

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(85) 541 final

Brussels, 15 October 1985

Recommendation for a

COUNCIL DECISION

authorizing the Community to participate in the working of the
FAO Conference to draw up an International Code of Conduct
on the distribution and use of pesticides (FAO)

(submitted to the Council by the Commission)

COM(85) 541 final

EXPLANATORY MEMORANDUM

1. In September 1984 the FAO sent a draft Code on pesticides to member countries and observers for comment, with a view to discussion by the various FAO bodies responsible prior to possible adoption in the form of a resolution at the FAO Ministerial Conference in November 1985.

2. Timetable

September 1984	transmission of document
September 1984 - March 1985	comments by FAO members
15 March 1985	revised document
20-27 March 1985	discussed by FAO Agriculture Committee
June 1985	discussed by FAO Council
November 1985	adoption to be proposed at the FAO Conference

3. The main aim of the Code is to lay down rules of conduct for the export of pesticides by the developed countries to the developing nations.

The Code's principle concern is trade policy, responsibility for which has been transferred by the Member States to the Community. The Code also establishes rules of conduct on experiments with pesticides, their production, approval, use and final disposal. Community legislation already exists in some of these areas, while in others responsibility remains with the Member States. The matters covered by the Code for which the Community has not yet drawn up common legislation are nevertheless of immediate concern to the Community both because of the links with trade policy and because they affect industrial policy, environmental protection and consumer interests.

4. Accordingly, at the meeting of the FAO Council in June 1985 and after a coordination of the Community position, the representative for the Commission, speaking on behalf of the Community (see Annex I), stressed the necessity for the Community to secure a number of improvements to the Code.

Basically, this involves an insertion to the effect that the Community is to be treated as a single party to the Code and a series of amendments detailing the terms on which pesticides may be distributed and used.

Other participants in the drafting of the Code have submitted various amendments.

At the end of the discussion at the FAO Council meeting, the Secretariat informed the participants that it would redraft the Code to include most of the proposals for amendments and would distribute a revised version prior to the November conference around the middle of October.

However, in the course of informal talks, some of those responsible within the FAO Secretariat said they felt it was inappropriate to include a clause making the Community a party in its own right.

It is therefore likely that the Secretariat will not adopt this amendment proposed by the Community and its Member States.

Accordingly, at the FAO Conference in November 1985 the Community and its Member States may have to reformulate their request for the insertion in the present draft of a clause recognizing the Community as such.

Assuming the Conference does not accept the request, the Member States will, when it comes to adopting the resolution passing the Code, have to enter reservations regarding all the articles covering subjects falling within the Community's responsibility, either in their own right or collectively on behalf of the Community.

The Community must therefore be able to participate in the work leading up to the adoption of the Code and ensure that a provision giving the Community status on a par with other governments is included so that the Community can play its full and proper role in the operation of the Code.

5. Consequently, the Commission recommends that the Council

- adopt the draft Decision attached;
- agree to send the draft letter in Annex II to the Director-General of FAO on behalf of the Community and its Member States.

Recommendation for a Council Decision authorizing the Commission
to participate on behalf of the Community in the work of the FAO Conference
to draw up an International Code of Conduct
on the distribution and use of pesticides

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and
in particular Article 113 thereof,

Having regard to the recommendation of the Commission,

Whereas an International Code of Conduct on the distribution and use of
pesticides is currently being negotiated within the framework of the FAO
Conference;

Whereas some of the fields covered by the Code fall within the responsibility
of the Community;

Whereas, therefore, it is important that the Community participate in the
negotiations,

HAS DECIDED AS FOLLOWS :

Sole Article

1. The Community shall participate, within the framework of the FAO
Conference, in negotiating an International Code of Conduct on the
distribution and use of pesticides.
2. The Commission shall express the views of the Community in consultation
with representatives of the Member States in accordance with the guidelines
annexed hereto.

ANNEX

The aim of the Community shall be to secure the insertion in the draft Code of the amendments already put forward by the Community at the FAO Council meeting (Annex I) and in particular the clause enabling the Community to be a party to the Code.

The European Economic Community and its constituent Member States recognizes that there is a need for the Code we are discussing today and welcome the initiative taken by the FAO in drawing up the draft text contained in document CL 87/9 Supp. 1 of May 1985.

The moral undertakings implicit in the Code have our approval and we will observe as scrupulously as possible the provisions it contains. However, the Community and its Member States consider it essential that the following comments be taken into account.

1. In general terms, first of all, we believe that the Code when finalized should :

- give explicit recognition to the basic principle that each country is primarily responsible for regulating the distribution and use of pesticides within its territory and that the Code is intended to be an interim measure pending the adoption of appropriate regulations in all the countries concerned;
- give explicit recognition to the fact that a large number of developed countries already have legislation which may depart to some extent from the prescriptions in the various guidelines and recommendations issued by FAO and WHO but which are fully in line with the aims of the Code.

Turning now to the text of the draft resolution itself, we consider that a paragraph 5 should be added at the end, to read as follows :

"Considers that the activities of the FAO in connection with the Code should be financed from existing budget resources and voluntary contributions."

2. We further propose the following amendments to the Annex to the draft resolution :

Introduction

In order to widen the scope of the seventh paragraph, the words "as well as the environment" should be added at the end of the last sentence.

Article 1.1

In the spirit of the Code, the words "on a voluntary basis" should be inserted after the words "standards of conduct".

Article 1.2

The Code should allow for the participation of the European Community itself as a party. To this effect, Article 1.2 should read as follows :

"The Code describes the shared responsibility of many segments of society, including governments, industry, trade and international institutions to work together so that the benefits to be derived from the necessary and acceptable use of pesticides are achieved without significant adverse effects on people or the environment. To this end, all references to governments apply equally to regional groupings of States to the extent that they have responsibility for fields covered by this Code."

Article 1.6

The English version should be amended to read "in the context of national legislations" in place of "with due regard to the laws of the country".

Article 2

In the list of defined terms, the adjectives "banned" and "severely restricted" should be omitted. Neither the General Assembly of the United Nations nor UNEP have agreed on satisfactory and internationally recognized definitions of these terms. In this connection, we would prefer that the authorities responsible for implementing the Code be closely involved in the efforts to arrive at definitions acceptable to all.

Article 8.1.5

We propose that the last part of the sentence be expanded to read "which should be consistent with the requirements of the host country and of the parent company;" this would seem to clarify the respective responsibilities of the parties involved.

Article 9

Article 9 is a key part of the Code, and we find it both balanced in substance and precise in its formulation so that we would not want to see it changed.

If it becomes necessary to remove the last sentence of paragraph 6, we would be willing to compromise but we consider in common with other delegations that the last part of the penultimate sentence should then also be deleted ("but it is recognized that this may not always be possible.")

Article 10.3.1

It does not seem to us entirely reasonable to ask the industry to supervise packaging and storage in the importing countries when this is not its responsibility alone. It would be better to insist on industry's duties regarding information, wording the paragraph as follows :

"Industry should ensure that safety information about packaging, storage and disposal of pesticides is properly transmitted and conforms to the FAO Guidelines"

Article 11.2

In the English version, we suggest replacing "call attention to departures from" by "promote the objectives of". Furthermore, the French text is not the same in substance as the English version and should be amended.

Article 11.3

We propose adding to the list of subjects to be covered by advertising on the safe use of pesticides the following items : "first-aid which can be administered, poison control centres to be contacted in the event of accidents".

Article 12.6

Since the Code does not constitute a legally binding instrument but is of a voluntary nature, we feel that the wording of this paragraph should be modified to read as follows :

"Governments should periodically review the progress made in implementing the Code together with the FAO and other competent international organizations."

Article 12.7

It would be appropriate to give expression to the evolving character of the Code by the following wording : "the Code should be considered as an evolving document which should be brought up to date regularly in the light of technical, economic and social advances."

References

As we pointed out at the meeting of the Agriculture Committee, the references listed on page 15 are unknown to the Community (at least in their 1985 versions) or have not yet been formally notified and approved as international instruments. The Community will not be able to adopt these standards until they have been defined in a more formal manner and the ad hoc procedures for their finalization have been completed.

In conclusion, Mr. Chairman, we have detected several linguistic divergencies between the French and English versions in particular; these will be notified directly to the Secretariat in order not to lengthen today's discussion.

Mr. Chairman, this concludes the remarks of the European Economic Community and its Member States, which we trust are constructive and have been presented in a spirit of clarification and cooperation.

Thank you, Mr. Chairman.

Sir,

At the 87th meeting of the FAO Council in Rome from 17 to 28 June 1985, the representative of the European Economic Community, speaking on behalf of the ten Member States, welcomed the FAO's initiative to introduce an International Code of Conduct on the distribution and use of pesticides.

The representative of the European Economic Community stressed the need for the Community to participate in drawing up the Code, in view of the fact that it has responsibility for some of the fields covered by it. To this end, Article 1.2 of the Code should specify that "all references to governments apply equally to regional groupings of States to the extent that they have responsibility for fields covered by this Code."

The Community and its Member States regard this clause as very important. Should it not be accepted the Member States will be obliged, at the time the resolution passing the Code is adopted, to enter reservations in respect of all the articles dealing with matters for which responsibility has been transferred to the Community.

Both the Community and the FAO would like to see the resolution on the pesticides Code adopted at the next Conference. The Community and its Member States hope that the finalized text will make it possible for them to become party to the Code.

Accept, Sir, the assurance of our highest consideration.

President of the Council
of the European Communities

President of the Commission
of the European Communities

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