AFRICAN UNION

Policy Brief

NEPAD
A PROGRAMME OF THE AFRICAN UNION
NEPAD Planning and Coordinating Agency (NPCA)

Legal and Policy | Issue 3

Labeling Regulations of GM Food Products a Review of Existing Systems: South Africa, Kenya, European Union and USA

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Introduction

Whether or not to require labeling of genetically modified (GM) foods is a key issue in the ongoing debate over the risks and benefits of food crops produced using biotechnology. A first major dichotomy separates countries with *voluntary* labeling guidelines from those with *mandatory* labeling requirements[1].

Voluntary and Mandatory Labeling

Voluntary labeling requirements provides rules that define what food can be labeled GM or non-GM, and let the food companies decide if they want to use such information signals on their products. In contrast, mandatory labeling requires food companies to display whether the targeted product/ingredient contains or is derived from genetically modified materials. One of the major differences in mandatory regulations depends on whether the regulation targets the presence of GM in the *finished product* or on the GM technology as a *production process*. Where the requirement is to label *the finished product,* only products with detectable and quantifiable traces of GM materials or ingredients are required to carry a label. In contract where labeling is required for the *production process,* any product derived from GM crops will have to labeled, whether it contains any traces of GM material or not.

It has been argued that the overall objective of mandatory labeling is to provide consumer information and consumer choice. Those against mandatory labeling have argued that labeling of GM foods implies a warning to consumers about health effects, whereas no significant differences have been detected between conventional and GM foods.

Threshold Value

The scope of regulations widely differs among countries as mandatory labeling require different coverage and threshold value. Threshold value refers to the maximum level (in percent) of unintentional, technically unavoidable GMO content in seed, food, or feed that does not need to be labeled. It has been argued that the labeling threshold is a reliable benchmark that enables food and feed producers to distinguish between agricultural products from the different cultivation systems and place them on the market accordingly.

This policy brief will review the labeling requirements for developing countries and developed countries including: South Africa, Kenya, European Union and USA.

South Africa

Labeling in South Africa is governed by the Consumer Protection Act (CPA) and regulation 7 of the Consumer Goods Regulations. The CPA commenced on 31st March 2011 and amongst other provisions contains provisions on labeling. Section 24(6) of the CPA provides that any person who produces, supplies, imports or packages any prescribed goods must display on, or in association with the packaging of those goods, a notice in the prescribed manner and form that discloses the presence of any GM ingredients or components of those goods in accordance with applicable regulations.

Further, Regulation 7 of the Consumer Goods Regulations stipulates that the Regulations apply to goods approved for commercialization by the Executive Council for GMOs. The regulation applies to all such goods which contains 5% of GMOs irrespective of whether they were made or manufactured in the Republic and to marketing material in respect of such goods. Such goods may not be produced, supplied, imported or packaged unless a notice meeting the requirements of Section 22 of the CPA is applied to such good or, in a conspicuous and easily legible manner and size stating, without change, that the good or ingredient or component "*contains Genetically Modified Organisms*".

With regard to goods that are intentionally and directly produced using genetic modification processes, the goods or marketing material must be labeled "*Produced using genetic*

[1]G.P.Gruere & S.R. Rao (2007)

modification". Where it is scientifically impractical or not feasible to test such goods for the presence of GMOs or ingredients then notice should state, *"May contain genetically modified ingredients."* So far no product has been labeled in South Africa since these regulations came into effect.

Kenya

The Biosafety (Labeling) Regulations, 2012 were gazetted through Legal Notice No, 40 of 25th May, 2012. The objective of the regulations are to ensure that consumers are made aware that food, feed or a product is genetically modified so that they can make informed choices and to facilitate the traceability of GMO products to assist in the implementation of appropriate risk management measures where necessary. The labeling shall apply to products consisting of, or containing GMOs or food or feed produced from GMOs. The Kenya system thus applies to both the product and the production process. The threshold for labeling in Kenya is 1% meaning that any food, feed or their ingredients containing approved GMO or derived products with more than 1% GM presence will have to be labeled.

USA

The current U.S. policy regarding the labeling of GM foods is dictated by the Food and Drug Administration (FDA). In 1992, the FDA published a policy describing how foods made from GM plants would be regulated. FDA will require special labeling if the composition of food developed through GM differs significantly from its conventional counterpart. To date FDA is not aware of information that would distinguish GM food as a class from foods developed through other methods of plant breeding and thus, require such foods to be specially labeled to disclose the method of development (FDA, 1992). The 1992 FDA policy requires special labeling of a GM food derived from new plant varieties under several circumstances. Specifically, labels are required to notify consumers if the GM food is no longer equivalent to its non-GM counterpart. Labels are also required on a GM food product if its use or the consequences stemming from its use have changed, a new nutritional aspect was introduced that was not customary to the product, or a known allergen was introduced that was not implicit to the product. In 2001, the FDA released draft voluntary guidelines for the food industry on 'positive' and 'negative' GM food labeling (FDA, 2001). In effect, food manufacturers can voluntarily label their products as containing these ingredients, but are not required to do so.

European Union

The EU recognizes the consumers' right to information and labeling as a tool for making an informed choice. In the EU, if a food contains or consists of genetically modified organisms (GMOs), or contains ingredients produced from GMOs, this must be indicated on the label. For GM products sold 'loose', information must be displayed immediately next to the food to indicate that it is GM. On 18 April 2004, new rules for GM labeling came into force in all EU Member States. The GM Food and Feed Regulation (EC) No. 1829/2003 lays down rules to cover all GM food and animal feed, regardless of the presence of any GM material in the final product. This means products such as flour, oils and glucose syrups have to be labeled as GM if they are from a GM source. Products produced with GM technology (cheese produced with GM enzymes, for example) do not have to be labeled. Products such as meat, milk and eggs from animals fed on GM animal feed also do not need to be labeled. Any intentional use of GM ingredients at any level must be labeled. However, the Food and Feed Regulation provides for a threshold for the adventitious, or accidental, presence of GM material in non-GM food or feed sources. The legal threshold for GMO content in food and feed in the EU is 0.9 percent.

From a review of the above four systems, any decision on labeling of GM food presents major challenges for policy makers. As governments around the world develop GM labeling requirements, they are caught between the US voluntary labeling approach and the EU Mandatory labeling approach. It will be advisable therefore for Governments to critically review the two systems and see which system would better work with their existing legal structures.

This is the third in a series of policy briefs published by the African Union/NEPAD - African Biosafety Network of Expertise (ABNE) addressing legal and policy aspects of modern biotechnology. This policy brief is targeted for regulators and decision makers.

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