



Convention on Biological Diversity

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CONFERENCE OF THE PARTIES TO THE CONVENTION
ON BIOLOGICAL DIVERSITY SERVING AS THE
MEETING OF THE PARTIES TO THE CARTAGENA
PROTOCOL ON BIOSAFETY

Eighth meeting

Cancun, Mexico, 4–17 December 2016

Item 15 of the provisional agenda*

SOCIO-ECONOMIC CONSIDERATIONS (ARTICLE 26)

Note by the Executive Secretary

I. INTRODUCTION

1. The Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its sixth meeting decided to establish an Ad Hoc Technical Expert Group on Socio-Economic Considerations (AHTEG) to develop conceptual clarity in the context of paragraph 1 of Article 26 of the Protocol (decision BS-VI/13). The Conference of the Parties serving as the meeting of the Parties decided that the AHTEG should submit its report for consideration by the Parties to the Protocol with a view to enabling the meeting to deliberate and decide upon appropriate further steps towards fulfilling operational objective 1.7 of the Strategic Plan for the Cartagena Protocol on Biosafety for the period 2011-2020 and its outcomes. The AHTEG was to draw upon the outcomes of a global overview of information on socio-economic considerations prepared by the Executive Secretary and on the outcomes of online discussion groups and regional online real-time conferences. The AHTEG met in Seoul in February 2014 and agreed to “Elements of a framework for conceptual clarity on socio-economic considerations”.

2. At its seventh meeting, the Conference of the Parties serving as the meeting of the Parties took note of the report of the AHTEG and, in decision BS-VII/13, paragraph 1, decided to extend the AHTEG to work, in a stepwise approach, on: (a) the further development of conceptual clarity on socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, taking into account and improving upon the “Elements of a framework for conceptual clarity on socio-economic considerations” contained in the annex to the report of the first meeting of the AHTEG on Socio-economic Considerations; and (b) developing an outline for guidance with a view to making progress towards achieving operational objective 1.7 of the Strategic Plan and its outcomes. The Conference of the Parties serving as the meeting of the Parties requested the AHTEG to submit its report to the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol at its eighth meeting.

3. In paragraph 4 of the same decision, the Conference of the Parties serving as the meeting of the Parties requested Parties and invited other Governments, relevant organizations and indigenous and local

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communities to submit views and comments on the “Elements of a framework for conceptual clarity on socio-economic considerations”.

4. Furthermore, in paragraph 5 of the decision, the Conference of the Parties serving as the meeting of the Parties requested the Executive Secretary to undertake the following activities:

(a) To compile and disseminate information on: (i) policies, laws, regulations and guidelines providing for definitions of socio-economic considerations; and (ii) practical applications of socio-economic considerations in decision-making on living modified organisms, including cases where positive and negative socio-economic impacts have been considered;

(b) To convene online discussion groups to facilitate the exchange of views, information and experiences on socio-economic considerations in the context of paragraph 1 of Article 26 of the Protocol, including concerning: international obligations that may be relevant to socio-economic considerations; socio-economic considerations and the value of biological diversity to indigenous and local communities; environment-related aspects of socio-economic considerations, as well as the relationship, if any, with risk assessment and human health-related issues;

(c) To compile and prepare a synthesis of the views and comments referred to in paragraph 3 above for consideration by the Ad Hoc Technical Expert Group on Socio-economic Considerations;

(d) To commission, subject to the availability of funds, a study on international agreements that may have relevance to socio-economic considerations as provided for in Article 26 of the Cartagena Protocol on Biosafety and to make the report available on the Biosafety Clearing-House.

5. The Conference of the Parties serving as the meeting of the Parties decided that the AHTEG should take into account any information that might be provided through the above activities.

6. Accordingly, the present note provides a brief description of the activities requested of the Executive Secretary and their outcomes in section II, a description of the activities carried out by the AHTEG in section III and suggested elements for a draft decision in section IV.

II. ACTIVITIES CARRIED OUT IN RESPONSE TO PARAGRAPH 5 OF DECISION BS-VII/13

7. In response to the requests to the Executive Secretary by the Conference of the Parties serving as the meeting of the Parties in decision BS-VII/13, the Secretariat undertook and organized a number of activities. A brief description of these activities and their outcomes is provided below.

A. Compilation of definitions and practical applications of socio-economic considerations

1. Compilation of definitions of socio-economic considerations

8. In accordance with Article 20(3)(a) of the Cartagena Protocol, Parties are required to make available to the BCH any existing laws, regulations and guidelines for implementation of the Protocol. The Secretariat carried out a review of laws, regulations and guidelines available in the BCH and compiled descriptions and definitions of socio-economic considerations contained in these instruments. The Secretariat also consulted national biosafety frameworks, national reports on the implementation of the Cartagena Protocol and carried out internet searches to identify relevant instruments of Parties that were not available in the BCH. Several instruments provide descriptions of elements of socio-economic considerations, rather than a specific definition. Instruments of 19 Parties were found to contain such descriptions or a definition. The compilation was made available to the AHTEG online discussion (see below). The compilation of policies, laws, regulations and guidelines providing for definitions of socio-economic considerations is available at <http://bch.cbd.int/socio-economic%20considerations/definitions-sec.pdf>.

2. Compilation of practical applications of socio-economic considerations

9. In accordance with Article 33 of the Protocol and following decision BS-VII/14, Parties were requested to submit their third national report on the implementation of the Cartagena Protocol on

Biosafety by 30 November 2015. In their third national report, a number of Parties indicated that socio-economic considerations arising from the impact of the LMO on the conservation and sustainable use of biological diversity had been taken into account when deciding on the import of an LMO.¹ The Secretariat communicated with 25 Parties and invited them to provide further information and documentation related to these applications. Additional information in relation to the application of socio-economic considerations was provided by a total of 14 Parties: Estonia; France; Malaysia; New Zealand; Norway; Mexico; Spain; Sudan; Swaziland; Turkey; Uganda; Uruguay; Viet Nam; and Zimbabwe. Some Parties provided an account or clarification of the decision-making process or institutional framework, while others provided a more detailed description of a specific application of socio-economic considerations in decision-making. All information submitted has been included in the compilation of practical applications of socio-economic considerations in decision-making on living modified organisms, including cases where positive and negative socio-economic impacts have been considered. The compilation was made available to the AHTEG online discussion (see below).² The compilation of practical applications of socio-economic considerations is available at <http://bch.cbd.int/socio-economic%20considerations/practical%20applications%20of%20secs.pdf>.

B. Online discussion groups

10. The Secretariat organized a series of online discussion groups held between 30 March 2015 and 7 May 2015 to facilitate the exchange of views, information and experiences on socio-economic considerations in the context of Article 26, paragraph 1, of the Protocol. The online discussion groups were organized around five themes, each with a number of guiding questions. The themes and related guiding questions are presented in the table below.

Table. Themes and guiding questions for the online discussion groups on socio-economic considerations

<i>Topic</i>	<i>Guiding question(s)</i>
Theme 1: international obligations that may be relevant to socio-economic considerations	<ul style="list-style-type: none"> • In previous discussions on socio-economic considerations under the Protocol, a number of international agreements have been identified as possibly being relevant to the issue (see list below).³ • Are there any other agreements, including regional agreements, that could be relevant in this context? • How might the agreements listed below and the obligations they contain be relevant to Parties taking socio-economic considerations into account in their decision-making on LMOs pursuant to Article 26 of the Protocol?

¹ Question 193 of the online reporting format.

² Two additional descriptions of practical application of socio-economic considerations were made available after the online discussion of the AHTEG had taken place and the compilation has been revised to include these descriptions.

³ The list contained following instruments: Convention on Biological Diversity (CBD); International Plant Protection Convention (IPPC); The General Agreements on Tariffs and Trade (GATT); The Agreement on the Application of Sanitary and Phytosanitary Measures (SPS); The Agreement on Technical Barriers to Trade (TBT); International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA); Agreement on Trade- Related Aspects of Intellectual Property Rights (TRIPS); UN Declaration on the Rights of Indigenous Peoples; International Covenant on Economic, Social and Cultural Rights (ICESCR); Indigenous and Tribal Populations Convention (ILO Convention No. 169).

<i>Topic</i>	<i>Guiding question(s)</i>
Theme 2: socio-economic considerations and the value of biological diversity to indigenous and local communities	<ul style="list-style-type: none"> • What are some concrete examples, besides the intrinsic value, of the value of biological diversity to indigenous and local communities? • How are they linked to possible socio-economic effects of LMOs? • How can an effect, if any, be assessed?
Theme 3: environment-related aspects of socio-economic considerations	<ul style="list-style-type: none"> • What are possible environment-related aspects of socio-economic considerations that could arise from the use of LMOs, and which would be relevant in the context Article 26 of the Protocol? • How can they be distinguished from those covered in other processes under the Protocol, e.g. risk assessment and risk management?
Theme 4: the relationship, if any, with risk assessment	<ul style="list-style-type: none"> • Is there any relationship between risk assessment and the assessment of possible socio-economic effects? • Are there any concrete examples of links between those assessment areas?
Theme 5: the relationship, if any, with human health-related issues	<ul style="list-style-type: none"> • Are there any possible human health-related issues with relevance for socio-economic considerations? • Are they already dealt with under food safety assessments or the provisions of Articles 15 and 16 (Risk assessment and risk management) of the Protocol? • Are there any situations when they could they be dealt with under Art 26 of the Protocol?

11. Each theme was discussed for a period of one week and was moderated by a member of the AHTEG. Nearly 100 participants were nominated for the online discussion groups: 77 from Parties, five from other Governments and 17 from organizations. The transcript of the online discussions is available at http://bch.cbd.int/onlineconferences/portal_art26/discussion_groups.

C. Synthesis of views and comments submitted

12. Further to paragraph 4 of decision BS-VII/13, the Executive Secretary called for the submission of views and comments on the “Elements of a framework for conceptual clarity on socio-economic considerations” by way of notification 2015-007.⁴ A total of 24 submissions were received, of which 17 were from Parties, 3 from other Governments and 4 from organizations. They were made available on the BCH at: https://bch.cbd.int/onlineconferences/portal_art26/submissions.shtml.

13. The Secretariat prepared a synthesis document of the views and comments received and made it available to the AHTEG online discussion (see below) at <http://bch.cbd.int/socio-economic%20considerations/synthesis%20of%20views%20and%20comments.pdf>.

⁴ The notification is available at: <https://www.cbd.int/doc/notifications/2015/ntf-2015-007-bs-en.pdf>. The deadline for submission was set at 13 March 2015, which was later extended to 31 March 2015 by way of notification 2015-029, available at: <https://www.cbd.int/doc/notifications/2015/ntf-2015-029-bs-en.pdf>

D. Study on international agreements that may have relevance to socio-economic considerations

14. The study on international agreements that may have relevance to socio-economic considerations as provided for in Article 26 of the Cartagena Protocol on Biosafety was commissioned with the financial support from the Government of Norway. The study will be made available, in accordance with decision BS-VII/13, on the BCH at https://bch.cbd.int/protocol/cpb_art26.shtml.

II. AD HOC TECHNICAL EXPERT GROUP ON SOCIO-ECONOMIC CONSIDERATIONS

15. Due to insufficient voluntary funds, a face-to-face meeting of the AHTEG could not be held during the inter-sessional period. In consultation with the co-Chairs of the AHTEG, Ms. Ranjini Warriar (India) and Mr. Andreas Heissenberger (Austria), an online discussion of the AHTEG was organized from 8 May 2016 to 17 June 2016 to undertake certain aspects of the AHTEG's mandate. The discussions focused on the further development of conceptual clarity.

16. The discussions took place on the basis of a text prepared by the co-Chairs of the AHTEG (co-Chairs' text). The co-Chairs' text revised the "Elements of a framework for conceptual clarity on socio-economic considerations", taking into account views and comments submitted as indicated in paragraph 12 above.

17. Following extensive discussions and amendments to the co-Chairs' text, the AHTEG agreed upon a revised Framework for Conceptual Clarity. The conclusions of the online discussion and the revised Framework for Conceptual Clarity, as agreed during the online discussion, are presented in the annex to the present document.

III. SUGGESTED ELEMENTS FOR A DRAFT DECISION

18. In the light of the conclusions of the online discussion of the AHTEG, the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its eighth meeting may wish to consider adopting a decision along the following lines:

Recalling decisions BS-VI/13 and BS-VII/13,

Noting with regret that a face-to-face meeting of the Ad Hoc Technical Expert Group on Socio-Economic Considerations could not be held due to the lack of sufficient funds and that, as a consequence, certain elements of its mandate could not be addressed,

Welcoming the online discussion of the Ad Hoc Technical Expert Group on Socio-Economic Considerations and the progress made,

Taking note of the conclusions of the online discussion of the Ad Hoc Technical Expert Group on Socio-Economic Considerations,

Recognizing that a face-to-face meeting of the Ad Hoc Technical Expert Group on Socio-Economic Considerations would be required for addressing the outstanding parts of its mandate,

1. *Welcomes* the revised Framework for Conceptual Clarity;
2. *Decides* to extend the Ad Hoc Technical Expert Group on Socio-Economic Considerations, replacing any members, as needed, to allow it to meet face-to-face, subject to the availability of funds, to work on the guidelines envisaged under the outcomes for operational objective 1.7 of the Strategic Plan for the Cartagena Protocol on Biosafety on the basis of the revised Framework for Conceptual Clarity;
3. *Urges* Parties to provide the necessary funds for a face-to-face meeting of the Ad Hoc Technical Expert Group on Socio-Economic Considerations;
4. *Requests* the Ad Hoc Technical Expert Group on Socio-Economic Considerations to submit its report for consideration by the Conference of Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its ninth meeting.

*Annex***CONCLUSIONS OF THE ONLINE DISCUSSION OF THE AHTEG ON SOCIO-ECONOMIC CONSIDERATIONS INCLUDING A REVISED FRAMEWORK FOR CONCEPTUAL CLARITY****Conclusions**

In light of the lack of sufficient funds to organize a face-to-face meeting of the AHTEG, an online discussion took place from 9 May to 17 June 2016 to enable the AHTEG to undertake certain aspects of its mandate, in line with decision BS-VII/13. In decision BS-VII/13, the Conference of the Parties serving as the meeting of the Parties decided that the AHTEG should work, in a stepwise approach, on (i) the further development of conceptual clarity on socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, taking into account and improving upon the “Elements of a framework for conceptual clarity on socio-economic considerations” contained in the annex to the report of the first meeting of the AHTEG [...]; and (ii) developing an outline for guidance with a view to making progress towards achieving operational objective 1.7 of the Strategic Plan and its outcomes.

The AHTEG considered that it was necessary to first focus on conceptual clarity. To that end, the participants discussed an operational definition and general aspects of socio-economic considerations, which were regarded as crucial for obtaining conceptual clarity. The discussions took place on the basis of a text developed by the co-chairs, which took into account the views and comments submitted by Parties, other Governments and Organizations on the original “Elements of a framework for conceptual clarity on socio-economic considerations”. In their submissions, many Parties believed that the “methodological considerations” and “points to consider” contained in the framework developed by the AHTEG at its first meeting were rather elements of the guidance itself and felt that they did not contribute to the development of conceptual clarity. Therefore they were not included in the co-chairs’ text, but could form the basis for the discussion on the structure and elements of guidance at a later stage.

Following extensive discussions, a revised framework for conceptual clarity on socio-economic considerations was agreed upon (see below). The AHTEG recommended that the revised Framework be welcomed by the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol on Biosafety at its eighth meeting.

During the online discussion, some members stated that there is a link between socio-economic considerations in the Cartagena Protocol on Biosafety under Article 26, and its Articles 1 and 4. Furthermore, it was highlighted by some members that socio-economic considerations in the Cartagena Protocol on Biosafety are rooted in its parent treaty, the Convention on Biological Diversity. Both the Convention on Biological Diversity and the Cartagena Protocol on Biosafety, as legally binding international instruments, must be implemented in a complementary and consistent fashion. Other members disagreed with this interpretation.

Participants in the online discussion thanked the co-chairs for their important role in moving the process forward despite the lack of funds. The participants felt that a face-to-face meeting would be needed to complete the mandate provided in decision BS-VII/13, in particular by developing an outline for guidance with a view to making progress towards achieving operational objective 1.7 of the Strategic Plan and its outcomes. Accordingly, the Conference of the Parties serving as the meeting of the Parties at its eighth meeting should consider extending the AHTEG to continue its work in the next intersessional period. In order to ensure that the AHTEG can effectively fulfil its mandate, the participants, however, expressed concern about the present lack of funding and noted that it would be important for Parties to provide the necessary funds to organize a face-to-face meeting of the AHTEG, in order to be able to address the outstanding tasks.

Revised framework for conceptual clarity

Introduction

Article 26(1) of the Protocol states: “The Parties, in reaching a decision on import under this Protocol or under its domestic measures implementing the Protocol, may take into account, consistent with their international obligations, socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.”

This document aims to provide conceptual clarity through an operational definition for socio-economic considerations and general aspects as the basis for the development of guidance for the assessment of socio-economic effects in the context of Article 26 of the Cartagena Protocol. Parties need to adapt these general aspects as appropriate to their national and regional specificities when addressing socio-economic considerations, consistent with international obligations.

This framework should be read, bearing in mind the objective of the Protocol and the Convention, and taking into account the following:

- While this framework and related guidance does not imply an obligation on Parties to make use of socio-economic considerations when reaching a decision on import of LMOs, it provides conceptual clarity to Parties when exercising the right to take into account socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, when reaching a decision on import.
- ‘Impacts’ and ‘effects’ are referred to in a neutral way, meaning they can be positive or negative.
- The Framework for Conceptual Clarity is not intended to be prescriptive.

Operational definition

Socio-economic considerations in the context of Article 26 of the Cartagena Protocol may, depending on the national or regional circumstances and on national measures implementing the Protocol, cover economic, social, cultural/traditional/religious/ethical aspects, as well as health and ecological aspects, if they are not already covered by risk assessment procedures under Article 15 of the Protocol.

Objective

To assist Parties to achieve clarity on socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities in the decision-making process in accordance with Article 26 of the Protocol.

General aspects

Although Article 26 of the Protocol does not impose an obligation on Parties to take into account socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity, Parties have a right to do so. If a Party does choose to take such considerations into account then there are certain aspects of an assessment of socio-economic effects which should be considered. These aspects are as follows:

1. Paragraph 1 of Article 26 provides that Parties may take socio-economic considerations arising from the impact of living modified organisms on the conservation and sustainable use of biological diversity into account in decision-making on import of living modified organisms.
2. A wide range of factors, including socio-economic ones, can influence the conservation and sustainable use of biological diversity.
3. Taking socio-economic considerations into account in decision-making on living modified organisms must be consistent with relevant international obligations, which include, inter alia, trade agreements, environmental agreements and human rights agreements.

4. Taking socio-economic considerations into account in decision-making on living modified organisms should be consistent with existing national regulatory frameworks and policies.
 5. In taking into account socio-economic considerations, Parties should consider their local, national and regional circumstances, priorities and needs. Such circumstances, priorities and needs could include cultural practices, religious beliefs and practices as well as traditional knowledge and farming practices, in particular those related to the value of biological diversity to indigenous and local communities.
 6. Taking socio-economic considerations into account in decision-making on living modified organisms should be clear, transparent, and non-discriminatory.
 7. Lack of scientific consensus or information on socio-economic effects should not necessarily be interpreted as indicating a particular positive or negative effect, or an absence of an effect.
 8. The results of any assessment of socio-economic considerations associated with a decision on the import of LMOs should be subject to a review, if new or additional scientific evidence is available.
 9. Risk assessment and the assessment of socio-economic considerations are distinct processes and may be conducted concurrently or consecutively.
 10. Planning and conducting a risk assessment and an assessment of socio-economic considerations may be complementary and both may contribute to the decision making process.
 11. Article 23 of the Protocol creates obligations regarding public awareness and participation. Public participation and consultation, and access to information, may form part of the process of taking socio-economic considerations into account.
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