

# **UPDATE FROM THE AFRICAN CENTRE FOR BIOSAFETY**

## **STATUS OF DE FACTO MORATOIUM ON GM COMMODITY CLEARANCE/IMPORT APPLICATIONS IN SA**

December 2009

The South African government has granted a large number of commodity import permits over the years, enabling millions of tons of GM maize, soya and canola to be imported into South Africa. However, during September/October 2005, the Department of Trade and Industry (DTI), a member of the Executive Council (EC): GMO Act, raised several concerns about price distortions involving GM maize and its concomitant negative impact on South Africa's trade in maize and maize products.<sup>i</sup> These concerns prompted the EC to take a decision not to grant any permits for applications involving new GM varieties, pending the outcome of investigations.

The African Centre for Biosafety (ACB) has no knowledge of the extent of these investigations but has been able to ascertain that at least one study was conducted by the DTI itself. The minutes of the EC's meetings reveal that the DTI study has been available since March 2007,<sup>ii</sup> and that the DTI's World Trade Organisation desk has been involved in the process since October of the same year.<sup>iii</sup> The DTI report has not been placed in the public domain. The ACB's numerous attempts to obtain the report have fallen on deaf ears. ACB's formal application for access to information has been refused by the Department of Agriculture, forestry and fisheries (DAFF), on the grounds that the study is unavailable to the general public as it "contains sensitive commercial information."<sup>iv</sup>

Nevertheless, in the interim a steady stream of commodity import applications for GM maize continue to be lodged with the EC; including several stacked varieties, as well as an application by Bayer for approval of GM rice LL62. See annexure 1 below.

The only way in which the ACB is able to obtain any information is through the minutes of meetings of the EC. These are often posted on DAFF's website several good months after the actual meeting had already taken place. Recent minutes indicate that the commodity import applications placed on hold had begun to be processed almost as if in anticipation of the lifting of the moratorium.

When questioned by the ACB, industry<sup>v</sup> appears to be unaware when its outstanding applications would be finalized. Nevertheless, we have been advised by the Registrar: GMO Act that these applications had already been reviewed and tabled at EC meetings and final decisions are pending decision making by the EC on the commodity clearance question.<sup>vi</sup>

Unfortunately to date, the minutes from the EC meetings held on the 1<sup>st</sup> September and 27<sup>th</sup> October<sup>vii</sup> have yet to be posted by DAFF, making it extremely difficult to follow the decision making process.

In the meanwhile, the DTI report remains firmly under-wraps.

Annexure 1: Commodity Clearance applications on hold

<b>Date of ACB objection</b>	<b>Organism</b>	<b>Type</b>	<b>Applicant</b>	<b>Application</b>	<b>EC decision</b>
07-Aug-2004	GM Maize	MON863 and MON863 x MON810	Monsanto	Commodity import	On hold
08-Mar-2005	GM Maize	59122	Pioneer Hi-Bred SA, Dow Agrosience Southern Africa	Commodity Clearance	On hold
18-Apr-2005	GM Maize	1507 x 59122 (Herculex XTRA)	Pioneer Hi-Bred SA, Dow Agrosience Southern Africa	Commodity Clearance	On hold
27-May-2005	GM Maize	MIR 604	Syngenta	Commodity Clearance	On hold
02-Sep-2005	GM Maize	59122 x NK603	Pioneer Hi-Bred SA	Commodity Clearance	On hold
16-Jun-2006	GM Rice	LLRICE62	Bayer Cropscience	Commodity Clearance	On hold
Aug-2006	GM Maize	NK603 x MON863 x MON810	Monsanto	Commodity Clearance	On hold

Annexure 2. Correspondence between the African Centre for Biosafety and Marion Van Rooyen senior administration officer, office of director general, department of agriculture, forestry and fisheries.

21/10/2009

Dear Gareth

I refer to your request for access to information in the abovementioned regard.

I have furthermore been advised by the Registrar that regarding your request for a copy of the study conducted by the DTI, and subsequently submitted to the Executive Council ,into the impact of the Genetically Modified Imports on The SA Economy the information is refused as it is regarded as being confidential in terms of section 37(1)(a) of the Act due, to the fact that the disclosure of the record would constitute an action for breach of a duty of confidence owed to a third party in terms of an agreement ;or

(b) the information was supplied in confidence by a third party-

(i) the disclosure of which could reasonably be expected to prejudice the future supply of similar information, or information from the same source: and

(ii) if it is in the public interest that similar information, or information from the same source, should continue to be supplied.

You may lodge an internal appeal against the refusal of access to the information within 60 days of the date of the email against payment of the required appeal fee and completion of the appeal form.

Yours sincerely

M. Van Rooyen on behalf of the Deputy Information Officer

- <sup>i</sup> Swanby, H (2008). **GMOs in South Africa: 2008 overview**. African Centre for Biosafety. Biosafety, biopiracy and biopolitics series. Booklet 11. Johannesburg
- <sup>ii</sup> EC minutes, 13<sup>th</sup> March 2007. Department of Agriculture, fisheries and food.
- <sup>iii</sup> EC minutes, 23<sup>rd</sup> October 2007. Department of Agriculture, fisheries and food.
- <sup>iv</sup> Personal communication, Marion Van Rooyen, senior administration officer, office of director general, department of agriculture, forestry and fisheries. 21/10/2009
- <sup>v</sup> Personal communication. Michelle Vosges, regulatory affairs specialist, Monsanto South Africa. 25/11/2009
- <sup>vi</sup> Personal communication, Gillian Christians, the registrar, GMO Act. Department of Agriculture, forestry and fisheries. 08/12/2009
- <sup>vii</sup> Meeting dates with regard to Executive council 2009. Department of Agriculture, forestry and fisheries. <http://www.daff.gov.za/> (accessed 03/12/2009)