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Import laws and dumping grounds

The 132 parties to the international Biosafety Protocol under the Convention on Biological Diversity, meeting in Curitiba from March 13 to 17, will try to agree on basic standards for identification and documentation of international shipments of genetically modified organisms (GMOs or LMOs as they are called within the Protocol). The overwhelming majority of parties to the Protocol agree on the need for precise identification and documentation of GMOs in international shipments intended for use as food, feed and processing (dubbed "LMO-FFP" and accounting for over 98% of all GMO shipments). However, grain traders, the genetic engineering industry, and a number of GMO exporting countries, most of which have actually not even ratified the Biosafety Protocol, claim that such identification and labeling of GMO shipments would be too expensive or not feasible. Instead they push for a meaningless label that shipments "may contain LMOs." This report reveals that:

1) Most GMO exporting countries actually do not allow for any imports of unidentified and unapproved GMOs into their country and have even stricter rules to protect their citizens and environment than the ones they contest.

2) All top five importers of maize and soybeans – the dominant GMO crops presently traded internationally – have zero tolerance for the import of unapproved GMOs into their markets and as such require precise documentation of GMO shipments.

Exporters therefore already do comply at least with the minimum standards proposed under the Biosafety Protocol in their shipments to major commodity markets, proving the technical and economical feasibility of such standards every day. However, a considerable number of developing countries that do not yet have GMO import regulations continue to be left in the dark about the GMO content of imports, including food aid.

Lack of an international regime of precise identification of GMOs will lead to unfair double standards and create potential "dumping grounds" for unidentified and illegal GMO exports. Such unidentified GMO shipments would discriminate against poor countries and jeopardize their own food exports, as they would be unable to comply with GMO import regulations of high value markets. Such a grey zone of unidentified GMO shipments would also undermine global biosafety and traceability of GMOs, preventing effective measures to recall and contain specific GMOs should they prove to pose risks to human health or the environment. For all these reasons, precise identification and documentation is essential.

Greenpeace calls upon all Parties of the Biosafety Protocol and especially the governments of Brazil and New Zealand, which have so far blocked the international agreement on the labeling and identification of GMOs for food, feed and processing, not to support such hypocritical and unethical double standards and to establish common ground and minimum safety standards for all public authorities, consumers, and farmers around the world.

Import laws in Miami Group[1] countries: Zero tolerance for unapproved LMOs-FFP!

There is zero tolerance for unapproved LMOs-FFP in each of the countries currently arguing in favor of "may contain" language. Their own laws do not tolerate what they suggest as global standards.

Australia – Canola and cotton are currently the only LMOs-FFP allowed for import into Australia; "unprocessed (whole) biotech corn and soybeans have not received regulatory approval in Australia and, thus, cannot be imported without further processing."[2] To import an LMO-FFP into Australia, the importer must first obtain a permit from the Australian Quarantine and Inspection Service. Separately, for an unapproved LMO, the importer must also obtain a license to import the LMO from the Office of the Gene Technology Regulator. Finally, any LMO that will be consumed by humans must also be approved by the Food Standards Australia-New Zealand (FSANZ); labeling of GE food is required.

Brazil – No GE maize varieties are approved for import; several varieties have been imported into Pernambuco state on an emergency basis only (see footnote 16). Brazil has approved only one Bt cotton and one GE soy variety. All LMOs-FFP to be imported into Brazil must have prior formal approval from the regulatory decision body, CTNBio, on a case-by-case (by event) basis.[3] Brazil requires labeling of GE food.

Canada – Canadian food import requirements and regulations are amazingly complex and detailed. Under the regulations, LMOs-FFP intended for human consumption are considered "novel foods." Importation of unapproved LMOs may be authorized on a case-by-case basis. "A permit to Import issued by the Canadian Food Inspection Agency is required with the appropriate import conditions to mitigate pest risk. … In addition, other federal acts and regulations may apply if the intended use is for food or feed."[4]

New Zealand – Currently there are NO LMOs-FFP allowed for import into New Zealand. "The issue of genetic modification does not enjoy widespread public acceptance… There are no commercial plantings of genetically modified (GM) crops in New Zealand."[5] The Environmental Risk Management Authority (ERMA) has indicated this is likely to continue in the near future.[6] Unapproved LMOs-FFP are considered new organisms and will be denied entry into the country by Biosecurity New Zealand. New Zealand also has a zero tolerance for planting seeds. "All seeds to be imported into New Zealand are required to be certified as GM free before they can be legally imported into New Zealand for commercial use."[7] As in Australia, labeling of GE food is required.

United States – Unapproved LMO varieties, domestic or imported, are considered "regulated articles" under US genetic engineering regulations. In order to import an unapproved variety, the exporter must first obtain an import permit for a regulated article from the US Department of Agriculture. The import permit must accompany the shipment. The shipment must be destined for contained facilities and must arrive at a designated port. To use that shipment for human consumption, the exporter must also ensure that the product is not a plant pesticide covered by Environmental Protection Agency (EPA) regulations. If it subject to EPA oversight, this also "may require issuance of an import tolerance for pesticides not registered in the United States." Consultation with the Food and Drug Administration about food safety issues is voluntary.[8]

Import regulations and restrictions in top importing countries: China, EU25, Japan, Mexico, Republic of Korea

The top four importing countries and one regional economic group account for 82% of global trade in soy and 57% of global trade in maize: China, the European Union, Japan, Mexico, and the Republic of Korea (South Korea). All of these countries require clear identification and documentation for the import of LMOs-FFP. In the majority of these countries, there is a strict approval process for any use of LMOs and zero tolerance of unapproved LMOs.

Only a few of the main GM maize varieties grown in the world are approved for import in all of the major importing countries. Therefore exporters must ensure that shipments to these different countries exclusively contain LMO varieties approved in the respective country. If a shipment "may contain" DAS1507 x NK603, it cannot enter the EU. If a shipment "may contain" DAS-59122-7, it cannot enter China. Identification and documentation stating that a shipment ***"may contain"*** these LMOs would actually prevent the shipment from being accepted for import. Exporters must know positively that a shipment of maize to the Republic of Korea **DOES NOT** contain MON88017 maize.

None of the maize varieties listed below are approved in New Zealand either for import or for cultivation. Imports into Brazil are conditional and extremely limited. (See footnote 16)

Approval status for import of LMOs for food, feed, or for processing[9] of GE maize varieties in major import markets, Brazil, and New Zealand

Maize variety commercially grown in the US or Argentina[10]	China[11]	EU25[12]	Japan[13]	Mexico[14]	Rep. of Korea[15]	Brazil[16]	New Zealand[17]
T25	yes*	yes[18]	yes	no	yes	no**	no
GA21	yes*	yes	yes	yes	yes	no**	no
NK603	yes*	yes	yes	yes	yes	no**	no
Bt176	yes*	yes[19]	yes	no	yes	no**	no
Bt11	yes*	yes	yes	no	yes	no**	no
MON810	yes*	yes[20]	yes	yes	yes	no**	no
MON863	yes*	yes	yes	yes	yes	no	no
MON810 x MON863	no	yes	yes	no	yes	no	no
MON810 x NK603	no	yes	yes	yes	yes	no	no
MON863 x NK603	no	yes	yes	yes	yes	no	no
DAS-59122-7	no	no	yes	yes	no	no	no
DAS1507 x NK603	no	no	yes	yes	yes	no	no
TC1507	yes*	yes	yes	yes	yes	no**	no
MON88017	no	no	yes	no	no	no	no
MON810 x MON863 x NK603	no	no	yes	no	yes	no	no
GA21 x Bt11	no	no	no	no	no	no	no
MON810 x GA21	no	yes	yes	no	yes	no	no
TC1507 x DAS-59122-7	no	no	yes	no	no	no	no
DAS-59122-7 x NK603	no	no	yes	no	no	no	no
TC1507 x DAS-59122-7 x NK603	no	no	yes	no	no	no	no

* Feed and oil processing only.

** Approved for import from Argentina into Pernambuco state on an emergency basis solely by Associação Avícola de Pernambuco for use in poultry feed only. Varieties noted here are those approved for cultivation in Argentina. See footnote 16 for more details.

When the elephants fight, the grass gets trampled…*

African countries without legal protection against unapproved LMOs	African countries with regulations on LMO imports
Botswana	**Algeria**
Burkina Faso	Angola
Burundi	**Benin**
Cameroon	**Ghana**
Cape Verde	Malawi
Central African Republic	**Mozambique**
Chad	**Namibia**
Comoros	**Nigeria**
Cote d'Ivoire	**South Africa**
Democratic Republic of Congo	**Sudan**
Djibouti	**Zambia**
Egypt	**Zimbabwe**
Equatorial Guinea	
Eritrea	
Ethiopia	
Gabon	
Gambia	
Guinea	
Guinea-Bissau	
Kenya	
Lesotho	
Liberia	
Libyan Arab Jamahiriya	
Madagascar	
Mali	
Mauritania	
Mauritius	
Morocco	
Niger	
Republic of Congo	
Rwanda	
Sao Tome and Principe	
Senegal	
Seychelles	
Sierra Leone	
Somalia	
Swaziland	
Togo	
Tunisia	
Uganda	
United Republic of Tanzania	

* Countries in bold are Parties to the Cartagena Protocol on Biosafety.

Footnotes

[1] The Miami Group is a lobbying bloc that was formed during the negotiations of the Cartagena Protocol on Biosafety, which included Argentina, Australia, Canada, Chile, Uruguay, and the United States. Currently Brazil and New Zealand appear to have joined the group and take similar positions to the Miami Group countries within the current negotiations.
[2] USDA Foreign Agricultural Service. 2005. Australia agricultural biotechnology annual report, GAIN report number AS5024. 14/7/2005. www.fas.usda.gov/gainfiles/200507/146130258.pdf.
[3] USDA Foreign Agricultural Service. 2005. Brazil annual agricultural biotechnology report, GAIN report number BR5618. 12/7/2005. www.fas.usda.gov/gainfiles/200507/146130270.pdf.
[4] NAPPO Biotechnology Panel. 2004. Discussion paper for development of module 4 of the NAPPO standard for importation of transgenic plants into NAPPO member countries. North American Plant Protection Organization.
[5] USDA Foreign Agricultural Service. 2005. New Zealand biotechnology annual, GAIN report number NZ5010. 6/7/2005. www.fas.usda.gov/gainfiles/200507/146130188.pdf.
[6] ibid.
[7] ibid.
[8] NAPPO Biotechnology Panel. 2004. Discussion paper for development of module 4 of the NAPPO standard for importation of transgenic plants into NAPPO member countries. North American Plant Protection Organization; interviews with USDA regulators.
[9] This table specifically concerns approval status for LMO-FFPs. In some countries, such as New Zealand, an LMO may be approved as a component of processed foods but is not allowed to be imported into the country as an unprocessed LMO.
[10] National Corn Growers Association. 2006. Know before you grow. www.ncga.com/biotechnology/search_hybrids/know_where.asp; La SAGPyA autorizó el uso de maíz GA21, de la empresa Syngenta, 23 August 2005. http://www.seedquest.com/News/releases/2005/august/13243.htm.
[11] China's regulations require that an LMO first be approved and commercially grown in the country of origin before it starts its own safety review.
[12] Europa Food and Feed Safety. 2006. Community register of GM food & feed. http://europa.eu.int/comm/food/dyna/gm_register/index_en.cfm; http://www.europa.eu.int/comm/food/food/biotechnology/gmfood/qanda_en.pdf europa.eu.int/comm./environment/biotechnology/authorized_prod_1.htm; europa.eu.int/comm./environment/biotechnology/authorized_prod_2.htm.
[13] Ministry of Health, Labor, and Welfare. 2006. List of the products whose safety assessments were completed by MHLW. www.mhlw.go.jp/english/topics/food/pdf/sec01.pdf.
[14] An expert panel advising the North American Free Trade Agreement Commission for Environmental Cooperation has recommended that environmental assessments be undertaken and LMO approvals granted in all three countries prior to placing on the market. Such a step could ensure that, for example, that no GE maize varieties with environmental impacts in the Mexican environment could be approved in the US and potentially contaminate Mexican maize.
[15] USDA Foreign Agricultural Service. 2005. Republic of Korea agricultural biotechnology report, GAIN report number KS5035. 15/7/2005. www.fas.usda.gov/gainfiles/200507/146130304.pdf.
[16] Conditional approval, on a gene-by-gene basis, was granted by CTNBio in 2000 for the cry1Ab, cry1Ac, cry9c (Starlink), EPSPS (glyphosate tolerance), and pat/bar (glufosinate tolerance) genes. In addition, all imports must be approved on a case-by-case basis. Currently GE maize imports are allowed ***only on an emergency basis into Pernambuco state from Argentina by Associação Avícola de Pernambuco*** (the Pernambuco state poultry association). Imported GE maize must be milled on entry and is only approved for use as poultry feed. Source: CTNBio "Parecer técnico sobre milho transgênico" http://www.ctnbio.gov.br/index.php?action=/content/view&cod_objeto=1299
[17] USDA Foreign Agricultural Service. 2005. New Zealand biotechnology annual, GAIN report number NZ5010. 6/7/2005. www.fas.usda.gov/gainfiles/200507/146130188.pdf.
[18] There is an Austrian ban on the cultivation of this variety.
[19] Several national bans exist on the cultivation of this variety.
[20] Several national bans exist on the cultivation of this variety.

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