BUSINESS AND REGULATORY NEWS

Biosafety rules get thumbs up

The Biosafety Protocol, the international agreement that stemmed from the 1992 UN Convention on Biodiversity (CBD) and that threatened the future of trade in genetically engineered crops, has—perhaps surprisingly—been largely welcomed by all parties. Industrial representatives, environmental protest groups, and politicians from environmental ministries were all moved to make positive statements following the conclusion in the early hours of January 29 of four days of negotiations in Montreal. However, it appears as though the industrial proponents of biotechnology and of free trade have more reasons for satisfaction than those opposed to the use of GM products.

Before they began, the Montreal negotiations were painted as a face-off between the Miami group—essentially such exporters of GM products as the US, Canada, and Argentina—and those groups who wished to use the Biosafety Protocol to constrain trade in such products, ostensibly to protect the environment and preserve biodiversity. That group comprised the environmental ministries of European member states, nongovernmental organizations such as Greenpeace claiming to represent consumers and environmental interests, and developing countries.

According to Calestous Juma, former executive secretary of the CBD and now director of the science, technology, and development program at the Center for International Development at Harvard University (Cambridge, MA), the protocol is exactly what any well-negotiated international agreement should be—an accommodation of the views of those involved. He believes that the agreement "imposes no need for immediate action" on any of the parties. Looming strongly in the minds of all those involved, especially those along the transatlantic axis, was the need to avoid trade disputes. "Reaching agreement was the single most important aspect," says Juma. "It tones down the potential for trade wars between countries, which could have been disastrous for development worldwide, especially in the poorer nations."

Juma believes that the agreement creates "a safety valve" through which the heat of trade disputes can be dissipated. In essence, the protocol recognizes the validity of a precautionary approach to the environment safety decisions: Several articles in the protocol state that "the lack of scientific certainty. . .shall not prevent [an importing country] from taking a decision. . .to avoid or minimise potential adverse effects." However, the mechanism for resolving any disputes lies clearly within the rules of the World Trade Organization (WTO; Geneva, Switzerland) and thus within the remit of those concerned with trade and economics, rather than with the environment. Juma concludes that "Both sides [North America and Europe] recognized that any trade war that started around biotechnology could, and probably would, spill over to other areas," adding that "[the protocol] establishes ground rules so that a structured negotiation about genetically engineered products can occur instead of screaming."

The environmental organization Greenpeace, which has been among the most voluble of the anti-GM voices, gave a muted welcome to the agreement, calling it "a historic step toward protecting the environment and consumers from the dangers of genetic engineering." However, its analysis of the agreement a few days later was circumspect, conceding that the Miami group had managed to weaken many of the administrative requirements to levels that are already current practice.

Val Giddings, the agricultural biotechnology spokesperson of the US Biotechnology Industry Organisation (BIO; Washington, DC), paints the agreement as an almost undiluted triumph for biotechnology: "Ask what it is that the Miami group wanted," he says, "and then look at the agreement and see what it got." Giddings' list of "victories" for the pro-industry group includes the exclusion from the protocol of pharmaceuticals (Article 5) and processed goods; the relaxation of onerous advance-consent requirements for commodities (Article 7, paragraph 20); the limitation of labeling requirements to the need to notify importers via technical paperwork; and the fact that science-based environmental safety assessments is a voluntary requirement rather than mandatory.

Giddings acknowledges that the repeated use of "precautionary language" may have persuaded some delegations that they would be able to invoke the protocol in order to block imports where knowledge of the risks is incomplete—something that would be at odds with the WTO. He insists, however, that both the preamble of the protocol and Article 2 (4) clearly maintain countries' duties and obligations under the WTO agreement and, indeed, under other international agreements such as the Codex Alimentarius, which applies to food.

Over the next few months, the actions of the various parties to the Biosafety Protocol will demonstrate how each is interpreting it. One significant development occurred within just a few days of the agreement in Montreal. On February 2, the European Commission—whose position is more free trade oriented than that of the European environment ministers—issued a communication on "the precautionary principle." The stated aim of the communication is "to inform all interested parties … of the manner in which the Commission applies or intends to apply the precautionary principle when faced with taking decisions relating to the containment of risk." Significantly, the document specifically stresses that its envisaged way of using the principle complies with its obligations under WTO agreements.

John Hodgson

EU GMO applications continue to rot

The Netherlands-based international cooperative of potato growers, AVEBE, is suing the Dutch government for 15 million Dutch guilders (US $7.5 million) in compensation after being ordered to destroy genetically modified (GM) potatoes before harvesting in 1999. The episode illustrates how the EU's refusal to consider marketing applications for GM crops is influencing decisions at the national level.

AVEBE was originally given permission by the Dutch government to grow its GM potato from 1994 to 1998, during which time the company processed the potato, selling its starch (amylopectin) for use in such industries as textiles and paper. The Dutch National Institute for Health and Environment and the National Institute for the Quality of Agricultural and Horticultural Products had carried out standard safety assessment and found no cause for concern.

AVEBE requested permission to grow the potatoes in the EU in 1996 with the intention of using the processing waste in animal feed. However, without any supporting scientific evidence, several EU member states postulated that one of the marker genes, a gene encoding the enzyme NPTIII, which confers resistance to the antibiotic amikacin, could be transferred from the fodder to the intestinal flora of the

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