

„Key issues of the official Biosafety Protocol negotiations - NGO strategies and input“

Over 30 participants attended the Planet Diversity workshop organised by Christine von Weizsäcker (Ecoropa, Germany), Duncan E.J. Currie (Globelaw, New Zealand), Philip Bereano (Washington Biotechnology Action Council), Doreen Stabinsky (Greenpeace International) and Lim Li Lin (Third World Network, Malaysia).

The workshop stimulated interesting discussions on liability, socio-economic impacts and capacity building in the context of Genetically Modified Organisms (GMOs) and Biosafety. The forenoon session was moderated by Doreen Stabinsky and Phil Bereano and the afternoon session by Phil.

Biosafety Protocol, also known as Cartagena Protocol is an instrument established in accordance with the precautionary approach contained in Principle 15 of the Rio Convention, 1992. It seeks to protect biological diversity from the potential risks posed by living modified organisms resulting from modern biotechnology. The Protocol entered into force on 11 September 2003.

Christine von Weizsäcker of Ecoropa introduced the three topics briefly. **Duncan Currie**, the environmental lawyer for Greenpeace International spoke on liability and redress for damages arising from GMOs. Liability and redress is one of the hot topics in the official negotiations (MOP 4) taking place in Bonn. All the resource persons who spoke at the workshop took a break from the official biosafety negotiations to attend the workshop.

Duncan said that Greenpeace has been pushing for a fund to cover the cost of damages, and for a strict liability regime. Once such a fund is set up, a claim for redress for the damages from GMOs can be made by those who suffer the damages.

Strict liability is a legal doctrine that makes a person responsible for the damage and loss caused by his/her acts and omissions regardless of fault. **Christine von Weizsäcker** said that the beauty of strict liability is that it is effective irrespective of the level of knowledge/information on the technology and those accountable for damages will be held responsible for the damages and will have to pay for it. Polluter pays principle & the precautionary principle go hand in hand in the case of strict liability.

Doreen Stabinsky said that the detailed compact drafted by the six large agricultural biotechnology corporations who produce GM crops will cover only compensations to the damages to biological biodiversity, and does not take the damages to human health or well being into account.

The fact that the six big GMO corporations produced a 60 page draft compact and that they set up a fund to cover damages to biological diversity shows that the industry takes the matter seriously, and is afraid of a legally binding agreement on liability and redress, Christine observed.

Phil Bereano recounted that historically strict liability has been used in situations such as dangerous cases. He cited the example of a person who keeps a tiger as a pet in a densely populated city who in spite of a strong cage and any other safeguards taken to contain the animal will be liable

for any dangerous consequences. Strict liability can be used for other policy reasons – such as in the case of new or upcoming technologies – e.g., as when the automobiles were introduced.

Lim Li Lin said that the Convention on Biological Diversity (CBD) from the Earth Summit in Rio is a very progressive instrument as it takes into account the impacts on biodiversity and human health as well as the socio-economic impacts. In comparison, the Biosafety Protocol has a section on the methodologies for scientific risk assessment in its annex, but nothing on the socio-economic or cultural considerations. Though it was raised in the MOP1 and again in the MOP2, which resulted only in a weak decision in the end. Lin said that the MOP4 underway in Bonn will discuss the socio-economic and cultural considerations and implications of GMOs. GM trees will be another important topic discussed in the MOP4, but the discussions on the impact on forest and the people who are dependent on the forest could continue in the COP9 of the CBD, she said.

„Whether GE food in which pig genes have been introduced is "halal" (permissible) or "haram" (forbidden) has to be clarified for a country like Malaysia which has a large Muslim population“, commented Lim Li Lin.

As answer to a question on the lack of capacity and competence of African countries to deal with the challenges of the biosafety protocol and other complicated multilateral environmental negotiations, **Lim Li Lin** said that the African Union is a strong negotiator in the Biosafety Protocol negotiations. Lin praised the exemplary role of Zambian and Ethiopian delegates in the negotiations. She also said that as the UN system works on equal vote and consensus, even the small Pacific island Palau has a better voice than the US. The US is not a party to the Biosafety Protocol.

Hartmut Meyer, consultant to GTZ on developing capacity building for meeting the needs of the Biosafety Protocol in collaboration with the African Union said that the project facilitates things for the African delegates in their participation in the biosafety negotiations by summarizing important documents and through other information service. The project also works to further develop the African model law on biosafety. He recalled that an own model law was first developed by the African Union (AU) as a safeguard at a point of time when the Biosafety Protocol negotiations were about to fail. He mentioned that the law is under revision now.

The AU is going to convene six workshops in African countries in summer 2008. He said that among the upcoming agenda is the awareness building and involvement of a wider audience to the biosafety issues. In discussions he observed that many countries do not prioritize biodiversity & biosafety as important issues to work on and that very few rich EU nations invest in bilateral projects with developing countries who need help in capacity building in biosafety.

Phil Bereano underlined the need to have educated activists and media to be alert in countries where the essential link between the government and civil society organizations are weak.

The workshop concluded shortly past 15:00 when the speakers had to resume the official negotiations.

- Report by Omkar Gopalakrishnan