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AMERICA'S HYPOCRITICAL POLICY ON GENETICALLY MODIFIED FOODS

How US Law Requires Even Greater Restrictions on GM Foods than the Europeans Have Dared to Implement

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(It is in UK spelling format.)

Tomorrow, the European Commission plans to end a de facto moratorium on the approval of new genetically modified foods that has endured for six years. One significant motivation for this action is concern about the lawsuit the US has filed at the World Trade Organization against the European Union's restrictions on these products. However, despite this major attempt at appeasement, the Bush Administration has indicated it intends to vigorously press ahead with its suit. Such persistence has surprised many Europeans.

But what should be even more surprising is the degree to which this suit is cloaked in hypocrisy and driven by deception. It's based on the pretence that the precautionary principle – which prescribes the course of caution when the evidence is inconclusive – cannot be legitimately applied to GM food and that the US is free to resist it. In reality, US law mandates a much stricter application of the principle than does EU law; and the Bush administration is trying to quash EU regulations that are looser than those it is legally required to implement itself – but has assiduously avoided.

The US requirement to uphold the precautionary principle is neither new nor nuanced. It's unambiguous and has been on the books since 1958, when Congress enacted an amendment to the Food, Drug and Cosmetic Act requiring that any new additive to food be presumed unsafe until its safety has been demonstrated through scientific procedures. An official Senate report described its firm intent: "While Congress did not want to unnecessarily stifle technological advances, it nevertheless intended that additives created through new technologies be proven safe before they go to market." Although the term "precautionary principle" had not yet been coined, this statute clearly instituted a precautionary approach. In fact, US law mandates the strictest degree of precaution found in any food laws and demands demonstration of "a reasonable certainty" of no harm.

The US statute clearly places the burden of proof on the manufacturer and requires that foods containing new additives be presumed unsafe until proven safe. But in the case of GM foods, the US has turned the law on its head and insists they must be presumed safe until proven not to be.

Therefore, astounding as it seems, for years the US has been bullying the EU to abandon a principle that forms the cornerstone of its own food safety law – and the Europeans do not even seem to be aware of how illegitimate and ludicrous the American position is. Nor, it appears, does Mr. Bush. Based on statements by government officials, the New York Times reported last year: “The Bush Administration believes the precautionary principle is an unjustified constraint on business and does not even recognize the existence of the doctrine.”

The White House’s ignorance has been abetted by officials at the Food and Drug Administration (FDA), who themselves know the law but are apparently intent on keeping others confused about it – presumably in furtherance of their admitted agenda “to foster” biotechnology. They have also endeavoured to cover up the warnings of their own scientific experts about the unique risks of GM foods. This was revealed when my organization brought a lawsuit against the FDA that forced it to divulge its files, which clearly show FDA’s scientists repeatedly cautioned that genetic engineering could disrupt the organism in unpredictable ways and induce production of unintended harmful substances that are difficult to detect. The pervasiveness of concern within the FDA’s scientific staff is attested by an internal memorandum in which an official reported: "The processes of genetic engineering and traditional breeding are different, and according to the technical experts in the agency, they lead to different risks."

Because of the potential for unexpected harmful effects, the FDA experts stated that every GM food should undergo rigorous testing to screen for them. Further, FDA’s Biotechnology Coordinator acknowledged there is not a consensus about safety among experts outside the FDA either.

Moreover, although US law mandates that foods containing new additives (such as GM foods) be proven safe, FDA files confirm that such evidence is sorely lacking; and eminent experts have issued declarations that no GM food has been demonstrated safe.

By emphasizing these facts, the EU could highlight the US’s hypocrisy and blunt the force of its lawsuit. Rather than withering under the US demand for proof that GM foods are harmful, EU officials should turn the tables and demand that the US honour its own laws by proving they are safe.

Steven M. Druker is a US public interest attorney who directs the Alliance for Bio-Integrity. Photocopies of 24 key FDA documents are at www.biointegrity.org along with fuller explanations of US law.