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Inquiry into the Food Standards Amendment (Truth in Labelling – Genetically Modified Material) Bill 2010

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INTRODUCTION

Greenpeace Australia Pacific appreciates the opportunity to comment on the Food Standards Amendment (Truth in Labelling- Genetic Modified Material) Bill 2010.

The Australian public has the right to know if any materials from genetically modified products are in their food.

Greenpeace is concerned that the current food standards and food labelling laws are not guaranteeing the public's right to know what they are eating because of inadequacies and loopholes in the current regime such as exemptions for unintentional presence and thresholds that are arbitrary.

Greenpeace believes that there is an urgent need to develop and implement new policies that result in:

- **Full labeling of all foods containing any quantity of GM, or that are derived from GM**
- **Monitoring and certification by industry of inputs with respect to GM, at all stages of the supply chain**
- **Comprehensive, independent industry monitoring and government compliance testing for genetically modified products and food derived from genetically modified crops in Australia.**

Greenpeace is supportive of the intent of the Food Standards Amendment (Truth in Labelling- Genetic Modified Material) Bill 2010 in its efforts to fulfil consumer's right to know about what is in their food, and to provide accurate information about food at the point of sale for food containing genetically modified (GM) materials irrespective if the amount of GM materials in the food, the manner in which it got into the food and whether the producer of the food intended it to contain GM materials.

The Australia public has the right to be confident that any products that have been manufactured in a laboratory and put into their food have been proven safe to eat, both in the short term and the long term, over a lifetime of consumption.

This is currently not the case in Australia. Australia's current GM labelling laws open with a requirement for all food that contains GM to be labeled. However, the exemptions to this requirement are extensive. The result is that only a small portion of foods carried on Australian supermarket shelves and containing GM is labeled. The exemptions in the Food Labeling Code are only matched by the lack of monitoring and enforcement by Food Standards Australia New Zealand and State and Territory agencies.

This submission outlines the urgent need to strengthen Australia's food labelling laws for genetically modified materials in food in Australia. It also presents a list of signatories to the 'Australian parents' rights to know pledge' that demonstrates the support in the community and amongst elected representative and key Ministers for making sure that Australian parents' have the right to know what they are feeding there families.

It presents the findings of independent tests that were conducted on samples of infant formula that demonstrates the current inadequacies in food labelling laws relating to genetically modified materials due to the current labelling exemption allowing for 'unintentional presence', and the total absence of compliance monitoring relating to this exemption.

This submission also exposes the current failure of most State and Territory Governments to ensure compliance to the Food Standards in their relevant jurisdictions. This submission presents evidence collected by Greenpeace, that shows that the Western Australian, Tasmanian, Victorian and Queensland Governments have not undertaken any testing of food products to determine if food products contain GM materials since 2005. This exposes the failure to ensure compliance to Australia's already lax food labelling laws. This failure must be rectified immediate to improve the enforcement of our Food Standards and to make sure Australian's are aware of the presence of GM-derived materials in their food.

1. The urgent need to strengthen food labeling laws for genetically modified materials in food

Australia's food labelling laws state that any food containing genetically modified (GM) ingredients should be clearly labelled. Unfortunately, GM labelling laws in Australia are not

as simple and comprehensive as they seem. They are fraught with loopholes and exemptions.

Government and food companies often state that 'all GM is already labelled in Australia'. This is misleading. There are many exemptions in our current GM labelling laws, resulting in most GM products making it onto our supermarket shelves without being labelled. The popular baby formula, S-26 Soy formula, is one example.

These are some of the foods that don't need to be labelled in Australia, even if they contain GM materials:

- Food where GM ingredients are highly refined (eg: cooking oils, margarine, sugars, starches, chocolate, baked goods). Most processed foods are deemed to fall into this category.
- Foods made at bakeries, restaurants and takeaways. So a Big Mac could have GM ingredients and McDonalds would not have to tell you.
- Foods from animals that are fed GM feed. Chickens, for example, are often fed GM feed. Research shows that GM feed has a negative impact on the animals that eat it. Despite this, food from these animals still doesn't have to be labelled in Australia.

One of the biggest loopholes in our labelling laws is the "oops, it was an accident" defence. In Australia, GM labelling laws allow companies to include up to 1% GM organisms in our food without labelling it GM, so long as the GM is there "unintentionally" or by accident. Regulators conflate this two-step test and make it even more ineffective, by assuming that a quantity of less than 1% is by definition accidental.

To make matters worse, our government rarely bothers to test if there is GM in our food, or make companies prove that it was an 'accident' their unlabelled product contains GM. Without adequate labelling and safety testing of all GM food, the Australian public could be unknowingly consuming genetically modified materials.

The Australian Government must remove the current exemptions to GM labeling requirements so that GM labeling includes the following products:

- Products derived from GM materials, regardless of the amount of DNA in the final food product
- Products derived from animals fed GM feed (such as meat, milk, and eggs)
- Highly refined GM ingredients (such as cooking oils, sugars, starches). While our food regulator argues that novel DNA is removed by processing, FSANZ's on data on Roundup Ready canola shows that DNA can be detected in canola oil. The position that refining destroys DNA is therefore out of date with established scientific screening methods
- Food prepared at bakeries, restaurants and takeaways.

A GM food, therefore, would not be limited to those that contain novel DNA or protein present in the final product, but include all products and derivatives from GM crops included in food. This would include GM foods where GM presence in the final product was claimed to be "unintentional".

The Food Standards Amendment (Truth in Labelling- Genetic Modified Material) Bill 2010 makes significant progress towards removal of these exemptions, by demanding the provision of accurate information to consumers, irrespective if the amount of GM materials in the food, the manner in which it got into the food and whether the producer of the food intended it to contain GM materials.

2. Support for strengthening food labelling laws for genetically modified materials in food

There is clear consumer demand for GM labeling. An independent poll conducted in 2009 by Newspoll revealed that 90% of Australian consumers want all food derived from GM crops to be labeled, including highly processed ingredients and products from animals fed GM feed. [i] Australians want to know whether the food they are purchasing contains GM ingredients for a variety of health, environmental, ethical and religious reasons.

Following positive tests for GM in unlabelled infant formula in September 2010, Greenpeace drafted the 'Australian parents right to know pledge'. Community, political and food industry leaders have been asked to show their support for a comprehensive GM labeling system underpinned by the following values.

- Australian parents have a fundamental right to know what's in the food they feed their families.
- Australian parents have a fundamental right to know if there are genetically modified (GM) organisms in the food they feed their families.
- Australian parents have a right to clear food labelling that enables them to make a fully informed choice.

To date the following elected representatives have signed the 'Australian parents' right to know pledge:

Senator Nick Xenophon
Senator Rachel Siewert
Senator Trish Crossin
Senator Scott Ludlam
Hon Janelle Saffin MP
Hon Kim Booth MP
Hon Peter Draper MP
Hon Cate Faehrmann MLC
Hon Clover Moore MP
Hon John Kaye MLC – MP
Hon Mr Phil Koperberg MP
Hon Cherie Burton MP
Hon Maria Vamvakinou MP
Hon Lynn MacLaren MLC
Hon Michelle Roberts MLA
Hon Tony O'Gorman MLA
Hon Adriana Taylor MLC I

Hon Amanda Bresnan MLA
Caroline Le Couteur MLA
Hon Ann Barker MP
Hon Mary Porter AM MLA
Jenny Mikakos MP
Ken Travers MLC
Hon Melissa Parke MHR
Hon Robin Chapple MLC
Hon Martin Whitley MLA

Below are a number of statements of support in relation to food labelling of genetically modified materials in food:

"The Tasmanian Government's stance on the use of genetically modified organisms in primary industries is amongst the strictest in the world. While our policy is aimed at largely supporting existing and anticipated marketing advantages of being GMO free, we are also cognizant to broader consumer choice and GM food safety concerns."

"The Tasmanian Government supports the notion of consumer choice through adequate food labelling and looks forward to actively engaging in deliberations that will take place in 2011 after the report of the review of the National Food labelling Policy and Law is submitted to Government for consideration."

Honorable Bryan Green MP, Minister for Primary Industries and Water Tasmanian Government and Deputy Premier.

"Firstly, I support more comprehensive food labeling so that consumers can make informed choices about the food they eat. Food safety remains the priority for food labeling laws …."
"Given the current Council of Australian Governments review of food labeling and policy, it is timely to also evaluate the effectiveness of GM food labeling and where possible to strengthen labeling of GM ingredients such as highly refined sugars, starches and oils, recognizing that while these foods are safe to eat, many consumers may still wish to avoid them."

Honorable Michelle O'Byrne MLC, Minister for Health, Tasmanian Government

"ACT Health made a submission to the Review and recognizes that GE foods are a matter of public interest and their display on labels may allow consumers to make better informed purchases."

Honorable Katy Gallagher MLA, Minister for Health, ACT Government

" The South Australian Government expressed support for food labeling information which enables consumers to make informed choices about the foods they eat. This response also acknowledged that consumers are seeking a range of food labeling to aid their choice of food for health and non-health related information. It is acknowledged that the labeling of GM foods is an issue of concern for some consumers. "

Honorable John Hill, Minister for Health, Government of South Australia

"I write on behalf of my NSW Liberals and Nationals colleagues in response to your letter of 16th November in relation to the request for Australian elected Representatives to sign the Australian parents' right to know pledge.

The NSW Liberals and Nationals share your concerns about proper food labeling of food, especially when it comes to food for children. "

Honorable Duncan Gay LMC, Deputy Leader of the Opposition in the Legislative Council. Leader of the Nationals in the Legislative Council, Shadow Minister for Industry. NSW Government

The following elected representatives have stated that they will not sign the Australian parents' right to know pledge:

Parliamentary Secretary for Health and Ageing Catherine King MP
Minister for Health Nicola Roxon MP
Minister for Health Carmel Tebbutt MP
Minister for Primary Industries Steve Whan MP
Parliamentary Secretary Judy Hopwood RN M Bioethiscs MP
Peter Garrett MP – Minister for School Education, Early Childhood and Youth
Minister Penny Wong

To date, the following community groups have signed the Australian parents' right to know pledge:

Public Health Association of Australia
Doctors for the Environment
CHOICE
Unions NSW
Catholic Earthcare
Hindu Council of Australia
Country Women's Association (signatory branches)

3. Current inadequacies in food labelling laws relating to genetically modified materials

Case study – S26 Infant formula

Independent lab testing requested by Greenpeace in 2010 discovered traces of GM genes common to six different GM crops made by the multinational chemical companies, Monsanto and Dow Chemicals in infant formulas in Australia. These genes indicate contamination of the infant formulas with pesticide resistant and insect intolerant GM soy and GM corn. The formulas also contained traces of antibiotic resistant marker genes. Neither of the formulas carried a GM label, which means that Australian parents are feeding GM contaminated formula to their infants without knowing it.

S-26 SOY tested positive for GM DNA three times – twice with independent testing conducted by Greenpeace and once with independent testing conducted by Channel Seven. The levels of GM DNA were under the 1% threshold and the company claimed that the presence of genetically modified materials was unintentional, despite the corn and soy originating from north America, an area were segregation of GM and non-GM can not be guaranteed due to the scale of GM crops in the landscape.

4. Expose the failure of most State and Territory Governments to ensure compliance to the Food Standards

Greenpeace believes that accurate, robust and regular compliance testing for genetically modified (GM) materials in food is an essential part of the responsibilities of the Australian State and Territory Governments.

In late 2010 Greenpeace submitted a number of freedom of Information requests to determine if State and Territory Governments were fulfilling their legal obligation under the Food Standards Act by carrying out tests to determine if food products contained genetically modified materials.

These tests are vital to make sure that food companies are complying with Australia's food labelling laws. If conducted these tests should also provide reassurance to the public who want to know if genetically modified materials are in the food they eat. Without proper enforcement and compliance Australia's already lax labelling laws fall short of ensuring proper labelling of food containing genetically modified materials.

In order to determine if proper compliance tests were being conducted Greenpeace asked State and Territory Governments the following question:

Pursuant to the state or territory relevant Freedom of Information Act Greenpeace seeks the following materials:

- Details of all tests on food and food products to determine whether they contained novel DNA or proteins (ie that they include genetically modified materials), between 2005 and the present;

- Copies of all test results, including the product, brand, quantity of GE and the nature of the tests;

- All documents in response to positive tests for the presence of GE in food and food products.

- All documents describing testing, monitoring and surveillance protocols related to the potential presence of GE material in food and food products under the state or territory Government NSW Food Act.

Greenpeace has received correspondence from several State Government the clearly demonstrates that there Australian's consumers right to know what is in their food is not be uphold and public safety can not be assured under the current legislative and compliance arrangements in Australia.

A summary of this correspondence is outlined in the table below:

State or Territory Government	**Have they conducted any tests for GM materials in food since 2005?**	**State Government Department Response**	**Government Spokesperson and date of correspondence**
Western Australia	No testing of food products for GM since 2005	*"As already stated by the Freedom of Information Coordinator, to the best of my knowledge the Department of Health has not conducted GM food testing since 2005, and does not have any analytical results in this regard."*	Dr Kim Hames MLA Deputy Premier Minister for Health West Australia Government 21st December 2010
Victoria	No testing of food products for GM since 2005	*On the basis of your request, the program area conducted a diligent and thorough search to locate the documents relevant to your area of interest. I have been advised that the department does not hold any documents which meet the scope of your request.*	Glenda Peart Advisor Freedom if Information Corporate Integrity, Information and Resolutions Unit. On behalf of Department of Human Services. 26th November 2010
Queensland	No testing of food products for GM since 2005	*"The Queensland health Forensic and Scientific Services (QHFSCC) has not bee involved in testing of samples for*	Steven Whitbourne Senior Policy Advisor Administrative

		genetically modified food products for Queensland Health…QHFSS does not currently test samples fro genetically modified food products. The Food Safety Policy and Regulation Unit has not arranged for any tests to be carried out on food or food products to determine whether they contain novel DNA or proteins (that is they contain genetically modified materials), between 2005 and the present. Likewise the Food Safety Policy and Regulation unit does not hold documents describing the testing, monitoring and surveillance protocols related to the potential presence of genetically modified material in food and food products under the Queensland Food Act 2006.	law Team. Queensland Government Department of Health**.** 19th November 2010
Tasmania	No testing of food products for GM since 2005.	*" I am advised the agency has not undertaken any testing of food or food products for the presence of GM materials"* *"No GM testing was conducted by the Tasmanian Government on food or food products between 2005 and the present."*	Michelle O'Byrne Minister for Health. Tasmanian Government. Cindy Hanson Principal Scientific Adviser (Biosecurity) Biosecurity and Product Integrity

		"No testing, monitoring or surveillance protocols for GM material have been developed under Tasmanian food safety legislation. However, were we to become aware of other testing that indicated presence of unapproved GM material or GM material in non-GM food above the contamination threshold specified in the Food Standards Code, we would participate in the national response to ensure the food concerned was not available in Tasmania."	Department of Primary Industries and Water Tasmanian Government 10th January 2011

Too date, we have not received information regarding compliance testings carried out by the Australian Capital Territory, South Australia and the Northern Territory state and territory Governments.

5. Public Health concerns

Worldwide, there have been no published, peer-reviewed studies on the impact on human health of eating GM. GM has never been tested on humans, yet we are eating it in staple foods including infant food.

The Australian government doesn't even require testing of GM on animals. These standards are lax when compared to the pharmaceutical testing regime, which requires animal testing followed by four phases of human clinical trials, including post-release follow-up to gauge any unintended effects on vulnerable population subgroups including children and the elderly.

Based on the policy of the Public Health Association of Australia, which states that "GM foods should not be assessed as safe to eat unless they have undergone long-term animal safety assessments utilizing endpoints relevant to human health and conducted by independent researchers;" the evidence used by our food regulator, FSANZ, is insufficient to assess GE foods as safe for human consumption.

Below is a discussion of the independent, peer-reviewed evidence establishing the potential health risks of GM consumption. These studies have been ferociously criticized by the biotech industry. However, they have met the bar for inclusion in the scientific debate (published evidence in an independent, peer-reviewed scientific journal).

Compare this to the standards of evidence the Australian government requires as proof that GM products are safe for consumption: all of the studies considered by our food regulator have been conducted by industry; they have not been published, they have not been peer-reviewed; they have been declared commercial in confidence. Critics of this approach were only able to get a copy of the results of Monsanto's rat feeding study by taking the company to court. Monsanto's patents on seeds prohibit the use of their product for independent research. The lack of transparency in biotech safety studies relating to GM is well documented. For example, see http://www.nature.com/news/2009/090902/full/461027a.html. A former Monsanto Director's admittance that the company used to 'fake' scientific data for regulators (http://indiatoday.intoday.in/site/story?sId=83093&secid=4) has been the latest in a long history of controversies, fines and court action relating to Monsanto corporations safety testing, which is summarized below. Monsanto controls patents on 91% of all GE crops worldwide.

History of controversies, fines and court action relating to Monsanto Corporations safety testing

1948 to 1995: Monsanto produces dioxin (Agent Orange), a deadly chemical used during the Vietnam War and linked to heart and liver disease, human reproductive disorders, and on-going developmental problems in children.[1]

1929 – 1971: In Anniston, Alabama and in Groesfaen, Wales, Monsanto produces PCBs, chemicals linked to liver, neurological, immune, endocrine, and reproductive system damage. Anniston and Groesfaen reportedly remain two of the most toxic sites in the USA and the UK.[2]

1983: A former Monsanto scientist testifies in a U.S. federal court that Monsanto scientists are told to falsify data, concealing the fact that animals died in tests of the substance Trichlorocarbanilide, used in bath soaps and other products.[3]

1990 - 1998: Monsanto is ordered to pay over USD1.5 million in fines to the U.S. Environmental Protection Agency for failing to submit health and safety data regarding toxic chemicals and for mislabeling Roundup Ready herbicide products.[4]

[1] Blumenthal R. "Files show dioxin makers knew of hazards" The New York Times, 6 July 1983.

[2] Rawls, P. "Jury finds Monsanto, Solutia liable in PCB contamination case" 22 February 2002 Associated Press Writer.Barlett, Donald L; Steele, James B "Monsanto's Harvest Of Fear" Vanity Fair, 1 May 2008.

[3] "Ex-Aide in laboratory says data on soap ingredient were falsified" The New York Times 9 May 1983.
[4] Steyer R. "Monsanto fined in test-filing delay" St. Louis Post-Dispatch 5 January 1990. Steyer R "Monsanto pays $648,000 fine" St. Louis Post-Dispatch 17 October 1990. Steyer R "Monsanto settles EPA disputes with

1995: Monsanto markets rBGH, or bovine growth hormone, used to speed-up cow's milk production. Health Canada scientist Dr Margaret Haydon announces she has been offered USD1-2 million by Monsanto to falsify the results of safety testing.[5]

1999: Monsanto's arthritis painkiller is linked with ten deaths and 11 cases of gastrointestinal bleeding in its first three months on the US market.[6]

2005: U.S. Justice Department fines Monsanto USD1.5 million for bribing an Indonesian official to avoid regulatory testing requirements.[7]

2007: Women in the state of Oregon are exposed to Monsanto's Round-Up Ready herbicide. They complain of breathing problems, muscle weakness, diarrhea, early and painful menstrual cycles, and ongoing muscle and joint pain. [8]

2010: Former CEO of Monsanto India, Tiruvadi Jagadisan, makes a public statement that Monsanto has 'faked scientific data' on product safety to get approval from regulators. [9]

Aside from raising concerns about the fitness of Monsanto to produce the food we eat, questions about the reliability of corporate data used to establish the safety of GM is particularly concerning as evidence produced by independent scientists reaches a different conclusion to corporate-sponsored evidence. Independent, peer-reviewed animal feeding studies document negative, biologically plausible, dose-response effects of GM food consumption. The documented potential health risks of eating GE foods include allergic response, damage to the liver and kidneys and impaired reproduction in mice and rats.

In Australia, the CSIRO mice feeding study is the most respected evidence of negative health response in animals related to GM in food:

> *Prescott VE, Campbell PM, Moore A and others (2005). Transgenic expression of bean alpha-amylase inhibitor in peas results in altered structure and immunogenicity. Journal of Agricultural and Food Chemistry 53(23):9023-9030.*

The mice displayed allergic responses and failed to gain weight. GM advocates often cite this study as evidence that the GM testing regime is effective, as following these results, the GM pea was pulled from development. However, it is important to remember that the

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$457,000" St. Louis Post-Dispatch 24 May 1997."Monsanto pays the penalty for mislabeling herbicide." Chemical Marketing Reporter 14 April 1998

[5] "Tainted milk. (milk from cows treated with bovine growth hormone)" Multinational Monitor 1 September 1995. . "GM protestor at yesterday's case The record that shames the biotech bully boys" Daily Mail 18 February 1999.

[6] "Arthritis drug linked to 10 deaths in US." The Scotsman 21 April 1999.

[7] Marie Leone "Coming Clean about Bribery" CFO.com, 3 April 2006; Wray, Christopher A. Hur, Robert K. "Corporate criminal prosecution in a post-Enron world: the Thompson Memo in theory and practice." American Criminal Law Review 22 June 2006; "Ex-executive at Monsanto fined over foreign bribe" International Herald Tribune 8 March 2007.

[8] Barlett, Donald L; Steele, James B "Monsanto's Harvest Of Fear" Vanity Fair, 1 May 2008.

[9] http://indiatoday.intoday.in/site/story?sId=83093&secid=120. Monsanto 'faked' data for approvals claims its ex-chief, February 9, 2010.

independent animal feeding studies that led to the discovery of allergic response are not required by FSANZ and have not been conducted for any of the GM crops currently approved for consumption in Australia.

Below is a list of further peer-reviewed studies indicating potential health risks associated with GM, which have been published in independent academic journals.

Ewen SW**,** Pusztai A**.** Effect of diets containing genetically modified potatoes expressing Galanthus nivalis lectin on rat small intestine. Lancet, 1999 Oct 16;354(9187):1353-4.

Malatesta M., Biggiogera M., Manuali E., Rocchi M.B.L., Baldelli B., Gazzanelli G.: Fine structural analyses of pancreatic acinar cell nuclei from mice fed on GM soybean. Eur. J. Histochem., 47:385-388, 2003

Malatesta M., Caporaloni C., Gavaudan S., Rocchi M.B.L., Tiberi C., Gazzanelli G.: Ultrastructural morphometrical and immunocytochemical analyses of hepatocyte nuclei from mice fed on genetically modified soybean. Cell Struct. Funct., 27: 173-180, 2002.

Malatesta M., Caporaloni C., Rossi L., Battistelli S., Rocchi M.B.L., Tonucci F., Gazzanelli G.: Ultrastructural analysis of pancreatic acinar cells from mice fed on genetically modifed soybean. J. Anat., 201:409-416, 2002.

Nagui H. Fares, Adel K. El-Sayed, “Fine Structural Changes in the Ileum of Mice Fed on Endotoxin Treated Potatoes and Transgenic Potatoes,” *Natural Toxins* 6, no. 6 (1998): 219–233.

R. Tudisco, P. Lombardi, F. Bovera, D. d’Angelo, M. I. Cutrignelli, V. Mastellone, V. Terzi, L. Avallone, F. Infascelli, “Genetically Modified Soya Bean in Rabbit Feeding: Detection of DNA Fragments and Evaluation of Metabolic Effects by Enzymatic Analysis,” Animal Science 82 (2006): 193–199.

Séralini GE, de Vendômois JS, Cellier D, Sultan C, Buiatti M, Gallagher L, Antoniou M, Dronamraju KR. How Subchronic and Chronic Health Effects can be Neglected for GMOs, Pesticides or Chemicals. *Int J Biol Sci* 2009; 5:438-443.

L. Vecchio et al, “Ultrastructural Analysis of Testes from Mice Fed on Genetically Modified Soybean,” *European Journal of Histochemistry* 48, no. 4 (Oct–Dec 2004):449–454.

Alberta Velimirov and Claudia Binter, “Biological effects of transgenic maize NK603xMON810 fed in long term reproduction studies in mice,” Forschungsberichte der Sektion IV, Band 3/2008.

Vazquez et al, “Characterization of the mucosal and systemic immune response induced by Cry1Ac protein from *Bacillus thuringiensis* HD 73 in mice,” *Brazilian Journal of Medical and Biological Research* 33 (2000): 147–155.

6. Recommendations and comments on Food Standards Amendment (Truth in Labelling- Genetic Modified Material) Bill 2010

Greenpeace is supportive of the intent of the Food Standards Amendment (Truth in Labelling- Genetic Modified Material) Bill 2010 in its efforts to fulfil the consumer's right to know about what is in their food, and to provide accurate information about food at the point of sale for food containing genetically modified (GM) materials irrespective if the amount of GM materials in the food, the manner in which it got into the food and whether the producer of the food intended it to contain GM materials.
Greenpeace supports the need to develop guidelines in relation to the exercising of due diligence by producers, manufacturers and distributor of GM free food.

Greenpeace also supports the need to develop guidelines to assist agencies involved in the compliance testing and enforcement of the Australian New Zealand Food Standards Code in relation to a food labelling standard.

There are a number of recommendations that we would make to strengthen and complement this Bill. They are:

Section 4 Purpose of Act:

Amend to read:
14 The purpose of this Act is to require producers, manufacturers and
15 distributors of food to label all products derived from genetically modified material'.

This recommended change would strengthen the bill to ensure labelling of all products made using GM crops regardless of the presence of novel DNA in the final food product. This would also require labelling of foods derived from animals grown using GM animal feed.

Part 16C Matters for which amendment of standard must be developed
and approved—genetically modified material
Amend line 12 to read:

12 distributors of food derived from genetically modified material must

Other suggested changes relate to the definition of GM-Free food. This should be amended to read:
GM-free food means food:
A/ that is not derived from GM crops, including food derived from animals fed GM-feed, and
B/ that does not contain GM materials

Greenpeace has the following recommendations to make in relation to guidelines developed to address section 16D of the bill relating to due diligence.

1/ Compulsory traceability measures for GM

All food companies should be required to trace and document the presence of GM in their supply chain, with documentation of contracts for either GM-derived or non-GM derived crops, and the results of PCR tests for GM presence at key points in the supply chain including transport and processing.

Traceability is a crucial to support of government's capacity to implement GM labelling laws, particularly exemptions relating to 'adventitious presence'. There is no way to establish that GM presence is in fact adventitious without inspecting company supply chain documentation including procurement contracts and the results of testing to establish the regularity of GM presence.

Traceability documents should be maintained in a form easily accessible to government compliance officers. This is the case in the EU, where traceability systems have been mandatory for all food businesses since January 2005, with traceability defined as 'the ability to trace and follow a food, feed, food-producing animal or substance intended to be, or expected to be incorporated into a food or feed, through all stages of production and distribution' (Regulation (EC) No 178/2002, Article 3,15; Article 18).

EU Regulation No 1830/2003 in relation to genetically modified food and feed requires the following traceability measures to ensure GM-derived crops are legally labelled, but also to enable in the case of unforeseen effects on human health, animal health or the environment:

(3) Traceability requirements for GMOs should facilitate both the withdrawal of products where unforeseen adverse effects on human health, animal health or the environment, including ecosystems, are established, and the targeting of monitoring to examine potential effects on, in particular, the environment. Traceability should also facilitate the implementation of risk management measures in accordance with the precautionary principle.

(4) Traceability requirements for food and feed produced from GMOs should be established to facilitate accurate labelling of such products, in accordance with the requirements of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed (6), so as to ensure that accurate information is available to operators and consumers to enable them to exercise their freedom of choice in an effective manner as well as to enable control and verification of labelling claims. Requirements for food and feed produced from GMOs should be similar in order to avoid discontinuity of information in cases of change in end use.

Article 5

Traceability requirements for products for food and feed produced from GMOs

1. When placing products produced from GMOs on the market, operators shall ensure that the following information is transmitted in writing to the operator receiving the product:
(a) an indication of each of the food ingredients which is produced from GMOs;
(b) an indication of each of the feed materials or additives which is produced from GMOs;
(c) in the case of products for which no list of ingredients exists, an indication that the product is produced from GMOs.
2. Without prejudice to Article 6, operators shall have in place systems and standardised procedures to allow the holding of the information specified in paragraph 1 and the identification, for a period of five years from each transaction, of the operator by whom and to whom the products referred to in paragraph 1 have been made available.

Article 9

Inspection and control measures

1. Member States shall ensure that inspections and other control measures including sample checks and testing (qualitative and quantitative), as appropriate, are carried out to ensure compliance with this Regulation. Inspection and control measures may also include inspection and control regarding the holding of a product.
2. Prior to the application of Articles 1 to 7, the Commission, in accordance with the procedure referred to in Article 10(3), shall develop and publish technical guidance on sampling and testing to facilitate a coordinated approach for the implementation of paragraph 1 of this Article. In developing the above technical guidance, the Commission shall take account of the work of national competent authorities, the committee referred to in Article 58(1) of Regulation (EC) No 178/2002 and the Community Reference Laboratory established under Regulation (EC) No 1829/2003.

2. Prior to the application of Articles 1 to 7, the Commission, in accordance with the procedure referred to in Article 10(3), shall develop and publish technical guidance on sampling and testing to facilitate a coordinated approach for the implementation of paragraph 1 of this Article. In developing the above technical guidance, the Commission shall take account of the work of national competent authorities, the committee referred to in Article 58(1) of Regulation (EC) No 178/2002 and the Community Reference Laboratory established

under Regulation (EC) No 1829/2003.

3. In order to help the Member States meet the requirements set out in paragraphs 1 and 2, the Commission shall ensure that a central register is put in place at Community level, which shall contain all available sequencing information and reference material for GMOs authorised to be put into circulation in the Community. The competent authorities in the Member States shall have access to the register. The register shall also contain, where available, relevant information concerning GMOs which are not authorised in the European Union.

Greenpeace has the following recommendations in relation to part 16E of the bill relating to monitoring and compliance

Without central support for industry traceability regimes, government oversight of the amount of GM in our food supply and monitoring for any unforeseen health effects will be impossible. Some level of compliance monitoring is also part of government's responsibility to Australian consumers, who have expressed unequivocally a belief in their right to know if they are eating GM.

Greenpeace recommends the introduction of standards attached to the Food Standards Amendment (Truth in Labelling- Genetic Modified Material) Bill 2010 which clarify the areas of responsibility relating to GM labelling enforcement and increase the resources devoted to this.

The current labeling legislation in Australia does not allow for consistent, effective, or proportionate labeling of GM products. In addition, FSANZ's present monitoring and enforcement regime is highly problematic. Sufficient resources need to be devoted to monitoring and surveillance to ensure that companies comply with the GM labeling laws.

The boundaries of its responsibility between AQIS, OGTR and the States, and its powers of enforcement need to be clarified if there is to be effective enforcement of GM labeling laws=

Greenpeace recommends:

- Clear federal government responsibility for financing the states and territories to conduct GM compliance testing and coordinate central testing to avoid duplication of monitoring for imports and nationally marketed products.
- Quarterly testing of high-risk products for GM presence, with high-risk products defined as imports from countries with high GM acreage and products produced from local ingredients derived from GM crops grown in Australia
- Batch-by-batch testing of products found to contain GM to establish adventitious presence. Three positive tests should lead to GM labelling by the company until such time as that company can provide documentation demonstrating supply-chain changes and GM-negative results for three product batches
- Quarterly publishing of the results of compliance testing on a publicly accessible

website, with details including company and brand names, the presence or absence of GM materials, evidence considered in determining 'adventitious' presence and compliance or non-compliance with labelling regulations.

- Real-time publishing of results for follow-up tests on products that have been identified through quarterly testing to contain GM DNA.

[i] Newspoll (2008) GM Food Labelling, September 2008, http://www.greenpeace.org/australia/resources/reports/GE/rpt-gmpoll-190908