

GLOBALISATION WITH EQUITY – REPORT

Title of the event: **Uncertainty, Conservation and Confusion: Clarifying the Role of the Precautionary Principle in Natural Resource Management**

Name: Heike Baumüller, IUCN

Date: 26 August 2002

Time: 15h30 – 17h00

List of speakers and contact details:

Chair: Saliem Fakir, IUCN South Africa

Speakers	Organisation	Contact details
Doug Butterworth	University of Cape Town	dll@maths.uct.ac.za
Barney Dickson	Fauna & Flora International	barney.dickson@fauna-flora.org
John Mugabe	African Commission on Science and Technology	john@nrf.ac.za
Laurence Tubiana	Institut pour le Developpement Durable et les Relations Internationales	Laurence.Tubiana@cirad.fr

List of objectives: Following questions to be discussed and answered by the panel:

- Have developing country perspectives on the precautionary principle been ignored in the debates about the principle? What do these perspectives add?
- In the light of the lack of clarity surrounding the precautionary principle, is it possible to develop guidance on the application of the principle in the fields of natural resource management and conservation?
- What potential case studies can be identified further investigation?

Main points by the speakers:

This roundtable, chaired by **Saliem Fakir** (IUCN South Africa) focused on the implications of applying the precautionary principle (PP) in developing countries, particularly in the areas of natural resource management and biodiversity conservation.

Barney Dickson (Fauna & Flora International) argued for the importance of taking account of the distributional impacts of applying the precautionary principle. He briefly outlined what he termed ‘the European model’ of precautionary action, where a precautionary approach is applied when a substance or process might, but is not certain to cause harm. Typically, the producers who are required to take precautionary action are private companies, and the beneficiaries of such action are consumers, citizens and workers. In such situations, taking precautionary action is likely to promote equity. He went on to outline three other scenarios where precautionary action may be argued for, but where the implications, including the equity implications, were different. The first scenario involved taking the European model one step further. If precautionary legislation was enacted in Europe and importers were then expected to comply with this legislation, this might result in trade barriers for developing

countries, with negative implications for equity. Second, applying precaution in the context of the wildlife trade was likely to impact negatively on primary producers, who were usually found in developing countries while importing states were located in the developed world. Third, the PP offered little guidance in cases where multiple factors contributed to the identified harm, such as biodiversity loss, as there was no straightforward link between precaution and the action to be undertaken. In conclusion, he called for broadening the understanding of the PP and the diversity of situations in which it was applied, in an effort to take into account some of the equity issues that arose in the application of the principle which might have been overlooked in the past due to an over-emphasis on the European model of precautionary action.

Following a brief outline of the PP's history and application in the context of fisheries, **Doug Butterworth** (University of Cape Town) looked at what action should be taken in cases of uncertainty. He emphasised that the recommended catch should not be based on the best estimates of sustainable yield alone, but should take the level of uncertainty into account. The greater the uncertainty the lower the recommended catch should be. This is the basic idea of the precautionary approach and it is incorporated into the FAO Code of Conduct for Responsible Fisheries and the UN Fish Stocks Agreement. But in the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) it is stated that in cases of uncertainty, Parties should act "in the best interest of the conservation of the species". In theory, applying this rule would always result in the worst-case scenario to be used as a basis for decision-making. In reality, however, this was not the case, he argued. Instead, decision-making usually involved a quantification of risk and a comparison with some acceptable level of risk. This approach was, for example, reflected in the IUCN Red List, which called for a "precautionary but realistic" attitude to uncertainty. He concluded by expressing concern that the PP, in absence of a proper definition and necessary quantification, had developed into a slogan by those that wanted less or no utilisation of natural resources. Instead, science-based decision-making was required that took into account uncertainty, in order to find a sensible middle ground between the proponents and opponents of "sustainable utilisation".

John Mugabe (African Commission on Science and Technology) examined the precautionary principle in the context of food security in Africa. There is no single definition of the precautionary principle. This enables different countries to use it in different ways. But whatever the definition, certain conditions must be fulfilled for the principle to be applied:

- There must be political and organisational stability and policy-making must be informed by science, otherwise it is not possible to apply the principle.
- There must be a range of choices available. If a country does not have a range of choices because, for example, there is a situation of food insecurity, a country will not be able to apply the precautionary principle.
- There must be a certain level of scientific capacity. This is needed in order to determine the degree of uncertainty. Countries cannot effectively employ the precautionary principle without scientific capacity
- There must be a general institutional capacity to apply the precautionary principle. If countries do not have the institutional capacity to carry out risk assessment, decision-making will be left to political institutions.

There are three categories of countries in Africa with varying ability to apply the PP in the context of biotechnology. The first group consists of a small number of countries, including Egypt and South Africa, which are typically already investing in genetic engineering and which are able to invoke the principle and integrate it into their legislation. The second group of countries, including Kenya are starting to invest in genetic engineering and are very likely to write the PP into their legislative framework for various reasons, such as the

implementation of the Cartagena Protocol. The third group does not have the infrastructure to assess scientific uncertainty and are unable to apply the PP.

Laurence Tubiana (Institut pour le Developpement Durable et les Relations Internationales) addressed the question of why different countries took different views of the precautionary principle. She noted that while the PP appeared to be very conflictive in international law, the differences in approach were in practice not always very pronounced. Regarding the EU-US disagreement over applying precaution in the context of genetically modified organisms (GMOs), for instance, she stated that the conflict was not so much over the application of the PP as both sides agreed that risk assessment should be based on sound science, but rather on the countries' different judgement of what risk was. She observed that developing countries often have less capacity for applying the principle and are concerned about who will pay the cost of precautionary decision-making. There may be a need to share these costs. She went on to stress the growing importance of the PP in international law. This development was favoured by the EU in order to support its internal procedures, while developing countries could use the inclusion of the principle in international law to compensate for failures in their domestic legal systems. She also noted that there were several dimensions to the uncertainty that the precautionary principle addressed; there was uncertainty in the risk evaluation, uncertainty about the costs of risk management, about the costs of the damage and the costs of prevention.

Main points from the discussion:

One participant suggested that Doug Butterworth's concept of 'Feedback Control Management' was very similar, in principle, to the concept of Adaptive Management. Another participant suggested that Butterworth was arguing for science-based decision-making and that this was not opposed to the precautionary principle. Butterworth agreed with this interpretation of his views.

One participant stressed the need for looking at risk in a broader context, for instance by evaluating environmental and health risks in the context of economic and social consequences. This consideration was echoed by another participant who cautioned against assuming that the PP was supportive of sustainable development just because it was beneficial for the environment. It was also argued that, while it was important to take account of the social impact of the precautionary principle, it was not sensible to try to embed social considerations within the principle itself, since that would be to conflate two different issues.

Regarding the driving forces behind the opposition to GMOs among Europeans, one participant pointed out two reasons, namely (i) an increasing loss of public confidence in scientific evidence following the discovery of mad cow disease in the UK, and (ii) cultural factors, i.e. the lower willingness to take risks than, for example, in the US.

Main areas that will need follow-up after WSSD:

This meeting was the first activity of a project entitled 'Environmental Governance: Employing the Precautionary Principle in Natural Resource Management and Biodiversity Conservation'. This project focuses in particular on two major policy areas in which the precautionary principle is an important locus of contention – sustainable use and trade in timber and wildlife and fisheries regulation. The project will put particular emphasis on examining and promoting developing country perspectives on, and experience of, the precautionary principle, through regional and international workshops, and inputs into international policy-making forums.

The initial phase of this project has been funded by IUCN and it will concentrate on:

- awareness raising within IUCN, including the preparation of a situation analysis of the PP and the timber and fisheries industries;
- a statement of intent and scope for the follow-up work;
- a range of communications products;
- securing funding for the larger, second phase of the project.

Lesson learnt:

A number of lessons emerged from this meeting, including:

- The importance of social and equity issues in relation to the application of precautionary principle
- The need for a balanced understanding of the precautionary principle in the context of scientifically informed decision-making in situations of uncertainty
- The differential capacity of countries to apply the precautionary principle