



Promotion of a multi-stakeholder model and civil society organization (CSO) participation, for the implementation of SAICM - Africa

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Briefing Notes Pillar 1.2: The International Code of Conduct on Pesticide Management: its promises and pitfalls for HHPs

The International Code of Conduct on Pesticide Management (the Code)² is a voluntary standard on the life-cycle management of pesticides, administered by FAO and WHO.

The Joint Meeting on Pesticide Management (JMPM) is the body of experts nominated by FAO and WHO to advise on implementation of the Code and to develop Guidelines³ and Guidance documents⁴ to assist with implementation. A small number of pesticide industry and NGO participants are accredited as observers to the process. The JMPM has no powers, it has a purely advisory role.

History

In 1982, David Bull, one of the original PAN champions published a book called *A Growing Problem: Pesticides and the Third World Poor*, in which he detailed the scale of health and environmental problems in developing countries caused by pesticides. It stressed the urgency of carrying out effective action to counter the widespread ill-health and environmental distress being caused by pesticides. At that time many developing countries had no plant protection legislation. David and other PAN activists urged the FAO to produce a model code of practice on international trade in pesticides and pesticide use. They pressed governments to adopt appropriate pesticide legislation with effective implementation and monitoring. Legislation and good regulatory standards were seen as the first step to counter pesticide problems.⁵

¹ PAN International <http://pan-international.org/resources/>

² FAO, WHO. 2014. The International Code of Conduct on Pesticide Management. <http://www.fao.org/agriculture/crops/thematic-sitemap/theme/pests/code/en/>

³ See <http://www.fao.org/agriculture/crops/thematic-sitemap/theme/pests/code/list-guide-new/en/> for a complete list of Guidelines and Guidance documents. Some of these, including the Guidelines on HHPs are being revised.

⁴ Guidance on Pest and Pesticide Management Policy Development [2010]; Guidance on management of household pesticides [2020]; Guidance for inspection of pesticide producers, importers, distributors and retailers [2020]. <http://www.fao.org/agriculture/crops/thematic-sitemap/theme/pests/code/list-guide-new/en/>

⁵ PAN Germany. 2016. Stop Pesticide Poisonings! A time travel through international pesticide policies, 2nd Edition. http://www.pan-germany.org/download/stop_pesticide_poisonings_161214.pdf



As mentioned in the first session, in 1985, FAO's governing body approved the first Code of Conduct: the FAO Code of Conduct on the Distribution and Use of Pesticides, now known as the International Code of Conduct on Pesticides Management and jointly published with WHO to incorporate public health vector control. The most recent edition was published in 2014 and there are discussions about updating it again.

Many government representatives believed that the "safe use" of hazardous pesticides would be possible if all countries passed legislation on safety standards and practices and took care that it was followed by those distributing, handling, applying or disposing of pesticides.

But national legislation on 'safe use' proved to be difficult to target and implement and failed to address the many barriers to so-called 'safe use' faced by millions of farmers. To overcome the increasingly dramatic impacts and legacies of chemical-intensive pest management in developing countries, government representatives and experts called for global standards to assist implementation.

Widespread doubts emerged about whether "safe use" of highly hazardous pesticides was even possible in low and middle income countries and many other contexts. The term was dropped from the 2002 revision of the International Code of Conduct on the Distribution and Use of Pesticides. The revised Code began to address the importance of reducing and eliminating pesticide hazards. It recognised that major weaknesses in pesticide management still existed, stating that:

*"there are still major weaknesses in certain aspects of pesticide management, predominantly in developing countries. For instance, national pesticide legislation is not widely enforced due to lack of technical expertise and resources, highly hazardous or sub-standard pesticide formulations are still widely sold; and end-users are often insufficiently trained and protected to ensure that pesticides can be handled with minimum risk."*⁶ [PAN Germany]

And even where recommended personal protective equipment (PPE) is available and affordable, it is often impractical to wear for extended periods in hot climates.

The Code – objectives (Article 1)

The objectives of the Code are:

1. to establish voluntary standards of conduct for all public and private 'entities'⁷ associated with pesticide management, particularly where there is inadequate or no national legislation to regulate pesticides
2. within the context of national legislation, to determine whether entities proposed actions and/or the actions of others constitute acceptable practices

⁶ PAN Germany. 2016. Stop Pesticide Poisonings! A time travel through international pesticide policies, 2nd Edition. http://www.pan-germany.org/download/stop_pesticide_poisonings_161214.pdf

⁷ governments, international organizations, pesticide industry, application equipment industry, traders of pesticides, pest control operators, food industry and other industries that use or have an interest in pesticides, pesticide users, and public-interest groups such as environmental groups, consumer groups and trade unions



3. to describe the shared responsibility of sectors to work together so that the benefits of “necessary and acceptable use” of pesticides are achieved without significant adverse effects on human and animal health and/or the environment
4. cooperation between governments of pesticide exporting and importing countries
5. to give high priority to training and capacity building activities related to each Article of the Code

The Code – standards of conduct (Article 1.7)

The standards of conduct set out in the Code are:

- a. to encourage responsible and generally accepted trade practices;
- b. to assist countries without regulatory controls to promote the judicious and efficient use of pesticides and address potential risks;
- c. to promote practices which reduce risks throughout the lifecycle of pesticides, with the aim of minimizing adverse effects on humans, animals and the environment and preventing accidental poisoning resulting from handling, storage, transport, use or disposal, as well as from the presence of pesticide residues in food and feed;
- d. to ensure that pesticides are used effectively and efficiently and in a manner that contributes to the sustainable improvement of agriculture, public and animal health and the environment;
- e. to adopt the "life-cycle" approach to management of pesticides to address all major aspects related to the development, registration, production, trade, packaging, labelling, distribution, storage, transport, handling, application, use, disposal, container disposal, and monitoring of pesticides and pesticide residues;
- f. to promote Integrated Pest Management (IPM) and Integrated Vector Management (IVM);
- g. to promote participation in information exchange and international agreements in particular the Rotterdam Convention.

A brief fly though the articles of the Code

<http://www.fao.org/agriculture/crops/thematic-sitemap/theme/pests/code/en/>

As mentioned above, the Code is structured around different stages in the lifecycle of a pesticide, from production through to distribution, use and disposal. Within each stage, the Code describes the responsibilities of different entities – government, industry, NGOs and other interested entities.

The Code contains the following articles in addition to the objectives, and standards of conduct, and definitions:

Article 3: Pesticide management - Governments have overall responsibility, but the pesticide industry should adhere to the Code as a standard for the manufacture, distribution, sale and advertising of pesticides.

Article 3.6 is one of the articles most relevant to HHPs:

3.6 Pesticides whose handling and application require the use of personal protective equipment that is uncomfortable, expensive or not readily available should be avoided, especially in the case of small-scale users and farm workers in hot climates.



Appropriate PPE being demonstrated to farmers in India by a Bayer CropScience (ECCHR, 2015)



What is more commonly worn in India: an old fertiliser sack with no gloves and a leaking knapsack sprayer (ECCHR, 2015)

Or no PPE at all:



If governments and industry applied this single sub-article there would be very little acute pesticide poisoning anymore. The fact that there are an estimated 385 million cases per year of unintentional acute pesticide poisoning⁸ indicates that there is widespread failure to implement this, by both industry and governments.

Article 4: Testing of Pesticides – this article requires the pesticide industry, amongst other things, to ensure that their pesticides are fully tested and evaluated “with regard to the various anticipated uses and conditions in regions or countries of use” (4.1.1); and that they collaborate with governments to monitor for the fate and health and environmental impacts of pesticide under operational conditions. Do they do that? **Are pesticides fully evaluated for the conditions of use in your country?**

Article 5 – Reducing health and environmental risks. There are a lot of requirements on government here that many low income countries would struggle to have the resources for, from regular review of registered products to monitoring of those exposed and of residues in food and water, poison centres, guidance to health workers on poisoning diagnosis and treatment, requirements that pesticides are physically segregated from other products in shops, especially food, collecting data on environmental impacts, etc.

5.2.5 [Pesticide industry should] halt sale and recall products as soon as possible when handling or use pose an unacceptable risk under any use directions or restrictions and notify the government;

Article 6 Regulatory and technical requirements – is about governments introducing regulatory systems, including:

6.1.2 introduce legislation to prevent the use of pesticides by and sale of pesticides to children

And the pesticide industry should:

6.2.6 when problems with pesticides occur, voluntarily take corrective action ...

⁸ Boedeker et al, 2020. The global distribution of acute unintentional pesticide poisoning: estimations based on a systematic review (in press).

Article 7 Availability and use of pesticides. This article includes the only specific direction on HHPs, and that is simply to allow them to be banned as a last resort:

7.5 Prohibition of the importation, distribution, sale and purchase of highly hazardous pesticides may be considered if, based on risk assessment, risk mitigation measures or good marketing practices are insufficient to ensure that the product can be handled without unacceptable risk to humans and the environment.

Article 8 Distribution and trade – this requires governments, amongst other things to regulate trade in pesticides, and industry to ensure that they comply with relevant international conventions and regional agreements

8.2.8 provide pack sizes and types that are appropriate for the needs of small-scale farmers, household and other local users, in order to reduce risks and to discourage sellers from repackaging products in unlabelled or inappropriate containers;



Paraquat sold in plastic bag, India (PAN India, 2014)

Article 9 Information exchange – includes the directions to governments to establish and strengthen networks for information exchange on IPM and IVM; and should develop:

9.2.1 legislation that permits public access to information about pesticide risks and the regulatory process....

and enable

9.2.2 ... transparency and facilitate the participation of the public in the regulatory process...

Article 10 Labelling, packaging, storage and disposal – this is a very important article, including that all pesticide containers should be clearly labelled, in the appropriate language, including warnings against re-use of containers, with packaging or repackaging carried out only on licensed premises, a prohibition on decanting “into food, beverage, animal feed or other inappropriate containers and rigidly enforced punitive measures”. And:

10.7 Pesticide industry should, with multilateral cooperation, assist in disposing of any banned or obsolete pesticides and of used containers, in an environmentally sound manner.

Any stockpiles of obsolete pesticides in your country? Any problem with pesticide containers being re-used?



Paraquat in a coke bottle in Australia (ABC News, 2017)

Article 11 Advertising – describes the responsibilities of both government and industry, including:

11.2.18 advertisements and promotional activities should not include inappropriate incentives or gifts to encourage the purchase of pesticides.

Article 12 Monitoring and observance of the Code – this last article simply proposes that the Code be observed, that Governments should monitor implementation and report to FAO on this; the pesticide industry is invited to report on its product stewardship and NGOs are invited to monitor implementation and report to FAO on it.

There are no recent records of countries reporting on implementation; industry does report on its stewardship programme, no action required, and NGOs do report on the failure of both governments and industry to implement the Code – action required but none taken. No action is taken because the Code does not allow for it. It is voluntary, there is no compliance mechanism, and no ability for the Joint Meeting on Pesticide Management (JMPM), or FAO and WHO to insist that industry or countries implement it.

The previous photo of paraquat in a plastic bag was shown to the JMPM who were interested to see it, a little shocked. That's all. They could do nothing about it.

Analysis of the Code

The Code has some very good provisions, particularly around registration, packaging, labelling, advertising, etc; but also, some major flaws, including the following.

i) Non-compliance

There is no mechanism or process for addressing non-compliance.

In 2015, the European Centre for Constitutional and Human Rights (ECCHR), together with other NGOs, laid a complaint with JMPM, a very detailed report⁹ on the breaches of the Code by Bayer CropScience and Syngenta in the Punjab, India. They included:

- lack of adequate labelling: the packet of Nativo, manufactured by Bayer in Germany, omitted the warning phrase “suspected of damaging the unborn child” which is included on UK packaging
- the text on the label was not in the main language used locally and in font too small to read
- failing to promote the use of protective clothing to customers
- lack of appropriate PPE in the villages
- inadequate training of company representatives



Bayer's Nativo, sold in India without the warning “suspected of damaging the unborn child” which is included on UK packaging (ECCHR, 2015)

⁹ Ad Hoc Monitoring Report: Claims of (non-)adherence by Bayer CropScience and Syngenta to the Code of Conduct Provisions on Labeling, Personal Protective Equipment, Training, and Monitoring. Submitted by European Center for Constitutional and Human Rights Kheti Virasat Mission Pesticides Action Network Asia Pacific Bread for the World Berne Declaration. October 1st, 2015. The report was based on a survey of farmers in 9 villages. https://www.ecchr.eu/fileadmin/Juristische_Dokumente/Ad_Hoc_Monitoring_Report_Final.pdf



The report requested that JMPM issue clear recommendations addressed to Bayer and Syngenta to prevent possible further violations of the Code:

- that Bayer and Syngenta withdraw all pesticides products with inadequate labels from the Punjabi market (Articles 3.5.1 and 3.5.6)
- that Bayer and Syngenta refrain from selling pesticides if the availability of adequate protective equipment cannot be guaranteed
- that Bayer and Syngenta enable adequate training of farmers and dealers (Article 1.6)
- that Bayer and Syngenta offer disposal schemes at local dealers and distributors (Articles 1.7.3 and 5.3.3)

ECCHR et al (2015), further requested a report back on implementation of these recommendations by the companies to the next meeting of the JMPM. It did not happen. In the end, the JMPM focussed mostly on the process by which such monitoring reports are submitted and stopped short of any recommendations to either the government of India or the companies concerned, simply recommending that “ad hoc monitoring reports be used as a trigger to constructively address the broader issues as identified in this report”.¹⁰

ii) Promotion of pesticide use

Several articles seem designed to promote pesticide use:

1.7.4 ensure that pesticides are used effectively and efficiently and in a manner that contributes to the sustainable improvement of agriculture, public and animal health and the environment

This is in fact contrary to some of the Guidelines developed to assist implementation of the Code such as the Guideline on HHPs¹¹ which states that the first step is to reduce reliance on pesticides by determining “to what extent current levels of pesticide use are actually needed and eliminate unjustified pesticide use”; and to “make optimum use of non-chemical pest management practices”.

It is also contrary to the SAICM Dubai Declaration which declared that:¹²

6. The need to take concerted action is accentuated by a wide range of chemical safety concerns at the international level, including ... dependency on pesticides in agriculture

iii) IPM as the only alternative

¹⁰ 9th FAO/WHO Joint Meeting on Pesticide Management (JMPM)
Nanjing, China – 12–16 October 2015.

http://www.fao.org/fileadmin/templates/agphome/documents/Pests_Pesticides/Code/JMPM_2015_Report.pdf

¹¹ FAO, WHO. 2016. International Code of Conduct on Pesticide Management: Guidelines on Highly Hazardous Pesticides. <http://www.fao.org/3/a-i5566e.pdf>

¹² SAICM texts and resolutions of the International Conference on Chemicals Management: http://www.saicm.org/Portals/12/Documents/saicmtexts/New%20SAICM%20Text%20with%20ICCM%20resolutions_E.pdf



The standards of conduct set out in the Code

1.7.6 are designed to promote Integrated Pest Management (IPM) and Integrated Vector Management (IVM);

The problem with this is that the Code specifically does not support organic agriculture or agroecology, although it does mention “non-chemical pesticides and pest control methods at Article 3.10. This is despite FAO itself supporting agroecology, as does the SAICM resolution discussed in the first session,¹³ .

Summary

The Code of Conduct contains some very useful provisions that have helped many countries but the fact that it is voluntary, and therefore lacks a compliance mechanism, severely undermines its potential to the extent that it has failed to achieve the protection of human health and the environment from pesticide harm as intended.

PAN has always supported the Code, in fact fought hard to get it established and has long used it to monitor activities of governments and industry relating to pesticides in our efforts to protect communities. In our view the time has come for a major revision to:

- de-emphasise the use of pesticides
- include agroecology and organic agriculture
- support the progressive phase-out of HHPs and to
- include a compliance mechanism.

It is time for the Code to move on from its voluntary nature and become binding on governments and industry so that its potential can be truly realised.

¹³ UNEP. 2015. Report of the International Conference on Chemicals Management on the work of its fourth session. Resolution IV/3. SAICM/ICCM.4/15. p47.