USDA Foreign Agricultural Service
GAIN Report
Global Agricultural Information Network

THIS REPORT CONTAINS ASSESSMENTS OF COMMODITY AND TRADE ISSUES MADE BY USDA STAFF AND NOT NECESSARILY STATEMENTS OF OFFICIAL U.S. GOVERNMENT POLICY

Required Report - public distribution

Date: 11/16/2016

GAIN Report Number:

Peru

Agricultural Biotechnology Annual

Annual

Approved By:
Kirsten Luxbacher
Prepared By:
Gaspar E. Nolte

Report Highlights:
Peru's 10 year moratorium on genetically improved crops remains in force. The Ministry of Environment tests conventional imported seed shipments upon arrival which has raised concerns from seed traders. According to industry contacts, the qualitative analysis is based on reactive strips which reportedly have a high risk of false positives. The Peruvian regulation has a zero tolerance for genetically engineered (GE) events in seeds. As a result, the detection of a GE event in seeds, including adventitious presence, results in step fines. Peru imports GE crops such as soybeans, corn and cotton; the United States is a major supplier of these commodities as are other South American suppliers.

Table of Contents:

Section I. Executive Summary:

Bilateral agricultural trade between the United States and Peru reached $3.0 billion in calendar year (CY) 2015, down 4 percent from the previous year. Peru exported a record $1.9 billion in food and agricultural products to the United States, while importing $1.1 billion of U.S. products. The major U.S. agricultural exports to Peru are bulk commodities such as corn ($303 million), cotton ($96 million) and wheat ($88 million). The U.S. exports of soybean meal and oil last year achieved a record-high of $84 million and $91 million respectively.

On December 9, 2011, Peru approved Law 29,811 establishing a ten-year moratorium on genetically modified organisms. The law designates the Ministry of Environment as the lead agency responsible for biotechnology. On November 14, 2012, Peru passed Supreme Decree 008-2012-MINAM establishing the implementing regulations for enforcing the moratorium on the planting of biotechnology crops. Peru failed to notify the WTO, alleging the measure was an environmental issue.

The Ministry of Environment is the main opponent to the adoption of biotechnology in Peru. The Ministry of Agriculture and Irrigation and its dependent agencies SENASA (Peru's sanitary and phytosanitary authority) and INIA (the National Agricultural Research Service) have a secondary regulatory enforcement and research role. The new implementing regulation does not define tolerances for adventitious presence of genetically engineered (GE) components in conventional planting seeds. Peru's biotechnology moratorium contemplates three exceptions: 1) laboratory research; 2) use in pharmaceuticals and veterinary products; and 3) use in food, animal feed and in food processing. The latter of these is required to go through a still undefined risk assessment process.

Biotechnology remains largely misunderstood by the general public. Anti-biotechnology groups are well-organized in Peru. FAS Lima orchestrates outreach and capacity building activities to inform government officials and the public of the benefits of biotechnology. FAS Lima's fiscal year (FY 2016) biotechnology strategy concentrates on providing regulatory and policy-making agencies with technical information on the latest developments in biotechnology.

On July 20, 2016, Peru signed Executive Decree N° 006-2016-MINAM with a procedure and plan for

surveillance and early detection of genetically engineered organisms. Peru's Ministries of Agriculture and Irrigation (MINAGRI), Environment (MINAM) and Production will enforce the ten year moratorium on biotechnology. On July 24, Peru listed specific commodities restricted under the biotechnology moratorium (Executive Decree N° 011-2016-MINAM). These regulations do not change any requirements for producers or importers, but operationalize the biotechnology moratorium and related legislation already in place in Peru. FAS Lima anticipates that these regulations will not significantly impact agriculture or trade.

The Ministry of Environment has begun testing some seed shipments upon arrival which has raised concerns from conventional seed traders. The analysis, using reactive strips, is only qualitative and reportedly has a high risk of producing false positives. Since the Peruvian regulation has a zero tolerance standard, the risk of adventitious presence and a steep fine is relatively high.

Section II. Plant & Animal Biotechnology

CHAPTER 1: PLANT BIOTECHNOLOGY

PART A: PRODUCTION AND TRADE

a. PRODUCT DEVELOPMENT: Peru's National Agricultural Innovation Institute (INIA) has been working in the laboratory on a genetically engineered (GE) virus-resistant papaya. However, INIA has not been able to test this variety in the field do to restrictions on planting GE crops in non-contained areas. Specific export crops in Peru such as papayas and mangoes could benefit from biotechnology, crops already commercialized in other countries. Crops for local consumption (e.g., corn, potatoes and cotton) could benefit as well from biotechnology, particularly from varieties that resist climate change conditions such as frost.

The International Potato Center (i.e., Centro Internacional de la Papa – CIP) successfully transferred a biotech (Bt) gene (that produces a toxin similar to that produced by the *Bacillus thuringiensis* bacteria) to a new potato variety. This Bt gene confers potato moth (i.e., *Phthorimaea operculella* - potato tuber moth) resistance. The Revolution Bt potato variety is naturally sterile, allaying fears of unintentional crossbreeding with native (conventional) varieties. CIP has not been able to release this variety into the market do to Peruvian regulations governing the application of agricultural biotechnology.

b. COMMERCIAL PRODUCTION: There is no commercial biotechnology cultivation in Peru. Concerns have been raised in Peru about excessive pesticide use, leading to increased (pest) resistance, environmental degradation and adverse health effects for growers and consumers, indicating GE crops could offer Peru benefits.

c. EXPORTS: None.

d. IMPORTS: Peru imports GE crops such as soybeans, corn and cotton. The country's major (GE) trade partners include Argentina, Bolivia, Paraguay and the United States. Peruvians utilize soybeans in animal feeds, direct consumption, and for processing into oil.

e. **FOOD AID RECIPIENT COUNTRIES:** Not applicable.

f. **TRADE BARRIERS:** To date, the biotechnology moratorium has not halted trade. However, the regulation poses a potential threat to conventional seed trade given the steep fines and the zero tolerance standard.

PART B: POLICY

a. **REGULATORY FRAMEWORK:** On December 9, 2011, Peru approved Law 29,811, establishing a ten-year moratorium on genetically modified organisms. The law designates the Ministry of Environment as the lead agency responsible for biotechnology. On November 14, 2012, Peru passed Supreme Decree 008-2012-MINAM establishing the implementing regulation for enforcing a ten-year moratorium on the planting of biotechnology crops. The Ministry of Environment has proposed declaring Peru "free of GMO products" to protect native production, as well as to promote the development of the organic and "natural" food product industries.

The Ministry of the Environment is supposed to coordinate policy issues with Peru's Technical Group on Biotechnology (which includes INIA, SENASA, and representatives from the Ministries of Agriculture and Health). The National Committee of Biological Diversity (CONABID) is the main discussion forum for biotechnology issues; participants include regulatory agencies, the private sector, academia and international organizations (e.g., the International Potato Center).

The Minister of Environment's Supreme Decree 008-2012-MINAM is aimed to develop a nationwide inventory of animals, plants, insects (target and non-target) and soil micro-organisms (fungi and bacteria) that could be affected by genetically engineered crops. This inventory also encompasses survey of organic farms and biodiversity areas. Government sources indicate that this survey is practically impossible to accomplish and lacks scientific justification. The regulation also lacks clear objectives and performance indicators to measure progress on building capabilities and developing infrastructure.

The implementing regulations do not define tolerances for adventitious presence of genetically engineered (GE) components in conventional planting seeds. Peru's biotechnology moratorium however contemplates three exceptions: 1) laboratory research; 2) use in pharmaceuticals and veterinary products; and 3) use in food, animal feed and in food processing. The latter of these are required to go through a still undefined risk assessment process.

Supreme Decree 008-2012-MINAM also requires that seed importers file an affidavit declaring that their imported seed does not contain GE content. SENASA is tasked with conducting random sampling and testing to enforce compliance. The regulation does not define sampling size or clarify sampling procedures or address adventitious presence, but imposes steep fines on importers found in violation. The seed importers argue that it is scientifically impossible to ensure zero GE material presence, particularly in corn and cotton seeds.

On March 14, 2015, the Environmental Oversight and Enforcement Office (known by its Spanish acronym OEFA) was appointed as the responsible agency for overseeing and enforcing the Moratorium of Genetically Engineered Organism. OEFA is a decentralized and financially independent agency

under the umbrella of the Ministry of Environment. On the same date, OEFA approved the fine scale for not complying with the moratorium. Fines will range from $62,000 to $1.2 million, but must not exceed 10 percent of the company's annual revenues.

While this implementing regulation assigns oversight and enforcement responsibilities to non-Ministry of the Environment agencies SUNAT (Customs), SENASA, INIA, and the Ministry of Production's Fisheries Institute (ITP), the regulation does not provide funding for these agencies. The regulation nonetheless requires that these agencies adapt their procedures and enter into compliance within 120 days of its publication.

The Ministry of Environment subsequently issued Resolution 191-2013-MINAM (July 4, 2013) listing the products that are restricted under the moratorium. These include live animals, fish and seeds.

On July 20 July 2016, Peru signed Executive Decree N° 006-2016-MINAM with a procedure and plan for surveillance and early detection of genetically engineered organisms, by which Peru's Ministries of Agriculture and Irrigation (MINAGRI), Environment (MINAM) and Production will enforce the ten year moratorium on biotechnology. On July 24, Peru listed specific commodities restricted under the biotechnology moratorium (Executive Decree N° 011-2016-MINAM). These regulations do not change any requirements for producers or importers, but operationalize the biotechnology moratorium and related legislation already in place in Peru. As a result, FAS Lima anticipates that these regulations will have little impact on agriculture or trade.

b. APPROVALS: Not applicable.

c. **STACKED EVENTS:** Not applicable.

d**. FIELD TESTING:** The Ministry of Environment on April 30, 2014, issued Ministerial Resolution 117-2014-MINAM – Sampling Guidelines for Detecting Genetically Engineered Crops in Non-Confined Areas. FAS Lima believes that this resolution will be difficult to implement and virtually impossible to enforce. The 10-day comment period falls short of international standards.

e. **INNOVATIVE BIOTECHNOLOGIES:** Not applicable.

f. **COEXISTENCE:** Not applicable.

g. **LABELING:** Article 37 of the Consumer Defense Code (March 2011) mandates the labeling of GE content products. The code's implementing regulation, which should be published within 180-days, is still pending after five years. Reportedly INDECOPI (Peru's consumer defense body) has encountered problems drafting a non-trade restrictive implementing regulation.

Industry sources say complaints focus on this restrictive law offering no practical benefits to consumers. In reality, over 30,000 GE content products exist in the Peruvian market. Sources indicate that labeling will neither improve food safety nor increase product quality. Some concerns the industry raise are related to:

- The requirement that a product's label declare each GE component. The industry maintains that

this will place an unnecessary, costly burden on processing companies. Companies will be required to analyze each production batch (analysis costs range between $500 and $800).

- Zero tolerance. Peru has yet to establish a threshold level of detection, nor has it clarified scientific and technical considerations for standards settings.

- Mandatory labeling in Spanish for domestic and imported products.

- Traceability is not considered, despite export country authorities approving the product and its inputs. Local processors may be unaware of GE-content of inputs being utilized.

- The regulation is a potential technical barrier to trade, especially if it applies solely to imported products.

- The government lacks the capability to enforce this regulation, as well as the resources and budget to trace every food chain input.

- Labels must detail the percentage of GE-content. Peruvian industry is not equipped to test every production input. Other countries that enforce mandatory labeling refer to final products and not to individual inputs.

Compliance with labeling requirements includes the verifiable description of production techniques and of all inputs. FAS Lima believes that this will raise questions as to what are the minimum requirements for a product to be considered genetically engineered. The industry argues it would make sense for INDECOPI to use the "may contain" statement.

h. **MONITORING AND TESTING.** In September 2016, the Ministry of Environment began testing conventional seed imports. The testing is done using reactive strips which are not very accurate since the test is event specific. This has caused some concern among seed importers who have raised it with the new administration.

The Ministry of Environment has also been monitoring corn production and has found some GM corn planted in northern Peru. Since the farms where GM corn was found are small and owned by poor

farmers, no action has been taken against them. The Ministry of Environment does not want to trigger a massive uproar since planting grain corn (GM) is a widespread practice.

i. **LOW-LEVEL PRESENCE POLICY (LLP):** Zero tolerance. However, the Ministry of Agriculture and Irrigation is working on a new regulation to establish an LLP of 2 percent.

j. **ADDITIONAL REQUIREMENTS:** Not applicable.

k. **INTELLECTUAL PROPERTY RIGHTS (IPR):** Not applicable.

l. **CARTEGENA PROTOCOL RATIFICATION:** Peru has signed and ratified the Cartagena Protocol on Biosafety. Peru's biotechnology moratorium however contradicts the protocol's risk management approach. Under the past administration, the Ministry of Environment was advocating signing the Nagoya-Kuala Lumpur supplementary Protocol on Liability.

m. **INTERNATIONAL TREATIES/ FORA:** Not applicable.

n. **RELATED ISSUES:** None.

PART C: MARKETING

a. **PUBLIC/PRIVATE OPINIONS:** Biotechnology is largely misunderstood by the general public, which has developed a negative opinion of GE products due to newspaper, NGO, and prominent Peruvian chefs' opposition to biotechnology.

b. **MARKET ACCEPTANCE/ STUDIES:** Labeling is the main marketing issue for biotechnology.

CHAPTER 2: ANIMAL BIOTECHNOLOGY

PART D: PRODUCTION AND TRADE

a. **PRODUCT DEVELOPMENT:** Not applicable.

b. **COMMERCIAL PRODUCTION:** None.

c. **EXPORTS:** None.

d. **IMPORTS:** None.

e. **TRADE BARRIERS:** None.

PART E: POLICY

a. **REGULATORY FRAMEWORK:** None.

b. **INNOVATIVE BIOTECHNOLOGIES:** None.

c. **LABELING AND TRACEABILITY:** None.

d. **INTELLECTUAL PROPERTY RIGHTS (IPR**): None.

e. **INTERNATIONAL TREATIES/FORA:** None.

f. **RELATED ISSUES:** None

PART F: MARKETING

a. **PUBLIC/PRIVATE OPINIONS:** None.

b. **MARKET ACCEPTANCE/ STUDIES:** None.

PART H: CAPACITY BUILDING AND OUTREACH

a. **ACTIVITIES:** None.

b. **STRATEGIES AND NEEDS:** Not applicable.