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Mexico

Sanitary/Phytosanitary/Food Safety

New Sanctions Imposed on GMOs

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Report Highlights:

On February 6, 2001, the Interior Ministry (Secretaria de Gobernacion) published a modification to the existing Federal Penal Code in which anyone engaged in the introduction, commercialization, transportation, storage or release into the environment of any genetically modified organism would be subject to severe penalties. However, enforcement of this new measure is considered to be weak, as certain strict conditions must be met before such penalties can be imposed.

Includes PSD changes: No
Includes Trade Matrix: No
Unscheduled Report
Mexico [MX1], MX

Introduction: This report summarizes the modification to the Federal Code, published in Mexico's "Diario Oficial" (Federal Register) on February 6, 2002

Disclaimer: This summary is based on a *cursory* review of the subject announcement and therefore should not, under any circumstances, be viewed as a definitive reading of the regulation in question, or of its implications for U.S. agricultural export trade interests. In the event of a discrepancy or discrepancies between this summary and the complete regulation or announcement as published in Spanish, the latter shall prevail.

Title: Decree to amend the Federal Penal Code and Federal Penal Proceedings Code.

FAS/Mexico's Executive Summary: The Interior Ministry (Secretaria de Gobernacion) announced a modification to the Federal Penal Code, effective February 7, 2002, which penalizes all parties who import transgenic crops and/or introduce them into the environment. Punishment includes imprisonment from anywhere from one to nine years and a fine from 300 to 3,000 times the minimum daily wage for anyone who introduces, commercializes, transports, stores, or releases to the environment any genetically modified organism. The relevant part of the decree, Article 420, states that this punishment will be imposed on anyone who, in violation of previously established applicable regulations, introduces, commercializes, transports, stores, or releases into the environment any genetically modified organism that negatively alters or could negatively alter the components, structure, or function of natural ecosystems.

However, Mexican government enforcement of this law may prove difficult. Government contacts note that the following criteria need to be met before such penalties can be imposed:

- C that there has been a violation of previously established applicable regulations (see below, "Other Regulations Involved")
- C that the alleged offender of this new measure did so knowing beforehand that a) it would or could negatively alter the natural ecosystem; and b) that it would be a crime to do so.
- C that scientific proof is needed of the GMO's negative impact or potential negative impact on the natural ecosystem, and that such proof needs to be in the form of scientific studies.
- C that any judge considering such a case will need advice from a scientific panel

In addition, any party falsely accusing another of violating this new measure will be subject to legal sanctions.

Trade Concerns: This modified law has the potential to impact more than \$1.7 billion in U.S. exports of corn and soybeans. However, a preliminary assessment of this new measure indicates that enforcement of this law will be difficult. Nevertheless, the introduction of this new measure may feed popular misconceptions about the danger of GMOs.

Additional Information: The penal code modifications were proposed by the environmental enforcement ministry, "Procuraduria Federal de Proteccion al Ambiente" (PROFEPA), an agency within the Secretariat de Environment and Natural Resources (SEMARNAT) and were transmitted to Congress for approval. Congress approved the modifications on December 27, 2001, and it was published in the Diario Oficial on February 6, 2002. SEMARNAT has been concerned over the potential effect transgenic crops, and in particular, transgenic corn, will have on Mexico's biodiversity. Mexico is the center of origin for corn and there have been reports recently that transgenic corn from the United States has crossed over into native Mexican varieties.

Type of Regulation: Final

Background: This regulation is a modification of the Federal Penal Code.

Agency in Charge: Secretaría de Gobernacion (Interior Ministry)

Important Dates:

1. Publication Date: February 6, 2002

2. Start of Public Comment Period: None, modification of the Federal Penal Code.

3. Implementation Date: February 7, 2002

4. Other Regulations Involved: To apply this regulation the following official regulations should be considered.

- General Health Law, chapter 12 BIS. Biotech Products, Articles 282 Bis 1 and 282 Bis 2
- Federal Plant Health Law, articles 5 and 43
- Law of the Production, Certification, and Trade of Seed: Article 3, part VII; Article 5; Article 16, Part IV.
- Federal Law on Plant Varieties: Article 2, Parts IV and V; Article 4, parts I and II; Article 5, part I.
- General Law of Ecological Balance and Environmental Protection, Articles 3, 28 and 82
- Regulation of Sanitary Control of Goods and Services (supports the General Health Law): Article 1, Part XVI; plus articles 164,165,166, 167 in their entirety.
- Regulation of the General Law of Ecological Balance and Environmental Protection related to evaluation and environmental impact: Article 5.

- Official Mexican Standard NOM-056-Fito-1995, "Phytosanitary Requirements for the Movement within Mexico, Importation, and Establishment of Field Trials of Organisms Manipulated Using Genetic Engineering."

– Regulation of the Law of General Health regarding advertising and publicity: Articles 70 and 71

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FAS Mexico Web Site: We are available at <http://www.atomexico.gob.mx> or visit our headquarter's home page at <http://www.fas.usda.gov> for a complete selection of FAS' worldwide agricultural reporting.

Useful Mexican Web Sites: Mexico's equivalent of the Department of Agriculture (SAGARPA) can be found at www.sagar.gob.mx and Mexico's equivalent of the Department of Commerce (SE) can be found at www.se.gob.mx These web sites are mentioned for the readers' convenience but USDA does NOT in any way endorse, guarantee the accuracy of, or necessarily concur with the information contained on the mentioned sites.