

Testbiotech e. V. | Frohschammerstraße 14 | 80807 München

European Commission

European Commissioner for Health and Consumer Policy
Mr. Tonio Borg
Health & Consumers Directorate-General
B – 1049 Brussels
Belgium

Munich, 19 December 2012

Dear Mr Borg

Illegal imports of the genetically engineered maize, SmartStax

Testbiotech would like to bring to your attention our suspicions concerning illegal imports of the genetically engineered maize, SmartStax, into the EU. The European Food Safety Authority, EFSA, assessed SmartStax in 2010. The results of this assessment were, however, controversial and the maize was not authorised.

To the best of our knowledge, the risks of SmartStax were never fully investigated. For example, poultry was fed with the kernels for just 42 days to observe weight gain, and no results from feeding trials with the plants to investigate health effects were forwarded with the market application in the EU. Additionally, we never received a satisfactory response to our complaint about flawed risk assessment (see <http://www.testbiotech.de/en/node/515>). The answer from EFSA does not deal with our concerns in substance (see <http://www.testbiotech.de/node/748>).

SmartStax is grown in the US on millions of hectares of farmland, and in the last few years more than one million tons of maize have been imported from the US into the EU. It must therefore be an accepted fact that SmartStax has been imported into the EU market in large amounts, since effective methods to detect and separate this maize are not in place (see background attached).

We must conclude that a large part of the US maize imports contravene current EU legislation because although the EU Commission did not authorise the plants it equally took no measures to prevent it from being imported.

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Testbiotech e. V.
Institute for Independent
Impact Assessment in
Biotechnology

Frohschammerstraße 14
80807 München
Fon.: 0 89 - 35 89 92 76
Fax: 0 89 - 359 66 22
info@testbiotech.org
www.testbiotech.org

Executive Director:
Dr. Christoph Then

Tax Number:
143/222/75510

Registered Office:
Munich

Registration Nr.:
Amtsgericht München
VR 202119

Bank Account:

Postgiro München
BLZ 700 100 80
Account-Nr. 525 88 08
IBAN DE51 7001 0080
0005 2588 08
BIC PBNKDEFF

If US maize importers cannot show that their products are free from SmartStax, the shipments have to be stopped. Feed producers and farmers and other concerned stakeholders must be told that these products cannot be used in food and feed production within the EU.

Because the maize cannot be detected by routine testing, it is likely that industry is hoping that these illegal imports will escape the attention of the EU authorities. SmartStax can remain undetected despite controls because it consists of several genetically engineered maize events, which are authorised in the EU as single plants and can therefore be easily mistaken. One has to bear in mind that the EU has already given market authorisation for 22 stacked events, which are hardly distinguishable from their parental plants. As far as we know, the JRC homepage (<http://gmo-crl.jrc.ec.europa.eu/gmomethods/>) only provides methods to detect single events but no method to identify stacked events directly. This is contrary to the traceability requirement as requested by EU Regulation 1830/2003. As a result, the EU authorities have already lost a significant amount of control over the products being placed on the market, and used in food and feed production.

Testbiotech is demanding a new, comprehensive risk assessment of SmartStax and effective measures to stop its import into the EU. Further, we kindly ask you to reconsider the current practise of EU authorisations of stacked events in the light of Regulation 1830/ 2003.

Please let us know what the Commission intends to do in this case. We plan to publish our findings tomorrow, but would be interested to receive your comments beforehand.

With kind regards



Dr. Christoph Then,
Executive Director of Testbiotech
Tel: + 49 15154638040

Attachment: Background on import of SmartStax

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