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Carlos Navarro

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## Supreme Court Ruling Reverses Government Decision to Allow Permits for GMO Soy in Yucatán, Campeche States

by Carlos Navarro

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A committee of the Mexican high court (Suprema Corte de Justicia de la Nación, SCJN) has voted to prohibit the federal government from granting permits to multinational seed companies to plant genetically modified soy plants in the southern states of Campeche and Yucatán.

The Secretaria de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación (SAGARPA) had granted a permit to US-based Monsanto to plant genetically altered soy plants on 250,000 hectares in the two states, and some fields had already been seeded. However, the permit was on hold pending a review from the high court.

The indigenous communities had raised concerns that the integrity of their hives would be compromised by bees extracting pollen from blooms on soy plants that have been genetically modified.

The SCJN decision, in effect, upheld a ruling from a lower federal court (Juzgado Segundo de Distrito) that prohibited the planting of Genetically Modified Organisms (GMO) near several indigenous communities, which complained that they were not consulted on the decision. ([SourceMex, April 16, 2014](#)).

### *Consultation required*

In a unanimous ruling, the five members of the SCJN's Segunda Sala, which considers administrative and labor issues, said SAGARPA was violating Article 2 of the Mexican Constitution and Article 108 of the biodiversity law (Ley de Biodiversidad de Organismos Genéticamente Modificados) by proceeding to grant the permits without holding consultations with the affected indigenous communities. The biodiversity law allows controlled cultivation of GMO plants but retains tight restrictions on who can plant the altered crops ([SourceMex, March 25, 2009](#)).

The Segunda Sala—comprising Justices Alberto Pérez Dayán, Franco González Salas, Margarita Luna Ramos, Eduardo Medina Mora, and Juan Silva Meza—also noted that the a lack of consultation with indigenous communities violated Mexico's commitments under international treaties, including Convention 169 of the International Labour Organization (ILO) and the UN Declaration on the Rights of Indigenous Peoples. The Juzgado Segundo de Distrito had alluded to both these treaties when it issued its decision in 2014.

The ruling by the SCJN's Segunda Sala directed SAGARPA's Servicio Nacional de Sanidad, Inocuidad y Calidad Agroalimentaria (SENASICA) to organize a consultation with the affected indigenous communities in Campeche and Yucatán before granting any more permits for planting GMO soy.

"The justices ruled unanimously that the rights of the indigenous communities had been violated and that these rights are spelled out in the Constitution and in the international treaties to which Mexico has subscribed," said Jorge Fernández Mendiburu, an attorney for the plaintiffs. "The

communities are entitled to be consulted on matters that affect them directly and to receive any available information in their own language."

The decision from the Segunda Sala was handed down at about the same time as a ruling from the SCJN's Primera Sala that upheld the rights of four individuals and their organization, the Sociedad Mexicana de Autoconsumo Responsable y Tolerante (SMART), to consume and transport marijuana for personal use. The ruling from the Primera Sala was considered a major first step in a possible legalization of marijuana in Mexico, and therefore received significant attention in the Mexican and international press ([SourceMex, Nov. 11, 2015](#)).

Some observers noted that the ruling from the Segunda Sala on indigenous rights deserves as much attention as the decision from the Primera Sala. "I hope that this ruling on marijuana does not overshadow the other decision from the court, which deserves as much attention," columnist Salvador Camarena wrote in the daily business newspaper *El Financiero*.

Camarena said SAGARPA was at fault by not ensuring that proper procedure was followed in determining whether to grant the permits for planting GMO seeds. "Thanks to the ruling by the court, we now have an opportunity to examine the cost of granting licenses to Monsanto, which would be the elimination of local honey and the people who produce it," said Camarena.

### *Ruling affects Monsanto*

Others said the ruling was also important from a symbolic standpoint, since the indigenous communities prevailed against a multinational company that had fought them legally in collusion with the government.

"Having defeated Monsanto is a very important benchmark for us," Araceli Pech Martín, a leader in the community of Hopelchén in Campeche, told the online news site *Animal Político*. "It was time for indigenous communities to defend our rights. We had become accustomed to being trampled and did nothing about it."

Pech Martín said the fumigations on GMO soy fields had begun to kill the bees from some of the community's hives. By some estimates, more than 15,000 families in the region depend on honey production for their livelihood. "We also run the risk of having our honey contaminated with traces of altered pollen," said the indigenous leader.

Pech Martín said other problems were affecting production, including clearing forests to plant soy fields. "The deforestation was resulting in the loss of certain species [of plants] that the bees needed to produce nectar," she said.

"Even though the production of GMO soy plants is not the only reason forests are being cleared, it is an important part of the loss of habitat," said the online news site *Sinembargo.com*.

Furthermore, the herbicide sprayed on the soy fields is glyphosate, which is not only causing the bees to become disoriented but is also exposing the communities to a substance listed as a known carcinogen by the World Health Organization (WHO).

Monsanto denied that the sale of its GMO seeds in Mexico was causing deforestation. "We do not accept the accusations that make us responsible for deforestation and illegal logging in the municipality of Hopelchén, Campeche, or anywhere else in the country," the company said in a statement. "Our activities are in strict compliance with the letter of the law."

Representatives of groups that supported the indigenous communities in their fight against the planting of GMO seeds—including Greenpeace México, Indignación, and Litiga OLE—called the SCJN decision historic. The plaintiffs also received legal support from the Centro Mexicano de Derecho Ambiental (CEMDA).

Greenpeace México representatives said the indigenous people had more to lose than the multinational corporation. "For them [Monsanto], this is simply a financial setback," said María Colín Olmos, an attorney for Greenpeace. "Conversely, the Mayan agricultural producers were facing a situation that would change their way of life, their livelihood, and their right to a healthy environment and to their culture."

### *Multinational companies seek expanded sales of GMO seeds in Mexico*

Just days before the SCJN decision, Monsanto officials said the company was hoping to double its sales of seed in Mexico in the next five years. This project, however, depends on whether there is any future in Mexico for GMO corn.

"Our intention is to double our business here between now and 2020," Monsanto's Eduardo Pérez, director of regulatory issues for North America, said in an interview with *El Financiero*. "We can make this forecast a reality if we are able to introduce greater technical capabilities to the cultivation of corn."

The SCJN decision came in the wake of an effort by multinational seed companies to ramp up their campaigns in Mexico. Monsanto—along with Swiss-based Syngenta, Spanish company Agrobío, and others—have formed an alliance to promote the use of GMO seeds in Mexico. The Alianza Pro Transgénicos seeks to promote the social, environmental, and economic benefits of genetically modified seeds.

Alliance president Rubén Chávez Villagrán said a centerpiece of the campaign is to dispel the myths that have surrounded GMO seeds and to point out that products developed from altered seeds have been consumed in Mexico for almost 20 years without any negative health effects.

"We have been consuming products like starch, which is produced from GMO corn. And, if we drink any juice that is not natural, it carries a transgenic ingredient," noted Chávez Villagrán. "Therefore, we already have a large dose [of GMO substances in our bodies], and we have been consuming them for the past 19 years."

-- End --