



Federative Republic of Brazil

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**Comments from Brazil on the "Elements of a Framework
for Conceptual Clarity on Socio-Economic Considerations"
(Article 26 of the Cartagena Protocol on Biosafety)**

Brazil welcomes the effort of the Secretariat in compiling different views and comments on the "Elements of a Framework for Conceptual Clarity on Socio-Economic Considerations". As it was noted by several Parties both at COP-MOP 6 and COP-MOP 7, the main difficulty Parties face when opting to implement Article 26 of the Cartagena Protocol on Biosafety regards the lack of clarity on what constitutes "socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity". The report presented by the AHTEG "Elements of a Framework for Conceptual Clarity on Socio-Economic Considerations" is a first step towards having a clearer understanding on this issue, but is not sufficient to provide the basis for the development of guidance, in the context of operational objective 1.7 of the Strategic Plan.

2. In a situation where Parties seek clarity on how to implement the Protocol, it is always useful to pay a closer attention to its text.

3. **Article 26** has several elements that were not appropriately reflected in the "Elements of a Framework". The first thing one need to consider is that the application of such article **is not mandatory** under the text of the Protocol: "Parties may take into account". Therefore, any outcome of the current process must not be understood as binding in any way and the language of the "Elements of a Framework" should reflect the voluntary nature of the article. In this sense, the idea of having "general principles" conveys an ambiguous message, since it can be understood as something that one must follow. Thus, the idea of "general principles" should be changed for "general recommendations".

4. The second element that is not appropriately reflected in the report is the **unavoidable link between the socio-economic consideration and an impact of the LMO** on the conservation and sustainable use of biological diversity. One should bear in mind that it is not every single socio-economic aspect related to LMOs that falls under the scope of Article 26, but only those that were caused by an impact on biodiversity. The text of the "Elements of a Framework" diverts from this limit imposed by the Protocol. There are several references, including in the session on "general principles", that refers to "socio-economic considerations" in a broad way. Those references should be reviewed and the first principle/recommendation should recall this link.



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5. Brazil would like to highlight another element of Article 26: any decision of a Party on the import of an LMO or under its domestic measures implementing the Protocol must be consistent with their international obligations, specially the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). Although the compliance with international obligations is mentioned in the "Elements of a Framework", there is a need to emphasize this aspect of Article 26, in order to avoid future questions with regard to the implementation of the Protocol.

6. Under the scope of Article 26, there is a wide range of socio-economic considerations that may be taken into account by Parties. Human health-related issues should be primarily dealt with during the risk assessment. Only those issues that arise from the impact of the LMO on the conservation and sustainable use of biodiversity may "form part of socio-economic considerations". Besides, human health-related issues are only one of the aspects that may be taken into consideration and there is no reason to single it out in the context of a "general principle/recommendation". We should also consider that the language of principle 6 is too prescriptive, what differs from the voluntary nature of Article 26.

7. It should also be noted that, each and every decision regarding the implementation of the Protocol, including on the implementation of Article 26, should be scientifically sound and adopted in a transparent manner. In this sense, in order to avoid arbitrary or unjustifiable distinctions, any measure taken by a Party based on Article 26 should be measurable and capable of being estimated and verified. There are existing methodologies than can help Parties to assess and decide upon the socio-economic consequences of the impact of a LMO in the conservation and sustainable use of biodiversity, so as to avoid taking a decision without quantitative and qualitative sound data. For this reason, Brazil is not in a position to accept paragraph 7 as a general principle/recommendation.

8. With regard to general principle/recommendation 9, there is a need to make a distinction between planning and conducting risk assessments and taking socio-economic considerations into account. While the conduction of risk assessments is a requirement under the Protocol, the consideration of the socio-economic consequences of the impact of a LMO is not mandatory. The language of this paragraph should reflect such difference.

9. The scope of methodologies that Parties could consider when applying Article 26 is one of the main points that need to be clarified. With regard to this point, it should once again be noted that socio-economic considerations under Article 26 are limited to those arising from the impact of an LMO on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities. Nonetheless, the "Elements of a Framework" presents a broad scope that can be confusing. It includes issues such as religious and ethical considerations without further information on how such issues could be understood under the limits of Article 26. In order for Parties to take a decision on the



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scope of the methodologies, there is a need to have further information, including on actual cases, of how a decision to import an LMO may lead to an impact on biodiversity with religious and ethical consequences. The way the scope of methodologies is currently presented may raise more doubts on the implementation of Article 26.

10. The section on methodological approaches suggests the use of "multi-criteria analysis". With regard to this point, Brazil highlights once again the importance that decisions taken by Parties are both verifiable and based on quantitative and qualitative sound data. It is essential for the functioning of the Protocol that eventual decisions on the implementation of Article 26 are based on pre-established criteria, in order to avoid the use of a set of methodologies with a focus on a pre-oriented result.

I take this opportunity to renew my protests of high esteem and consideration.