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European Court Ruling on GMO Ban

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Report Highlights:

On September 9, 2003, the European Court of Justice ruled that a national government in the EU can temporarily ban the trade in genetically modified foods if it has detailed grounds to suspect a risk to human health. Italy can uphold its national ban on GM maize provided it can scientifically demonstrate evidence of health risks.

Includes PSD Changes: No
Includes Trade Matrix: No
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European Court Ruling on Italian GMO Ban

On September 9, 2003, the European Court of Justice ruled that a national government in the EU can temporarily restrict or suspend the trade in genetically modified foods if it has detailed grounds to suspect a risk to human health. Italy can uphold its national ban on genetically modified maize (Bt-11 and MON 810) provided it can scientifically demonstrate evidence of health risks. However, the judges ruled that "the mere presence of residues of transgenic protein in novel foods" does not allow a member state to ban a product that was declared substantially equivalent to comparable traditional products under the EU's Novel Foods regulation.

The European Court was ruling in a case brought by biotech companies Monsanto, Syngenta AG and Pioneer Hi-Bred International against the Italian government. Although the competent U.K. authority for food assessment had approved the marketing of products derived from the GM maize for the entire EU (under soon to be superseded EU rules), the Italian government had concerns regarding the safety of the products. Therefore, it adopted a decree in August 2000 suspending the trade in these products.

Under the EU's Novel Foods regulation, any member state can authorize foods, which are produced from GMO's but no longer contain them, to be marketed in the entire EU under a "simplified" procedure. If a national food assessment authority finds that the food is substantially equivalent to a traditional product, all the member states must accept the authorization. However, a safeguard clause authorizes member states to temporarily ban a product while research is being carried out.

Monsanto, Syngenta AG and Pioneer Hi-Bred International originally brought the case before an Italian court. The Italian court then asked the European Court of Justice to decide whether novel foods, which still contain residues of transgenic protein can be considered substantially equivalent to existing foods and consequently may be marketed under the simplified procedure. The case is now passed back to the Italian court to decide in the light of the European Court's rulings whether the Italian ban is scientifically justifiable.

In a statement to the press, Monsanto said that they welcomed the Court's ruling and expressed confidence in final victory noting that an Italian scientific institute in 2000 found no evidence of health risks.

EuropaBio, the European biotech trade association, welcomed the Court's clarification that invoking the safeguard clause must be based on sound scientific evidence and not on pure supposition or short term political ends. The Court's ruling, they said, upheld the right to free movement of goods including approved GM products within the EU.

The Court's ruling also seemed to please the environmental group Greenpeace who welcomed the Court's "reminder" of member states' rights.

Internet links:

- European Court of Justice: www.curia.eu.int/en/index.htm
- EuropaBio: www.europabio.org/upload/articles/article_209_EN.doc

Information on the EU's new rules on the authorization and traceability of GM products can be found on our website at www.useu.be/agri/GMOs.html.

Visit our website: our website www.useu.be/agri/usda.html provides a broad range of useful information on EU import rules and food laws and allows easy access to USEU reports, trade information and other practical information. E-mail: AgUSEUBrussels@usda.gov

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