

CARTAGENA PROTOCOL ON BIOSAFETY (Protocol)
Article 26: Socio-economic Considerations (SECs) in Decision-making
on Living Modified Organisms (LMOs)

At their next meeting in November 2018, Parties to the Protocol will consider voluntary Guidance for the assessment of SECs that outlines a process-based approach led by regulators and assessors, and appropriately recognizes the knowledge, expertise, and experience each party plays in the assessment of SECs. The Guidance provides a systematic process designed to link national protection goals to socio-economic objectives and to characterize the relationship between the identified impact of the LMO and the relevant socio-economic effects to be assessed. It also recognizes the regulator’s authority and responsibility for evaluating results and drawing conclusions for use in decision-making. *The Global Industry Coalition (GIC)¹ encourages countries to: (i) “take note of” the guidance document in its current form; (ii) “invite” Parties and other governments, if applicable, to pilot the assessment process, share their experiences via the BCH, and submit examples of methodologies and applications of the guidance to the Executive Secretary for compilation and consideration by COP/MOP-10; and (iii) oppose extending the mandate of the current AHTEG to supplement the guidance until there has been sufficient use and experience to justify further work.*

A. Background

Article 26 of the Protocol provides that Parties may take into account SECs in reaching a decision on import of LMOs, but only to the extent consistent with that country’s other international obligations. Paragraph 1 further limits what may be taken into account by defining SECs as those “arising from the impacts of LMOs on the conservation and sustainable use of biological diversity, especially with regard to the value of biological diversity to indigenous and local communities.” Notably, this language is permissive and not mandatory – Parties “may” take SECs into account, but are not required to do so. Paragraph 2 requires Parties to cooperate on research and information exchange on any socio-economic impacts of LMOs, especially on indigenous and local communities.

At the eighth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol (COP/MOP-8), Parties extended the mandate of the Ad Hoc Technical Expert Group on SECs (AHTEG) to work on the guidelines envisaged under the outcomes for operational objective 1.7 of the Strategic Plan for the Protocol. To facilitate progress by the AHTEG, the Co-Chairs introduced text entitled, “Draft guidance on the assessment of socio-economic considerations in the context of Article 26 of the Cartagena Protocol on Biosafety.” This document described a process for conducting an assessment of SECs and avoided specifying parameters to assess, since these would depend on first identifying SECs arising from the impacts of the LMO based on a Party’s national priorities and environmental protection goals. The meeting of the AHTEG was held from 9 to 13 October 2017 in Ljubljana, Slovenia. The outcomes from the AHTEG meeting will guide the discussion at COP/MOP-9, taking place from 17 to 29 November 2018 in Sharm El-Sheikh, Egypt.

B. GIC Views on the AHTEG Process and Outcomes

The assessment of SECs in the context of Article 26 continues to be a complex and controversial subject. Participants in the AHTEG expressed a range of views that led to extensive debate. Some participants advocated for elements that were prescriptive, arbitrary, or unfeasible, and that could impede the assessment or bias the outcome. Examples include:

- The right to a precautionary approach when a socio-economic effect is unclear or data is lacking
- Consideration of regional circumstances, priorities, and needs
- Use of non-scientific assessment methods
- Evaluation of cumulative or potential irreversible effects

¹ The Global Industry Coalition (GIC) for the Cartagena Protocol on Biosafety receives input and direction from trade associations representing thousands of companies from all over the world. Participants include associations representing and companies engaged in a variety of industrial sectors such as plant science, seeds, agricultural biotechnology, food production, animal agriculture, human and animal health care, and the environment.

- Demonstrating the sustainability of claimed benefits
- Mandatory monitoring for socio-economic effects
- Formal decision-making process with guidance for evaluating results and drawing conclusions

Parties pushed back on these and similar elements that could lead to an assessment process that is impractical, unachievable or biased, and that would not be compatible with their national laws and procedures. Inclusion of one or more of these elements could result in a guidance document that would impose requirements that are unduly burdensome and undermine the intended flexibility, self-determination, and autonomy inherent to Article 26. Ultimately, these controversial elements were either limited or omitted from the guidance document in order to achieve consensus among Parties participating in the AHTEG. Parties are free to raise objections to undesirable content at COP/MOP-9 but are encouraged to avoid reopening the guidance document for negotiations that could lead to unwanted discussions on previously tabled or new topics, extension of the AHTEG, or both.

C. GIC Views on the REVISED Suggested Elements for a Draft Decision (CBD/CP/MOP/9/10)²

The draft decision for COP/MOP-9 is based on recommendations from the 2017 AHTEG meeting. However, the Executive Secretary modified the suggested elements of a draft decision previously endorsed by the AHTEG. The GIC has strong concerns with some of the revisions made by the Executive Secretary as they go beyond what was recommended by the AHTEG and prejudice the need to continue working on the Guidance. It is premature to begin work on supplementing the guidance prior to its use. What follows is the GIC views on the elements of the draft decision on socio-economic considerations at COP/MOP-9.

1. *Welcomes the “Guidance on the Assessment of Socio-Economic Considerations in the Context of Article 26 of the Cartagena Protocol on Biosafety”;*

2. *Invites Parties and other Governments to make use of the “Guidance on the Assessment of Socio-Economic Considerations in the Context of Article 26 of the Cartagena Protocol on Biosafety”, as appropriate;*

The GIC believes that Parties should “take note” of the guidance on the assessment of SECs and invite Parties and other governments to voluntarily make use of and evaluate the utility of the guidance process during a pilot phase. This will assure that the guidance is implementable and useful before Parties formally accept it, consistent with the intended flexibility of Article 26.

The guidance is a voluntary, process-based assessment of SECs led by regulators and assessors according to their national regulatory frameworks and procedures. Parties that elect to use the guidance document are guided to identify how national protection goals relate to socio-economic objectives and to write a problem statement that links the specific socio-economic concerns identified by regulators to the assessment of possible socio-economic effects. **The GIC supports this approach because it provides contextual clarity and ensures the basis for socio-economic assessment in the context of Article 26.1 is clear and justified.**

The GIC recommends paragraph 1 be revised as follows:

1. ~~Welcomes~~ **Takes note of** the “Guidance on the Assessment of Socio-Economic Considerations in the Context of Article 26 of the Cartagena Protocol on Biosafety”;

3. *Invites Parties, other Governments and organizations to submit examples of methodologies and applications of socio-economic considerations in the light of the elements of the “Guidance on the Assessment of Socio-Economic Considerations in the Context of Article 26 of the Cartagena Protocol on Biosafety” and requests the Executive Secretary to compile the information submitted;*

The GIC supports this recommendation. Obtaining more experience with the existing guidance document will provide information that can guide modifications or improvements, if needed. This information can be considered and actions taken, as appropriate, at COP-MOP 10. **The addition of explicit methodologies and examples of the application of SECs would make the guidance more prescriptive, less flexible, and limit the regulator’s autonomy when undertaking the assessment of SECs.** Parties will have an opportunity to share their experiences via the Biosafety Clearing House (BCH),

² <https://www.cbd.int/doc/c/564b/55a9/86b4293982e1374519694370/cp-mop-09-02-en.pdf>

and to submit examples of methodologies and applications of the guidance to the Executive Secretary for compilation. This information can be considered, and appropriate actions taken, at COP/MOP-10.

4. Decides to extend the Ad Hoc Technical Expert Group on Socio-Economic Considerations with a mandate to supplement the “Guidance on the Assessment of Socio-Economic Considerations in the Context of Article 26 of the Cartagena Protocol on Biosafety” with examples of methodologies and applications of socio-economic considerations, taking into account the information submitted in response to paragraph 3 above, for consideration by the tenth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol;

The GIC does not support an extension of the current AHTEG. The mandate of the AHTEG has been fulfilled with the delivery of the guidance document. The AHTEG should not be extended until Parties, other Governments and organizations have made use of the guidance, shared their experiences via the BCH, submitted examples of methodologies and applications of SECs to the Executive Secretary for compilation, and a final report is made available by the Executive Secretary.

The GIC believes that it is premature to begin work on supplementing the guidance prior to its use. Parties, other Governments and organizations must be allowed sufficient time to make use of the guidance, and to submit examples of methodologies and applications of SECs to the Executive Secretary for compilation. This information can be considered, and appropriate actions taken, at COP/MOP-10.

The proposed draft decision simply does not provide sufficient time to allow regulators to assess the socio-economic effects and analyze the assessment outcomes before drawing conclusions that can be used in decision-making. It is practically impossible to require Parties, other Governments and organizations to share their experiences and submit examples of methodologies and applications of SECs to the Executive Secretary for compilation in time for the AHTEG to meet and supplement the guidance based on the information submitted prior to COP/MOP-10.

Parties planning to make use of the guidance have different priorities and should not be required to rush an assessment of SECs. The decision whether or not to extend the mandate of the AHTEG should only be made after Parties planning to make use of the guidance have sufficient time to do so. **This decision should be delayed until COP/MOP-10, after multiple Parties have made use of the guidance and shared their experiences. Deciding to extend the mandate of the AHTEG at COP/MOP-9 is premature and would not be a good use of the limited resources available to sponsor AHTEGs under the Protocol, should such funding be made available.**

The GIC recommends that paragraph 4(b) is revised to reflect the recommendation from the AHTEG:

*(b) Decides to ~~extend~~ **consider the utility of extending the mandate of** the Ad Hoc Technical Expert Group on Socio-Economic Considerations ~~with a mandate~~ to supplement the “Guidance on the Assessment of Socio-Economic Considerations in the Context of Article 26 of the Cartagena Protocol on Biosafety” with examples of methodologies and applications of socio-economic considerations, taking into consideration the information compiled by the Executive Secretary in response to paragraph 3 above, ~~for consideration by the~~ **at the** tenth meeting of the Conference of the Parties serving as the meeting of the Parties to the Cartagena Protocol.”*

For more information on this and other Protocol implementation issues, please visit <http://croplife.org/plant-biotechnology/cartagena-protocol-on-biosafety/>.