

GMO Corn versus Europe's "Greens": The Cat that had Nine Lives

Submitted by

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In February, 2006, we hailed a landmark decision by the WTO in favor of the ag biotech industry and, more importantly, in support of the principles of free trade as applied to GMO products. The WTO dispute settlement panel (DSP) ruled that the EU's (European Union) *de facto* moratorium on GE (genetic engineered) crops violated the WTO Charter, causing undue delays in the completion of EC approval procedures for ag biotech products.

Regarding product-specific measures, the DSP found that the EC had acted inconsistently with its obligations in approval procedures of 24 of 27 products identified by the complainants. The net result was undue delays, effectively building a fortress against these and other GE products.

In terms of the EC's own safeguard measures, the DSP found that the EC acted inconsistently with their own SPS obligations¹. These measures, it was determined, were not based on risk assessments defined by the EU's SPS agreement and presumably were maintained without sufficient scientific evidence².

In November, 2006, France, Austria, Greece, and Luxembourg sought a majority vote to appeal the WTO panel ruling but failed to gain majority member support. With this last shot across the bow, defeat seemed imminent. The clock was ticking for a new uniform regulatory environment to be put in place. The European Commission had sought since 2003 to force EU members to implement laws on testing and licensing of bio-crops within their own states. Now, the time had come at long last that the Commission could draw on the WTO for enforcement of its own position vis-a-vis renegade members.

Now, here we are in October, 2007, with one month to go before the legal deadline expires. And, yet, the implementation of a uniform scientific standard for reviewing biotech crop applications to the EU remains as elusive as ever. The Panel's decision has teeth when it is enforced within and outside the EU. Right now, it's a waiting game but pressure is mounting. Even the EU's Trade Commissioner, Peter Mandelson, has decried the lack of a uniform approval standard. His concern is undoubtedly rooted partially in the fact that European livestock producers are finding it increasingly difficult to source feed that conforms to member or even European Food Safety Agency (EFSA) standards.

¹ Articles 5.1 and 2.2 of WTO Agreement on the Application of Sanitary and Phytosanitary Measures

² Nine national safeguard measures introduced by Austria, Greece, France, Germany, Italy, and Luxembourg were not based on a risk assessment standard as required under the SPS agreement.

The stakes are higher than they may first appear. The biotech battle is not merely a classic example of trans-Atlantic jousting for trade interests. What may have started as a back-door import substitution strategy on the part of some of our European competitors has burgeoned into a front door, effective NTB (non-tariff barrier), backed by vested European political interests.

As if that were not bad enough, the fallout for US exports is even more disheartening.

According to a report by Pew *Initiative on Food and Biotechnology*, August, 2003, U.S. total agricultural exports to the EU decreased over the period between 1998 and 2002, both in absolute value (USD) terms and as a percentage of total U.S. agricultural exports to the world.

U.S. Agricultural Exports to the EU by Value in '000 USD						
	1998	1999	2000	2001	2002	%change (98'-02')
Total US Agri. Export to EU	7849143	6413201	6243590	6403957	6144542	-22%
Soybean	1534014	1032860	1154675	1154897	1153828	-25%
Cotton	115001	50992	73989	55312	70503	-39%
Maize	35290	1415	8101	1750	2676	-93%

U.S. Agricultural Exports to the EU by % of Total U.S. Agricultural Exports Worldwide					
	% of total US agri. Exports 1998	% of total US agri. Exports 1999	% of total US agri. Exports 2000	% of total US agri. Exports 2001	% of total US agri. Exports 2002
Total US Agri. Exports to the EU	14.0%	11.0%	11.0%	11.0%	10.0%
Soybeans	32.0%	23.0%	23.0%	22.0%	22.0%
Cotton	4.0%	4.0%	3.0%	2.0%	3.0%
Maize	4.0%	1.0%	0.1%	0.1%	>0.1%

According to the data from FAS BICO report, the results are similar for the period between 2002 and 2006, with grains falling off dramatically, notwithstanding the nominal increase in value. Even the total value of U.S. exports through marketing year 2006 can be discounted somewhat in real terms due to the steady depreciation of the U.S. dollar.

U.S. Agricultural Exports to EU-15 (in 1,000USD)						
	2002	2003	2004	2005	2006	%Change (02 to 06)
Agri. Product Total	6,279,526	6,117,544	6,561,541	6,679,548	6,741,504	7.36%
Wheat (in bulk)	222,084	206,656	208,923	187,256	139,322	-37.27%
Soybeans (in bulk)	1,211,802	1,140,487	875,085	977,940	472,466	-61.01%
Cotton (in bulk)	65,970	76,376	94,131	68,409	48,254	-26.85%

Source: FAS BICO report

U.S. Agricultural Exports to EU-15 (% of U.S. total Agricultural Exports Worldwide)					
	2002	2003	2004	2005	2006
Total Agri. Products	11.78%	10.92%	10.51%	10.68%	9.83%
Wheat	6.35%	5.29%	4.10%	4.40%	3.25%
Soybeans	22.14%	17.51%	11.73%	14.01%	7.46%
Cotton	3.22%	2.68%	2.08%	1.76%	1.03%

Large percentages of these crops are also genetically modified (2003 data) –

- 81% of the soybeans
- 73% of the cotton
- 40% of the corn
- 2/3 of all GM crops in the world were planted in the U.S. as of 2003

In the case of corn, commingling of GMO with non-GMO partially explains the drop-off in exports to Europe. GM exports of soybeans to the EU, on the other hand, have not been affected by the *de facto* moratorium because at the time the GMO variety was approved in 1998, there was no substitute within the EU.

European resistance to all GMOs remains the current trend. Given this complex and deep-seated opposition, it is clear that the WTO panel finding is not yet cause for celebration. Nonetheless, the panel finding may be a catalyst for change. Other contributory factors that may chip away at the barriers and hasten the introduction of uniform standards include private sector development strategies.

European Community Register of GM food and feed

GM Cotton	GM Maize	GM soya	GM oilseed rape	GM microorganisms
MON1445	Syn-Bt11	MON40-3-2	GT73	Bacterial biomass:
MON15985	Pioneer-DAS1507		MS8, RF3 & MS8xRF3	pCABL
MON15985xMON1445	GA21		T45	Yeast biomass:
MON531	MON810			pMT742 or pAK729
MON531xMON1445	MON863			
	MON863xNK603			
	MON863xMON810			
	Bayer-T25			

Source: http://ec.europa.eu/food/dyna/gm_register/index_en.cfm

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Two leading European corporations—Bayer CropScience and Syngenta, together with the three leading American companies—DuPont, Monsanto, and Dow AgroSciences—form a corporate phalanx in GMO seed production and sales. They wisely have transferred much of their R&D work in this sector to the U.S., which accounts for the world’s largest share of field trials. Syngenta, a world leader, reports that over 50 percent of their GM seed sales are within NAFTA. Bayer CropScience has consolidated its U.S. headquarters and R&D operations in the Research Triangle, North Carolina. Both companies have entered into new R&D alliances, distribution, and licensing agreements with American competitors that will place them in leading positions in the American seed market. In so doing, these companies with their strong distribution networks will be well positioned to dominate the European market if and when it opens. To prepare for this eventuality, they are slowly segueing into R&D alliances with European universities and quietly participating in field trials there.

European Community Register of GM food and feed		
Product	Latest Renewal Date	If First Approved After 1998
GM Cotton		
MON1445	12/2002	
MON15985	Renewal Ongoing	
MON15985xMON1445	Renewal Ongoing	
MON531	12/2002	
MON531xMON1445	Renewal Ongoing	
GM Maize		
Syn-Bt11	05/2004	*
Pioneer-DAS1507	03/2006	*
GA21	01/2006	*
MON810	Renewal Ongoing	
MON863	Renewal Ongoing	*
MON863xNK603	Renewal Ongoing	*
MON863xMON810	Renewal Ongoing	*
Bayer-T25	Renewal Ongoing	
GM soya		
MON40-3-2	Renewal Ongoing	
GM oilseed rape		
GT73	02/2007	*
MS8, RF3 & MS8xRF3	05/2007	
T45	Renewal Ongoing	
GM microorganisms		
Bacterial biomass: pCABL	Renewal Ongoing	
Yeast biomass: pMT742 or pAK729	Renewal Ongoing	

Source:http://ec.europa.eu/food/dyna/gm_register/index_en.cfm

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The cliffhanger is how the new members will regulate the importation of GMO product and licensing GM seed for domestic plantings. Right now, the jury is out since most of the new members are following the footprint laid out by the EU six. Romania, Slovakia, and Lithuania, however, seem to favor a more liberal policy on the import of GM seed and biotech products. They all have allowed the planting of MON810, Monsanto's GM corn seed, whereas Germany has imposed tighter restrictions on the same seed. The new class of members bring strong agro-economies to the EU market, whose competitiveness may be the chink in the armor, threatening the future of traditional western European agriculture. With this internal pressure, the founding EU members may be forced to open their doors to GM corn and seeds to remain competitive.

The EU policy of exclusion may also implode thanks to new energy goals. All members have signed off on the EU's requiring all gasoline and diesel fuel sold in member states to contain at least 10% renewable fuels by 2020 and a target of blending 5.75% biofuels into

traditional transportation fuels by 2010. To meet the 10% blending target, EU members will have to produce an additional 45 million metric tons of grain. In point of fact, biodiesel production, which grew 44% in 2006 is now at 6.07 million tons, well short of the two year target. Within the grains-for-ethanol complex, corn is cheapest at roughly 83 dollars per barrel of fuel, whereas rapeseed and wheat used for ethanol in Europe are about 125 dollars and sugar beets are at 100 dollars per barrel. Meeting these goals within the target dates requires either a minor miracle or an increase in the importation of biotech corn.

All the signs point to liberalization but it is the timeline that is in doubt. The more extended the deadline for uniform standards, the greater the redounding effects on the global economy. It is quite clear that U.S. corn and other grain exports take a direct hit but other economies take it on the chin as well. African countries, arguably the most in need of GMO crops, will continue on a go slow approach so long as the “Greens” hold political sway. The same applies for other emerging markets.

Food safety and global environmental concerns seemingly are unrelated to Europe’s treading water, but a closer look shows these passengers are on the same sinking ship. Uniform standards are the prerequisite to monitoring traffic in the global food chain. When it comes to the environment, Bt corn varieties alone produce a net decrease of 16 million pounds per year in insecticide use, according to the National Center for Food and Agricultural Policy.

However persuasive the economic, political, and environmental case is for liberalizing trade in biotech seeds and products, the fact remains that the EU is likely to prolong implementation of the required uniform standard and, thus, continue the trend of undue delays in their review process. Trade wars are not the answer, so the hope is that this cat is finally on its ninth and last life.