

April 20, 2010

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Kathleen Merrigan, Ph.D., Deputy Secretary of Agriculture
U.S. Department of Agriculture
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Dear Mr. Taylor and Dr. Merrigan:

We, the undersigned consumer, farmer, environmental, ethical investing, organic food organizations and food producers and processors want to call your attention to serious difficulties with the position of the United States, being drafted by the Food and Drug Administration (FDA) and the Department of Agriculture (USDA) for the May 3-7, 2010 meeting of the Codex Committee on Food Labeling (CCFL) in Quebec City, Canada.

We refer specifically to the draft position of the United States on “Proposed Draft Recommendations for the Labeling of Foods and Food Ingredients Obtained Through Certain Techniques of Genetic Modification/Genetic Engineering [GM/GE],” which was distributed at a public meeting on April 7, 2010 by Barbara Schneeman (Director of the CFSAN Office of Nutrition, Labeling and Dietary Supplements), who will be the lead US delegate at the upcoming meeting. The US opposes a Codex document that simply states that countries can adopt different approaches to labeling of GM/GE foods, in line with existing Codex guidance. We believe that the US should support this document. We are concerned that the current US position could potentially create significant problems for food producers in the US who wish to indicate that their products contain no GE ingredients, including on organic food, where genetic engineering is a prohibited method.

Comments submitted to CCFL by the United States in October 2008, under the previous administration, contained several troubling statements that appear to contradict FDA and USDA labeling policy domestically. The new draft US position paper incorporates the previous administration’s position.

The former US position that is being carried over into this US position of 2010 states that Codex should not “suggest or imply that GM/GE foods are in any way different from other foods.” However, such foods clearly are different: USDA organic rules specifically state that GM/GE seed cannot be used in organic production, and organic labels often state that the foods do not contain GE/GM ingredients. The US position also states that “Codex labeling texts apply to any voluntary representations used in the labelling of GM/GE foods.” We are very much concerned that adoption of the US view could therefore potentially lead to problems for US organic producers who label their foods as non-GE/GM.

The FDA has taken the position that within the US, voluntary labeling as to whether or not a product contains genetically engineered ingredients is permissible. Obviously there must be a difference between GE and GM products if they are excluded from organic and FDA allows their absence to be discussed on a label. We are concerned that the US seems to be saying otherwise at Codex.

The current draft US Codex position goes even further to say that mandatory labeling of food as GE/GM “is likely to create the impression that the labeled food is in some way different” and would therefore be “false, misleading or deceptive” (US comments, pg. 16 in CX/FL 09/37/10, attached). We find it hard to understand how FDA and USDA can argue to Codex that mandatory labeling is inherently false and misleading, but voluntary labeling, which is permitted in the United States, is not. We are, in fact, concerned that the current US position appears to seek to establish precedents at Codex that would make it difficult to label food as non-GM in the US.

Both science and existing law in the United States acknowledge and incorporate the fact that GE/GM seeds and foods are different from non-engineered varieties. Further, the state of Alaska has passed a law requiring mandatory labeling of genetically engineered fish if and when they are approved for the market.

For these reasons, we urge you, in consultation with the State Department and United States Trade Representative, who are also members of the US delegation, to revise the draft position distributed on April 7.

Specifically, we urge the US to drop its opposition to any work on GE/GM labeling and to support the Chapeau 2 statement as amended by Brazil, which reads, “The purpose of this document is to recall and assemble in a single document some important elements of guidance from Codex texts which are relevant for the labelling of foods obtained by GM/GE techniques. It also recognizes that each country can adopt different approaches regarding labelling of foods obtained by GM/GE techniques and that food labelling is the primary means of communications between the seller on the one hand and the purchaser and consumer on the other.”

We urge the US not to allow trade goals to interfere with or distort judgments made on sound science and existing policy. The US should not try to solve the problem of consumer rejection of GM/GE foods in other countries by trying to force bodies like Codex to adopt the view that there

are no differences between GM/GE foods and other foods, something which is contrary to scientific fact, USDA organic rules, and existing FDA policy allowing voluntary labeling.

We appreciate your giving immediate attention to this matter. We attach a copy of the US position submitted to Codex in late 2008 and incorporated in its 2010 position.

Sincerely,

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