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International trade and market access issues related to genetically modified organisms: a developing country perspective

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Introduction

We look at trade and market access issues related to the use of GMOs for food production and how they affect producers from developing countries.


1. Some definitions (re: biotechnology and GMOs);
2. current production and trading environment;
3. Consumer perceptions (demand impacts);
4. The regulatory and policy environment ;
5. Interaction of International Agreements; and
6. final comments for consideration



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Some definitions


- the United Nations Convention on Biological Diversity defines **biotechnology** as:
 - "Any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use."
- International treaties, guidelines and standards have defined:
 - The necessary set of techniques to produce genetically modified organisms (GMOs) as "modern biotechnology"
 - Examples include:
 - the Cartagena (BSP) Protocol on Bio-safety (2000) of the Convention for Biological Diversity;
 - the Principles for the Risk Analysis of Foods Derived From Modern Biotechnology (2003) of the Codex Alimentarius; and
 - the international standard for Pest Risk Analysis for Quarantine Pests; including Analysis of Environmental Risks and Living Modified Organisms (2004) of the Food and Agriculture Organisation.



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current production and trading environment

- The fact of the matter is adaptation of GMOs is increasing**
- Production statistics reveal an annual increasing of 10 percent or more land utilised for GM crop production;
 - In 2010, up to 148million hectares cultivated
 - More than 15 million farmers using GM crops
 - However, crops or varieties produced still limited to soy, maize, cotton and rapeseed (Canola)
 - The USA (64 million hectares), Brazil (21.4), Argentina (21.3), India (8.4) and Canada (8.2) are the top producing countries of GM crops (2009). South Africa currently allocated just above 2 million hectares for GM plants



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current production and trading environment

- **Global trade**
- Although agricultural commodities are imported by a large number of countries, their export—and the export of GM varieties of such commodities in particular—is limited to relatively few countries.
- These include the United States (with roughly 50 percent of all GM trade), Canada, Australia, Argentina, Brazil and China (these latter three countries account for almost 90 percent of all GM crops grown in developing countries).
- 30 countries with import approvals for GM crops, however, the bulk importers include the European Union (EU), Japan, Mexico, China, South Africa, and many other countries in the global South.
- The bulk of the GM foods traded internationally are unprocessed, the bulk of which are used for animal feeds, which are not subject to stringent regulatory requirements. FAO data shows that about 60 percent of GM foods traded are unprocessed.



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Consumer perceptions

Why uptake of GM foods for human consumption is slow?

- the issue at stake is about Food Safety.
- GM foods are artificial, unfamiliar products (even though biotechnology is widely adapted in food production) and GM foods may be related to future health risk.
- Therefore, when consumers are unable to adequately assess subjective health risks due to unfamiliarity, acceptance of these foods is seriously curtailed.
- Ensuring biosafety, or safe trade in GMOs, remains a controversial global risk governance challenge, one where the very existence of risk and harm remains contested.



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Consumer perceptions

- the widespread concern about the technology's health and environmental risks has overshadowed the technology's potential for creating foods enhanced for health benefits or increasing crop yields.
- With negative consumer perceptions of GM foods, the demand for such foods is low.
- Retailers have also become alert, to the extent that some have non-GM policies as a measure to strengthen their position by taking the consumer scepticism seriously.
- This has led producers to become cautious about adopting GM foods despite being aware of the potential for GM applications for increased efficiencies and new products.



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Consumer perceptions

- According to Eurobarometer polls, in recent years, there seems to be growing approval of use of GM technology more especially where benefits for consumers and for the environment can be linked to GMO products.
- Former EU Trade Commissioner Peter Mandelson, noted that *"Public fears may be misplaced, but they cannot and should not be dismissed. We ...need to do a better job of setting out the issues so that people are aware of the potential benefits of GM food ..."*



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trade-related regulations of GMOs

Some qualifications:

- We focus our review of policy to trade related regulations of GM food and exclude bio-safety regulations concerning the planting and environmental release of GM crops.
- The latter is only considered in instances whether such policies are likely to affect international trade.
- We define GM food as raw and processed products derived from GM crops and used for food and/or animal feed.
- Regulations considered here do not apply to non-food or non-feed products from GM crops (e.g. cotton fibers derived from GM cotton, or ornamental GM plants), simply because there are currently few or no trade related regulations for such products.



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trade-related regulations of GMOs

- concerns about the production and use of GM products have led to a heated and emotional debate about the structure and effectiveness of national food safety regulations and the appropriate role for international institutions.
- Trade related measures for GM foods usually include import licensing as well as marketing regulations.
- Whereas import approval measures directly affect market access, labelling and traceability requirements have an indirect effect in that they have add a cost implication to the exporters of GM products.
- Furthermore marketing regulations can also act as a deterrent of GM products versus non-GM products.



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trade-related regulations of GMOs

When reviewing the current regulatory environment at the macro level;

- we note that at one end, you find countries with clearly defined regulations; while
- at the other extreme end; you find countries with complete bans.
- For those with clearly defined regulatory frameworks, which is the case for most developed and to a certain extent emerging economies (e.g. Brazil, China, Russia), they can either have a comprehensive and stringent regulatory framework or have a more pragmatic regulatory approach.
- For the former, this is usually accompanied by mandatory food safety and labelling requirements while, for the later a voluntary process is applied.



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trade-related regulations of GMOs

International response to GMO's

- Main institutions or bodies that have been championing the drive to harmonise guidelines for the regulation of GM products internationally include:
 - The guidelines as contained in the Codex Alimentarius of the Codex Alimentarius Commission (CAC), and
 - the Cartagena Protocol on Biosafety (BSP) of the Convention for Biological Diversity.
- In addition, discussions over the regulation of agricultural biotechnology has arisen at the World Trade Organization (WTO) since the United States, Argentina and Canada launched a trade dispute against the alleged EU moratorium on approval of new GM crops in 2003.



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trade-related regulations of GMOs

Codex Alimentarius

- The Codex Alimentarius Commission (CAC) was created in 1963 by FAO and WHO to develop food standards, guidelines and related texts such as codes of practice under the Joint FAO/WHO Food Standards Programme.

Efforts to date

- The Codex Commission has been working on finding a common terminology, a common food safety approval procedure, and a common position on the labelling of GM food.
- To date the CAC has published guidelines for the safety assessment of GM food, but failed to reach any agreement on the issue of GM food labelling.



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trade-related regulations of GMOs

The Cartagena Bio-safety Protocol (BSP)

- is an international treaty governing the movements of living modified organisms (LMOs) resulting from modern biotechnology from one country to another.
- adopted in 2000 as a supplementary agreement to the Convention on Biological Diversity and entered into force in September 2003.

Efforts to date

- The BSP has managed to develop an advance informed agreement (AIA) procedure for ensuring that countries are provided with the information necessary to make informed decisions before agreeing to the import of such organisms into their territory.
- The Protocol also established a Bio-safety Clearing-House to facilitate the exchange of information on LMOs and to assist countries in the implementation of the Protocol.



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trade-related regulations of GMOs

World Trade Organisation

- The origin of the WTO lies in the General Agreement on Tariffs and Trade (GATT) 1947, which for almost fifty years was the international institution for trade.
- Its Agreement are binding and based on mutual agreement, reciprocity, non-discrimination and transparency.
- the WTO has no mandate on GM food regulation.
- However, because many countries have adopted different domestic regulations on the approval and the marketing of GM food, the WTO through its Dispute Settlement Body (DSB) can act as arbitrator in the absence of international consensus and standards to resolve trade disputes among members.



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trade-related regulations of GMOs

- According to the WTO, several WTO agreements could apply to the GM foods, including:
 - the Sanitary and Phytosanitary Measures (SPS) Agreement,
 - the Technical Barriers to Trade (TBT) Agreement,
 - the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) and
 - the General Agreement on Tariffs and Trade (GATT) itself.



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trade-related regulations of GMOs

Interaction of International Agreements

- With reference to market access, we note that the WTO, which is the internationally recognised institution dealing with international trade plays a significant role in determining the legality of GM food regulations.
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- This is especially the case if both parties to the dispute are WTO members (the bulk of developing countries and most developed countries are members). Thus any dispute decisions taken at the WTO will set a precedent in shaping developing countries' regulatory frameworks.
- that the SPS and TBT Agreements are at the centre of question of the legality of GM food regulations.

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trade-related regulations of GMOs

Interaction of International Agreements

- The fact that the Codex Alimentarius is recognised as reference standards by WTO may affect international trade.
- This is because countries are obliged to use these standards as they have been incorporated as part of the SPS and could potentially have an impact on dispute settlement proceedings
- Whereas with regards to the Bio-safety Protocol, the question that has been raised is whether the BSP can prevail in a WTO trade dispute?
two possibilities depending on the countries involved in the dispute:
 - if both countries are WTO and BSP members, the BSP will rule; or
 - if one country is a non-party to the BSP and the other is a party to the BSP, the WTO and SPS agreement will rule, and will not recognize the BSP.

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Final thoughts

For producers in developing countries, several lessons can be learnt from these global developments.

- Firstly, it is important to note that importing countries have different policies with respect to the importation of GM products. Approval however, does not simultaneously occur in all countries. It is therefore imperative to gather the necessary information for approval process to avoid goods being rejected.
- Secondly, as countries continue to develop import regulations of GM products, SACAU members should follow development in their own countries closely and notify other members of these policy developments. This will necessity easy and quick access to information that may affect production decisions.
- And finally, producers must work closely with government to encourage the use of low level presence policies in importing countries for GM products that have received approval in at least one country but not in the country of import. This will go a long way in enhancing market access of GM products.

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