



Worlds Apart on GMOs – Can Trade Agreements Bridge the Gap?

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Regulatory Divergence on GMOs

- ❖ **Regulatory divergence pertaining to agricultural biotechnology leads to:**
 - **No global market for GMOs**
 - **Reduced trade flows**
 - **Smaller markets for companies developing and commercializing new biotech products**
 - **Smaller returns on investments in R&D**
 - **Less investment in biotechnology**
 - **Slower rates of technological improvements**
 - **Less contribution to attaining food security**



Can Trade Agreements Assist in Reducing Regulatory Divergence?

- ❖ Trade Agreements are less and less about taking down traditional trade barriers such as tariffs and import quotas**
- ❖ Trade liberalization increasingly requires removal of domestic regulatory barriers**
- ❖ Removing trade barriers for agricultural biotechnology will require regulatory convergence**



Why is there regulatory divergence in agricultural biotechnology?

- ❖ The SPS Agreement of the WTO should have led to regulatory convergence
 - Based on science
 - Negotiated prior to GM commercialization
- ❖ Ag Biotech became a focus for four groups with **VERY** strong preferences
 - Those already concerned about the food they consume
 - Those concerned about the natural environment
 - Those concerned about the ethics of transgenics
 - Those concerned about multilateral corporations
- ❖ An issue in the EU similar to gun control in the US



Why not science-based regulation?

- ❖ **Given strong anti-GM lobby some countries found it difficult to live up to their SPS science-based commitments**
 - **SPS is premised on civil society being willing to defer to scientific expertise**
 - **This was a faulty assumption in the case of the anti-GMO movement**
 - **There is no scientific consensus**
 - **Not enough science has been done**
 - **Scientists are in the pay of biotech corporations**
- ❖ **Regulations based on other considerations**



The Trade Agreement Landscape

❖ The WTO

- 1994 SPS the relevant agreement
- Not reopened for re-negotiation in Doha
- Doha not yet completed – if ever
- Any change needs a new round

❖ The Biosafety Protocol

- Alternative multilateral approach to GMOs
- Science and other factors/no disputes
- Many countries but not major adopters

❖ Where to next to overcome current impasse? Preferential Trade Agreements?



Preferential Trade Agreements

❖ **Many being negotiated**

❖ **I will talk about three:**

➤ **EU-Canada – the CETA**

➤ **EU-US – the T-TIP**

➤ **US-Japan and 10 other countries - TPP**



EU-Canada

Comprehensive Economic and Trade Agreement

- ❖ Completed after 6 (secret) years – Sept 2014
- ❖ Canada has suffered from EU GMO policies
- ❖ Canada wanted concessions from the EU
- ❖ In the end?

“Article X.03: Bilateral Cooperation on Biotechnology

1. The Parties agree that cooperation and information exchange on issues related to biotechnology products are of mutual interest. Such cooperation and exchange of information will take place in the bilateral Dialogue on Biotech Market Access Issues The dialogue covers any relevant issues of mutual interest to Canada and the EU

- ❖ A long list of topics of interest to Canada
- ❖ An official forum to **talk and talk**

EU-Canada

The Side Letter

❖ **A side letter from Tonio Borg of the EU Commission addressed to the Canadian Minister of Agriculture, Gerry Ritz dated April 24, 2014 which states:**

“The Commission will ensure that proposals for the authorization of genetically modified (GM) events, in particular GM canola, are processed as fast as possible within the procedures laid down in the EU approval legislation, e.g. submission of decisions to the Member States once an EFSA opinion is available”

- ❖ **A GMO must still pass scientific hurdle**
- ❖ **A GMO must still pass political hurdle**
- ❖ **EU GM policy in considerable flux**
- ❖ **Don't think it means much**





EU-US

TransAtlantic Trade and Investment Partnership

- ❖ Major regulatory divergence
- ❖ Little public evidence of willingness to compromise on either side
- ❖ What goes on in the “secret” negotiation rooms????
- ❖ Considerable discussion of the need for “harmonization” but few tractable suggestions

EU-US

Potential for Harmonization

- ❖ Harmonization means different things to different people
- ❖ Two countries, A and B with divergent regulations – 3 harmonization outcomes:
 1. Country B harmonizes to regulations of Country A
 2. Country A harmonizes to regulations of Country B
 3. Both countries agree to devise new, mutually agreed, regulations
- ❖ Country A prefers outcome 1, Country B outcome 2
- ❖ Outcomes 1 and 2 can be accomplished in a trade agreement – but not 3
- ❖ Outcome 3 will require post agreement negotiations



EU-US

Post Agreement Negotiations

- ❖ Post agreement discussion can be mandated in an agreement
- ❖ This is the CETA outcome
- ❖ Important question is how to prevent these discussions from being only places to **talk and talk**
- ❖ NAFTA experience is relevant
 - A large number of harmonization venues were built into NAFTA – but no closure
 - Almost none worked as expected



US-Japan and Others Trans Pacific Partnership

- ❖ **TPP – US, Japan and 10 other countries around the Pacific rim – Australia, Brunei, Canada, Chile, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam**
- ❖ **Large potential market – 800 million people**
- ❖ **VERY** divergent regulatory regimes across the 12 countries



Regulation of GMOs in TPP Countries

Country	SPS	BSP	Cultivation Ban	Import Ban	Labeling	Other
Australia	Yes	No	No (but also by state)	No	Yes	
Brunei	Yes	No	Yes (but no regulations yet)	Yes (no regs yet)	n.a.	In process
Canada	Yes	No	No	No	No	
Chile	Yes	No	Yes	No	No	In process
Japan	Yes	Yes	No	No	Yes	
Malaysia	Yes	Yes	No	No	In process	In process
Mexico	Yes	Yes	No	No	No	
New Zealand	Yes	Yes	Yes	No	Yes	
Peru	Yes	Yes	Yes	Yes	n.a.	
Singapore	Yes	No	No	No (no regs yet)	No (no regs yet)	In process
US	Yes	No	No	No	No	
Vietnam	Yes	Yes	No	No	In process	In process





US-Japan and Others Prospects for Harmonization

- ❖ **Harmonization to US standards?**
 - **Unlikely given how contentious GMOs are in Japan, New Zealand and Peru**
- ❖ **Harmonization to another existing standard – unlikely**
- ❖ **Agreeing to new, mutually acceptable, standards**
 - **Not in a trade agreement**
- ❖ **Future discussions could be mandated in TPP**
 - **Again, need for a closure mechanism**

Conclusions

- ❖ **GMOs remain a contentious international issue**
- ❖ **Regulatory divergence is trade inhibiting and a brake on technological progress**
- ❖ **Multilateral logjam**
- ❖ **Preferential trade agreements may be a way forward**
 - **But harmonization will not arise directly**
 - **Trade agreements can mandate future discussions on new, mutually acceptable, harmonization**
- ❖ **Harmonization will be a long process**
- ❖ **Trick will be bringing closure to harmonization discussions**





Thank You