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Kenya Bans Genetically Modified Food Imports

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Report Highlights:

On November 21, the Kenyan Ministry of Public Health (MOPH) ordered Public Health Officials to remove all genetically modified (GM) foods on the market and to enforce a ban on GM imports following a November 8 Kenyan Cabinet and Presidential decree. The ban undermines Kenya's legal and regulatory system for agricultural biotechnology codified in its National Biosafety Act of 2009. The ban's immediate impact on U.S. exports will be minimal because Kenya does not regularly import U.S. corn and soy and has imported none so far in 2012. In addition, most U.S. food aid shipments through Kenya were already being diverted from the port of Mombasa due to recent challenges with GM pre-notification procedures.

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The Minister for Public Health, Beth Mugo, presented concerns about the safety of GM foods to a meeting of the Kenyan Cabinet chaired by President Kibaki on November 8. Minister Mugo recommended an immediate ban on GM imports and products in Kenya citing the discredited Seralini study released by a French university in September 2012 that linked cancer in rats to the consumption of GM foods. The Kenyan Medical Research Institute, under MOPH, also supported the ban based on this study. The President accepted her recommendation, and decreed the ban.

The National Biosafety Act, Kenya's law on biotechnology, was passed in 2009. It lays out procedures for evaluating the safety of GM products. This law affects research, potential cultivation, and consumption of GM products. According to the law, Kenya's primary authority for overseeing biotechnology is the National Biosafety Authority (NBA) under the Ministry of Higher Education, Science and Technology. The NBA is mandated to "exercise general supervision and control over the transfer, handling and use of genetically modified organism with a view to ensure safety of human health and provision of adequate protection of the environment."

The Ministry of Public Health did not consult the National Biosafety Authority about the proposal or ban. In addition, the Ministry of Higher Education Science and Technology, the Ministry of Agriculture and the Ministry of Trade were not consulted before the cabinet meeting, although those Ministers did not raise specific objections during the meeting. Following the decree the Minister of Public Health ordered a task force to be constituted to study the health effects of GM foods. Currently that task force does not include representatives of NBA or other relevant ministries, but composition of the group is still under development. This ban demonstrates a weakness in Kenya's legislative process and regulatory system, as one Ministry's concerns and a resulting Presidential and Cabinet decree usurped Kenya's agricultural biotechnology law, regulations and institutional authorities mandated to address the safety of GM products.

There are many active scientific and non-governmental organizations in the country who are working together to reverse the cabinet decision. These groups include: Africa Biotechnology Stakeholders Forum, African Agricultural Technology Foundation, International Service for the Acquisition of Agri-biotech Applications, Program for Biosafety Systems, Africa Harvest Biotech Foundation International,

Biotechnology Trust Africa, Seed Trade Association of Kenya, Cereal Millers Association, and the East African Grains Council. In addition, research institutes and universities are among the groups pushing for a reversal of the decision.

Implications of the ban are not significant for the United States in terms of trade. Commercial exports to Kenya of corn and soy, whole and meal, are very limited in general, and were at zero so far in 2012. In addition, most GM food aid has already been diverted from the port of Mombasa because of challenges caused by pre-notification requirements for shipments of GM products. However, the United States looked to Kenya as a partner in international fora and a leader in the East African region to advocate for a deliberate, scientific, and non-political approach to decisions in agriculture and food safety. This policy calls into question Kenya's commitment to making regulatory decisions based on sound science.

Implications of the ban are significant for Kenya. The decision will further hinder Kenya's investment in GM technology to modernize its agricultural production which was already hampered by strict liability regulations based on its 2009 law. Shipments to and through the port of Mombasa, already hampered by GM rules, will be halted. Kenya will need to source its structural corn deficit (which was about 300,000 metric tons in 2011) from only non-GM producers. In addition, in its current form the ban would prohibit the use of any form of future Corn-Soy Blend (CSB) food assistance to Kenya from the United States, a common commodity used for emergency feeding programs.

Currently there are no specifics on how Kenya's Public Health Officials will enforce the mandate to remove GM products from the market and the import ban. The Kenyan government has limited capacity, from personnel to testing facilities, to evaluate products. In addition, highly processed food products were not labeled under Kenyan law, so there are no GM products on the shelves to be removed.

The Office of Agricultural Affairs in Nairobi will provide updates on any policy developments and any implications for U.S. products in the coming weeks.