

Protocol Talks Stalled

The Sixth Session of the Open-ended Ad Hoc Working Group on Biosafety (BSWG) met from 14–24 February 1999, in Cartagena, Colombia. Over 600 participants representing 138 governments, business and environmental NGOs and the scientific community, attempted to finalise a protocol on biosafety during the BSWG for adoption by the First Extraordinary Meeting of the Conference of the Parties to the Convention on Biological Diversity (ExCOP), which was held from 22–23 February.

The BSWG meeting ended without agreement being reached on the text for a protocol regulating trade in genetically modified (GM) crops and foodstuffs.

The inability to reach agreement reflected a clash primarily between the trade interests of US and other GM-crop exporters and the environmental concerns of other countries. In addition to trade issues, the other areas of contention centred on the treatment of commodities and domestic *versus* international regulatory regimes.

One of the main stumbling blocks was US insistence that World Trade Organisation rules must take precedence over any biosafety agreement – even though the US has long objected to submitting its own environmental regulations to WTO discipline.

Developing countries, with the support of the European Union, say that they need safeguards against health and environmental risks, which they lack the capacity to assess or control.

The US-led Miami Group, a six-member coalition of the main GMO producers consisting of Argentina, Australia, Canada, Chile, and Uruguay, feared losing billions of dollars-worth of trade in agricultural commodities, an increasing proportion of which are genetically engineered. From the start, this Group opposed the draft text of the Protocol, which excluded commodities and pharmaceuticals from its scope.

The negotiations, which had always been difficult, became totally deadlocked leading to an acrimonious breakdown of the talks. The US suspected the EU of conspiring to use the talks to foment international opposition to GM products and justify closing its own market

to them. The US, in turn, was widely accused of invoking world trade rules as a pretext for sabotaging a plan which threatened the business of its biotech industry and farm lobbies.

Developing countries at the conference – known as the “likeminded group” – were furious at the Miami Group’s apparent intransigence. On the final day, exhausted delegates opted for a face-saving mechanism to suspend the Cartagena conference and take it up at a later date under the same name. In the relevant decision, the President of the ExCOP and the COP-4 Bureau is requested to decide when and where the session would resume, no later than the fifth meeting of the Conference of the Parties. However, although this permits countries to avoid formally admitting failure, the deep polarisation on the fundamental issues of the Protocol, including its scope, trade issues and important technical aspects, are likely to remain.

Delegates also decided that the Protocol will be called the Cartagena Protocol on Biosafety to the Convention on Biological Diversity. On 22 February, the BSWG adopted the Chairs text of the draft Protocol to be forwarded to the ExCOP.

Over 50 countries expressed reservations about the text, emphasising that it did not reflect a balanced compromise. Several also objected to the manner in which the text had been prepared and adopted.

At the opening of the ExCOP, the President, Juan Mayr, took the initiative of establishing an informal working group, the “Group of 10,” including representatives of common interest groups. He said this Group would make an attempt to resolve the outstanding issues in order to reach consensus. The different interest groups included the EU, the “Miami Group” and the “Likeminded Group” (the G-77/China minus the developing country members of the Miami Group). However, delegates could not arrive at a consensus.

The Chairs text (printed on page 138), as well as the statements by governments with respect to the text of the draft Protocol contained in the Report of the BSWG, will be transmitted to the resumed ExCOP session for further

debate. The Chair's text contains 39 articles and three annexes. Three articles on notification of transit, subsequent imports and minimum national standards were deleted. All brackets were dropped. It reflects the positions taken by delegates during the week and differs from the draft negotiating text in a number of key aspects.

Developing countries were pushing all along for a wide-ranging Protocol which would protect biodiversity from the potential dangers of all GMOs and their derivative products. They also sought comprehensive liability clauses from producers and the inclusion of an article covering the possible socio-economic impact of GMOs.

The EU saw itself in the role of mediator, proposing the application of a precautionary principle to give States the right to refuse the importation of GMOs if they felt these posed a threat to biodiversity or to human health.

In the final plenary, a "package" proposal on the outstanding issues was presented by the EU and, after discussion, supported by the Like-minded Group, the Central and Eastern European (CEE) countries and a third

"Compromise Group," consisting of Japan, Mexico, Norway, the Republic of Korea and Switzerland. But the Miami Group rejected the package – which proposed to reinstate commodities, in exchange for suppressing a clause subordinating the Protocol to existing trade pacts – claiming that it represented a serious threat to free trade. They interpreted it as a ploy for avoiding existing obligations under WTO rules.

EU Environment Minister, *Ritt Bjerregard*, said that the Miami Group, whom she blamed for the breakdown in the talks, "wanted an agreement without any genuine environmental credibility. It would have excluded agricultural commodities, resulting in a liberalising of trade without proper protection for developing countries." She added that negotiations should be relaunched and concluded "with or without the US."

The biotechnology industry, heavily represented in Cartagena, was satisfied that talks have been suspended until later. However, the polarisation will make the task of reaching agreement even harder when the negotiations resume in 18 months. □