USDA Foreign Agricultural Service
GAIN Report
Global Agriculture Information Network
Template Version 2.09

Required Report - public distribution

Date: 2/12/2004

GAIN Report Number: GM4051

Germany

Biotechnology

German Genetech Law and GMO Test Plantings in 2004

2004

Approved by:
Richard Petges
U.S. Embassy

Prepared by:
Dietmar Achilles

Report Highlights:
German Genetech Law will go into effect Jan 1, 2005. Law is been judged as a biotech hindrance law by the biotech industry. Cross-pollination results are now available from GMO corn production in 2004.

Includes PSD Changes: No
Includes Trade Matrix: No
Unscheduled Report
Berlin [GM1]
[GM]

German Genetech Law Approved

After two years of deliberation, discussion and negotiations, on Nov 26, 2004 the German Bundestag finally approved the German genetech law, which lays down strict regulations for liability and requires the creation of coexistence regulations. However this law, which will go into effect on January 1, 2005, is viewed by the German industry as a hindrance to the use, importation and development of agricultural biotech products. The Economics Minister of the State of Sachsen-Anhalt recently announced his intention to file a constitutional complaint against the genetech law. He argues that the liability regulations are unconstitutional. Also the European Commission in a 'blue letter' stated their concerns about Germany's genetech law, especially in regard to its liability regulations, and that it is not in compliance with the overall EU directive on agricultural biotechnology. Legal experts at the German Federal Ministry of Consumer Protection (BMVEL) claim that the genetech law is not in conflict with EU law. It remains to be seen whether the Commission will follow up on their concerns once the German law has been notified. For more information about Germany's genetech law please see GAIN report GM4029.

In the process of creating national coexistence regulations, the various Ministries in Germany's coalition government have to agree on a set of proposed regulations, which are currently being drafted by BMVEL. The proposed regulations would then go to the German Bundestag and Bundesrat for further debate and approval/disapproval. Since the German Lander (states) will be required to implement these regulations, unlike the liability regulations, the Bundestag will not be able to approve the coexistence regulations without the approval of the Bundesrat, which represents the Lander and is currently controlled by the opposition parties.

The BMVEL draft proposal of coexistence regulations, also referred to as 'good agricultural practices' for GMO farmers, requires a 1,000 meter buffer crop/area around GMO corn, which BMVEL claims is based on a 1940 scientific report on cross pollination. Germany's Economics Ministry and Research Ministry are opposing this seemingly unrealistic requirement. If internal political issues/agendas prevent the coalition government from proposing realistic coexistence regulations, the Bundesrat may be able to force some compromises.

Results of Bt-Corn Test Plantings in Germany Announced

On Nov. 24, 2004, the German biotech industry presented test results from this year's commercial plantings of Bt-corn (see GM4014). Since 1998 about 500 hectares (ha) of Bt-corn varieties, all of which contain the Monsanto GMO event MON810, have been planted in Germany. In 2004, the Bt-corn production was organized as a coexistence scientific research project. Farmers in seven federal states planted Bt-corn on 300 different fields. All of this production was scientifically monitored by the Institute for Plant Breeding and Plant Protection of the Martin-Luther-University Halle-Wittenberg in the State of Sachsen-Anhalt. Also state research organizations of the states of Bayern, Mecklenburg-Vorpommern and Sachsen-Anhalt participated in the research program. The goal of this test program was to collect data about the coexistence of GMO and conventional corn varieties. Data on the outcrossing of GMO traits into conventional varieties depending on location, distance, climate, landscape, wind and other factors were collected.

The Bt-corn fields, varying in size from 5 to 20 hectares, were surrounded by conventional corn, which in turn was surrounded by crops other than corn. Several rows of conventional corn, which bloomed at a different time than the Bt corn, were planted in the center of the Bt corn field. Cross pollination samples were taken from these non-Bt center rows, and from

the surrounding non-Bt corn at distances from the outer edge of the Bt corn field of 0 to 10 meters, 20 to 30 meters, 30 to 50 meters and 60 meters or more.

The results indicated that the difference in the blooming period did not (sufficiently) prevent cross-pollination in the non-Bt center rows. GMO presence in samples taken within 10 meters from the GMO field well exceeded the threshold level of 0.9 percent, reaching an average of 1.3 percent. GMO content in samples taken more than 20 meters away were below the 0.9 percent level. The average GMO content in the 20 to 30 meter range amounted to 0.4 percent. The 50 to 60 meter distance range showed average GMO levels of 0.3 percent.

The scientific advice by the Martin-Luther-University, resulting from this study, is that a buffer crop/area of 20 meters around the GMO plantation is sufficient to protect the neighboring crop from exceeding the 0.9 percent GMO level. The results of these test plantings are available in German at www.erprobungsanbau.de. In most cases the locations of the specific fields used for the study described above were not made public, which created a lot of criticism from GMO opponents. As a result of the new genetech law, in future years the site of GMO fields will have to be recorded in a special GMO field register and made publicly available.