
**FINAL REPORT ON ASSESSING PESTICIDES
LEGISLATION IN THE EASTERN EUROPE, CAUCASUS
AND CENTRAL ASIA COUNTRIES**

GCP/RER/040/EU

EXECUTIVE SUMMARY

The FAO project GCP/RER/040/EC aimed to provide technical assistance to a number of the Eastern Europe, Caucasus and Central Asia countries - Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Uzbekistan, Tajikistan, Turkmenistan and Ukraine, - for better management of pesticides.

The project has several sectors of coverage – management of waste, support on the inventory of obsolete pesticides stocks, pesticides management and communication, in addition, it also includes a Legal Component aimed at assessing legal and regulatory frameworks and improving national legal systems. It also explores the possibilities of working towards strengthened cooperation and legal harmonization at the sub-regional level.

The major idea of the Legal Component of this project is to obtain a better understanding of the national legal frameworks of 11 countries in question. The Legal Component proposes research and assessment of the national legislation governing pesticides management in Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Uzbekistan, Tajikistan, Turkmenistan and Ukraine.

The Final Report is prepared in line with the Terms of Reference and specific Guidelines for the Structure as requested by the FAO Legal Department. It presents in a concise manner all the work conducted by the International Legal Expert and National Experts of the countries during the execution of this project. The Final Report consists of 3 major parts:

- 1) Introduction with links to the International Context in relation to pesticides, participation of the counties under examination in international treaties;
- 2) Comparative Analyses of National Legislation with major outcomes of the assessment, which briefly outlines differences and similarities of legal aspects in pesticides management in 11 countries, and provides recommendations and suggestions;
- 3) Recommendations and suggestions from the International Legal Expert in relation to common and specific issues of improvement of regulatory framework of pesticide management in 11 countries.

The situation in all countries is not identical in relation to pesticides management, but certain common trends and similarities of particular problems have been identified during the legal analyses. This is why some recommendations and suggestions can be given to particular countries. In relation to assessment of certain aspects of the national legislation, it was more appropriate to conduct analyses and provide comments referring to the substance of the provisions and deficiencies found in a number of countries.

The Final Recommendations of the Report are presented in Section 5 “Conclusion”. These recommendations concern general aspects of pesticides management in the

reviewed countries and specific suggestions to particular countries in relation to their established legal frameworks.

The role of the government and competent authorities in the management of pesticides is different in different countries, but needs to be strengthened in almost all the countries represented at this project. Inter-governmental / inter-agency cooperation is a key factor for achieving the sustainable use of pesticides and reduction of risk. The Final Report provides the following general suggestions in relation to management of pesticides at the national levels:

- The need for workshops to discuss the outcomes of the legal assessment with the national competent authorities responsible for registration and pesticides management (preferably with participation of the national representatives in the areas of health, agriculture, transport and the environment) for the development of policies, updating and modifying the legislation, strengthening registration process and control methods associated with pesticides.
- There should be increased trainings and education sessions for strengthening the political commitment to reduce the risks associated with pesticides and overall reduction of the use of pesticides.
- It is necessary to promote regional and sub-regional cooperation, exchange of information and experience in fields related to pesticides (including border inspection protection and overall control experience).
- Further support for capacity building in the field of rational use of pesticides at the national and regional levels, including the mobilization of financial resources.
- From the practical side, it can be recommended to provide support for the analysis of the country and the needs of the assessment programmes to strengthen the capacity to manage the use of pesticides on the basis of inter-sectoral and multi-stakeholder approaches.
- Crucial for safe pesticides management is monitoring of all steps after the registration of pesticides, including quality control and surveillance systems for counterfeiting and drug trafficking and use.
- Overall awareness raising in relation to use of pesticides and possible adverse effects.

The legal analyses of the national legislation form the bases for the following recommendations to improve the legal framework on pesticides management in the reviewed countries. It should be also highlighted that the major difficulty in the assessment of the national laws on pesticides management was in their multiplicity and overlapping scopes of various normative legal acts. Another typical feature for all 11 countries - to find fundamental and essential provisions and principles of safe use of pesticides not in the laws, but in secondary legislation: regulations, standards, rules, etc.

Attached Annexes to the Legal Report in Excel format provide an overview of all the raised issues in comparative mode. The following topics, presented below, have been highlighted as a focus of legal analyses.

Structure of the national legal acts	The structure of the legal acts on pesticides depends on the national legal system, the legal context, the Constitution of the country and existing legislation, priorities of the Government, applicable policies
---	--

and resources available for implementation. However, none of the countries under review has a special law on pesticides management covering all issues in relation to activities with agrochemicals.

Scope and coverage of the national laws

It can be concluded that important drawback of all the reviewed national legal acts is in the fact that although they cover various aspects of pesticides management, however, these national legal acts do not mention that they have been developed in order to assist the country in meeting its international obligations. There is also no reference to the need of reduction of risks due to the pesticide use or the importance of reducing overall dependency on pesticides, as recommended by the Code of Conduct (Article 1.7).

Therefore, the recommendation in light of that will be to consider the importance of the international treaties and participation of the courtiers in these international instruments more seriously and overall policy objective to reduction of the pesticide use and dependency on pesticides.

Definitions of the terms

It can be generally recommended in relation to definitions and interpretations of the terms used in the national legislation to align them with the international definitions and include all the terms in relation to pesticides management.

Registration of pesticides

In relation to registration of pesticides all countries under review have provided in their legislation for mandatory registration system, however, it is not clear what is the body responsible for registration in Tajikistan. **In relation to all 11 countries it can be noted that it is not clear whether the designed systems encourage the use of fewer or less toxic pesticides, and discourage the contrary - at least no specific legal provisions are found during these legal analyses.** The application and registration process is set out by national secondary legislation and therefore most of the details concerning particularities of registration were not assessed by these analyses (among them confidentiality of trade secrets, types of final decisions of the registration body, etc.). At the same time, it is clear that registration is always theoretically based on the conclusion of the scientific results of trials.

Import / Export

All countries under review have rather similar provisions with requirements to import / export only those plant protection products and agrochemicals that have been registered. Moreover, Azerbaijan, Belarus, Turkmenistan and Uzbekistan are not parties to the Rotterdam Convention, there are no national provisions in relation to notification of the secretariat of the Convention on the imported chemicals. Also it is not clear how the border inspection control is conducted to enforce the provisions of the national laws in relation to import and export (however, the issue of controls will be addressed by the specific section of this Report).

Licensing of activities in relation to pesticides

- This sector seems to be the weakest point in the national legal systems. In Azerbaijan and Belarus, the laws do not require legal entities to have a license for production of pesticides or biological preparations. Absence of licensing can be considered as a serious problem and a drawback in relation to management of pesticides in general in the country.
- It appears that not all the activities in relation to pesticides management are subject to licensing in Armenia, Georgia, Kazakhstan, Kyrgyzstan and Ukraine – for example, it is not clear whether storage, labelling, packing, re-packing and transportation of pesticides can be conducted without a license.
- No secondary legislation of Tajikistan on licensing was found. It is also not clear who issues such licenses.
- It appears that, first of all, no specific legislation in relation to licensing of activities in relation to plant protection products / pesticides exists in Uzbekistan. There is a Decree in relation to explosives and toxic substances, materials and products with their applications, which indirectly covers pesticides. However, not all the activities in relation to pesticides management are subject to licensing in Uzbekistan – for example, it is not clear whether packing, re-packing, labelling and transportation of pesticides can be conducted without a license.

It seems that there are no provisions in the national legislation of the countries under review backing up the licensing scheme with inspections. This undermines the entire idea of licensing, as the competent authority should have the power to revoke a license if inspections reveal that prerequisites are not met, if there is a violation of any conditions on which a license was granted or if new facts come to light which would have led to the denial of the application in the first instance.

Transportation and distribution

General conclusion in relation to transportation and distribution of pesticides, that national legislation of most of the countries under review does not follow international standards for the transport of dangerous goods. There are no clear provisions that prohibit the transport of pesticides in the same vehicles as passengers, animals, food and animal feed. In Tajikistan, there is a principle of free circulation of pesticides (like any other goods) established and confirmed by the law. In most of the countries there are no licenses required for transport and distribution activities with pesticides. **So, it can be recommended to follow international standards for the transport of dangerous goods, set out requirements for vehicles and containers, introduce licensing and inspections of the vehicles and operators that conduct transport activities.**

Labelling

The overall recommendations in relation to legal assessment of national provisions on labelling of pesticides can be summarized as following:

- The national legislation should clearly state that labelling requirements apply equally to domestically manufactures or imported pesticides and be in the languages of the country and include pictorial representations adequate to the national literacy level.
- In addition, national technical norms should address the issue of physical requirements for the label and rules for affixing labels on packages.
- There should be requirements that labels are subject to pre-approval at the registration authority during the registration process.
- For countries, parties to the Rotterdam Convention requirements that labels include the appropriate WCO customs code should be adopted.

It is also appropriate to note that national legislation of the reviewed countries does not mention or refer to safety data sheets (SDS). An SDS is a specific form containing information on the hazard potential of the pesticide product. There are specific obligations in relation to contents of the SDS and in order to comply with the Rotterdam Convention, an SDS must be sent to each importer. So, it can be recommended to follow these international standards too.

Packaging and re-packaging

In light of the above presented analyses of the national legal provisions in relation to packaging of pesticide products and evident gaps in safe management, it can be recommended the following:

- Specific technical requirements for packaging and re-packaging should be adopted or clearly presented in the national legal framework in line with the detailed FAO International Guidelines for Packaging and Storage of Pesticides;
- Such technical requirements for packaging and re-packaging should be incorporated into the registration process;
- Specific national technical requirements for packaging and re-packaging should require packaging that is safe, will not degrade under normal conditions, does not resemble common packaging of consumable goods, has a child safety mechanism, prominently displays the approved label and is difficult or unattractive for re-use;
- Specific national technical requirements for packaging and re-packaging should prohibit the re-packaging or decanting of pesticide into food or drink containers;
- It can be considered to ban re-packing if effective controls

are not possible and require that packaging or re-packaging only take place on licensed premises where staff is adequately protected.

Storage

In light of the above provided general legal provisions in relation to storage of pesticides, it can be recommended to:

- Differentiate between private, end-user or home storage and bulk / commercial storage (no such differentiation is found in the assessed national provisions);
- Impose record-keeping requirements on those storing pesticides (again national provisions are too general and even this important principle of record-keeping is not mentioned);
- Prohibit the reuse of a pesticide container for any non-pesticide storage reason, unless authorized;
- Indicate the type of containers required and set out the rules for construction of storage buildings;
- Establish special requirements for storage of obsolete pesticide stocks.

Advertising

In the absence of any specific provisions on advertising of pesticides in some countries, it can be recommended to set out specific requirements for pesticides advertising in line with international guidelines and prohibit the advertising of unregistered and illegal pesticides, false or misleading advertising of pesticides or advertising contrary to approved uses or label instructions. National legislation of other countries in relation to advertising of pesticides can be also updated and amended in line with the WHO and FAO Guidelines on Pesticide Advertising (adopted in March 2010).

Disposal

National provisions in relation to disposal of pesticides contained in the presented above legal acts appear to be too general, not complete or fragmented. Situation with disposal in Uzbekistan appears to be not very clear – since manufacturers of plant protection products are responsible for developing methods of disposal, there are no controls foreseen over these activities and this does not follow international guidelines for disposal of empty pesticide containers, related waste and unused or obsolete pesticide stocks. It can be recommended to develop and adopt specific rules in relation to disposal obligations in line with the international guidelines.

Record-keeping and controls

It can be recommended very strongly to strengthen the system of controls in relation to management of pesticides in the reviewed countries.