

# 10 Years: Peru's national biosafety law born out of consensus



PERU HAS ESTABLISHED A SIGNIFICANT BIOSAFETY LAW THAT CONSOLIDATES A RANGE OF PARLIAMENTARY INITIATIVES TO REGULATE LMOs TO MEET ITS OBLIGATIONS OF THE CARTAGENA PROTOCOL ON BIOSAFETY

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In 1999, before the adoption of the Cartagena Protocol on biosafety, Peru promulgated its national biosafety law (Law No. 27104) related to the prevention of risks derived from the use of biotechnology. The law covers eleven issues related to living modified organisms (LMOs) for the safe handling, transfer and use of LMOs.

During that period, there was not a solid environmental administrative system in place. National decisions regarding LMOs were entrusted to competent national authority (CNA) bodies in different ministries, for example, a political entity at the Fishing Sector; a public promoter and developer of modern biotechnology, at the Agricultural Sector, and a regulator body at the Health Sector.

The greatest weakness of the biosafety law (Law No. 27104), despite the eleven issues related to handling LMOs, is that regulations focused only on the import of LMOs. It also rejects (“de pleno derecho”) any LMO that has been observed or rejected, or has not been previously approved in another country.

The national biosafety law was developed in Peru when the country was just beginning to recover from a long period of social struggle and violence. The country had an influential central power but limited capacity to conduct international negotiations. During that time, the country's demand for introducing, developing and releasing LMOs (e.g. for cultivation or breeding in agriculture and fishery) was not significant. This still applies today. Peru's agricultural production consists mostly of fruits and vegetables for export and food crops for the domestic market, while the fisheries sector is fundamentally extractive, based on fishing and gathering. Aquaculture is still in its infancy, devoted mainly to raising trout, prawns and other aquatic species.

In late 2010, the implementation of biosafety law (Law No. 27104), and therefore the use of LMOs (e.g. cultivation or rearing) appeared to be imminent, given the approval of specific biosafety regulations by the agriculture sector. However, that approval sharpened the debate about its significance as an adequate instrument for the protection, conservation and use of biodiversity, as well as the protection of human health,

with serious deficiencies identified in the country's capability to perform adequate risk analysis. This was mainly due to: absence of baselines on the potential effect of LMOs on biodiversity; weak institutional framework; and, inadequate quality infrastructure for regulatory purposes, including human resources, laboratories and specialized equipment.

## Current status and initiatives

Over the years, the national economy has improved and the country has undergone a process of political decentralization throughout the different regions of the country. This is still evident today as the regions around the country currently handle most of the national public budget. As a result, between 2007 and 2011 as the proposal of a new biosafety law ([N° 29811](#)), known as the Moratorium law, was being discussed, 12 out of 24 regions issued their own local norms declaring their region “LMO-free”.

The new biosafety law consolidates several parliamentary initiatives. This is the first time that a law as this one has support from all political parties and the sectors that make up the Executive Power of Peru.

One challenge was, however, that while the Moratorium Law was adopted in December 2011<sup>1</sup>, its provisions were not made public until a year later ([Supreme Decree N°008-2012-MINAM](#)). Still, the adoption of the law was one of the few cases in Peru where so much discussion and controversy led to a major consensus<sup>2</sup>.

Apart from the challenge that the Moratorium comes with a 10-year time limit, it does not include all the obligations under the Cartagena Protocol. Specifically, it excludes LMOs used for confined use and LMOs for food, feed and processing.

A further challenge is that it focuses mainly on environmental issues regarding strengthening national capacities, developing infrastructure through the implementation and strengthening of a network of accredited laboratories for the detection

<sup>1</sup> The Moratorium law covers the importation and production of LMOs in Peru for a period of 10 Years.

<sup>2</sup> Regulations of the Moratorium Law were endorsed by the Ministry of Agriculture, Ministry of Production, Ministry of Economy and Ministry of Environment. It was also approved by the Council of Ministers



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of LMO, and setting baselines for the native biodiversity that could potentially be at risk from LMOs introduced into the environment, as well as those associated with production systems of important value for the Peruvian economy. In this regard, both the Ministry of Environment of Peru and various ministries, depending on the specific type of LMOs, have to coordinate tasks and appropriate assessments on the impact of the activities related to LMOs introduced into the environment.

This precautionary measure does not affect the extensive trade of grain and other products (e.g. pharmaceuticals and veterinary products) that the country needs. In fact, during the nearly two-year period of the Moratorium, it has not affected the supply of grains for animal production, food industry and veterinary products.

However, in general, the Moratorium is consistent with the Protocol, it recognizes “the crucial importance of centres of origin and centres of genetic diversity for humankind” and states that “Nothing in this Protocol shall be interpreted as restricting the right of a Party to take action that is more protective of the conservation and sustainable use of biological diversity than that called for in this Protocol”.

### Recommendations

The implementation of the moratorium has as its main reference the Regulation of Law No. 29811, through the [Supreme Decree N°08-2012-MINAM](#). As a result an Action Plan was developed to handle LMO-related issues. The plan comprises:

- A program on Knowledge and Conservation of Native Genetic Resources for Biosafety (baseline), coordinated by the Ministry of Environment
- A program on Biotechnology and Competitive Development, which is promoting the use of genetic resources based on various biotechnologies, coordinated by National Agricultural Innovation Institute

- Special project for Capacity Building for the Modern Biotechnology Related to Biosafety (e.g. infrastructure and human resources), coordinated by National Council for Science, Technology and Technological Innovation
- A National Network of Accredited Laboratories for Monitoring of LMO detection, headed by National Authority for Accreditation and Intellectual Property Right
- An Advisory Multisectoral Commission, chaired by the Ministry of Environment.

These facilitate an administrative system and identifies the responsible body, and a legal framework, required to use resources (e.g., public budget and technical cooperation) to implement the Protocol.

Peru is also progressing in building its technical and scientific capacities to enable the country to use modern biotechnology in a responsible and safe manner for human well-being. Above all, Peru will keep its main priorities regarding the protection, conservation and use of biodiversity, and, consequently, its environment as a whole.

Peru is a country of both of opportunities and obligations. It comprises genetic diversity and domesticated animals and plants of actual and potential significance for both its sustainable development and that of mankind.

### Conclusion

Peru has established a significant Moratorium Law to regulate LMOs to meet the obligations of the Cartagena Protocol on Biosafety. It is essential that countries establish a national legal biosafety system and build administrative and technical capacities to implement the Protocol. All countries in Latin America and the Caribbean should take similar steps to ensure the safety of modern biotechnology to directly contribute to conserving our biodiversity and promoting sustainable development. 🌱