



**EnviReform**  
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**The European Union, GM crops and multi-level governance: discord, diversity  
and discontinuity.**

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## **The European Union, GM crops and multi-level governance: discord, diversity and discontinuity.**

- This presentation will review the EU's main regulatory regimes for GM crops and foods. The recent and ongoing revisions to these regimes will be discussed. They will be placed within the context of the discord, public unease and the subsequent market-place reaction, to the large-scale entry of GM crops and derivatives into the European food chain.
- Some of the key themes that have framed the evolution of EU policy-making on GM crops and foods will be suggested.
- Finally, forthcoming regulatory developments in the EU will be discussed, and an attempt will be made to summarise the main trends that appear to be emerging from this period of regulatory revision. Some of the continuing uncertainty and discontinuity will also be considered.

## **Key regimes at present that govern GM crops and foods are:**

- **220/90 deliberate release of GMOs into the environment**  
(currently being revised)
- **Novel Foods 258/97** which covers GM food products and their labelling
- Since the large-scale introduction of GM food and food ingredients (notably soybean and maize and their derivatives) from 1996, there has been **incremental reform to the labelling** regulations within the EU. Reform of the labelling provisions has involved reforms to both of these main regulations. Example of regulatory lag

## **90/220 deliberate release of GMOs into the environment**

- Under this regulation criteria for risk assessment were vague, and continually contested as new crops were put forward for commercial approval.
- Emphasis was upon market harmonisation of the regulation, not upon ecological and biological diversity in Europe's agri-environment.
- The legitimacy of the regulatory regime was weakened as individual member states, such as Austria, France and Luxembourg, denied market access to some GM varieties that had been approved by the EC.
- The Council of Ministers announced a *de facto* moratorium upon further approvals in June 1999, until a revision of the regulatory regime had been completed.
- This revision had been instigated by the German Presidency in the hope of reducing regulatory burdens upon German industry. The biotechnology industries, promoters of the technology within the Commission, and the US government, who all anticipated a streamlined and more benign approval process supported it.

- As revision stands now have more specific risk assessment criteria.
  - Promotes consideration of GM crops impacts upon local biodiversity and its agricultural impact.
  - Post release monitoring.
  - ARM phase out.
- Council of Ministers have played a key role in these changes reflect move up the political agenda.
- Socio-economic criteria have not been introduced

## **Novel Foods 258/97**

- Key determinant of novelty was substantial equivalence  
“if a new food or food component is found to be substantially equivalent to an existing food or food component, it can be treated in the same manner with respect to safety" (OECD 1993).
- Novel foods and ingredients deemed to be equivalent were to be approved under simplified procedures.
- Excluded food additives extraction solvents and flavourings
- Labelling had been a key area of disagreement during the 5 year passage of this regulation.
- There was to be labelling
  - for live GMOs and
  - where the composition of the final product was deemed as no longer equivalent to an existing food or ingredient.
  - labelling had to indicate the characteristics or properties modified together with the method (or process) of modification.
  - Also, labelling on ethical grounds and
  - where ingredients had an allergy implication for a certain section of the population

## Labelling reform

- **Identity preservation (IP)** systems. Led by the private sector.
- Efforts of the Iceland retail chain in the UK to set up **non GM supply chain**. Suported by audit trail.
- The major supermarkets in the UK and Northern Europe rushed to declare they were attempting to provide GM-free foods. The major processors, under pressure from the retailers, followed suit, as did some restaurant and catering groups
- **Private system of regulation** seemed to appear. Who were the gatekeepers?
- A survey by Friends of the Earth found that in March 2000 most of the world's top twenty six food manufacturers who sold in the European market had adopted non GM policies for that market (Friends of the Earth 2000).
- Achieved *without any price premium* being passed on to the consumer (in part, because only part of final product).

- **Threshold** levels for adventitious contamination were also set, at a maximum of one per cent for the total food product and also for any specific ingredients therein.
- The threshold level was also seen as realistic given **the limited ability of the technology to detect** extremely low levels of GM DNA or protein presence. However, as the detection technology was seen as becoming more precise, so pressure remained for the threshold level to be reviewed and revised downwards when possible.
- The labelling regime was also extended to **food additives**.
- A further goal of the Commission's is the introduction of a **'GM free' label**, as opposed to 'non GM'.
- However, the extensions of the labelling regime still focused on the **composition of the final product**, not upon the methods of production.



## **The evolution of EU policy making on GM crops and foods: some key issues.**

- *Divisions within the European Commission* as well as amongst member states and within member states between ministries.
- *Epistemic tensions : molecular biology v ecology*
- *Process v product* – one key one door – was one consequence of this attempted redirection under the Commission after the passage of 90/220. However, it has been a *mixed* regulatory approach, in fact. *Vertical and horizontal*.
- *Promotion v regulation*.
- Underlying questions of *legitimacy for the European Project*.  
Under Delors' international economic competitiveness was a key dimension to underpinning the legitimacy of the EU.  
Under Santer, and now Prodi, legitimacy seen *also in terms of public health* of the consumer and *food safety*.
- Nature of the EU – *multi-level governance*. Both national interest/dimension and EU as a polity within itself, also.  
See this dual identity in the revision of deliberate release.

## **Forthcoming reforms:**

- The European Commission has announced that systems of complete **traceability** of foodstuffs to be one of the key principles of EU food law and food safety
- Regulations for **GM animal feed** (already seeing retailers seeking to set up non-GM animal feed chains for meat products). This has important ramifications for segregation of commodities imported. Also traceability through documentation of GM and non GM feed part of this proposal, and 220 revision.
- **GM free regulation** – in wake of traceability. Discontinuity between this aim and operation of regulatory guidance on separation distances of crops in the field
- Revision of seeds' regulation to embrace **GM seeds**.
- Broader impetus to reform of food production regimes under CAP and concept of **multifunctional agriculture**.
- White Paper on the **Precautionary Principle** – link to more precautionary risk assessment criteria in 220 revision.

Can see make out some features emerging within this period of regulatory reform.

- **Diversity of local biodiversity and agricultural systems** – no longer seek to make Europe's agri-environment homogeneous to mirror the internal market. Revision of 220, will allow member states more scope to assess important risk assessment dimensions according to particular ecosystem and agricultural features.
- **Precautionary risk assessment, fuller criteria**
- **Traceability** – but provides challenges
- **Social criteria not yet explicit** in risk assessment – would argue however they have in the past been explicit (eg BST) and often implicit.
- **Market led social assessment** of the technology in Europe – is this satisfactory?
- Public interest in food governance provided by private sector response to the public as consumers, only subsequently to public as citizens?
- Raises questions of for democratic legitimacy in an era of multi level governance?