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Biosafety negotiations - flashbacks

Tewolde Berhan G Egziabher, the spokesperson of the Like-Minded Group (Group of 77 & China) at the Montreal and Cartagena talks and who has been involved in the biodiversity negotiations since the Nairobi Conference in 1991, reflects on his experience as a negotiator from the Third World at the biosafety talks.

Old friends and new issues

FOR me, it all started in 1991. The Convention on Biological Diversity (CBD) was being negotiated. I was in Addis Ababa University, a biologist busy with academic activities - teaching, research, academic and research administration - all noble, all universal, all easy to idealise, or even idolise.

But a good friend of mine, Dr Melaku Worede, woke me up rudely. He did not mean to. He headed our crop genetic resources centre (gene bank) then. The government had asked the gene bank to be involved in the CBD negotiations. Dr Melaku said that my knowledge and experience made me suitable and he asked me to go to Nairobi to represent Ethiopia in the negotiations. I accepted. I did not know that I was committing myself to a decade-long, possibly longer, fight on trade in life.

Some are more equal than others

Nairobi confronted me with the reality of naked power politics behind human life in the real world and my idealised global government.

First shock: humanity consisted of 'white' faces, with a sprinkling of 'black', and hardly any 'yellow': global ethnic distribution and representation in the United Nations system were (and still are) obviously negatively correlated!

On my first day in Nairobi, I needed one page of a document photocopied. I went to an office which seemed to deal with documents. I dared get in. I was nearly physically pushed out by a white man and told that such services were not given to delegations. As I was being ushered out, two delegates, both white and using a distinctly North American accent, came in, and they were given a wad of photocopied material together with their original document, which they had obviously left for photocopying. We all belong to the United Nations, I thought, but some more so than others, and I would always be one of the 'others'!

Seven years later, as Head of the Ethiopian Delegation, I submitted to the CBD Secretariat our view on the interaction between the CBD and trade-related aspects of intellectual property rights (TRIPS) to be distributed at the Fourth Conference of the Parties (COP IV). When I arrived in Bratislava, I discovered that it had not been distributed. I asked the Secretariat. A black man told me that it was because what I had asked to be distributed was a government position and that it was not the Secretariat's business to distribute such information. I had flipped through the information documents already produced and distributed by the Secretariat.

They had extensive suggestions by specific OECD (Organisation for Economic

Cooperation and Development) countries - all white: it is not the colour of the face that confronts you that counts. But seven years had made me wiser. I am sorry to say that I resorted to blackmail: I told my 'black brother' that I accepted his explanation, but that, also, I would scrutinise the information documents and if I found any government's position written in them, he would be in trouble.

He scratched his head and said that he would distribute our document. He did, though he took an inordinately long time, and produced only a token number of copies. We had to supplement that by paying for photocopying services: even the UN system impoverishes the poor more.

You must know, and make sure that they know you know. Even at the United Nations truth emanates from the OECD, unless otherwise proven beyond any reasonable doubt. I learnt of this fact during my first day of negotiations for the CBD.

It was then still being doubted in many august quarters that indigenous and local communities are innovators in the conservation and sustainable use of biological diversity. The only explanation I could find then was that the local and indigenous communities do not belong to the OECD.

I also realised OECD members were stating that modern biotechnology (meaning genetic engineering) was important for the conservation and sustainable use of biological diversity, and their statement was being accepted. Except for keeping parts of organisms alive through tissue culture, with its attendant unwanted genetic changes through somaclonal variation, I could not see then, and I still cannot see now, how modern biotechnology can help in the conservation and sustainable use of biological diversity - but I can visualise many other possibly useful applications! I think that they were, and still are, being OECD-hoodwinked. No wonder then that the US delegation wanted intellectual property rights (IPRs), and it was accepted, but we wanted Community Rights, and we could not manage even to get the self-evident Farmers' Rights included in the CBD. Article 8(j) was as far as we could go then.

But a concerted fight works even from non-OECD quarters, and the situation has now, in 2000, changed markedly. This is because we knew, and we made them know that we knew. Even the substantial equivalence of genetically modified organisms - I am not sure if it was so called at the time of the negotiations in Nairobi, but it was so explained by the US delegation - has at last now been shown to be untenable.

Knowing and letting it be known that you know works within a non-OECD context as well, among 'allies' as well. For example, as leader of the African Group in the biosafety negotiations, my heaviest burden early on was the South African delegation.

It all started in 1996. The African Group in the first biosafety negotiation session in Aarhus, Denmark, had asked the Ethiopian delegation to prepare an African draft protocol.

We did. The Third World Network helped us in various ways to setup an African review workshop to modify, as need be, and adopt the draft protocol.

The South African delegation came to black Addis Ababa, all white, representing a multiracial government. It was headed by a man bent on embarrassing us on the ground that we were poor and dirty. His first move was to look at our humble hotel accommodation and state that he would go to the Hilton Hotel at his own expense.

Destructive

More importantly, he adopted progressive-sounding terminology while invariably twisting the issues towards unregulated free trade in genetically modified organisms and their products. I knew he wanted to disrupt. I made him know that I knew this. He did not want to be openly labelled as disruptive. He knew that his government would find out and would not be pleased. I knew, therefore, that he would not openly and officially declare a stand different from an African position.

He kept filibustering our meetings. Many of my other African colleagues wanted his delegation to break rank with us. I managed to convince them to be patient because we needed a common African front. I knew him. He knew that I knew him.

Finally his government also saw through him and withdrew him from its delegation: relief!

Sometimes it is useful that 'they' think that you do not know. When we presented the African Draft Protocol, many, even the venerable journal Nature, I am told, believed that some NGO had written it for us. Some said it was Greenpeace. Others, more generously inclined towards the South, thought it was the Third World Network. Other culprits were also suggested. They sniggered at us. Our inclusion of resuscitated organisms as sources of risk only made us look even more loony in their eyes. Nobody but we ourselves wrote our draft, though we benefited from many comments. As for resuscitated organisms, we still believe that they are risky. We are really not thinking of Jurassic Parks, as a delegate from Costa Rica once remarked. Check against OECD scientific literature, e.g. the journal, Science. You will find them covered there.

But their belittling us gave us a headstart in getting unobtrusively united. By the time they knew that we really knew what we were saying, we had cemented an African unity of purpose, and blackmail and intimidation directed at individual delegations in order to break up our unity always backfired.

Even as late as the ill-fated negotiations in February 1999 in Cartagena, the chief negotiators of the Miami and European Groups underestimated us. They were so pre-occupied with sealing a deal between themselves that, in the now-infamous roundtable negotiations of the last few days, I became certain that they did not think I was even following the 'intricacies' of their transactions. When it looked as if they were about to finalise their deal, I pointed out that that deal was worthless since I could not join in it, and that they had to deal with me as well, not only among themselves. They had both to admit that was right. When we left the roundtable, one of them commented to me that I did not know what was good for us.

I remember physically fighting only three times in my life, and that was before the age of 12. But I felt like knocking him down. Of course he was bigger than me and it would have been a futile gesture. It would have been a futile gesture even if he were a midget. So, I only said 'shut up' and left him. To be fair, he took no noticeable offence. And I realised afterwards that neither did I take lasting offence.

In the informal consultations in Vienna in September 1999, the Like-Minded Group pointed out that the scope of the Protocol as proposed in Cartagena, in which most types of genetically modified organisms or GMOs (those for pharmaceuticals, research, contained use, in transit) were made to fall outside the Protocol except for 2-3 specified articles, left so little in the Protocol that it made it an almost empty dummy. The OECD delegations hid behind the facade that, if we started going back

on the scope as stated in Cartagena, we could never finish, and that, therefore, the Like-Minded Group was being unreasonable.

But we had never accepted the Cartagena scope as adequate. We pointed out that, for example, the article on the Meeting of the Parties was not included in the 2-3 specified articles, and that, as the scope stood, the Meeting of the Parties could never discuss pharmaceuticals, research, contained use or transit of GMOs. This first produced silence. Then it led to the acceptance that we would have to enumerate all the articles that would not apply (negative listing) or all the articles that would apply (positive listing) to each category of GMO. It took a whole day of messy debate to show that the listing would remain too messy to maintain whichever way we approached it. This forced everyone to grudgingly accept that the exceptions to consider concerned only the Advance Informed Agreement (AIA) procedure, as we had always insisted, not the whole scope.

When delegations hide murky thinking or murky intentions behind a semblance of neatness, it is good to stir up the dregs. But how did we manage to stir them up? We were delicately treading with the Miami Group on negotiating commodities: they had to 'humour' us. The Compromise Group saw the sense we were aiming at, though they did not think that the advantages were worth the possible delay. The Central and Eastern European Group were not sure at first, but they found our Meeting of the Parties argument compelling.

The European Group knew that we knew that they wanted no exploration of hidden motives; and they knew that we meant business in leaving no room for hidden motives. Everybody knew that we knew that they knew what was wanted, and they preferred it all to remain unstated. So they could not stop us from revealing how confused the article on scope was. As a result we now have a comprehensive scope (Articles 4, 5 and 6), though still with more exceptions to the AIA procedure than we had originally wanted.

You must have friends

We had friends. Africa is financially so poor that the African Group would not have functioned, let alone played an important role in uniting the South, without friends.

But we soon made friends who filled in our gaps. For example, the Third World Network gave us critically needed assistance, and facilitated critically needed interactions, both South-South and South-North. African telecommunications are so poor that had it not been for the Gaia Foundation of London acting as an information relay station among African delegations, we could not have been effective. And had our many, many other friends (too many to enumerate here) - governmental, non-governmental, academic and research - all over the world not helped, we would not have managed to stay as informed and as effective as we did.

But the African Group was not a juggernaut organisation as claimed by some. It was merely a small but clear flame protected from gusts by friendly hands from all over the world. It helped that we had this self-generating huge support network while our 'opponents', at least at first, saw us as poor, isolated and ignorant.

Perhaps the most exciting friendships were formed across barriers. I really grew to love some of my friends from the Miami Group. 'Love' has many levels and hues. Being opponents makes us explore one another more keenly than even being friends. I would love having the majority of the Miami Group delegates as friendly neighbours with whom to keep exchanging mundane ideas of daily routine over

coffee!

Do you ever know your limits?

In Cartagena in February 1999, the Ad-hoc Working Group on Biosafety wound up its work in failure. It was early morning.

For several days, I had not been sleeping for more than three hours out of 24. I was finding it difficult to imagine managing to reach my hotel before falling asleep. And then somebody, I think that she/he/it was from the Secretariat, patted me and told me that I was needed, that I had to go to the round-table arrangement to negotiate yet once more with the Miami Group and the European Group.

I instantly woke up. We negotiated for several hours. Then a couple or so hours of sleep only, then negotiating, wheeling and dealing the whole day and night with only another couple of hours of sleep the next morning. Then a whole day and night of the same as previously, sometimes stumbling, sometimes short-tempered, but with my mind absolutely clear. And the love and care and support of everyone - someone with a glass of juice, someone with a sandwich, with a touch, and all with smiles and many with lovely words!

Supra-individual energy keeping me going on? An innate strength that I did not know I had urging me on? I do not know. All I know is that the Miami Group had to change their negotiator, and I was told that the European Group negotiator had, towards the end, failed to stay awake. I am asthmatic, and older than either of them. I do not know how or why I managed it. But I stayed on to the end. When it finished I do not recall how I got into my room and into bed. I woke up 11 hours later, only to eat and sleep about 10 hours more.

Success, but could it have been more?

My overall evaluation of Montreal in January 2000 is that we, the Like-Minded Group, succeeded in getting more than I had thought would have been salvageable from the Cartagena mess.

But then, our unity and our strength had already been tested and found to hold. It was good. And it will continue to be good. But at a personal level, nightmare and dream did not blend as exhilaratingly as they had in Cartagena. One surreal week is enough!

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