

Genetically Modified Organisms: The Transatlantic Conflict Is Picking Up Speed

by *Stephan Neuhäuser*

On May 13, 2003 the United States finally filed the long awaited suit at the World Trade Organization (WTO) to force the European Union to lift its "moratorium on the approval of biotech products." The term "biotech products" refers to genetically engineered (GE) food and crops also known by the more general term "genetically modified organisms" (GMOs); the most common being GE-corn (maize) and soybean. "The approvals moratorium has restricted imports of agricultural and food products from the United States." says the U.S. administration. At the outset of the looming trade dispute that will quite likely involve numerous scientists testifying as experts for either side, it makes sense to take a look at the different viewpoints on both sides of the Atlantic.

- *World Trade Organisation* (<http://www.wto.org>)
- *WTO Dispute DS 291, Request for Consultations by the United States* (http://www.wto.org/english/tratop_e/dispu_e/dispu_status_e.htm)

The European Stance: In Dubio Pro Securitate

Usually European governments and the European Commission alike don't speak of a "ban" or a "moratorium" on the import of GE food; although, since spring 1998, aside from GMOs already approved, no new GMOs have been authorized for planting or use in the E.U. This de facto moratorium was imposed at an E.U. Environment Ministers Council meeting in June 1999 when five Member States – Denmark, France, Greece, Italy and Luxembourg – issued a declaration, that they would effectively block new GMO approvals until appropriate E.U.-legislation was in place. Austria soon followed suit as a supportive Member State with Germany and Belgium making their declarations in October and December 2001 respectively. In fact, a new regulatory framework entered into force in the E.U. in October 2002. A number of GMOs have been submitted for approval under these new rules by various biotech companies, but haven't been approved as of yet. Regulations on labeling and traceability of GMOs though, are still under discussion in the European Parliament and may enter into force in the course of 2003.

In its policy on GMOs the European Union is led by the "precautionary principle", laid out in the United Nations' "Cartagena Protocol on Biosafety to the Convention On Biological Diversity." The much discussed "precautionary principle" means that preventive action should be taken, even without full scientific certainty about the problem that is being addressed. As of May 2003 there are 103 signatory states of which 49 have ratified the Convention On Biological Diversity. The U.S.A. has neither signed nor ratified it and downplays the relevance of the Cartagena Protocol.

The "precautionary principle" is largely in line with prevailing views among Europe's public and consumers' organisations, underlining the widespread skepticism about GE food amongst Europeans. One of the periodic "Eurobarometer" surveys by the European Commission addressed Europeans' attitude towards science & technology in general and found that 71% of Europeans oppose food containing GMOs. In contrast, a 1999 Gallup survey showed that 66 % of Americans are in favour of GE foods; still, "if a crisis were to occur, there could be a very swift and strong backlash against the technology" Gregory Jaffe, director of biotechnology issues at the Center for Science in the Public Interest, is quoted in the Washington Post on May 30, 2003.

- *Convention On Biological Diversity* (<http://www.biodiv.org/default.asp>)

- ❑ *Convention on Biological Diversity (Cartagena Protocol*
<http://www.biodiv.org/biosafety/>)
- ❑ *Fact Sheet on the "International Protocol on Biosafety" by the U.S. Department of Agriculture* (*<http://www.fas.usda.gov/info/factsheets/biosafety.html>*)
- ❑ *The Cartagena Protocol on Biosafety: An analysis of results (International Institute for Sustainable Development, Winnipeg, Canada), containing an extensive analysis of the "precautionary principle"* (*<http://iisd.ca/pdf/biosafety.pdf>*)
- ❑ *The Precautionary Principle In Action – A Handbook (Science and Environmental Health Network, Windsor, North Dakota, and Lowell Center for Sustainable Production, University of Massachusetts,* *<http://www.biotech-info.net/handbook.pdf>*)
- ❑ *Eurobarometer survey on science & technology: Europeans and Biotechnology 2002* (*http://europa.eu.int/comm/public_opinion/archives/eb/ebs_177_en.pdf*)
- ❑ *Europeans and Science and Technology 2001 (Eurobarometer Report, European Commission,* *http://europa.eu.int/comm/public_opinion/archives/eb/ebs_154_en.pdf*)
- ❑ *Gallup survey on biotechnology* (*http://www.biotech-info.net/gallup_issue.html*)
- ❑ *Center for Science in the Public Interest* (*<http://cspinet.org>*)
- ❑ *No Deal on Biotech Food – Industry, Opponents Fail to Agree on Recommendation for Regulation (Washington Post, May 30, 2003,* *<http://www.washingtonpost.com/wp-dyn/articles/A55678-2003May29.html>*)

A New European Legislation

"If we are to make acceptance of GMO products possible in the European Union, then we must restore public and market confidence. In order to do so, we must provide consumers with an effective choice between GMO and non-GMO products. Labeling and traceability of GMO products will enable them to choose," the European Environment Commissioner Margot Wallström argued in December 2002. Her statement came in reaction to the common position agreed upon by the European Council and the European Commission on the GMO-labeling regulations last December. The agreement between Council and Commission provides for measures on European national levels to be replaced by common EU-legislation as soon as the European Parliament approves the proposed legislation (probably during 2003). The issue is now on the agenda of the European Parliament's "Committee on the Environment, Public Health and Consumer Policy".

As soon as the proposed legislation is adopted, products containing GMOs made available to European consumers will always have to be labeled as such. In addition, throughout the production and distribution chains, all information concerning GMOs will have to be handed from one party in the chain to the next, therefore providing for traceability. Codes for individual GMOs that have been used to constitute the original raw material for products intended for food, feed and processing, will have to be listed in documentations accompanying the final products.

- ❑ *Margot Wallström (biography,* *http://europa.eu.int/comm/commissioners/wallstrom/personal_en.htm*)
- ❑ *Full text of Commissioner Margot Wallström's statement on labeling and traceability of GMO products* (*<http://www.eurunion.org/News/press/2002/2002069.htm>*)
- ❑ *Committee on the Environment, Public Health and Consumer Policy* (*http://www.europarl.eu.int/committees/envi_home.html*)
- ❑ *Margot Wallström welcomes agreement on traceability and labelling of genetically modified organisms (GMOs)* (*[http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/02/1836\[0\]RAPID&lg=EN; 10dec02](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/02/1836[0]RAPID&lg=EN; 10dec02)*)
- ❑ *European rules and regulations (European Commission,* *http://europa.eu.int/comm/food/fs/gmo/gmo_index_en.html*)

The U.S. Stance: Is It Just About Trade?

In their WTO "Request for Consultation," the United States accuse the European Commission and a number of European Union Member States of enforcing "a moratorium on the approval of biotech products," further, of suspending the "consideration of applications for, or granting of, approval of biotech products under the EC approval system," thus harming U.S. trade: "The approvals moratorium has restricted imports of agricultural and food products from the United States."

In a testimony to the Committee on Agriculture in the U.S. House of Representatives, House Speaker Dennis Hastert, a powerful Republican from Illinois, estimates the annual losses in corn exports for U.S. farmers at over \$ 300 million. The E.U.'s "ban" on GMOs is "based on fear and conjecture – not science," says Hastert, and, he claims, had been imposed primarily "because we [American farmers] are technologically superior." The U.S. Trade Representative Robert Zoellick recently talked about "the European fog of misinformation and protectionism resulting from E.U. biotech policies" and Senator Charles Grassley (R-Iowa), Chairman of the Senate's Committee on Finance, called the E.U.'s policy "misguided" and "based on politics, not science" whilst "farmers are suffering from the European Union's policies."

- *House Speaker Dennis Hastert (biography, <http://speaker.house.gov>)*
- *Dennis Hastert's testimony to the Committee on Agriculture in the U.S. House of Representatives (http://www.usis.it/file2003_03/alia/A3032620.htm)*
- *Robert Zoellick (biography, <http://www.whitehouse.gov/government/zoellick-bio.html>)*
- *Robert Zoellick on European biotech policies (<http://usinfo.state.gov/topical/econ/wto/03012401.htm>)*
- *Charles Grassley (biography, <http://grassley.senate.gov/>)*
- *Senator Charles Grassley's press release on European biotech policies (<http://www.grassley.senate.gov/releases/2003/p03r05-13.htm>)*

Argentina and Brazil take over from the U.S.

The United States is the largest corn (maize) and soybean producer in the world and exports approximately 20% of its corn crop and even 40% of its soy bean crop. Numbers published by the European Commission prove that the GMO-issue has hit the U.S. corn industry hard: In 1995 the E.U. imported 3,325,082 tons of corn from the United States, in 1997 imports decreased to 1,708,445 tons, in 1998 U.S.-exports to the E.U. sank drastically to 237,567 tons. In 2002 the E.U. imported a mere 25,934 tons. On the other hand corn imports from Argentina to the E.U. increased from 528,028 tons in 1995 to 1,347,595 tons in 2002. Both Argentina and the U.S. grow GE corn, with one decisive difference: a number of U.S. varieties have not been approved in the E.U., whilst all Argentinian varieties are E.U. approved. To make things worse for North American exporters, only about 2% of GE corn and non-GE corn are segregated. Therefore, approximately 98% of U.S. corn may contain GE corn varieties not approved in the E.U. This may change, however, as the U.S. Department of Agriculture (USDA) has recently proposed to create a voluntary labeling system for GE and non-GE crops. This proposal was made in the wake of the 2000 "StarLink-incident," during which GE-corn branded "StarLink" meant only for animal consumption, had made its way into taco shells, chips and other food products. The reason was careless grain handling, forcing millers and processors to spend \$ 1 billion in an effort spanning three months to get rid of the unhealthy corn-combination.

The GE soybean exports too seem to have been affected by the same debate that has been raging over GE corn, although U.S. farmers grow only varieties also approved in the E.U. Whilst Brazil tripled its soybean exports to the European Union (3,073,057 tons in 1995; 8,933,295 tons in 2002), U.S. exports to the E.U. decreased from 9,811,570 tons in 1995 to 5,518,096 in 2002.

- *U.S. Department of Agriculture (USDA, <http://www.usda.gov/>)*
- *European Commission regrets US decision to file WTO case on GMOs as misguided and unnecessary (press release by the European Commission containing detailed statistical data,*

[http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/681|0|R APID&lg=EN&display=\)](http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/681|0|R APID&lg=EN&display=))

- *Detailed statistics on U.S. agriculture by the USDA*
(<http://www.usda.gov/nass/pubs/agstats.htm>)

The Dispute Over The American Regulatory System

Along with the trade issue, there is an ongoing debate within in the U.S. about tightening rules for the biotech industry. Especially consumers' associations, environmentalists and organisations dealing with science and the public are supportive of a stricter regulatory framework similar to European rules. Even some food companies fearing decreasing sales in foreign markets resistant to GMOs, have teamed up with them. In the past 2 years the "Pew Initiative on Food and Biotechnology" has brought together organisations supportive of stringent regulations like the Consumers' Union, Environmental Defense, the Center for Science in the Public Interest and the Union of Concerned Scientists with food companies and the big names of the biotech industry (Monsanto, DuPont etc.).

The idea behind the "Pew Initiative on Food and Biotechnology" was inter alia to come up with a consensual proposal on how to improve federal legislation concerning the agricultural biotech industry. New legislation would give the USDA, the Environmental Protection Agency (EPA), and the Food and Drug Administration (FDA) more regulatory power in respect to the possible impacts of GMOs on agriculture, the environment and food safety. After exactly 2 years of negotiations the plan ultimately failed, but nevertheless the Pew Foundation issued a "final report" end of May 2003 that might be the starting point for the resumption of talks next year.

Though no official reasons were given why the talks were unsuccessful, the Washington Post links the breakdown of the Pew Initiative with the WTO action taken by the Bush administration: "As part of that case, the administration will take the position that the current American regulatory system is fine. European consumer and environmental groups consider it to be egregiously inadequate. As the Pew discussions unfolded, the biotech industry grew wary of endorsing any compromise that would appear to support the European view and thus undermine the Bush legal case..."

Without new legislation, the regulatory status quo concerning GMOs continues to favour the biotech industry: Currently the FDA runs a voluntary system under which biotech companies themselves decide on how to assess the safety of their products. Generally, biotech companies submit data of their GE products to the FDA which checks them and subsequently informs the companies that the FDA has no objections.

Though federal lawmakers are still undecided on how to address issues raised by agricultural biotechnology, the states' governments are all the more active. During the 2001-2002 legislative session alone, 158 pieces of legislation related to agricultural biotechnology were introduced in 39 states. The Pew Initiative on Food and Biotechnology keeps track of new and changing legislation in its "Legislation Tracker" released on June 11, 2003. This database can be used to research data on all legislation related to agricultural biotechnology submitted in the 107th Congress (2001-2002), all legislation related to agricultural biotechnology sorted by state, topic or bill status and an overview of ballot initiatives and town hall resolutions related to agricultural biotechnology initiated in select states since 2000.

- *"Pew Initiative on Food and Biotechnology"* (<http://pewagbiotech.org/>)
- *The Pew Foundation's "final report" of the "Pew Initiative on Food and Biotechnology"*
(<http://pewagbiotech.org/consensus/FinalReport.pdf>)
- *No Deal on Biotech Food – Industry, Opponents Fail to Agree on Recommendation for Regulation* (Washington Post, May 30, 2003, <http://www.washingtonpost.com/wp-dyn/articles/A55678-2003May29.html>)
- *Consumers' Union (pages on GE food,*
http://64.224.99.117/i/Food_Safety/Genetically_Engineered_Food/index.html)

- *The Union of Concerned Scientists (biotechnology pages, http://www.ucsusa.org/food_and_environment/biotechnology/index.cfm?pageID=9)*
- *Center for Science in the Public Interest (biotechnology pages, <http://cspinet.org/biotech/>)*
- *Environmental Defense (pages on GMOs, <http://www.environmentaldefense.org/system/templates/page/issue.cfm?subnav=11>)*
- *Monsanto (agricultural biotechnology pages, http://www.monsanto.com/monsanto/layout/sci_tech/ag_biotech/default.asp)*
- *DuPont (biotechnology pages, <http://www.dupont.com/biotech/>)*
- *U.S. Food and Drug Administration (FDA, pages on bioengineered food, <http://www.fda.gov/oc/biotech/default.htm>)*
- *U.S. Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition (<http://vm.cfsan.fda.gov/%7elrd/biotechm.html>)*
- *U.S. Department of Agriculture (USDA), Foreign Agricultural Service (<http://www.fas.usda.gov/>)*
- *Environmental Protection Agency (EPA, <http://www.epa.gov>)*
- *Factsheet on biotechnology legislation in the U.S. state by state (<http://pewagbiotech.org/resources/factsheets/legislation/factsheet.php>)*
- *Legislation tracker on agricultural biotechnology (<http://pewagbiotech.org/resources/factsheets/legislation/>)*

Bickering Over Food Aid

Another argument frequently voiced by the U.S. side is that the European Union is forcing a growing number of developing countries into refusing GE crops and seeds that have the potential of aiding starving populations. This disregards the fact that GE-crops of interest to developing countries, such as drought or salt water resistant crops haven't yet left the laboratories. The U.S. Trade Representative Robert Zoellick accused the European Union of leaning on poor countries and threatening them to withdraw economic aid unless they prohibit genetically modified crops. In a letter to the editor of the Wall Street Journal he praised a previous editorial that had talked about "Immoral Europe" and "The Human Costs of Biotech Fear-Mongering." Zoellick's views found favor with the 1970 Nobel Peace Laureate Norman Borlaug, a central figure in the "Green Revolution" of the 1960 and 1970s, who in January published an Article in the Wall Street Journal's "OpinionJournal" aptly titled "Science vs. Hysteria – European Environmentalists' Tactic Against Biotech: Starve Africans."

Zoellick's allegations were quickly countered by the E.U.'s Trade Commissioner Pascal Lamy in a letter also published in the Wall Street Journal: "To say Europe is bullying Africa into refusing to accept American food aid even though millions are malnourished and starving is downright irresponsible... We very much regret that U.S.-officials are peddling this rumour, and even more that the Wall Street Journal is giving credence to it, without checking the facts on E.U. food aid." It should be mentioned, however, that the European Commission has asked the United Nations' World Food Programme to purchase only non-GE corn for distribution of food aid in a move to ensure that food aid is not rejected by the governments of recipient countries.

- *Robert Zoellick, "The Human Costs of Biotech Fear-Mongering" (Letter to the Editor, *The Wall Street Journal*, 24 January 2003, <http://usinfo.state.gov/topical/econ/wto/03012401.htm>)*
- *Pascal Lamy's reaction to Robert Zoellick's allegations (http://europa.eu.int/comm/trade/goods/agri/repwsj_en.htm)*
- *Norman Borlaug (biography, <http://www.nobel.se/peace/laureates/1970/borlaug-bio.html>)*
- *Norman Borlaug, "Science vs. Hysteria – European Environmentalists' Tactic Against Biotech: Starve Africans." (<http://opinionjournal.com/forms/printThis.html?id=110002964>)*
- *Pascal Lamy (biography, <http://trade-info.cec.eu.int/europa/lamy/lamy.php>)*

“Washington Has Pulled The Trigger”

Eventually, the Bush Administration’s WTO case may lead to a veritable trade battle, doing the United States more harm than good, argue David Victor, director of the programme on energy and sustainable development at Stanford University, and Ford Runge, professor of applied economics and law at the University of Minnesota, in the Financial Times’ op-ed on May 15, 2003. They have identified three possible scenarios:

The “most likely (and worst)” scenario, according to Victor and Runge, would be an American victory. As a case in fact they quote the trade dispute over hormone-treated beef in the 1990s the European Union lost. The “precautionary principle” brought forward in this case by the E.U. had not (yet) been accepted by the WTO’s appellate body as a principle of international law. Despite victory, hormone-treated U.S.- beef has still not found European customers. In fact, the defeat of the U.S. beef-industry in the “courts of customer opinion” (Victor and Runge) has led to counter-sanctions and political damage to transatlantic relations. The controversy over GM food seems likely to unfold in a similar way.

The European Commission has drawn up in brief its trade-war-timetable, already considering the establishment of the panels of the WTO’s “Dispute Settlement Body”; whilst the Speaker of the U.S. House of Representatives Dennis Hastert speaks of battle: “Hopefully, the WTO will act quickly to resolve the Administration’s case on behalf of American farmers. There’s no doubt that the U.S. and American agriculture go into this battle with the facts on our side. We simply cannot allow the free trade of our fine products and services to be rendered meaningless if they are short-circuited by the EU’s unfair and unjust trade barriers cloaked in fear and conjecture – not sound science.”

- *A Trade Battle That Will Cost America Dear (Financial Times’ op-ed on May 15, 2003, <http://www.cfr.org/publication.php?id=5967>)*
- *Brief summary of the WTO beef hormone case (<http://seattlepi.nwsource.com/national/case22.shtml>)*
- *European Commission regrets US Decision to file WTO case on GMOs as misguided and unnecessary (http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/03/681|0|RAPID&lg=EN&display=))*
- *The WTO’s “Dispute Settlement Body” (http://www.wto.org/english/tratop_e/dispu_e/dispu_e.htm#intro)*
- *Speaker Hastert Praises the Administration’s Challenge Against European Union’s “Protectionist, Discriminatory Trade Policies” (news release, May 13, 2003, <http://www.speaker.gov/library/intrelations/030513europe.asp>)*

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