

SUMMARY OF WORKSHOP: ILLEGAL SHIPMENTS OF DANGEROUS CHEMICALS INCLUDING PESTICIDES

Facilitators: Marcia Mulkey, Julian Amador

Rapporteur: Linda Spahr

GOALS

Workshop discussions are designed to address the following issues:

- Kinds of controls that countries have adopted in regard to import and export of dangerous chemicals that are regulated outside of the framework of the Basel Convention.
- Status of compliance with such requirements and kinds of problems encountered in gaining compliance.
- How nations are ensuring they know of shipments with potential environmental hazards.
- Enforcement successes and failures and what factors contributed to success or failure.
- Identification of actions nations may be able to take to enhance the exchange of information and successful detection and enforcement against illegal shipments.

1 INTRODUCTION

Much attention has been paid to enforcement of international environmental agreements and related domestic requirements governing the shipment of hazardous waste. Less attention has been paid to issues related to enforcement of requirements related to import and export of dangerous chemicals, including pesticides, that may not qualify as hazardous waste under international conventions or perhaps are mischaracterized so as not covered by those conventions. This workshop was designed to address and consider the following issues:

- Kinds of controls that countries have adopted in regard to the import and export of dangerous chemicals that are regulated outside of the framework of the Basel Convention.
- Status of compliance with such requirements and kinds of problems encountered in gaining compliance.
- How nations are ensuring they know of shipments with potential environmental hazards and how this may change under the new Prior Informed Consent agreement (PIC).
- Enforcement successes and failures and what factor contributed to success or failure.

- Identification of actions nations may be able to take to enhance the exchange of information and successful detection and enforcement against illegal shipments.

2 PAPERS

Two papers were written specifically for this workshop. One author developed a topic paper associated with the illegal shipments of dangerous chemicals including pesticides and another makes reference to actions through regional cooperation in North America. They are presented in the Fifth International Conference on Environmental Compliance and Enforcement Proceedings, Volume 1:

- Solid Enforcement of New Substances in Europe (SENSE), Spelt, C.
- The North American Agreement for Environmental Cooperation: A Regional Framework for Effective Environmental Enforcement, Duncan, Linda F.

Several papers relating to the topic were published in the Fourth International Conference Proceedings. In addition, a technical support document was prepared from the Fourth International Conference on “Transboundary Illegal Trade in Potentially Hazardous (Waste, Pesticides, Ozone Depleting) Substances.”

3 DISCUSSION SUMMARY

The participants identified a variety of factors which make it particularly difficult to control illegal shipments of dangerous chemicals and pesticides.

- The term “illegal” is difficult to define. Sometimes shipments may be legal, but the purposes for which a substance is shipped—the end use—may be illegal because users do not use the substance in a lawful manner.
- Lack of adequate regulations and controls within particular countries.
- Lack of standardized regulations about what substances—particularly, pesticides—are unlawful among different countries. There may be huge differences among countries within particular regions of the world.
- Labels, safety warnings and instructions for use of products may be in different languages. Items sent from a manufacturing country may not be understandable to an importing country. This affects government’s ability to identify them, and the user’s ability to safely use them.
- Inadequate resources and technology to test substances, to independently determine their safety and proper usage.
- Inadequate information about the amount of pesticides and herbicides being used, the effectiveness of the products, how long they have been used and how long they should be used.
- Pesticides are being shipped in more concentrated form. While this saves money by making them cheaper to ship, it also makes the smaller physical packages harder to detect and therefore harder to regulate.

3.1 Safety and Public Health Issues

The absence of adequate government testing, understandable labeling, usage protocols and training requirements presents significant health and safety risks in the importing countries.

- Dangerous chemicals are used without personal protective equipment necessary to protect workers.
- Pesticides are used in unsafe concentrations, endangering workers as well as the community.
- Members of communities use “empty” containers to carry drinking water and food products, leading to the ingestion of the chemicals shipped.
- Dangerous herbicides, sometimes used to control illegal drug production, unintentionally contaminate food and water supplies.
- The cost of disposal of obsolete pesticides is so high that they are stored, or continue to be used, in a manner that poses health and safety threats to the community.

3.2 Legal and Political Issues

Much of the discussion centered around the fact that it is lawful in some industrialized nations to produce pesticides and herbicides which are banned from use in the manufacturing country, so long as they are destined for export to other nations. In most cases the importing countries are developing countries, without the resources or technology to independently test those substances and make judgments about their safety.

The need for agricultural production in those importing countries sometimes makes it difficult to enact regulations to limit or ban the use of dangerous pesticides. International pressure to control illegal drug production, often as a condition of financial aid, may force countries to use crop eradicating herbicides which endanger their citizens. The financial rewards from trading in dangerous chemicals and pesticides pose further disincentives to banning them.

When no laws prohibit shipment of dangerous pesticides and other substances to developing countries, those countries end up being used as “dumping grounds” for dangerous chemicals.

4 APPROACHES AND RECOMMENDATIONS

4.1 Addressing Inadequate Technological and Scientific Capacity

Specific suggestions were made for countries that have inadequate technological and scientific support to determine safety of particular products:

- Countries that lack independent testing capability can simply ban the use or import of any substances that have been banned in another country.
- Countries can utilize existing databases, particularly through the Internet, to determine what substances have been tested and what environmental, health and safety impacts have been determined.

4.2 Regional Networks and Compacts

Regional networks should be developed, and existing networks utilized, to focus on the following:

- Establish goals and strategies for developing appropriate laws, enhancing enforcement capability and developing training activities.
- Develop protocols and agreements. The Montreal Protocol on CFC's was identified as a good model for networks to utilize.
- Participants looked favorably upon "right to know" laws. Under Prior Informed Consent agreements, some countries with no capacity to retest substances simply rely on tests previously conducted by other countries. In negotiating treaties for Prior Informed Consent or Persistent Organic Pesticides, it was suggested that the pesticide industry should be involved.
- Help countries develop more clear cut laws and regulations and increase their enforcement capacity.
- Countries with active enforcement programs have had success regulating the activities of large companies. The most significant violations in those countries now seem to be committed by smaller companies. The difficulties regulating the import/export/trade activities of small companies mirror the difficulties faced in bringing small manufacturing enterprises into compliance with other environmental laws.
- Help standardize laws and regulations regarding use, import, export and trade in pesticides. Develop more clear cut and consistent definitions of what chemicals and substances are dangerous. Identify which pesticides, herbicides and other dangerous chemicals should be banned throughout regions. Identify which substances should be subjected to particular levels of control.
- Networks should utilize already existing classifications of organizations such as the World Health Organization, European Union, US Environmental Protection Agency, and other environmental and health agencies of industrialized nations.
- Develop and implement training, on a regional basis, for inspectors and other members of the regulatory enforcement community. Training should also be developed for "users," in the safe handling and application of pesticides and other dangerous chemicals, especially given the more concentrated forms in which they are increasingly being shipped.
- Encourage the development and enactment of national laws, and inclusion in regional compacts and agreements, establishing the following:
 - Labels on dangerous chemicals, including pesticides, should be standardized with multilingual safety and usage messages and symbols.
 - Shipping labels should be standardized with multilingual information.
 - Worker safety and training requirements.
 - Liability laws for injury caused by dangerous substances, providing the means and forum to sue manufacturers or other parties violating regulatory provisions.

- Import registries for dangerous chemicals. (While the participants agreed this would be useful for a number of reasons, it was also seen as a wholly unrealistic goal for some countries.)
- Explore other possible solutions to illegal shipment problems, such as licensing of shippers and transporters.

4.3 Political Solutions

The participants generally agreed that a global approach was necessary to address the illegal shipment of pesticides and other dangerous chemicals. Most important, is the need for a better flow of information. Specifically, participants felt EPA and government agencies from other industrialized nations should share information which is now kept confidential about the dangers of pesticides and other chemicals.

Some participants expressed very strong opinions that the legislatures of manufacturing countries should prohibit the manufacture of substances that are banned from use in their own countries. The possibility of utilizing conventions to place international pressure on industrialized nations to enact appropriate laws was one idea that was discussed.

Another suggestion was to promote the role of NGOs to help ban dangerous activities and assure information access through lawsuits.

A long term goal was for time schedules to be established among regions and worldwide to end production of certain substances, including pesticides and herbicides.

5 CONCLUSION

This workshop was intended to focus on enforcement of laws regarding the shipment of pesticides and other dangerous chemicals. It was immediately apparent, from the initial comments of workshop participants, that the discussion would not develop as anticipated.

Overall, the existing laws and regulations do not provide an adequate foundation for enforcement. The overriding concern of workshop participants was how to obtain information, overcome political obstacles and develop laws and regulations which will protect the health and safety of their citizens. Enforcement cannot be a concern until appropriate laws are in place to enforce.

