

SUPPLEMENTARY REPORT

THE GENE TECHNOLOGY BILL 2000

AUSTRALIAN GREENS SENATOR BOB BROWN

I support the vast majority of the recommendations made by the Senate Committee on the Gene Technology Bill 2000 (“**Bill**”). The report's recommendations constitute a significant improvement on the original Bill. The recommendation to include the Precautionary Principle in the Objects of the Bill is an essential recognition of the significant risks inherent in gene technology. However the report's recommendations do not match the degree of uncertainty that surrounds GMOs and their release into the wider environment.

The risk to human health and the environment posed by gene technology is poorly understood and is the subject of scientific controversy at the highest levels. Furthermore, the economic risk that GMOs pose to Australia is underestimated. I strongly object to the assumption that the adoption of GE will have automatic benefits for Australia's farming community, while internationally the consumer preference for GE-free is expanding rapidly.

In many cases, for example in the need for all GMOs to be licensed, for proponents to obtain adequate insurance to cover any consequences of their GMO releases, and for there to be disclosure provisions, the recommendations are not sufficiently strong to meet the Bill's central object. Recommendations suggesting rather than prescribing appropriate action are inadequate given the significant shortcomings in the self-regulating industry's *modus operandi* to date. In other critical areas such as the need for a five-year freeze and to sign and implement the Biosafety Protocol, where clear recommendations for action are required, the report is silent.

In order to achieve the Bill's object 'to protect health and safety of people and to protect the environment' the following recommendations should be added to the report:

A five-year freeze

I support a moratorium, of at least five years, to apply to the import of all GM products and the release of all GMOs in Australia. The Australian environment and economy should not be subject to the risks that the release of GMOs poses in a climate of great uncertainty. Once released, self-replicating GMOs offer no possibility for recall. No evidence exists on the long-term impacts to human health of the consumption of GE foods or to the environment of the release of GMOs. Time is required to evaluate the practical experience of other countries that have adopted GE. Time is also required to observe the market response to GMOs. If the international consumer preference for GE-free continues to grow (especially in key Australian markets such as Europe, Asia and the Middle East), there may be a significant cost

associated with exposing Australian farmers to the risk of losing their GE-free status permanently.

Recommendation

That Australia implement a 5-year freeze on the import of all GM products and the release of all GMOs.

The Biosafety Protocol

The Biosafety Protocol has been agreed to by 130 countries. The Protocol will establish internationally agreed environmental protection measures for trade in GMOs and promote informed handling of GMOs to minimise risks associated with oversight. As a member in good standing of the United Nations Convention on Biodiversity, and as a trade partner of many countries increasingly concerned about the GE status of imports, it is essential that Australia sign and implement the Biosafety Protocol as soon as possible.

Recommendation

That Australia sign and implement the Biosafety Protocol.

State, Territory and Local Government Opt-out Clauses

The Bill makes no provision for State, Territory or local governments to prohibit the release of GMOs within their jurisdictions. Communities should have the right to determine whether they are willing to accept the risks associated with the release of GMOs. It is important to have a centralised regulatory system where the primary responsibility for regulation of GMOs rests within the Gene Technology Regulator ("**Regulator**"). However State, Territory and Local Governments must have the power to prevent the release of GMOs in their jurisdictions where they determine that the proposed dealing is inappropriate.

Recommendation

That the Bill be amended to provide State, Territory and local governments with the explicit power to prohibit dealings with any GMOs or GM products within their respective jurisdictions.

A One-Stop Shop (the OGTR to be responsible for all GMOs)

I am concerned that the creation of a multi-layered regulatory system may result in inadequate government oversight being provided for certain dealings with GMOs and GM products. The Bill's provision for extensive exemptions from license requirement (for example for tertiary institutions and State agencies) is unacceptable.

Recommendation

That the Bill be amended to require all dealings with GMOs (including transgenic GMOs involving human DNA) to be licensed by the Regulator. There should be a single licensing procedure that applies to all GMOs. The Bill should be amended to remove all exemption provisions and the provisions relating to notifiable low risk dealings and the GMO Register. The definition of GMOs should be amended to ensure that all GMOs are required to adhere to the licensing procedure.

Recommendation

That prior to the enactment of the Bill, further consideration be given to the feasibility of introducing a 'one-stop shop' model, having regard to the operational effectiveness of the proposed 'gap-filler' arrangements. If the 'gap-filler' arrangements are retained, the Bill should be amended to require the Regulator to consult with existing regulatory agencies about all proposed dealings with GMOs and GM products. The Bill should be amended to ensure that the Regulator and all State, Territory and local governments have the power to prevent the approval of a dealing with a GMO or GM product by another regulatory agency which they consider is appropriate.

Insurance for GMO dealings

The persons involved in the development, use and release of GMOs and GM products should be responsible for the adverse effects that these dealings have on the environment and on the interests of other members of the community. Distribution of the costs associated with the use of gene technology amongst those persons who benefit from its application is dependent upon the availability of suitable insurance.

The Insurance Council of Australia has noted that:

“There is a lack of reliable loss experience history (associated with genetic engineering) and means for calculation of likely loss patterns. This absence of data inevitably promotes a fundamental doubt over the insurability of such risks.”¹

So persons involved in the development, use and release of GMOs and GM products may not have satisfactory insurance.

Recommendation

That the Bill be amended to require all persons responsible for dealings with GMOs to have insurance to cover the risks associated with the dealings.

Recovery for loss and environmental harm

Primary producers who are reliant on their GE-free status should not suffer economically as a result of genetic contamination from dealings with GMOs and GM products. Organic and conventional non-GE primary producers may have difficulties

¹ Submission No.1, p.2 (Insurance Council of Australia)

recovering damages for genetic contamination in tort. Persons should have the right to recover adequate compensation for loss or damage suffered as a consequence of genetic contamination.

Recommendation

That the Bill be amended to ensure that persons who suffer loss or damage as a consequence of a breach of the Act have the right to recover compensation in an action against the persons responsible.

Recommendation

That the Bill be amended to ensure that persons responsible for the release of GMOs into the environment are liable for any consequent damage to the environment.

Recommendation

That the Bill be amended to provide for the establishment of a compensation fund for the purposes of:

- (a) compensating persons who suffer loss or damage as a result of the development, use or release of GMOs and GM products; and
- (b) remedying any damage done to the environment as a result of the development, use or release of GMOs or GM products.

This fund should be financed from contributions made from those involved in the development, use and distribution of GMOs and GM products.

Full Site Disclosure of all GMO dealings

The recommendations made by the Committee do not guarantee that commercial in confidence information will not compromise the objectives of the Bill and the transparency of the regulatory regime. Anything short of full disclosure of all dealings with GMOs is unacceptable.

Recommendation

That the Bill be amended to require all applications for the approval of a dealing with a GMO to disclose the size and location of the proposal, and to require that these details be made publicly available.

Direct notification of a proposed GMO dealing involving intentional release to local residents and producers

Non-GE producers are exposed to the economic risk of genetic contamination by all GMO releases. It is therefore necessary that all persons residing or involved in agricultural industry within the distance over which GMO gene exchange could possibly take place are directly notified of all proposed dealings involving an

intentional release of a GMO into the environment. Furthermore, these persons should have the opportunity to make submissions on the proposed GMO dealing.

Recommendation

That the Bill be amended to require the Regulator to notify all persons who reside within a 15km radius of the location of a proposed dealing involving the intentional release of a GMO into the environment of the proposal, and invite their submissions on the proposal.

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