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## **BRAZIL 2006: GLOBAL STANDARD ON IDENTIFICATION OF GMOs TO BE DECIDED BY INTERNATIONAL TREATY**

### **International Meeting on GMOs is expected to take a decision on the right to know the presence of GMOs in the global agriculture trade system**

After more than a decade of planting GM crops in the environment, over 130 Parties of the United Nations Agreement on Genetically Modified Organisms,<sup>i</sup> called the Biosafety Protocol, will meet in Curitiba, Brazil, to take a crucial decision that may significantly affect the current model of development and trade of GM foods around the world. At stake is the right of countries to know about the presence of GMOs destined for food, feed and processing (which constitute the bulk of GMOs traded in the world today) in the global trade market.

The meeting takes place amid a controversial debate about the benefits of GM crops and food after a decade of experience, and a polemic ruling by the World Trade Organization (WTO) between the US and the European Union (EU). The current briefing sets in context the key issues that will be discussed at the Third Meeting of the Parties of the Biosafety Protocol (called MOP 3) which will be held between the 13<sup>th</sup> and 17<sup>th</sup> of March in Brazil.

### **1. Introduction: the Biosafety Protocol is a blow to the biotech industry and GMO exporting countries**

The Cartagena Protocol on Biosafety is an international legal agreement under the UN Convention on Biological Diversity (CBD). The Biosafety Protocol is the only international law that deals specifically with the issue of genetic engineering and genetically modified organisms (GMOs).<sup>ii</sup>

A decisive kick start point for the discussions about the Protocol took place in 1996,<sup>iii</sup> the same year of the first significant planting of GM crops in the United States of America (US). That year, nearly all developing countries were at the forefront of a global call to impose controls on the introduction of GMOs into the environment and in the food chain. A smaller group of countries, called the 'Miami Group' (the 'hardcore' grouping of the US, Canada, Argentina, Australia, Chile and Uruguay – the main producers and exporters of GMOs and their allies) together with the biotech industry and big agribusiness lobbied and worked hard against the Biosafety Protocol, and fought to have it as weak as possible.<sup>iv</sup>

Despite the attempts of that coalition, the Biosafety Protocol was adopted in Montreal, Canada in January 2000.<sup>v</sup> The Biosafety Protocol established that GMOs were different from their conventional counterparts, carried special risks, and therefore needed to be specifically regulated. This was a clear blow to policies such as the U.S. Government's de-regulation of GMOs based on the principle of substantial equivalence, and to the

biotech industry's assertion that GMOs are practically "equal" to their conventional counterparts when it comes to safety assessment.

The Protocol entered into force in 2003 and the Parties have already met twice. The fact that over 130 countries have ratified the Protocol shows the overwhelming support of most countries in the world to this treaty. All Parties to the Biosafety Protocol are legally bound to implement this international law in their own countries, and to abide by the minimum standards that have been agreed to. However, there is still immense pressure from GMO exporting countries, the biotech industry, and their allies in order to undermine the Protocol as much as possible.

## **2. To know or not to know? Clear and unambiguous identification is required**

The right to know about the presence and details of a particular GMO destined for food, feed and processing in the global agriculture commodity market is the key issue at stake at the MOP. One of the primary objectives of the Protocol was to grant Importing Parties the right to be informed about imports of GMOs to their countries and to ensure their right to adequate information and mechanisms to take satisfactory decisions on the matter.

In order to make sound decisions about GMOs destined for food feed and processing which may be shipped to a certain country there is a need for appropriate information about GMO shipments. If you don't know, and/or the mechanisms to know are not in place, you cannot trace and identify the products arriving to your country and a country becomes vulnerable to GMO contamination. If the presence of GMOs in a shipment is not identified through adequate and clear documentation accompanying the transboundary movement and/or labelling it is not possible for an Importing Party to be aware with unambiguity of the presence of GMOs, and/or any particular GMOs.

Such clear identification mechanisms would require the creation of mechanisms for segregation and identity preservation by exporting countries. But the industry opposes such measures. It argues that the costs of an identification system which would need segregation and identity preservation measures would be too high and unworkable.<sup>vi</sup> The biotech industry dreads a segmented system where countries will have different lists of approved and unapproved events across various countries, something which in their view will create unacceptable costs to the industry.<sup>vii</sup> However, segregation of GM crops is possible and feasible,<sup>viii</sup> as a specific briefing prepared by Friends of the Earth International for the Second Meeting of the Parties showed.<sup>ix</sup>

The biotech industry has consistently opposed labelling and segregation requirements for any of the GM crops on the market today, paradoxically Monsanto has implemented a multi-million dollar "GMO Monitoring and Testing Programme" to test crops for its patented genes in farmers' fields.<sup>x</sup> The company has established a system in which over 95 per cent of the grain elevators in two Brazilian states (Rio Grande de Sul and Santa Catarina) are testing soybeans for the presence of Monsanto's traits, and if this is detected the elevator must pay a technology fee to Monsanto. In recent months Monsanto has also started testing and monitoring shipments of Argentina soya products to Europe in order to force the Argentinean Government to pay the royalty for the GM seed.<sup>xi</sup>

The industry is seeking therefore a uniform standard system of identification and approvals where GM crops authorized in the key producing countries are naturally authorized in the rest of countries in the world when traded for food feed and processing with weak information systems about the possible GMO content of a product. Billions of dollars are at stake in the global agricultural commodity trade

system and that is why the main priority of the biotech industry at the Third Meeting of the Parties in Curitiba in March 2006 will be to prevent any meaningful requirement on identification of GMOs.

## **2.2 No adequate identification will facilitate contamination**

No clear identification of the presence of GMOs in products traded around the world not only violates the right to know of importing countries and its citizens, but will also contribute to further contamination of the global food and feed supply, which may lead to contamination of seeds and crops.

Numerous cases of contamination of non-GM crops by unauthorised, illegal or undesired GM crops, like Starlink and Bt10, have occurred since the adoption of the Protocol.<sup>xii</sup> GMOs destined for food and feed are believed to be the cause of the contamination of the Mexican corn fields identified in 2001.<sup>xiii</sup> From Europe to North America, Africa, to Asia and Latin America, once a GMO is released, contamination has no boundaries.<sup>xiv</sup>

In order to prevent contamination, a country that desires not to accept GM crops and food, or opposes the uninformed shipment of GM foods to its territory needs to be able to know the identity of any product or commodity arriving to its country. It is precisely the ability to detect and control the flow of GMOs worldwide that the biotech industry is aiming to prevent.

## **3. Curitiba, March 2006: Intense negotiations on identification expected amidst polarized views**

The negotiations on identification take place in the context of the Article 18 of the Protocol which deals with “handling, transport, packaging and identification” of bulk shipments of GM commodities. In the Protocol, these are referred to as “living modified organisms that are intended for direct use as food or feed, or for processing” or “LMO-FFPs”. Article 18.2(a) stipulates that documentation accompanying LMO-FFPs clearly identifies that they “*may contain*” (own emphasis) living modified organisms that are not intended for intentional introduction into the environment as well as a contact point for further information”

The wording of “may contain” was very contentious before the adoption of the Protocol in 2000 and no agreement was reached at that time. The view of most developing countries at that time was that more clear requirements were needed and the wording “contains” should be used instead of the more ambiguous “may contain”. Thus, Article 18.2(a) introduced an enabling clause where Parties will take a decision on this no later than two years after the date of entry into force of this Protocol. As the Biosafety Protocol entered into force in September 2003, the deadline for a final decision was September 2005. The 2<sup>nd</sup> Meeting of the Parties was held in May 2005, and was the last Meeting of the Parties that could have adopted a final decision.

The majority of Parties wanted the MOP to require that documentation accompanying shipments of LMO-FFPs clearly state that they contain LMOs and to also provide further details about their identity. In addition, they were keen to ensure that only LMOs approved in the importing countries are shipped to them. Such steps would contribute to ensure that the burden of assessing the LMO content of a shipment is placed on the exporter, not on the importer, many of which are developing countries that lack the necessary resources and regulatory and monitoring capacities.<sup>xv</sup>

Brazil and New Zealand, on the other hand, strongly called for just using the “may contain” language and were unwilling to compromise on this issue. This position would have meant that no segregation or testing would have to be done at the ports of export, with the risks of mixtures of non-approved LMOs and even experimental GMOs arriving to importing countries unnoticed. As signaled by the Chair of the African Group this would have allowed “global genetic pollution to escape unnoticed and unscathed”.<sup>xvi</sup>

Brazil and New Zealand ended up blocking a decision on this issue in Montreal in June 2005. Brazil in particular made an unexpected U-turn and moved away from its classic position side by side with the other developing countries (called the Like-Minded Group – LMG). It blocked the success of the negotiations by siding with the biotech industry and non Parties like the US. By refusing to negotiate in good faith to reach an outcome, no decision could be reached, that was acceptable to all Parties.<sup>xvii</sup> The decision is on the table again for Curitiba,<sup>xviii</sup> but the views and positions have not change much since.

#### **4. The context of the meeting: GM crops fail to deliver benefits, while biotech corporations’ bullying continues at the WTO**

The first significant planting of genetically modified (GM) crops took place in 1996. Ten years on, GM crops have failed to deliver the promises made by the biotech corporations. Most GM crops commercialized so far are destined for animal feed, not for food, and none have been introduced to address hunger and poverty issues. GM crops are not cheaper, are not better in quality and do not present any benefits for consumers. GM crops do not present benefits for the environment, on the contrary Monsanto’s Roundup Ready a soybean, the most extensively grown GM crop today, has led to an increase in herbicide use. The intensive cultivation of GM soybeans in South America is also fostering deforestation, and has been associated with a decline in soil fertility and soil erosion. In conclusion, ten years of experience shows that the increase in GM crops in a limited number of countries has largely been the result of the aggressive strategies of the biotech industry, particularly Monsanto, rather than the consequence of the benefits derived from the use of this technology.<sup>xix</sup>

Despite this context biotech corporations and big agribusiness in exporting countries have used the WTO to attempt to force acceptance of GMOs around the world. The US Government has proclaimed victory at the WTO case launched against the EU and tries to send a threatening message to the rest of the world that no country should adopt restrictive regimes on GMOs.<sup>xx</sup> That message is very misleading, since the WTO interim ruling has not questioned the right of countries to adopt strict Biosafety legislation, including product specific bans based on risk assessment. The WTO interim ruling, not only will not change at all the EU regulatory and policy regime on GMOs, but also ruled against many of the key accusations the US, Canada and Argentina raised against the EU. It will not also change the strong stand of key European countries like Austria on keeping their national bans on GMOs.<sup>xxi</sup> Moreover, ironically the headquarters of the WTO, are based in a country, Switzerland, which has adopted in October 2005 a legally binding moratorium on the cultivation of GM crops at the national level until 2010.

#### **For more information see:**

FoEI. 2005. Tackling GMO Contamination: making segregation and identity preservation a reality. <http://www.foei.org/publications/pdfs/contamination3.pdf>

FoEI. 2006. Who Benefits from GM crops? Monsanto and the corporate-driven genetically modified crop revolution.

<http://www.foei.org/publications/pdfs/gmcrops2006full.pdf>

FoEI. 2002. GMO Contamination around the world.

<http://www.foei.org/publications/pdfs/contamination2eng.pdf>

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<sup>i</sup> Status of ratification. Biosafety Protocol.

<http://www.biodiv.org/biosafety/signinglist.aspx?sts=rtf&ord=dt#sz>

<sup>ii</sup> See <http://www.biodiv.org/biosafety/about.aspx>

<sup>iii</sup> UNEP. 1996. Report of the first meeting of the open-ended ad hoc Working Group on Biosafety. UNEP/CBD/BSWG/1/4

<sup>iv</sup> Lim Li Lin. 1999. "Biosafety Protocol talks end in deadlock again". *South-North Development Monitor SUNS*, September 21, 1999; Halweil B. 1999. *US derails Biosafety Protocol*. The Worldwatch Report [http://www.enn.com/features/1999/04/040799/wwatch\\_2512.asp](http://www.enn.com/features/1999/04/040799/wwatch_2512.asp); Inter Press Service (IPS). 1999. New Delay for Biosafety Protocol. Cartagena, Colombia, Feb. 25;

<sup>v</sup> EXCOP 1. 2000. Decision EM-I/3. Adoption of the Cartagena Protocol and interim arrangements.

<http://www.biodiv.org/decisions/default.aspx?m=EXCOP-01&id=7174&lg=1>

<sup>vi</sup> Kalaitzandonakes, N. 2004. *The potential impacts of the biosafety Protocol on Agricultural Commodity trade*. International Food and Agricultural Trade Policy Council. IPC Technology Issue Brief. December 26. <http://www.agritrade.org/Publications/IBs/Techy/BSP.pdf>

<sup>vii</sup> Kalaitzandonakes, N. 2004. op.cit.

<sup>viii</sup> ERS/USDA. 2000. Segregating non-biotech crops: what could it cost? op. cit.

<sup>ix</sup> Friends of the Earth International. 2005. Tackling GMO Contamination: making segregation and identity preservation a reality. Op.cit.

<sup>x</sup> UBS. 2004. *Monsanto*. UBS Investment Research. 22 November 2004.

<sup>xi</sup> The Guardian. *Seeds of dispute*. February 22, 2006

<http://www.guardian.co.uk/argentina/story/0,,1715330,00.html?gusrc=rss>

<sup>xii</sup> Friends of the Earth International. 2005. Tackling GMO Contamination: making segregation and identity preservation a reality. <http://www.foei.org/publications/pdfs/contamination3.pdf>

<sup>xiii</sup> Quist, D, Chapela, I. 2001. Transgenic DNA introgressed into traditional maize landraces in Oaxaca, Mexico. *Nature* vol. 414, 541-543. 29 November 2001.

<sup>xiv</sup> Friends of the Earth International. 2001. GMO Contamination around the world.

<http://www.foei.org/publications/pdfs/contamination2eng.pdf>

<sup>xv</sup> Lin, L.L., Ching, L.L. 2005. Brazil, New Zealand block decision on documentation of GMOs. *South-North Development Monitor*. June 04, 2005

<sup>xvi</sup> Ibid.

<sup>xvii</sup> IISD. 2005. Second Meeting of the Conference of the Parties serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety. Highlights for Friday 3 June. <http://www.iisd.ca/biodiv/bs-copmop2/>

<sup>xviii</sup> UNEP. 2005. Taking a decision on the detailed identification/documentation requirements of living modified organisms intended for direct use as food or feed, or for processing (article 18, Paragraph 2 (a)). UNEP/CBD/BS/COP-MOP/3/8. 22 November 2005

<sup>xix</sup> Friends of the Earth International. 2006. Who Benefits from GM crops? Monsanto and the corporate-driven genetically modified crop revolution. <http://www.foei.org/publications/pdfs/gmcrops2006full.pdf>

<sup>xx</sup> Reuters. 2006. *WTO condemns EU over GMO moratorium: diplomats*. February 7.

<sup>xxi</sup> The New York Times. 2006. Europe defends Stance on Genetically Altered Foods. February 8