

The US War on Biosafety

Renewed Aggression by a Rogue State

It's not about trade -

A global war on biosafety and the South

On May 13, 2003 the US government filed a formal complaint in the World Trade Organization (WTO) against the European Union's *de facto* moratorium on genetically modified organisms (GMOs). The WTO challenge was launched despite the fact that the moratorium was due to be lifted within months, indicating that US aggressiveness over GMOs is aimed at the comprehensive labeling and traceability legislation that is expected to replace the moratorium.¹ Even more significant is the US attempt to link the EU's GMO restrictions to growing resistance among developing countries to genetically engineered (GE) crops.²

Growing rejection of GE crops in the South – including the rejection of US food aid containing GMOs – is attributed by the US government to the flow-on effects of the EU's "scare tactics" and "fabricated fears" over the environmental and health risks of GMOs.³ In reality the US use of the WTO as a political weapon to roll back and prevent GMO restrictions is intended to have flow-on effects on the South, by demonstrating that comprehensive regulation of GMOs, including bans on GE crops, will be met with trade sanctions.⁴ As it moves to force open markets for unwanted GE crops and pre-empt

biosafety measures that restrict GMOs, it is the US that is engaged in scare tactics.

The support of Argentina and Egypt (along with Canada) for the US complaint to the WTO was seen as vital to the US case. Yet far from representing the South, Argentina's position is unique since it is the second largest producer of GE crops after the US. The two countries alone account for 90% of GE crops worldwide. Yet as a major food exporter Argentina's cash crops co-exist with widespread hunger that is exacerbated – not alleviated – by dependency on GE crops.⁵ Egypt's subsequent withdrawal from the WTO complaint only served to undermine the US position further. Recognizing "the need to preserve adequate and effective consumer and environmental protection"⁶, the Egyptian government withdrew its support for the US war on GMO restrictions.

An added sense of urgency to the US case stemmed from the expected ratification and implementation of the Cartagena Protocol on Biosafety – the first legally binding global agreement that reaffirms the sovereign right of countries to reject GMOs on the basis of the precautionary principle.⁷ The US action in the WTO was clearly timed to pre-empt the final ratification of the Protocol. The 50th ratification required for the Protocol to come into force took place on June 13 – only a month after the US initiated its WTO complaint. Moreover, the Protocol will now come into force on September 11, 2003⁸, coinciding with the second day of the 5th WTO Ministerial in Cancun, Mexico. The US agenda is to assert the predominance of the WTO over the Protocol by defining GMO restrictions as 'trade barriers', and by doing so seeks to block further progress in the implementation of the Protocol.

By using the WTO to undermine the new global consensus on biosafety, the US is targeting the countries in the South, seeking their forced integration into a 'World Transgenic Order' dominated by agro-chemical corporations. But instead of increasing acceptance of GMOs, the US global war on farmers, consumers and the environment is consolidating both the global rejection of GE crops and the global consensus on biosafety - further isolating the US as a rogue state in the international arena.⁹

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The WTO vs. the Biosafety Protocol - renewed aggression by a rogue state

The rogue state status of the US is reinforced by the fact that it is still not a Party to the Cartagena Biosafety Protocol and *cannot* be, since it has not even ratified the UN Convention on Biological Diversity (CBD). Despite this, the US was actively involved in stalling negotiations on the Protocol over a period of 8 years, leading the Miami group¹⁰ in expressly opposing the inclusion of the precautionary principle.¹¹ Despite US efforts, the majority of countries – particularly countries from the South – succeeded in incorporating the precautionary approach into the Protocol, effectively granting importing countries the right to ban or severely restrict imports of GMOs on the basis of the precautionary principle.

While continuing to undermine the Protocol, the US persistently argued that the government restrictions on GMOs must be compliant with provisions in the WTO Agreement on Technical Barriers to Trade, the Agreement on Sanitary and Phytosanitary Measures and the Agreement on Agriculture – provisions that the US claims effectively limit the capacity of governments to impose restrictions or bans on GMOs.¹² As such, the US attempted to override the Protocol's precautionary principle with WTO disciplines.

This strategy was aggressively pursued at the 3rd WTO Ministerial in Seattle in 1999. In August 1999, the US government proposed the creation of a WTO “*Working Party on Biotechnology*” at the Seattle meeting – a proposal that was inserted into the draft text of the Ministerial Declaration under ‘agricultural issues’.¹³ This proposal contradicted the logic of the Biosafety Protocol by assuming that GE crops are *already* proven to be safe and beneficial and that the global trade in GMOs *would continue to grow*.¹⁴

The US proposal was met with opposition from the majority of WTO members. Among the strongest opponents of this plan were Peru, India, Dominican Republic, Indonesia, the Philippines, Malaysia, Hong Kong, Pakistan, Egypt, Haiti, Uganda, Sri Lanka, Kenya, Honduras, Cuba, Bolivia, Nigeria and Senegal. Delegates from several developing countries argued that GMOs should be dealt with as a biosafety issue, therefore coming under the jurisdiction of the Biosafety Protocol of the CBD, and *not* the WTO.¹⁵ The US proposal was defeated and the “*Working Party on Biotechnology*” was not formed.

This exposes an important factor underlying the US case against the EU. Four years ago the

majority of WTO members expressed clear opposition to the inclusion of GMOs in the mandate of the WTO. By filing this case in the WTO, the US is attempting to defy this opposition and create a precedent that can be used to threaten countries adopting stringent GMO restrictions. The US message is clear: even if such restrictions are in accordance with the Protocol, countries will still run the *risk* of WTO sanctions.

It is also important to recognize that several countries in the South – including African countries that according to US claims are starving because of the EU's scare tactics – have maintained a coherent and consistent approach to the environmental risks of GMOs and the necessity of the precautionary principle in responding to these risks. Theirs is not an uninformed, spontaneous reaction to the EU's *de facto* moratorium, but a comprehensive approach to biosafety and GMOs that has led them into direct conflict with the US. That is precisely why the Zimbabwe delegate at the Protocol negotiations in 1999 described the aggressive US stance against the precautionary principle as “*holding the world at ransom*.”¹⁶

The WTO Weapon - ongoing attack on the South

Despite losing its case for a strong WTO mandate on GMOs at the Seattle Ministerial, the US still uses the WTO to force acceptance of GMOs in the South. Unlike the WTO case against the EU (delayed for months by moves to gain EU support for the war on Iraq), the US has not hesitated to use the threat of WTO sanctions against developing countries. And its effects have been swift. Lacking the political and economic power of the EU, these countries were forced to revoke GMO restrictions even without the US filing a formal complaint in the WTO. The threat alone was enough – especially since WTO-authorized sanctions could be placed on *any* exports to the US market.

In Bolivia a resolution banning any food or agricultural products derived from GMO crops was introduced in January 2001, but pressure from the US government forced the lifting of the ban. In the same year the Sri Lankan government introduced a ban on imports of 21 categories of GMO food products and planned to enforce this ban under amendments to the Food Act. In response, the US warned the Sri Lankan government that it would take formal action in the WTO against the ban, risking US\$190 million in sanctions. Worried that such sanctions would be applied to Sri Lankan garment exports to the US, the ban was lifted.¹⁷

In February 2001, the US threatened the Thai government with retaliation if it went ahead with plans to introduce laws requiring labeling of GE food products. In a meeting with a US trade delegation on February 13, Wichai Chokwiwat, Secretary General of the Thai Food and Drug Administration, was told that the US is opposed to labeling and that the proposed measures would incur sanctions against Thai exports to the US. At the time the Thai FDA was considering a contamination threshold of 3%, but later raised the level to 5%, leaving serious loopholes in the labeling law.¹⁸

The following year South Korea came under similar pressure. The US government tried in February 2002 to force the South Korean government to raise the threshold from 3% to 5% in its labeling laws. This US interference was immediately denounced in protests by Korean environmental and consumer organizations, instead demanding that the threshold be lowered to 1%, similar to the EU's legislation.¹⁹

Shortly after filing its WTO complaint against the EU, the US government turned to the Asia-Pacific Economic Cooperation (APEC) to reinforce its position. At the APEC meeting in Khon Kaen, Thailand in June 2003, US Trade Representative Robert Zoellick attempted to rally APEC members to join the US-led war against GMO restrictions and labeling. This move backfired. US aggressiveness met with opposition, with delegates arguing that the trade talks were not the appropriate forum to deal with the safety assessment of GMOs. The US stance was so extreme that the delegate from Japan – which has relatively weak GMO labeling rules – was compelled to defend consumers' rights to labeling.²⁰

When attacking GMO labeling regimes around the world, the US government has consistently argued that these regulations are unnecessary because they are unnecessary in the US. However, as a report on Monsanto by Innovest Strategic Value Advisors, a global environmental and social investment research firm, explains that:

*“GE supporters claim that the widespread use of GE ingredients in US food products indicates acceptance by US consumers. In reality, the vast majority of US consumers do not realize they are eating GE foods since GE firms have aggressively and successfully lobbied to suppress labeling requirements.”*²¹

A key dimension of the US use of the WTO as a political weapon is to establish US standards and regulatory mechanisms as the global sub-standard.

According to a series of factsheets released by the USTR and USDA on May 13 – the day the US filed its case against the EU – GMOs do not require comprehensive labeling or other restrictions because the US regulatory system has guaranteed its safety for human health and the environment.²² According to the USTR/USDA factsheet, *US Biotech Regulatory System*: “The U.S. government has a stringent, well-coordinated regulatory process for determining the safety of agricultural products of modern biotechnology.”²³

However, the reality is that the US Food and Drug Administration (FDA) does not oversee an independent, mandatory safety assessment process to determine the impact of GMOs on human health. As a recent report released by the Pew Initiative on Food and Biotechnology observes, “FDA currently has no affirmative postmarket inspection or compliance program for GM crops or foods.” In addition to this, the FDA does not “conduct any product sampling or inspection related to biotech foods.”²⁴ The FDA merely oversees a voluntary system under which corporations submit their own safety test procedures for their products, often together with only partial – not full – data. The FDA only considers the company's own assessment of its products and the data on which this assessment is based often remains secret.²⁵

The corporate domination of US regulatory processes also ensures that scientific evidence of the environmental risks posed by GE crops is consistently ignored. Agro-chemical corporations that have invested heavily in GE crop development play a direct role in shaping policies on GMOs. For example, when a US federal advisory committee responsible for examining the future of GE crops – the new Advisory Committee on Biotechnology and 21st Century Agriculture – was formed on April 8, 2003, 11 out of 18 seats were given to agribusiness and the GE industry, including Monsanto.²⁶ This is the weak regulatory regime – dominated by commercial interests and lacking in scientific credibility or public accountability – that the US is trying to impose worldwide as the new global sub-standard.

To reinforce its efforts in the WTO, the US is now seeking to impose these global sub-standards through bilateral free trade and investment agreements. These agreements, targeting developing countries, are designed to circumvent any flexibility or debate surrounding multilateral commitments and use unilateral US bargaining power to impose acceptance of GMOs. One of the outcomes is to establish commitments that contradict the principles embodied in the WTO.

This strategy of using bilateral treaties to overcome rejection of GE crops was alluded to by US Trade Representative Zoellick in his speech to the Institute for International Economics on May 8, where he stated that “*special product sensitivities*” of the US will be part of any new free trade agreements (FTAs).²⁷ One of the main reasons given for Egypt’s initial support for the US complaint against the EU in the WTO was the fact that it would be rewarded with an FTA in 2004. However, Egypt’s subsequent withdrawal from the complaint, and the rejection of US aggressiveness at APEC, suggest that US bully tactics are far from successful.

It is in this context that the Biosafety Protocol offers not only a global platform on which to build an effective response to environmental threat posed by GMOs, but provides countries in the South with the legitimate means to resist US coercion.

Hungry for Markets - dumping GMOs on the South

When the US filed its WTO complaint against the EU, Monsanto – the corporation responsible for 91% of the GE crops grown in the world – referred to the “politics of fear” that underlies the EU’s *de facto* moratorium.²⁸ The real politics of fear, however, is reflected in the use of the WTO to force open markets for a desperate GE industry. The industry is faced with a shrinking global market, as more and more countries adopt GMO labeling regulations, and new GE crops – such as Monsanto’s GE wheat²⁹ – face massive rejection even before they are approved for commercial growing. Over 37 countries have enacted or announced laws that restrict GE imports and/or require labeling of foods containing GE ingredients. According to the report by Innovest Strategic Value Advisors:

*“The EU was one of the first regions to restrict GE imports and require labeling. More recently, major food importers such as China, Japan and Korea have enacted GE restriction/labeling requirements. GE concerns have caused US corn [maize] exports to Europe to fall from US\$305 million in 1996 to \$2 million in 2001. Exports to Korea have fallen from US\$300 million to US\$85 million.”*³⁰

Concerned that the closure of markets to GE crops will be legitimized and locked into place by the Biosafety Protocol, the US government and the GE industry have launched a renewed offensive to impose GE crops on the South. The extent of this coercion is epitomized by the forced acceptance of

GMOs in food aid – a crucial outlet for US agribusiness’ unwanted GE crops.

It is in this context that the US launched a moral attack on GMO restrictions, arguing that the EU’s moratorium is preventing the alleviation of hunger. In his address to the Coast Guard Academy on May 21, 2003, US President Bush claimed that the EU’s moratorium is obstructing “*the great cause of ending hunger in Africa.*”³¹ Of course, world hunger itself is understood as a business opportunity, rather than a global humanitarian crisis. As Bush declared two years earlier: “*I want America to feed the world. We are missing some great opportunities, not only in our hemisphere, but around the world.*”³²

The potential for US agribusiness to profit from hunger is the real basis of US food aid and technical assistance. As the USAID website states:

*“The principal beneficiary of America’s foreign assistance programs has always been the United States. Close to 80 percent of the U.S. Agency for International Development’s (USAID’s) contracts and grants go directly to American firms. Foreign assistance programs have helped create major markets for agricultural goods...”*³³

Another sign of the US readiness to use all possible means is the recently passed bill by the US Senate, ‘The US Leadership Against HIV/Aids, Tuberculosis, and Malaria Act of 2003’, indicating that medicine to treat HIV/AIDS could be denied from African countries if they refuse GE food aid. Even if this provision is not legally binding it shows that the US is willing to defend the narrow GE industry interest at all cost, including threats to withhold lifesaving aid.³⁴

The hypocrisy of this position is further exposed in Bush’s claim in his May 21 speech that:

*“We must also give farmers in Africa, Latin America and Asia and elsewhere a fair chance to compete in world markets. When wealthy nations subsidize their agricultural exports, it prevents poor countries from developing their own agricultural sectors.”*³⁵

In fact the US itself is engaged in massive dumping of subsidized agro-exports, with levels of dumping for wheat estimated at 40%, corn ranging from 25 to 30%, soya 30%, rice 20% and cotton as high as 57%.³⁶ In 2002 the proportion of crops that were GE was 75% for soya, 34% of corn and 71% of cotton³⁷, all of which are set to increase in 2003. The high proportion of crops that are GE, combined with the high level of subsidies that allow selling prices at

well below cost, establishes a direct link between overseas dumping and the disposal of unwanted GE crops.

US dumping has a significant impact on the livelihoods of farmers, especially in countries in the South, who are unable to compete with large-scale, industrial production that is massively subsidized, undercutting local prices. The effect is to increase poverty and destroy the basis for overcoming hunger in the long-term. Only a fortnight before the US filed its case against the EU in the WTO, Benin, Mali, Burkina Faso and Chad, on behalf of West and Central African countries, approached the WTO for the complete elimination of cotton subsidies – particularly in the US. Cotton subsidies of US\$4 billion per annum in the US have devastated cotton farmers in several West and Central African countries.³⁸ The dumping of GE crops as food aid has a similarly destructive impact on the livelihood of local farmers and rural communities, undermining their long-term capacity to produce food.³⁹

In addition to this, the application of patents to GE crops means that farmers that grow GE crops are subject to higher longer-term costs and greater dependency on corporations like Monsanto for access to seed and agro-chemicals. This relates directly to food sovereignty and food security, whereby the development of a sustainable local capacity to meet food needs of local populations are essential to the alleviation of poverty and hunger.⁴⁰

In 2001, the UN Commission on Human Rights Special Rapporteur on the Right to Food referred to: “*Developments in biotechnology, including genetically modified plants, ownership of international patents by agribusinesses from the North and worldwide protection of those patents, hampering access to food and the availability of food.*” This link between GE crops and corporate control is among “*seven major economic obstacles that hinder or prevent the realization of the right to food.*”⁴¹ The report to the UN Commission also made direct reference to the enforcement of corporate patents under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), linking this to poor farmers’ deprivation from access to the means of food production.⁴²

The capacity for food production is also affected by GE contamination, which threatens agricultural biodiversity and the environment. So serious is this threat that GE food aid has been rejected on the basis that GE corn and soya imported as food can in fact be planted as seed. During the famine of 2002, Malawi, Mozambique and Zimbabwe requested that all US imported GE corn be milled prior to distribution in order to prevent its inadvertent

use as seed. Lesotho and Swaziland authorized the distribution of non-milled GE food aid, but warned the public that the grain should be used strictly for consumption and not for cultivation. Saying ‘no’ to GE food aid is therefore not a mindless response to EU scare tactics, but part of a longer-term, comprehensive response to the risks posed by GE food aid to the environment – where GE grains such as corn and soya could contaminate seed supplies.⁴³ Imposing bans or restrictions on GE crops – including GE food aid – is part of a broader set of policies aimed at protecting agricultural biodiversity as an essential basis of the capacity of these countries to feed themselves.⁴⁴

Underpinning this threat to agricultural biodiversity and the capacity to meet local food needs are the interests of agro-chemical, seed and GE industry giants that are seeking to increase their control over the world food system.⁴⁵ Expanding this control to the countries of the South is critical to the long-term interests of these corporations. In this context a desperate GE industry requires the US to use the WTO as a political weapon to force open new markets and create new realms of dependency. These ‘new frontiers’ are in Asia, Latin America and Africa, and not the EU. As a legally-binding multilateral instrument, the Biosafety Protocol enables governments in the South to resist this political coercion and ensure that the protection of biosafety and biodiversity – particularly agricultural biodiversity – takes precedence over the expansion of corporate agribusiness and the vicious cycle of dependency that this involves.

Time to Act - making global biosafety work

When the Cartagena Protocol on Biosafety comes into force on September 11, 2003, it will be a major showdown between the Protocol and the WTO. There is no doubt that the US will attempt to use the event to break the global consensus on biosafety and force its subordination to the corporate agenda of the WTO. Yet this is also an opportunity for the majority of countries in the world to reaffirm their commitment to biosafety and use the deadlocked talks on agriculture at Cancun to remove GMOs from the WTO altogether.

Two-thirds of the Protocol signatories are developing countries – a clear sign that the US war on biosafety is also a war on the South. Defending the Protocol against US aggression will serve to expose the US agenda and the crisis-ridden GE industry, as well as preventing transgression of multilateral environmental agreements (MEAs) by the WTO.

However, to effectively constrain the actions of the rogue state and bring an end to its war on GMO restrictions, it is necessary for all governments to take immediate and concrete action to implement the Biosafety Protocol. One of the first steps required is the institutionalization of the precautionary principle in comprehensive laws on biosafety, imposing stringent measures to prevent the environmental release or import of GMOs. These laws must then be defended under the Protocol and attempts by other countries to threaten those laws must be rejected as illegal and illegitimate.

Critics of MEAs have long argued that these global instruments cannot be enforced because they lack ‘teeth’ like the WTO’s trade sanctions. The Protocol in fact has teeth – it has provisions for the development of a strict liability and redress regime that must be developed over the next two years. Significantly, only Parties to the Protocol will have the right to develop this regime, excluding non-Parties such as the US. But once the liability and redress regime is in place, it will still be applied to non-Parties.

With the 5th WTO Ministerial taking place in Mexico, and coinciding with the coming into force of the Biosafety Protocol, there is a critical opportunity for governments in the South to speak out against the threat posed by GE crops. The contamination of Mexican corn with US GE corn is the first case of contamination in a center of diversity. These are precisely the adverse effects of GMOs on the conservation and sustainable use of biological diversity that the Protocol is designed to prevent. The case of GE maize contamination in Mexico must be seen as absolute proof that biosafety must be enforced over and above free trade rules, and has the potential to become the defining battle in ending the US global war on farmers, consumers and the environment.

Notes

¹ That the US complaint is really aimed at incoming labeling and traceability laws was suggested by John Veroneau, general counsel at the Office of the US Trade Representative, the day after the case was filed with the WTO.

[*Agriculture U.S. May Continue to Pursue GMO Case At WTO Even if EU Lifts De Facto Import Ban*, The WTO Reporter, May 14, 2003.]

² The US government itself linked the EU’s *de facto* moratorium to growing rejection of GMOs in the South: “The EU moratorium on agricultural biotech approvals has ramifications far beyond Europe. The spread of beneficial biotechnology is slowing, and developing countries have already suffered negative consequences.”

[USTR/USDA: *Why We Need to Act Now: The Effects of Europe’s Policies Are Spreading*, May 13, 2003.]

³ In an op-ed piece published in the *The Wall Street Journal* on May 21, US Trade Representative Robert B. Zoellick reiterated the argument that “fabricated fears” in the EU had caused poor nations to reject GMOs. Two weeks later US officials in several countries around the world – from Scotland to Singapore - arranged for letters to the editor, opinion pieces and guest commentaries to be published in leading local newspapers. All had the same scripted message: GE food is safe and beneficial, and anyone who has concerns or imposes restrictions is sacrificing sound science with scare tactics. Notably, all of these interventions concluded with the argument that developing countries need GE crops, and that EU scare tactics were preventing them from benefiting from GE. The arguments, quotes and evidence used in this coordinated offensive are based on the seven ‘factsheets’ issued by the USDA and USTR at their joint press conference on May 13.

[Zoellick R.B.: *United States vs. European Union*, The Wall Street Journal, May 21, 2003; Zoellick R.B.: *Why EU should lift moratorium on biotech food*, The Scotsman, May 22, 2003; Farish W., US Ambassador to UK: *Biotech is Benign - Europe’s continued blocking of GM imports is illegal, unjustified and founded on ignorance*, The Guardian, June 4, 2003; Lavin F.L., US Ambassador to Singapore: *Don’t slam the door on bio-engineered food*, The Straits Times, June 9, 2003; reprinted as: *Bio-engineered food means safety and choice*, The Korea Herald, June 10, 2003. See the USTR/USDA factsheets online <http://www.ustr.gov/new/biotech-actnow.htm>]

⁴ As is discussed in the following sections, the US has already used the WTO to intimidate countries such as Sri Lanka, Bolivia, Thailand and Croatia into giving up plans to impose restrictions on GMOs, including labeling of food products containing GMOs.

⁵ Greenpeace: *Record Harvest, Record Hunger: Starving in GE Argentina*, June 2002.

⁶ Letter by the Egyptian Ambassador to the EU, Suleiman Awaad, Cited in Al Amrani I.: *Egypt follows EU line on GM*, Middle East Times, June 6, 2003.

⁷ The Cartagena Protocol on Biosafety to the Convention on Biological Diversity will enter into force 90 days after 50 countries have ratified the agreement. Text and Annexes of the Protocol can be found at: www.biodiv.org/biosafety/Protocol.asp; For the list of countries which have signed the Protocol, please go to www.biodiv.org/biosafety/signinglist.asp?sts=sign. The list of countries which have ratified the agreement can be seen at www.biodiv.org/biosafety/signinglist.asp?sts=rtf&ord=dt.

⁸ Following Palau’s ratification on June 13, 2003, in accordance with the provisions of its Article 37, the Protocol will enter into force on September 11, 2003.

⁹ Even in the US, farmers are opposed to using the WTO to force open markets to unwanted GE crops. On May 28, 2003, the chairman of the Soybean Producers of America said that US officials “*should be asking who wins and who loses when we try to force feed our customers something that they do not want.*” Two weeks earlier a nationwide survey of corn farmers by the American

Corn Growers Foundation found that 77% are opposed to the US filing a case in the WTO.

[Soybean Producers of America press release, May 28, 2003; American Corn Growers Foundation press release, May 8, 2003, www.acgf.org]

¹⁰ The Miami group consists of the US, Canada, Australia, Argentina, Chile and Uruguay.

¹¹ This principle is a general rule in situations where there is the potential for serious or irreversible threats to health and the environment and requires action to be taken to avoid such threats even where definite proof of harm does not yet exist. It stops the lack of scientific certainty being used to delay preventive action. A precautionary approach also introduces a more scientifically rigorous analysis, with a broader scope and wider range of experts. Precaution is involved at all steps in decision-making in areas where action may lead to seriously harmful effects, from the practice of science and the research agenda, to regulation and governance. Because the threats of GE are so broad, and harmful impacts could be severe and irreversible, the precautionary principle must be strictly applied.

¹² In the US complaint filed with the WTO on May 13, 2003, the following provisions are cited as subject to violation by the EU's *de facto* moratorium: Articles 2 and 5 of the Agreement on Technical Barriers to Trade; Articles 2, 5, 7 and 8 of the Agreement on Sanitary and Phytosanitary Measures; Article 4 of the Agreement on Agriculture; and Articles I, III, X and XI of GATT 1994.

¹³ Paragraph 29 (vi) under the Section on Agriculture in the Ministerial Text of 19th October for the WTO Ministerial meeting in Seattle reads: "Disciplines to ensure that trade in products of agricultural biotechnology is based on transparent, predictable and timely processes."

¹⁴ *Measures Affecting Trade in Agricultural Biotechnology Products*. Communication from the United States, 27 July 1999, Preparations for the 1999 Ministerial Conference - Negotiations on Agriculture. WT/GC/W/288. August 4, 1999.

¹⁵ Khor M.: *WTO biotech Working Party opposed by majority*, South-North Development Monitor (SUNS), November 7, 1999.

¹⁶ Pollack A.: *U.S. and Allies Block Treaty on Genetically Altered Goods*, The New York Times, February 25, 1999.

¹⁷ *Lanka's GM food ban delayed indefinitely*, Times of India, September 3, 2001. Also see: International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF): *The WTO and the World Food System: A Trade Union Approach*, May 2002.

¹⁸ *GM foods: Sanctions threatened over labels*, The Nation (Thailand), July 19, 2001.

¹⁹ Asia Pulse, March 28, 2003; Financial Times, December 25, 2002; Korea Times, March 7, 2003.

²⁰ *US urges members to liberalise GMO food*, The Bangkok Post, June 3, 2003; *US push on GMOs runs into trouble*, The Nation, June 3, 2003; *APEC says GMO debate beyond it, asks scientists*, Reuters News Service, June 4, 2003.

²¹ Innovest Strategic Value Advisors: *Monsanto & Genetic Engineering: Risks for Investors*. New York, April 2003, pp. 9-10. The Innovest report supports this with evidence from public opinion surveys showing that the majority of consumers favour labeling of GMOs. Since 1997, over twenty US polls have shown strong support for labeling. This includes ABC News – 93% of Americans want GE food labeled, Rutgers University – 90%, Harris Poll – 86%, USA Today – 79%, MSNBC – 81%, Gallup Poll – 68%, Grocery Manufacturers of America – 92%, Time Magazine – 81%, and Novartis – 93%. A 2001 poll by Oxygen/Market-Pulse not only found that 85% of Americans want GE food labeled, but also that only 37% of women would feed GE food to their children. A new report released by the USDA, Veneman's own department, shows that US consumers react strongly to GMOs in their food *if they are provided this information through labeling*. According to the evidence in this

study, when consumers are given information about GMOs in food product, they are less willing to buy these products.

[Tegene A., Huffman W.H., Rousu M., Shogren J.F.: *The Effects of Information on Consumer Demand for Biotech Foods: Evidence from Experimental Auctions*, Technical Bulletin No 1903, Economic Research Service (ERS) United States Department of Agriculture (USDA), March 2003.]

This contradicts the USTR and USDA claim that: "when given the choice, many consumers will purchase biotech foods." [USTR/USDA: *Choice: Let Consumers Decide*, May 13, 2003.]

²² USTR/USDA: *Biotech Products Are Safe and Healthy*, May 13, 2003.

²³ USTR/USDA: *U.S. Biotech Regulatory System*, May 13, 2003.

²⁴ *Post-Market Oversight of Biotech Foods - is the system prepared?* A report commissioned by the Pew Initiative on Food and Biotechnology and prepared by Resources for the Future, April 2003, p.39.

Ignoring public criticism and the concerns of environmental and consumer organizations, FDA Deputy Commissioner Lester Crawford told the US Congress on June 17, 2003, that the FDA does not see any need for further regulations on food products containing GMOs.

[*More regulations for biotech products aren't necessary*, FDA says, Associated Press, June 18, 2003.]

²⁵ For example, the letter sent by the FDA to Monsanto on September 25, 1996 regarding its Bt corn (MON810) merely reaffirms the company's own assessment and provides no independent view of the safety of this GE food crop: "Based on the safety and nutritional assessment you have conducted, it is our understanding that Monsanto has concluded that corn grain and forage derived from the new variety are not materially different in composition, safety, or other relevant parameters from corn grain and forage currently on the market, and that they do not raise issues that would require premarket review or approval by FDA." www.cfsan.fda.gov/~acrobot2/bnfl034.pdf

According to Michael Hansen, "The letters for all 52 "safety consultations" done since the Flavr Savr tomato contain basically the same language."

[Hansen M.: *Government lack of safety standards for GM crops revealed*, Media Briefing for Consumers International, January 10, 2003, www.biotech-info.net/MH_CI_statement.html]

²⁶ USDA: *Veneman announces appointments to the Advisory Committee on Biotechnology and 21st Century Agriculture*, News Release No. 0114.03, April 8, 2003
www.usda.gov/news/releases/2003/04/0114.htm

Monsanto, Corn Growers get seats on USDA biotech board, St. Louis Business Journal, April 8, 2003.

²⁷ At the same time, the US government will establish 13 criteria for eligibility of its trading partners for FTAs, tying access to the US market to support for US foreign policy, including military aggression overseas.

[*Zoellick Says FTA Candidates Must Support U.S. Foreign Policy*, Inside US Trade, May 16, 2003. Also see: WTO Reporter, May 27, 2003.]

The American Farm Bureau Federation has also requested that acceptance of GE crops be a condition of all future free trade agreements (FTAs). [Farm Bureau News, Vol. 82 No. 10, May 12, 2003.]

²⁸ Quoted in Drajem M.: *US Challenges European Ban on Gene-Altered Food*, Bloomberg, May 13, 2003.

²⁹ See market rejection information including a Canadian Wheat Board survey in: MacRae R., Penfound H., Margulis C.: *Against the Grain: The Threat of Genetically Engineered Wheat*, Greenpeace report, November 2002, pp. 13-18, available at www.greenpeace.ca

³⁰ Innovest Strategic Value Advisors: *Monsanto & Genetic Engineering: Risks for Investors*, New York, April 2003, p.7. www.innovestgroup.com/pdfs/Monsanto_Analysis4-03.pdf

³¹ *Commencement Address to United States Coast Guard Academy, President Bush Discusses Trade Issues Related to Agriculture, Biotechnology and Export Subsidies*, May 21, 2003, www.whitehouse.gov/news/releases/2003/05/20030521-2.html

³² *Bush Argues for Food Exports*, Associated Press, June 22, 2001.

³³ USAID Procurement Information, www.usaid.gov/

³⁴ The key passage of The US Leadership Against HIV/Aids, Tuberculosis, and Malaria Act of 2003 reads: “...*Although the United States is willing to provide food assistance to these [African] countries in need, a few of the countries object to part or all of the assistance because of fears of benign genetic modifications to the foods.... It is therefore the sense of Congress that United States food assistance should be accepted by countries with large populations of individuals infected or living with HIV/AIDS, particularly African countries, in order to help feed such individuals.*”

³⁵ *Bush Promotes Policies to Fight AIDS, Poverty and Hunger*, 21 May 2003 <http://usinfo.state.gov/topical/global/biotech/03052101.htm>

³⁶ Institute for Agriculture and Trade Policy (IATP): *United States Dumping on World Agricultural Markets*, Cancun Paper Series No.1, 2003, pp.3; 9.

³⁷ This will increase to 80% for soya and 38% for corn/maize in 2003.

[National Agricultural Statistics Service: *Prospective Plantings in the US – 2003*, March 31, 2003.]

³⁸ Earlier Brazil filed a complaint in the WTO regarding US cotton subsidies. *Four African states urge end to U.S. cotton support*, Reuters News Service, 1 May 2003; *African Nations Seek Cancun Resolve On Full Elimination of Cotton Subsidies*, WTO Reporter, 2 May 2003; *Australia joins Brazil in WTO move on US cotton*, Reuters News Service, 5 May 2003; *Bridges Weekly Trade News*, 7 May, 2003.

³⁹ It is significant that the Zambia National Farmers’ Union (ZNFU) is reported to be arguing that Zambia’s farmers are facing difficulty in selling their winter maize crop to millers because of the influx of cheap imported maize.

[Shacinda S.: *Higher Zambian winter maize crop finds new buyers*, Reuters News Service, April 23, 2003. Also see Friends of the Earth International: *Playing with Hunger: The Reality Behind the Shipment of GMOs as Food Aid*, April 2003.]

⁴⁰ The threat of GE crops to food security and food sovereignty is recognized by farmers’ organizations and rural communities in the South, particularly indigenous communities. For example, in the Final Declaration, of the 3rd National Indigenous Congress, reference is made to the need to oppose “*the introduction of genetically modified organisms that threaten the food security of our nation.*”

[*Declaración Final*, 3er Congreso Nacional Indígena, Mexico City, 20 November 2001, p.11.]

⁴¹ *Report by the Special Rapporteur on the right to food, Mr. Jean Ziegler, submitted in accordance with Commission on Human Rights resolution 2000/10*. E/CN.4/2001/53, February 7, 2001, p.3.

⁴² The report states: “*The right to food implies not only access to food, but also access to the means of producing it. International patents held by northern multinationals, combined with their universal protection and Trade-Related Aspects of Intellectual Property Rights (TRIPS), deprive poor farmers of access to the means of growing their food.*”

[Report by the Special Rapporteur on the right to food, Mr. Jean Ziegler, submitted in accordance with Commission on Human Rights resolution 2000/10. E/CN.4/2001/53. February 7, 2001, p.22.]

This concern is also reflected In the consultation with the Executive Secretary of the CBD concerning the potential impact of patented GE crops on indigenous communities and farmers’ rights: “*Promotion of variety-specific genetic use restriction technologies in farming systems is likely to lead to seed security problems. With*

the risk of concentration in the breeding sector, farmers might become dependent on GURTs-modified seeds and lose ability to save seeds for the following season.”

[*Report on the Impacts of the Application of Genetic Use Restriction Technologies on Indigenous and Local Communities and Farmers’ Rights, Conference of the Parties to the Convention on Biological Diversity*. UNEP/CBD/COP/6/11/Add.1, February 14, 2002.]

⁴³ Since the US does not view GE grains in food aid as living organisms, it refuses to acknowledge any connection to biodiversity and biosafety. However, a key feature of the Protocol is that it embodies the recognition by the international community that GE crops are fundamentally different to conventional crops since they pose risks to the environment, biodiversity and human health. Due to these and any other unintended consequences, the Protocol requires that they be treated with precaution.

⁴⁴ As the Protocol’s COP thematic work programme on agricultural biodiversity states: “*Biodiversity provides not only food and income but also raw materials for clothing, shelter, medicines, breeding new varieties, and performs other services such as maintenance of soil fertility and biota, and soil and water conservation, all of which are essential to human survival.*” www.biodiv.org/programmes/areas/agro/default.asp

⁴⁵ The fact that the corporations behind these GE crops are also leaders in the agro-chemical and seed industry is significant. The combination of GE, agrochemicals and seed reflects a corporate strategy of increasing farmers’ dependency on a narrow set of inter-dependent corporate products and extending control over the food chain, from plough to plate.