

INDIA SILENT ON BIOSAFETY IN INTERNATIONAL NEGOTIATIONS

- Suman Sahai

Gene Campaign was the only Indian organisation to attend the fourth Meeting of Parties to the Cartagena Protocol on Biosafety (MOP 4) , held in Bonn from 12 to 16 May 2008. This was disappointing since the MOP presents an opportunity to not just follow the global negotiations but also to intervene with suggestions. Unlike the closed WTO process, negotiations of the Biosafety Protocol allow accredited NGOs to play a role. This could have been an opportunity for the many Indian groups involved with genetically engineered (GE) crops and products, to learn and to help influence the outcome in favour of developing country interests

What was really scandalous though was the non- performance of the Indian de legation. They were not prepared, had nothing to contribute and did not open their mouths during the four-day, heatedly contested negotiations, which focussed on developing a legally binding, international regime for Liability and Redress. India's silence during the entire debate, disappointed many that had hoped to see it in a leadership role , fighting for the environmental and health safety of people in all countries where GEOs are being produced.

As it was, Malaysia led the developing country efforts supported by the Philippines, Colombia and other Latin American countries and very decisively the African countries who were vocal, with firm arguments. To add strength to their case, the developing countries formed a block of 80 countries called the Like Minded Group of which India was a member. The opposition to the international liability regime was consistent and led by Japan, Peru and Brazil. A strong liability regime is of crucial relevance to developing countries because it could provide them a means to protect their farmers and consumers from any damage caused by GE crops and foods. It is vehemently opposed by the biotechnology industry and countries like the US (which is a non-party) , Canada, Australia and their friends like Brazil and Japan.

At a point it appeared as though the talks would break down. It was again the Malaysian delegation that fought hard to keep the talks going and asked for several closed-door meetings with allies to thrash out a counter strategy to the Japan-Brazil-Peru led opposition. Ultimately, the talks could be saved with an agreement to continue discussions in early 2009. However, after four days of negotiations at the Fourth Meeting of Parties it was not possible to get an agreement on liability. For now, the biotech industry and the developed countries have succeeded in blocking the emergence of a legally binding international liability regime.

Gene Campaign, which has been working on developing components of a liability law for India, had organized a panel discussion on developing components for a liability regime, on the sides of the MOP4 meeting in Bonn. Some key consensus recommendations to emerge from that discussion are **i)** the adoption of a strict liability regime for damage from GEOs, where liability could be imposed, without the necessity to prove fault or negligence on the part of the defendant, (barring usual exceptions such as Act of God etc.); **ii)** the term "damage" to be given the widest possible interpretation and to include environmental damage, damage/risks to human and animal health as well as socio- economic damage including loss of income, damage to food security and livelihood, and to culture and livelihoods of indigenous and local communities; **iii)** the liability for damage caused as a result of introduction of GEOs to be channeled to the agencies producing and approving the technology. This will include public and private sector research agencies and the regulatory bodies of the state granting approval; **iv.)** absolute liability to operate in the case of genetic contamination in areas that are crop centers of origin and where maximum genetic diversity is found. This stringent provision is in accordance with the principles of natural justice and inter-generational equity, which invokes safeguarding the environment and resources for coming generations; **v)** in the case of damage caused by GEOs, the time limit should take into

consideration the fact that damage in biology may only appear after several generations. As such, an absolute time limit of 50 years (a period during which effects on two generations could be manifest) should be considered and **vi.)** Civil Society Organisations (CSO) acting in the public interest should have the right to bring a claim for damages on behalf of those directly or indirectly affected.

These recommendations have been submitted to the secretariat of the Meeting of Parties as inputs from civil society.