



PAN International Response to the Co-Chairs Summary – SAICM 2017

PAN thanks the Co-Chairs for their summary and the SAICM secretariat for making it available for discussion.

In our view, the Co-Chairs summary (C-CS) reasonably reflects most of the discussions at the First Intersessional Working Group (IWG1) in Brasilia in February 2017, with three significant exceptions, all of which have major impacts on PAN's work. These issues are:

- (I) HHPs
- (II) Future Governance
- (III) Human Rights

Some other aspects of the C-CS are also addressed below.

I. Highly Hazardous Pesticides (HHPs)

Although it was not intended that IWG1 discuss particular issues of concern, and few were raised, one issue was repeatedly raised: that of HHPs. A number of stakeholders, particularly officials from Ministries of Health who do not usually attend SAICM meetings, raised concerns about ongoing problems with poisonings from HHPs and the need for SAICM to take some action. PAN also repeatedly expressed concern about the lack of action on HHPs. The level of concern expressed by stakeholders is a reflection of the failure of SAICM to adequately address HHPs. That the C-CS failed to reflect the concern expressed in Brasilia is another indication that a change is necessary in how HHPs are to be managed in future.

HHPs were addressed in the original SAICM documents, including the Global Plan of Action, yet it took 9 years, and the concerted efforts of many stakeholders, before SAICM even acknowledged HHPs as an issue of concern. In 2012, at ICCM3, 65 stakeholder countries and organisations tabled a resolution calling for “a progressive ban on HHPs and their substitution with safer alternatives”. At the Open Ended Working Group in 2014, the entire African region, supported by other stakeholders, called for the formation of a Global Alliance to Phase-Out HHPs. Powerful interests managed to prevent the formation of the Alliance at ICCM4 in 2015, yet that meeting still resolved that HHPs should be addressed, including their replacement by agroecological practices. But, in 2017, there is still no progress.

Another indication of the scant regard being paid to HHPs is the failure in the C-CS, in its discussion of the contribution of SAICM to achieving the SDGs and mentioning particular SDGs 3,6,12, to include SDG 2 – *End hunger, achieve food security and improved nutrition and promote sustainable agriculture*. Addressing the issue of HHPs and their replacement with agroecology is pivotal in achieving this goal: it cannot be achieved without the sound management of HHPs and their replacement with agroecology.

Likewise, it is not possible to achieve sound management of chemicals without addressing the main group of chemicals that are deliberately released into the environment to poison organisms – pesticides. And yet the failure to soundly manage pesticides is all too obvious.

It is not possible to even approach achievement of the SDGs without a fundamental shift in attitudes towards pesticides and the way food and fibres are grown. Not only is addressing HHPs essential for achieving SDG 2, it is also essential for achieving SDGs 3, 5, 6, 8, 12, 13, and 15, and arguably all the other SDGs.

II Human Rights

Human rights, and particularly the rights of children and of women, were expressly referred to by a number of stakeholders, with the request that they be specifically addressed in Beyond 2020. Yet these have been entirely omitted from the C-CS. A rights-based framework must be incorporated into future governance of chemicals, and it must recognize the special vulnerability of children, millions of whom are exposed to toxic chemicals without their informed consent. The rights of women must also be included, addressing their greater vulnerability to many chemicals and their often disempowered position within sound chemicals management. Support for this human rights approach in the sound management of pesticides is provided by the UN Special Rapporteur on the right to food,¹ and by the UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes.² The Nordic Council of Ministers Report on Chemicals and Waste Management Beyond 2020,³ also points out that a stronger link between chemicals and waste management, and human rights and the health of vulnerable populations such as children, should be made.

III Future Governance – voluntary or binding?

¹ A/HRC/34/48. A/HRC/34/48. Report to the Human Rights Council (Effects of pesticides on the right to food). <http://www.ohchr.org/EN/Issues/Food/Pages/Annual.aspx>

² E.g., Impact of Toxics and Pollution on Children's Rights. 2016. <http://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Annual.aspx>

³ Chemicals and Waste Governance Beyond 2020: Exploring Pathways for a Coherent Global Regime. 2017. <https://norden.diva-portal.org/smash/get/diva2:1061911/FULLTEXT01.pdf>

Whilst PAN agrees that the Brasilia meeting expressed unanimous support for the multi-stakeholder approach of SAICM going forward beyond 2020, we disagree with the C-CS that there was agreement that the voluntary approach should continue. There was not. There were a number of stakeholders who expressed their view that a legal binding approach is needed, at least for some issues. Unsurprisingly, those stakeholders tended to be the same ones that raised concerns about HHPs, the ongoing poisonings, and SAICM's failure to act.

The voluntary approach of SAICM has worked well for some well-defined simple issues, such as removing lead from paint, but it has failed for HHPs, a much more complex issue with a powerful industry with vested interests in not phasing out HHPs, and especially in not replacing them with agroecology.

PAN supports the statement by the UN Special Rapporteur for the right to food to the UN Human Rights Council in April 2017,⁴ which amongst other things called for a global legally binding instrument for pesticides throughout their life-cycle, taking into account human rights principles. That report rightly acknowledged pesticides as a global human rights concern; that they undermine the rights to adequate food and health for present and future generations; that there is “a systematic denial, fuelled by the pesticide and agroindustry, of the magnitude of the damage inflicted”; that hundreds of hazardous pesticides are not eligible for regulation under existing treaties to control critical stages of their life cycle; and that “although certain multinational treaties and non-binding initiatives offer some limited protections, a comprehensive treaty that regulates highly hazardous pesticides does not exist, leaving a critical gap in the human rights protection framework”, and these treaties and initiatives are failing to protect people and the environment. She noted that “regulatory authorities may be under strong pressure from the industry to prevent or reverse bans on hazardous pesticides”; that the industry has failed to take a life-cycle approach to responsibility for their products; and “the pesticide industry’s efforts to influence policymakers and regulators have obstructed reforms and paralysed global pesticide restrictions globally”. Her report also supports the SAICM stakeholders’ call for a global phase-out of HHPs, and the ICCM4 recommendation that HHPs be replaced with agroecology, as part of a comprehensive legally binding instrument.

PAN believes this is the only way forward for the sound management of pesticides, and the failure of SAICM to adequately address the issue over 11 years justifies this. This proposal must be placed on the table and taken forward into the discussions for Beyond 2020. In the interim, until such a legally binding treaty is in place, it would be appropriate to commence a global alliance to phase-out HHPs. We, therefore, support renewing discussions on such a global alliance as an interim measure.

⁴ A/HRC/34/48. Report to the Human Rights Council (Effects of pesticides on the right to food). <http://www.ohchr.org/EN/Issues/Food/Pages/Annual.aspx>

PAN also supports the suggestion in the Nordic Council of Ministers' Report⁵ for a global overarching chemical convention that could incorporate the existing chemical conventions as annexes. We would see a new legally binding convention on the management of pesticides as fitting into such an overarching convention. Alternatively, it could be a stand-alone convention.

Recommendations:

1. In support of SDGs 2 and 3, a preliminary proposal be drafted for a global legally binding convention on the management of hazardous pesticides to include at least the following elements:
 - A timeframe for phasing out HHPs
 - Their replacement by agroecology
 - Preventing the double standard of countries exporting pesticides they have themselves banned to countries with weaker regulatory systems
 - Strict liability for pesticide producers for human and environmental harm
 - Life-cycle management, including manufacturers taking back empty containers; and obsolete, fraudulent and illegally traded pesticides
 - Recognition of the increased vulnerability of the unborn foetus, children, women, elderly, and chronically-ill people
 - Polluter pays principle is implemented
 - Human rights are incorporated with particular attention to children rights
 - Monitoring of human health and environmental impacts

2. In the interim, until such a convention is finalised, ICCM5 establishes the Global Alliance on Phasing out Highly Hazardous pesticides, with the following objectives:
 - (a) To raise the awareness of government authorities and regulators, farmers, rural communities, indigenous peoples, private industry, consumers, workers, trade unions, civil society, and health-care providers about the harms of HHPs and the availability of safer alternatives
 - (b) To catalyse the design and implementation of appropriate prevention-based programmes to phase-out HHPs, replace them with agroecological practices and approaches to sustainable food and fibre production, and public health vector control as a priority. When processes for phasing-out HHPs are put in place, arrangements must be made to ensure a fair and safe transition that protects workers' health and employment;
 - (c) To provide assistance to farmers to enable them to phase out HHPs while maintaining their agricultural livelihood;
 - (d) To provide assistance to health professionals on identifying and reporting pesticide poisonings, to promote efficient surveillance and identification of HHPs;
 - (e) To provide assistance to government authorities with identifying appropriate alternatives, particularly for public health vector control;

⁵ Chemicals and Waste Governance Beyond 2020: Exploring Pathways for a Coherent Global Regime. 2017. <https://norden.diva-portal.org/smash/get/diva2:1061911/FULLTEXT01.pdf>

- (f) To promote the establishment of appropriate national regulatory frameworks to stop the manufacture, import, sale and use of HHPs, as well as the sound disposal of HHPs;
- (g) To provide guidance and promote assistance to identify, reduce and avoid exposure to HHPs, including for communities near areas of cultivation and urban areas.

IV Other Aspects of the Co-Chair Summary

(a) Vision

PAN does not agree that, beyond 2020, the vision as adopted by UNEA1 is sufficient for sound chemicals management. We believe the vision needs to be updated. Currently, it states that, to achieve the sound management of chemicals it is necessary only to “prevent or minimise significant adverse effects on human health and the environment”. PAN does not agree that sound management of chemicals should be built on allowing adverse effects that are determined by someone to be non-significant, when in all likelihood they would be significant to the person concerned. Significant is a word that can never be defined, and so in terms of sound management of chemicals it becomes meaningless. Notably, it is not used in the SDGs target 12.4, which states:

By 2020, achieve the environmentally sound management of chemicals and all wastes throughout their life cycle, in accordance with agreed international frameworks, and significantly reduce their release to air, water and soil in order to minimize their adverse impacts on human health and the environment.

In our view, minimizing effects is also not acceptable, when they can be eliminated, so the vision should be based on *the prevention of adverse effects on human health and the environment*.

(b) Scope

The C-CS misses two important aspects of sound chemicals management:

- (i) Under the 6th bullet point, a range of linkages are referred to, such as sustainable chemistry, sustainability, etc, but nowhere is mentioned *safer alternatives*. It might be assumed by some that this is covered by the sustainable chemistry but, as will be explained below, this is not the case for HHPs; and so it is critically important that the terminology of safer alternatives is not disguised as sustainable chemistry. *Safer alternatives* are a feature of the original SAICM documents and must be retained in whatever eventuates beyond 2020.
- (ii) Last bullet point: “Work should be based on relevant scientific data and information...”. This fails to acknowledge the vast wealth of knowledge and innovation that occurs on the farm as a result of practical experience in developing and implementing agroecological practices, and which can be used

to inform sound management of HHPs. Hence this bullet point should also include “*practical experience*”.

(c) Partnerships

PAN agrees on the importance of partnerships, but stresses that any with industry must be transparent, accountable, inclusive of other stakeholders and they should be with those that provide the solutions not the problems. There is a fundamental conflict of interest between the pesticide industry and the aims of SAICM. A large part of the pesticide industry has a vested interest, of trillions of dollars, in preventing the replacement of HHPs with agroecology as recommended by ICCM4. The pesticide industry has done little in the 11 years of SAICM to phase out HHPs. PAN has identified 297 HHPs in current use.⁶ Additionally, PAN’s Consolidated List of Banned Pesticides shows that 370 current use pesticide active ingredients have been banned by one or more of 106 countries.⁷ Yet CropLife, which represents the mainstream, western part of the pesticide industry, has decided to stop manufacturing only two of these.⁸ They are the problem industry not the solution. During the 11 years of SAICM, PAN and its partner organisations, and FAO, have done far more to minimise the harms caused by HHPs than pesticides industry will ever do, until they stop manufacturing and selling HHPs.

SAICM should form partnerships with those organisations that are involved in agroecology – i.e. the solution to HHPs – and partner with them: from farmers’ organisations and NGOs, to researchers and academics, to sectors producing biological controls and botanical or biopesticides, and others facilitating the implementation of agroecology. Currently, apart from NGOs such as PAN and IPEN, none of the others referred to here are engaged in the SAICM process at all. There needs also to be recognition that these sectors and organisations are poorly funded in comparison with the pesticide industry, and partnerships need to make provision for that. If the polluter pays principle is applied to the pesticide industry, and in particular to HHPs, resources would be available to fund implementation of agroecology.

(d) Issues of concern

This section of the report failed to reflect the need for *safer alternatives*, focusing only on identification of issues, knowledge about them, and monitoring. Priority should be given to the identification and information on safer alternatives if meaningful change is to occur. SAICM has failed to do this. Safer alternatives are a critical part of sound management of chemicals.

PAN fully supports a life-cycle approach being taken to chemicals and waste. We also welcome the proposed addition of waste to the SAICM agenda – obsolete pesticides and discarded containers poison fields, rivers, wells, food and families on a daily basis, and

⁶ http://pan-international.org/wp-content/uploads/PAN_HHP_List.pdf

⁷ <http://pan-international.org/pan-international-consolidated-list-of-banned-pesticides/>

⁸ Information presented by CropLife at the Sustainable Chemistry side event, Triple COPs, April-May 2017

the industry does little to take responsibility for them. Discarded pesticide containers also contribute to marine plastics, an issue that was repeatedly raised at IWG1.

(e) Financing

ICCM should operationalize the polluter pays principle for internalization of costs in chemical producing industries.

(f) Sustainable and Green Chemistry

Sustainable chemistry is not the answer to HHPs and the recent enthusiasm for it should not derail the already agreed ICCM5 approach to replace HHPs with agroecological practices. It was noted at the Sustainable Chemistry side event at the Triple COPs, an attempt to define non-chemical alternatives to pesticides as sustainable chemistry – they are not, they are sustainable biology. In agroecology, chemistry is replaced with biology. Agroecology and agroecological practices are a very well established scientific discipline, backed by extensive implementation and experience in the field, with academics and farmers contributing extensive innovative knowledge. Hence the comment in (c) (ii) above about the need to include experience alongside scientific knowledge and data.

CropLife's reluctance to be part of the solution to HHPs was demonstrated by their keynote speech at the Triple COPs side event on sustainable chemistry. Their view of sustainable chemistry was the above-mentioned cessation of 2 active ingredients and the reformulation of some products. This clearly indicates why sustainable chemistry is not the solution for HHPs.

(e) Women and chemicals

There was considerable discussion by a number of stakeholders at IWG1 on the importance of recognising both the impact of chemicals on women and their role in the sound management of chemicals, with the secretariat asked to produce a briefing paper on this. Yet the C-CS fails to mention this.

SDG 5 is to achieve gender equality and empower all women and girls. The Rio Principles and SAICM Overarching strategy equally acknowledge the need to strengthen the role of women in environmental and chemicals management.

SAICM should acknowledge that factors affecting women and chemical safety include different types of occupational exposures, unique time periods of susceptibility, that different physiology affects exposure and impacts, and unequal decision-making power.

Recommendations:

- (1) A multi-stakeholder women and chemical safety working group is established by 2020 to develop recommendations for actions on women and chemical

safety that are included in work plans guiding SAICM emerging policy issues and issues of concern.

- (2) Female Ministers of Environment, Health, and Agriculture make a ministerial declaration on women and chemical safety in 2020 that springs from the findings and recommendations of their report and is consistent with the needs and strategies outlined in the SAICM agreement.

(a) Climate change

Toxic chemicals and climate change are two of the most significant environmental challenges humanity faces and they are strongly linked – yet this link is not addressed in SAICM, and not mentioned in the C-CS.

Recommendations:

- (1) That climate change impacts, i.e. emissions and mitigation, be addressed in all SAICM programmes.
- (2) A paper be developed on how agroecology reduces climate change emissions and mitigates climate change impacts.

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