

April 2004

## HANGING IN THE BALANCE: GE BATTLE IN BRAZIL

Half the world's soya is now Genetically Engineered (GE), and for several years Brazil has been the only major soya exporting country with a ban on GE soya. Consumers in Brazil and in the major markets for Brazilian soya remain strongly opposed to GE food. The previous government failed to act to prevent or punish illegal plantings of GE soya seeds smuggled across from Argentina. With the Lula government coming into power, hopes were high that this negligence would be reversed. Instead the new government seemingly caved in to Monsanto and GE farmers in Rio Grande do Sul, temporarily allowing GE soya. Will Brazil go down the GE route?

### History of the judicial moratorium

In 1998, Monsanto first won approval for its Roundup Ready soybeans from the Brazilian Government's biosafety board, the CTNBio. Following this approval, Greenpeace and the Brazilian Consumer Defense Institute (IDEC) filed a lawsuit in a lower federal court against Monsanto and the Government in 1998. This lawsuit was the start of the "judicial moratorium" on commercial releases in Brazil and it has kept GE plants off the market between 1998 and 2003<sup>1</sup>.

### 2003 - The turning point, empty promises of the new Government

The election program of the Government candidate Lula da Silva, entitled "Environment and quality of life", established the commitment to "assure the execution of a strategic environmental evaluation, as well as studies into the environmental impacts of GE crops and organisms" and to "establish integrated control mechanisms, inspection and repression of the clandestine and illegal plantations in the country". Once elected, President Lula appointed ministers with opposing positions on the GE issue. The Agriculture Minister Roberto Rodrigues supports the release of GE crops. The Environment Minister Marina Silva emphasises the need to protect the environment and to apply the precautionary principle before allowing the commercial release of GE crops.

Soon after the election, the Lula Government made two controversial decisions: permission for the commercial use of GE soya in food and feed and to allow Monsanto's GE soya to be grown on a temporary basis.

---

<sup>1</sup> Two federal court decisions were taken regarding GE organisms in Brazil:

- The first is specifically on the commercial release of RR soybeans. It is an injunction (ação cautelar) issued by a first-level Federal Court in Brasília in 1999, which was upheld by the second-level court of appeals (Regional Federal Court) in Brasília in June 2000. That injunction requires that at least an environmental impact study must be carried out and rules on GE-food labelling must be instated before any commercial release can be approved.
- The second decision is the sentence issued in June 2000 by the same first-level judge on the core suit brought by Greenpeace and IDEC against the government's attempt to release RR soybeans. It goes even further than the above-mentioned injunction, by requiring that the National Biosafety Commission (CTNBio) stop issuing any decisions at all on GE crop releases (not just RR soybeans), until the government institutes new rules for assessing human-health and environmental impacts, as well as creating rules for labelling.

In early 2003, just before the soya harvest, finding a solution for the illegally grown GE soya in Rio Grande do Sul became one of the central quarrels in the Government offices. The GE soya was smuggled from Argentina and was grown illegally primarily in Rio Grande do Sul. The Agriculture Ministry of the former Government of Fernando Henrique Cardoso did little to prevent the GE soya being illegally grown. The smuggling began in 1998. Few steps were taken to identify fields with illegal GE soya, so therefore it is not known exactly how much existed.

Strong pressure from Monsanto, the State Government of Rio Grande do Sul and farmers who had illegally planted the GE soya, forced the new Federal Government to address the issue. On 26th March 2003, the Federal Government, through the Provisional Measure (PM) 113, allowed the commercial use of the illegally grown GE soya in food, feed for the domestic and international market until January 2004. This decision contradicted the Government's election promises. This PM disrespected the legal decision by the federal courts and also the Federal Constitution that demands an Environmental Impact Assessment.

The Government ignored the strong concern expressed by more than 80 organisations<sup>2</sup> from civil society, social and environment movements, Brazilian consumers and the majority of the Brazilian farmers, who didn't plant GE soya.

The second PM was published in September 2003, this time allowing the cultivation of GE soya only for the 2003 planting season, and for the farmers who had saved GE seeds. The PM did not allow the commercialisation of GE seeds. Farmers growing GE seed had to sign a term of adjustment (TAC) notifying the Government about their GE planting. By early February, the Ministry of Agriculture had received notification from 81,612 farmers, who grow GE soya in Rio Grande do Sul.

A lawsuit has been filed by the "Federal Prosecutors" (Ministério Público in Brazil) in the Supreme Court claiming the law that allows the commercial planting of GE soya goes against the constitution. The court has not yet given a ruling.

Following the decision to allow the planting of GE soya, the State of Paraná, the second biggest producer of soya in the country, adopted a law that forbids the commercial growth of GE soya, and transport and shipment of GE soya in the state. Nevertheless, the State of Mato Grosso do Sul has taken legal action against the State of Paraná in the Supreme Court, and to date, there is a provisional decision from the court stating that the State of Paraná does not have the right to forbid GE soya. The State can appeal.

In June 2003 the Federal Government prepared a new Law Project on Biosafety, in order to modify the standards and procedures for the use and release of GE crops in Brazil. An inter-ministerial work group was created and, after five months of controversial discussion, the Executive adopted a proposal. The main elements of this new Biosafety law proposal were to have an evaluation of environmental and health aspects, that was separate from the evaluation of the biosafety commission.

---

<sup>2</sup> The documents given to authorities from this event can be found at [www.socid.org.br/transg/ameaca\\_transg.htm](http://www.socid.org.br/transg/ameaca_transg.htm)

After a series of modifications in the plenary assembly of the House of Representatives, the Law Project on Biosafety was approved in February, allowing risk assessment for research (field trials) to be done by the biosafety commission (CTNBio). The Law Project maintains the risk assessment for commercial releases cannot be done by the biosafety commission alone, but that a separate assessment should be done by the ministries in charge. Further this Law Project allows the planting and use of Monsanto's GE soya for another year (until the end of 2005), without the need of any environmental and health impact assessments.

The Law Project also needs approval from the senate, where it is being currently discussed; it is still unclear how the final law will look when finally adopted.

A central issue in political discussions on GE in Brazil are the requirements for food safety assessments and studies on the need for environmental licensing that requires an Environmental Impact Assessment.

### **Brazilian consumers' attitude and market reactions**

On March 26th 2004, the labelling decree entered into force. The decree, that regulates the consumers' right to information about GE foods and GE ingredients destined for human and animal consumption, was published in April 2003<sup>3</sup>. In accordance with the decree, all products that contain more than 1% of GE raw material must be packed, and sold with a specific label that displays the transgenic symbol prominently, along with the following phrases: "transgenic (product)", "produced with transgenic (raw material)" or "with transgenic (raw material)". However, the Government has still to implement a system of traceability, which would allow full enforcement of the law especially in relation to the labelling of oil and margarine.

Public attitude in Brazil is strongly against GE crops, a recent poll<sup>4</sup> shows that 92% of the public wants mandatory labelling, 74% prefer not to eat GE food, 73% are against the widespread production of GE food crops until uncertainty about the risks are clarified. Many retailers and food producers have reacted to consumers' concern and have made a commitment not to use GE ingredients in their brands. Among those are Carrefour, Pão de Açúcar, Sadia, Perdigão, Kraft, Unilever and Nestlé. For details see [www.greenpeace.org.br](http://www.greenpeace.org.br).

Greenpeace believes that no GE crops should be released into the environment because of the unpredictable nature of these organisms and the risk they pose to the environment and biodiversity.

Greenpeace demands that Brazil:

- fully implements the precautionary principle and insists on mandatory environmental and health impact assessment prior to allowing the release of GE crops.
- gives no extension to the commercial use of Monsanto's Roundup tolerant GE soya without EIA and HIA.
- implements and enforces strict labelling rules that ensure labelling from field-to-fork.
- implements a strict liability regime making GE crop producers fully responsible and accountable for any harm their product may cause to the environment, public health or to non-GE farmers.

---

<sup>3</sup> Decreto federal n. 4.680, of 23rd April 2003, and Portaria federal n. 2.658, of 18th December 2003

<sup>4</sup> IBOPE Opinião OPP231/2003