



MAKE INFORMATION ON GMOS AVAILABLE!

CALL TO GOVERNMENT TO COMPLY WITH NATIONAL AND INTERNATIONAL LAW

South Africa

African Centre for Biosafety (ACB)

11 June 2009

Dear Friends

Access to state-held information about genetically modified organisms (GMOs) continues to be notoriously difficult and lack of information thwarts the public's ability to engage meaningfully in decision-making around GMOs to assert our rights. The South African government is currently in contravention of both national and international law by withholding information that should be in the public domain. The recent judgement handed down in the Biowatch court case has affirmed our Constitutional right to be informed.

We request your support for 2 letters that we have written to the Minister of Agriculture regarding access to information on GMOs; you can view our letters at:

<http://www.biosafetyafrica.org.za/index.php/20090611229/South-African-government-non-compliance-with-national-and-international-law-on-access-to-information/menu-id-100026.html>

Please write to the Minister of Agriculture, Fisheries and Forestry, Tina Joemat Pieterse, to support our call and to voice your views and fax your letter to her on (012) 321 8558.

Background

In February of this year the ACB wrote to the Minister of Agriculture and Land Affairs about South Africa's non-compliance with international law regarding information sharing on GMOs. We have written a second letter now that a new Minister has been installed, and also in the light of the judgement handed down by the Constitutional Court in the case between Biowatch and the Registrar for Genetic Resources on 3 June 2009.

Non-Compliance with international law – The Biosafety Clearing House (BCH)

South Africa has been a Party to the United Nations Cartagena Protocol on Biosafety since 2003. Under this Protocol, Parties are obliged to post certain information, such as decisions and risk assessments, to an international website called the Biosafety Clearing House. Although South Africa has granted well over 2000 permits since 1997, it is yet to post a single risk assessment to the site. A mere 18 records appear on the South African country profile. This is in contravention to international law. (Further detail is contained in our letter of 9 February 2009)

Non-Compliance with Constitutional Court Judgement

South Africans are left in the dark about what GMO information is held by the state because that information is not being posted to the BCH. A unanimous judgement handed down on 3

June 2009 by 11 Constitutional judges in Biowatch vs the Registrar of Genetic Resources showed that this is in contravention of our national law.

The judgement established that it is the State's duty to act in the public interest and to be seen to act transparently by sticking to the objectives of the Constitution and PAIA. This is especially the case when issues are highly contentious, as is the case with GMOs. The court held that "the root cause of the dispute was the obduracy of the state officials' refusal to supply information that they were duty-bound to give."

Implementation of NEAF's Recommendations

In 2007, the National Environmental Advisory Forum (NEAF) - a body set up to advise the Minister of Environmental Affairs and Tourism- commissioned a study on public participation in GMO decision making in South Africa. They found that current provisions in the Genetically Modified Organisms Act (15) of 1997 are inadequate, unfair and not in accordance with the South African Constitution. The NEAF recommended that the public participation procedures in their GMO Act be reviewed. (Information on the Biowatch judgement and NEAF recommendations is contained in our letter of 5 June 2009)

OUR CALL TO THE MINISTER

In light of the aforementioned, the African Centre for Biosafety has asked that the Minister of Agriculture, Fisheries and Forestry:

- i) ensure that the obligation under the Cartagena Protocol to make information available through the Biosafety Clearing House is met within 30 days of receiving our letter, failing which ACB will lay a complaint with the Compliance Committee set up by the Protocol.
- ii) takes measures to implement the NEAF's recommendations on public participation within the GMO Act, set a time frame for this to take place and inform the public of what has been done; and
- iii) directs the officials in the department of agriculture to put in place measures to effectively perform their duty to act in the public interest and facilitate access to information that is in the public domain.

Please go to www.biosafetyafrica.org.za for further information and send the Minister a letter to support the ACB's call.

Thank You!

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