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Planting Seeds

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Report Highlights:

On March 27, 2002, the Brazilian Government published Normative Instruction 34, which requires Pest Risk Assessments for all species from every country of origin within 180 days. The only exceptions for the United States are the seeds listed in Normative Instruction 4.

Includes PSD changes: No
Includes Trade Matrix: No
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ECONOMIC SITUATION

The economic stabilization program known as the Real Plan was the centerpiece of the first Cardoso Administration and was initiated in 1994. The plan was highly successful in reducing long standing inflation by essentially pegging a new currency, the Real, to the U.S. dollar. The plan also inaugurated one of the world's largest privatization programs with revenues to date from the sale of state-owned enterprises of some US\$90 billion. However, success came at a high price - high real interest rates, a growing dependence on external finance, and slowing growth and high employment. The Government also failed to get its fiscal accounts in order, which left Brazil vulnerable to external shocks.

Brazil has been implementing a fiscal stabilization program that was devised following the Russian debt default in August 1998 which undermined all emerging economies. The program was revised after the country was forced to switch to a floating exchange rate regime and devaluation in January 1999. The main features of the program are adherence to fiscal and monetary targets set in conjunction with the International Monetary Fund's US\$42 billion assistance package and implementation of a number of structural fiscal measures. These include administrative, tax and social security reforms, and passage of a Fiscal Responsibility Law meant to ensure budgetary discipline at all levels and branches of government.

Brazil switched to a floating exchange rate system at the beginning of 1999 and withstood remarkably well a 60 percent depreciation against the U.S. dollar. The GDP grew only 1.5 percent in 2001, with consumer inflation at 7.7 percent, due to the effects of the Argentine economic crisis, energy rationing, and the impact of September 11. Economic growth and inflation in 2002 are forecast at 2 percent and 5.5 percent, respectively.

Devaluation in 1999 and further weakening of the Real has had mixed effects on the farm sector. The cost of production has increased due to the higher cost of imported inputs, such as fuel (and thus harvest and transportation costs), any imported seeds, fertilizers, herbicides, and pesticides. Devaluation also increased the cost of imported commodities, and imports of higher-value products decreased proportionally more than basic products. However, export sectors, such as the soybean and poultry meat, have become more competitive.

Brazil has emerged as leader in international affairs based on its strong position economically in South America and among its MERCOSUL partners. In terms of general and agricultural trade, Brazil will be an important player in the World Trade Organization and the Free Trade Area of the Americas negotiations. Their Foreign Ministry, highly professional and experienced, takes the lead on all trade negotiations. With the shift away from support and subsidies for agricultural producers in Brazil, Government officials have been extremely active and vocal during the past year, indicating that agricultural trade and market access must be on the agendas of the WTO and FTAA negotiations.

Brazil's two-way global trade in 2001 totaled nearly \$114 billion, up 2.5 percent from 2000; the U.S. accounts for 25 percent of Brazil's trade (commercial aircraft, shoes, transmissions, and steel products). U.S. exports to Brazil are primarily capital goods (integrated circuits, turbo engines, computers, and transmission/receptor devices). Brazil registered a \$2.6 billion global trade surplus in 2001, and an impressive \$15 billion surplus in agricultural trade. While the agricultural sector accounts for only 13 percent of Brazil's Gross Domestic Product, agricultural exports represent nearly 30 percent of Brazil's total exports. Total Brazilian agricultural exports in CY2001 reached US\$19 billion, while Brazilian agricultural imports were only US\$3.7 billion. Brazil's agricultural exports to the United States are nearly 8 times higher than U.S. agricultural exports to Brazil. Primary U.S. agricultural exports to Brazil (CY2001=\$232 million) include beverage bases, feeds,

wheat, dairy products, live animals, processed fruit and vegetables and juices, hides and skins, planting seeds, and pet foods. Primary Brazilian agricultural exports to the United States (CY2001 = \$1.8 billion) include tobacco, coffee, panel products, lumber, tree nuts, red meats (prep/pres), fruit and vegetable juices, raw cane sugar, shrimp, and lobster.

PRODUCTION

Market Channels and Facilities

According to the Associação Brasileira dos Produtores de Sementes (ABRASEM; in English, the Brazilian Association of Seed Producers), there are currently eight state Seed Associations of seed producers which are members of the National Association (working South to North, the eight states that have associations are: Rio Grande do Sul (RS), Santa Catarina (SC), Paraná (PR), Mato Grosso do Sul (MS), São Paulo (SP), Mato Grosso (MT), Goiás (GO), and Minas Gerais (MG). These states in the Center-South Region account for much of the agricultural activity in the country. In the remainder of the states, agriculture is generally at a lower level of development and technology.

The following table shows the structure of the Brazilian seed sector included in the ABRASEM membership.

	1999	2000	2001
Association Members/Growers	688	469	462
Processing units	1,330	937	780
Processing capacity (mt/day)	98,844	92,300	89,000
Seed storage units	1,757	1,180	965
Total storage capacity (mt)	4,956,483	4,300,020	3,800,020
Quality Control Laboratories	208	222	231

Source: ABRASEM

Technology use has been increasing since the opening of the Brazilian economy in about 1990, and has intensified since the 1994 economic stabilization plan, known as the "Real Plan." Brazilian farmers must become more efficient due to increased competition. Therefore, farmers are planting a greater percentage with improved seeds, especially in the Center-South Regions where agricultural production is more commercial and technologically-advanced.

The following table shows the production of improved seed for 98/99 and 99/00 and for selected crops, the planted area, and the demand for improved seeds. ABRASEM considers total seed use in Brazil as the "potential" demand for improved seed and the current use of improved seed to be the "effective" demand for improved seed.

Brazilian Use of Improved Seed for Selected Crops

Species	99/00 Seed Production	98/99 Seed Production	Planted Area	Potential Demand for Improved Seed	Effective Demand for Improved Seed	Level of Utilization of Improved Seed	Avg. Qty of kg/ha
Wheat	211,997	211,305	1,403,379	204,121	185,411	91 %	145
Soybeans	794,954	961,752	12,449,044	873,078	650,888	75 %	70
Corn	176,776	169,808	9,580,267	177,901	140,310	79 %	19
Cotton	14,741	13,406	572,323	9,401	6,733	72 %	16
Rice	162,892	128,862	2,242,514	250,703	116,895	47 %	112
Dry Edible Beans	14,498	23,621	1,806,530	106,539	19,289	18 %	59
TOTAL	1,375,858	1,508,754	28,054,057	1,621,742	1,119,526		

Source: ABRASEM

(Production and Seed Demand in metric tons, Area in hectares, Level of Improved Seed Use in Percent)

In addition to the private sector Associations, the Empresa Brasileira de Pesquisa Agropecuaria (EMBRAPA; in English the Brazilian Agricultural Research Company), a quasi-governmental agency within the Brazilian Ministry of Agriculture also is a large producer and seller of seeds. EMBRAPA's counterpart in the United States would be USDA's Agricultural Research Service (ARS). Partially as a result of the passage of the "Cultivar Law" (Intellectual Property Protection) in April 1997, an increasing number of multinationals have entered the Brazilian plant breeding and improvement sector.

POLICY

General Agricultural Policy

The Government's role in agriculture has been changing since the implementation of the Real Plan in 1994. Prior to the Plan, the Government was a major buyer, distributor, and seller of agricultural commodities (particularly in the grain sector). The government has gradually removed itself from direct management of markets and has let the market drive producer decisions to a greater degree. While the government has implemented some programs to facilitate the marketing of some major crops, intervention has been diminishing. This has increased the economic incentives to increase yields and invest in better quality seeds.

Planting Seed Production Policy

Direct government programs in the seed sector consist of research and development of new seed varieties appropriate for Brazilian growing conditions, seed production and the marketing of seed directly to producers, production credit, seed certification and surveillance, and education and training of seed producers. EMBRAPA is an important producer and distributor of foundation seed (particularly for cotton, rice, dry beans, corn, potatoes, and soybeans). Although there has been greater private investment in the seed sector following the passage of the Cultivar Law in April 1997, EMBRAPA is still responsible for a large portion of the market for foundation seeds. EMBRAPA also sells commercial seed directly to seed producers, cooperatives, farmers, and state governments. To some extent, EMBRAPA competes with private industry for some types of seeds.

EMBRAPA is also responsible for approving import permits and, until December 1999, controlled all quarantine of imported seed. Normative Instruction 16/99, "Quarantine Centers," extends quarantine responsibility to the individual states. Although EMBRAPA remains the principal quarantine center, states may now opt for alternative sites. This law was enacted to alleviate complaints of limited quarantine space and lengthy waiting times for clearance of quarantined seed.

Seed Certification and Variety Approval

Under Brazil's basic Seed Law there are two officially recognized classes of seeds, certified and surveyed. The two systems are quite similar and produce generally the same quality of seed, and differ primarily by the level of official oversight over the production process. Certified seed is produced with a greater degree of outside oversight and thus a higher level of quarantine associated with the quality of the seed. Certified seed must be produced from basic or other certified seeds. The number of generations away from pure parent stock seeds from which the certified seeds can be produced is limited. This seed is certified by some entity (can be public or private) outside of the company producing the seed. On the other hand, surveyed seed can be produced from other surveyed seed and there is no limit to generations as long as the seeds produced fall within certain quality and identity norms. Surveyed seed is produced under the surveillance of the producer's responsible technician. Due to the additional costs and guarantees associated with certified seed, its cost is higher than surveyed seed.

Prior to December 31, 1997, the Brazilian government tested and determined what seed varieties would be allowed to be sold within Brazil. However, this procedure was revised in order to facilitate harmonization within MERCOSUL, resulting in a more market-based approach to the seed business. Directive (Portaria) 527/97 published on Jan. 7, 1998 amended the basic Seed Law and established a National Registry of Cultivars (RNC) which has the responsibility of establishing the criteria by which varieties could be officially registered on a national list. In order for a variety to be registered it must meet certain minimum requirements for the determination of its "Cultivation and Use Value" (VCU). Directive 294/98 of October 14, 1998 is the first implementing legislation of Dir. 527/97 and established the minimum requirements of the VCU for eight (8) commodities (cotton, rice, potatoes, dry beans, corn, soybeans, sorghum, and wheat). It also contains prototype copies of the official forms to request the inclusion of a variety in the National Cultivar Registry. This is a separate and distinct process from the Cultivar Law which is Intellectual Property Rights legislation.

On April 5, 2000, the Government published Normative Instruction 6/00, which requires Phytosanitary Certification of Origin (CFO). The new regulation requires testing and certification of pests and diseases in fields producing foundation seed. The farms must have certification stating the pests and diseases present and the treatment applied to combat them.

Intellectual Property Rights - Plant Variety Protection

The Cultivar Law, (Law 9,456/97) was published on April 28, 1997. Until then, companies that produced or sold seeds had no legal protection and didn't receive any royalties for investing in research and development of new seed types. The Brazilian government, via EMBRAPA, was the major developer of many varieties of seeds. Without any intellectual property protection, domestic companies invested less in research and development of new seed varieties. In addition, foreign companies were more reluctant to release varieties that they had developed because of the fear of having their products become part of the "public domain" in Brazil with no recourse to recoup the expenses of developing these varieties. As a result of the Cultivar Law there has been greater investment in the sector.

The first implementing legislation of the Cultivar Law, Decree 2,366/97, was published on November 7, 1997. It describes the procedure by which plant varieties can obtain intellectual property rights through a Cultivar Protection Certificate, including specific morphological, physical, biochemical, or molecular descriptors that identify the variety as unique.

In December 1997, the majority of the seed producing entities in Brazil, both domestic and multinational, private and governmental, formed the Brazilian Association of Plant Breeding Companies (BRASPOV) as an industry wide effort to enforce the provisions of the Cultivar Law and insure their intellectual property rights in the seed sector. The stated goals of BRASPOV are to 1) protect the rights and defend the interests of its members, 2) assure the application and improvement of the current legislation, where illegal practices on production and marketing can be controlled, 3) collaborate with public and private companies with similar interests, 4) promote professional ethics on plant breeding issues, and 5) provide technical, judicial (legal) and administrative assistance and representation of its members in official and private institutions, at regional, national or international levels.

PLANT HEALTH REGULATIONS

A substantial number of "shipment stuck on the dock" problems in the seed sector have been problems with shipments that arrive in Brazil with a USDA/Animal and Plant Health Inspection Service (APHIS) *re*-export certificate. The problem is with seeds grown in third countries which are then imported into the United States for further processing, testing, certifying, and other treatment. As APHIS cannot attest to or certify the conditions in the original country of origin, it is important that these seeds for re-export from the United States retain the phytosanitary certificates from the original country of origin and the re-export certificate from APHIS. As the seed sector becomes more interconnected and globalized, this issue will likely become more important.

On March 27, 2002, the Brazilian Government published Normative Instruction no. 34, which requires Pest Risk Assessments (PRA)s for each species from every country of origin within 180 days (ending November 27, 2002). The only exceptions are for the seeds listed below in Normative Instruction no. 4, which is based on the bilateral meetings conducted by the two governments during May 3-4, 1999. Given the many changes occurring in this sector at this time, due to ongoing regional harmonization of phytosanitary requirements as well as specific Brazilian issues of concern, U.S. seed exporters should check with APHIS/Brasilia for additional information on the status of Brazilian phytosanitary import requirements at any given time.

Brazil's New Phytosanitary Requirements for Plant Products from the United States

On January 11, 2001, the Ministry of Agriculture and Food Supply (MAA) published Normative Instruction Number 4 in the "Diario Oficial" (Brazil equivalent of the Federal Register). This rule was effective January 11, 2001.

Normative Instruction Number 4 is based on the bilateral meetings conducted by the two governments during May 3-4, 1999. It requires Additional Declarations, (DA in Portuguese), in the Phytosanitary Certificate (CF) for various agricultural products from the United States, including many seeds. The latest requirements are listed below, followed by a translation of the codes and abbreviations. U.S. exporters should be aware of the new requirement for freedom of the nematode *Ditylenchus dipsaci* for many seeds. Freedom from this nematode is not a common phytosanitary requirement from importing countries. Brazil only has one race of the nematode and wants to prevent the entry of new races. U.S. exporters should also be aware that Brazil has not yet officially recognized any areas of the United States as "free" of specific pests. This puts on hold shipments of any corn seed. The DA-7 (area freedom) option should not be used by exporters for any commodity until this problem is resolved.

TOMATO SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA): DA5, or DA7, or DA1 - *Fusarium oxysporum f. sp. radicum lycopersici*;
and,
DA5, or DA7, or DA15 - Tomato bunchy top viroid (PSTV), Tomato ringspot virus.

ALFAFA SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA): DA7, or DA5, or DA15 - *Cirsium arvense*;
and,
DA7, or DA5 - *Clavibacter michiganensis spp. insidiosus*;
and,
DA5, or DA7, or DA15 - *Ditylenchus dipsaci*.

DRY BEANS FOR SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA): DA7, or DA5, or DA15 - *Cirsium arvense, pseudomonas syringae pv. phaseolicola*;
and,
DA7, or DA5 - *Curtobacterium flaccumfaciens pv. flaccumfaciens*;
and,
DA5, or DA7, or Da15 - *Ditylenchus dipsaci*.

SORGHUM SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA): DA2 (TCM Number 1) - *Prostephanus truncatus*;
and,
DA7, or DA5, or DA15 - *Cirsium arvense*;
and,

DA7, or DA5 - *Periconia circinata*, *Striga spp.*;
and,
DA5, or Da7, or DA15 - *Ditylenchus dipsaci*.

TRIFOLIUM SPP. SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
DA7, or DA5, or DA15 - *Cirsium arvense*;
and,
DA7, or DA5 - *Clavibacter michiganensis f. sp. insidiosus*;
and,
DA5, or DA15 - Tomato ringspot virus;
and,
DA5, or DA7, or DA15 - *Ditylenchus dipsaci*.

LOTUS CORNICULATUS SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
Da7, or DA5, or DA15 - *Cirsium arvense*;
and,
DA7, or DA5 - *Clavibacter michiganensis f. sp. insidiosus*;
and,
DA5, or DA15 - *Ditylenchus dipsaci*, Tomato ringspot virus;

BRASSICA NAPUS SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
DA1 - *Cirsium arvense*;
and,
DA5, or DA7, or DA15 - *Ditylenchus dipsaci*.

GARLIC SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
DA7, or DA5 - *Brachycerus spp.*, *Dyspessa ulula*, *Phymatotrychopsis omnivora*;
and,
DA5, or DA1, or DA 15 - *Ditylenchus destructor*.

ONION SEED:

Phytosanitary Certificate (CF).

RED PEPPER SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
DA5, or DA7, or DA15 - *Ditylenchus dipsaci*.

TOBACCO SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
DA7, or DA5 - *Striga spp.*;
and,
DA5, or DA7, or DA15 - *Ditylenchus dipsaci*.

PEAS FOR SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
 DA1 - *Bruchus spp*, *Bruchidius spp.*,
 and,
 DA5, or DA7, or DA15 - *Ditylenchus dipsaci*.

CORN SEED:

Phytosanitary Requirements: Phytosanitary Certificate (CF) with the following Additional Declarations (DA):
 DA1 - *Prostephanus truncatus*;
 and,
 DA7 - *Striga spp.*;
 and,
 DA15 - *Cercospora sorghi*, *Mycosphaerella zeamidis*, *Erwinia stewartii* and *Clavibacter michiganensis spp. nebraskensis* (attach results);
 and,
 DA5, or DA7, or DA15 - *Ditylenchus dipsaci*, *Erwinia stewartii* and *Clavibacter michiganensis spp. nebraskensis*.

Translation of codes and abbreviations:

CF Phytosanitary Certificate
 DA Additional Declaration
 DA1 The (shipment, plants, nursery, seed plot, region, place of production, lot, etc.) is free of (pest, or pests);
 DA2 The (shipment, seeds, etc.) was treated under official supervision with (name of product, concentration, time) to eliminate the (pest, or pests);
 DA5 The (cultivation, nursery, seed plot) was officially inspected during (period) and found free of (pest, or pests) of quarantine concern;
 DA7 The (product, nursery, seed plot, etc.) were (cultivated/made) in na area in which (the pest, or pests) are not present;
 DA15 The shipment is free of (pest, or pests) as result of the Official Lab Test Number (____).
 TCM (According to the Mercosul Quarantine Treatment.

Pest Risk Assessments

All seeds which are not listed in Normative Instruction 4 will only be permitted entry after completion of a Pest Risk Assessment (PRA) and publication of specific phytosanitary requirements. The only PRAs and published regulations completed recently include Rye Grass, Bermuda Grass, and Blue Grass from specific producers. The new Normative Instruction no. 34, published on March 27, 2002, clarifies the Pest Risk Procedures to be followed, and specifies that "documentation be submitted in Portuguese, and be reviewed by USDA/APHIS/PPQ." U.S. exporters need to be aware that PRAs will need to be done on third-country origin seeds that are re-exported from the United States to Brazil, with information provided by the country-of-origin.

SUMMARY OF BIOTECHNOLOGY

Commercial production and trade of genetically modified organisms (GMOs) in Brazil remains prohibited pending a final decision by the Brazilian Federal Court whether the Federal Government has the authority to approve the commercial release of these products. Nationwide controversy on the issue continues among the Government's executive, judiciary, and legislative branches, the scientific community, and consumer groups, notably the Consumer Protection Institute (IDEC) and Greenpeace. The Government of Brazil issued a Decree establishing a labeling requirement and tolerance limits (four percent) for packaged food products containing GMOs effective December 31, 2001.

The Court Battle Over RRS

The Provisional Measure (MP) Number 2,137 issued by the President of Brazil, and published on December 28, 2000 in Brazil's Federal Register (Diario Oficial), took effect immediately, but the MP has not been approved by the National Congress. The MP 2,137 redefined the role of the National Technical Commission on Biosafety (CTNBio) by providing the Commission with the authority to evaluate and authorize the production and sale of GMOs in Brazil. MP 2,137 was the federal government's response to the rule issued by the Regional Federal Court (TRF) in Brasilia, which upheld the decision of federal judge Prudente declaring unconstitutional clause XIV of Article Two of Law 1,752/95 during Monsanto's appeal of its court case. As result, Prudente's decision established that CTNBio did not have the authority to waive environmental impact studies and reports (EIA-RIMA) for RRS seeds.

The Brazilian Consumer Protection Institute (IDEC) and Greenpeace of Brazil filed an injunction against MP 2,137 and obtained a favorable ruling issued by the 14th Circuit of the Regional Federal Court (TRF). This rule is still in place, but a surprising rule issued by Judge Joao B. Moreira, of the 5th Circuit of the TRF, changed provisions of the previous rule by authorizing CTNBio to evaluate the biosafety of cultivars that receive the gene, resistant to insects, which is derived from the bacteria *Bacillus thuringiensis* (Bt). However, Judge Moreira maintained the section of the rule which prohibited sale of genetically modified seeds resistant to agricultural chemicals (pesticides/herbicides) that were not covered by a special temporary registration (RET) issued by the Ministry of Agriculture, Livestock, and Food Supply (MAPA). The RET is based on Decree Number 98,816/90. Although a RET for RRS seeds from MAPA is required, the other two Ministries involved (Health and Environment) have not yet ruled on RRS seeds for toxicity and environmental impact.

The important point in Judge's Moreira decision in favor of CTNBio is that he was the first judge to use MP 2,137/00 as the basis to support his decision. Judge Moreira's opinion could support the Government's approval of RRS seeds for commercial sales.

A three-judge panel of the Regional Federal Court is ruling on Monsanto's Round Up Ready Soybeans (RRS) case and CTNBio's authority to release GMOs without requesting environmental impact studies and reports. One judge ruled on March 4, in an 800-page opinion, in favor of Monsanto and the Federal Government's authority to approve the commercial release of GMOs in Brazil. The remaining two judges have been expected to present their opinions since mid-March, but their rulings have been postponed several times. If one of the remaining two judges rules in Monsanto's favor, environmental and consumer groups may appeal the case to the Superior Court of Justice (STJ) and, subsequently, to the Federal Supreme Court (STF). Therefore, a final ruling on this case may take one to two years.

New Directive on GMO Food Labeling

Brazilian President Cardoso signed Decree Number 3,871 on July 18, 2001 (published on July 19, 2001 in Brazil's Federal Register (Diario Oficial) which established a four-percent tolerance limit in packaged food products containing genetically modified organisms. This Decree applies to all genetically modified packaged food products that have received final technical approval from CTNBio. This Decree also creates an Inter-ministerial Commission to analyze and review the provisions of the Decree and the methodology to detect the presence of genetically modified organisms. The Decree entered into force December 31, 2001.

The Congressional Debate on Genetically Modified Organisms

The Brazilian House of Representatives in the National Congress has been debating the GMO issue in Brazil for the past 4 years without reaching a consensus. Due to the Presidential elections in 2002, it is uncertain whether bills under consideration will actually become laws in the National Congress, because the GMO issue in Brazil is not only emotional, but increasingly ideological. For example, the Landless Movement in Brazil (MST) has destroyed research fields of RRS because of their antagonism against multinational companies. These groups also allege that biotechnology will be damaging to small farmers because of increased dependence on this technology and the high cost of GMO seed.

There are a variety of bills regarding GMOs which are currently being debated in congress. Draft bill Number 2,905 of 1997, the first law to be introduced in the House about the issue, establishes conditions for marketing GMOs in Brazil. The final report on the bill included 18 other draft bills related to the issue that were introduced in the House during these past four years.

There is another draft of Legislative Decree Number 1,089 of 2001 which is being considered separately by members of the House to suspend the provisions of Decree 3,871/01 issued by President Cardoso on food labeling. In addition to the House, there are three other draft bills in the Senate: a) PLS 118/99 (mandatory labeling of GMO products), b) PLS216/99 (which prohibits production and sale of GMOs in Brazil for five years, and c) PLS 271/00 (which suspends production and sale of GMOs in Brazil until 2004).

Finally, there are two Constitutional Amendments in the National Congress related to GMOs:

a) 159/99 (by which farms that produce GMO crops can be expropriated for purposes of Agrarian Reform), and 237/00 (which authorizes the Federal Government to regulate GMO products, thus preventing Brazilian states from creating their own laws and regulations).

The Special Commission on Genetically Modified Organisms of the Brazilian House of Representatives approved draft bill 2,905/97 on March 12, 2002, which could lead to authorization for the commercial planting and marketing of genetically modified Organisms (GMOs) such as Round Up Ready Soybeans (RRS). This draft bill, if approved by the full plenary of the House and Senate, provides greater authority to the National Technical Commission on Biosafety (CTNBio) to approve specific GMO products without environmental impact studies (EIA-RIMA). Additionally, this legislation would require mandatory labeling of GMOs with threshold levels determined by the Ministry of Justice.

Due to the controversy over biotechnology and the upcoming October elections, it is unlikely that the bill will pass through the House and Senate during this congressional session that informally ends in June 2002. After

the July Congressional recess, Congressmen will be actively campaigning for the October 6, 2002 general elections, in which voters will select a new President, Vice President, full House of Representatives, two-thirds of the Senate, and State Governors and Representatives. Politicians are unlikely to push for a vote on a measure which the opposition will characterize as questionable in health terms. Therefore, Congress may avoid a controversial vote on the draft biotechnology legislation until after the general elections in October.

Public Perception

At the request of Greenpeace of Brazil, the most important opinion survey institute in Brazil (IBOPE), conducted a national survey, from July 18-24, 2001, about the public acceptance of GMOs in Brazil. The results of the survey indicate that 74 percent of the Brazilian population prefers conventional food products rather than those produced with GMOs because they don't have sufficient information about the possible health risks and environmental impact. Also, 67 percent of the people interviewed believe that planting of GMO crops should be prohibited.

According to the survey, 31 percent of the people interviewed knew about GMOS, and 91 percent defended specific labeling for GMOs. People living in the South and Southeast regions of Brazil were more aware of GMOs than those Brazilians living in the Northeast, Center-West and Northern regions of the country.

Greenpeace is using the results of this survey to increase public awareness of its campaign of "Brazil free of GMOs". The Brazilian biotech companies recently founded the "Biotechnology Information Council" (CIB, in Portuguese). The purpose of CIB is to produce and release reliable scientific information on GMOs to the general public.

There is no reliable survey of Brazilian farmers' perceptions of GMOs. However, most leaders of farm organizations support the approval of GMOs in Brazil to remain competitive with Argentine and American farmers. Trade analysts estimate 2.0 million hectares will be planted with GMO crops during the 2001/02 marketing year, mostly in the South and Southeast regions of the country.

Most traders of agricultural products in Brazil advocate the planting of both GMOs and non-GMOs in Brazil. According to some trade analysts, there is a difference in price of US\$20 per metric ton in the world market in favor of Brazilian soybean meal compared its Argentine counterpart. Most Brazilian traders, however, are against "Identity Preservation" (IP) because this would increase the cost of Brazilian beans and could erode Brazil's competitive position in the world market. Currently, the Ministry of Agriculture, Livestock, and Food Supply (MAPA) declares that planting of GMOs is prohibited in Brazil, and this information has satisfied import requirements in the European Union. However, traders have been alerted they must meet more stringent certification standards in the European and Chinese markets in 2002.

The greater interest in traceability has increased investments in inspection and certification laboratories to test for Non-GMO products. One of the companies has increased the frequency of DNA samples from soybean shipments to 130 samples per month because of increased traces of GMOs produced in Southern Brazil.

Abbreviations/Glossary

ABIA - Brazilian Association of Food Industries, based in Sao Paulo.

ANVISA - Agency for Sanitary Surveillance, Ministry of Health.

CIB - Conselho de Informacoes de Biotecnologia (Biotechnology Information Council). Non-profit private organization formed by major multinational biotech companies, Brazilian Association of Seed Producers, Brazilian cooperatives, and the Rural Brazilian Society.

CTNBio - National Technical Commission on Biosafety, created by Law 8,974 of January 5, 1995 which provides the legal framework and sets the standards and means of production, importation, manipulation, transportation, marketing, and consumption of genetically modified organisms. Presidential Decree Number 1,752 of December 20, 1995 also provides the regulatory framework under which CTNBio operates. In addition, Provisional Measure 2,137 of December 28, 2000 added and altered some clauses of Law 8,974/95 to clearly define the role of CTNBIO, which is under the authority of the Ministry of Science and Technology.

DJ - Decisao Judicial. Sentence. Final Decision Rule.

DO - Diario Oficial. Official Gazette (Brazil's equivalent of the United States Federal Register). Any law or regulation to become effective in Brazil must be published in the Diario Oficial.

EC - Emenda Constitucional (Constitutional Amendment).

EIA-RIMA - Environmental Impact Study and Report of the Impact on the Environment.

GMOs - Genetically Modified Organisms

IDEC - Brazilian Consumer Protection Institute, based in Sao Paulo.

IP - Preservacao de Identidade (Identity Preservation)

Liminar - Injunction. Temporary Restraining Order. Writ.

MP - Medida Provisoria. Provisional Measure. It is an act by the President, under the powers and privileges granted to him by the Brazilian Constitution. It has the power of a law, until Congress gives final approval, and then, becomes a law.

MPF - Ministerio Publico Federal - Public Prosecution Service. Independent federal body with the primary role of providing citizens with a secure means to fight in the courts when the law is violated, or there is abuse of authority.

MAPA - Ministry of Agriculture, Livestock, and Food Supply

MCT - Ministry of Science and Technology

MMA - Ministry of the Environment

MS - Ministry of Health

MST - Movimento dos Trabalhadores Sem-Terra (Landless Workers Movement)

Parecer - Opinion. Judgment. View. Legal Opinion

PC - Parecer Conclusivo - Conclusive View.

Portaria - Directive (Administrative rule)

Procurador da Republica - Attorney General

Promotor - Prosecuting Attorney; Public Prosecutor

RET - Special Temporary Registration. RET is issued by the Ministry of Agriculture, Livestock, and Food Supply (MAPA) for agricultural chemicals (pesticides/herbicide), based on Decree Number 98,816/90. A company (Brazilian or foreign) that needs to register a pesticide or herbicide in Brazil files a request with the MAPA, which sends the request to the Ministry of Health (for their opinion on toxicity), and to the Ministry of Environment (for their opinion on environmental impact). The request, then returns to MAPA for final approval and issuance of the final registry number.

TFR - Federal Court of Appeals

TRF - Regional Federal Court

STF - Supreme Court

STJ - Supreme Court of Justice

TRADE

U.S. planting seed exports to Brazil increased nearly 10 percent in 2001 to \$6.53 million. Brazil exported \$1.63 million of planting seed exports to the United States in 2000, considerably lower than the \$3.1 million of exports in 1998.

Competitor Activities

As MERCOSUL becomes more integrated, trade between Brazil and its MERCOSUL partners are gradually increasing and some companies are positioning themselves to take advantage of this regional integration. However, there will likely be some limitations on exchange of seeds of some commodities to the degree that environments differ. Post is not aware of any particular promotional activities by other exporting countries.

Tariffs

Brazil is a member of MERCOSUL, which is comprised of Brazil, Argentina, Uruguay, and Paraguay. Countries within MERCOSUL enjoy duty-free access for most agricultural products traded within the trading bloc, while a Common External Tariff (CXT) is applied for non-MERCOSUL countries. The MERCOSUL's Common External Tariff (CXT) was lowered 1 percent in January 2002. However, seeds were virtually unaffected as all applied tariff rates on seeds imported into Brazil are zero. The only exception of the duty-free access is on mushroom spawn which now faces a 3.5 percent CXT.

Non-Tariff Barriers

The only significant non-tariff barriers are phytosanitary requirements. See "Plant Health Regulations" section.

Export Subsidies and Restrictions

There are no direct export subsidies or restrictions for seeds.