

## **Greenpeace response to consultation on proposals for managing the coexistence of GM, conventional and organic crops**

16<sup>th</sup> October 2006

### **Introduction**

Greenpeace is committed to defending the health of the earth's ecological systems and the plants, animals and peoples that depend on them. We investigate, expose and confront the global threat to the natural environment and food security posed by industrial agriculture. We challenge governments and industry to end their support for destructive agriculture and to preserve and enhance farmers' abilities to produce food in environmentally and socially responsible ways. We promote socially and ecologically responsible farming methods, which produce quality food without compromising quality of life or the environment.

Greenpeace welcomes the opportunity to respond to the Government's consultation on proposals for managing the coexistence of Genetically Modified (GM), conventional and organic crops. We oppose the environmental release of GM crops because of the long-term unpredictable and irreversible effects they may have on environmental and human health.

In general terms, our response will cover the following areas of concern:

- 1. Scope of coexistence regime – we believe that the Government's thinking on this issue is fundamentally flawed.*
- 2. Separation distances – as set out in the consultation, these are wholly inadequate to prevent irreversible GM contamination of non-GM and organic crops.*
- 3. Voluntary codes of practice – a coexistence regime that depends so heavily on GM-industry led codes of practice is, frankly, laughable.*
- 4. Public opposition to GM – virtually no emphasis in this consultation has been paid to the overwhelming public rejection of GM crops and foods.*
- 5. Liability – the “cheaper” economic liability system proposed is a recipe for disaster, and there is no mention of liability for the inevitable environmental damage growing GM crops will cause.*
- 6. The GM Public Register – the public has a right to know when and where GM crops may be grown. Refusing to allow proper public scrutiny will deepen public mistrust of the Government and GM industry.*

## 1. Scope of the coexistence regime

Greenpeace believes that the aim of any coexistence regime should be to protect the environment and non-GM and organic farmers, rather than setting an arbitrary threshold which allows de facto GM contamination.

The Government's view on coexistences is that "farmers growing GM crops should implement measures to enable non-GM producers to operate within the 0.9% EU threshold."<sup>1</sup> The figure of 0.9% derives from the limit of "adventitious or technically unavoidable" GM presence under EU labelling laws. This limit allows products with some GM contamination to forgo labelling requirement the GM presence is below 0.9% *and* the contamination took place despite all reasonable efforts to prevent it. However, a coexistence system which treats 0.9% as its *target* figure not only misinterprets the spirit of the labelling regulations (which promoted non-GM as being "technical zero" or 0.1%) and the current thresholds to which UK food companies adhere to, but it will also create a situation where only contamination above this threshold is considered adventitious.

This is fundamentally wrong and should be avoided. Rather than promoting a coexistence regime that will effectively allow a baseline level of contamination at around 0.9%, Government should be promoting a system that protects the non-GM integrity of conventional and organic farmers. In terms of testing for GM presence, the practical limit of detectability is generally accepted to be 0.1% and this, as opposed to 0.9% should be the threshold the Government sets when creating the UK's coexistence regime.

Greenpeace believes that the Government's thinking stems from guidance given by the European Commission. Under European legislation Member States have the power to introduce coexistence measures, which, very broadly, allow them to take "appropriate measures to avoid the unintended presence of GMOs in other products."<sup>2</sup> In July 2003 the European Commission issued a Recommendation<sup>3</sup> that gave the Commission's views on how member states should use that power. Although not having force of law the Recommendation is important because it sets out the Commission's thinking and because it is being relied on by Member States throughout Europe, including the UK, in drawing up their co-existence strategies. The Recommendation tried significantly to narrow the power given to Member States.

In particular, the Commission stated that:

- Member States are not allowed to take into account environmental and human health matters in preparing their coexistence measures. The only issues allowed to be dealt with in coexistence measures are "economic issues." This is because the Commission believes that environmental and health matters are already fully addressed during the consent process for each crop.

- Member States are not allowed to make their coexistence measures stricter than is necessary to keep contamination below 0.9%. This is because 0.9% is the level of contamination at which products must be labelled as containing GM.

Legal advice obtained by Greenpeace on this issue<sup>4</sup> concluded that the Recommendation is “fundamentally flawed” and that the approaches of the Commission (and the UK Government in following the Recommendation) have “no basis in Community legislation and are wrong in law.” In particular:

- The labelling thresholds of 0.9% are “legally irrelevant” to deciding how to implement co-existence measures.
- The objectives of coexistence must not be restricted solely to “economic issues.” Member States must have regard to the aims of protecting human health and the environment in adopting any coexistence measures.
- Any coexistence measures that were based on the labelling threshold of 0.9% would make it extremely difficult for operators to avoid labelling their products as containing GM even where their products contained GM at less than 0.9%.
- The Organic Regulation provides that, in order to be labelled or referred to as organic a product must not contain GM in any quantity. If coexistence measures were to operate to a “baseline norm” (such as the 0.9% labelling thresholds) there is a very real risk that the “organic label could become defunct.”

## **2. Separation distances**

In principle, Greenpeace believes that there should be no commercial releases of GM crops. However, on a theoretical level, we have serious doubts as to the efficacy of the separation distances the Government has proposed. Despite claiming in the consultation that “separation distances will be the key coexistence measure to limit cross-pollination between GM and non-GM maize or oilseed rape crops,” in reality there is no possibility of the distances prescribed limiting contamination to the arbitrary level of 0.9%. This has been demonstrated in numerous studies.<sup>5, 6, 7, 8, 9</sup>

The consultation also fails to adequately take into account the role that human error plays in cross-contamination. Even with massive separation distances, contamination will occur because people handling GM crops make mistakes. The examples of the Hyola GM oilseed rape incident in 2000 (this crop was grown with separation distances of four kilometres, over 100 times the Government’s proposal, yet 1% contamination occurred) and the Bayer oilseed rape contamination at various Farm Scale Evaluation sites in 2002 (the crop in question had been grown for over 3 years without being noticed, despite the GM Inspectorate visiting Bayer previously to check for possible

contamination) are testament to how human error can cause GM contamination.

More recently still, Bayer's unapproved LL601 herbicide tolerant GM Rice was being controlled by scientists in US field trials, but the fact that they were unable to control its release coexistence shows the sheer impossibility of achieving coexistence on a working commercial farm. Yet the consultation document says that voluntary measures to clean GM material from farms machines as "*not essential.*"

### **3. Voluntary codes of practice**

Voluntary protocols written and enforced by the GM industry would be worse than useless, yet they are given a surprisingly critical role in these proposals. Such an arrangement would give an impression of protection where none genuinely existed. Voluntary schemes are totally unacceptable and will fail to guarantee a non-GM future for the UK.

Voluntary measures have a long tradition of being ignored in commercial agriculture, so that when voluntary measures are introduced to regulate an aspect of agriculture in the UK which the government genuinely wishes to control, they are swiftly replaced with statutory measures (pesticides, straw burning etc). In the case of GM, we already have a huge and expanding catalogue of evidence of professional scientists and researchers failing to comply with statutory measures and thereby causing contamination problems.<sup>10</sup>

The idea that unmonitored commercial farmers (not to mention bees, beetles and the wind) will have more respect for voluntary codes than monitored scientists have for statutory ones is more than a little far-fetched. In order for any of the measures contained in the proposal to be respected, it would be necessary not only for them to be statutory, but far more rigorously monitored and enforced than the protocols governing the Farm Scale Evaluations, which were themselves breached.

As with many of the coexistence proposals, this is not an attempt to deal with a problem but an attempt to avoid doing so. This is quite explicit in the consultation document, which maintains that there will be "very few claims" for "small amounts" and that, "it may be disproportionate to incur more than minor costs to administer a redress scheme." This attitude is hardly likely to drive strict anti-contamination measures.

### **4. Public opposition to GM**

A serious flaw in the planned coexistence regime is the lack of consideration given to the continued and overwhelming public opposition to GM. Greenpeace believes that the public's views should play a central role in shaping the UK's coexistence laws, but this is clearly not the case, and it seems that the findings from the Government's own public debate<sup>11</sup> as well as a considerable body of other research<sup>12, 13</sup> have been ignored.

The clear majority of people in the UK are against GM crops being commercialised and against GM food, but this is not reflected in the proposed coexistence regime. Recently, a Eurobarometer poll found that only 36% of people would consider buying GM food even if it were cheaper than non-GM.<sup>14</sup> Further, all major UK retailers and food companies currently have strict non-GM policies (that work to a threshold of 0.1%). For example:

Tesco

*“Our policy on Genetically Modified (GM) foods is driven by the view of our customers. They continue to tell us that they are not yet convinced of the benefits of GM. We do not therefore have any own-brand GM foods on our shelves.”<sup>15</sup>*

Asda

*“We listen to our customers and they have told us that they have some concerns about Genetically Modified ingredients. We have responded to those and have taken action in line with their concerns. In fact we have now successfully removed GM protein and protein derivatives from all ASDA own-brand products.”<sup>16</sup>*

Sainsbury's

*“In response to overwhelming customer concern and demand for non-GM foods, we eliminated GM ingredients from all our own-brand foods, dietary supplements and pet foods in July 1999.”<sup>17</sup>*

These policies clearly reflect public opinion, but could be undermined by a coexistence system which uses 0.9% as a contamination threshold. Sadly, the Government's failure to acknowledge public and food industry opposition to GM has resulted in coexistence guidelines that give more considerations to farmers than to the people of the UK.

## **5. GM Liability**

Greenpeace believes that because GM crops pose a series of unique risks, they are unlike any other form of pollution. We still know very little about the long-term risks of releasing them into the environment, but as living, self-replicating organisms GM crops will be impossible to contain or clear up. If companies are given permission to cultivate GM crops in the UK, they must be held strictly liable for any damage their products cause. The polluter must pay, and this includes economic damage if non-GM or organic farmers cannot sell their products as GM-free.

What the Government has proposed with regard to GM liability is absurd. To believe that a “cheaper” and allegedly more “straightforward” liability scheme that will be developed by the GM industry will offer enough protection to the environment or non-GM farmers is complete nonsense.

Worryingly, the consultation does not even mention the problem of environmental liability. Greenpeace believe that environmental damage

caused by the commercial from growing of GM crops will be inevitable and there are some critical questions on that the Government must answer, but so far seem unwilling to do. For instance

- How do you assess what "environmental damage" actually is?
- How do you quantify this?
- Is it possible to put a price tag on irreversible environmental damage?
- How do you "repay" the public for potential irreversible environmental harm?

Greenpeace believe that the genetic contamination of wild relatives of some of the GM crops being tested in the UK would constitute irreversible environmental damage. As it is impossible to quantify or effectively "clean up" environmental damage from GM crops, releasing them is unacceptable. Especially when GM companies refuse to acknowledge the risk their products pose, or accept liability for any damage that they might cause.

## **6. The GM Public Register**

DEFRA's "current thinking is that it would be difficult for the Government to justify imposing a detailed GM crop register." Greenpeace believes that this is unacceptable and that the public has a right to know when and where GM crops will be grown. Two key issues over GM have been a lack of public trust and a lack of Government transparency. This will not be improved if GM crops are grown without a GM Public Register.

It is odd that the Government decided to move from the approach of open transparency, with a national register of GM crop sites to inform all relevant stakeholders, to a sub-minimal notification scheme which attempts to maintain as much secrecy as possible. If this is an attempt to avoid confronting the strongly anti-GM sentiments of the public, it seems a risky strategy that is more likely to increase suspicion and distrust of the GM industry and Government. It will of course also increase the number and complexity of compensation claims and legal cases arising from contamination. More importantly, the absence of a national register will be a severe handicap in monitoring, limiting and remedying (should that be possible) the contamination problems which will arise.

## **Conclusion**

Given the uncertainty inherent in the technology and its potential impact on the environment, it is a red herring to suggest that people should have the choice to grow GM. Government policy should be designed to protect the environment and human health, not market access for a risky and unpredictable technology.

The obvious intention not to limit GM contamination but to legitimise it via the proposed coexistence regime is further exposed by the Government's desire to push this legislation through with the European Communities Act 1972 as secondary legislation, handily depriving Parliament of the opportunity for

proper scrutiny. This is perhaps the one part of the consultation proposals which really makes sense – no-one promoting a set of laughably inadequate proposals such as these is likely to welcome any sort of scrutiny.

<sup>1</sup> Secretary of State Margaret Beckett's statement on GM policy

<http://www.defra.gov.uk/corporate/ministers/statements/mb040309.htm>

<sup>2</sup> Art. 26a. Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC. [http://europa.eu.int/eur-](http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_106/l_10620010417en00010038.pdf)

[lex/pri/en/oj/dat/2001/l\\_106/l\\_10620010417en00010038.pdf](http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_106/l_10620010417en00010038.pdf)

<sup>3</sup> Commission Recommendation of 23 July 2003 on guidelines for the development of national strategies and best practices to ensure the co-existence of genetically modified crops with conventional and organic farming.

[http://ec.europa.eu/agriculture/publi/reports/coexistence2/guide\\_en.pdf](http://ec.europa.eu/agriculture/publi/reports/coexistence2/guide_en.pdf)

<sup>4</sup> EC Recommendation: In the Matter of Coexistence, Traceability and Labelling of GMOs. P. Lasok QC & R Haines, Monckton Chambers, January 2005. <http://www.greenpeace.org.uk/MultimediaFiles/Live/FullReport/6967.pdf>

<sup>5</sup> DEFRA GMO research report: Monitoring gene flow from GM crops to non-GM equivalent crops in the vicinity (EPG 1/5/138). Part 1: Forage Maize). C Henry, D Morgan & R Weekes. September 2003.

[http://www.defra.gov.uk/environment/gm/research/pdf/epg\\_1-5-138.pdf](http://www.defra.gov.uk/environment/gm/research/pdf/epg_1-5-138.pdf)

<sup>6</sup> Quantifying landscape-scale gene flow in oilseed rape. G Ramsay, C Thompson, G Squire, September 2003

[http://www.defra.gov.uk/environment/gm/research/pdf/epg\\_rq0216.pdf](http://www.defra.gov.uk/environment/gm/research/pdf/epg_rq0216.pdf)

<sup>7</sup> Influence of sugar beet breeding populations of *Beta vulgaris* ssp. *Maritima* in Italy. Journal of Vegetation Science 8, 81-84. D Bartsch & M Schmidt, February 1997 [http://links.jstor.org/sici?sici=1100-](http://links.jstor.org/sici?sici=1100-9233(199702)8%3A1%3C81%3AIOBBO%3E2.0.CO%3B2-0)

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<sup>8</sup> Genetically modified organisms (GMOs): The significance of gene flow through pollen transfer. K Eastham & J Sweet, Environmental Issue No.28, March 2002.

[http://reports.eea.europa.eu/environmental\\_issue\\_report\\_2002\\_28/en](http://reports.eea.europa.eu/environmental_issue_report_2002_28/en)

<sup>9</sup> Monitoring large Scale Releases of Genetically Modified Crops (EPG 1/5/84) Incorporating Report on Project 1/5/30: Monitoring Releases of Genetically Modified Plants. C Norris & J Sweet, NIAB. December 2002

[http://www.defra.gov.uk/environment/gm/research/pdf/epg\\_1-5-84\\_print.pdf](http://www.defra.gov.uk/environment/gm/research/pdf/epg_1-5-84_print.pdf)

<sup>10</sup> See [www.gmcontaminationregister.org/](http://www.gmcontaminationregister.org/)

<sup>11</sup> GM Nation? The findings of the public debate. September 2004.

[http://www.gmnation.org.uk/docs/gmnation\\_finalreport.pdf](http://www.gmnation.org.uk/docs/gmnation_finalreport.pdf)

<sup>12</sup> The People's Report on GM. Policy, Ethics and Life Sciences

Research Institute, University of Newcastle, 2003. <http://www.gmjury.org/downloads/report.pdf>

<sup>13</sup> Uncertain world: genetically modified organisms, food and public attitudes in Britain. R Grove-White, P Macnaghten, S Mayer, B Wynne. Centre for the Study of Environmental Change, Lancaster University, 1997

<http://lense.net.uk/Units/gec/gecko/csec.htm>

<sup>14</sup> Europeans and Biotechnology in 2005: Patterns and Trends. Eurobarometer, May 2006.

[http://ec.europa.eu/research/press/2006/pdf/pr1906\\_eb\\_64\\_3\\_final\\_report-may2006\\_en.pdf](http://ec.europa.eu/research/press/2006/pdf/pr1906_eb_64_3_final_report-may2006_en.pdf)

<sup>15</sup> <http://www.tescocorporate.com/crreport06/f/sustainableproducts.html>

<sup>16</sup> [http://www.asda.co.uk/corp/customer\\_service/FAQs.htm](http://www.asda.co.uk/corp/customer_service/FAQs.htm)

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[http://www.sainsburys.co.uk/shoppingandservices/FAQs/sainsburys\\_faqs/aboutourcompany.htm?prevUrl=%2fsearch.htm%3fquery%3dGM%26x%3d0%26y%3d0](http://www.sainsburys.co.uk/shoppingandservices/FAQs/sainsburys_faqs/aboutourcompany.htm?prevUrl=%2fsearch.htm%3fquery%3dGM%26x%3d0%26y%3d0)