

## Duncan, John D. (INTECON/DOS)

**From:** McNamer, Bruce  
**Sent:** Friday, July 30, 1999 3:46 PM  
**To:** Steinberg, James; Hammonds, D. Holly (INTECON); Blinken, Antony J. (EUR)  
**Cc:** Holtzapple, Richard A.; @INTECON - Economic Affairs  
**Subject:** NEC Deputies GMO mtg - readout [CONFIDENTIAL]

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In general, our strategy as we approach these talks is largely defensive. In each fora, we have already achieved some commitment to a science-based, transparent approach to the regulation of GMOs. Given the present surge in negative publicity around the topic, and the aggressiveness of the EU in pursuing its own GMO agenda, we should be cautious not to initiate any actions (such as a re-opening of the SPS in the WTO) which might result in our losing control of the issue and ultimately put us in a worse position than we are in now. That said, we might achieve some small gains:

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- FTAA - There has not been sufficient groundwork laid to permit including biotech in FTAA Ministerial in early November. Nevertheless, USTR plans to use the Ministerial to shore up bilateral support for our GMO position in advance of the WTO.
- WTO - Will seek a commitment to address GMOs in a transparent, science-based way. However, we will not in all likelihood seek to re-open the SPS, for fear of opening a Pandora's box which we could not shut.

As we approach the next round of negotiations at the Biosafety Protocol in September, we are anticipating the best outcome at this point would be a failure of those talks, as most of the participants at present line up on the side of an agreement extremely inimical to our interests. We will continue to work to keep the so-called "Miami Group" (U.S., Canada, Argentina, Australia, Chile and Uruguay) together as a blocking coalition to the Protocol as currently proposed.

In the context of the Biosafety Protocol, and in the larger context of our overall international strategy on GMOs, we are exploring ways to better inform and assist developing countries as they formulate their own approaches to the subject. Over the next several weeks, an inter-agency group led out of State will develop proposals for outreach in particular to African countries, both in the form of information exchange and in technical assistance. The goal of this effort would be to better inform these countries as to the potential benefits to them of biotechnology, and to help them to develop the regulatory and scientific infrastructure to oversee the introduction and wider use of GMOs - both as producers and consumers.

**DECLASSIFIED**  
**PER E.O. 13526**  
2016-0529-M (1.03)  
3/6/2019 KBH

Duncan, John D. (INTECON/DOS)

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From: Schaefer, Matthew P. (INTECON)  
Sent: Thursday, September 30, 1999 1:28 PM  
To: Crocker, Bathsheba N. (NSA); @NSA - Natl Security Advisor  
Cc: @HAMMONDS  
Subject: Read-Out of This Morning's Deputies on GMO's [CONFIDENTIAL]

Please pass to Jim

Read-Out of Deputies Meeting on Environmental Effects of GMOs (September 30th 9AM)

- Deputies agreed on the need to have comprehensive GMOs policy on all three aspects (environment, consumer safety, and trade) in place in advance of Seattle WTO Ministerial (Nov. 30- Dec.3). Doing so will also assist in preparations for Ministerial negotiations on the biosafety protocol that begin early next year.
- Accordingly, deputies agree to meet again in 2-3 weeks once final paper on all three aspects is prepared. Agencies will also work on draft press guidance on environmental effects of GMOs.
- EPA discussed two regulatory actions it is in the process of considering concerning the environmental effects of Bt Corn:

1) EPA is considering an increase in required "refugia" (areas where some portion of the pest population can live without exposure to pesticide so as to avoid resistance developing over time) for Bt Corn from the current varied rate of 7-20% to a uniform minimum of 20%. All manufacturers agree with this change. EPA is also considering increasing the percentage to up to 40% if the pesticide is also sprayed by the grower but there is no agreement among manufacturers on this step and USDA also has concerns. EPA would like to finalize this issue in the next week or two. Farmers will begin buying from manufacturers in late November and this condition needs to be worked into sales contracts.

2) EPA is considering requiring **buffer zones** of 20-30 ft. so as to prevent possible **impact on non-targeted species (such as the monarch butterfly)**. OSTP and others believe that there is not a sufficient scientific basis for buffer zones at this point. They note that the study on monarch butterflies contained flaws (e.g., no evidence that Bt pollen in real life travels in such a manner/distance as to be found on the milkweed that monarchs eat and no evidence that Bt pollen would affect monarchs outside laboratory since they could choose non-Bt tainted milkweed). Additionally, OSTP is concerned that a buffer requirement will raise illegitimate concerns in the public (and give an unjustified appearance of credibility to the EU's positions) since there is not sufficient scientific evidence. CEQ questioned whether EPA would have sufficient "jurisdictional hook" to regulate GMOs in this fashion when they did not serve a pesticide purpose. Industry has asked EPA to hold off on a decision on buffer requirements until after an industry has further time to consider the issue.

DECLASSIFIED  
PER E.O. 13526  
2016-0529-M (3.47)  
3/6/2019 KBH

**MEMORANDUM**

TO: Lael Brainard

FR: Matt Schaefer

RE: Beef Hormones Deputies Meeting

DT: May 11, 1999

*Rick*  
*Forgo your background*  
*Matt*

Please find below an annotated agenda with the latest developments and possible discussion points to raise:

**I. Responding to EU's Recent Study & the Expiration of the Reasonable Period of Time on May 13th for the EU to Implement WTO Ruling**

As you know, the EU sent us a summary version of their study that alleges we have inadequate controls on the administration of hormones to cattle and that one of the hormones involved causes cancer the weekend of May 2. On May 3/4, EU DG-XXIV (Consumer Affairs) Commissioner issued a press release stating the EU would ~~be~~<sup>not</sup> remove the import ban. While not representing a formal Commission decision, the statement was an attempt to politically "box-in" her fellow Commissioners. The EU sent us their complete study this past weekend (May 8/9). FDA and others are reviewing the complete study but our initial impression remains the same - the EU study contains no new information (only that which has been rejected by the WTO and that which conflicts with studies by the FDA, WHO/FAO, and the EU itself in 1995).

**• Public Relations/Press Strategy**

Barshefsky and Glickman issued joint press release on Monday May 3. FDA has draft press release that they are updating based on the complete study we received over weekend. Calculation of others to date has been to withhold release of FDA press release until the complete study arrives and to prevent re-igniting press interest in the story. Peter Scher and Tim Galvin participated in Cattleman's Association press event yesterday (May 10<sup>th</sup>).

Discussion Points:

- 1) How are we doing in the press/public relations battle?
- 2) When (if at all) have FDA issue press release?
- 3) Overall strategy?

**• WTO Strategy**

- **Retaliation: Timing of Publication of Final List**  
**Timing of Asking for WTO Authorization**

- **Likely EU Litigation Tactics**

May 13<sup>th</sup> is the end of the reasonable period of time for EU to implement. We will ask for WTO authorization to retaliate around June 1. It is USTR's plan to only put forward a damage estimate to the WTO at that time (not a final product list). As of today (May 11<sup>th</sup>), USTR has suspended any further work on paring down the product list in the Section 301 Committee. They want to publish a list only after getting WTO authorization for the damage estimate and thereby keep maximum pressure on EU (since some countries will not know if they are off the hook in terms of sensitive products). The counter-argument is that such an approach leaves more U.S. importers/retailer/consumers in an uncertain

*somewhat  
most as if no  
mess continues  
to cover.*

environment for a longer period of time. WTO would authorize our retaliation around June 12<sup>th</sup> (or July 12<sup>th</sup> if EU asks for 30-day arbitration on the amount). However, EU may seek to delay process further by asking for an Art. 21(5) panel arguing that they are now in compliance based on their new study. The EU might put forward two arguments: 1) the ban is now based on a risk assessment as required by the SPS agreement since this latest study corrects the flaws the panel found; and/or 2) the ban can be maintain under the precautionary principle of Art. 5(7) of the SPS agreement while more definitive evidence is collected (i.e. the new study provides at least enough uncertainty to undertake further study). We would obviously reject both of these arguments but such a panel is subject to a 90-day deadline and thus such a tactic could delay our retaliation even further into the summer. (This would, of course, depend on whether the panel would take the full 90-days or attempt to rule sooner and in conjunction with the Art. 22 damages estimate arbitration. In bananas, the Art. 21(5) process set back the Art. 22 process by a little over a month).

Discussion Points:

- 1) Are we in agreement that we should not publish final list until after receiving WTO authorization for our damage estimate?
  - 2) Has Congress been fully informed of our strategy on publishing the product list so that they do not invoke Bowles letter concerns? If not, how should we proceed on that outreach?
  - 3) How do we want to react to EU delay tactics? Would we want to suspend liquidation at some point pending final WTO authorization as we did in bananas?
  - 4) Would it be worthwhile to continue discussion with Europeans (as we did in late April) on an agreed timetable for retaliation in effort to avoid acrimony and delay as in bananas?
- **Strategy for Working with EU Member States & EU Commission on Reaching a Mutually Satisfactory Solution on Labeling and Compensation**

We are willing to negotiate a solution to this dispute. Such a solution would include two elements: 1) the end of the ban in exchange for a labeling compromise; and 2) compensation in the agricultural sector during the 18-24 month period the says it will take to legislatively repeal their import ban. We had discussions in late-April on labeling. The EU submitted no formal proposal but indicated that the word "hormones" would have to be in any label. We did not back off our U.S.-origin labeling proposal. In response to the Bonino press release and the EU study, Glickman called Fishler and we sent a cable with demarche points to our European posts on May 7<sup>th</sup>. Glickman may meet with Fishler went he is in Ireland May 19<sup>th</sup> for the World Meat Congress.

Discussion Points:

- 1) Is there any reasonable hope that we can arrive at a mutually agreeable solution in the near term or has Bonino's tactics seriously injured such a possibility?
- 2) What further contacts should we make with EU member states and the Commission?
- 3) How best can we coordinate with the Canadians in this effort?

**II. Managing the Dispute in the Context of Broader EU-US Relations**

- **Strategy for Upcoming Summits/Ministerials**
- **OECD Ministerial (Paris May 26-27)**
- **G-8 Foreign Ministerial (Cologne June 9-10)**
- **G-7/8 Summit (Cologne June 18-20)**
- **US/EU Summit (Bonn June 21)**

In addition to our cooperation on Kosovo, many EU-US summits are coming up in the next two months. As you know, the French wanted the general issue of GMO's to be addressed at the G-7/8 meeting. We believe that our efforts to prevent this issue being placed on the formal agenda have been or will be successful. However, it is likely that the beef hormones dispute will be ongoing during these summit meetings.

Discussion Points

- 1) Are any of these summits appropriate for making progress on beef hormones (particularly in bilats at the meeting)?
- 2) How do we ensure that this dispute does not detract from our broader cooperation and agenda at these Summits/Ministerials?

# Exchange Mail

DATE-TIME 5/1/98 7:26:36 AM  
 FROM O'Brien, Penelope R.  
 CLASSIFICATION UNCLASSIFIED  
 SUBJECT RE: GMO whereabouts [UNCLASSIFIED]  
 TO Odlum, Geoffrey M.  
 Antholis, William J.  
 Boone, Sherman G.

DECLASSIFIED IN PART  
 PER E. O. 13526

2016-0529-m (3.17)  
 3/6/2019 KBH

CARBON\_COPY

TEXT\_BODY we'll miss you....

-----Original Message-----

From: Odlum, Geoffrey M.  
 Sent: Friday, May 01, 1998 7:26 AM  
 To: Antholis, William J.; Boone, Sherman G.; O'Brien, Penelope R.  
 Subject: GMO whereabouts [UNCLASSIFIED]

gang -- i'll be back and forth today. if i'm not there, I'm here (at diana's #: 69494). we just got copies from CIA of "key players at the birmingham summit" - EO 13526 3.5c so we can check that off the list of things owed us.

## Exchange Mail

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 O'Brien, Penelope R.

DECLASSIFIED IN PART  
 PER E. O. 13526

2016-0529-M (3-18)  
 3/6/2019 KBH

## CARBON\_COPY

## TEXT\_BODY

CIA also dropped off a good-looking booklet on "key issues" for Birmingham (and for the Ministerial). next time you're over here, we should get it out of here and over to 227 for safekeeping...

-----Original

Message-----

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## Exchange Mail

DATE-TIME 7/30/99 4:30:41 PM

FROM Smith, Gayle E. (AF)

CLASSIFICATION ~~CONFIDENTIAL~~

CLASSIFICATIONREASON 1.5(e)

DATECLASSIFIEDON 07/30/1999

DECLASSIFYON 07/30/2009

SUBJECT RE: NEC Deputies GMO mtg - readout [~~CONFIDENTIAL~~]

TO McNamer, Bruce

CARBON\_COPY

TEXT\_BODY

thanks

-----Original Message-----

From: McNamer, Bruce

Sent: Friday,

July 30, 1999 3:58 PM

To: @AFRICA - African Affairs

Subject: FW:

NEC Deputies GMO mtg - readout [~~CONFIDENTIAL~~]

-----Original

Message-----

From: Holtzapple, Richard A.

Sent: Friday, July 30,

1999 3:47 PM

To: McNamer, Bruce

Subject: RE: NEC Deputies GMO mtg

- readout [~~CONFIDENTIAL~~]Bruce - Do you want to cc: @Africa on  
this as well?

-----Original Message-----

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Sent: Friday, July 30, 1999 3:46 PM

To: Steinberg, James; Hammonds,

D. Holly (INTECON); Blinken, Antony J. (EUR)

**DECLASSIFIED****PER E.O. 13526**

2016-0529-M (3.24)

3/6/2019 KBH

CLINTON LIBRARY PHOTOCOPY

Cc: Holtzapple, Richard  
A.; @INTECON - Economic Affairs  
Subject: NEC Deputies GMO mtg -  
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DATE-TIME 9/30/99 1:53:06 PM

FROM Crocker, Bathsheba N. (NSA)

CLASSIFICATION ~~CONFIDENTIAL~~

CLASSIFICATIONREASON 1.5(d)

DATECLASSIFIEDON 09/30/1999

DECLASSIFYON 09/30/2009

SUBJECT RE: Read-Out of This Morning's Deputies on GMO's [~~CONFIDENTIAL~~]

TO Schaefer, Matthew P. (INTECON)

**DECLASSIFIED**  
**PER E.O. 13526**  
 2016-0529-M (3.29)  
 3/6/2019 KBH

## CARBON\_COPY

## TEXT\_BODY

thanks matt.

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P. (INTECON)

Sent: Thursday, September 30, 1999 1:28 PM

To: Crocker,

Bathsheba N. (NSA); @NSA - Natl Security Advisor

Cc: @HAMMONDS

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