

Issue Paper 5

State governments and GM crops

Since 2003, various bans on the commercial cultivation of genetically modified (GM) crops, or more specifically GM canola varieties, have been implemented by most state and territory governments in Australia. This paper outlines the current situation.

GE Free Zones – potential within the national system

There is provision within Australia's Federal gene technology legislation to create zones free of GM crops. Under the Commonwealth *Gene Technology Act 2000*, the Ministerial Council, comprising of federal, state and territory ministers, has the opportunity to issue a policy principle, "Recognising areas, if any, designated under state law for the purpose of preserving the identity of one or both of GM or non-GM crops for marketing purposes."

Introducing a policy principle

The Ministerial Council agreed in 2003 to issue a policy principle to recognise the rights of state and territory governments to designate zones for GM or non-GM crops for marketing purposes.

This means that the Federal Gene Technology Regulator's decision to grant a commercial release licence for a GM crop must recognise any laws the states and territories make in respect of preserving the identity of GM and/or non-GM crops for marketing purposes. For example, when a state government implements a policy principle recognising a GM-free area, in granting any GM crop licence, the Regulator must respect this area as GM-free and exempt it from any licence approval.

State governments – where do they stand?

As GM canola reached its final assessment for commercial release by the OGTR, some state governments expressed concerns about the market impacts of the new varieties, and proceeded to implement legislation to allow them more time to consider these issues. The legislation is as follows:

The **Australian Capital Territory (ACT)** has introduced a moratorium on the commercial release of GM food crops in the ACT until 2006+. The moratorium will be reviewed annually. The Health Minister has indicated that the ACT will continue to support licensed, scientific research into genetically modified organisms (GMOs) being conducted in the territory.

The **New South Wales (NSW)** Government has banned GM food crops until 2008. It has not banned GM cotton, which has been grown commercially in Australia since 1996, and will allow any GM crop field trials to continue at the discretion of the Agriculture Minister.

Both the **Queensland** and **Northern Territory** Governments support the national gene technology regulatory scheme and have not implemented any further legislation.

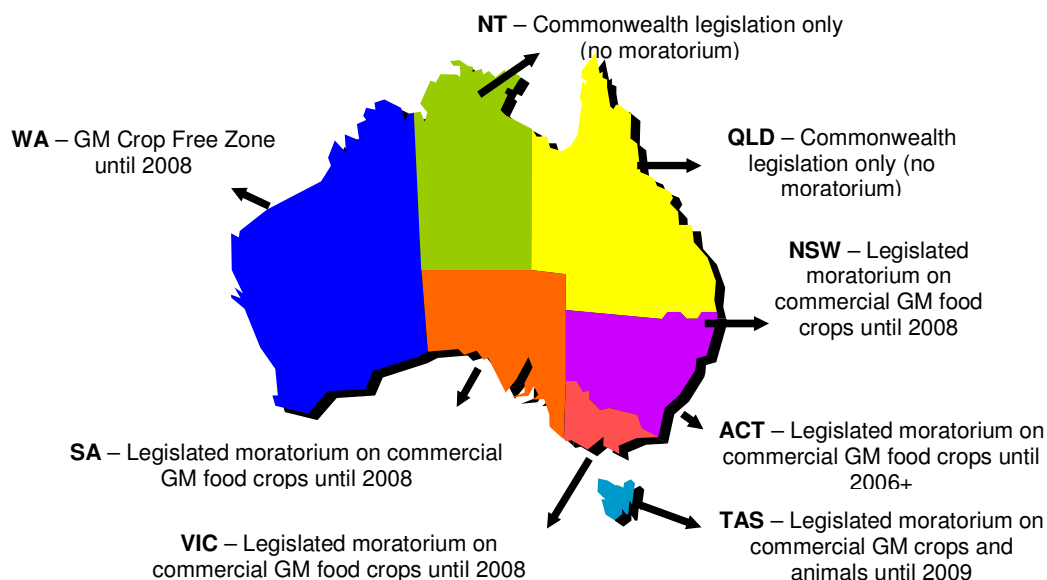
The **South Australian (SA)** Government has implemented legislation to establish a moratorium on GM crops until 2008. The Bill does provide for exemptions to allow field trials to continue under specific conditions.

The **Tasmanian** Government has extended its moratorium on the commercial release of GM crops and animals in Tasmania until 2009. Provisions for research trials using GM non-food crops continue to be strictly enforced, for example GM poppy field trials have continued in the state despite the moratorium.

The **Victorian** Government has implemented a moratorium until 2008, with the *Control of Genetically Modified Crops 2004* Bill passed in May 2004. The Bill specifically prohibits the commercial planting of GM canola.

In December 2003, the *Genetically Modified Crops Free Areas Bill 2003* was passed by **Western Australian** Parliament, and in March 2004, the Premier declared the entire state of Western Australian a GM free area. A review of the operation and effectiveness of the Act is to be conducted in 2008.

The Australian State of Play



Industry response

In 2005, the Australian Government Department of Agriculture, Fisheries and Forestry commissioned the Agriculture and Food Policy Reference Group to examine the responsibilities of governments and industry in taking future action to enhance the sustainability, competitiveness and profitability of the agriculture and food sector.

The resulting report released in 2006, *Creating our Future: Agriculture and Food Policy for the Next Generation* said in relation to the moratoria currently in place across Australia, “In view of the potentially significant human health, environmental and economic benefits from using biotechnology in agriculture and food production, and the costs to Australians of failing to capture them...state governments should lift their moratoriums on the commercial use of GM crops immediately, and work with the Australian Government, industry and researchers to achieve nationally consistent traceability and tolerance protocols, and to clarify legal liability surrounding the use of GM organisms in agriculture and food products.”

Australia has a significant investment in this technology across most major commodity sectors, and momentum is building from commodity and farmer associations for access to this technology in order to remain globally competitive.

A way forward?

After months of community consultation and consideration, a review of Australia’s gene technology legislation was tabled in the Australian Parliament at the end of April, 2006.

One recommendation from the review related to the extent to which state bans on the growing of GM crops had undermined the nationally consistent framework intended by the regulatory system by going against the federal regulator’s decisions.

The review noted that there was no evidence of adverse impacts on markets by GM crops grown overseas, and concluded that the bans were having detrimental rather than beneficial impacts. It recommended that all jurisdictions should reaffirm their commitment to a nationally consistent scheme and work together to develop a national co-existence framework.

The relevant recommendations and the state and territory government responses, via the Gene Technology Ministerial Committee, (GTMC) to the recommendations are below.

Recommendation 9.1

The Review recommends that the Commonwealth and States through the GTMC reconfirm their commitment to a nationally consistent scheme for gene technology and including a nationally consistent transparent approach to market considerations as soon as practicable.

Governments' response:

Queensland, Tasmania, Western Australia and South Australia do not agree to a nationally consistent transparent approach to market considerations.

The GTMC agreed in April 2006 to refer the issue of market considerations to the Primary Industries Ministerial Council for consideration and advice by the end of 2007.

Recommendation 9.2

The Review recommends that the Commonwealth and States work together to develop a national framework for co-existence for non-GM and GM crops to address market considerations.

Governments' response:

All governments except Tasmania and Western Australia agree to recommendation 9.2.

The GTMC agreed on 27 April 2006 to refer this issue to the Primary Industries Ministerial Council for consideration and advice, by the end of 2007, on a consistent and transparent framework for co-existence of both non-GM and GM crops which can be assessed for adoption by the States, who wish to do so, as each jurisdictions' moratorium ends or is reviewed.

As noted by both recommendation responses above, more Government statements on this issue are expected by the end of 2007.

Further information

GM Crop Field Trial locations, Office of the Gene Technology Regulator (OGTR). Available at www.ogtr.gov.au.

ACT Gene Technology (GM Crop Moratorium) Bill 2004.

www.legislation.act.gov.au/b/db_10630/default.asp

Creating our Future: Agriculture and Food Policy for the Next Generation, 2005. DAFF.

www.daffa.gov.au/about/publications/corish_report_response

NSW - Gene Technology (GM Crop Moratorium) Amendment (Postponement of Expiry) Bill 2005.

www.parliament.nsw.gov.au/prod/parlament/nswbills.nsf/V3BillsHome

SA - Genetically Modified Crops Management (Extension of Review Period and Controls) Amendment Bill 2006

www.parliament.sa.gov.au/BillsMotions/Bills+Word+Search.htm

State, Territory and Australian Governments' Response to the Recommendations of the Statutory Review of the *Gene Technology Act 2000* and the *Gene Technology Agreement 2001*. 2006

[www.health.gov.au/internet/wcms/publishing.nsf/Content/CE28398A33AF02E6CA25707400080A57/\\$File/Governments%20Response%2027%20Oct%2006%20Final.pdf](http://www.health.gov.au/internet/wcms/publishing.nsf/Content/CE28398A33AF02E6CA25707400080A57/$File/Governments%20Response%2027%20Oct%2006%20Final.pdf)

Tasmania – Genetically Modified Organisms Control Bill 2004.

www.parliament.tas.gov.au/bills/pdf/9_of_2004.pdf

VIC – Control of Genetically Modified Crops 2004 Bill
[www.dms.dpc.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/edfb620cf7503d1aca256da4001b08af/38fd0d4c26cbb9a9ca256e91002b8494/\\$FILE/04-007a.pdf](http://www.dms.dpc.vic.gov.au/Domino/Web_Notes/LDMS/PubStatbook.nsf/edfb620cf7503d1aca256da4001b08af/38fd0d4c26cbb9a9ca256e91002b8494/$FILE/04-007a.pdf)

WA - GM Crops Free Areas Bill 2003

www.parliament.wa.gov.au/web/newwebparl.nsf/ifra_mewebpages/Bills+-+All