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EU Bows to White House Pressure to Force Gene-Altered Foods on Europe's Consumers

The European Communities (EC) elected today not to appeal a World Trade Organization (WTO) dispute panel decision on regulating genetically engineered (GE) crops brought by the U.S., Canada, and Argentina.

Many of us thought the European Union was the central large force fighting unregulating genetically altered crops and food, but we have some very bad news for you. With six years of Bush Cheney business firstness, something is apparently giving, and here is the story from http://www.organicconsumers.org/2006/article_3411.cfm

EU Bows to White House Pressure to Force Gene-Altered Foods on Europe's Consumers
EC Drops the Ball on WTO Biotech Ruling
Decision Not to Appeal Lets Stand WTO Ruling to Override UN Treaty
IATP, 11/22/06
Straight to the Source

MINNEAPOLIS / GENEVA - November 22 - The European Communities (EC) elected today not to appeal a World Trade Organization (WTO) dispute panel decision on regulating genetically engineered (GE) crops brought by the U.S., Canada, and Argentina. The decision NOT to appeal leaves intact a controversial ruling that a United Nations environmental treaty did not apply in regulating GE crops, according to the Institute for Agriculture and Trade Policy (IATP).

“The EU’s unfortunate decision could be used to undercut international environmental treaties across the board,” said Steve Suppan, an IATP senior policy analyst and author of a backgrounder in the case. “The decision says that WTO members cannot keep their commitments to multilateral environmental agreements [MEAs] if measures to do so are challenged under WTO rules. The ruling sets a terrible legal precedent that will be used to attack regulations that comply with MEA commitments.”

In the WTO dispute, the EC defended its regulatory system before the WTO by referring

to the UN's Cartagena Protocol on Biosafety, a ratified treaty that authorizes signatories to take a precautionary approach to regulating GE crops when there is scientific uncertainty or insufficient data about a product. Over 130 countries around the world have signed onto the Biosafety Protocol, but the U.S. is not one of them. The WTO panel ruled that because the U.S., Argentina and Canada have not ratified the Protocol, the EC could not use a Protocol based defense.

“Only a diplomatic conference could reconcile commitments to divergent international treaties,” said Suppan. “By declining to appeal, the EC has allowed a very bad precedent to become a foundation for ruling on disputes about trade vs. MEA conflicts, for example, disputes about the regulation of synthetic biology or agri-nanotechnology products.”

Europe utilizes the “precautionary principle” to regulate not only GE crops, but also toxic chemicals as part of their recently approved REACH system. The WTO panel ruled that the precautionary principle is too controversial and unsettled in international public law to serve as a basis for panel rulings...

... IATP has written a backgrounder and analysis of the case, available at: www.tradeobservatory.org.

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Here is the text from the pdf version of the "backgrounder":

**U.S. vs. EC
Biotech Products Case
WTO Dispute Backgrounder**

a publication of the institute for agriculture and trade policy trade and global governance program...

... The “precautionary approach” derives from German air pollution legislation in 1968 as a result of suggestive but not conclusive evidence that industrial air pollution was damaging the environment. In addition to justifying the government’s authority to take preventative action against environmental damage, the legislation required that the regulatory actions be “proportional” to the potential for harm and that there be an assessment of the costs and benefits of action and inaction.¹³ Subsequent formulations of the precautionary principle, including those applied to the risk analysis of GMOs, have specified the relation between scientific evidence and a typology of scientific uncertainty, and the need to shift the burden of proof to the technology developer to demonstrate the safety of a new technology (“harmful until proven safe”).¹⁴

An EC Communication describes **precaution** as a risk management tool which is part of a risk analysis framework rather than the overall guide to its (i.e., the framework’s) implementation. According to this argument, precautionary action should only be taken

after experts prepare an “objective” quantitative risk assessment. **Precaution** is seen as a temporary measure pending further risk assessment.”¹⁵ The commission’s interpretation of the precautionary principle is clearly an attempt to make its application conform with the provisions of the SPS agreement. A great deal of the commission’s work has been to analyze the application of precautionary approaches to government regulation over a wide range of products and over a time frame much longer than the decade since the commercialization of the first GM crops.¹⁶ **U.S. corporations have taken a strong stand against a precautionary approach to the regulation of new goods and services.**¹⁷

17. E.g. Lawrence Kogan, “EU Regulation, Standardization and the Precautionary Principle: The Art of Crafting a Three-Dimensional Trade Strategy That Ignores Sound Science,” THE NATIONAL FOREIGN TRADE COUNCIL INC. (August 2003).