

## Submission

Application A1042 - Food derived from herbicide-tolerant Corn line  
DAS-40278-9

**18 April 2011**

Food derived from herbicide-tolerant Corn Line DAS-40278-9 Submission  
Food Standards Australia New Zealand  
PO Box 10559  
Wellington

To whom it may concern,

Please find attached the Sustainable Future Institute's submission on the application made to Food Standards Australia New Zealand.

We submit FSANZ should reject the application A 1042 DAS Corn line.

The Institute opposes application A1042 on the following grounds:

1. The lack of sufficient data regarding public health risks
2. The decision to accept the application by FSANZ appears to be based on economic and international trade related grounds
3. The assessment carried out by FSANZ does not comply with the purpose and objectives of FSANZ

Please find attached our submission. We outline our argument through considering (i) assessment criteria (ii) application of assessment criteria to application (iii) effect of rejecting the application. The Institute requests that FSANZ decline this application.

The Institute also wishes to appear before the committee to speak to this submission. Our contact details are provided below.

Kind regards,

Wendy McGuinness  
Chief Executive

Mia Gaudin  
Research Analyst

### **About Sustainable Future Institute**

The Sustainable Future Institute, founded in 2004, is an independent think tank specialising in research and policy analysis. Our purpose is to produce timely, complete and well-researched information focused on New Zealand's long-term future.

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## **Introduction**

We submit that Food Standards Australia New Zealand (FSANZ) should not change the Australia New Zealand Food Standards Code (the Code) to allow the herbicide-tolerant Corn Line DAS-40278-9 (the Corn Line) to be imported into New Zealand. Our argument is that there is no independent evidence to suggest that the Corn Line would not be harmful to the public's health. We argue that FSANZ favours the acceptance of the application based on political and economic international trade relationships, as opposed to proper assessment of public health. We assert that this reasoning for allowing the application is not in-line with the primary objective of FSANZ, as an independent body established to protect public health and safety.

### **(i) Assessment Criteria**

FSANZ has the mission statement that they will create: A safe food supply which supports the health of people in Australia and New Zealand.

This mission statement is confirmed in the Food Standards Australia New Zealand Act 1991 which states that the object of the act is:

#### ***2A Object of Act***

*The object of this Act is to ensure a high standard of public health protection throughout Australia and New Zealand by means of the establishment and operation of a joint body to be known as Food Standards Australia New Zealand to achieve the following goals:*

*(a) a high degree of consumer confidence in the quality and safety of food produced, processed, sold or exported from Australia and New Zealand;*

*(b) an effective, transparent and accountable regulatory framework within which the food industry can work efficiently;*

*(c) the provision of adequate information relating to food to enable consumers to make informed choices.*

*(d) the establishment of common rules for both countries and the promotion of consistency between domestic and international food regulatory measures without reducing the safeguards applying to public health and consumer protection.*

This shows that the purpose of FSANZ is that it should be an independent body that safeguards public health and protects consumers. Particularly as seen in section 2A(d) of the Act, the safeguards applying to public health and consumer protection should not be reduced to satisfy international food regulation measures. This shows that public health and consumer protection are the paramount concern. FSANZ states that its safety assessment forms the central component to considering an application.

The objectives of FSANZ set out at section 10 of the Act also indicate the prioritisation of protecting public health and safety and the use of the best available scientific evidence, as shown in the section below:

#### ***10 Objectives of the Authority in developing or reviewing food regulatory measures and variations of food regulatory measures***

*(1) The objectives (in descending priority order) of the Authority in developing or reviewing food regulatory measures and variations of food regulatory measures are:*

*(a) the protection of public health and safety; and*

*(b) the provision of adequate information relating to food to enable consumers to make informed choices; and*

*(c) the prevention of misleading or deceptive conduct.*

*(2) In developing or reviewing food regulatory measures and variations of food regulatory measures, the Authority must also have regard to the following:*

- (a) the need for standards to be based on risk analysis using the best available scientific evidence;*
- (b) the promotion of consistency between domestic and international food standards;*
- (c) the desirability of an efficient and internationally competitive food industry;*
- (d) the promotion of fair trading in food;*
- (e) any written policy guidelines formulated by the Council for the purposes of this paragraph and notified to the Authority.*

The protection of public health and safety is of the prime importance. This is positioned above promoting consistency between domestic and international food standards and creating an efficient and internationally competitive food industry.

#### **(ii) Application of Assessment Criteria to Application**

The testing done regarding the herbicide 2-4-D, which is used on the Corn Line is not sufficient. There is a lack of information on the safety of the herbicide and harm that it could cause. The outcomes of the Safety Assessment at paragraph 4.2 of the FSANZ 2nd Assessment Report on Application A1042 state that the residue levels on the crops from spraying by the 2,4-D and quizalofop-P-ethyl herbicides are not novel. No measureable exposure to either herbicide was found, and thus, “the risk to public safety is likely to be negligible”. We submit, however, that this indicates a lack of information on the safety of the herbicide. Therefore, the safety assessment carried out by FSANZ does not fulfill the objective of providing the best available scientific evidence.

There needs to be adequate data to show that there are no adverse health effects. It is not sufficient to show a lack of information. There needs to be positive research presented indicating that there are no long term adverse public health effects.

Furthermore, the data retrieved by FSANZ of 2, 4-D residue was gathered under very controlled conditions and supervised testing. This is problematic, as it will be difficult to ensure that crops are treated in the same controlled way in the future.

The data presented does not provide adequate risk analysis. The long term effects of the importation of the Corn Line on public health in New Zealand is not known. We therefore propose that the precautionary principle be invoked, and that given the lack of data and full risk analysis, the application be denied. The lack of information should result in the application being put on hold until there have been further independent safety studies and risk analysis.

#### **(iii) Effect of Rejecting the Application**

In Option 1 – Reject Application as set out in paragraph 6.2.1 of the 2nd Assessment Report, the main outcomes that FSANZ presents if the application were to be rejected are all economic concerns and do not address the public health and safety concerns. It is important to remember that the objective of FSANZ is to protect the health and safety of the public.

FSANZ states that if the application is rejected, it will affect the international trade relationships that New Zealand has. FSANZ is concerned that if the application is rejected, this will make the New Zealand government subject to scrutiny by the WTO as the restriction on importing would be inconsistent with trade agreements. This position is particularly poignant given the highly political nature of the current trade negotiations New Zealand is involved in with the US and other states in regards to the Trans Pacific Partnership Agreement (TPPA). Academic Jane Kelsey at the University of Auckland Faculty of Law, states that such international trade agreements may have the effect of restricting the government’s ability to revise its regulatory regimes, and by implication, will restrict the ability of FSANZ to carry out its duties in a truly independent way.

We therefore submit that the emphasis by FSANZ should not be on New Zealand’s international trade obligations, but should remain true to its objective and purpose by prioritizing the importance of the

health and safety of the public. Therefore, the assessment as to whether the application should be rejected should be carried out again, with emphasis being placed on health and safety as opposed to trade relationships and economic concerns.

**Conclusion**

In conclusion, we submit that there has been inadequate assessment of the safety of the Corn Line. We submit that emphasis should be placed on the health and safety of the public and the future risks that the introduction of the Corn Line poses, as opposed to the international trade and economic concerns that are posed by the introduction of the Corn Line.

Thank you for reading this submission. If you have any questions or queries, please do not hesitate to contact the Institute.

## References

Food Standards Australia New Zealand Act, 1991.

Food Standards Australia New Zealand *Application A1042 Food Derived from Herbicide-Tolerant Corn Line DAS-40278-9 2nd Assessment Report* (retrieved 19 April 2011) from [http://www.foodstandards.gov.au/\\_srcfiles/A1042%20GM%20Corn%20DAS-40278-9%202AR.pdf](http://www.foodstandards.gov.au/_srcfiles/A1042%20GM%20Corn%20DAS-40278-9%202AR.pdf)

FSANZ Corporate Plan 2009-2012 (retrieved 19 April 2011) from [http://www.foodstandards.gov.au/scienceandeducation/publications/corporateplan/corporateplan200912.cfm#\\_vision](http://www.foodstandards.gov.au/scienceandeducation/publications/corporateplan/corporateplan200912.cfm#_vision)

Jane Kelsey "The TPPA, Financial Instability & Governments' Regulatory Space" (retrieved 19 April 2011) from [http://web.me.com/jane\\_kelsey/Jane/TPPA\\_files/TPPA%20%26%20FINANCIAL%20INSTABILITY.pdf](http://web.me.com/jane_kelsey/Jane/TPPA_files/TPPA%20%26%20FINANCIAL%20INSTABILITY.pdf)