

BUSH ADMINISTRATION CHALLENGE TO EUROPEAN UNION MORATORIUM ON GENETICALLY ENGINEERED PRODUCTS

The Bush Administration announced on May 12, 2003, that it is launching a World Trade Organization (WTO) challenge against the European Union's (EU) five-year moratorium on genetically modified organisms (GMOs). In a show of support for the administration's stance, the U.S. House of Representatives passed House Resolution 252 last week by a vote of 339 to 80, calling the EU's current policy "protectionist and discriminatory."

The EU moratorium was invoked under intense public concern about the health and environmental risks of GMO crops and foods. The Bush administration argues that the moratorium is an "illegal barrier" to trade under WTO rules and that the EU must allow GMO products or face trade sanctions.

The U.S. challenge sets the stage for continuing contention between the U.S. and the EU on agriculture issues in the WTO. U.S. officials claim that the EU's moratorium is slowing down the adoption of genetically modified (GM) crops by developing countries and that these crops would help feed the hungry. President Bush accused the EU moratorium as hindering the "great cause of ending hunger in Africa."

However, Dr. Carolyn Lucas, member of the EU Parliament, notes; "The reality is that the root cause of hunger is not absence of food per se, but lack of access to food—often for complex social and economic reasons. For example, many famines take place in countries that have a food surplus." Further, many scientists point out that a lack of food production capacity has to do with soil fertility. "Until you solve the soil problems, it doesn't matter whether you use conventional or genetically modified seeds," says Pedro Sanchez at Columbia University.

The Bush administration essentially takes the position that the current U.S. regulatory system should be the standard for global trade rules. But many public health, environmental, and consumer groups are concerned about the lack of regulation in the U.S. on GMO products. The Federal Drug Administration (FDA) presently operates under a completely voluntary system where biotechnology companies decide how to test the safety of their products and the FDA approves GM foods based on the test summaries by the industry. This is a much less rigorous system than FDA procedures for reviewing new drugs or food additives, where it takes the precautionary approach. "Many U.S. laws, such as our drug approval process, require the manufacturer to prove a product safe before it is allowed on the market—not that the government must prove it is dangerous," notes trade lawyer Lori Wallach, an IFG board member. Wallach adds, "The science on the long-term health and environmental effects of GMOs is incomplete, making limits on GMOs a prudent policy to avoid possibly irreversible damage to public health or the environment."

EU officials agree on the importance of exercising a precautionary approach to these novel products that, to date, have not been subjected to independent, long-term testing. Even many in the U.S. are calling for more regulation and testing on GMOs. Dr. Suzanne Wuerthele, a toxicologist with the U.S. Environmental Protection Agency, expresses this concern: "This technology is being promoted, in the face of concerns by respectable scientists and in the face of data to the contrary, by the very agencies which are supposed to be protecting human health and the environment. The bottom line in my view is that we are confronted with the most powerful technology the world has ever known, and it is being rapidly deployed with almost no thought whatsoever to its consequences."

Since the moratorium five years ago, the EU Commission has been developing regulations for GM products in preparing to end the moratorium. The European regulatory system primarily centers on rules and regulations to trace GM crops back to their origin, and requires labeling of GM products.

Because the moratorium could be lifted in just a few months and it will be at least 18 months before the WTO makes its ruling, the U.S. challenge seems strangely timed. Some predict that the U.S. will alter its case to challenge the new EU regulations on GMOs. With dozens of countries around the world either considering or enacting similar regulations on GMO products, the U.S. threat of a WTO challenge acts as a warning that the Bush administration will defend the biotechnology industry's right to produce and sell GMOs over the concerns of the public, the scientific community, and even its own regulators.

Another consideration of the timing of the challenge could be Monsanto's bid to commercialize its GM wheat throughout North America. The Canadian Wheat Board recently asked the company to withdraw its application for regulatory approval to prevent "significant and predictable economic harm." American wheat growers are concerned that they would have no market for GM wheat because of the resistance to GMOs in a growing number of countries. In any case, the biotechnology industry in the U.S. has made it known that they are not pleased with the new EU rules or any regulation beyond current U.S. practice. For the U.S., the economic stakes are huge. U.S. biotechnology companies have invested heavily to develop GM crops and U.S. exporters claim that they lose \$3 million a year in exports due to the EU ban.

If the U.S. and the EU do not reach an agreement by July 12 (60 days after the original complaint filing), then the issue will be resolved by an unelected WTO tribunal of trade lawyers, taking up to 18 months. The recent Congressional endorsement of the U.S. challenge makes it almost certain that the WTO will adjudicate this important health and environmental issue. The secretive nature of the WTO dispute resolution process will mean that public concerns will not be voiced and or even be considered.

"The right to choose precaution in products that impact our health and environment must be defended over the rights of corporations to increase profits," said Debi Barker, executive director of the International Forum on Globalization. "The WTO is an inappropriate forum to decide such a monumental public policy decision." ↵