

INDIA SHOULD OPPOSE BIOTECHNOLOGY IN WTO

Suman Sahai

Negotiations on the Agreement on Agriculture , part of the built in agenda of the WTO are scheduled to commence sometime in March this year . India has a great interest in this negotiation for the obvious reasons of our vulnerability in food. Apart from the need to protect our agriculture sector and the livelihood base of small farmers, India must also take a view on the new and emerging issues in agriculture, particularly biotechnology.

The last is a subject which has not attracted much attention in India or for that matter in other developing countries. In the context of the WTO specifically, this issue deals with trade in genetically modified crops. Genetically Modified or Genetically Engineered crops are those foods or crops, which contain a foreign gene. Genetic engineers can cut out a gene from anywhere, not even necessarily another plant, and put it into any crop. This way traits that are not present in the particular crop can be brought in from anywhere; another plant, an animal or even a bacteria. In the case of transgenic cotton , the gene that can provide protection against the dreaded cotton pest bollworm , is brought in from a kind of bacterium found in the soil.

Transgenic plants are being made in both food and cash crops. The food crops include cereals, fruits and vegetables. The most prominent food crops are corn, soybean, potato, mustard and tomato. The main cash crops that are being grown are cotton and tobacco. The US is the main producer of transgenic or GM crops followed by Canada, Australia and Argentine and to a smaller extent, Japan.

There are a lot of apprehensions associated with GM foods chiefly relating to the safety aspects, both for the environment and for human health. It is feared that novel genes and genetic constructs could escape into the environment and create monster plants like weeds that can not be destroyed or new, recombinant pathogens like bacteria and virus. Scientific evidence is thin that this has happened or is likely to happen. However, even if the fears are unwarranted, this new technology undoubtedly needs to be tested and appraised cautiously before it is accepted as a safe source of food.

Consumer groups in countries like the US, UK , Canada and Australia have demanded that all GM foods and processed foods made from GM crops should be clearly labeled so that the consumer can decide whether h/she wants to buy these products. The most resistant to mandatory labeling is the United States which still does not labeled processed foods. A major conflict has arisen between the EU and the US on trade in GM foods specially with reference to labeling of these foods.

The public perception of GM foods is highly negative. A near hysterical resistance is building up in Britain against these so called "Frankenstein foods ". Everybody from

Prince Charles and the ex- Beatle Paul McCartney have chimed in against GM foods. Europeans ,conservative and deeply suspicious of the science of genetics have rejected genetic engineering in a resolute way. Rather strong views against GM foods are now being heard across the Atlantic in America. This makes the American government and the multinational industries pushing GM technology , very nervous indeed.

Large investments have been made by the so called Life Science corporations like Monsanto and Novartis on this technology. Money has been spent on buying up smaller competing firms, on field testing, on obtaining licences and clearances and on promotions and sales pitches for farmers. Farmers on the other hand have planted large numbers of acres with GM crops . If they can not sell their produce because of hostile public reaction, they will vent their spleen on their government. No wonder then that the American government pushed by the gene technology corporates need to find markets for these controversial, frightening foods that nobody seems to want.

It is in this context that the Americans have been pushing for international trade in GM foods using the WTO as a platform where they have been attempting to force the inclusion of this new subject . No less a person than the American president plugged for GM foods. In a speech before Seattle, Bill Clinton took a strong stand on biotechnology products and made the US position clear , “ America leads the world in agricultural products developed with biotechnology.....We are committed to ensuring the safety of our food and environment through strong and transparent , science-based *domestic (not international !)* regulatory systemsIn Seattle we will continue to insist that market access for agricultural biotechnology products be based on strong science.” (Italics mine).

The strategy to introduce biotechnology products like GM foods is to first set up a Working Group to discuss the subject and then its possible implementation framework. In the WTO, normally once a working group is set up, the subject is certain to be included in the final trade agenda. If that were allowed to happen, GM foods could be dumped as part of food imports in countries like India, without our even knowing . Given the American resistance to labeling, developing countries could end up being unwilling consumers of GM foods , with no choice in the matter.

Consider this. The way that negotiations have proceeded in the Agreement on Agriculture, we have significantly lost our ability to protect our farmers against imports and our discretion for providing subsidies for production have been eroded. We seem to be moving towards zero duty in agriculture ,we are already committed on rice and other cereals. The dismantling of quantitative restrictions on agricultural products has already begun and by April 2001, over 1400 products, most of them agricultural, will not be protected by quantitative restrictions. Imports are expected to flow in. With that the specter of every ton of safe and unsafe GM food landing in India begins to look real. In fact , there are reasons to fear that GM corn was part of a consignment of American corn that we imported recently. We did not import this consciously and slipping GM corn into a consignment in this way is clearly unethical. This however is

what we will have to gear ourselves for on a large scale if trade in GM foods and other biotechnology goods becomes part of the WTO trade regime.

Once the negotiations on Agriculture start again, India should strongly oppose the setting up of a Working Group in Biotechnology in the WTO. It would in any case be too premature considering we have scarcely done any homework on this new and controversial area. Our government departments are largely unprepared and uninformed about the ramifications of this rather technical subject. People concerned with the negotiations should start collecting information and preparing a well thought out India position. As a first step we should draw up and articulate our domestic policy and identify our priority areas.

With the conclusion of the Biosafety Protocol in Montreal, the framework is clear. The US and the Miami Group have succeeded in diluting the requirements for labeling. India's domestic law should correct for this, stipulating strongly that food imports into the country will have to be clearly labeled as 'No GM Food'. In fact we should require an undertaking to be signed by the importing agency that the consignment does not contain genetically modified foods.

We should craft sensitive and just Intellectual Property legislation, which will protect our scientists and our communities. We should satisfy ourselves on the basis of scientific evidence about the long-term safety of these crops for human health and for the environment. And, most of all, we should carry out an awareness generation program and gain public acceptance for this technology and these foods should we decide to adopt them.

At present there are four major players in the WTO, each of who have taken divergent approaches on introducing GM foods and products. The European Union favours a clarification of the Agreement on Sanitary on Phytosanitary Measures (SPS Agreement); Canada has proposed the establishment of a working group 'with a fact-finding mission to consider the adequacy and effectiveness of existing rules as well as the capacity of WTO members to implement these rules effectively'; Japan seeks 'an appropriate forum to address new issues, including GM organisms as a sub-group of an independent negotiating group on agriculture; and the United States wants 'transparent, predictable, timely and science-based' approval systems for genetically modified crop varieties to be among the objectives of the agricultural negotiations.

Both Japan and the EU support the 'precautionary principle' and take a cautious approach to genetically engineered products. Japan goes further and proposes that the biotechnology sub-group consider, among other items, whether 'the relevant WTO Agreements, such as SPS, Technical Barriers to Trade (TBT) and TRIPs ... are capable of responding to (GMO-related) matters'.

The EU advocates a clarification of SPS rules - which require trade restrictions to be based on sound science, so as to give WTO members more leeway in rejecting GM

products on the basis of scientific uncertainty. The SPS Agreement already recognises that temporary trade restrictions may be taken to protect human, animal or plant health/life even 'where scientific evidence is insufficient', but these measures must be based on 'available pertinent information' and, to make them permanent, members must carry out a 'more objective assessment of risk [...] within a reasonable period of time.' A reference to the precautionary principle would undoubtedly lessen the degree of scientific proof needed to justify trade restrictions, as well as extend the 'reasonable period of time' during which scientific evidence must be presented to maintain provisional measures.

The United States and Canada are aggressive about opening markets for their genetically modified crops because both are large producers and are having difficulties getting buyers. Both favour a less stringent approach to GM foods and are keen to see it in the WTO without further delay. To make their case for dispensing with EU guidelines, they claim that the European Union's approval system for new varieties has 'broken down' - it is, indeed, likely that no new varieties will be approved until 2002 - and that the EU's existing and planned labeling requirements for foods that contain genetic modification are both unnecessary and technically unfeasible on a commercial scale.

The US is opposed to opening up the SPS Agreement for discussion, saying that renegotiations or fresh interpretation of its provisions would weaken rather than strengthen it. The US also finds the proposed working group's mandate too broad, and fears that the group's deliberations could slow down market opening for genetically-engineered products. Instead, the US has proposed that the objectives for the agriculture negotiations should include addressing disciplines to ensure trade in agricultural biotechnology products is based on transparent, predictable and timely processes.

The Cairns Group is still trying to develop a common stand on biotechnology. This is proving to be a difficult task as the group's 15 members have widely divergent approaches to GMOs at the national level.

Developing countries have not made proposals on biotechnology, but most of them are in favour of stringent rules for trans-boundary movements of genetically modified organisms in the Biosafety Protocol. In these negotiations, they want provisions that would protect their regulations on GMO imports from WTO challenges, while the so-called Miami Group (consisting of the US, Canada, Australia, Argentina, Chile and Uruguay) favours a treaty narrowly-focused on biodiversity conservation and containing the fewest possible trade restrictions.

Informal discussions in Geneva during the first week of November revealed that the majority of WTO Members were against creating a WTO working group on biotechnology and WTO rules. Most developing countries said that genetically modified organisms should be discussed under the Convention on Biological Diversity and not in the WTO. The US appeared to have overcome its objections to a

WTO working group, which was generally supported by the Miami Group, while the EU and Brazil declined to take a position. At Seattle, some discussions took place on biotechnology but these will have to be resumed since the talks collapsed. The place where biotechnology will return to the agenda is the negotiation on agriculture. India will need to tackle the situation with sophistication , not losing track of what constitutes its national interest.