

# Trading Away Our Environment

By Mark Ritchie

Although President Bush has repeatedly declared his strong commitment to protecting the earth's environment, his trade negotiators in Geneva, at the General Agreement on Tariffs and Trade (GATT) are making agricultural proposals that could seriously weaken existing pesticide and environmental protection laws, and which could ultimately erode a wide range of consumer safety legislation in the U.S. and around the world.<sup>1</sup>

The U.S. proposal, called the "double zero plan" or "global deregulation" would change the rules governing agricultural trade. These changes could limit GATT member nations' rights to implement the following kinds of national or state legislation:

- 1 Farm programs which impact production, consumption, or prices;
- 2 Import Controls;
- 3 Export controls on food and potentially other natural resources, even in times of famine or critical shortages;
- 4 Environmental health standards on goods entering world trade if more strict than those of the United Nations (UN) agency, Codex Alimentarius.

Although each of these elements could have serious ecological and human health consequences, this report will focus on the fourth element, often called "harmonization."

Since Congress is prohibited by law from amending the final GATT agreement,<sup>2</sup> it is crucial that legislators be fully informed of environmental and health impacts of all proposals before President Bush signs the final agreement.

## **Background**

Citizens' groups all over the world are demanding ever more strict laws to protect their health and environment. At the same time, however, some chemical companies who make pesticides, herbicides, artificial fertilizers, and veterinary drugs are lobbying for new GATT rules limiting the right of nations to set stricter standards. They also want GATT rules allowing federal officials to preempt state pesticide and food safety legislation.

In between these two sharply conflicting interests are governments, some who impose strict health standards to protect their citizens, while others have used food regulations as hidden trade barriers. One objective of GATT talks is to find an equitable way to resolve these conflicts.

In October of 1989, the Bush administration presented to all GATT member nations the final version of their comprehensive agricultural proposal.<sup>3</sup> This comprehensive "harmonization" plan would strictly limit the right of nations to impose environmental and consumer protection regulations on imported foods, by imposing the following procedures:

1. "Scientific evidence" would be the only consideration in human health and environmental regulations applied to imports. No social, economic, religious, or cultural concerns could be considered, no matter how important to consumers, environmentalists, or farmers.

2. The Rome-based agency, Codex Alimentarius, heavily influenced by the largest chemical and food companies, would be the primary judge of what would be acceptable "scientific evidence."<sup>4</sup>

Take DDT as an example. If a food item shipped to the United States is found to have DDT residues above extremely low "background" levels, it is banned. However, since Codex has set maximum residue levels (MRLs) for DDT many times higher than the U.S., disputes may arise between nations exporting foods with Codex-permitted DDT residues and the U.S. The nation whose product has been denied entry could take this

issue to a GATT dispute panel, who would compare U.S. limits to Codex. The stricter U.S. standards could be ruled "illegal," leading to possible trade retaliation.<sup>5</sup>

#### ***Potential Impact: Reducing Congressional Authority***

According to Anne Lindsay, Director of the Pesticides Registration Division of the Environmental Protection Agency (EPA), 16% of the pesticide tolerances standards set by Codex are weaker than current U.S. tolerances.<sup>6</sup> If the "harmonization" proposal is accepted by GATT, standards set by Congress could no longer be applied to imports, if stricter than Codex. If the U.S. attempts to enforce stricter domestic standards on imports, we could face retaliation in the form of tariffs applied against U.S. exports.

In a recent interview, Agriculture Secretary Clayton Yeutter expressed his belief that he can eventually use GATT to overturn or weaken the growing number of health and environmental regulations being adopted by Congress. According to Yeutter, "If the rest of the world can agree what the standard ought to be on a given product, maybe the U.S. or EC [European Community] will have to admit they are wrong when their standards differ."<sup>7</sup>

Under legislation now being considered by Congress, dangerous pesticides banned here in the U.S. could no longer be shipped abroad, where they are often used on foods which are then exported to the United States, a process often called the circle of poison (JPR 10(1):42-44). Under "harmonization," a circle of poison legislation would be jeopardized. Since Codex does not ban a number of chemicals prohibited in the U.S., it could be against GATT rules for Congress to prohibit the export of those products, or the reimport of foods with residues of these banned products.

#### ***Potential Impact: Preemption of State Governments' Right to Set Pesticide Standards***

"Harmonization" is designed to restrict the ability of state governments to set environmental and consumer protection standards. First, the proposal calls for Codex preemption of all standards on imported and exported goods. For example, if California voters approve strict regulations which prohibit the use of any cancer-causing pesticides on foods grown or sold in the state, under "harmonization," this law could not be enforced on foods imported from overseas without the possibility of GATT-sanctioned retaliation.

"Harmonization is also being used as an argument for federal preemption over states who attempt to set standards stricter than the federal ones.

Agriculture Secretary Yeutter has stated publicly that one of his main goals at GATT is to overturn the more strict local and state food safety regulations that have been passed in recent years. He fears that if state governments can implement their own regulations, it could set a precedent for more strict federal legislation.

*Food Chemical News* has noted that even some Democratic members of Congress share Secretary Yeutter's perspective. Quoting Speaker of the House Tom Foley (D-WA), they reported that he is "not happy with the trend toward states taking the lead in health, safety, and environmental areas, adding that it can have serious consequences for trade and commerce in the U.S. and internationally. Speaking to a Cosmetic, Toiletry, and Fragrance Association breakfast, Foley was reported as saying that California's Proposition 65 [JPR 6(4):26-27] is the most blatant example of the trend."<sup>8</sup>

It should be noted, however, that not all federal agencies share the same ideological commitment to "harmonization" and preemption as the USDA.

At a recent forum organized by Public Voice for Food and Health Policy, Health and Human Services Secretary Louis Sullivan encourages states to come out with their own laws in the area of food labeling.<sup>9</sup> At the same time, there have been numerous reports that a number of key staff at EPA do not support "harmonization."

#### ***Potential Impact: Weakening Other Nations' Environmental and Consumer Safety Laws***

Since most GATT rules apply to all of the member nations, the "harmonization" process could lead to the lowering of standards in other countries. Food industry officials in the United States have been very active in support of "harmonization"

partially because they believe it can be used to lower the standards they must meet when they ship goods to other countries. In addition, they see this as a way to reverse the trend towards ever higher standards in some regions, especially Europe, which they fear could lead to demand for the similar standards in the U.S.

A good example is the proposed EC ban on bovine growth hormone (BGH). In a letter to Europe's agriculture commissioner, Ray MacSharry, Secretary Yeutter objected to this proposed ban, using GATT as his main argument. Yeutter believes that a moratorium on the use of BGH would disrupt the GATT talks and might encourage consumer demands for similar regulations on the U.S. side. He feels that an EC ban on BGH would "contravene our mutual objective of achieving international harmonization in this sensitive area of food safety. It would also add fuel to the fires for those who wish to have public policy decisions made on the basis of emotion and political pressure."<sup>10</sup>

### ***Potential Impact: Slowing the Adoption of the Fourth Criterion***

Over the last one hundred years, three criterion for evaluating new chemical additives to food have evolved: safety, quality, and efficacy. A number of consumer and environmental organizations are working to establish social and economic values or need as a fourth criterion for evaluating new food chemical additives.

Many of the chemical, pharmaceutical, and food companies fear that if the fourth criterion becomes generally accepted it would lead to tougher laws and regulations. One example of regulations based on the fourth criterion are the recently passed bans on the commercial use of BGH by a number of states. Generally, these laws are based on the argument that the use of this drug would bankrupt thousands of dairy farmers.

Another example is the beef hormone ban imposed last year in Europe on the basis of consumer demands and not strictly on scientific evidence. Under "harmonization" these laws could not be applied to imported goods without running the risk of retaliatory action sanctioned by GATT. If the "harmonization" proposal is accepted, future efforts by consumers and environmentalists to set regulations based on the fourth criterion could be effectively blocked.

The United States representatives at GATT have raised their concerns about the growing support for the fourth criterion, including attacks on EC regulations for biotechnology. In a recent official GATT report, the U.S. representative argued that "the basis for authorizing products should be a thorough scientific appraisal against the three traditional criteria of safety, quality, and efficacy. The EC was now considering whether a new biotechnology product known as BST should also be reviewed on the basis of social and economic implications. According to the United States, such a political criterion could set a very dangerous precedent."<sup>11</sup>

### ***Towards a Positive Solution***

The problem of distinguishing between legitimate consumer and environmental protection measures and hidden trade barriers has become increasingly more difficult. As more long-term effects of various drugs and chemicals are discovered, there will be intense public pressure to tightly control what foreign substances are allowed into the food supply.

The development of more clear and operationally effective rules for resolving trade conflicts over these matters is crucial to all citizens, in the United States and around the world. The fight between the administration and Europe over the beef hormone ban is a good example of how trade wars can harm producers and consumers on both sides. This hormone fight is only one example of why specific and clear rules are needed. Thus far, however, there has been little progress in finding acceptable alternatives.

It is clear that "harmonization" and a wide range of other environmental issues are only in their first stage of consideration by GATT and that much more will be needed in the future. It is with this in mind that the various resolutions being considered by the U.S. Congress address the need for a special process within GATT to begin incorporating these ideas and concern. A resolution by Congressman James Scheuer (D-NY) calls on Congress to reject the final GATT agreement if it does not adequately address environmental protection.

Rod Leonard, director of the Community Nutrition Institute, sees the evolution of a positive solution in the growing consensus on the "fourth criterion."

"...The promise of free trade was that more people would enjoy a better life and that economic growth would raise incomes. That promise, compromised by contaminated water, polluted air, and undisclosed health risks, has not been fulfilled, either in the United States or in Europe. The task for economics in the twenty-first century is to fashion a more creative role for science in helping people achieve a more satisfactory lifestyle. Harmonization, a process to continually lower standards of health and safety, is not part of that future."<sup>12</sup>

### References

1. For a complete review of all ecological concerns related to GATT, see Steven Shrybman. 1990. International trade and the environment. *The Ecologist*, February and Mark Ritchie. 1990. Environmental implications of GATT. Institute for Agriculture and Trade Policy.
2. Gatt negotiations are conducted exclusively by the President, under "fast track authority" granted by Congress. Under this process, Congress is prohibited from amending the final text of the treaty, but they retain the right to reject it.
3. United States Trade Representatives Office. 1989. Submission of the United States on comprehensive long-term agricultural reform. October. (See appendix.)
4. At a recent meeting of Codex the U.S. delegation included three corporate executives from Nestle, one each from Coca Cola, Pepsi, Hershey, CPC International, Ralston Purina, Kraft, and representatives from several trade associations including the Grocery Manufacturers of America, Food Marketing Institute, American Frozen Food Institute, Food Processors Association, and the Association of Cereal Chemists.
5. For comparisons of some U.S. and Codex pesticide residue standards see appendix.
6. *Pesticide and Toxic Chemical News*, May 9, 1990, page 34.
7. "Washington" in *Farm Journal*, May 1989, page 10.
8. *Food Chemical News*, April 30, 1990, page 60.
9. *Food Chemical News*, April 16, 1990, page 45.
10. Letter from Clayton Yeutter, U.S. Secretary of Agriculture, to Ray MacSharry, EC Agriculture Commissioner. July 8, 1989.
11. GATT Secretariat. 1990. *News of the Uruguay Round*. April 19.
12. Leonard, Rod. 1990. Science, economics role to be redefined in the 1990s. *Nutrition Week* (May 3):6.