

39 Socio-economic considerations

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Article 26 of the Cartagena Protocol on Biosafety enables parties importing living modified organisms (LMOs) to examine the socio-economic consequences of their impact on the conservation and sustainable use of biological diversity. The value of biological diversity to indigenous and local communities is mentioned specifically. The parties are encouraged to cooperate on research and information exchange on any socio-economic impact of LMOs, especially on indigenous and local communities.

The fundamental purpose of Article 26 is to empower parties of import to analyse carefully what possible adverse impacts the import of LMOs would have on their socio-economic conditions. The biotechnology industry is one of the fastest-growing industries, and it is still quite new. The scientific research pinpointing the cause and effect nexus of particular LMOs has by no means been completed yet. This calls for the adoption of a precautionary approach, wherein the social conditions prevailing in a country are taken into account when decisions are made about importing LMOs.

Social and economic considerations are inextricably linked. It is difficult to compartmentalize them. The actions of society in the broadest sense impact constantly on social realities, which in turn affect economic considerations. The prevailing socio-economic conditions are major factors that govern a country's policy decisions. There is a wide divergence in socio-economic conditions in different countries. There are, however, certain common areas of concern when we view developed countries as a group and compare them with developing countries as another group. It is this conflict of concern and interest between the developed countries and the developing countries with regard to socio-economic considerations that surfaced repeatedly during the negotiations for the biosafety protocol.

Let us look very briefly at the respective core concerns relating to socio-economic considerations and try to understand why there was a wide chasm between the perceptions of the developed countries and

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the developing countries. The developed countries, led by Australia, Japan and the USA, were against the inclusion of an article on socio-economic considerations in the binding part of the protocol. At best they were agreeable to a reference to socio-economic considerations in the preambular section. Their opposition emanated from their fear that any regulatory mechanisms would adversely affect their biotechnology industries. Most developed countries view the huge export markets of developing countries with eagerness and excitement. The biotechnology industry's commercial interests and their promotion determine developed countries' trade policy. Therefore, they were keen that unnecessary impediments such as labelling, risk assessment, liability and redress, and advance informed agreement (AIA) should not hamper the production and export of LMOs and their products. Some developed countries were of the view that given the complexity of the subject and the breadth of socio-economic issues, the implementation of a provision on socio-economic considerations would be impracticable.

The developing countries had a fundamentally different perception of Article 26. Many of them, especially in Africa and Asia, are potential importers of LMOs or products based on LMOs. Naturally, the developing countries wanted a provision in the protocol that would enable them to undertake detailed risk analysis, which would include assessing the possible adverse impacts on their socio-economic conditions. This was particularly relevant for protecting the value of biodiversity for their indigenous and local communities. Africa was particularly emphatic about the inclusion of Article 26, as a majority of rural communities on the continent depend on traditional crop varieties. Its countries feared that the introduction of transgenic crops could lead to the displacement of traditional varieties, which would adversely affect the livelihood of farmers cultivating them. Traditional farmers cannot combat the aggressive marketing of multinational corporations, which generally introduce transgenic crops in a package programme. The package includes the use of pesticides, insecticides and fertilizers, which increase production costs.

Developing countries fear that transgenic crops could replace traditional crops such as vanilla and cotton, which are exported in large quantities. The aggressive march of biotechnology research to produce replacements for sugar, cocoa, coffee, tobacco, coconut oil, palm oil and a host of other crops continues vigorously. These crops form the economic backbone of many developing countries. Their replacement

could cripple the livelihoods of farmers and these countries' economies, which could lead to disastrous social consequences. It was thus necessary that socio-economic considerations were recognized to be a vital part of the interests of the developing countries.

The large-scale introduction of transgenic crops is also linked to the possible ecological hazards which these crops could have when released in alien environments. Eminent scientists differ on the possible ecological impacts of LMOs. There are genuine fears that ecological damage could result from the release of transgenic crops and LMOs. The developing countries believe that the ecological hazards of transgenic crops could also have a direct adverse socio-economic impact on rural populations. The developing countries were thus keen that socio-economic concerns be incorporated in the protocol in order to enable them to defend their economic and social interests adequately.

The ethical, moral and cultural dimensions relating to the alteration, manipulation, patenting and ownership of life forms are prominent among socio-economic considerations. Many developing countries considered that altering life forms should not be encouraged. They recognized the dangers of genetic engineering, with its potential use for biological warfare through the creation of novel viruses and bacteria. Some spokespersons even expressed concern about the developed countries unleashing a possible genetic arms race and biological warfare.

Understandably, negotiations on some of these crucial issues generated intense passion and acrimonious debate. At the initial meetings of the Open-ended Ad Hoc Working Group on Biosafety (BSWG) strong differences emerged between the developed countries and the developing countries. The African group was strongly in favour of the inclusion of socio-economic considerations in the protocol, and many other developing countries supported it. However, countries including Australia, Japan, South Korea, the USA and Argentina strongly opposed the inclusion of Article 26. These differences continued into the fourth and fifth BSWG meetings. It seemed exceedingly difficult for a common understanding to emerge between the two groups. To their credit, the developing countries steadfastly advocated their principled stand and resisted all attempts to break their unity. The developed countries' own persistence ultimately paid dividends when in BSWG-6 they succeeded in enticing Argentina, Uruguay and Chile to break away from G-77 and China and oppose the developing countries.

Fearing further attrition the developing countries formed the Like-Minded Group, whose purpose was to represent their viewpoint. The Philippines, Ethiopia, Iran, Jamaica, India, China and others played a key role in forging the unity of the Like-Minded Group and developing a common position. Its closed-door negotiations were imbued with intense excitement, and the spokespersons of many countries made strenuous efforts to ensure a strong common position. Tewolde Egziabher was one of the most effective spokespersons of the Like-Minded Group. He articulated their concerns eloquently and emotionally. Tewolde, as he was affectionately called, was a symbol of calmness, resolution and scientific competence in the Like-Minded Group.

The drama of the negotiations in Cartagena in February 1999 was nearly unbearable. I cannot forget 'those Cartagena days', as I call them. The long days followed by longer nights day after day and night after night assumed surreal and nightmarish dimensions, which continue to haunt all the negotiators. There were highly charged statements, strong national positions and tense emotions. The Miami Group took a rigid and unreasonable stand on essential articles of the draft protocol. Many were the moments of sheer depression when it was a case of 'so near and yet so far'. The final moments of the Cartagena negotiations saw desperate attempts by Juan Mayr, the Colombian minister for the environment and the chairman of the ExCOP, to keep the talks moving forward. There was a feeling of dismay when the negotiations broke down in the early hours of 24 February 1999 and the extraordinary meeting of the Conference of Parties (ExCOP) suspended its proceedings without adopting the protocol.

Hectic efforts were made to resurrect the biosafety protocol. The Like-Minded Group succeeded in including an article on socio-economic consideration in the 'chairman's text'. India played a constructive role in building bridges of understanding between the sharply varying perspectives of the developed countries and the developing countries. But in addition, it emphasized that under no conditions would it agree to the demand of the developed countries that socio-economic considerations be omitted from the text of the protocol. It was reasonable in adopting the approach that the precautionary principle, as well as socio-economic considerations, could be invoked by importing countries, in exercise of their inherent sovereign powers. The developed countries' deep concern that the developing countries could use socio-economic considerations as potential trade barriers for

restricting imports was allayed by the inclusion in articles 2 and 26 of references in which the principle of adherence to existing international conventions was accepted. There was also intense debate about the possible ramifications of including socio-economic considerations as a separate article in the protocol. Finally good sense prevailed, and all groups accepted the 'chairman's text', whose language provided adequate safeguards for protecting the interests of both developed and developing countries. It was in the Montreal meeting in January 2000 of the resumed ExCOP that a protocol was finally adopted.

The role played by the European Union (EU) in BSWG-6 at Cartagena merits special mention. Initially the EU broadly endorsed the developed countries' position, but during the tense and momentous events there it modified its position. Later it and some of its effective spokespersons, including Christoph Bail, played a key role in bridging the differences between the Miami Group and the Like-Minded Group and in forging support for the viewpoints of the Like-Minded Group.

In retrospect it would be fair to conclude that Article 26 of the Cartagena Protocol on Biosafety provides adequate opportunities for importing countries to protect their biological diversity when importing LMOs. Developing countries in particular are happy that the precautionary principle and socio-economic considerations form part of the protocol. It is now up to the global community to display the requisite degree of will and work together in constructive cooperation to implement the biosafety protocol. Nothing will give me as a Cartagena negotiator greater satisfaction than the proper implementation of the protocol in letter and spirit.