

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: 7/13/2015

GAIN Report Number:

Peru

Agricultural Biotechnology Annual

Annual

Approved By:

Casey Bean

Prepared By:

Gaspar E. Nolte

Report Highlights:

On December 9, 2011, President Humala approved Law 29,811, establishing a ten-year moratorium on genetically modified organisms. The law designates the Ministry of Environment, the main opponent to biotechnology development, as the lead agency for biotechnology. The 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. Peru has never notified the moratorium to the WTO.

Biotechnology remains largely misunderstood by the general public. Anti-biotechnology groups are well-organized and very vocal. Agricultural producers, the potential beneficiaries of biotechnology, have not articulated a position in support of biotech.

Section I. Executive Summary:

Bilateral agricultural trade between the United States and Peru was \$3.2 billion in calendar year (CY) 2014, up 39 percent from the previous year. Peru exported a record \$1.9 billion in food and agricultural products to the United States, while also importing a record \$1.3 billion of U.S. products. Major U.S. agricultural exports to Peru include bulk commodities such as wheat (\$146 million), corn (\$472 million), and cotton (\$130 million). While exports of soybeans and soybean meal came in at less than \$10 million in CY 2014, oil exports reached \$57 million and are now (January-April 2015) surpassing the \$60 million mark. U.S. agricultural trade interests primarily reside in supplying the country's poultry and livestock sectors' demand for corn and soybean meal.

President Ollanta Humala on December 9, 2011, 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. However, Peru has failed to notify the WTO, alleging it is an environmental issue.

The Ministry of Environment is the main opponent to biotechnology. The Ministry of Agriculture and Irrigation and its dependent agencies SENASA (Peru's sanitary and phytosanitary authority) and INIA (the National Agricultural Research Service) are relegated to a secondary regulatory enforcement and research role. The new implementing regulation fails to 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. FAS Lima actively orchestrates outreach and capacity building activities to better inform government officials and the public of the benefits of biotechnology. FAS Lima's fiscal year (FY 2015) biotechnology strategy concentrates on providing regulatory and policy-making agencies with technical information on the latest developments within biotechnology.

Section II. Plant Biotechnology

CHAPTER 1: PLANT BIOTECHNOLOGY

PART A: PRODUCTION AND TRADE

a. **PRODUCT DEVELOPMENT:** Peru's National Agricultural Innovation Institute (INIA) is working in the laboratory on a genetically engineered (GE) virus-resistant papaya. FAS Lima understands that with the recent approval of the Biosafety Protocol, INIA is now planning to run its first field trials. 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) can benefit as well from biotechnology.

The International Potato Center (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. This variety's release into the market is pending government approval; regulations governing the application of agricultural biotechnology have not yet been adopted.

b. COMMERCIAL PRODUCTION: There is no commercial biotechnology cultivation in Peru. Local farmers often use pesticides to combat potato tuber moth. 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.

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.

PART B: POLICY

- a. **REGULATORY FRAMEWORK:** President Ollanta Humala (2011-present) on December 9, 2011, 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 Environment Minister 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.

Although the Ministry of the Environment must coordinate policy issues with Peru's Technical Group on Biotechnology (which includes INIA, SENASA, and representatives from the Ministries of Agriculture and Health), there are reports the ministry bypasses this group. 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. INIA indicates that this survey is practically impossible to accomplish, as well as lacks a scientific justification. The regulation also fails to establish clear objectives and performance indicators to measure progress on building capabilities and developing infrastructure.

The implementing regulations fail to 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 it imposes crippling fines on importers found in violation. Importers complain 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), it fails to provide a budgetary funding source for these agencies. The regulation nonetheless still 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.

b. APPROVALS: Not applicable.

c. 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 is overly detailed, difficult to implement, and virtually impossible to enforce. The 10-day comment period failed to meet international standards.

d. STACKED EVENTS: Not applicable.

e. ADDITIONAL REQUIREMENTS: 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 a year and a half. Reportedly INDECOPI (Peru's consumer defense body) has encountered problems drafting a non-trade restrictive implementing regulation.

Complaints have been raised that this restrictive law offers no practical benefits to consumers. In reality, over 30,000 GE-content products exist in the Peruvian market. Expert sources indicate that labeling will neither improve food safety, nor increase product quality. Concerns raised by industry relate 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. TRADE BARRIERS: One of the Humala administration's first measures was to establish a moratorium on products derived from genetic engineering. Previously the Alan Garcia (2006-11) administration had argued that such a measure would be incompatible with Peru's international biotechnology commitments; potentially exposing the country to sanctions under multilateral trade agreement arrangements. Prior to the moratorium, Peru was fairly open to biotechnology. Proposed Law 12,033 – Law to Promote the Use of Modern Biotechnology in Peru was then awaiting discussion within the Congress.

i. INTELLECTUAL PROPERTY RIGHTS (IPR): Not applicable.

j. 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. The Ministry of Environment is currently advocating signing the Nagoya-Kuala

Lumpur supplementary Protocol on Liability.

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

l. **RELATED ISSUES:** None.

m. None.

n. **LOW-LEVEL PRESENCE POLICY (LLP):** Zero tolerance.

PART C: MARKETING

a. **MARKET ACCEPTANCE:** Not applicable.

b. **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.

c. **MARKETING STUDIES:** Labeling is the main marketing issue for biotechnology.

PART D: CAPACITY BUILDING AND OUTREACH

a. **ACTIVITIES:** U.S. Government\USDA-funded biotechnology capacity building and outreach activities include:

- FAS Lima cooperation with the Minister of Agriculture and his advisors in promoting a biotechnology friendly environment within the Government of Peru.
- FAS Lima cooperation with the Minister of Trade and his staff to ensure awareness of the commercial consequences associated with restricting GE trade.
- FAS Lima in 2015 is sponsoring international speakers from IFPRI and IICA to speak in three cities aiming at increasing local producers' awareness of biotechnology's economic and ecological benefits as well as addressing regulator's concerns.
- FAS Lima in 2014 organized nine biotechnology seminars for Peruvian policy makers, agricultural industry leaders, academia, and members of Congress.
- USDA in cooperation with CGIAR provides funds to the International Potato Center to undertake biotechnology research.

b. **STRATEGIES AND NEEDS:** FAS Lima continues to support outreach seminars, led by Latin American experts, in Peru's departments (i.e., provinces). These seminars target agricultural producers, regional authorities, agricultural professionals, and the press, providing accurate biotechnology information, otherwise absent in Peru.

CHAPTER 2: ANIMAL BIOTECHNOLOGY

PART E: PRODUCTION AND TRADE

- a. **PRODUCT DEVELOPMENT:** Not applicable.
- b. **COMMERCIAL PRODUCTION:** None.
- c. **EXPORTS:** None.
- d. **IMPORTS:** None.

PART F: POLICY

- a. **REGULATION:** None.
- b. **LABELING AND TRACEABILITY:** None.
- c. **TRADE BARRIERS:** None.
- d. **INTELLECTUAL PROPERTY RIGHTS (IPR):** None.
- e. **INTERNATIONAL TREATIES/FORA:** None.

PART G: MARKETING

- a. **MARKET ACCEPTANCE:** None.
- b. **PUBLIC/PRIVATE OPINIONS:** None.
- c. **MARKET STUDIES:** None.

PART H: CAPACITY BUILDING AND OUTREACH

- a. **ACTIVITIES:** None.
- b. **STRATEGIES AND NEEDS:** Not applicable.