OBJECTIONS TO THE APPLICATION MADE BY SYNGENTA SEEDCO

FOR FIELD TRIALS IN RESPECT OF GM MAIZE EVENTS GA21 AND Bt11xGA21

TO THE NATIONAL DEPARTMENT OF AGRICULTURE, SOUTH AFRICA

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1 INTRODUCTION

The African Centre for Biosafety has in the past (September 2004) submitted substantial objections to an application by Syngenta Seed Company in respect of an application for field trials involving its GM maize, GA21 (www.biosafetyafrica.net). These objections are already on record with the office of the Registrar: Genetically Modified Organisms Act, and ask that these be considered together with this objection. These prior objections set out substantial and comprehensive scientific and legal grounds upon which our objections are founded and we no not believe that it is necessary to set these out here again.

Despite such substantive objections, the application was nevertheless successful and a permit granted to Syngenta (Permit number 17/3(4/05/087). However, it appears as if the trial did not take, resulting in the lapse of the permit, and hence, this new application by Syngenta for a fresh permit to be issued.

The ACB has also responded to an application by Syngenta for field trials of its Bt11xGA21 maize, and request that this objection also is read in conjunction with this objection, as these are also on record with the Registrar.

The NGO Biowatch South Africa (www.biowatch.org.za) also challenged on appeal, the Executive Council's (EC) decision to grant a commercial permit to Syngenta in respect of Syngenta's Bt11 maize. The appeal was also not successful. Not because Biowatch failed to make a strong case, but because of the government's macroeconomic policies in general and its agriculture and rural development policies in particular, are skewed in favour of a corporate controlled agriculture and food regime.

The principal logic for allowing GM approvals stems from the underlying imperative underpinning the GMO Act, viz. to subordinate agriculture to the corporate agribusiness model, which in the case of transgenic agriculture, demands the replacing of local crop varieties with 'improved' transgenic ones. What has thus been allowed is the disruption of biodiverse traditional agricultural patterns, leading inevitably to the erosion of landraces along with indigenous knowledge and the undermining of an agroecological approach to agriculture and conservation of biological diversity and associated knowledge. The Constitution of the Republic of South Africa guarantees various fundamental socio-economic rights for previously disadvantaged people. The key question to ask is whether government's logic to prefer transgenic based agriculture geared towards benefiting the commercial farming sector-a sector that richly benefited from apartheid is indeed in line with the ethos, principles and provisions of our Constitution?

In these objections, we raise additional issues not covered in our original objections.

2 SYNGENTA SEED CO

"[Syngenta] is perhaps the most successful GM crops company as co-opting the sustainable development agenda (through the Syngenta Foundation on Sustainable Development), and aligning itself with GM crops with perceived consumer benefits (e.g. Vitamin A or 'Golden Rice" Corporate Watch Biotech Briefings 2003

Syngenta, one of the world's largest agrochemical companies, is a relatively new multinational company, formed only as recently as 2000 by a merger of Norvatis Agribusiness (Switzerland) and Zeneca Agrochemicals (UK). Zeneca was formed after a split from Imperial Chemical Industries (ICI) in 1993.

ICI was one of the 17 multinational companies who tried to suppress evidence that their herbicides were causing widespread damage in South Africa's Tala Valley by seeking a cost order against the aggrieved farmers in typical SLAPP style (Strategic lawsuits against public participation).[1] Vegetable farmers in the Tala Valley, KwaZulu Natal (formerly, Natal Province) filed a Supreme Court action against the 17 companies to stop the manufacture and sale of all hormone herbicides in the country. The court rejected the application without considering the farmers' evidence, and ruled that the action should have been brought against the herbicide users and not the distributors and manufacturers. The court ordered the farmers to pay the massive legal costs incurred by the chemical companies estimated at that time to have been around R750 000. This SLAPP syndrome is reminiscent of the cost order sought against Biowatch South Africa by Monsanto, in order to shut Biowatch down and therefore, silence one of its most vociferous critics on South Africa.

Syngenta has been given commercial approval in South Africa to sell its GM maize, Bt 11 as well as for the commercial import for food, feed and processing of its GM maize, GA21. Several varieties of its GM cotton (VIP and herbicide tolerant) have also been field tested in South Africa. Syngenta also owns several patents for Gene Use Restriction Technology (GURT) known commonly as Terminator or Traitor technology. GURT allows for control over crop fertility, flower-timing and sprout-timing. Syngenta has also been in the news last year for the contamination of exports from the US to Europe and elsewhere, by its unapproved GM maize, Bt 10.[2]

The Syngenta Foundation for Sustainable Development, funded by the Syngenta Company, is part of the governing body of the Consultative Group on the International Agriculture Research Centres (CGIAR). The CGIAR operates international agriculture research centres and seed banks whose mission statement is "To contribute to food security and poverty eradication in developing countries through research, partnerships, capacity building, and policy support, promoting sustainable development based on the environmentally sound management of natural resources." Through its position of the CGIAR, the Syngenta Foundation will most certainly have a huge influence in undermining African farmers' rights by the promotion of its pro-business, pro-corporate and pro-GM technologies.

2.1 TRIAL RELEASE OF GA21 and Bt11xGA21

The current application is for permission to undertake field trials of its GA21 maize in Klerksdorp, Delmas and Greytown on 0.5 ha plots each, using yellow maize varieties imported from the US and Brazil. The primary reasons given for the trial include the need to gather data to support an application for commercial release of the GA21 maize in South Africa; evaluate the efficacy of the GA21 against herbicides containing glyphosate and to 'collect registration data required for submission of an application for the registration of the Touchdown Forte Hitech.' In other words, the purpose of the trial is to see if the GM seeds work-whether they are tolerant to Syngenta's herbicide-Touchdown Forte Hitech. This pure agronomic indulgence has very little to do with biosafety. We also note that Syngenta states (page 8 of the Application for field trials of GA21) that the excess seeds after the trial will be returned to the supplier. It is entirely possible that the field trial will be used also for seed bulking.

In response to our application for access to information in terms of the provisions of the Promotion of Access to Information Act ('PAIA') 22 pages, with references, probably from a dossier of several hundred pages have been furnished to us. Our protests at the dearth of information furnished to the public regarding GM applications are well documented.

We received 31 pages in response to our PAIA application for the data concerning Syngenta's application for field trials involving its GM maize Bt11xGA21. In regard to this application, we are not told where in South Africa the intended field trials are to take place. We are, however told that one of the objectives is as follows: "Also planned is a seed increase for the purpose of exporting seed to the US for further field trials. It is significant to note that field trials involving this stacked event are underway only in the US and Brazil. Thus, in order for Syngenta to make applications around the world for approval for this stacked event, it will need the land and resources of South Africa as a testing ground for its products, in order to obtain permits for its commercial production.

3 Objections

A general observation is that the primary objective of these trials is inherently to collect data on the agronomic performance of the GM maize especially vis-à-vis Syngenta's herbicide, Touchdown Forte Hitech.

3.1 Permit required in terms of Act 36 of 1947

The EC should at the outset, request Syngenta to produce the import permit that it has been issued by the Registrar in charge of implementing and administering the Farm, Feeds, Fertilizer and Agricultural Remedies and Stock Remedies Act, Act No 36 of 1947 that authorises Syngenta to import and use the said herbicide in South Africa for the purposes of the field trials. Without such a permit, Syngenta's use of the unregistered herbicide will be illegal.

3.2 Paradigm of current field trials by Multi-national agrochemical companies

(a) South Africa, through the Executive Council, Genetically Modified Organisms Act, has entrenched itself as a country that allows field trials and commercial growing of GMOs by agrochemical companies such as Monsanto and Syngenta purely for its agronomic value to industrial, large scale commercial agriculture based on monocultures. This approach has give rise to a number of significant issues:

3.2.1 Unconstitutionality of favouring transgenic technology over and above agro-ecological and organic agriculture

The EC has a duty in terms of current environmental laws and the Constitution, as already canvassed in our objection to GA21 maize, to protect the environment and the rights of all peoples to a safe and healthy environment. The government also has a duty to give full legal effect to the protection of the additional range of socio-economic rights entrenched in the Constitution. This duty also extends to the protection of the rights of those farmers engaged in agro-ecological practises, organic agriculture and generally to the conservation of traditional maize landraces and biodiversity. GMOs are clearly, and without question, incompatible with ecological agriculture practises and the conservation of traditional land races. It is generally accepted that the genetic diversity of traditional land races is under threat by the release of GMOs.

The South African government, first through SAGENE and now through the Executive Council has allowed the dissemination of GM maize throughout SA, over the last ten years. In so doing, it has preferred GM based agriculture over and to the detriment of other forms of agriculture that are incompatible with and is undermined by GM based agriculture. This preference is exacerbated by the absence of any or any adequate measures taken by the South African government to ensure the conservation and protection of ecological and organic agriculture practises and associated knowledge. These measures would include the declaration of GM free zones, early warning systems for the detection of genetically modified maize in farmers' fields, de-contamination strategies, and appropriate redress for the aggrieved farmers and communities. Government is also sorely lacking in its failure to commit to adequately supporting and promoting agro-ecological technologies such as bio-fertlizers in order to enhance plant nutrition, and develop sustainable maize agriculture with the implementation of profitable intercropping systems, in order to demonstrate that it adopts an equitable approach to all farming systems in South Africa.

Even though the EC may well be acting within the context of the GMO Act and believe that its decisions have been lawful so far, and may be lawful if these field trials were to be allowed, it is our contention that the underlying policy decision to allow the release of GMOs in South Africa without correspondingly taking measures to safeguard biodiversity, and other forms of agricultural practices and associated cultural rights protected under the Constitution may well be unconstitutional. This is pertinent, given that the main beneficiaries of GM seeds in commercial production currently, are the gene

giants and large-scale commercial farmers, many of who have benefited richly from the apartheid apparatus. It is highly debateable whether the Constitution can be interpreted as favouring a technology that continues to benefit the same group of people who benefited under apartheid, to the detriment of the rights of others, particularly those whose socio-economic rights the Constitution strives to uphold!

It is important to note that the so-called success of the Monsanto's GM cotton project in the Makhathini Flats is vehemently contested and so is its Seed of Hope Campaign, featuring small scale black farmers in the use of its GM maize. The fact that it is contested is reason enough for government to adopt a precautionary approach to the release of yet more GMOs, especially those belonging to multinational corporations that are designed to perpetuate inequalities and environmental destruction.

3.2.2 Transgenic herbicide tolerant technology displaces labour and has adverse effects on poverty

Syngenta promotes its GA21 and Bt11/GA21 GM seeds on the basis of its 'no tillage' component, which ostensibly makes it an attractive environmentally friendly option because it reduces soil erosion (page 12 of its application for field trials Bt11xGA21). Regard must be had to the South African literature, which point out that transgenic herbicide tolerant technology minimum tillage displaces labour, which may have adverse effects on poverty.[3] This study points to the urgent need for government to appoint an independent panel of experts to investigate the impact the commercial growing of GM herbicide tolerant maize on the agricultural sector in South Africa, paying particular attention to its impact on labour and the extent to which it has exacerbated poverty in South Africa.

3.2.3 Anomalous (nonsense) Risk Management

We note the concession made by Syngenta (page 10 of the application for field trials of GA 21) that dissemination of pollen to other cultivated maize plants could occur and this could result in effective cross-pollination and thus, it proposes the risk management conditions indicated in paragraph 8(vi) of its application. Paragraph 8(vi) details the proposed test site to include "a 5m fallow area immediately surrounding the GMO trial, with a contiguous 12-row border of conventional non-GMO maize, which will be further surrounded by 2 m fallow area without any vegetative growth." If for argument sake, these risk management measures were to be successful in minimising the risk of pollen flow to non-transgenic maize plants, what would be the situation once the GM maize GA 21 was to be authorised for commercial growing? Once these seeds are sold on the open market, the Department of Agriculture will have no way of monitoring each and every plot of GM maize being grown to ensure that similar measures are taken to prevent the inevitable contamination? This points to several issues: the ludicrous nature of 'field trials' as is currently being regulated in South Africa and the inherent nature of GM maize: it will inevitably contaminate other non-GM varieties once it is out there in the open!

4 Recommendations

It is incumbent upon the EC to put in place a general moratorium on all future GM releases, and conduct several important studies, not the least of which is to assess the overall constitutionality of GM based agriculture, taking into account:

- the lack of adequate biosafety measure to protect and promote agro-ecological, organic farming, land races and biodiversity;

- the lack of hard biosafety data that records the extent of the contamination of maize, especially of landraces in South Africa;

- the disputed data regarding the benefits of GM based technology for small holder black farmers in South Africa and weigh this against the benefits that have accrued to large scale commercial farmers, the developers/patent holders and other corporate agribusiness players involved;

- put in place, a range of measure to protect agro-ecological and organic farming, land races and biodiversity at the policy, institutional and fiscal level and

- conduct testing in the fields of South Africa where GM maize is not grown/has never been grown, as well as in ecologically sensitive zones to assess the extent of the contamination and begin an extensive decontamination exercise, coupled with a strategy for adequate redress to affected communities.

Furthermore, there is an urgent need for government to appoint an independent panel of experts to investigate the impact the commercial growing of GM herbicide tolerant maize on the agricultural sector in South Africa, paying particular attention to its impact on labour and the extent to which it has exacerbated poverty in South Africa.

5 REFERENCES

[1] Corporations Battle South African Farmers over Pesticides, PANNA Outlook August 1990 http://www.panna.org/resources/pestis/PESTIS.burst.300.html
[2] See GM Contamination Register at http://www.gmcontaminationregister.org
[3] Marnus Gouse, Jennifer Piesse and Colin Thirtle Output and Labour Effects on GM maize and Minimum Tillage in a Communal Area of Kwa-Zulu Natal Journal of Development Perspectives Volume 2:2.