

# POLICY BRIEF

SOUTH ASIA WATCH ON TRADE, ECONOMICS & ENVIRONMENT

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## WTO Agreements and Farmers' Rights in Mountain Areas of PAKISTAN

### BRIEF OVERVIEW OF MOUNTAIN AREAS

Pakistan has a diverse landscape. On one hand, it has agriculture rich plains and water starved deserts, on the other, it has natural resources-filled with lush green hills and mountains and some dry ranges of mountains too. The Himalayas, Korakoram and Hindu Kush mountain ranges pass through Pakistan.

The total area of the country is 796,095 sq. km [Punjab: 205,344 sq. km, Sindh: 140,914 sq. km, North West Frontier Province (NWFP): 74,521sq. km, Balochistan: 347,190 sq. km, Federally Administered Tribal Areas: 27,220 sq. km, and Islamabad (Capital): 906 sq. km].

The population of the country is about 142 million at present, which was 135.28 million according to Census 1998.

Ethnic composition is 95 percent Muslims, five percent others. The Tirichmir, Qashqar, Gojal and Nanga Parbat and adjoining valleys have a heterogeneous mix of people, languages and cultures. Major ethnic groups include the Shin, Yashkun, Balti and Pathans. Minority groups include Kalash, Dom and Gujar. The three major sects of Islam- Shia, Sunni and Ismaili- are almost equally represented in these areas.

The country's per capita income is US\$ 460 while it ranges between US\$ 100-150 in the Himalayas, Korakoram and Hindu Kush mountain areas. The flora found in the mountain areas are Pine, Oak, Poplar, Deodar, Maple, Mulberry. And the faunas are Pheasant, Leopard, Deer, Ibex, Chinkara, Black Buck, Neelgai, Markhor, Marco Polo Sheep etc. Almost all the tourists' resorts lie in the mountain areas like Murree, Quetta, Hunza, Ziarat, Swat, Kaghan, Chitral and Gilgit. The archaeological sites are Moenjo Daro, Harappa, Taxila, Kot Diji and Mehr Garh.

Agriculture is the backbone of the economy both in the mountain and plains. Major crops are Cotton, Wheat, Rice and Sugarcane. The total cropped area is 22.14 million hectares. The Himalayan ranges extend (2,410 km) through Pakistan, India, Tibet, Nepal, Sikkim and Bhutan. The northern

mountains of Pakistan include the Malakand Division, Hazara Division, Northern Areas and Murree-Kahuta covering a stretch of 96,340 km inhabiting some over eight million people. Land in this region is used either for arable farming, pasture or forestry depending upon the altitudinal climate, physiography, soil moisture and socio-economic conditions. Over 90 percent of the area comprises of steep to very steep mountain slopes, having only a thin and patchy soil mantle. Human populations are concentrated in the valleys although high pastures in upland regions are used in summer for the purposes of grazing livestock, hunting, and gathering wild resources.



Agriculture and livestock production provide the main source of livelihood for communities, accounting for some 60 percent of household income. Remittances from migrant labour account for approximately 15 percent of net income. A small proportion of income is made from employment in or ownership of

small enterprises, e.g. small roadside shops, hotels, and tourist outfits. Employment in the public sector and NGOs accounts for less than a tenth of total income.

### CONTRIBUTION OF MOUNTAIN AREAS TO THE NATIONAL ECONOMY

Agriculture, which includes forestry, livestock, poultry and fruit, is the backbone of the economy of mountain areas in Pakistan. Precious stones and gems, mountain herbs, tourism and other natural resources contribute a lot to the national economy.

In the agricultural system, orchard farming dominates all others. Apples and Peaches are the main cash crops in most mountain areas. Other fruit orchards grow Persimmons, Cherries, Pears and Plums. Vegetables are also produced on a large scale. The most important are Onions, Peppers, Potatoes and Cauliflowers. Cereal crops and pulses of different varieties are also grown in this area. The agricultural products from mountain areas are consumed in other parts of the country, thus generating economic activity worth billions of rupees.

A number of non-timber forest products are marketed locally, including Cumin Seed, Honey, Medicinal Herbs and Mushrooms. Women in the area work in the fields and undertake virtually all-farming activities (except ploughing and harvesting) in addition to their regular household chores, livestock and poultry keeping. Women and children are also responsible for fetching fuel wood and tending irrigation channels. There is a tendency among young males to seek employment outside the region (in urban centres or Gulf States), thus earning millions of dollars as foreign exchange to the country.

Livestock and dairy sector in NWFP province (mostly mountain areas) alone contributes Rs 62.8 billion to national exchequer per annum. This could be enhanced if this sector was properly exploited on sound footings.

Tourism is another income generating sector. This sector attracts almost 80 percent of total tourists coming to Pakistan. It generates economic activity bringing more foreign exchange from tourism industry and creates more jobs for the local people.

The mountain areas play an important role in the national economy. The above-mentioned key products, goods and services produced and traded by the mountain people contribute significantly to the overall economic development of the country. Apart from forests, timber and non-timber forest products, hydropower and handicrafts of these areas have a potential to be traded worldwide. Since the mountain economy is linked to the overall economy of the country, there is an urgent need to give it a boost and do not allow it to be affected by the World Trade Organisation (WTO) regime, particularly the Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement.

## POLICY DOMAIN AND WTO RELATED ISSUES

Pakistan's mountain areas are rich in nature products, be it precious stones or food. The country's global trade is linked to the mountain areas in two ways: a) the trade potential spreading towards Central Asia via China and Afghanistan through Silk Route; and b) the potential of natural produce that could be traded in the international market. So, if any trade mechanism is imposed under the WTO regime, it would have direct bearing on the mountain areas as well. It is therefore necessary to constitute direct stakeholders in any trade round talks in future from these areas.

From the Seattle round of trade negotiations to Doha, the whole of South Asia feels no change. The key concerns fall into two broad categories: a) implementation issues such as market access, special and differential treatment (SDT) as well as technical assistance; and b) institutional issues meaning the reform in the operation of the WTO (green rooming and the hijacking of the agendas by TNCs - Trans-National Corporations).

There is a dire need to assess Pakistan's national trade policies in a mountainous perspective. It should be seen as to what issues are of primary interest to Pakistan's poor, particularly the farmer and the small and medium sized entrepreneurs, in the mountain areas. In the global marketplace, strong firms within Pakistan's mature sectors will have to

compete on their own with minimal support. The government would be wise to focus its attention on those sectors that are most intensely linked with the under developed sectors of the economy such as textiles and agriculture. It would also be important to examine the 'pro poor policies' of the WTO Agreements. One has to see whether or not they really are what they project to be.

Clearly, more protection for the subsistence farmer and the Small and Medium Enterprises (SMEs) in the mountain areas is necessary. Agreements that spill over from those areas will need to be accompanied by technical assistance for harnessing those sectors and, furthermore, building their export capacity through increased market access.

The Agreement on Agriculture (AOA) directly affects farming communities in mountain areas because subsidies are being withdrawn under this Agreement. The impact of this Agreement has proven catastrophic for many developing countries, whose imports have suddenly surged, while their exports have not significantly increased, leading to food insecurity, and increasingly rural unemployment and poverty.

Other agricultural problems pertain to the complications with TRIPS and inconsistencies with the Convention on Bio-Diversity (CBD). This leaves the poor farmers vulnerable to high foreign seed prices and increased prices of inputs with no recourse or opportunity for state protection. The mountain areas are environmentally suitable for production of seed and plant varieties. Nevertheless, this right of the farmers would no more remain intact under the TRIPS Agreement.

The TRIPS Agreement fiercely protects the rights of corporations, such as the biotechnology industry, but allows the shared knowledge of indigenous communities to be patented by others. It is difficult for the developing countries to protect their vast knowledge especially as much of the knowledge is passed by word of mouth; a medium not recognised by US patent authorities as legitimate.

## POLICY INSTRUMENTS

In Pakistan laws exist regarding different elements of biodiversity. These include: framework environmental laws, and forestry, wildlife, livestock, fisheries and land use legislation.



**Forestry Laws:** Existing forest laws in Pakistan's NWFP and the Northern Areas are largely reflective of outdated scientific knowledge and priorities and are not geared to current conservation needs. The reasons are numerous but a few deserve special mention. Human and livestock populations in the mountain areas have increased dramatically, rights and concessions of individuals have multiplied, and the timber prices have been greatly appreciated since the laws were enacted. Forests are being exploited by a "timber mafia" that has little respect for the law and no concern for the principles of sustainable use. The various Forest Acts do not account for wildlife and their habitat, nor do they protect the interests of forest-edge communities.

In 1993, the federal government adopted a 25 year Forestry Sector Master Plan which sets out policy



guidelines for the future development and management of forestry sector. The Plan includes an Ecosystem and Biodiversity Action Programme, including schemes for rehabilitating the mangrove forest of the Indus Delta, protecting the *Juniper chilgoza* pine forests in Balochistan and all endemic and endangered species of flora and fauna and important ecosystem through the designation of conservation areas. The Plan also recommends that provincial forest legislation be updated to provide, among others, for the conservation of natural forest ecosystems and suggests a model law for the purpose.



The NWFP's government in Pakistan approved NWFP Forest Ordinance 2001 on 26 December 2001. The Ordinance stresses on the involvement of local communities and other stakeholders in the formulation and implementation of forest management plans and operational policies. This law seems to be in the interest of the mountain communities in terms of effective protection, conservation, management and sustainable development of forests and consolidation and updating of existing laws with a view to enacting a comprehensive law, which adopts modern concepts and promotes present day objectives of forest management.

**Wildlife Laws:** While wildlife legislation in both pre- and post-independent days was voluminous, it was concerned almost entirely with the hunting and shooting of game species. The extermination of predators was encouraged and there was a lucrative trade in skins and other animal products in the mountain areas. The present legislation mainly consists of provincial acts and ordinances in the mountain areas. They are: a) The North West Frontier Province Wildlife (Protection, Preservation, Conservation and Management Act 1975); and b) The Northern Areas Wildlife Protection Act 1975.

The laws on hunting in the protected, reserved and other categories of forests declared under Forest Act 1927 and Hazara Forest Act 1936 were not changed by the wildlife laws of NWFP. Two Federal Acts are applicable in all the provinces, namely Pakistan Forest Act 1927 and the Pakistan Environmental Protection Act 1997.

Legislative needs arose due to international commitments. Pakistan is a party to a number of international conventions and programmes relating to biodiversity conservation, all of which carry implications for national legislation. Three conventions dealing with species are: a) the Convention on the Conservation of Migratory Species of Wildlife Animals, adopted in Bonn, Germany in 1979 which Pakistan ratified in 1987; b) the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES), signed in Washington in 1973 of which Pakistan became a party in 1976; and c) the CBD, signed in Rio in 1992 which Pakistan ratified in 1994.

Pakistan is also a party to two area-based treaties: a) the Convention on Wetlands of International Importance especially as Waterfowl Habitat, signed in Ramsar in Iran in 1971, to which Pakistan became a party in 1978; and b) the Convention Concerning the Protection of the World Culture and Natural Heritage, signed at United Nations Educational, Scientific and Cultural Organisation (UNESCO), Paris in 1972.

In 1993, the National Conservation Strategy (NCS) was framed as a statement of national environmental policy, which was developed following extensive consultations with major stakeholders. The chief aim was to facilitate effective co-ordination between the actions of federal and provincial governments, non-governmental organisations (NGOs), the private sectors, local bodies and local communities, in

pursuit of sustainable development.

The government's Eighth Five Year Plan identifies the need to develop provincial conservation strategies to implement the NCS. The Sarhad Provincial Conservation Strategy (Government of NWFP, 1996) has been completed and the other one for Northern Areas is in preparation. In 1998, the government finalised a National Biodiversity Action Plan to conform to the CBD and to propose and prioritise measures which secure conservation and sustainable use objectives.

### **PLANT BREEDERS' RIGHTS ORDINANCE 2001**

Pakistan under its WTO obligation is bent to impose Plant Breeders' Rights Ordinance 2001. The Ordinance has not been promulgated so far due to tough resistance put up by the farmers' rights groups. This Ordinance only guarantees the rights of the breeders and not of the farmers. The NGOs have found numerous problems with it. The very first problem lies in nomenclature. It is the legislation for "Breeders' Rights" and not for "Farmers' Rights" who are also traditional breeders. The definition of marketing actively discriminates against the farmers and curtails their rights. Another problem is that the land-less farmers are not considered "farmers".

It does not address benefit sharing/royalty payments to communities. The law also does not recognise collective rights of the farming communities as breeders. It is also silent on Prior Informed Consent of the communities for using their varieties in research. It violates the farmers' rights to sell, exchange and multiply seeds.

The law allows PBRs for Genetically Modified Organisms (GMOs). It allows the Multi-national Companies (MNCs) to freely exploit the communities' traditional knowledge. How biased is the law in favour of foreign multinationals can be seen from the fact that a penalty clause against such companies was dropped in the latest draft although it was a part of the earlier drafts. The clause allowed for penalty/compensation in case of hazardous effects of a variety certified. It was done to please companies like Monsanto. Cancellation of the PBR certificate is the maximum punishment retained in the present draft. It does not provide any punishment for authorities responsible for implementation in cases of contravention and violation.

### **PROTECTING FARMERS' RIGHTS TO LIVELIHOOD**

The people in mountain region are already being deprived of basic necessities of life. To protect folk knowledge from bio-piracy, patents on life forms have to be rejected. The South Asian Governments should not accept the principle of intellectual property systems - in any construction and by any name - over biodiversity, private monopolies, or over genetic resources.

The only alternative to IPRs over life should be *no IPRs over life*. Bio-piracy cannot be stopped unless IPRs on life, in whatever form, is outlawed. The farmers' rights activists

should double their efforts to share information on the threats of these monopoly rights systems with farmers and mobilise more actions.

Farmers and all members of society are innovators. And for innovation to flourish, we need to strengthen our local knowledge and research systems, especially to achieve food security based on ecological agriculture. Building up and building upon bio-diversity at the grassroots level is crucial for the survival of people living in the Hindu Kush Himalaya (HKH) region. Restrictive monopoly systems like International Union for the Protection of New Varieties of Plants (UPOV) and patents on life should have absolutely no role in our future.

## RECOMMENDATIONS

**Global:** The WTO should put the development needs of its Members as top priority. Moreover, the poor sectors of developing economies should be highly profiled and protected. SDT clauses need to be implemented more often.

Parts of Agreements - AOA, TRIPS, and the dispute settlement system - that work to the disadvantage of developing countries must be changed.

The decision-making at the WTO should be democratic and governments should consult regularly with the broader society on trade deliberations. A development centred perspective needs to be adopted that puts power into the hands of a body accountable to the people and state, rather than a market accountable to TNCs. The WTO instead should emphasise on greater self-sufficiency of economies nationally and regionally. Domestic markets, rather than foreign markets, should be the main stimulus of growth. Resources should be used sustainably to support local and national communities. People and the preservation of the environment, rather than capital, should be the priorities.

Mechanism must be set in place for civil society to participate in WTO decisions, including making representations in the dispute settlement system.

The sovereignty of nations must be respected. Nations must be able to protect their domestic industries, indigenous knowledge and laws. Countries must have the freedom to choose, if they want, overseas investments and the kind of investments.

There should be the liberalisation of strong sectors and support for the weak, particularly subsistence farming. All Members should be enabled with the technical expertise

and human resources to participate fully in the multilateral negotiations.

In the area of agriculture, countries should be able to choose to be self-sufficient. Small farms in both developed and developing countries should be encouraged, not squeezed out, especially in the developing countries where farming is the source of livelihood for millions.

TRIPS, which allows the theft of indigenous knowledge, should be changed so that patent rights are not granted for naturally occurring plants and animals or their parts, or the uses of plants and animals. There should also be an easy mechanism for developing countries to find out about the applications for patents for naturally occurring materials, their uses or their transgenic forms.

TRIPS should be amended so that it reinforces, not contradicts, the principles of the CBD.

**NATIONAL:** Pakistan and other developing nations need to organise SMEs into effective and re-presentable bodies and associations that can generate responses and documentation to TNC led lobbying in the WTO. The end result should be use of the SDT clauses on infant industries to protect these impoverished sectors and reduce barriers to market access in the North. In terms of environmental protection and trade, full cost accounting should be used to illustrate the sustainable development of such SME sectors and their sustainable livelihoods as being more in line with sustainable development than the increase in growth of unsustainable TNCs.

In services, the subject of the movement of labour should continue with the aim of arriving at an agreement for significant liberalisation in this sector.

There is a need to focus on pro-poor policies in line with the spirit of the WTO Agreements, linking them to weak sectors and weaker economies.

**Mountain domains:** The environmentally sustainable potential of mountain areas for plants and seed productions should be exploited by rejecting patents on life forms or denying monopoly of the MNCs.

The vulnerability of mountain communities be taken into consideration while having indulged in the multilateral talks for market access and protections. The WTO Agreements should be debated and any further round of negotiations must focus on mountain areas to ensure food security and livelihood of the farmers and local producers. ■



South Asia Watch on Trade, Economics and Environment (SAWTEE), a network of social activists and media persons in the South Asia region was launched in December 1994 by a group of NGOs from South Asia. Its objective is to create capacities in NGOs and media persons to enable citizens to "understand and cope with the processes of transition and equip them with information and the tools of advocacy to provide adequate safety nets for protection of the environment and consumers through enhanced regional and international cooperation."

## SAWTEE

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