

PAN INPUTS To SAICM, May 2019

PAN offers the following suggestions in response to the request:

- For follow-up by the co-chairs of the intersessional process, please share your inputs on other mechanisms to support implementation; additional measures to achieve multisectoral engagement; issues of concern; and 'Principles and Approaches' as set out in document (SAICM/OEWG3.3/4). (-> 1.)
- For follow-up by the SAICM secretariat, please share your inputs on examples of successful mechanisms for cost recovery and implementation of the polluters pay principle. (-> 2.)

1. Mechanisms to support implementation

Governance, Issues of Concern, Multisectoral participation, Principles and Approaches

Governance is the single largest failing of the current SAICM, resulting in low uptake of proposals on issues of concern, with the exception of lead in paint. Lessons from the lead in paint experience include that there needs to be a structure to promote implementation, political buy-in and adequate financing made available.

PAN believes that, in order to replicate the success of lead in paint to other issues of concern and new chemicals issues, an enabling framework is needed to cover all chemical conventions and agreements and to provide for the development of new ones, binding and voluntary. 'SAICM 2' would fit within this framework. Therefore, the intersessional process should develop concrete proposals for both the Framework and SAICM2 by ICCM5.

The Framework should cover all chemicals including pesticides, all existing agreements relating to chemicals, including the International Code of Conduct on Pesticide Management (the Code), which currently has no governance structure. Either the enabling framework or a future SAICM 2 should provide a process for establishing legally binding mechanisms. In our view these are needed, at least, for the life cycle management of pesticides, plastics, and chemicals in products. Building on the great achievements under the Basel Convention to address the trade in waste plastic, there are still many elements of the plastics lifecycle that need to be addressed, and the Enabling Framework is an obvious place for this to occur.

The Code

In terms of pesticides, the only existing international agreement with any oversight over the 96% of pesticides not listed under the Rotterdam and Stockholm Convention is the International Code of Conduct on Pesticide Management. But the Code is an outlier, with no synergies with the Conventions or even SAICM. The Code has been in place since 1985 but has failed to curb pesticide poisonings, impacts on biodiversity, environmental contamination, waste pesticides, and containers that burnt, buried, tossed into rivers or otherwise contaminating the environment. In our view one of the most important articles of the Code is Article 3.6:

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⁽⁶⁾.

Few, if any, countries have implemented that Article, but if it were implemented, HHP use would be slashed and so would poisonings. But the Code has no implementation process, no governance process, no compliance mechanism and no ability to respond to problems reported to the Joint Meeting on Pesticide Management (JMPPM), the committee of experts appointed by FAO and WHO that oversees the Code.

One option to address the HHP problem, and the wider problems with pesticides in general, would be to bring the Code under the Enabling framework, make it legally binding, provide it with governance and processes for implementation and compliance. Another option would be to have a separate legally binding mechanism for the phase out of HHPs or the life-cycle management of pesticides including the phase out of HHPs.

Essential Elements of the Enabling Framework

1. It should be human rights-based
2. It should be protective of vulnerable groups that are not currently the focus of, e.g. gender programmes, particularly children and indigenous peoples, but also women.
3. It should establish mandatory National Action Plans and reporting on implementation of these.
4. It should provide a process for developing legally binding treaties, protocols or mechanisms.
5. It should be based on the precautionary principle and thus aim at prevention and it should promote substitution with safer alternatives especially non-chemical alternatives and processes.
6. It should make double standards in trade illegal. Currently a number of countries allow the manufacture and export of pesticides that they have banned because of risk to or impacts on human health and the environment. But these pesticides carry the same risk to every other country and their export constitutes unethical practice.

Multi-sectoral participation

Bringing the Code under the enabling framework would automatically result in the engagement of the agricultural sector, a sector that has not engaged with SAICM to date. It would also increase engagement of the health sector which is until now underrepresented under SAICM.

Monitoring and Indicators

There needs to be vastly improved monitoring of the adverse impacts of pesticides on human health and the environment, including biodiversity. This monitoring should then be reflected in impact indicators. For example, the reduction in both morbidity and mortality from acute pesticide poisoning for a certain time frame; there is a systematic review of acute pesticide poisoning due to be published in 2020 and this could provide the appropriate baseline.

2. Mechanism for cost-recovery.

The disposal of used pesticide containers is a massive problem. The pesticide industry should be responsible for taking back all used containers and either reusing them or

disposing of them in an environmentally sound manner. Experiences with take-back system for empty pesticides containers established on national level might serve as an example. In Germany such a system is running (<https://www.pamira.de/en/pamira-system.html>). The costs for the collection, logistics and the recycling of the packaging are borne by the manufacturers of pesticides.

Perhaps a block-chain process should be established to facilitate this process of introducing a take-back system, and it could also be used to levy a small amount on each container that is paid to funding mechanism specifically for country, IGO and NGO implementation of projects on the management of pesticides.

One possibility of implementing the “polluter pays principle” offers the possibility to require industry to pay e.g. via a tax or levy on pesticides. The taxation of pesticides, in particular if it is progressive according to the pesticide's hazards, does not only have a steering function towards the "use of less hazardous pesticides". The money generated by such a levy or tax could at the same time be used to finance non-chemical, environmentally and socially sound alternatives. This would be an important step towards the internalisation of pesticide-induced external health and environmental costs, which have so far been borne by society alone.

An experience with such a system offers for example Denmark, where such a system is established since 2013 (https://www.slideshare.net/IEEP_eu/case-study-the-danish-pesticide-tax).