



Dr. Arnd Nenstiel

Bayer CropScience AG  
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Germany

**Berlin, 25/11/2015**

Dear Dr. Nenstiel,

In reference to Bayer's response, dated October 17th 2015, to the Ad-Hoc Monitoring Report submitted by a coalition of civil society organizations, and particularly to the expressed interest in building a consultative dialogue, we wish to discuss further the following points and request related information.

The first issue we wish to address is that of label and leaflet requirements and the assertion in the response letter that Bayer CropScience India adheres to national and international best practices, including nationally approved label and leaflet requirements and the International Code of Conduct on Pesticide Management (hereinafter the Code of Conduct). The Monitoring Report raised the following issues with regard to the labels of the bottles examined in the study. Labels were not always attached to the bottles, the font size was smaller than that recommended in the guidelines, labels and leaflets often lack sufficient and detailed information on PPE, safety precautions, instructions of use, proper disposal of empty containers and often lack appropriate hazard phrases and symptoms of exposure. These may constitute violations of the Code of Conduct, in particular Arts. 3.5.1, 3.5.3, and 3.5.4 as well as 10.2.2, 10.2.3, and 10.2.4.

Moreover many of the farmers were unable to read the leaflets due to illiteracy, the small font size and lack of information in Punjab. Out of the 14 farmers that responded to this question 10 were unable to decipher the text on Bayer's Confidor bottle at all. This appears to be a violation of Article 3.5.1 that requires that pesticides are "labeled as appropriate for each specific market". The designing of labels should therefore take into account levels of illiteracy, that Punjab is the official language, limited education levels and other socio-economic conditions. In addition, lack of Punjabi also seems to violate Articles 3.5.1, 3.5.4 and also 10.2.2 and 10.2.4 that require that warnings and instructions must be provided in the "appropriate language or languages".

Further to the question of labeling, an issue that is of particular concern is indications about a failure to disclose all of the risks. The Monitoring Report notes that while the phrase "suspected of damaging the unborn child" was used on the label of Nativo 75WG sold in U.K. this was omitted from both the label and the leaflet of the same product sold in Punjab. This appears to conflict with the Code of Conduct's requirement of equal standards for products sold in different countries and seems to be a violation of Article 3.2 and 8.2.2. Additionally this may constitute misbranding under the Indian Insecticides Act 1968. Given the abovementioned findings we request the provision of details of how Bayer intends to remedy this shortcoming. Taking into account the severe dangers involved in marketing products that appear to be inadequately labeled a change of approach is immediately necessary and submitting organizations request information on Bayer's proposed steps to remedy these shortcomings.

Secondly, we wish to address the assertions in the response letter that regular farmer training and awareness programs are held and that Bayer CropScience India has provided training to more than 4 million farmers, including more than 80,000 in Punjab, in 2014. The Monitoring Report found that only 2 out of 32 respondents said that they had ever attended an event that might entail any kind of training on pesticide use. A lack of safety training would appear to be a violation of Articles 1.6 and 3.11 of the Code of Conduct. In response to your letter we invite you to specify and contextualize the figures mentioned in your response letter, in particular, that information is given about the proportion that this constitutes of the total number of farmers using Bayer's pesticides and in which areas, particularly in Punjab, training is provided and how regularly.

The Monitoring Report raised concerns over not only the lack of training but also the quality. Some farmers that had attended training reported that "no advice on safety is offered to farmers there" and they are instead used as opportunities to promote new products. We therefore request that in addition information is provided on the details of these training sessions, particularly regarding PPE, safe storage and responsible use and if there is any information provided about disposal of containers as this was an area where farmers in the study lacked knowledge and which was not mentioned at all in your response letter.

In addition to training on the importance of PPE use a further issue covered extensively in the Monitoring Report but not fully addressed in the response letter is that of provision of PPE. The Monitoring Report found that few farmers use the necessary PPE, for example most conduct spraying barefoot rather than using the recommended boots. In addition to lack of awareness, the Report also highlighted a lack of provision of PPE. It noted that any PPE that is provided is severely limited in quality and quantity, and that there is a lack of availability of such products in local markets. During the survey only one case of use of PPE was found and not a single item of PPE was available in any of the pesticides shops. This seems to be at odds with Article 3.6 which suggests that pesticides that require PPE that is uncomfortable, expensive or not readily available should be avoided as well as Article 5.3.1 which asks the industry to cooperate with the government in the promotion of use of personal protective equipment suitable for the tasks to be carried out, appropriate to the prevailing climatic conditions and affordable. In light of this we request information on Bayer's policy of providing PPE. In particular, whether any PPE is provided free of charge, and if so whether all farmers using Bayer products are provided with such equipment and what it consists of and, in the alternative, whether Bayer ensures that farmers have access to the necessary equipment for their own purchase and to a reasonable price.

A further area that was covered extensively in the report but not mentioned in the response letter is that of monitoring. Bayer has a duty pursuant to Article 4.5 of the Code of Conduct to

collaborate with the government in observing and monitoring pesticide use to determine their use and effects under operational conditions. We therefore request that this is addressed by providing information on Bayer's monitoring policy; the extent of this monitoring, which farmers are visited and how often, and the resulting level of knowledge that has been obtained of the situation on the ground. Further, we request information on Bayer's policy for dealing with both isolated and widespread instances of dangerous use and adverse effects from its products. This is pertinent given the abovementioned findings and due to Article 5.2.5 of the Code of Conduct that suggests that the pesticide industry should halt sale and recall a product when handling or use pose an unacceptable risk under any use directions. We would also be interested to hear Bayer's view on the implementation of this Article.

In response to the interest expressed in building a consultative dialogue, we chose to present this report to the FAO and raise awareness within this context and believe it is the appropriate forum for such a dialogue. We look forward to hold a meeting on the various issues raised in the report within the framework of the FAO mechanism as it guarantees the involvement of all actors and the discussion of a wide range of possible solutions.

We look forward to hearing back from you and request that information on above points be made public in a timely manner in the hope of building a constructive discussion on the reality of the situation faced by the farming community in Punjab and the rest of India. It is on the basis of specific information only that any multi-stakeholder meeting can actually address the problems as they are on the ground and develop appropriate solutions.

With best regards,

**For the coalition:**

*François Meienberg*  
Berne Declaration

*Christian Schliemann*  
European Center for Constitutional  
& Human Rights

*Umendra Dutt*  
Kheti Virasat Mission



*Sarojeni V. Rengam*  
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*Julia Duchrow*  
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