The SRD regulates the importation of all chemicals, except pesticides and administers the provisions of the Food and Drugs Act (1964) and its Regulations, the Dangerous Drugs Act (1948) and its Regulations and the Precursor Chemicals Act (1999). -All three Acts, by their ambit, do not fall under the Convention. -The Dangerous Drugs Act makes provisions for the prohibition of use of dangerous drugs such as ganja (cannabis sativa), opium, morphine and cocaine and establishes offences for their use, import, or export but also deals with their use for controlled, medicinal purposes. -The Food and Drugs Act deals with food, drugs and cosmetics, which, by their very definition, are also excluded from the purview of the Convention by Article 3.2. -Even the most modern Act, the Precursor Chemicals Act does not fit within the scope of the Convention. -Permits are granted administratively for the importation of chemicals on a case-by-case basis. - Unlike what obtains under the Pesticides Act, there is no corresponding general registration system for chemicals.

The competent authority under the Precursor Chemicals Act is the Pharmaceutical and Regulatory Affairs Department (PRAD), a department within SRD, whose functions are, inter alia, to carry out the monitoring, control and investigation of any prescribed activity; ensure the application of a surveillance system on any movement of chemical substances into or out of Jamaica; to grant licences in respect of any prescribed activity; and to grant export or import permits in respect of specified chemical substances.

“Precursor chemical” means any substance which can be used in any of the chemical processes involved in the production, manufacture or preparation of narcotic drugs, psychotropic substances or substances having a similar effect and incorporates its molecular structure into the final product making it essential for those processes. .

“Prescribed activity” means the production, manufacture, preparation, distribution, importation or exportation of any precursor chemical or, for other chemical substances, the importation, manufacture or exportation of any other chemicals in significant quantities.

“Specified chemical substances” means precursor chemicals listed in Table I such as acetic acid, isopropyl alcohol, ethyl ether and sodium sulphate or any other chemical substance listed in Table II of the First Schedule of the Act.

Persons wishing to engage in any prescribed activity need to apply to the competent authority for a licence or permit so to do. -The competent authority can impose such conditions it considers necessary on the grant of a licence or permit and can refuse a licence or permit if, inter alia, the grant would not be in the public interest. -It can also suspend or revoke any licence or permit given. -The Act mandates not only the competent authority to keep registers but also permit or licence holders who shall keep such register and all books, records or other documents relating to entries therein for at least five years after the end of the calendar year of the last entry in the register.

The competent authority is also mandated to return a copy of the relevant document issued by the Government of the exporting country to the appropriate authority of the exporting country within fourteen days of entry into Jamaica.

1.4 - Obligations already being met prior to the Convention

Although Jamaica had not yet been a party to the Convention, she adopted a zero-tolerance policy as it related to

pesticides and chemicals listed in Annex III that were deemed harmful, through a system of permits. -The Pesticides Act already had a regime for prohibited and restricted pesticides, some of which are listed on Annex III of the Convention-. Industrial chemical importation being the purview of the PRAD, of course, meant that PRAD would have to determine whether or not to import, on a case-by-case basis. -PRAD has been advised by the PCA of Jamaica's import decisions and that no permit should be granted.

1.5 - Other international instruments governing pesticides or industrial chemicals to which Jamaica was a party

Prior to 2002 and indeed 2004, Jamaica had signed and/or ratified a number of related international instruments most notably the Basel Convention on Transboundary Movement of Hazardous Waste and their Disposal of 1989 to which Jamaica acceded on January 23, 2003 and which came into force on April 23, 2003 and the Stockholm Convention on Persistent Organic Pollutants which Jamaica signed on May 23, 2001 but is yet to ratify.

1.6 - Ministry of Local Government and Environment

The portfolio of the Ministry of Local Government and Environment (MOLG&E) includes the formulation of national policies for the protection and conservation of the Country's environment and natural resources. -As it relates to chemicals and wastes management, MOLG&E includes the development of national policy to govern hazardous waste management. -The Ministry is Jamaica's focal point and the National Environment and Planning Agency (NEPA) is the competent authority for the Basel Convention. -NEPA is also the focal point for the Stockholm Convention.

1.7 - National Environment and Planning Agency

The National Environment and Planning Agency (NEPA), an executive agency under the Ministry of Local Government and Environment, was established in April 2003 and is a merger of the Natural Resources Conservation Authority (NRCA), the Town Planning Department (TPD) and the Land Development and Utilization Commission (LDUC).

Jamaica's principal environmental legislation is the Natural Resources Conservation Authority Act of 1991 which is overseen by NEPA and under which several regulations have been developed such as:

- The Natural Resources (Permits and Licences) Regulations, 1996 which require a permit for the storage, transportation and disposal of hazardous wastes.
- The Natural Resources (Hazardous Wastes) (Control of Transboundary Movements) Regulations (2002) which govern transboundary movements of hazardous wastes in keeping with the Basel Convention (the Basel Regulations); and
- The Natural Resources (Ambient Air Quality) Regulations.

The Basel Regulations prohibit import of hazardous wastes and require a licence for export from the NRCA.

Jamaica has not yet ratified the Stockholm Convention. -Jamaica has decided not to become a party until the requisite

legislation is put in place. -Whilst there may be some laws on the books that may be used to implement some of the provisions of the Stockholm Convention, further legislative action is required for Articles 3, 5 and 6 as well as the Annexes of the Convention. -MOLG&E and NEPA are at present reviewing the requisite obligations and the necessity to put a specific law in place for polychlorinated biphenyls (PCBs), dioxins and furans which are not comprehensively dealt with in any other legislation. -A decision needs to be taken on how expansive the "Stockholm" legislation should be, bearing in mind that the pesticides on the Stockholm Convention are already banned under Rotterdam, so things are being dealt with administratively by the PCA-. It should be noted that PCBs, as a waste, have been exported since the 1990s. It should be borne in mind that the Pesticides Act deals with the general regulation of pesticides and their disposal but not with specific environmental implications for the use of these chemicals such as the management of stockpiles, use of substitutes or modified materials or the elimination or use of machinery or processes which produce these chemicals as a by-product.

2 - Actions taken to revise/strengthen the legal and regulatory framework after signing

The main obligations under the Convention are:

- nominating a Designated National Authority (Article 4);
- instituting measures as necessary to establish and strengthen its national infrastructures and institutions for the effective implementation of the Convention including the adoption or amendment of national legislative or administrative measures such as;
 - (a) the establishment of national registers and databases including safety information for chemicals;
 - (b) the encouragement of initiatives by the industry to promote chemical safety (Article 15);
- monitoring;
- the exchange of information on export, import and use of chemicals (Articles 5 - 14).

2.1 - UNITAR Project

The Government of Jamaica had given permission for developing the legislation for the Rotterdam Convention when it decided to become a Party and recognised that, through the Pesticides Act and administrative measures by PRAD, it could meet its obligations in the short term. -It was recognised that there were inherent deficiencies in the management of chemicals and hazardous wastes in that there were so many ministries and agencies which had discreet and fragmented responsibilities and an adequate legal and regulatory framework needed to be put in place-. There was, therefore, need for an integrated approach to the management of chemicals and hazardous wastes as this would impact on Jamaica's sustainable development.

As a result, the Government of Jamaica approached the United Nations Institute for Training and Research (UNITAR) for assistance in developing an Integrated National Programme for the Sound Management of Chemicals and Hazardous Wastes in Jamaica (INP), which report was published in January 2006. -In fact, Jamaica was one of four developing countries (the others being Armenia, Chad and Jordan) which was selected in February 2004 as pilot countries by UNITAR with funding from the Swiss Government-. *"The ultimate objective of the Programme was to foster a multi-sectoral, co-ordinated and integrated approach to the management of chemicals and wastes at both the national and local levels, thereby minimizing adverse effects on public health and the environment"*.

Coming out of the project is the Inter-Ministerial Co-ordination Mechanism (ICM) which *“will provide a forum through which all stakeholders can coordinate their activities and share resources and expertise related to the management of chemicals and hazardous wastes at the national, regional and international levels”*.

As already indicated, an Integrated National Programme for the Sound Management of Chemicals and Hazardous Wastes in Jamaica (INP) was developed. The INP is a five-year action plan whose goal is to, inter alia, develop comprehensive legislation to support an integrated approach to chemicals management within three years. -However, to date, there have yet been no concrete plans for this legislation. Of note is the development of a National Chemical Safety Website called *“Chemical Safety & Waste Management in Jamaica – A National Integrated Approach”* which was launched in January 2006, has, inter alia, contact details for all government stakeholders and may be found at www.chemicalsafety.gov.jm. -This website is a key element of national information exchange and has enhanced communication among stakeholders-. It gives information on, inter alia, the relevant national legislation and international conventions to which Jamaica is a Party, links to several international websites in order to facilitate information exchange, and features a list of chemicals banned under the Convention as well as the Pesticides Act.

2.2 - Administrative measures adopted by the Designated National Authority

The PCA, as the DNA under the Convention, has fulfilled most of its obligations, despite the absence of an amplified legislative framework. -Jamaica's obligations under the Convention are being met administratively for industrial chemicals and those pesticides not yet listed in the Pesticides Act. -Although the PCA is the DNA, it has no oversight power over the SRD/PRAD which is another autonomous governmental division answerable to the Minister responsible for Health. The extant Pesticides Act already lists some of the pesticides in Annex III of the Convention-. In addition, the PCA has used World Customs Organizations' Harmonized System to help Customs to identify the chemicals on Annex III and is in the process of creating links with Customs through an online programme that will inform the DNA if and when any applications for permits for chemicals on Annex III are received. This will oversee permits issued by PRAD.

As already indicated, Jamaica has nominated the PCA as its DNA. -In the meantime, the DNA has made import responses to the Secretariat giving no consent for future imports of the forty one listed pesticides and chemicals-. Given that the Convention is not binding on non-parties, there is need for legislation to prohibit the importation of these chemicals. -In the off-chance that a hazardous chemical were to reach a Jamaican port, then there would be the problem of its disposal and the proper procedure to be followed for its disposal and the resultant costs. -Arrangements would likely be made under the Basel Regulations. Under the Basel Regulations, wastes *“includes any material, substance or object or its residue or by-product which is (a) rejected, discarded or abandoned or (b) is disposed of or is intended to be disposed of or is required to be disposed of. . .”* The hazardous chemical not having been landed, it would be categorized as waste under the Basel Regulations. However, in the absence of specific national legislation, there would be no legal basis to refuse importation-. Under the Convention PIC regime, parties would be informed of the Government's ban and vice versa, but a non-party would not be required to comply.

Another concern is that there is no regime in place for products containing the listed chemicals which would not be banned or severely restricted chemicals but have some element therein and which ought to be monitored in the interest of human and environmental health. -In fact, apart from the legislation already listed, there is no legislation to deal with industrial chemicals. The Precursor Act, by its very scope, deals with chemicals which do not fall under the purview of

the Convention as indicated in Article 3 (2), as do the Food and Drug and Dangerous Acts-. Measures currently taken are being dealt with administratively. -As already stated, Jamaica has not consented to the importation of Annex III chemicals-. To be thorough, these should be added to the Schedule of the Pesticides Act, at least those Annex III pesticides not already prohibited under the Act, as the industrial chemicals would be out of place in this Act, as presently formulated. The extant Pesticides Act only deals with pesticides-. At present, applications for the importation of chemicals are being done on a case-by-case basis and there is no registration process by PRAD.

2.3 - Overarching Legislation

PCA, SRD and PRAD are currently working on an online database system for permit applications which will be linked to Customs. -It is hoped that this will be completed within another year or so. -In the mean time, it is proposed to have an overarching legislation in place to deal with the full life cycle of all chemicals referring to existing chemical legislations as necessary-. The legislation would deal with unmet chemical needs and establish schedules for extant chemical legislation, so that, for instance, there would be a schedule dealing with the Pesticides Act or the Dangerous Drugs Act, dependent on the specific chemical. -To be complete, this legislative intervention would also require a re-definition of the scope of the different agencies to solve the problem of fragmented mandates among institutions-. At the operational level, agencies are fostering cooperation and exchange of information on a regular basis through the ICM.

2.4 - Stakeholder Consultations

In the interim, the PCA has been having stakeholder consultations within the context of the UNITAR Project. -A Sub-Regional Consultation, attended by Jamaica, Trinidad and Tobago, Barbados and Suriname, was held in Port of Spain, Trinidad in September 2005 to develop national plans of action for implementing or ratifying the Convention-. The outcome of this Consultation was (a) a clear understanding of the Convention; (b) identification of activities needed at the national level to meet the key obligations of the Convention and (c) an understanding of existing mechanisms for inter-ministerial cooperation on the Rotterdam, Basel and Stockholm Conventions and identifying possible synergies and opportunities for cooperation in the implementation of the Convention-. Another Consultation was held in Jamaica on May 31, 2006.

Another consultation, of a national nature, was held in Jamaica in May 2006. The consultation was attended by some twenty nine stakeholders from government bodies/agencies, the private sector and international bodies such as the Ministries of Agriculture and Lands, Health and Labour as well as Jamaica Customs Department, Agro Grace Limited and T. Geddes Grant Limited, commercial importers of and traders in pesticides and UNDP and FAO respectively.

A follow-up Consultation was held on June 8, 2006 with a smaller group chaired by Mrs. Hyacinth Chin-Sue Walters, Registrar of the PCA from which it was proposed to move forward with the amendment of the Pesticides Act to cover industrial chemicals that are banned or severely restricted under the Rotterdam Convention (as, for instance it is done in Canada) and allow the UNITAR Plan of Action on legislation to continue looking at the life cycle management of chemicals.

Although Cabinet had approved the issuing of drafting instructions for legislation to fulfill Jamaica's obligation under the Convention since 2002, these instructions have not yet been finalized, due to the multi-sectoral responsibility of agencies, concerns for the life cycle management of chemicals and the need to have an integrated approach to the

management of chemicals allowed into the Country.

The PCA and the Coordinating Group of Pesticide Control Boards of the Caribbean have been seeking to improve agro-chemical management in the Caribbean. The management and amelioration of agro-chemical pollution were examined in Jamaica and St. Lucia. -The result is the development of a Policy and Management Strategy Document entitled *“Management of agro-chemicals for improved public and environmental health – A Strategy for improved agro-chemical use and management for the Wider Caribbean”* which was published in 2004-. This was funded by the UK Department for International Development Natural Resources System Programme.

CARICOM has already endorsed the Strategy at its Council for Trade and Economic Development (COTED) Meeting in May 2005. -Included in the Strategy is the need to harmonize legislation for pesticides and toxic chemicals for the Caribbean Community. Prior to this, COTED had no discussion on pesticides and chemicals-. The Strategy looks at possible actions that may be *“undertaken at regional and national levels to harmonize pesticide control measures, to support and finance existing institutions and improve collaboration, and to promote good agricultural practice through information, training and outreach work”*.

2.5 - Amendment to the Pesticides Act

Based on the strategy for agro-chemical management in the Caribbean, which was endorsed by CARICOM in 2005, the PCA proposes to amend the Pesticides Act to the *Pesticides and Toxic Chemicals Act* to make provisions for prohibiting and managing the import and export of Annex III chemicals. -The provisional drafting instructions, which were prepared by a government lawyer, propose to adopt the requirements of the Convention wholesale. -For example, the definitions for “chemical”, “banned chemical”, “severely restricted chemical”, “severely hazardous pesticide formulation”, “export” and “import” and “Party” are taken directly from the Convention. -Importation and exportation of all “Rotterdam” Chemicals as well as those severely restricted or banned will require a licence from the DNA-. It is intended to adopt articles such as 5, 6, 9 and 10 dealing with procedures for banned or severely restricted chemicals and communication with the Secretariat.

The DNA will, inter alia, have powers to ban and severely restrict pesticides and industrial chemicals and communicate these decisions to the Secretariat. -With regard to export, no exporter shall export a substance on the Schedule unless:

- that exporter is a resident of Jamaica, or in the case of a corporation, has a business in Jamaica;
 - follows the conditions of export that are specified in the export permit;
 - has liability insurance coverage for every shipment to cover:
 - i. any damage for which the exporter may become liable arising from the export of the chemical;
 - ii. and any costs imposed by the applicable laws on the exporter for cleaning up the environment that result from the chemical being released into the environment during export.
 - the shipment bears the code assigned by World Customs Organizations’ Harmonised System;
 - there is adequate availability of information with regard to risks and/or hazards to human health and environment;
 - documents such as the Material Safety Data Sheet and, as far as possible, labels in the language of the importing country are included;
 - any other information required by the DNA is also included.
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The DNA, shall, if it thinks fit, grant a permit upon such terms and conditions. -A permit shall only be granted if:

- a. the party of destination has consented to the importation of the chemical and the consent has been indicated in the PIC Circular or
- b. 18 months have elapsed since the month in which the Secretariat first informed;
- c. the parties, through the PIC Circular and that party of destination have failed to transmit a response to the Secretariat regarding their consent or refusal to the importation of the chemical;
- d. the exporter has provided the Minister with a written consent to the importation of the chemical from the Designated National Authority of the party of destination.

Provisions are also to be made for conditions for importing substances on the Schedule. -It is also proposed to establish an advisory board with stakeholder participation to advise the PCA on whether the chemical should be banned or restricted.

2.6 - Problems being experienced

The problems being experienced relate primarily to the lack of a data base on import of industrial chemicals. -In the past, people imported industrial chemicals using various forms of identification such as common name, chemical name or brand name interchangeably. -It would, therefore, be almost impossible to try and get a feel of who imported what and the quantities because of the voluminous nature of the paperwork and hundreds of chemicals imported-. Attempts to put things on a data base proved problematic so a decision was taken to start anew and move forward.

With regard to information on chemical poisoning, the Caribbean Poison Information Network (CARPIN), based at the University of Technology was started in 2002. -The PCA is a member of the management committee of CARPIN-. CARPIN gives information on how to treat chemical poisoning and collates information on a database provided by WHO INTOX. -This is an invaluable tool which would inform future decisions on whether to ban or restrict chemicals.

3. - Further Actions needed to achieve Jamaica's implementation of the Convention

As already indicated, plans are well on their way administratively to implementing the Convention and, although there is no specific Rotterdam Legislation in place, actions have been adopted through the Pesticides Act. -As a party, Jamaica, despite not having a specific legislative framework in place, benefits from the Convention through the obligation of other parties to respect its import decisions-. To be fully legal for pesticides, the Second Schedule of the Act could be amplified to list those Annex III pesticides not listed, but there would still be the matter of industrial chemicals not covered by the Pesticides Act for which amendment is required and which it has been agreed will be done.

It has been conceded that the amendment of the Pesticides Act to make it the Pesticides and Toxic Chemicals Act should proceed, pending the promulgation of overarching legislation.

There is the need to strengthen the monitoring system, and, by extension, IT capabilities. -All the Annex III chemicals have been banned. There is no historical documentation on the basis for the prohibition of pesticides listed under the Pesticides Act. -Collating such data on hazardous chemicals to determine what was previously imported would, at best,

be an intellectual maze because of the sheer volume of paper that would have to be examined. -The PCA does have a database on the importation of pesticides but there is no corresponding one for chemicals. Currently, SRD, PRAD and PCA are developing an online database which will facilitate sharing of information. -There is also, at present, no regulation of products containing Annex III chemicals and this is needed to effectively protect human health and the environment.

At present, although there are no imports of the banned or severely restricted chemicals and severely hazardous pesticide formulations listed in Annex III of the Convention, there is no mechanism in place for export notification of Annex III chemicals for the simple reason that it is not expected that Jamaica would be able to export those chemicals which are not allowed into the Country-. However, the proposed Pesticides and Toxic Chemicals Act contemplates the adoption of the provisions of the Convention.

Likewise, Jamaica has made no notification of final regulatory action because she has not, since ratification of the Convention, banned any other industrial chemicals or pesticides which could potentially be added to Annex III.

The proposed Act contemplates the procedure to be used for banned or severely restricted chemicals and severely hazardous pesticide formulations where the DNA shall determine, inter alia, whether to ban or restrict the use or manufacture of any chemical that is causing or likely to cause an adverse effect on the environment or human health and communicate such decision to the Secretariat in accordance with the provisions of the Convention-. There will be requirements for publication of listing and delisting of banning or restriction in a widely circulating newspaper in the Island.

In terms of proposals for Severely Hazardous Pesticides Formulation, there is monitoring of, inter alia, hospital data and CARPIN. -There have been no major problems with occupational exposure to pesticides or industrial chemicals with accidental cases involving mainly children, representing 85% of the cases admitted to hospital.

Jamaica has been fortunate in respect of the assistance received for a public awareness workshop in 2002, the Trinidad Sub-Regional Consultation in September 2005 and the May 2006 workshop in Jamaica (see paragraph 2.4 above). -The UNITAR Project has served to develop an integrated national programme for the Country. -PCA has also partnered with CARPIN, the Certification of Agricultural Produce Group which is housed at the Jamaica Bureau of Standards and deals with the application of pesticides by farmers, as well as the Coordinating Group of Pesticides Control Boards throughout the Caribbean and established the Pesticides Residue Monitoring Committee that examines pesticide residues in foods. -The PCA has also signed Memoranda of Understanding with the Rural Agricultural Development Authority and HEART Trust NTA for training farmers and UWI for laboratory testing.

Although Jamaica has received assistance, she can always get more help in:

- legal assistance to refine the legislation and the strategy for implementation;
 - the training of stakeholders such as Customs Officers and brokers;
 - developing and identifying a core group to be trained in risk assessment so as to be able to take final regulatory action on chemicals (it is not enough to simply ban a chemical, based on another country's experience);
 - improving the capacity of the laboratory used for the monitoring of exposure to hazardous chemicals and pesticides;
 - developing a suitable monitoring system for the export of chemicals; and
 - funding public awareness through the print and electronic media.
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4. - Conclusions and Lessons Learned of Possible Interest to Other Countries

The implementation of a legislative framework to deal with the Rotterdam Convention has highlighted the need for the management of chemicals in general. -The necessity for a comprehensive database on importers and users of chemicals cannot be overemphasized-. Consultations under the Convention and the UNITAR Project have raised public awareness and brought many stakeholders to the table. -Despite not having a legislative framework in place, Jamaica has some level of control by strengthening ties with Customs and taking a precautionary approach through the banning of all Annex III chemicals, pending development of a comprehensive management framework-. The provisions of Article 15 of the Convention for the use of administrative measures to implement the Convention and thereby allow for the gradual development of an appropriate legislative framework has inured to Jamaica's benefit-. This could be replicated by developing countries and countries with economies in transition-. In light of this provision, the UNITAR Project has assisted to guide an integrated management framework.

5. - References

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