

Report of South African experiences using the voluntary guidance on socio-economic considerations.

Background:

The regulations of genetically modified organisms (GMOs) is primarily administered through the GMO Act of 1997, as amended in 2006 and section 3 of the Act states that:

*“(3) An application referred to in sub-regulation (1) shall include the following:
(d) if so determined by the Council, an assessment, in accordance with the provisions of the National Environmental Management Act, 1998 (Act No. 107 of 1998) and any other applicable laws, of the impact of the proposed activity on the environment and an assessment of the socio-economic considerations of the activity.”*

Therefore, it should be noted that the South African socio-economic considerations thus refer to all impacts (i.e. those resulting from the *“development, production, use, application and release of genetically modified organisms...”*). In contrast, Article 23 of the Cartagena Protocol refers to ‘indirect’ effects¹ (i.e. those arising from impacts on the conservation and sustainable use of biological diversity).

The South African situation with respect to Socio-economic considerations is thus much broader than that offered for voluntary consideration under Article 23 of the Cartagena Protocol.

The South African regulatory system related to socio-economic considerations:

The decision making body of the GMO Act – the Executive Council – comprises representatives from the following national government departments:

- Agriculture, Forestry and Fisheries
- Environmental Affairs
- Science and Technology
- Health
- Labour
- Water and Sanitation
- Trade and Industry

In addition, the chair of the Scientific Advisory Committee (SAC) participates as a full member of the Executive Council.

¹ Article 26, paragraph 1, of the Cartagena Protocol on Biosafety states: “The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.”

Each permit application (for the various categories of use of a GMO) is considered by the SAC, and a science/risk - based recommendation, together with the full application and any public comments/input where received², is sent to each member of the Executive Council. The member then considers the application and associated public comment in terms of alignment with their department's policies, strategies and laws, and submits their department's decision to the meeting of the Executive Council. It is in this manner that the socio-economic issues related to each application are considered.

For noting, the South African biosafety framework in practice considers both risks and benefits of GMOs. Where the socio-economic impact is considered possibly to be beneficial (e.g. improved yield, greater economic returns, improved food security), and there are no considered negative socio-economic impacts (e.g. loss of jobs, reduced food security, health (human or animal), beyond that which occur from normal (conventional) agriculture), there is no further activity on socio-economics.

Where one or more members of the Executive Council consider that there could be a negative socio-economic impacts arising (directly or otherwise) from the permitted activity, there will be discussion (as per the guidance document from the Ad Hoc Technical Expert Group) on *Stage A: Preparation for assessment*, followed by the further possible steps, as described in the guidance document.

For further noting, the South African GMO Act states, in the object: “...to ensure that genetically modified organisms are appropriate and do not present a hazard to the environment”. Under the South African biosafety framework it is very unlikely that a GMO is released which is considered by the Executive council – and particularly by the representative of the Department of Environmental Affairs (with its National Environmental Management: Biodiversity Act (2004)) to have a negative environmental impact, and thus require an *ex ante* socio-economic impact study.

Report:

South Africa did not introduce any LMOs that were considered by the Executive Council to have a likely negative impact on the people or the socio-economics of South Africa. All GMOs permitted were considered at least likely to have positive impacts. No socio-economic impact assessments were therefore conducted.

With regards to Article 23 of the Cartagena Protocol, no GMO was released that was considered likely to have a negative impact on the environment (“...*impact of living modified organisms on the conservation and sustainable use of biological diversity*”). Thus no *ex ante* socio-economic assessment was conducted for any GMO permit application.

Further, no negative impact of any activity covered by a GMO permit was reported, so no follow up (including a possible *ex post* socio-economic assessment) was required.

² Public notices regarding certain categories of permits are required under the GMO Act.

Critique of the voluntary “GUIDANCE ON THE ASSESSMENT OF SOCIO-ECONOMIC CONSIDERATIONS IN THE CONTEXT OF ARTICLE 26 OF THE CARTAGENA PROTOCOL ON BIOSAFETY”:

- The Convention on Biological Diversity seeks to promote the conservation and sustainable use of biological diversity, and the South African viewpoint is that all countries should seek to avoid negative impacts to biological diversity.

South Africa preliminary experiences using the voluntary Guidance, as well as (ii) examples of methodologies and applications of socio-economic considerations, in the light of the elements of the voluntary Guidance identified the following gaps:

- The Guidance document does not refer to or clarify under what circumstances a socio-economic assessment is triggered. The guidance document could be interpreted by member countries that – if they choose to use the voluntary guidance – ALL GMO (permit) applications will require socio-economic assessments. This would lead to substantial and unnecessary delays in decision-making, and further work for the applicants, and may be considered by some member states to be a technical barrier to trade. Further clarity therefore needs to be provided in the Guidance document to indicate under what circumstances a socio-economic assessment should be undertaken (ie. the trigger for a socio-economic assessment study).

Under the biosafety framework of South Africa, for example, only where the decision-makers consider there to be a possible or likely negative socio-economic impact, would the “Stage A” (as per the guidance document) be considered.

However, as relevant to Article 23, (“*socio economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities*”), only where decision-makers consider that there may be or are likely to be impacts on the conservation or sustainable use of biological diversity, should there be consideration by the decision-makers as to the likelihood or not of negative socio-economic impacts (if the member country chooses to do so).

- The Guidance document should clarify that the purpose of the assessment is to determine the nature and extent of negative socio-economic benefits (examples provide above). While it is widely recognized – and certainly the intention of the developer – for there to be positive socio-economic benefits from a GMO release, a study to determine solely the extent and nature of positive benefits should not, it is considered, be required *ex ante* a decision. It is suggested that the only purpose for determining positive socio-economic benefits for decision making would be to weigh the positives up against the negative impacts – if the country so chooses - in order to reach a decision.
- In addition, the guidance document states:
“The overall assessment process
The principles identified above apply throughout the assessment process. The assessment of socio-economic considerations should follow, like any other impact assessment, a systematic approach. This approach could include the following: _...”

While the guidance document should not provide an exhaustive list of all possible activities/actions, it needs to more clearly state that the route outlined is only one suggestion - for a fairly comprehensive review - of the possible routes.

South Africa has examples whereby the evaluation of possible socio-economic impacts was determined in part simply through an official email (and associated responses) sent to relevant stakeholders of a particular GMO permit application, requesting their opinion. These opinions were then discussed at the Executive Council meeting.

- The Guidance document arguably provides a detailed approach (process) that could be used - subject to the amendments proposed above - by member countries to trigger a socio-economic assessment, should they choose.

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