European politicians pass food regulations lacking meat

In May of this year, nearly five years after the legislative process began in July 1992, there will be European Union (EU)-wide regulations for the approval and labeling of genetically engineered foods. This follows the approval of the draft Novel Food Regulations by the European Council of Ministers on December 20, 1996 and the European Parliament on January 16, 1997. The recent approvals have wrought a consensus in Europe—that virtually nobody likes the regulations as they stand.

The official line, according to Gwenoel Cozigou, head of the food production and biotechnology unit in the industrial directorate (DGIII) of the European Commission (EC, Brussels), is that the draft regulations received “almost unanimous support” from European political institutions. This, he says, establishes their legal foundation. “The legal base is all there,” agrees Andrew Dickson, secretary general of the European bioindustry umbrella, EUROPABIO (Brussels), but he believes that the regulation still lacks vital details. “The Standing Committee, which will be set up by the regulation, has got to do interpretive work both for industry and the regulators concerned.”

Consumer groups agree. Lucy Harris, policy and representation officer at Consumers International (London), which represents 215 consumer groups in over 90 countries, feels there is a need for European regulations. But, she says, consumer groups are dissatisfied with the content of the regulations that have emerged: “The reality is going to be that everyone interprets it differently.” Consumer organizations can interpret the wording of the regulation as requiring labels on all genetically modified foods, she says, but industry will interpret it as they needn’t be labeled. “Without clear guidance” she asks, “at what point does the labeling requirement come into force?”

The problem section of the regulation is article 8, which describes its scope. According to article 8, food will be deemed novel “if scientific assessment, based on appropriate analysis of existing data” demonstrates differences from “conventional food.” If there are differences, food labeling will have to tell

consumers about them. But it will be up to the Standing Committee (made up of officials from the relevant parts of each member states’ governments) to decide what constitutes an “appropriate analysis” and differences from existing foods.

The European Parliament, Strasbourg, France, where the Novel Food Regulations were approved in January.

Cozigou from the EC tried to explain how things might work with reference to Monsanto’s transgenic soybean. In soy meal, he said, the EPSP synthase gene responsible for herbicide tolerance could be detected using techniques such as PCR; that would have to be labeled. On the other hand, oil produced from the same transgenic soybean would not have to be labeled, as the gene is not detectable. “If you cannot show a difference, I would imagine that it is equivalent,” says Cozigou. Cozigou’s “I would imagine” encapsulates the problem, albeit unintentionally: Interpretation is the only way the current regulation means anything. The Scientific Committee (including food scientists and genetic engineers) could decide that PCR (or other genetic detection method) is not an appropriate analytical technique, in which case most recombinant foods would not need labeling. But then again, they might, and it would.

Mark Cantley, a biotechnology regulation specialist at the Organization for Economic Development (Paris), and formerly a EC official, suggests that the Novel Food Regulation may not really be a regulation at all. Regulations are directly binding in 15 countries and do not allow for national parliamentary amendments or uncertainties of timing, he explains. “[This one] is clearly amenable to differences in national interpretation. . .” And that, he says, could allow “the pursuit of pseudoproblems,”—an exaggerat-

ed hounding of anything that had any sort of genetic modification.

Some of the details will become clearer soon. Cozigou says that implementation measures or guidelines for the regulation will be adopted by March. When the regulation comes into force, labeling requirement will have to be approved by a Scientific Committee and a Standing Committee. Labeling will be approved on a case by case basis, he says, and the label will have to describe both the new characteristics of the product and outline the processes involved in producing it.

Willy de Greef, CEO of Applied Life Science Strategies (Ghent, Belgium), a consultancy advising food companies on food regulations, points to practical difficulties that the regulation will raise. He says that once food has been processed, transgenes are likely to be undetectable. If there are no detectable signs of DNA or “unnatural” proteins, and if transgenic crops are cheaper, De Greef worries that producers might be tempted to defraud consumers by selling “recombinant-free” products. Certain manufacturers or retailers companies are already seriously considering taking market share by advertising that they don’t use genetically engineered products. However, as milk producers in the US found when they attempted to label their dairy products as “BST-free,” such claims are difficult to substantiate. De Greef says, “I’m quite happy to do an audit of any of those companies for one of their competitors to show that they cannot sustain that claim.”

Although the food regulation is an attempt to harmonize labeling at a European level, EU member states such as the Netherlands and France are already hurrying through their own national compulsory labeling codes for genetically modified foods before the EC regulations come into force. Cozigou says that may be a fool’s errand: “There would be no room to maneuver for a member state to impose further labeling.” But there is a loophole. The regulation does not preclude labeling where there is ethical opposition to the gene; opponents of gene technology might, therefore, claim ethical opposition to all genetic engineering. Harris believes that labeling will ultimately be regulated by the retailer in response to consumer pressure. She says “what will happen will depend on how retailers respond.” And already, supermarket chains like the UK’s Iceland are refusing to accept soya bean imports, whereas the Tesco chain is undertaking to produce the level of labeling that consumers want rather than responding to legislation from the EC.

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