

Report on the 6th Meeting of the Parties (MOP6) of the Cartagena Protocol on Biosafety

[A rough translation of an abridged report on MOP 6 by Japanese participants]

The 6th Meeting of the Parties of the Cartagena Protocol was held in October 2012 in Hyderabad, India. In December 2012 the No GMO (genetically modified organism) Campaign organized a meeting at which there was a report from participants on what was decided at the MOP6 and what we now have to do as a result. We also had a talk by Sekine Tetsuro, director of the foreign species strategy room of the wild life section of the Natural Environment Office of the Ministry of the Environment about the reforming of the Cartagena Protocol domestic laws and about the Nagoya/Kuala Lumpur Supplementary Protocol and what the Japanese Government has been doing to ratify this.

What was decided at the MOP6? Towards new regulations on Genetically Modified Organisms
By Mashimo Shungi, Management Committee of the Food and Farming Citizens' Network

The general opinion of the participants at the MOP6 meeting was that unlike the meeting in Nagoya, where the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress was adopted, it had no high point and left no clear indication of where to go from here. However, we made a lot of progress towards new international regulations on Living Modified Organisms (LMO).

Attempts to create standards for protection against genetic pollution

Article 18, number 3 of the Cartagena Protocol clarified that it will deal with standards for labeling, handling, packaging and exporting LMOs, but details have been put on the long finger. This article is considered important as it could be the place to set some standards for protection against genetically modified seed pollution occurring during transportation in countries like Japan, Australia, Switzerland and others. (However, in reality this subject has not as yet been put on the agenda.)

The Secretariat of the MOP6 proposed that the United Nations' "Recommendations and Model Regulations for the Transporting of Dangerous Materials" would be a good reference in this case, but because exporting countries such as Paraguay were against this, it was removed from the resolutions, leaving only the words "to be given continued consideration."

Since the MOP 7, scheduled to be held in Incheon, Korea in two years time, will deal with the topic of LMOs being used in the processing of food and animal feed, it will be important to cooperate with the NGOs of other countries to make sure that standards for packaging for transportation will be decided there.

As a part of that effort, during the lunch break on the 2nd day of the MOP 6 meeting, our Food and Farming Citizens' Network held a side event to inform people about the self-seeding of rape seeds in Japan (as a result of spillage during transportation), the distribution of non-certified Okinawa GM papaya, the gap between the Cartagena Protocol and Japan's domestic law, and some other issues. There were about 30 participants at the event and when it had finished a number of journalists remained to interview us in more depth, and the next morning the contents of that interview appeared in 'The Hindu' newspaper (the most widely read English language newspaper in Southern India) and others.

Assessment and Control of the Risks Involved with LMOs

In the Cartagena Protocol requirements for risk assessment and risk management in exporting LMOs were laid down (Articles 15 and 16 and Appendix III). However, since more than 10 years have lapsed since it was adopted there is a need to update it so that it reflects recent scientific data on the dangers of LMOs. Because of that, a special group of technical experts (Ad Hoc Technical Expert Group – AHTEG) set up at MOP 4 (in 2008 in Bonn) has continued to consider this issue. This group of experts created (1) a flow diagram showing the steps for performing a risk evaluation and (2) separate risk evaluation indexes for GM mosquitoes, GM crops that have genes stacks (multiple modified genes inserted into one plant), crops that are resistant to non-biological stress (e.g., GM crops resistant to drought, etc.) and GM trees, and submitted them to MOP6.

Although these are only guidelines (a handbook) and have no legally binding power, if they become officially recognized in the Cartagena Protocol, they could be a stepping stone for future strengthening of control and could even influence protocols other than Cartagena. So the biggest point of conflict was whether or not the handbook would receive official approval by the treaty parties. After direct negotiations between the opposing parties, a decision was made on the wording, that the word "recommended" be tentatively allowed in place of "approved" and that the effectiveness of the guidelines be field tested.

It was decided that the guidelines should be continually revised to reflect any future scientific discoveries.

Heretofore the exporting countries had claimed that “the composition of the group of experts was not balanced” and had called for the group to be reconstituted but at MOP 6 it was decided that the present expert group would be dissolved and that in preparation for MOP 7, a new expert group would be chosen by the secretariat.

Production of a Handbook Entitled 'Socio-Economic Considerations'

The greatest result from MOP 6 was the decision to officially begin the work of drawing up the handbook 'Socio-Economic Considerations'.

Regarding what kinds of controls should be used on Living Modified Organisms, we as citizens would naturally consider the effects on the human body and the environment and the effect it has on farming in general (monoculture, the overuse of herbicides and, again, the influence of these on the human body and the environment: the effects of the herbicides used on crops which are resistant to ordinary herbicides, the spread of the so-called super weeds), economic factors (e.g., genetic pollution or even the negative image given to products because of the risk of genetic pollution, reluctance to purchase, etc.), socio-cultural influences (e.g. anxiety about as yet unknown influences, the psychological resistance and mental suffering resulting from the assaults by GM seeds on nature and peoples' eating habits), religious and ethical influences (e.g., Are humans permitted to manipulate genes?) and others. Some controls like those mentioned in 'Socio-Economic Considerations' could protect us from this whole range of risks.

However, because only biological effects of LMOs are in fact included in risk assessment, effectively only biologists and other experts in the field of biotechnology are allowed to give their opinions, and the advisability of the approval and import of LMOs is decided without input from experts in other fields and ordinary citizens.

It must be noted that because the experts in the biotechnology world rely on their occupational achievements to make their living, it is extremely difficult for them to go against both the wishes of the biotechnology enterprises that fund their research and the academic authorities responsible for their research and to do any research into the negative effects of LMOs.

Officially recognizing 'Socio-Economic Considerations' as a standard to decide whether or not to accept LMOs could become the breakthrough to establishing a way of assessing a broader range of risks, looked at from a more citizen-centered viewpoint and not from the 'science-based' control structures. (You could say that it's the same thinking as that behind Germany deciding not to use nuclear power, that decision being based on a report from an ethics committee.)

This is something which, because it would so completely overturn the current concepts of risk analysis, has caused the waging of a fierce running battle over this article. When the UN's Codex Alimentarius, which decides international food standards, was discussing risk assessment of food products originating from biotechnology, NGOs and other organizations tried to introduce this as part of the standard, but not having any evidence they were not listened to.

However, it states clearly in the Cartagena Protocol that when parties are deciding whether or not to import LMOs they “can include 'Socio-Economic Considerations’” (Article 1, No. 26). According to someone familiar with the situation when the protocol was being decided, the battle for this article was won in last minute negotiations in exchange for shelving the discussion on liability and redress (No. 27).

The biggest bone of contention in MOP 6 was whether an ad hoc technical expert group would be established to formulate guidelines to make this article more concrete, and then after long negotiations in the contact group it was decided to establish it.

Because of this we were able to begin work on giving concrete shape to the 'Socio-Economic Considerations' which had been at a stand still for more than 10 years. We can expect many difficulties in the road ahead but we can say that this is one of the most important themes on which we must focus our future energies.

(The above is taken from issue 1521 of 'Consumers' Report', published by the Consumers' Union of Japan.)

Towards the Ratification of the Supplementary Protocol

Sekine Tatsuro, director of Biological Products from Other Countries' Strategy Room, Wild Creatures Section, Natural Environment Dept., Ministry of the Environment

The Nagoya-Kuala Lumpur Supplementary Protocol was adopted in October 2010 at MOP 5. The treaty parties at the November 2010 stage of proceedings were the 6 parties of the Czech Republic, Latvia, Mexico, Norway, Sweden, and Syria. Colombia, India, Norway and the EU are going through the procedures to conclude the treaty. In order for the supplementary protocol to take effect, 40 countries must join the treaty and as the presiding country at the time of the writing of the treaty, Japan wants to soon become one of the 40 treaty parties. In all international treaties only the general outline is decided and the domestic legislation is left to the discretion of

each country.

What kind of legislation would be an appropriate response to the supplementary protocol? We are now in the process of collecting information from each country, analyzing and studying it and discussing it with the government ministries and agencies involved. An important item that we have to consider is under which section of domestic law should legislation on the 'restoration of biological diversity' be placed.

In the case of harm having been done to biological diversity just how much money would it be feasible to spend and to what extent should restoration be expected? Various studies have been carried out on the evaluation of biological diversity. Although by protecting nature we are actually playing a role in preventing natural disasters and in cleansing the air, there are some things on the value of which we cannot place a figure. We also need to clarify our thinking on the extent to which the operator should be expected to take responsibility.

Since agriculture is among the various services of a sustainable biosystem, there would be an obvious need to consider amending Japanese Law that does not include agricultural products as part of its scope. When agriculture and the fishing industry are affected by a weakened biological diversity, there is a real need to examine the personal and material damage done and to consider how domestic legislation can protect against this too.

Concerning the reference to 'Liability and Redress' in the supplementary protocol, the question is, if damage is caused by the GM crops of Monsanto, could a law in this country be applied in another country like the USA, for example, which has not joined the Convention on Biological Diversity. The answer is that by using present legislation, because Monsanto has a Japanese branch and a manager employed here, if damage is caused domestically by Monsanto's agricultural produce, an order can be issued to stop the operation (of the business). I think that in the future we will have cases where Monsanto will be asked to take responsibility for this type of problem.

With reference to the responsibility of transportation companies and retailers, there are regulations in Japanese law requiring that third parties, who are commissioned to transport or handle GM products, be properly informed on how to deal with the product. In the case where step-by-step information has been given to transporters or retailers and this has not been followed, they will have to be held responsible. In the case where information has not been given in accordance with the regulations, the party doing the commissioning will be responsible.

With reference to agricultural produce, I hear that the Ministry of Agriculture, Forestry and Fisheries is investigating possible domestic legislation. In the European Union there are 'Co-existence Guidelines' so that GM crops will not have any adverse affect on other crops, but since GM crops are not grown domestically in Japan, there is some concern that guidelines being set out might send the wrong message — that it's alright to grow GM crops in Japan provided you stick to the guidelines, and accordingly the Ministry has, for the time being, stopped the work of drawing up the guidelines.

See also:

<http://www.nishoren.org/en/?paged=2>

<http://bch.cbd.int/protocol/>

<https://bch.cbd.int/protocol/text/>

<http://bch.cbd.int/protocol/supplementary/>

Comment

These negotiations are so slow, and decades late. I expect that some governments are obstructing them. Discussion on the morality of genetically engineering organisms and any rules for handling GMOs/LMOs were needed *beforehand*. Governments and industry are culpable. It is impossible to recapture genes that have escaped into the wild. (GM canola is growing all over Japan even though farmers here do not grow it. It is the result of spillage during handling at ports and during transportation.) Even if the guidelines are internationally accepted, there is no guarantee governments will enforce them. NGOs, CSOs, etc. spend lots of time and money on providing input into these kinds of negotiations. But to what effect?