



Safeguarding Sustainable European Agriculture: Coexistence, GMO-Free Zones and the Promotion of Quality Food Produce in Europe



**Friends of
the Earth
Europe**

Conference Proceedings



With the support of:



Brussels, 17 May 2005

**Safeguarding Sustainable European Agriculture:
Coexistence, GMO-Free Zones and the Promotion of Quality Food Produce in Europe**

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Organised by:



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**Safeguarding Sustainable European Agriculture:
Coexistence, GMO-Free Zones and the Promotion of Quality Food Produce in Europe
CONFERENCE PROCEEDINGS**

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The view expressed in this report are exclusively those of the author/speakers and do not necessarily reflect the views of Friends of the Earth Europe and the Assembly of European Regions

Any errors are ours. If you detect any, please let us know at: info@foeeurope.org

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The Organisers of the Conference



**Friends of
the Earth
Europe**

Friends of the Earth Europe (FoEE):

Friends of the Earth is the largest grassroots environmental network in the world, campaigning to protect the environment and create sustainable societies. They are the European branch of Friends of the Earth International, which gathers 70 national member organisations and some 5000 local associations in the world. FoEE unites more than 30 national member organisations.

For further information: www.foeeurope.org



Assembly of European Regions (AER):

Created in 1985, the Assembly of European Regions (AER) is a political organisation of regions in Europe and the speaker for their interests at European and international level. It currently has 250 member regions from 30 European countries and 12 interregional organisations.

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Under the patronage of MEP Janusz Wojciechowski

Programme

8:30

REGISTRATION

9.00

OPENING SESSION

Chair: Klaus Klipp, Secretary General Assembly of European Regions

Welcome by Janusz Wojciechowski, Patron of the Conference and Member of the European Parliament for the PPE

Opening speech by Josef Martinz, Responsible of European Affairs in Carinthia and Member of the Board of the Assembly of European Regions

9.30

INTRODUCTORY SESSION: WHY A CONFERENCE ON COEXISTENCE, GMO FREE ZONES AND QUALITY AGRICULTURE?

Chair: Klaus Klipp, Secretary General Assembly of European Regions

By **Adrian Bebb**, coordinator of the GMO Campaign for Friends of the Earth Europe, on the situation with regard to GMOs and sustainable agriculture in Europe

Questions and answers

10.00

ACTIVELY PROMOTING TRADITIONAL AND ORGANIC AGRICULTURE: A COMPLEMENTARY ACTION FOR ENSURING THE SUSTAINABLE DEVELOPMENT OF EUROPEAN AGRICULTURE

Chair: Klaus Klipp, Secretary General Assembly of European Regions

Regions' initiative in favour of quality produce: The example of AREPO, the Association of European Regions for Products of Origin

By **Guy Saint Martin**, President of Association of European Regions for Products of Origin (AREPO) and Regional Councillor in the Aquitaine Region

The situation in a Region of the new Member States: the example of Mazowieckie

By **Pawel Polanecki**, Vice-President of the Regional Assembly of Mazowieckie

Market opportunities for non-GM agriculture in South-West England: the promotion of food from traditional and organic agriculture

By **Cate Le-Grice Mack**, Member of the South-West Regional Assembly

Questions and answers

11.00-11.30: COFFEE BREAK

11.30

WHICH LEGAL FRAMEWORK FOR COEXISTENCE, LIABILITY AND GMO FREE ZONES ? PART 1: THE PROBLEM

Chair: Martin Rocholl, Director Friends of the Earth Europe

Coexistence and liability: The New German Genetic Engineering Act and the Protection of Non-GM-Farming

By **Dan Leskien**, German Federal Ministry of Consumer Protection, Food and Agriculture, Policy Planning Staff

Questions and answers

Why do Regions ask for a binding regulatory framework at EU level?

By **Rudi Anschober**, Minister for Environment and Consumer Protection, Upper Austria

Questions and answers

12.30 LUNCH BREAK

14.00

WHICH LEGAL FRAMEWORK FOR COEXISTENCE, LIABILITY AND GMO FREE ZONES? PART 2: THE PROPOSALS

Chair: Martin Rocholl, Director Friends of the Earth Europe

Coexistence legislation, GMOs free zones and the environment

By **Liliane Spendeler**, Friends of the Earth Spain

Reflection in view defining a European framework to prevent the risk of genetic contamination in agriculture

By **Renzo Spagnesi**, Representative of the Ministry of Agriculture of Tuscany on behalf of the GMO-free Regions

Questions and answers

14.30

INTERVENTIONS BY KEYNOTE SPEAKERS:

Chair: Martin Rocholl, Director Friends of the Earth Europe

Marc Weyland, Head of division, Vegetal production department, Ministry of Agriculture, Luxembourg

Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

15.00

PANEL DISCUSSION

Chair: Tomas Miglierina, Correspondent. RTSI (Radiotelevisione Svizzera di Lingua Italianna)

Panelists:

- Andreas Gumbert, DG Agriculture, European Commission
- Marc Weyland, Head of division, Vegetal production department, Ministry of Agriculture, Luxemburg
- Benedikt Haerlin, Foundation on Future Farming, Germany
- Josef Stockinger, Minister for Agriculture, Upper Austria
- Claude Tremouille, Regional Councillor, Limousin
- Carmelo Troccoli, representative of Coldiretti
- Maaïke Raaijmakers, International Federation of Organic Agriculture Movements (IFOAM)
- Dr. Friedrich Wilhelm Graefe zu Baringdorf, MEP for the Greens/EFA Group
- Kathy Sinnott, MEP for the Independence/Democracy Group
- Janusz Wojciechowski, MEP for the PPE

Debate with all participants

17:00

CONCLUSIONS OF THE CONFERENCE

By panel chair

Foreword

One hundred and sixty-four regions and provinces and 4500 local governments throughout the European Union have expressed their wish to be GMO-free. This strong and diverse movement is driven by a combination of concerns over the environment, food safety, food quality, local and regional economy, and consumer and farmer choice.

Over the last few years, the EU has progressively revised and adopted new legislation on GMOs¹. Whilst improvements on the initial legislation (directive 90/220/EEC) can be seen, key issues still remain to be decided upon, in particular legislation to prevent GMO contamination, and liability in the case of contamination.

In 2003, the US, Canada and Argentina launched a trade dispute at the WTO against the EU. Since then, the EU - despite the outstanding legislative issues still not being solved - has ended its de facto moratorium by authorising new GMOs. Whilst these authorisations are for import and use and not for cultivation, 17 varieties of a Monsanto GM maize (MON810) have been included by the European Commission in the EU's Common Catalogue of Seeds. This means that farmers can buy and plant these seeds in any country of the EU² despite there being no EU-wide legislation on the coexistence of GM, conventional and organic. This poses serious questions, in particular regarding farmer and consumer choice.

European law allows Member States to establish national measures on coexistence and the European Commission published recommendations for what such measures could include in July 2003. To date, very few member states have officially notified the Commission of legislation and many measures under consideration are weak.

With this highly charged background, Safeguarding Sustainable European Agriculture, was organised in May 2005 by the Assembly of European Regions and Friends of the Earth Europe. The conference was hosted by Mr Janusz Wojciechowski, MEP, with the strong support of the Regions of Upper Austria and Tuscany.

Over 250 participants attended the conference, including members of the European Parliament, representatives from European regions, the European Commission, EU member states, farmers' organisations and environmental NGOs.

The conference focussed on the right of EU Regions to be GMO-free and on the issues surrounding coexistence. Examples of laws already in place in some countries were examined, as was the case of Spain where lack of legislation and transparency has resulted in contamination and economic loss to farmers. Legal flaws in the Commission's Recommendations on coexistence were also reported.

The discussion highlighted the need for clear liability rules and the importance of maintaining seed purity. There was criticism of the European Commission's proposals for a threshold of 0.9%, which was seen as too high and thus ineffective for protecting seed stocks and agricultural biodiversity in the EU.

Regional Ministers and MEP's called for a bigger say as to whether GM crops are grown commercially in their region, and the right to develop quality food products and agriculture. Support was given for EU coexistence legislation with a strong regional competent, contrary to the national measures that the Commission is currently proposing.

The conference provided an interesting and useful exchange of ideas on a key issue. It also illustrated that there is still much to do before adequate legislation is in place to safeguard sustainable agriculture in Europe.

November 2005

Carmen Olmedo
Friends of the Earth Europe

1 Directives 2001/18/EC (Deliberate Release of GMOs), Regulation 1829/2003 (Food and Feed) and Regulation 1830/2003 (Labelling and Traceability)

2 In response to it, Greece, Poland and Hungary recently banned the GM maize varieties included in the European Common Catalogue.



From left to right: Cate Le-Grice Mack (UK), Josef Martinz (AU), Pavel Polanecki (PL), MEP Janusz Wojciechowski, Klaus Klipp and Adrian Bebb

OPENING SESSION

Chair: Klaus Klipp, Secretary General Assembly of European Regions

Welcome by Mr Janusz Wojciechowski, Patron of the Conference and Member of the European Parliament for the PPE

Ladies and Gentlemen

I would like to welcome you to the conference on Coexistence, GMO-free Zones and the promotion of quality food produce in Europe. The aim of today's conference is to bring us nearer to safeguarding sustainable agriculture.

Thank you all for accepting our invitation to this conference. It is a great pleasure and honour for me to be here, as a representative of one of the new Member States in the European Parliament - Poland - and to present my point of view on this important subject.

Before I start, there is first a need to thank the organisers: the Assembly of European Regions and Friends of the Earth Europe for preparing today's event and their work on raising awareness of genetically modified organisms (GMOs). I would like to also express my gratitude for the support and leadership of the regions of Upper Austria and Tuscany who have not only supported today's conference but also play a leading role in the European Network of GMO-free Regions.

Ladies and Gentlemen, the GMO case is today crucial for us, as European citizens. Unfortunately, even in the few years that GMO plants have been introduced into agricultural production, farmers' experiences from around the world are different than the predicted expectations. Even scientists cannot guarantee complete safety. And the effects in the long term are still unknown.

Furthermore, many consumers do not want to eat GMOs, expressing concerns about the possible impacts of GMOs on human health, the environment and the local economy.

That is why it is so important to produce foods that obey nature's laws and get back to working with nature and not against it. This can be achieved through creating GMO-free zones and by actively promoting quality agriculture in our territories.

That is why it is a great challenge for us to find sustainable solutions to avoid unexpected and uncontrolled threats in the future.

The Common Agricultural Policy is held up by the EU as a means to develop quality food products whilst protecting our landscapes and wildlife. But, on the other hand, we are being told by GMO supporters that GM crops are coming and we have to accept them, even though they are not considered as quality products, threaten our environment and cannot be controlled. Moreover, many countries have policies that call for an expansion of organic farming, but then we have laws allowing the dissemination of GMOs that threaten to contaminate those very organic products.

In the last few years, more and more regions, provinces and municipalities across Europe have offered themselves as an "area without genetically modified organisms (GMOs)" or as a "GMO-free zone". They receive a lot of support from NGOs in creating those areas. For instance in Poland, a campaign called International Coalition to Protect

the Polish Countryside is one of the examples of NGO actions taken against the introduction of GMO production. In Poland, 9 out of 16 regions (voivodships) have announced themselves as GMO-free zones. What is more, Poland is leading in developing legislation to include the whole country as a GMO-free zone.

Moreover, it is impossible to solve effectively the GMO problem just at the regional and Member States level. This is the reason that we need clear legal regulations at the EU level. We have a common European market and a common agricultural policy and we should also have common regulations that will safeguard European farmers and European consumers from the threats presented by GMOs. This is the challenge for the European institutions, the EP among them.

We should consider that there is no problem with lack of food in Europe. What is more, we produce too much food in Europe. That is why we are forced to reform our Common Agricultural Policy and limit our production. Millions of farmers in Europe are afraid about their future, about the future of their farms.

The EU is enlarged. European agriculture is enlarged. In the new Member States, a majority of farms are small family farms, particularly in Poland. For this kind of farming, we have the opportunity to produce ecologically and traditionally, using the

natural technologies that respect environmental standards, animal welfare standards, etc.

GMO technologies and intensive technologies focus on how to produce more and more products, as cheaply as possible. That idea threatens not only human health and the environment, but also the economic and social interests of millions of small farmers. This is the reason why the campaign for GMO-free zones is increasing in new Member States very quickly.

Ladies and Gentlemen, I am very glad to be at this conference with its main aim to define the most appropriate EU legal framework for a coexistence regime between genetically modified (GM) and non-GM crops, ensuring the safeguard and further promotion of traditional and organic agriculture. We will hopefully have fruitful discussions on how we can protect and enhance our traditional farming, how we can introduce an EU framework on coexistence that sets the highest standards of protection for consumers, the environment and regional diversity.

The conclusions you reach at today's meeting will be carefully examined by the Committee on Agriculture and myself.

Thank you very much!

Opening Speech by Josef MARTINZ, Responsible of European Affairs in Carinthia and Member of the Board of the Assembly of European Regions

I would like to express my gratitude for the commitment of the Assembly of European Regions (AER) to the question of GMOs. Moreover, although there is strong opposition to GMOs throughout Europe, it is also clear to me that there is a need for exchange of information and therefore, today's conference is very significant, not only because of European affairs people meeting in Brussels, but also representatives from the regions.

Carinthia is situated in the South of Austria, sharing a border with Italy and Slovenia. It is surrounded by mountains and, in the beginning, the idea of a GMO-free region was difficult to imagine because of the diversity of our farming. We mainly have mountain farms in the West of the country, the farms are very narrow in the valleys, and we have intensive

agricultural farms in the East of Carinthia. In Carinthia, 4% of our GDP is from agriculture and forestry.

The debate on GMOs started in Carinthia in 1997, when a survey of 200,000 people expressed their opposition to GMOs. In June 2002, the regional authorities decided that Carinthia should become a GMO-free region. Then, we developed our legislation and we sent it to Brussels for approval.

The biggest problem we had when drawing up this legislation was that, on the one hand, we wanted to fulfil an EU formality but, on the other hand, we wanted to use our own land provisions. On 21st September 2004, our parliament approved the legislation unanimously and, in October 2004, we

decided to include it in our constitution and we also included that we wanted to guarantee GMO-free farming and natural resources.

In 2005, we met Commissioner Fischer Boel to discuss GMOs and we signed the "Chapter of Florence".

The Carinthian Genetic Technology Precautionary legislation is one of the first legislation of its type in the whole of Europe. The essential points are:

- A farmer is required to implement safety measures to ensure that protected areas are not diminished.
- The farmers have to state clearly to the regional government that they want to grow GMOs in a specific area and directly inform their neighbours.
- Local authorities have to publish the areas where the GMOs will be released in a broadly distributed newspaper and on the Internet.
- If the variety is not safe, then it will be prohibited.
- The authorities will set up measures to avoid contamination of non GM crops and wildlife and the authorities could implement measures to remove GMOs if growers go against the legislation.
- The person who is liable is the person who releases the GMOs. If this is not clear, then the authorities can intervene and can carry out tests. Farmers have to allow the tests.
- Liability is linked to the field and not just to the crop. Liability continues to apply even if the owner of the field changes.

- The polluter-pays principle applies.
- There is a genetic technology register, which is held by the authorities.
- There will be fines if the law is broken. We are talking about 7260 Euros.

The Carinthian Genetic Technology Precautionary legislation has achieved international recognition and has also been adopted by many other regions and Länders in Austria.

In Carinthia, we want to continue to guarantee that our agriculture can continue to produce GMO-free products. Anyone who tastes our products should know that they are healthy, home-grown products. We do not want to have any experiments with GMOs products because we believe that the health consequences are not yet clear. So I call on the European Commission to create the basis whereby GMO-free production is possible. It will be essential to set up the necessary instruments for coexistence, such as distances and wind barriers. The issue of responsibility will have to be resolved at the European level and the polluters will have to be called to account.

European citizens are afraid of GMOs and I would like to ask for change of paradigm in the discussion of the European landscape. GM technology is not the discussion for the future, we want GMO-free agriculture. We need to fight against the global use of GMOs as we do not need them. We are against GMOs and we believe there are great opportunities for sustainable agriculture in Europe.



Adrian Bebb (left) and
Guy Saint Martin (FR)

INTRODUCTORY SESSION: WHY A CONFERENCE ON COEXISTENCE, GMO FREE ZONES AND QUALITY AGRICULTURE?

Chair: Klaus Klipp, Secretary General Assembly of European Regions

By Adrian Bebb, co-ordinator of the GMO Campaign for Friends of the Earth Europe, on the situation with regard to GMOs and sustainable agriculture in Europe

A history of how Europe got it wrong on coexistence

The introduction of genetically modified foods and crops has been one of the most controversial agricultural developments in modern times. It was introduced globally with the minimum of safety testing and without consumer information or consent. Whilst the North Americans were relatively slow to wake up to the fact that their food and farming had been fundamentally changed, the rest of the world and particularly Europe asked more demanding questions over its safety and long-term effects on both people and the planet. The subsequent rejection by the European public resulted in Europe introducing a more thorough approval process and better labelling legislation.

However, by 2003 an increasing number of Member States were raising the issue of coexistence in Agriculture Council meetings, an issue that despite calls from environmental groups was dropped from the revision of the approvals process. At this time, with Europe's de facto moratorium on crops in its 5th year, the Commission was coming under increasing pressure from the US Government to get the EU's approvals process going. With the US threatening a trans-Atlantic trade dispute, the last thing the Commission wanted was to introduce new legislation that would have undoubtedly led to a longer moratorium by the Member States. So the Commission caved in. US threats at the WTO were more important than getting EU legislation right and protecting our environment, consumer choice and farming heritage. In March 2003, the Agriculture

Commissioner of that time, Franz Fischler, published a Communication recommending that coexistence should be based on a subsidiarity approach and that the Commission should only act in a co-ordinating and advisory function. The 2001/18 Directive was duly amended with a new article, which stated:

Article 26a - Measures to avoid the unintended presence of GMOs

1. Member States may take appropriate measures to avoid the unintended presence of GMOs in other products.
2. The Commission shall gather and co-ordinate information based on studies at Community and national level, observe the developments regarding coexistence in the Member States and, on the basis of the information and observations, develop guidelines on the coexistence of genetically modified, conventional and organic crops.

So that is the history of coexistence in Europe. This is currently the only legal clause that lets Member States take action against contamination.

If the Commission thought it had solved the issue, then it was kidding itself. In fact it made the situation decidedly worse.

Pre-empting the Member States

Instead of waiting to observe the developments in the Member States, as the new amendment stated,

the Commission, in July 2003, published a set of guidelines Member States. Although not legally binding, they clearly set out how the Commission thought Member States should implement coexistence measures, making some very clear political points:

- That coexistence is not a safety issue but purely an economic one.
- Measures should be designed to prevent non-GM crops going above the 0.9% labelling threshold
- Measures of a regional dimension could be considered but only on a crop-by-crop basis and their geographical scale should be as limited as possible.
- Member States should look at their existing civil liability laws

Opening the floodgates

In September 2004, the outgoing Commissioner for so-called consumer protection, David Byrne, pushed successfully to put 17 varieties of a genetically modified maize onto the EU's common catalogue of seeds. This means that these seeds can now be bought and planted by farmers across the whole of the European Union. This is the first and only time that GM seeds have been added to the common catalogue and opens the door for GM crops to be grown on a large scale across Europe.

The maize in question, Monsanto's insect-resistant MON810, was approved for commercial growing in the EU in 1998, but has only been grown in Spain. It was approved under the old Deliberate Release Directive 90/220, so the attention paid to the long-term effects on the environment was pretty limited. Under this old legislation, there is also no requirement to inform authorities of where it is grown, so for all we know it could be grown virtually anywhere and Monsanto doesn't have to tell anyone. Not even governments.

The timing of adding Monsanto's maize to the common catalogue couldn't have been worse. The EU had just expanded and many new Member States were only just getting to grips with GMO issues when the Commission basically took away their fundamental rights and opened up their agriculture to the prospects of GM farming. In addition, at that stage only one country, Denmark, had introduced any coexistence measures to reduce contamination.

However, the Commission's desperate attempt to force GM crops into Europe's fields backfired. The move to list Monsanto's maize was condemned by Member States at a number of Council meetings and now Hungary, Poland and Greece have joined Austria in banning the cultivation of MON810 maize. It is ironic that in its attempts to appease the US and its friends in the GMO industry, the Commission

Company	Event	Date licensed	Grown in...	Banned in...
Syngenta	Bt176	1997	Spain	Germany, Austria, Luxembourg
Monsanto	MON810	1998	Spain	Austria, Hungary, Poland, Greece
Bayer	T25	1998	Not grown	

What is more worrying is the list of applications in the pipeline for commercial growing

Company	Event	Status
Pioneer	1507 maize	Vote in regulatory committee June 6th?
Syngenta	Bt11 maize	With EFSA
Bayer	Ms8,Rf3 Oilseed rape	With EFSA - reduced scope
Amylogene	Potato	Consultation finished
Monsanto	NK603 maize	With lead country (Spain)
Bayer	Falcon oilseed rape	Transferring to Food/Feed
Bayer	Liberator oilseed rape	Transferring to Food/Feed
Monsanto/ KWS	Roundup Ready Sugar beet	Transferring to Food/Feed
Monsanto	Bt cotton	Transferring to Food/Feed
Monsanto	Roundup Ready cotton	Transferring to Food/Feed

probably antagonised them even further and now we have more bans than before the dispute in the WTO started.

From this moment on, the debate at a local level about whether to grow commercially GM crops gathered pace.

Commercial growing in Europe

The only crop permitted for commercial growing is maize where 3 different events are permitted.

Differing coexistence measures

Since the Commission left the coexistence issue to Member States, we have seen a number of different initiatives:

Denmark:

- Mandatory scheme
- Limited to just field measures
- Allows contamination up to 0.9%
- Limited compensation fund paid for by GMO farmers
- All GMO growers registered and publicised on the Internet

Netherlands:

- Voluntary scheme agreed between different farming sectors
- No involvement of consumers, environmental groups or the food industry
- Limited to just field measures with contamination "as low as possible"
- No strict liability but a compensation fund with contributions from taxpayers, conventional and organic farmers.

Italy:

- Environmental protection as well as economic considerations
- Ban until regions have adopted coexistence measures
- Zero threshold in seeds
- GM farmers liable for contamination
- Fines of up to 50,000 Euros or 2 years jail

As you can see, we have some very differing measures across Europe. This was entirely predictable from day one.

GMO-free zones

In parallel to the developments on coexistence, we have seen an explosion in the number of areas and regions taking the issue into their own hands. Over

the past year we have seen more and more regions declare themselves a "GMO-free zone" or banning GM crops in a variety of ways.

The current analysis by Friends of the Earth shows that we currently have over 100 EU regions and more than 3500 sub-regional areas declaring themselves GMO-free one way or another. Without taking away the glory from our other speakers today, I would like to show you briefly just a few examples.

- Greece - by October 2004 all 54 prefectures had voted to go GMO-free
- Poland - 9 regions representing 2/3 of the territory have declared themselves GMO-free. The last one, Pomorskie Province, has a population of 2.2 million and an area of 18,000 square kilometres.
- France - 1250 mayors have signed GMO-free declarations as well as 15 regions.

What we are clearly seeing is a significant movement against the growing of GM crops in Europe. If you consider that this is happening at the same time as the Commission approves new products without the consent of the Member States then we see a serious democratic deficit opening up in Europe. The bigger the threat of commercial cultivation, the bigger the opposition is getting.

What the current Commission publicly says

...about GMO-free zones:

"A general prohibition of all types of GMOs in region could therefore not be justified." (Agriculture Commissioner Fischer Boel, 7 April 2005)

...about EU coexistence legislation:

"clear rules are needed to ensure that GM and traditional crops can coexist"

"great differences in the agricultural production conditions in the EU therefore leave it to Member States"

"However, this should not lead to unequal production conditions for farmers across the Member States"

Summary

- An uneven playing field and no minimum standards across Europe.
- Growing calls for regions to opt out and to market themselves as GMO-free.
- The GMO industry putting forward more applications for growing.
- A huge democratic deficit between the Commissions actions and the general public.

The Commission and Member States have to take into account the growing number of regions who want to decide on their own whether to allow GM crops into their region. They have to take into account other EU policies to specialise food production, to enhance and protect the environment, to finance rural development and to support the expansion of sustainable farming such as organic production. How can regions and

countries expect to do any of this if GM crops are dumped on them from Brussels?

I hope this conference will lay down the foundations for a way forward and I look forward to hearing your discussions about how we can protect our food and environment from GMO contamination. Thank you for your attention.

By Klaus Klipp, Secretary General Assembly of European Regions

I would like to add a comment to the Friends of the Earth contribution. It sounds a bit like it is the Commission that is pushing GMOs and this might well be correct. However, I would like also to include in the discussion that the position of the national governments in the Council have also contributed to the approval of new GMOs.

I would also like to explain why the Assembly of European Regions (AER) is interested in dealing with GMOs and agriculture. In most of the regions in Europe, the farming sector is very important. The

food crisis, the interest for keeping a nice landscape and a healthy environment to attract tourists are among the main reasons for preserving a GMO-free production.

In addition, regions themselves have taken a lot of initiatives to promote other ways of farming, to deal with rural areas, to develop sustainable tourism, to develop regional labels, to promote the access of farming products to the market and preserve the traditional landscape. The way the landscape looks is very much linked to the way farming is done.

ACTIVELY PROMOTING TRADITIONAL AND ORGANIC AGRICULTURE: A COMPLEMENTARY ACTION FOR ENSURING THE SUSTAINABLE DEVELOPMENT OF EUROPEAN AGRICULTURE

Chair: Klaus Klipp, Secretary General Assembly of European Regions

Regions' initiative in favour of quality produce: the example of AREPO, the Association of European Regions for Products of Origin

By Guy Saint Martin, President of AREPO and Regional Councillor in the Aquitaine Region

I simply would like to explain why we started the European Regions of Products of Origin initiative (AREPO) and what we would like you to do. Subsequently, my colleague, Miss Lataste, Regional secretary of AREPO, is going to explain how we defend our quality products and our objectives.

Earlier, previous speakers talked about the problems related to diseases caused by mad cow, chickens contaminated with dioxins and GMOs. Today, our agriculture is confronted by large-scale food production and we have seen the problems that come with it. Therefore, we would like to invite other regions to join us in this initiative in favour of products of origins. That is why the regional president Alain Rousset took this initiative in Aquitaine. I should remind you that Aquitaine is the first region in France that started marketing products of origin, "red labels" for products, GIs, (geographical indications), and so on. We have a certain tradition for products of quality.

We want to come together with other regions that

also have also traditional products, products that are part of cultural heritage and need to be defended. We believe that consumers trust these kinds of products and we need to strengthen their production. Therefore, we would like that European regions join AREPO so that we will be strong enough to face our three main challenges:

- A sociological challenge: farmers should be as many as possible.
- An economic challenge: farmers' incomes should relate to the work that they do, which is not always the case.
- An ecological challenge: that means to ensure the principle of sustainable agriculture and environmental principles, and allow this agriculture to develop.

We hope that other European regions in this conference will join us for a sustainable agriculture.

By Maritxu LATASTE, Regional Secretary of AREPO

I will introduce you the Association of the European Regions of Products of Origin (AREPO).

We have a number of regions, mainly in France, Italy and Spain. The concept of product of origin is mainly developed in the South of Europe, but of course we also want to attract other regions across Europe.

The region of Aquitaine took this initiative by proposing to other regions and to professionals such as farmers to come together and set up AREPO, based on the model of the European Regional Association of flowers, foods and vegetables.

In May 2004, 16 founder members from 6 European countries set up AREPO. AREPO is an institutional and professional network composed by 18 regions today: Hensen (Germany), Andalusia, Castilla y Leon, Catalonia, Basque Country, Navarra, Valencia (Spain), Aquitaine, Normandy Lower, Corsica, Limousin, Midi-Pyrenées, Pays de la Loire (France), Emilia-Romagna, Piedmont, Tuscany (Italy), Pomeranie (Poland) and Acores (Portugal). The regions of Normandy Lower and Pays de la Loire have joined recently.

The agricultural policy of the AREPO member regions is based on quality and identification of the origin. We want to avoid products of origin being "drowned" in what we call global agriculture.

The Aquitaine region is currently chairing the association for the next two years. We have 3 vice-presidents; Emilia Romagna, Tuscany and Midi-Pyrénées. Catalonia is the treasurer.

Our objectives are to associate the regions and the producers of products of origin, and to defend the notion of products of origin in the economic context of globalisation and past food crises in Europe.

We are planning to:

- establish regular exchanges of opinion with European institutions to make known the concept of product of origin and to prove the

economic weight of the agriculture of our regions;

- develop a partnership with the global association of producers called ORIGIN;
- develop a European strategy for the promotion of products of origin;
- set up a Scientific/ Technical Committee on products of origin. The region of Tuscany chairs this committee. The objective is to develop legal arguments and proposals for submission to the board of AREPO.

Market opportunities for non-GM agriculture in South-West England: The promotion of food from traditional and organic agriculture

By Cate Le-Grice Mack, Member of the South-West Regional Assembly

I will very briefly speak about the AER's enquiry into labels for regional quality products. The questionnaire was sent out this year and there were 10 responses. I hope more regions will respond soon.

It looks for information about regional labels and the reasons for setting up those labelling schemes. It also enquires into the process behind the scheme, the impact that is made on the process for marketing. It also led to information about agro-tourism and the link of quality products with this wider issue.

All but one of the 10 responses were from predominantly rural regions with mountains making up to 60% of the land area in some regions. However, the incomes from agriculture in each region economy vary very widely from barely 2% to nearly 40%. The regions where the contribution of agriculture to the economy is the greatest were also the regions with the lowest level of organic farming

The labelling system contributes towards ensuring that consumers can trace the origins of their food, and make choices about buying locally or from identified sources.

Hopefully, there will be more information coming from this survey which will help us in identifying the effectiveness of labelling schemes.

I come from a region that it is not really a region in AER terms, but a collection of regions (counties and

"unitary" authorities in England). A region in AER term is an organisation with directly elected representation below the national level. The South-West of England, which includes 6 counties and various "unitary" authorities has no statutory power other than to set the statutory planning framework. The South-West of England is in the warm and wet area of Southern England. It is a very mild climate. It has produced traditionally dairy produce, vegetables, flowers and fruit. It is particularly well known for dairy and meat products, thanks to the good grass grown in this area. Historical tradition has led to particular local products such as Cheddar cheese, and Cornish pasties.

The South-West of England is a very special area. One-third of the land area is in areas of outstanding natural beauty (a very high qualification for landscape protection) and it contains two of the nation's 7 national parks. It has a spectacular coastline as well as heritage settlements and major archaeological sites.

Agriculture covers probably more than 80% of the total land area, but it only accounts for 4% of the regional GDP and 2% of employment. Both figures are on the decline. However, other economic sectors, which are connected to agriculture, are much more important in the South-West.

Tourism accounts for 10% of the GDP. Tourism also creates a lot of jobs, many of which are seasonal but nevertheless very significant for the economy of the region.

Food and drink processing as well as development in that sector employ over 40,000 people.

The high quality environment is recognised as an important driver in our rural regional economy. A National Trust survey recently identified the natural environment as the main attraction for tourists. The South-West Regional Development Agency is now committed in its economics prospectus to "treating the environment as a highly capital asset to be managed intelligently for long term economic benefits".

In Britain today, 83% of food is bought in supermarkets. There is an increase of standardised products, a loss of locally distinctive items and a predominance of national and global brands. Also, the level of processing has increased and traditional markets and small suppliers are under pressure from supermarket competition. We have lost, in England, a lot of local markets that used to provide local foods. Curiously, we have started to reinvent such markets; we call them farmers markets and they are becoming increasingly popular. So, we have seen a little bit of a recovery of local food marketing

I should declare a considerable interest here. I have an organic farm producing organic meat, cereals and vegetables. And I am concerned that I spend a considerable amount of effort in ensuring that the farm complies with the organic standards, e.g. I pay for registration, for inspection, etc. What is more, I will be excluded from the organisation if I default on the standards. But, of course, my neighbour, who produces non-organically, does not go to any of these troubles. He does not have to pay me if he causes any conflict between his agriculture and mine.

In the South-West Regional Assembly, we have talked about the importance of local food. There are new opportunities now for local food under the new agricultural plan for Europe and under discussion is the close link between the economy, landscape management and conservation. If the land is occupied by farms, even if it only produces 2% of the GDP, it is a very significant element in landscape management.

Biodiversity and the natural environment have been identified to be key forces for tourism, also closely linked with agriculture.

Many people now are interested in green tourism and leisure opportunities, on taking holidays with fewer impacts on the Earth. This is linked to

sustainability, including social issues such as the development of local employment and, for instance, the development of a range of skills within rural areas related to quality local food.

South-West England has a special landscape. We find important the links between the native breeds of livestock and local food, so it means that it is important not only that the foods come from local breeds, but also that they represent the breeds that are indigenous to the region, e.g.: in Devon we have the "Red Ruby" cattle.

We are building interest in local food and traditional specialities, building the skill of local people to grow and add value to local food products. We have actually lost a few skills that are required in breeding and producing local food and we are trying to rebuild them. And we are also developing marketing skill, helping farmers to market their products locally and through the Internet.

Furthermore, we have now the challenge of genetically modified food and crop (GMOs). The release of GMOs into the environment is a potential threat to local varieties and organic products. From experience in other countries, it is reasonable to fear that GMOs might contribute to the decline of local breeds and plant varieties.

A recent survey confirms that consumers are increasingly concerned about GMOs in food and, contrary to expectations of the GMO-promoting companies, opposition has not reduced when more information has been released.

Although the regional assembly does not have legislative power, I believe it has influence through its special strategic roles, and should take a view on GMOs.

The environmental partners of the regional assembly have suggested that the release of GMOs could weaken the regional economics by undermining the attractiveness of the environment and the availability of local food. The following proposal put forward to the Assembly was passed unanimously.

It is required that any application to grow GMOs, either as a trial or commercially, has to be published in England. We have adopted a set of Precautionary Principles as a basis for responding to new applications for GMOs. The idea is that the South-West Regional Assembly will make informal comments on new applications, including a wider economic appraisal of affected people and

businesses, taking into consideration not only agricultural production but also the effects on biodiversity of areas in the region.

There are six Precautionary Principles, which I think reflect many of the principles we have already talked about this morning:

- the new GM crops should be tested on a case by case basis;
- testing must first be made in an enclosed system;
- outcomes should not be unacceptable to other farmers (conventional or organic);
- consumers' attitudes must be taken into account;
- an effective liability mechanism must be put in place before applications are agreed;
- and, finally, any GM action must not hinder

sustainable food and farming development in the regions.

We have, in the South-West of England, a very strong commitment to sustainable food and farming. I am not sure that the national authorities have understood what the implications are, because we still have very strong pressure on agriculture to respond constantly to high costs in production and distribution. To respond to large-scale production patterns has become more important than quality and speciality.

Investment in local specialist food production, and to restart the infrastructure for local and quality food is hard to obtain. Nevertheless, we are beginning to realise that there is an opportunity for sustained economic success from local food and distinctive products and unique landscape.

The situation in a Region of the new Member States: the example of Mazowieckie

By Pawel Polanecki, Vice-President of the Regional Assembly of Mazowieckie

It is an honour for us to present our position about coexistence. But, before starting, I would like to point out that we do not understand what coexistence is about. If we declare our territory a GMO-free zone, that means we do not want GMOs, so there is no need to have provisions on coexistence.

Mazowieckie (35.000 square kilometres and over 5 million inhabitants) plays an important role in the Polish economy. Mazowieckie is, however, not a rich region. The unemployment rate is above 20% and average yearly income is only 3000 Euro per head.

But this figure does not reflect the real numbers. Warsaw, the capital town, is the centre of state management and financial services, and centre of the hi-tech consumer goods, as well as manufacturing production and logistics services. The city and suburban areas' wealth contrast with the poor areas in the East and South.

More than two million people depend on the agricultural sector. Improving their lives, securing their future and opening new perspectives became a main issue for the regional government when it was elected in 2002. Our policy is based on new agricultural strategies, which includes not only protecting natural and environmentally sensitive surroundings but also protecting traditional

enterprises and improving the access of their products into the market.

After the end of the Second World War, under strong pressure from soviet economic systems, Poland succeeded in protecting its agriculture against totalitarian communist collectivism. Unlike Hungary, Bulgaria and Romania, not to mention East Germany or the Baltic countries, Poland preserved its traditional family farming and less than 25% of our lands were occupied by so-called State Agricultural Enterprises, big industrial farms shaped on the Stalin model. Needless to say that because of their political incorrectness and evident unsuitability, private farmers were the subject of consequent discrimination. All state support, development programmes and technical and financial resources were wasted, allocated into profitless collective farms.

Despite all that, Polish private agriculture achieved high standards of development in the sectors of vegetable and fruit production, while having big problems in meat production throughout the years of Soviet dependency. As a result of permanent financial shortages, applications of artificial fertilisers, herbicides and pesticides in private family farms were limited. Instead of buying expensive chemicals, Polish farmers widely applied natural fertilisers, following the traditional food

chain and crop rotation practised in their territories. Millions of working horses were kept by the farms for cultivation and transportation needs.

Our soil therefore is clean and contains no chemical residues. We have very little contamination in our soil in comparison to developed rural areas in other European countries.

On 10th November 2004, the Regional Assembly of Mazowieckie adopted a new tailor-made Programme for the Development of Ecological and Organic Farming Practices to respond to the rising demand of quality natural food products locally and at European level.

On the basis of that document, we are planning to increase the number of organic farms by 500 in 2006, covering a territory of more than 5000 hectares. Our aims are to establish suitable conditions for the future development of family farming and quality food production, to promote quality farming which could be competitive at European level, and to promote local products. We believe that local processing and strong branding will help to decrease the rates of unemployment in our rural areas.

Mr President, Ladies and Gentlemen, environmental and health consciousness is growing across Europe. Farmers and consumers are concerned about what they grow and eat. Leading global and European food brands, retailers and 70% of consumers refuse GM ingredients.

EU Regulation No 1829/2003 of 22nd September 2003 calls for special labelling on every food product that contains more than 0.9% of GMOs.

Directive 2001/18/EC of 12th March 2001 states that effects of releasing genetically modified organisms into the environment can be irreversible.

The European Commission's Recommendations of 23rd July 2003, relative to the above-mentioned Directive, requires the so-called co-existence of genetically modified crops with conventional and organic farming. This last condition, according to the European Social and Economic Committees' Opinion delivered on 16th December 2004¹, creates additional costs of Euro 150-250 per hectare. (CESE 1656/2004 p. 5,17)

In this context, taking into account our priorities and intentions described above, co-existence in our territorial case would be impossible to achieve. The Regional Assembly of Mazowieckie almost unanimously pledged its willingness to create a GMO-free zone on our full territory. With that decision, we joined 9 other Polish regions that now combine to cover the majority of the territory of Poland with GMO-free zones.

Strong pressure from the ten Polish regions resulted in the national government issuing a national ban on GMO maize seeds on 21st March 2005.

Tomorrow, the 18th of May, the EU's Standing Committee on Seeds will discuss the GM variety bans in Poland and Greece².

We do hope that this strong position, with back-up support from the regional level, will enable us to defend our national autonomy on this point and convince the Commission to leave seed variety decisions to the Member States' regulations.

The Commission has to recognise that prohibition by national authorities with regards to all types of GMOs in a single region or on the territory of the Member State must be justified.

We expect a wise and democratic approach.

¹ Opinion of the European Economic and Social Committee on the Co-existence between genetically modified crops, conventional and organic crops (NAT/244-CESE 1656/2004)

² These two countries have used the Art. 18 of the Directive 2002/53/EC to prohibit the Monsanto MON 810. No decision has been reached on these bans at EU level so far.

DEBATE

Q.- Cate Le Crice-Mack, Member of the South-West Regional Assembly

In Ireland, in the agricultural supplement of the newspapers, there have been some articles about selling Polish land to Irish farmers and going for flat tracts of land that can be highly mechanised, etc. Poland was unique in keeping land from the big co-operatives in the Soviet Union and I wonder if, under the liberal market economy, you might have something similar, a different Soviet Union taking over your land. How are you going to deal with big farmers who buy big tracts of land in Poland and do whatever they want on their land?

A.- Pawel Polanecki, Vice-President of the Regional Assembly of Mazowieckie

From the perspective of a regional authority, we do not have legislative power; only the national authority has it. Therefore, the regional authorities do not have the power to stop the invasion of big farmers. The regional authorities can only raise and shape awareness and consciousness among people to keep the traditional methods. The social farming system proved already to be worse than the traditional family farming system in terms of environment and social impacts in our regional community, and the same could be happening currently with the introduction of big farms. The region can only have a diplomatic role since we do not have the legislative power. We hope that the national government is going to deal with this situation, and protect our traditional agriculture from foreign investors with big farms and industrial food production concepts on our territory.

Q.- Conference participant

The first question related to Romania since there is an increase of GM crops grown there, especially soya, and this country may join the EU later on. I am wondering if European civil society has contacts with Romanian civil society on this. My second question is in relation to the label of origin. It might be a good idea to create, together with the label of origin, a label of GMO-free products. Upper Austria currently produces a label for GM-free products and products originally coming from the region.

A.- Adrian Bebb, Friends of the Earth Europe

Yes, the situation described in Romania is right. I would say that it is a problem for Romania

because they will have to change their policy on GMOs if they want to join the EU in order to harmonise legislation and sell their agriculture products to the EU.

Moreover, Dan Craioveanu from Romania is among us and might have something to say to answer this question.

Q.- Klaus Klipps, Secretary General of the Assembly of European Regions

How do you see the fact that there is a lot of GMO production in Romania?

A.- Dan Craioveanu, Romanian Federation of Organic Farmers

The situation is very bad. We now have 14 varieties of Roundup Ready soya registered. Officially, out of 115,000 hectares of soya growing in Romania, one third is GM (35,000 hectares) but probably all the soya crop is contaminated nowadays.

The soya crops are hybrid, so they cannot contaminate but the problem is saving of seeds. The farmers keep seeds and offer them to their neighbours; it is impossible to control it. Most of these varieties are not accepted in the EU, although four of them are waiting in the pipeline, so they cannot be commercialised in the EU. In Romania, it is going to be very difficult to withdraw the soya varieties that are not authorised in the EU. We are trying to do our best but we are only a few - the proof is that it is only me from Romania who is attending the conference today!

A.- Guy Saint Martin, President of AREPO and Regional Councillor in the Aquitaine Region

As far I understand it, products of origin are GMO-free and there is no room for ambiguity. A product of origin must be GMO-free.

Q.- Caroline Lucas, MEP for the Greens/EFA Group and Member of the Environment Committee in the European Parliament

I have a question about pro-human policy. We have been trying to change pro-human rules in the European Parliament, so that 10% of the local spending could be used to reinforce local pro-human policy, e.g. in schools and hospitals. You

might know that, in the current situation, it is very difficult for regional authorities to use their spending power on those issues and we think it could give a positive signal if we made some European-wide rules that make easier to spend the budget on those issues. I was wondering is that is an issue at you local regional assemblies.

A.- Cate Le Crice-Mack, Member of the South-West Regional Assembly

Yes, certainty is an issue. When I was in the local County Council, we were trying to stimulate local pro-human measures and, of course, we were told that we could not, that it was outside our path. But now, particularly after years of applying pressure, we are finding ways of doing this kind of thing. Although it is always an exception, it is never "the system" and I think that is linked to lack of infrastructure. We actually lost the way to support local food. I have my doubts, and I have serious doubts at the moment about traceability, to be sure that food is genuinely local. Although I think pro-human policy will help, there are a lot of other things that are needed to be successful.

Q.- Brigit Muller, Friends of the Earth France

A question to Mr Martinz. The law that you have presented is about coexistence, which implies that GMOs are present. I was wondering if it is legally possible to create a law at regional level to allow a GMO-free region, without any GMOs.

A.- Josef Martinz, Responsible of European Affairs in Carinthia and member of the Board of the Assembly of European Regions

There are co-operatives of buyers and farmers and particular regional alliances that create a kind of exclusive zone by coming together. On the issue of distances, these regions are like GMO-free since they could not grow GM crops because of the regulations.

Moreover, there is cooperation between farmers on this. May I ask something to my colleague from Poland? He was explaining that his region is a GMO-free area. How they are going to implement it?

A.- Pawel Polanecki, Vice-President of the Regional Assembly of Mazowieckie

We have just announced our willingness to do that. We do not have legislative power and so we can only propose something that needs to be considered by the national government. We hope that we are going to get it since most of the regions have followed our initiative and backed it up with strong argumentation. We obtained a government decision that means prolonging the bans for another two years. That will be discussed in the EU's Standing Committee on Seeds and the Commission is going to decide³. My presence here is also to get more support and to put pressure on the Commission to consider our concerns which are founded on arguments that are totally objective. Our argumentation for defending those bans is based on the EU's Directive and Regulations on GMOs. If we do not have a legal framework, or funds to establish the legal threshold, monitoring, etc., like in Germany, we cannot have coexistence on our territory. In order to protect our natural environment and traditional agriculture, we need to stop the release of GMOs.

Q.- Benedikt Haerlin, Foundation on Future Farming, Germany

I would like to thank Mr Polanecki for raising the issue of national seed prohibition for certain varieties, as they have been established in Greece and in Poland, which I believe it is a very appropriate way of guaranteeing coexistence under the present conditions. This is going to be discussed tomorrow in the Standing Committee on Seeds⁴ and I was wondering if the organisers will be in the position to help us to address this issue together and maybe issue a kind of joint statement to Mr Kypriano, the Commissioner in charge. There will not be a decision tomorrow, as I understand it, and the Commission would still have to put forward its proposal regarding these national bans. I think this is an excellent opportunity to make clear that, from a regional point of view, the freedom of national authorities to prohibit GM varieties from the national seed register is a very important tool.

³ These two countries have used the art. 18 of the Directive 2002/53/EC to prohibit the Monsanto MON 810. No decision has been reached on these bans at EU level so far.

⁴ Same as above.

A.- Adrian Bebb, Friends of the Earth Europe

I do not think there is a problem on behalf of Friends of the Earth Europe. Let's talk a little bit later to the Assembly of European Regions about whether we can produce a joint statement. I think it raises a big question which I partly raised in my presentation which is that, on one hand, we have this pressure coming down from the Commission to grow GM crops with the GM seed from Monsanto being approved last year, and, on the other hand, we have got the public and the regions saying we do not want it in our areas. We want to be ourselves, GMO-free, we want to cope with agriculture in a different way. That is the conflict we have got and I think, at the moment, there is a deficit in the EU's legislation which does not allow regions, per se, to ban GMOs. The Commission's position at this moment is: you have to fight them on a case-by-case, crop by crop, and I do not think that is adequate. I think that if the regions want to keep out GMOs and produce agriculture in a more sustainable way, in accordance with public expectations, they should be allowed to. I think that is what this conference is about.

Q.- Conference participant

I would like to ask Mr Martinz, how do you and the people in Carinthia feel about, on one hand, having a decision to keep the region GMO-free and, on the other hand, having a law which sets out how GMOs are going to be introduced? There is a discrepancy there.

A.- Josef Martinz, Responsible of European Affairs in Carinthia and Member of the Board of the Assembly of European Regions

According to the legislative situation at the moment, we cannot ban GMOs in Europe so we have set up some rules in our precautionary bill so that if someone wants to grow GM crops, they know what they have to do. It aims to support agriculture by establishing preliminary requirements and trying to avoid that GM agriculture comes in. But obviously

we cannot stop it because it is permitted at European level. If our farmers decide to produce GM crops, that will be up to them.

We have made a declaration as a Länder (region) that we want to be GMO-free. The agricultural sector is waiting to see what it is going to develop in this area. So our legislation is accepted as a satisfactory way of setting out the rules of the game. There is a formal procedure because, without our legislation, anyone could come in and grow GM crops, so we try to see where the crop would be grown and what would happen if there was subsequent damage. That is what we have done.

Q.- Wolfgang Pirrklhuber, Member of Austrian Parliament

The Carinthian example was the first one of its kind in Austria but nowadays there are some other examples which went even a bit further, such as Salzburg or Bunderland. The geological area in Austria is such that, with this law, is impossible to grow GM crops. It is impossible under normal conditions because the law reflects on the Alpine situation and the special situation of organic farming.

Also, I would like to say, especially to Mr Polanecki, that coexistence is not possible; there is a political view on it and also a scientific view on it. I have with me today a new study by an Austrian Ministry which was published in March 2005. This agricultural study shows for that, for Austrian agriculture, coexistence for three crops - maize, oilseed rape and sugar beet - is not possible at the moment on a scientific basis.

For our political discussion, I think we should mention that until such time as a new European Constitution is accepted by all EU members, we would have the possibility to create a new citizens' initiative for GMO-free regions and subsidiarity. I feel it could be a very important step and the NGO movement will be supported in this from a parliamentarian and regional level.

WHICH LEGAL FRAMEWORK FOR COEXISTENCE, LIABILITY AND GMO-FREE ZONES? PART 1: THE PROBLEM

Chair: Martin Rocholl, Director Friends of the Earth Europe

Coexistence and liability: The New German Genetic Engineering Act and the Protection of Non-GM-Farming

By Dan Leskien, German Federal Ministry of Consumer Protection, Food and Agriculture, Policy Planning Staff¹

On 4th February 2005, the German "Act reorganising legislation concerning genetic engineering"² entered into force. The Act aims at implementing many essential provisions of Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms (GMOs) into German law. In addition, the Act shall ensure that products, in particular food and feed, can be produced conventionally, organically or using GMOs.

Under Article 26a of Directive 2001/18/EC, Member States are entitled to take appropriate measures to avoid the unintended presence of GMOs in other products. Article 26a was introduced into Directive 2001/18/EC with the adoption of Regulation (EC) No 1829/2003 on genetically modified food and feed. With the adoption of the Act reorganising legislation concerning genetic engineering, Germany, as one of the first EU Member States, has made use of the competence given by Article 26a and has adopted a set of rules which shall ensure that farmers and food and feed producers continue to be able to produce non-GM products. These so-called co-existence rules ultimately aim to defend consumers' freedom of choice which is the basis for the consumer labelling provisions as foreseen in Regulation (EC) No 1829/2003 on genetically modified food and feed.

Coexistence rules

To protect GM-free farming, the new German Genetic Engineering Act (GE Act) provides three instruments:

- an obligation to take **precautionary action** to prevent "substantial negative effects" of GMOs, in particular compliance with "**good farming practice**" in the cultivation of GM crops;
- a **site register** providing farmers with precise information about the cultivation of GM crops in their neighbourhood;
- a **compensation scheme** which compensates conventional and organic farmers if cross-contamination through GMOs occurs with material negative effects.

A "**substantial negative effect**" arises in particular in the following three cases:

- If products cannot be placed on the market because of cross-contamination with GMOs. This situation may arise, in particular, where owing to cross-contamination with GMOs released, for example, in a field trial a neighbouring farmer can no longer market his products because they contain traces of GMOs that have not been authorised to be placed on the market.

¹ The content of this article is entirely the responsibility of the author and does not necessarily represent the view of the Ministry or of the German government.

² See <http://europa.eu.int/comm/enterprise/tris/pisa/cfcontent.cfm?vFile=120040241EN.DOC>

- If owing to cross-contamination with GMOs a neighbouring farmer is obliged to label his produce as "**genetically modified**"³.
- If owing to the presence of GMOs a neighbouring farmer is no longer able to label his produce as "organic" within the meaning of Regulation (EEC) No. 2092/91 or as produced "**without genetic modification**" within the meaning of the relevant German legislation⁴.

Obligation to take precautionary action and comply with "good farming practice"

According to section 16b of the new GE Act, **substantial negative effects** must be avoided especially in the cultivation of GM crops, but also in other specific ways of handling GMOs, such as processing. In order to achieve this objective, the Act lays down various fundamental obligations, such as compliance with **minimum distances** between fields. In addition, persons who handle GMOs commercially must be able to prove that they possess the appropriate **reliability, knowledge, skills and equipment**. Persons placing GMOs on the market must supply **accompanying information** with the product. This information must show how substantial negative effects can be avoided in the handling of the relevant GMO, for example through precise details of the GMO's cultivation design. A government regulation on "good farming practice" shall be issued to specify these obligations in greater detail. To enable the authorities to modify these rules in the light of future experience with the cultivation of GM crops, those marketing or handling GMOs must notify the authorities of new findings relevant to risk.

The GMO site register

In accordance with Article 31(3) of Directive 2001/18/EC, the GE Act provides for a public GMO site register in which any cultivation of GM crops, whether for experimental or commercial purposes, will have to be registered. This register does not only have the function of facilitating monitoring but also aims at ensuring co-existence. Therefore the register is public and everyone can obtain information about the location where GMOs are intended to be released. Anyone able to prove a

legitimate interest will be entitled to further information.

Defensive and compensatory claims under civil law

Cross-contamination or other GMO inputs depend on a variety of factors, such as climate or specific geographical features. Substantial negative effects cannot therefore be ruled out in the cultivation of GM crops, even if the obligations of precautionary action and good farming practice are met.

Until now such risk has not been sufficiently covered under German civil law. The Civil Code has defensive and compensatory provisions for substantial negative effects arising between adjacent properties, but these contain many undefined legal terms, giving rise to considerable legal uncertainty.

The Amendment aims to define these terms more clearly, thus creating clarity and legal certainty. This includes defining the term "material negative effects" (see above) and also clarifying the rules for burden of proof of causation since, if several neighbouring farmers cultivate the same GM crop, it cannot always be determined after the event which one has been responsible for damage in a specific case. Under the GE Act, in principle joint and separate liability of all neighbouring farmers which might have caused the cross-contamination will apply, so that a farmer who has suffered damage will be free to decide which neighbour to claim compensation from. Thus farmers cultivating GMOs will be liable to pay compensation if they are responsible for substantial negative effects.

Other key provisions

The Precautionary Principle

The new GE Act includes an explicit reference to the Precautionary Principle. This is important for the interpretation of all the provisions of the Act concerned with safety, in particular the provisions for the authorisation of deliberate releases and products. Under the Precautionary Principle, the authorities may take preliminary protective measures, even if there are uncertainties over the presence or extent of risks to the environment and

³ Under EC legislation, all food and feed containing, consisting of or produced from GMOs must be labelled as "genetically modified". If the content of genetically modified material amounts to less than 0.9% of the relevant ingredient, labelling is not mandatory provided the presence of the material is adventitious or technically unavoidable.

⁴ In Germany, the label "without genetic engineering" can be used on a voluntary basis and is subject to specific requirements laid down in national law.

human health, without having to wait for formal confirmation of the existence and severity of these risks.

Monitoring

Under Directive 2001/18/EC, an applicant must submit a monitoring plan with any request for authorisation of any product containing or consisting of GMOs. The monitoring procedure is intended to ensure that any unforeseen effects of the GMO on human health or the environment can be traced and identified.

Time limit for consents

In accordance with Directive 2001/18/EC, consent for marketing of GMOs will be given for a maximum period of ten years. When renewing consents, the monitoring results will be taken into account.

Protection of ecologically sensitive areas

The new GE Act contains special provisions for the protection of ecologically sensitive areas which form part of the "Natura 2000" network. The use and handling of GMOs in such areas will, in future, only be allowed after notification to the local nature conservation authority prior to the beginning of use. The nature conservation authority can prohibit such use if a negative effect on the area is deemed likely.

Cross-contamination from field trials

Cases of GMO cross-contamination from field trials to a neighbouring field have hitherto been a controversial issue between the supervisory authorities of the Länder (federal states) and between various courts. The GE Act clarifies that cross-contaminated products cannot be placed on the market. A neighbouring farmer who, as a result, is no longer able to market his products can therefore claim compensation from the person conducting the field trial.

Summary

In addition to protecting the environment and human health, the new German GE Act intends to protect conventional GM-free and organic agriculture from cross-contamination by GMOs. To this end, the GE Act provides for several new provisions to protect GM-free farming. These include an obligation to take precautionary action in order to avoid substantial negative effects caused by GMOs (in particular by complying with "good farming practice" in the cultivation of GMOs), a site register providing farmers with information on the cultivation of GMOs in their neighbourhood, and provision for compensation claims against a GM farmer in the event of material negative effects through cross-contamination.

DEBATE

Q.- Michael O'Callaghan, GM-free Ireland Network

The GM-free Ireland Network includes over 32,000 farmers, consumers and other groups.

We do not believe that coexistence, broadly speaking, is a valid concept. It may be possible in some cases but we think that it is misleading in the case of many crops like oilseed rape, for example. My question to the panel is the following: do not you feel that by accepting this on-going discussion in Europe on the Recommendations of 2003 to ensure the coexistence of GM crops with conventional and organic farming that we are defeating our arguments? Would it not be better to challenge the concept of substantial equivalence on the basis of the World Trade Organisation pressure on the European Union to legalise crops because is there not enough scientific evidence to show that GMOs are not substantially equivalent with conventional and organic varieties?

A.- Dan Leskien, German Federal Ministry of Consumer Protection, Food and Agriculture

First of all, let me say that the European legislation, as it stands, does not ban the use of GMOs. It lays down the rules and conditions under which GMOs can be used, marketed and cultivated in fields in the European Union. If you want to change that, you will have to change that European legislation. That has nothing to do with coexistence. As long as GM crops are being approved for cultivation in the European Union and are being cultivated, there is an obvious need to protect those farmers who do not want to grow GM crops and who also do not want to be in a situation where, even though they have not grown GM crops, they would nonetheless have to label their produce as "genetically modified". In other words, whether you like GM crops to be grown and eaten or not, you better make sure that those who do not want to grow or eat them keep the option to do so. This is why the EU has introduced a labelling scheme for all GM food and feed, and this is why the German government has introduced rules that aim at the protection of the non-GM options. Even those who oppose the cultivation and/or consumption of GM crops should realise that as long as these products are being grown and eaten, labelling and coexistence rules are useful; in fact, they are essential.

The GE Act takes the approach that if, in a particular situation under specific circumstances, a GM crop

cannot be grown without causing substantial negative effects to neighbouring farmers, the cultivation of the GM crop should not take place.

As regards substantial equivalence, I should point out that while this concept was an essential element of the Novel Food Regulation (Reg. (EC) No 258/1997) which provided a simplified notification procedure for "substantially equivalent" GM food, the new Regulation on genetically modified food and feed does not foresee such a simplified procedure. Under the new Regulation, every food or feed which contains, consists of or has been produced from GMOs falls under the same strict authorisation procedure.

Q.- Pawel Polanecki, Vice-President of the Regional Assembly of Mazowieckie

My question concerns Article 26a of the Directive 2001/18/EC. As far as I understand it, Member States could apply this provision to ban the cultivation of certain plants to be grown in certain territories. And that is subject to further decisions from the Commission and there is the need to make some case-by-case studies of this proposal. I am wondering what kind of studies - either biological, technical, financial or social studies - are required. Who carries out those studies and who will pay for them?

Q.- Geert Ritsema, Greenpeace International

Dan Leskien has suggested that it could be a good idea to look at the possibilities to put the responsibility or the liability for GM contamination on seed companies. My question is, have you managed to put that into the German law? If so, how? Who is responsible in case there is damage to the products of an organic or conventional farmer as a result of GM contamination? Do seed companies bear part of the responsibility?

Q.- Guy Kastler, "Confédération Paysanne"/ "Réseaux Semences Paysannes"

For us, as farmers, coexistence is impossible. The whole situation is unfair because traditional and organic farming do no harm, but if there is GM cultivation it will immediately harm the others. In that context, coexistence is a concept that we cannot accept. When you say that it could be possible for some species such as potatoes, even maize some people say, I think that is wrong

because you should not look at contamination from the point of view of pollen flow, but you should look at contamination of seed.

More than half of the maize seed we get from US and Argentina is contaminated. Industry has demonstrated that it is not able to ensure segregation. If we have GM seed, our traditional and organic farming will be condemned. That is one thing which has never been taken into account in the debate on coexistence. More than 50% of European farmers grow plants which are not hybrid, and they can use the seed again. Once the seed is contaminated, they cannot plant back such seed. Who is going to pay the costs for the analysis to determine whether the seeds are contaminated? These farmers will become completely dependent on seed companies which will increasingly only offer GM seeds. That will be the end of coexistence.

Liability is a very important issue as well. Many farmers in Western Europe, also in Romania, have small plots and small production. If these small farmers bear the responsibility for GM contamination, that is going to threaten traditional and organic farming. In Eastern Europe, it is a bit different because farmers have large farms (several thousands of hectares). They may ensure coexistence on their own farms without contaminating their neighbours because the farms are big enough.

A.- Dan Leskien, German Federal Ministry of Consumer Protection, Food and Agriculture

Regarding the liability of the seed companies, I would like to mention that under the German coexistence rules there is an obligation on seed companies to provide accompanying information

with GM seed. This information should show how substantial negative effects can be avoided in the handling of the relevant GMO, for example through precise details regarding the cultivation design, minimum distances etc.

It is quite clear that we need to know more about the technical feasibility of coexistence and we need to know more about the technical possibilities to ensure coexistence. This is the rationale of Art. 26 paragraph 2 of Directive 2001/18/EC according to which the Commission shall gather and co-ordinate information based on studies at Community and national level. As Mr. Gumbert is present, I would like to leave it to him to report about the activities of the European Commission in this regard.

It has been mentioned that there may be cases where GM and non-GM crops cannot coexist. The GE Act states explicitly that if, in a specific situation, a specific crop cannot be grown without "contaminating" other crops, then the GM crops should not be grown.

It has been pointed out that the issue of seeds is crucial and I agree. If we accept higher GM tolerance levels for conventional seed, the measures to avoid substantial negative effects will automatically have to be more stringent than if we keep very low tolerance levels. As far as I know, the European Commission is currently exploring this issue in detail and will come up with a proposal on GM threshold for seeds at a later stage. However, for the time being there is no GM threshold for seed; thus seed which contains any GM seed has to be labelled and the GM seed has to be authorised for cultivation.

Why do Regions ask for a binding regulatory framework at EU level?

By Rudi Anschober, Minister for Environment and Consumer Protection, Upper Austria

I would like to thank Friends of the Earth Europe and the Assembly of European Regions for taking the initiative of organising this event. I find also this event very useful in the current situation, since many important decisions will be taken in the coming months. I find this event encouraging because we see how many regions (more than 52 participating today), NGOs and institutions are involved in this issue, working in the same direction.

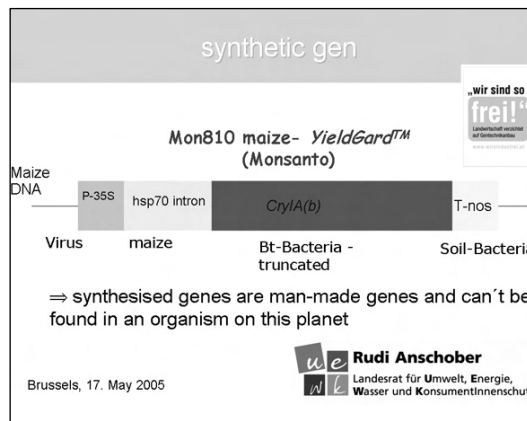
Before starting, I would like to comment on the questions that I heard from Ireland and the farmer from France because these questions are very important. I think that it is also important that, at the end of this event, we have the conviction that we are all working in the same direction, with the same objectives, having either the possibility to have GMO-free regions and/or attempt to find a solution for coexistence with precautionary legislation such as, for instance, in Carinthia. At the end of the day, it is a question of political strategy and legal framework. Both models should be heading in the same direction and are legitimate.

I come from a region, Upper Austria, that tried to ban GMOs by legislation three years ago that was decided by unanimity in our Parliament. After that, the European Commission refused notification and we currently have a case going on at the European Court of Justice on which I think there will be a ruling in September

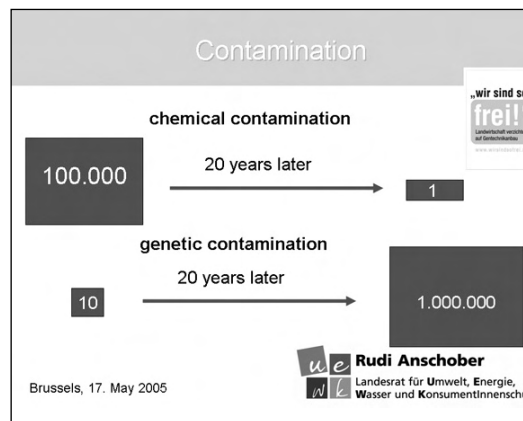
or October¹. That will certainly be interesting for many regions. We are testing our legislation.

We have a very small-scale agriculture, a lot of organic farming (over 11%) and we think that coexistence in our region is not feasible. That is why we are fighting, together with Tuscany and many other regions, in an alliance for the right of self-determination of the region to stay a GMO-free zone. This is not only an economic and ecological issue, but also a question of democracy. In a Europe of regions, it should not be possible to be forced to accept GMOs. Diversity is important when the conditions differ widely. It is also a question of democracy because 78% of the consumers do not want GM food, so the authorities should take into account the majority of people and at least encourage the initiative of self-determination of regions of this matter.

I would like to present two pieces of important scientific data.



Picture A



Picture B

(a) The picture A of the DNA of Monsanto's MON 810 shows us that synthesised genes are man-made genes and cannot be found in an organism on this planet.

(b) We have compared the dissemination of GMOs to chemical contamination over two decades (see picture B). We have seen the scale of the problem we are talking about. Over 20 years, genetic contamination will be spread from 10:1.000.000 compared to a reduction of 100.000:10 in chemicals. It is a huge

¹ The Court of First Instance overruled Upper Austria's ban on GMO on October 5th 2005. Upper Austria responded by immediately presenting a new law to its Parliament, which is based on the Carinthia law.

responsibility in terms of decisions to be taken and we need to remind ourselves of this dimension.

From the above data, we can conclude that synthetic genes have to be tried out carefully, because withdrawal is not possible, and that the Precautionary Principle in case of uncertainties has a very high value.

What surprised us most in the dialogue that the regions had with Commissioner Fischer Boel was that, according to her, on coexistence, *"we are not dealing here with a safety concern"*.

Looking at European regulations on food safety, Article 14 of EU Regulation 178/2002 establishes that an estimation of long-term effects, accumulated toxic effects and effects on future generations is required. As well, Commission Decision 2002/623/EC of 24th July 2002 sets out that "for each established risk factor, the factor of scientific insecurity must be identified".

The current testing methods are not efficient because the testing is neither carried out beyond 24 months, nor looks at accumulated toxic effects and estimated effects on future generations. In sum, there is no long-term testing and no adequate consideration of uncertainties. That means there is still a lot to be done in terms of assessing the risks and long-term consequences.

For all those reasons, Upper Austria believes that coexistence is a matter of safety. The authorisation of new GMOs, considering the lack of long-term evidence, should be considered unsafe because there is a significant lack of evaluation of security. We believe that in this context, outstanding and wide protection for organic and conventional cultivation is essential.

Fischer Boel Commissioner said: "Only if it can be demonstrated that these measures cannot ensure coexistence, regional measures should be considered", at the dialogue with the regions. So we need to prove scientifically that coexistence in some regions, on the base of specific conditions, is not feasible. In my view, it is very important not only to look at dissemination in the field but also to look at the supply chain and at the accumulation of

contamination. The supply chain is a real problem to guarantee GMO-free products, particularly in processing. My question is: who is going to guarantee organic farming? That has not been answered yet. For that, from my point of view, it is necessary to have a strong European Regulation on coexistence.

Our recommendation for maize, on the basis of what we said before, is that we should not accept contamination of organic and conventional field cultivation. That means that we need to take the Precautionary Principle into account.

We have to establish distances of at least 800 meters, and 1600 meters would be better as suggested by the US Department of Agriculture (USDA). For oilseed rape, we do not think coexistence is possible.

Our key demands are clear: European rules for coexistence, including the supply chain, very strict threshold values and the right of self-determination of the regions.

In Upper Austria, we have been collecting some data to demonstrate that coexistence is not possible because of the small scale of our agriculture, the share of organic farming and the large areas covered by nature reserves. We started an action recently of volunteer declarations not to use GMOs, signed by farmers. Up to now, over 5000 farmers have signed that they will not use GM seed for one year in Upper Austria. With this experience, we want to demonstrate that coexistence is not possible in our region.

We are part of the European GMO-free Network of the Regions. Our key demand is the right for self-determination of the regions on GMOs. Since its creation, we have been able to attract 26 members, plus those regions which are not part of the network but have also declared themselves a GM-free regions.

From my point of view, the strength to preserve sustainable agriculture in Europe is diversity and a common approach, also in agricultural policy, even if we use different strategies. Thanks for your attention.

DEBATE

Q.- Christian Berdot, Friends of the Earth France

Could a solution to prevent the GM contamination be to cut the subsidies to the farmers who want to grow GMOs? Have Upper Austria or Carinthia implemented any plans on this direction?

A.- Rudi Anschober, Minister for Environment and Consumer Protection, Upper Austria

In Upper Austria, we have not implemented it because, so far, we are trying to preserve the different kind of agriculture and, for that, we want to be a GMO-free region. What we are going to do in case we do not succeed is another question and we have not thought about it yet.

Regarding coexistence, although it may be legally possible, it might be impossible in practice. It might

be possible to say that if you do not respect the distance, you are acting illegally but the distance in question is very relative because we are talking about 600 meters and we have seen that pollen can be disseminated up to 600 meters. Also, with regard to the interpretation of the law, comprehension of legal texts varies between individuals and is subject to personal opinion.

Because of the agriculture structure in Austria, coexistence will be not possible. Let me repeat once again, on 7th April, Mrs Fisher Boel said that if there is scientific evidence available, plant by plant, she will be in favour of regional measures to be taken on coexistence. That really gives ground to opening the door to the possibility of establishing legislation at regional level.

WHICH LEGAL FRAMEWORK FOR COEXISTENCE, LIABILITY AND GMO-FREE ZONES? PART 2: THE PROPOSALS

Chair: Martin Rocholl, Director Friends of the Earth Europe

Coexistence legislation, GMO-free zones and the environment

By Liliane Spendeler, Friends of the Earth Spain

First of all, I would like to thank the organisers for the invitation and I am very pleased to be here today in the name of Friends of the Earth Spain and Friends of the Earth Europe.

As explained by previous speakers, the Commission's decision not to legislate on coexistence is leading to an unfair situation between Member States, to a chaotic situation within the European Union and, in some cases, to worrisome non-return situations, as is happening in Spain.

I would like to begin my speech giving an overview of what has happened in Spain in the last 7 years, during which time Spain has commercially grown GM crops, concretely, GM maize.

The first GM varieties were authorised to be grown in Spain in 1998 and since then, GM maize has been grown in very poor conditions, in particular without any measures to protect non-GM products from contamination.

For instance, the farmers who grow GM varieties are not obliged to declare where they are planting them, no register system is in place so that farmers would have the possibility to avoid genetic contamination of their fields, and no system of segregation to separate the GM harvests from the non-GM ones is available. No need to add that no liability regime is in place in case of damage caused by GMOs.

Of course, these conditions of total lack of precautionary measures have already had negative consequences.

The first one is that genetic contamination is occurring and, although the Spanish government has never monitored it, cases of contamination have already been detected in organic and conventional seeds, crops, grains and feed. You can

find more details on these cases in the articles you have in the documents of the conference.

The second relevant consequence is that nobody knows exactly where GM crops end up. GM material (including imported GM material) enters into the food chain, but due to the lack of segregation, the fulfilment of the European traceability and labelling regime is impossible.

Moreover, the lack of a liability regime means that farmers who suffer economic losses due to contamination of their products do not have any possibility for claiming for compensation. We are thus in a situation where the polluted pay and not the 'Polluter Pays'.

Last but not least, in case of problems for health, environment or other forms of agriculture, the Spanish conditions for growing GMOs would make it absolutely impossible to withdraw from the market GM material. And I would like to illustrate this last point with the example of what is happening with Bt176 maize¹.

We can hear more and more voices against GMOs with antibiotic resistance marker genes. Spain has been growing such a GMO since 1998, Bt176 maize, and will continue to grow it this year. Many of the cases of contamination I mentioned previously are cases of contamination by Bt176 maize and it is difficult to imagine that it will be possible in the future to completely withdraw this GMO from the fields and the food chain, as it has already contaminated some products.

I think it is important to tell you under what conditions GMOs are entering into agriculture and food in Spain because the EU should learn from this experience.

¹ Bt-176 was authorised on 23/01/1997 under Directive 90/220/EEC

It is clear that the very first and urgent step needed is strict legislation on coexistence at EU level before any GMO should be released into the environment.

But the Commission has already made public its interpretation of what is coexistence in its Recommendations of July 2003, and Friends of the Earth thinks that it is a wrong interpretation because it would legalise generalised contamination of all crops and food.

The concept of coexistence in the Commission Recommendations only refers to the fulfilment of the legal labelling threshold and only concerns economic aspects. This approach first contradicts other EU laws, in particular Directive 2001/18 on release into the environment, the Regulations on GM food and feed and on traceability and labelling, and the laws on organic farming. Secondly, this approach undermines farmers' and consumers' choice, and removes any possibility of a recall in case of environmental, health or farming problems.

For Friends of the Earth, coexistence has to guarantee really GM-free farming and food, that is to say coexistence has to protect non-GM farming and food-production from any genetic contamination. For that, the objectives of coexistence have to be the total separation between GM and other production, to avoid any presence of GMOs in other products, to avoid the dissemination of GMOs into the environment, to facilitate withdrawal after the authorisation stage, and to ensure liability according to the 'Polluter Pays' principle.

This means, of course, that a complete legal framework with mandatory measures is necessary and here I would like to insist on 4 key elements.

The first one is the protection of seeds - seeds are the very first link of food production and we cannot accept any threshold of contamination without labelling. This would undermine very rapidly the existence of GM-free farming.

The second key element is that practical measures of protection of non-GM products during all food-producing steps have to be put in place including, for instance, registers of GM fields, special crop and machinery management, specific training for GM farmers and, of course, an effective segregation system. These measures have to be mandatory for all those responsible for the release into the environment of GMOs and those responsible have to pay the additional costs generated by all these coexistence measures.

The third key element is a strict liability regime. It has to cover all damage, not only economic loss, but also environmental damage, damage to animal and human health and any other damage caused to other forms of farming. The liability regime also has to be based on the 'Polluter Pays' principle, that is to say that the GMO industry, farmers who use GM varieties and any other agents using GMOs carry the responsibility in case of damage.

The fourth key element is the right for regions, municipalities, specific areas, etc., to declare themselves GM-free zones. This point will be largely developed by other speakers and I won't enter into details, but Friends of the Earth thinks the EU institutions should recognise this fundamental right.

In conclusion, I would like to say that there are still many remaining uncertainties about GMOs and, on that issue, the Precautionary Principle is essential. A precautionary approach leads to the absolute necessity of preserving GM-free farming, and thus to protect all non-GM products from genetic contamination, from seeds to final products. It is politically irresponsible to release any GMO into the environment without an appropriate legal framework and the guarantee of its fulfilment that ensures GM-free farming is possible.



Liliane Spendeler (left), and Renzo Spagnesi (IT)

Reflection in view defining a European framework to prevent the risk of genetic contamination in agriculture

By Renzo Spagnesi, Representative of the Ministry of Tuscany on behalf of the GMO-free Regions Network

We are very pleased to be at this meeting and we thank the organisers and participants. I will try to summarise what the network is about.

As the previous speakers have said, the Commission has decided to leave it up to the Member States to define rules regulating the coexistence of GMOs, conventional and organic crops. The discussion seems to be very complex, in addition to the cultural diversity and constitutional debate in Europe. In this context, the initiative of the network of regions was set up and we subsequently signed the "Charter of Florence" on 8th February this year.

I would like to start with some preliminary remarks regarding the Commission's Recommendations on coexistence of 23rd July 2003. The Commission has left it up to Member States to develop and implement rules on coexistence and has given minimal autonomy to the regions. Point 2.2.6 of the Commission's Recommendations on coexistence relates to specific measures that might be adopted given the specific context at regional level.

So far, the situation of the regions varies from one country to another. While some regions in Italy have adopted certain regulations at regional level, other regions in Austria, which had applied the Precautionary Principle, have gone to court¹. There are other cases where the regions need to follow national legislation, so the regions depend on the national interpretation of the Commission's Recommendations. Some regions such Puglia and Marche in Italy have developed regional rules to ban GMOs.

Therefore, we need to confront the current situation between Member States and within Member States. We need an exchange of knowledge and information within the regions in order to find solutions and be a strong actor in the debate with the EU. The aim of the "Charter of Florence" is to find solutions that can help fulfil the requirements of the European Union, enable the regions to voice their concerns on the future of European agriculture, and take into consideration the wishes of citizens. To achieve this, it is necessary to take scientific knowledge into account.

The farming world is very heterogeneous. Many of our regions have high quality products that are recognised by consumers. By working on this issue, the members of network want to defend their economies and cultures. The Network is tackling a number of issues, which correspond to the 10 key points defined by the Assembly of European Regions and Friends of the Earth Europe, and I will only pick a few issues today, the most important.

The first one refers to the **threshold for seeds**. The network would like to demonstrate that the threshold can be preserved at a lower level than 0.9%. This is the reference for a future decision by the European Commission. We would like the lowest possible threshold that can be statistically determined. There is an association of seed producers in Italy and they exert a lot of pressure for conventional, organic seeds to be completely exempt from any GM threshold. The fact that seed breeders put forward this argument seems to be a sufficient argument for prohibition. The seeds that can be found on the market today very often have a

¹ The Court of First Instance overruled Upper Austria's ban on GMO on October 5th 2005. Upper Austria responded by immediately presenting a new law to its Parliament, which is based on the Carinthia law.

much higher purity level than what we want to achieve in terms of accidental GM contamination, since the purity level of seeds on the market is lower than 0.1%. Our network supports the work that aims to demonstrate that low thresholds are possible.

A second important point is **control and monitoring** across the territory. There is a lack of homogeneity between Member States and within Member States. The network would like to develop standardised methods that would be based on different experiences within the regions. We are experimenting with various controls and follow-up monitoring systems, which are different from the monitoring system proposed by the national governments. Tuscany is one example of a region developing those systems and has gained a lot of experience in monitoring and applying regional law.

In 2003, we found the first case of contamination in Tuscany. Maize on a farm was contaminated at a level of 0.3%. This finding made us very worried and also illustrated how quickly contaminated products can spread. To avoid these problems, the region of Tuscany has set up a technical structure called Centro di saggio di Cesa, in Arezzo, which can carry out analyses in an enclosed environment.

Tuscany has considerable experience on GMO regulation. Firstly, we adopted a law (50/1997) on the protection of local varieties, which was replaced by law (64/2004). This is a very important piece of legislation because it will enable us to fight the introduction and dissemination of GMOs. The regulation applies the Precautionary Principle and also promotes scientific work.

Furthermore, Regulation 53/2000 bans the use of GMOs across the territory of Tuscany and the consumption of GM products in canteens and hospitals. This law has made it compulsory to label any products containing GMOs. Monitoring checks across the territory are possible. The monitoring and control mechanisms involve a number of institutions. These tests are carried out according to the ISO 9000 standards and we have carried out 75 tests on maize crops and 25 tests on tomatoes, and on soya and sugar cane. We also took 68 samples of food, particularly baby food composed of maize.

This monitoring work is very important as the number of tests has been very low and it is very difficult to trace the DNA within the food. In 2005,

we are planning checks on potatoes and sugar beet. Last but not least, only on the basis of practical experience can we develop sampling methods and monitoring systems, so we need to involve as many people as possible to find a solution.

A third important point is the question of **liability**. We need to find appropriate rules to ensure that the 'Polluter Pays' principle works. The network would also like to strengthen the GMO-free supply chain. Some regions have made an initiative in this respect.

On the other hand, Tuscany and the other regions in Italy have to develop coexistence plans according to the Italian law on coexistence adopted in 2005 and on the basis of the Commission's Recommendations on coexistence. A few studies commissioned by our network will hopefully help us to find a solution to the technical problems, and to ensure that not a single aspect that might jeopardise the rules and economy of our regions be neglected.

The involvement of all stakeholders is necessary. The stakeholders must prevent the uncontrolled dissemination of GMOs. The Assembly of the European Regions and Friends of the Earth Europe are important partners since our ideas on the issue of coexistence converge. The network needs to be strengthened further by accelerating the process and improving the dialogue with the institutions, as well as defining clear demands. As a representative of the European network of GMO-free Regions, I call on other regions which have not yet signed, to sign the "Charter of Florence" and join the network. We all have a particular heritage to defend and also different experiences to contribute.

I would like to conclude by reminding you that the constitution of the network is not only a simple political manifesto or declaration of intent, but a tool that should be valuable for regional authorities and should be shared among the regions, and also the movements and associations that have been working for a long time to enhance the value of local resources.

Tuscany and other European regions are recognised for a strong integration between man, nature, ancestral rural economy and agricultural products. These factors have added economic value in our regions and GMOs could jeopardise all of this. This is why we are strongly involved in this debate.



Andreas Gumbert, European Commission

INTERVENTION BY KEYNOTE SPEAKERS

Chair: Martin Rocholl, Director Friends of the Earth Europe

Marc Weyland, Head of Division, Vegetal Production Department, Ministry of Agriculture, Luxembourg

President, Ministers, Ladies and Gentlemen

Let me congratulate the Assembly of the European Regions, Friends of the Earth Europe, Tuscany and Upper Austria for organising this important event on coexistence. It is a very timely issue and I am honoured to present the Luxembourg position on coexistence.

Genetic engineering in contained facilities has been used for a long time in medicine, chemistry, pharmacy, etc. However, in farming and for food, we have only been using GM plants since the 1990's. The dissemination of GMOs into the environment is therefore a relatively new issue and is leading to new problems. The long-term effects of GMOs on the environment and the effects on human health in case of consumption still remain to be discussed. The coexistence of GM crops with conventional and organic crops is a controversial issue, and farmers and consumers have strong positions.

While the problem of marketing GMOs has become a real issue and a reality in EU, the EU has adopted a legislative framework on risk assessment, authorisation, labelling and traceability. This legislative framework, although it is not perfect, it is the most rigorous and strictest regulation in the world.

However, since the European Commission has decided to restart the marketing approvals for new GMOs, and the cultivation of GMOs is, at least in theory, a reality, the EU should not stop its legislative process there; it should establish binding legislation on coexistence.

As soon as coexistence became an issue in the EU, Luxembourg called for a Community solution to the problem of coexistence of GM crops and traditional crops. It is difficult to imagine how the Commission, after having established a Community framework on the commercialisation of GMOs, could leave the legal framework on coexistence up to Member States and give them the responsibility.

We believe that an issue as important as coexistence, which is about the fundamental right of freedom of choice for farmers and consumers to grow or not to grow or eat GMOs, should have an adequate Community response.

After the EU's Common Agricultural Policy (CAP), after the creation of the Common Market, we cannot imagine that the EU could leave outside its competence an issue as important as coexistence, which deals with food and agriculture issues.

The dissemination of GMOs into the environment does not stop in the border of a field, farm, region or Member State.

For these reasons, Luxembourg asks the Commission to introduce a strategy on coexistence and to initiate the process that would provide the EU with a legislative framework to ensure the coexistence of GM crops and traditional crops.

The Community framework should guarantee everywhere, for all farmers in all kinds of production, for all consumers, that they have the freedom to produce and to buy what they want. It should allow the European regions to choose their own agriculture model.

We are not talking here about demonising GMOs but let's look at the fact that we do not have any scientific information regarding the long-term effects of GMOs on the environment and health. GMOs have become a reality world-wide today that we can no longer ignore. GMOs could bring some advantages for farmers, consumers and the environment but, at the moment, they represent long-term risks rather than apparent benefits. For that reason, many consumers and agriculture organisations refuse GMOs and ask for freedom to choose. That is why the European Commission should give an answer.

As the EU has not regulated the issue of coexistence so far, some Member States have adopted, or are in the process of adopting, measures to ensure coexistence. The Commission, which is against an EU framework on coexistence, has left very little room for the Member States that want to set up their own measures to effectively guarantee a free choice for their farmers and consumers. The attitude, I believe, is rather contradictory and that is why I maintain the hope that the Commission will realise shortly, after the assessment of Member State measures on coexistence, that Community regulation on coexistence is the best solution for all stakeholders involved in the coexistence issue.

Quality agriculture is the subject of today's conference too and I would like to share a few thoughts on it. Since it is a vast subject, I cannot enter into details but nevertheless I would like to raise a few key issues.

First of all, we need to know what "quality agriculture" means, whether it is about the sanitary quality of food products, or about safety or nutritional values of food, or about the methods of production in farming and their impacts on the environment, health, and the welfare of breeding animals.

I think that quality agriculture needs to satisfy all these demands at once, and that it is a huge programme.

I think that there are no single solutions for quality agriculture. I think we need to do all we can to meet these objectives. Organic agriculture, traditional agriculture, regional agriculture, sensible farming are opportunities for the quality agricultural sector.

Those kinds of agriculture try to produce quality products by following clear rules and they are part of what is known as small-scale farming, as opposed to industrial agriculture. I think the criteria of small-scale farming are preliminary conditions to ensuring quality agriculture.

Quality agriculture has raised the question of who should pay, either the consumer, the taxpayer or the farmer. Do consumers want to pay for it? In any case, consumer quite often behaves strangely with regard to quality products. They are used to buy what it is cheapest and that does not necessarily mean it will be quality products. Sometimes quality products are exclusive and we need to be sure that there are quality products for those who do not have high incomes.

How can we promote quality agriculture? I think we need to promote the European model of agriculture, the CAP, which is based on the multifunctional principle and sustainable development. The CAP is based on cross compliance chapters which are essential for quality agriculture. At a global level, the CAP is the agriculture model closest to the concept of quality agriculture. However, that it is not enough. The CAP only lays down the basis for quality agriculture, which ultimately depends on the development of the organic, traditional, and regional sectors. Quality agriculture needs to be developed further by opening up existing and new markets.

We need to teach consumers about what they eat and about agriculture. We should make them aware of the impacts of quality agriculture on their own health, the environment and rural areas.

Thank you very much

Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

The European Commission requests that it be noted that this text is based on the transcription of the conference. It is not necessarily identical in all details with the presentation by Mr. Gumbert and should not be regarded as an official contribution by a representative of the European Commission.

Thank you to the organisers of the conference for inviting the European Commission to this event. Coexistence is a very important issue and I am pleased to outline the views of the Commission on this matter.

First of all, I would like to outline the regulatory framework for GMOs in the EU. The central pieces of legislation are: the GMO Deliberate Release Directive (Directive 2001/18), the Food and Feed Regulation (Regulation (EC) No. 1829/2003) and the Regulation on Traceability and Labelling of GMOs and GM Food and Feed (Regulation (EC) No. 1830/2003). The last two pieces have only come into force last year.

All together provide a quite comprehensive regulatory framework for the authorisation and the use of GMOs. Some of these elements are:

First, the authorisation depends on an environmental and health risk assessment. That means that GMOs can only be authorised if this assessment is positive and there are no significant effects detected on the environment and human health.

Second, a mandatory post-marketing monitoring has to take place after the authorisation, including long-term effects associated with the interaction with other GMOs and the environment.

Third, in any case, an approval for GMOs is limited for a period of 10 years after which there will be another check before renewal of the authorisation.

Also, the risk assessment is performed by an independent agency, the European Food Safety Authority (EFSA), which guarantees an independent assessment.

If the assessment is positive, the European Commission will prepare a proposal for authorisation and that is subjected to a regulatory committee (in which the Member States are represented and vote on the proposal).

Last, this legal framework establishes the base for labelling and traceability of all GM products. Traceability means that the GM products can be traced through the entire food chain.

The state of play on GMOs authorised for cultivation

A GMO has to be authorised for the purpose of cultivation under Directive 2001/18 (replacing Directive 90/220) or under Regulation 1829/2003 and has to be listed in either the national or community catalogue of varieties.

As mentioned already today, there are three events authorised for cultivation, which are currently on the market. These are the following GM maizes: T25, Bt 176 and MON 810. 32 varieties derived from these events are listed in national catalogues in Spain, France and the Netherlands. 17 GM varieties are listed in the Common Catalogue of varieties of the EU and that means that they can be freely traded and cultivated in all Member States.

The concept of coexistence

As a main principle, the Commission believes that farmers should be able to choose between conventional, organic and GM crop production, in compliance with the relevant legislation on labelling rules and purity standards.

Moreover, only authorised GM crops may be cultivated in the EU.

In addition, any risks to the environment or human health are already dealt with in the authorisation procedure. So what remains to be addressed regarding coexistence is the economic impacts of admixture of the two production lines, mainly products which need to be labelled as GM and other products which do not need to be labelled.

Of course, in order to avoid the mixing-up of the two production types, there is a need to adopt suitable measures during the different stages of production, mainly cultivation, harvest, transport, storage, and processing, in an appropriate way.

Legal base for national co-existence measures

The Member States have the possibility, but not an obligation, to adopt a national, or in some cases

regional approach to coexistence. They have to take into account the relevant principles set down in Community legislation. Two provisions are of particular importance: First, Member States have the possibility to take "appropriate measures to avoid the unintended presence of GMOs in other products" (Article 26a of Directive 2001/18). Second, Article 22 of the same Directive on the free circulation of authorised products states that, with the exemption of the safeguard clause (Article 23 of Directive 2001/18), the Member States may not prohibit, restrict or impede the placing on the market of GMOs, in compliance with the requirements of this Directive. That means that a simple prohibition of a GMO, which could not be justified on the basis of environmental or health risks, would not be in compliance with this Article.

Recommendation on guidelines for the development of national strategies and best practices to ensure the coexistence of GM crops with conventional and organic farming

In order to help the Member States to find the way between these two provisions, in 2003 the Commission issued a Recommendation on coexistence guidelines, the main principles of which are:

First of all, that coexistence measures should be proportionate, efficient and cost-effective, and should not go beyond what it is necessary to comply with the EU labelling and purity thresholds required by law. The general thresholds are fixed by the GM Food and Feed Regulation at the level of 0.9% as long as this presence is adventitious or technically unavoidable.

Second, that measures should be crop-specific, as the risk of admixture varies greatly from one crop to another. You need different measures to ensure coexistence in potatoes compared to oilseed rape, the latter being more subject to out crossing.

Third, Member States should look at possibilities for coexistence through measures that will be applicable at farm level or through co-operation between neighbouring farms, rather than segregating on a large scale at regional level. And they should focus on already existing segregation practices, for instance, ones that are used in seed production.

Fourth, concerning "who" is in charge of taking the segregation measures in order to ensure coexistence. The Commission recommends that it should be the person who introduces a new

production type into the local community, which at the moment is -since in most regions there is no GM cultivation - someone who wants to introduce GMOs. This farmer should take the appropriate steps to ensure that his neighbour will not have any disadvantage after the introduction of GMO cultivation in this local community. At a later stage, it may occur in certain regions that we have areas close to each other in which GM production predominates. Then, if one farmer after having cultivated GM crops decides to change and introduce non-GM production in this region, he should not expect his neighbours to immediately change the established production already set down. So, this is a neutral principle. For the moment, however, it would mean that it is the GM farmers who have to adopt segregation measures.

Last principle addresses the issue of liability, specifically instances where there is economic damage even in case of good farming practice. Generally, liability is part of civil law which is under the responsibility of the Member States. The Community has very limited competence in this area. The Member States should first look at the possibilities which are already present under the national civil liability systems. In some cases, there may not be any need for further provisions, and in other cases it may become necessary to adopt new rules. Of course, depending on how the Member States will address coexistence in general, it will also influence the liability provisions subsequently. Furthermore, the Member States should also have a look at the need and usefulness of developing or adopting insurance schemes or compensation funds as was already done, for instance, in the case of Denmark.

Organic farming

The organic farming regulation (EC) No 2092/91 establishes that GMOs cannot be used in organic production with certain exemptions, e.g. veterinary medicine. That means that GM seed and GM feed (labelled as GMOs) cannot be used in organic production as organic input materials.

The organic farming regulation provides the possibility to adopt specific thresholds that would allow unavoidable presence of GMO in organic input materials, but those thresholds have not been set so far. That means, in the absence of specific thresholds, that organic farmers could use any seed and feed containing GM materials up to the labelling threshold (which is currently 0.9% for feed, and at the detection limit for seeds) as long as this presence is adventitious.

There is no specific purity requirement regarding adventitious presence of GMOs in organic food as a final product. That means that the 0.9% threshold of the labelling rules applies.

European Action Plan for Organic Food and Farming

In June 2004 the Commission adopted an Action Plan for Organic Food and Farming which address the issue of GMOs and organic farming in some parts of the plan. This plan proposes a few changes on the organic farming regulation with regards to GMOs.

It is proposed to clarify that:

- products that are labelled as containing GMOs cannot be labelled as organic;
- in the absence of a specific threshold for GMO presence in organic input materials, the general labelling threshold of 0.9% should continue to apply to organic food. A product which has been produced as organic but in the end contains over 0.9% of GMOs can no longer be labelled as organic;
- the general labelling threshold should apply for organic input other than seeds.

Concerning the seed threshold for organic production, no general GM threshold for seeds has been set so far. The Commission would like to develop a proposal on the general seed threshold and then decide whether there is a need for specific threshold in organic farming at a later stage.

GMO-free zones?

I would like to recall some general principles of the Commission guidelines on coexistence.

The coexistence measures must be proportionate with respect to the EU labelling and purity threshold. They must comply with Community legislation (e.g. Article 22 of Directive 2001/18) and also with some general principles of the Common Market.

Moreover, the Commission advises that priority should be given to farm-level management measures and to measures aimed at co-ordination between neighbouring farms.

However, if it can be demonstrated that coexistence cannot be achieved with such measures, regional measures could be considered. The Commission

has always been clear on this point, and regional measures could also include a local ban of a particular type of GMO.

However, such regional measures should be specific to individual crops. That means that if there were, for instance, a coexistence problem in a particular crop such as oilseed rape, it would not justify the ban of GM potatoes. There is a need to distinguish between different crops. For instance, in the case of maize, there is growing scientific evidence that adequate separation distances between neighbouring fields would be sufficient to ensure coexistence in most cases.

Blanket bans on the cultivation of all GMOs, irrespective of the crop, in a country or region will clearly be against the principle of coexistence and would violate the principle of proportionality. However, this does not prevent farmers from deciding in a voluntary basis that they do not cultivate GMOs.

National co-existence legislation

The national coexistence measures have the potential to act as a barrier to internal trade. Restrictive measures with respect to the cultivation of an authorised GMO could restrict the market of this product in a region, but that needs to be notified to the Commission under the provisions of the Directive 98/34/EC on technical form and standards.

Under this procedure, the Commission has received notifications on national/regional coexistence measures from Germany, Denmark, Luxembourg and Austria. Specifically in Austria, the competence lies with the regions, so we have received a number of notifications from the Austrian Länders (Carinthia, Salzburg, Tyrol, Vienna, Burgenland and Lower Austria).

Coexistence legislation was adopted by Germany, Denmark, Carinthia, Salzburg and Tyrol.

Threshold for adventitious presence of seeds in conventional seed lots

Directive 2001/18 provides the possibility to define such thresholds. That means that a conventional seed lot would, once the threshold is established, not require GM labelling up to the threshold established.

The current situation is that all seed lots containing detectable traces of GMOs have to be labelled as

GM, as we have not yet established such a threshold.

Of course, all seed lots that contain detectable traces of non-authorized GMOs cannot be marketed at all in the EU.

It is clear that the level of the GM threshold will have implications for the coexistence costs in seed and crop production. The Commission would like to minimize the overall costs for agriculture and therefore this question is still under discussion and there are some economic studies commissioned by the Commission that are currently ongoing. A proposal will be put forward as soon as possible

Current activities of the Commission

The Commission is establishing a coexistence network among the Member States to further exchange information on coexistence at national and Community level. There is no need to reinvent the wheel for each state and region.

By the end of the year, the Commission will issue a report to the Council and the European Parliament about the situation of coexistence based on information supplied by Member States. On the basis of that report, the Commission will decide which are the next steps to be taken, and examine the necessity and feasibility of potential Community action on coexistence.

Furthermore, under the framework programme for community research, there are two large research projects being funded, which are multi-annual projects. One of them is called SIGMEA and the second is called CO-EXTRA, and further research is being done by the Joint Research Centre (JRC). We hope that these studies will help to provide scientific bases for appropriate coexistence measures.

Thank you for your attention.

PANEL DISCUSSION

Chair: Tomas Miglierina, Correspondent. RTSI (Radiotelevisione Svizzera di lingua italiana)

The organisers of the Conference released 10 principles that they believe should be included in any coexistence legislation. These were read out as a starting-point for the Panel discussion.

The Assembly of European Regions, together with Friends of the Earth, supports the Agriculture Commissioner's notion of an EU framework for the coexistence of conventional, organic and genetically modified farming. We believe this is necessary before genetically modified crops are grown on a wide scale.

We invite all participants of the Safeguarding Sustainable European Agriculture conference to support calls for EU legislation to introduce compulsory minimum coexistence standards. We believe that any such legislation should be based on the following principles:

- 1) To protect the environment, agricultural biodiversity and nature protected areas on the basis of the Precautionary Principle.
- 2) To enable proper risk management (after the initial risk assessment), including emergency recall measures if necessary.
- 3) To protect human and animal health.
- 4) To ensure the preservation and further development of non-GMO agriculture, in particular organic and traditional agriculture, and products of designated origin in Europe.
- 5) To avoid economic damage to farmers, beekeepers and food manufacturers.
- 6) To establish an EU-wide GMO liability scheme on the basis of the 'Polluter Pays' principle that covers environmental damage, compensation in the event that conventional and organic crops are contaminated, costs of an eventual recall and any other financial damages to farmers, breeders and processors caused by the cultivation of GMO crops.
- 7) To protect the right to choose of consumers, farmers and regions.
- 8) To allow regions to determine their own agricultural development strategy, including the preservation and development of regionally adapted genetic resources and the right to prohibit GMO cultivation.
- 9) To achieve minimum standards and regulations for cross-border areas
- 10) To guarantee a GMO-free seed supply and EU wide standards for seed labelling at the practical detection limit.

Benedikt Haerlin. Foundation on Future Farming, Germany

As regards these principles, I can briefly state that I fully subscribe to them as I had the honour to help draft them.

I would like to concentrate my brief intervention in three points of disagreement with the present position of the Commission just laid out very precisely by Mr Gumbert.

The first disagreement with the Commission is that we believe that coexistence is not a purely economic issue as it has just been described by the Commission.

Coexistence is also part of the risk management of GMOs. Take the example of the GM maize Bt11. The scientists had fully approved the health and environmental safety of Bt11. But now they realise that under this label not only Bt11 was sold but also Bt10. Yet they do not have any idea even of the genetic composition of Bt10. This example tells much about the safety and absolute certainty scientist can produce about the risks of GMOs.

If we imagine that Bt11 would have also been approved for cultivation in Europe over the past four years, and we would now have to eliminate the Bt10 varieties which were taken for Bt11 from our fields under the proposed co-existence conditions just laid out by the Commission, we all understand that it is

simply not true that coexistence only addresses economic impacts of segregation. Coexistence has massive impacts on the type of risk management we will be able to conduct.

Moreover, regarding nature protection, there are about 2000 lepidoptera, i.e. butterflies and moths, whose larvae are potentially susceptible to Bt (*Bacillus thuringiensis*). It is unimaginable that the Scientific Committee here in Brussels is able to decide and assess under which conditions, in which areas of nature protection, what measures would be necessary to protect these lepidoptera.

Nature protection, as opposed to certain aspects of environmental protection, is by definition a regional and local business. It must be dealt with by the people who know their environment and how to safeguard the protected areas of their regional environment. For that purpose, nature protection agencies also need provisions on coexistence with the farmers in the area.

Of course, you can depict it as a purely economic issue if a farmer who cultivates two or three hectares of maize now has to prove that this maize does not exceed the 0.9% threshold of GMOs, or any threshold set below by the trader to whom they usually sell their maize. However, it is a matter of fact that this farmer will simply go out of business. So coexistence shapes the type of agriculture we will see in the regions. And that, from my point of view, is far beyond simple economic impacts. This is a cultural issue, this is a question of how we want and do not want to farm in our regions.

Take the example of oilseed rape. At the moment, 40% of the seed of oilseed rape is saved by farmers in Europe. Once you have GMOs, you cannot simply save your seeds for the next season, you have to prove that these seeds are not contaminated with GMOs. The effect of the introduction of GMOs will be, in most cases, the inability of farmers to still save their own seeds. This is not just an issue of economic impacts on farmers who have to pay more money for the certified seeds than they would have had to pay for their own seeds. This is also a question of agricultural biodiversity in Europe, about how many types of seeds will survive under these conditions.

For all these reasons, I believe that the perception of coexistence as being purely economic is wrong and contradicts the right of farmers' and regions' self-determination.

The second point of disagreement is that the proportionality of coexistence measures at regional level should be determined by the labelling threshold of 0.9% for food and feed. This is an arbitrary threshold that has been set for the purpose of information for consumers and for finished products. Now the Commission is trying to convert it into a standard that has to be accepted. There is no legal basis for this opinion of the Commission so far. The Commission said that any measures that go beyond the purpose of keeping contamination below 0.9% were not proportionate, thus turning an arbitrary standard into a maximum standard that we have to accept. By the way, the terms of what is "adventitious" and what is "technically unavoidable" have not been defined so far in any Commission document or any other EU legal document. This extension of the food and feed labelling thresholds to issues of deliberate releases of GMOs is unacceptable.

Finally, there is disagreement on the issue of seed thresholds. Seeds are the basis for ensuring coexistence and must stay free of GMOs. So far, a majority of Commission representatives, after years of discussions, still believes that seed thresholds simply need to be set at the maximum allowable level to stay below 0.9%. All they seem interested in is how much GMO can be put into non-GM seeds without exceeding the 0.9% threshold. Look again at the Bt10 case, where there is no threshold because Bt10 is not approved. If all maize seeds could potentially be contaminated with say 0.3% of GMOs, this would require recalling all maize seeds, as they could all potentially contain Bt10.

On the other hand, it is clear that if the threshold of 0.9% is set for the final product, the traders and processors to whom the farmers have to sell their products will certainly not accept the threshold of 0.9% themselves, but set their own safety margin. At the moment, traders say they usually accept 0.1% and may accept 0.3% for certain products in the future, not more. The concept of setting the seed threshold at 0.3% basically means that farmers could no longer comply with these standards.

To conclude, we have a few clear demands on the topic of this conference:

- 1) The regions should decide on coexistence and that includes the possibility of restricting and even banning GM varieties in their regions.
- 2) Coexistence legislation must include minimum EU standards on liability as well. It is true that,

at the moment, liability is left to the Member States. However, it is simply not fair to impose a GM product at EU level and then leave it to the Member States to solve the problem of liability. There is a clear legislative gap there.

- 3) Non-GM seeds must stay clean of GMOs and have to be labelled in case of any contamination at the practical detection level.

I think finally that the prohibition of certain seed varieties should remain a valid option for Member States to control coexistence. The bans that have now been imposed by Poland and Greece are good examples of how to achieve coexistence in the future. I certainly believe that no GMOs should be approved for cultivation in Europe as long as we do not have coexistence measures.

**Josef Stockinger, Minister for Agriculture,
Upper Austria**

I will be brief because Mr Haerlin made a great summary of the most important points on the issues we are discussing today. We are not fundamentalists, not sceptics and not trying to stop progress.

I regret that there is not consensus on the question of health safety in the European Union. My concern is where we situate the principle "freedom of choice". Who will guarantee the freedom of choosing to eat GMOs or not? I think the freedom for GM farming should stop there where traditional and conventional farmers are afraid for their traditional products.

Ladies and gentlemen, I feel that, in the beginning, coexistence was imposed on us and now the Commission is starting to realise that this is not so easy as they initially thought - that there are technical problems, logistical problems and also that the Member States do not have any joint legislation and that it is too much for them.

Now, we are talking about the cost of coexistence and there is an attempt to reduce the level by trying to include thresholds for organic products and for seeds. For me, seed is a central issue in the debate and we need zero tolerance to safeguard our future. We cannot accept a 0.5% threshold. In our first meeting with the new Commissioner for Agriculture, she was very clear in saying that the lowest threshold should apply. If we do not address the issue of coexistence as we should, in the future all our agriculture will be contaminated with GMOs and

that it is not what we want. We want to be able to take decisions by ourselves and protect our quality agriculture.

To protect farmers from contamination, Upper Austria has proposed a draft ban. After being rejected at EU level by the Commission, the case was submitted to European Court of Justice and we are waiting for the final decision.

In the end, the most important thing is not the method but the target we are aiming for. The main strategy of Upper Austria is that a region must think and decide about the path it wants to follow. We have arrived at a situation where the concept of a region itself is being attacked because we are talking about a few people here in Brussels dealing with the regulation. But the coexistence issue is too important for our region. In particular, the costs of keeping quality agriculture will be very high for our regions.

However, I think that things are moving and today's meeting has not been in vain. It is taking place at the beginning of an important phase that will continue in the next few months and we need to think how we are going to continue reacting to the current European legislation. I know it is going to be a difficult situation on whether the ban will be possible or not.

The basic questions are also very important. What about: who will have to look at the individual GMOs in detail, or is it fair for the regions to have a say about it? These issues are important for the environment and health, and we also need to talk about competition.

In the months to come, we will all have a role to play. In the most recent Communication from the Commission - and we have heard about that also today - it is stated that some GM plants will be banned in order to protect the environment and health, so I have the impression that we are moving forward in the right direction. The tools we use are important but the main target is the most important thing.

Claude Tremouille, Regional Councillor, Limousin

Thank you to the organisers for having invited us to this conference. The region of Limousin is a region like many others in France where the predominance of farming activity is livestock breeding. The Regional Council has developed its farming policy

on quality products in the last 20 years through labels of quality and origin such as GIs (geographic indication) or through the media.

In our region 10,000 farmers have signed the quality charter of the region.

In October 2004, the Limousin Council invited the mayors of our region to ban the use of GMOs crops on their territories, knowing that only the mayors in France have the power to ban GMOs, although the regional authorities have the economic power. The regional authorities today can define economic orientations in farming, but they cannot ban GMOs or ensure coexistence.

We also informed the majors about a legal firm that could assist them in case of dispute in the administrative courts, which might happen.

The Charter of the Regions signed in Florence contains essential points on coexistence such as

the protection of geographical areas, the 'Polluter Pays' principle, etc. For us, in our regions, particularly with regard to breeding, we need to go further, especially since we are very worried about the feed that could be contaminated by GMOs. Labelling and traceability is essential if we want to put the emphasis on quality food.

This image of quality is the image of identity of Limousin and should be the identity of all of Europe in the future. I think we should be heading in a direction where we give some power to the regions, we develop the quality food system further in opposition to the Americans system, and also we preserve a European identity. I think we should not be afraid of saying that we are European; otherwise we are just following the others and then there will be no differentiation from the Americans. Thank you.



From left to right: Benedikt Haerlin, MEP Kathy Sinnott, MEP Friedrich Wilhelm Graefe zu Baringdorf, MEP Janusz Wojciechowski, Tomas Miglierina, Maaïke Raaijmakers and Andreas Gumbert

DEBATE

Q.- Chairman of the Panel Tomas Miglierina, Correspondent. RTSI (Radiotelevisione Svizzera di lingua italiana)

Your country is in the headlines because of the referendum on the European Constitution and I was wondering if the demand of the regions to receive more power on agriculture and to decide on GMOs have any links to the debate about the future of the EU.

A.- Claude Tremouille, Regional Councillor, Limousin

Yes, there is a link and we think that the regions should have more power to decide on these matters

because the regions are more close to farming and rural world. But I think that, under the current law, it will be difficult. I think that by giving more power to the regional authorities, we will change the scenario in Europe in relation to the farming world, and that can be very positive.

Carmelo Troccoli, representative Coldiretti

Thank you for inviting the Coldiretti to this event today. Coldiretti would like to make a few general comments, especially economic points related to coexistence.

Coldiretti's agriculture policy is based on direct contacts with producers and consumers. We have

an agriculture system that is based on respecting traditions and that has strong links with the grassroots. Our main goal is to take the demands of consumers into account .

In Italy, we are taking part in a new process; we have seen significant growth in the use of organic products which are becoming much more attractive to consumers. The Italian system is very specific - if you take account of geographic denomination, Italy is at the top of the European list of products of origin. The regions are very important in agricultural policy; the products are very regionally determined.

Moreover, we are working very closely with consumers, who determine what we do. A few years ago, Coldiretti signed a clear and direct pledge with consumers. We have committed ourselves to consumers, to promoting a system of quality agriculture and local production, particularly with regard to organic production. We need to ensure that all the products that come out of Coldiretti are exempt from any form of contamination. We are strongly determined to keep this pledge.

With the reform of the agricultural policy, the European Union asks for close synergy to be established between supply and demand. We believe that the balance between supply and demand can be obtained through this kind of farming, which will ensure both respecting consumers' demands and a sustainable future for Europe. So we try to avoid contamination with GMOs that can have negative economic implications.

Now, what hope is there to counter the suspicions that people have about locally based agriculture in the future? We want to ensure that quality products are accepted as such. Let me give an example. During the WTO negotiations, we were trying to protect our local products. We have more than 700 labels for our locally produced products. Some people imitated our form of production and refused to accept Regulation No 2081/92 CE. Contamination of GMOs in these products would put our request in a weaker negotiating position.

We have to protect the environment, and we also need to have in mind what the consumers want. For that, we need clear labelling legislation and that, we believe, is the way to look forward. Since

Coldiretti was founded, it has supported the local and regional Italian authorities, and the authorities are saying that they will continue working without GMOs in the future.

Maaïke Raaijmakers, International Federation of Organic Agriculture Movements (IFOAM)

I am here on behalf of the IFOAM-EU group, so I am not going into details about the Dutch covenant on coexistence, but of course if people have any questions about this, they can ask me later on. In the IFOAM EU group, we had a discussion on coexistence a few years ago¹.

Many arguments of the Position Paper have already been mentioned today, so I am just going to highlight the most important aspects for the organic farming sector.

Starting with the authorisation of a new GM product, IFOAM believes that, as coexistence is not possible for many crops, coexistence measures should be included in the authorisation procedure. Besides that, we think that the aim of the EU's agricultural policy to contribute to a sustainable agriculture should be considered as well. Therefore, we should consider if the GMOs in the pipeline contribute to a more sustainable agriculture.

The organic sector does not think that GMOs solve any problems. I ask myself, if GMOs are the solution, what is the problem? GMOs just cause new problems.

Our main concern is to keep organic production and food chain GMO-free. Not only now but also in the long term. With regard to that, the current position of the European Commission, which states that only when you introduce a new product or production method (GMO crops), you have a responsibility to take measures to prevent contamination, is unacceptable for us. That will cause great problems for all GMO-free farmers after a few years. We have seen outside Europe that the increase of the cultivation area of GMO crops can be very rapid. So our main concern is that after a few years there will be fighting between farmers because GM farmers say that they are established somewhere and they will not move anymore. This is all about the right to produce.

¹ You can download the IFOAM position paper on coexistence at: http://www.ifoam.org/about_ifoam/around_world/eu_group/pdfs/IFOAM-EU_position_GM_Coexistence.pdf

Of course, we are in favour of a legal framework for coexistence and liability, which should be based on the 'Polluter Pays' principle.

For the GMO-free zones, I do not see any legal problem. If we have regional or local authorities, which are democratic institutions, and they decide in a democratic way that they do not want GM crops in their area, why should this not be possible? On the other hand, we do not want, as an organic sector, a situation where you can only grow GMO-free crops within these areas. That would mean in certain countries that farmers have to move to a certain area. We want farmers to be able to choose GMO-free production all over the country.

**Friedrich Wilhelm Graefe zu Baringdorf, MEP
for the Greens-EFA Group**

The question of GMO legislation at European level is a very long story. After being in the European Parliament since 1984, I have been able to follow the whole story and, in the last parliamentary term, I was the draftsman for a report of the European Parliament on coexistence, liability and seed matters².

The important point of the report is not the content but rather the fact that the European Parliament does not have the right to initiate legislation and turn this report into legislation. It means that it is only a political report, since the Commission refused to initiate any kind of legislation on those points. Therefore, all these questions are still pending.

The Commission said earlier that the regions claim to have co-decision rights. Ladies and Gentlemen, you already have that right. There is a legal basis for it in Directive 2001/18 on the deliberate release, which was inserted in the final negotiations at the European Parliament, under which Member States, and therefore also the regions, have the possibility to take measures on coexistence. Article 26a of the 2001/18 Directive is the only legal basis existing on that matter. It is not legally binding, it is not very precise, but it is in the law.

So if the Commission tells us how they see coexistence in the future, that is only an opinion. Of course, it is the opinion of the European

Commission and I do not want to trivialise it. We need to take into account what the Commission says but we do not need to stand to attention. If the Commission says that only measures referring to the labelling threshold of 0.9% are acceptable and other thresholds are not proportionate, well, we are ready to listen to that, but it is not worth much more than if I was saying that I do not agree with the Commission, because there is not yet legislation on this.

If the Commission wants to propose such legislation, it would either have to open up the deliberate release directive for revision or it will have to propose a new legal text on coexistence, and then the European Parliament will also be involved. The European Parliament can only start to act if there is an initiative by the Commission. If this occurs, then we will have co-decision and then we will see whether the Commission's interpretation will prevail in this new Parliament. Although there has been a lot of speculation about what will be the majority on this issue with the new Parliament, I think we can be very confident as far as new members are concerned. Look at the conference today, look at the chairman here who is from Poland.

As long as the Commission will not raise those matters, the only legal basis is Article 26 of Directive 2001/18. The regions can certainly use it because this article gives them a legal basis to take coexistence measures. Of course, the Commission can give its legal opinion and state that these measures are not legitimate. Then the Commission has to take the measures to the European Court. The Commission cannot simply say that you will have to withdraw it because it supposes you are wrong.

The Commission has reacted to the Upper Austrian law that not only took measures for coexistence but also banned GMOs. Currently, there is a court case going on because of the ban, but I have not seen any Commission reaction to coexistence measures taken by other regions. So I suppose that either all measures adopted by the regions until now are legitimised, or the Commission does not dare attack them because then the matter will be on the table.

If legal procedures are started, at the end of the day the deliberate release directive would have to be

² European Parliament. Report on coexistence between genetically modified crops, conventional and organic crops 2003/2098(INI).

revised. I encourage the regions to take measures and congratulate those who have already dared to adopt these measures. We might have to apply some arguments such as the freedom of choice that Mr Stockinger mentioned, but we do not need any justification. I do not have to justify why I do not want GMOs because I do not want them.

Ladies and Gentlemen, let us look into the future joyfully! I look forward to the confrontation with the Commission's proposals, which are measures that cut the grass from under one's feet. When the German government adopted the liability legislation - which does not go far enough for us but does contain some liability measures - the Commission immediately said that the liability system of the German law could not be considered in compliance with the Treaty, but it did not start a procedure. So it is pure political bluff, and the same is true for coexistence. If the Commission now says, there is this 0.9% threshold, that is a simple political ploy.

Then we need to meet in court again, like in the case of Upper Austria. But in other cases, the Commission will not go to the European Court of Justice because it wants to avoid any confrontation on the matter. So it is up to us not to avoid confrontation and to go to the limit of what legislation makes possible for us. I hope that will be the way forward for the future and we will see who is going to win. Thank you very much.

**Kathy Sinnott, MEP for the
Independence/Democracy Group**

Initially, I was going to speak about the situation of Agriculture and GMOs in Ireland. However, as I listen to the debate on GMOs, I would like to talk about the GMO debate itself and the assumptions on which it is based.

Always the same questions come to my mind. Are the concepts discussed in the debate grounded on assumptions that are true? It is important in the discussion that they are. I would like to point out a few things regarding the basic assumptions.

The first point I want to challenge is coexistence itself. There is no scientific basis for coexistence. The reality is that coexistence is impossible. We have a little island in my constituency, Garnish Island, where we can find all kind of tropical plants. These plants came from thousands of miles away on the Gulf Stream. Seeds travel via ocean currents, rivers, birds eat and drop them, wind

blows. Coexistence is actually impossible. Coexistence is a lie. I think that if we want save ourselves from GMOs, we have already lost the battle by accepting coexistence. We might want to attempt damage control through coexistence, but let's not think that we could control GMOs through coexistence.

The "freedom of choice" assumption is wrong as well. The Commission is not protecting the farmers' freedom to choose GMOs or not by coexistence. This is a faulty notion of freedom. To draw an analogy, we all stay on the left side when we drive our cars. Do you think that it is a limit of freedom? No, it is not. We are all asked to drive in the left side because it means that we can travel freely because we are safe to travel.

I think that to safeguard the freedom of choice we should not allow GMOs until there will be proper safety studies. By proper studies, I mean generations, not brief two-year studies. We will not know if GMOs are safe until we study them for decades. We can also not hope to study GMOs until we understand and appreciate natural agriculture much better than we do now.

Allowing GMOs is really about removing the freedom to be organic farmers and the freedom to consume natural healthy food. Freedom of choice is not a good excuse for the Commission.

As well, the basic assumption that liability will protect anyone against GMOs is wrong. Threatening with money is not going to affect big companies like Monsanto, who in the US pay farmers to plant GM crops, to ignore the neighbours and the problems that this will cause. There is a great deal of money to be made in GMOs. Therefore money is not going to stop them. Big biotech companies can afford to risk a great deal of money in cases where liability applies. They know that if they succeed in having many farmers plant GM crops, everything will be contaminated. Who can prove where contamination came from? At this point, the argument that a particular farm or area is a GMO-free zone will be gone.

There is a basic assumption that GMOs have been used successfully for medicinal purposes for 35 years, and nobody has complained. Biotech companies like to use this argument. I would like to say that my son is a victim of genetically modified vaccines. The first ones destroyed his mental and physical abilities and a later one caused his deterioration and brought him close to death.

Despite my personal experience, I will not fight against GMOs in medicine because at this stage we have created a need for them. We should keep our minds open to the fact that we could be using GMOs in medicines to cure diseases that were caused by GMOs in the first place. A study, or rather an attempted study, that I feel is very telling came out three weeks ago. A research team wanted to look at the incidence of autism in the Amish. The Amish, a Christian sect, are famous for their organic farms. They do not use modern technology and only few modern medicines. The researchers could only find three autistic children: one was disabled when adopted, one had been vaccinated, which is unusual for Amish children.

What do I see as an answer? I think we can argue with the Commission, we can fight at EU level, and I think we should do that. But what we really need to do is to go to their bosses, and who are the bosses when it comes to GMOs or to agriculture? It is the World Trade Organisation (WTO). We must start talking about "maize" and "GM maize" and insist that they be classified as separate entities. They are not substantially equivalent. We cannot allow them to be traded and negotiated together. We have to start trading maize and GM maize differently. The day we split them at WTO level is the day that the consumer will be able to fight back and market forces will kill off GMOs.

Janusz Wojciechowski, MEP for the PPE

Being the patron of this conference, I gave already my presentation this morning, so I will be very brief.

It is the first time in which I have participated in such an intensive conference, with a lot of information, remarks, opinions, suggestions, etc. That is very useful for our parliamentary work.

Regarding the 10 points from AER and FoE, I am in favour of these statements and I can sign this declaration. In the European Parliament, some of the points are either in the EP report on coexistence that Mr Graefe zu Baringdorf mentioned from 2003, or in the report on the European Action Plan for Organic Food and Farming from Ms Aubert.

We have to continue along these lines, although the EP has no right to initiate legislation, but we need to put pressure on the European Commission to prepare an appropriate proposal as soon as possible. It is necessary to establish European legislation on coexistence. We do not have to leave the regions alone in this case. We have to see the problems related to GMOs in the context of the European Common Agriculture Policy (CAP). It may be true that it is not easy to find evidence about the negative impacts of GMOs on health and the environment but it is very easy to find evidence that GMOs go against the social and economic interests of the majority of European farmers.

Currently, we have to reform the CAP, which is a very delicate process as it will have big impacts in our farmers. For example, the reform of the sugar market has been discussed a lot in the Agriculture Committee of the EP, and we realised that we have to be united with developing countries on this issue because those countries are transferring their problem to our areas.

I strongly support the initiative against GMOs, even if it will be very difficult. I think GMOs need to be kept at least under strong control. That is my personal opinion, and I hope to find many alliances in this direction both in the European Parliament and outside. In the European Parliament, we would need more power to play a role on this issue.

Thank you very much.

DEBATE

A.- Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

The European Commission requests that it be noted that this text is based on the transcription of the conference. It is not necessarily identical in all

details with the presentation by Mr. Gumbert and should not be regarded as an official contribution by a representative of the European Commission.

There are many subjects that have been mentioned and I will try to tackle some of them, but I am afraid I cannot answer everybody.

I think many people at this conference would like to prohibit or restrict GMOs as much as possible. However, the political will to allow the authorisation of GMOs in the EU was already agreed in the past, and we now have a regulatory framework that was completed very recently, in a Co-Decision procedure. The last pieces of legislation have only come into force last year. So, in fact, the Parliament and the Council have agreed. The regulatory framework in place provides the possibility to introduce GMOs in EU agriculture. And once we take this step, we also have to accept that certain implications have to follow. For instance, agriculture is an open process. This means that once the crops will be cultivated, they cannot be isolated 100% from neighbouring crops; there will always be some degree of mixture that is unavoidable. That has been expressed by the Scientific Committee on Plants in several opinions - that, in fact, a 0% admixture from GM crops is simply impossible. So, it comes down to thresholds, we have to live with thresholds if we tolerate the cultivation of GMOs at all. The Commission believes that the most reasonable threshold is the one introduced at a level of 0.9% for labelling of GM food and feed. I think this is a very important and critical debate.

In fact, the Commission believes that the safety assessment for GMOs in the EU is a very thorough and rigorous one. This means that once GMOs are authorised for the EU, they can be used in the same way as conventional, traditional crops. The major difference is that there is a need for labelling GM crops, but not traditional crops. So the two productions have to be separated, to the degree necessary, and that means that ensuring the thresholds for labelling implies certain restrictions. However, going beyond that would be disproportionate.

Concerning safety, we have to consider that, in fact, GM products can be consumed in their pure form. In fact, if it is a GMO authorised for use in food, consumers may also decide to eat it and to do so at 100%. So we should not be afraid of small traces of GMOs in other products if it would be equally safe to be consumed in a pure form.

Q.- Chairman of the Panel Tomas Miglierina, Correspondent. RTSI (Radiotelevisione Svizzera di lingua italiana)

How you are going to react in case of pollution?

A.- Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

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Well, I do not believe that "pollution" is the appropriate term. In fact, we have a problem of segregating two production lines, which is the same problem of segregating two seed production lines. If there is not a safety issue, and if we can trust the authorisation procedure and the risk assessment procedure which has been put in place, as I said, in a Co-Decision procedure, then there is no need to consider admixture with GMOs as dangerous.

Q.- Geert Ritsema, Greenpeace International

I want to refer to Mr Gumbert's last sentence which was that GM products authorised in EU are safe, so there is nothing to worry about. Everything he said is based on this assumption. Once they have gone through the authorisation procedure, there is nothing to worry about it. Then can you explain to me why a majority of Member States usually vote against these new authorisations and these products are still on the market and considered as safe? How can you explain to the European public and consumers that these products are safe but, by the way, the European Member States are against them?

Q.- Charly Hulten, Friends of the Earth Sweden

I have a question concerning liability and the Commission's position of leaving liability up to the Member States. My understanding of liability, owning my own land in the US and in Sweden where I have been living 35 years, is that the basic concept is not feasible. How can the liability have a legal sense when the law is inadequate? Establishing a threshold of 0.9% will mean that farmers could bear responsibility even after having fulfilled every letter of the law because contamination can easily spread.

Q.- Werner Muller, Friends of the Earth Austria

I have a question or comment for Mr. Gumbert. First of all, the Commission's idea of coexistence is

illogical and not defensible because of the health risks.

There are no long-term toxicity tests (i.e. test for 24 months) on GMOs. GMOs are only tested for 90 days. With this kind of tests, scientist could prove that even banned harmful pesticides or chemicals are safe for human consumption (e.g. DDT, Asbestos Vinclozolin, among others). The safety evaluation of GMOs on the basis of short-term tests is meaningless. And no-one can claim that approved GMOs are safe on that basis.

With regard to the economic implementation, the Commission says that coexistence is an economic problem and then defines what the economic problem is. In its view, the economic problem is if contamination is higher than 0.9%. But if you ask the organic farmers, and if you ask all the economic operators, they would see a problem finding any traces of GMO in their food and feed. Economic problems for farmers and economic operators arise at contamination levels much lower than the 0.9% threshold. The real economic threshold normally lies at 0.1% if you talk with operators. No supermarket chain is accepting detectable contamination so, for the farmers, the economic threshold is not 0.9% but 0.1%. So coexistence measures must address this properly. Therefore all measures must guarantee that no contamination will take place. The Commission's threshold of 0.9% is not the threshold of economic damage. If the Commission talks about coexistence as an economic issue, than the Commission must regard the real economy i.e. that economic damage occurs at 0.1%.

Moreover, when we are talking about coexistence, we should also look at the whole issue. Organic farmers have been dealing with coexistence for the last ten years and if we ask them about it, they say that they have been paying for GMO-free testing for the last ten years from their own pockets. It is clear that a fair coexistence approach also takes into account these costs which have been paid by organic farmers for the last ten years.

Q.- Dan Craioveanu, Romanian Federation of Organic Farmers

This question is also for Mr. Gumbert. You stated that contamination is unavoidable, and for this reason we should accept certain thresholds. But that also means that contamination from field trials is unavoidable. So that means that we have to accept certain thresholds of unauthorised GMOs in

other fields and also in honey which, as you said previously, is a zero threshold for unauthorised GMOs. So we have a problem of contamination with unauthorised GMOs.

Q.- Friedrich Wilhelm Graefe zu Baringdorf, MEP for the Greens/EFA Group

Of course, Mr. Gumbert can have this opinion but it is only an opinion. Probably it is not his personal opinion but rather the Commission's opinion. If the Commission has this opinion, it should put that on paper and then we can argue about the situation. And we will see after five years' time without legislation how far this unavoidable contamination has reached, to what extent public opinion has shifted and if they are no longer refusing GMOs. Then, on the basis of that new situation, the Commission is saying, we can either initiate new legislation because politics follows public opinion, or we do not need legislation any longer because the facts have changed. That should not be what we should be looking for. Nobody is arguing whether the GMOs are good or bad for your health, that has already been decided, but freedom of choice has not been decided. This has nothing to do with the 0.9% threshold, but rather something to do with the fact that there are GMO-free farmers who find a market based on the fact that people buy their products because they are sure that they are not buying any GM crops or food. And I need to have this freedom of choice. The Commission needs to safeguard that, and if the Commission cannot do that through legislation, then we need to get organised ourselves through voluntary measures or regulations on coexistence at regional level or on GMO-free areas to avoid this unavoidable contamination. So if we are going to avoid this contamination, we need to take measures, and if you want to do something against it you have to be prepared go to the Court and there all this will be decided. . We also need to dare to do that. We need to be very clear about that, so that the Commission does not lead us to accept what it is saying.

A.- Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

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Let me just sum up some final points on what the Commission is doing. Most of the Member States are already working on coexistence legislation. This legislation needs to be notified to the Commission, and the Commission is assessing the proposals from Member States. So there is a procedure that is currently being followed and, in the course of this procedure, the Commission has already criticised certain notifications and has also been pleased with others. Also during the process, some Member States or Regions have modified their coexistence legislation to some extent so that, in the end, the Commission thought that the relevant principles of its Recommendation were taken into account. So, in fact, we are engaged in the process of dialogue with the Member States. Of course, at a certain stage, we also have to assess what we have done and see if the current process is appropriate, and whether the Commission see divergences in the approach of Member States, and whether that could have an impact on the Internal Market or not. If we consider the current situation, the divergences among Member States could not, in fact, be bigger than the situation we are actually in - that is, there is one Member State cultivating GMOs in an area of about 60,000 hectares and there are 24 Member States hardly cultivating any GMOs. This is the current situation. It can only become more similar between the 25, at least with respect to GM cultivation.

Why does a majority of Member States vote against the authorisation of GMOs? In fact, there has not been any single Proposal for authorisation of a GMOs that has been rejected by qualified majority. There is always a very large share of the Member States that abstain, so it means that obviously they do not want to take position, and then they must be confident with what the Commission is doing. If they do not vote against, the Commission has to adopt the Proposal according to the principles of the Treaty. So if the Member States abstain, they know exactly what they get. Of course, personally, I do understand that, at the political level, it could be easier to justify an abstention back at home. In fact, the Member States who are not happy with any Proposal by the Commission should reject the measures, but they have not done so.

Now, concerning liability, how should we solve this issue? According to the Commission, liability should be restricted to cases in which significant damage has been caused. So what is "significant damage"? Significant damage is a state in which the product has changed its properties - for instance, because it needs to be labelled. However, in the general principle of thresholds - which apply

not only in context of GMOs but also in the context of toxic substances, for instance - there are usually tolerance thresholds which are never at the same level as the detection level. Why is that? Because it is very clear that if a legal threshold is put at the same value as a technical detection level, a large number of the measurements will then be wrong. You can never establish a legal threshold at the detection level, by any technical means, because there are always a number of uncertainties. That means that one measurement could provide positive results and the next measurement may provide negative ones. For instance, following some measurements someone finds some GMO traces in his products and he would like to go to court, but he could not use his measurements because, in fact, the probabilities are high that they will be wrong. So if you define a legal threshold close to a detection level threshold, you risk that, in fact, none of your measurements can be enforced in court. Therefore, we need to be very cautious, and the thresholds need to be beyond the detection level in order to be measurable.

Q.- Clare Oxborrow, Friend of the Earth England, Wales and North Ireland

There have been many concerns raised today about the position of the Commission on coexistence and Friends of the Earth shares those concerns. We have worked with a coalition of organisations in the UK to produce a legal opinion on the Commission's Recommendation. Basically, the legal opinion reached by a leading European independent lawyer, Paul Lasok, was that the Recommendation is fundamentally flawed and, with respect to European law, it is wrong. The key points are the threshold that is legally relevant with respect to coexistence measures, that coexistence does not have only economic considerations, that the organic regulation meant that GMOs should not be present in any organic food, and if we rely on the 0.9% threshold, operators would be unable to rely on the labelling of the products. We published this legal opinion in March, and we have not heard anything from the Commission yet on what they think about it. My question is whether the Commission will publish their legal advice, which led them to formulate their position.

Q.- Chairman of the panel - Tomas Miglierina, Correspondent. RTSI (Radiotelevisione Svizzera di lingua italiana)

I suggest that in order to avoid turning the Panel into a press conference with the Commission - of course, it is very interesting to hear from the Commission -

you should see if you have any questions for the rest of the panel and if you have any ideas or proposals concerning the ten points on coexistence presented in this session. Thank you.

Q.- Wolfgang Pirrkhuber, Member of Austrian Parliament

I want to indicate my agreement with the proposals. I feel this is a working paper I can really agree with. We will have the chance to discuss all that at the beginning of 2006 during the Austrian Presidency. We will have the coexistence on the agenda and we will discuss that in Austria and at European level. I think it is a good time now to go ahead to bring this issue to all political levels.

One remark to Mr Gumbert, I agree with you when you explained how the process is going at the moment with regard to approval of new GMOs, but when you look at that, is that democratic? First that the Regulatory Committee has no majority for registration of a new GMO crop, that the Council of Ministers has no majority for registration, but then, in the end, they are allowed to be grown anyway?. That is a political disaster for the European Commission because people in the European Union will not have confidence anymore about who is working for them, for the regions, for the parliaments, in the EU. Lack of democracy is an important issue for people now, which is linked to the debate on the Constitution, and that is the reason why there is so much debate about Europe.

A question for Mr Graefe zu Baringdorf and Mr Wojciechowski because they were speaking about the reform process in agriculture policy and we know that, in the next months, the new rural programme is being discussed in the Parliament and environmental and national protection programmes are part of this. I would like to know is there is any chance to discuss the GMO case and also the possibility that GMO-free seeds and GMO-free production would receive some support in these programmes at local level.

Q.- Liliane Spendeler, Friends of the Earth Spain

I want to ask a very simple question with regard to the idea of coexistence. How does the Commission intend to keep contamination below the threshold of 0.9%? I am asking the question in relation to the Spanish case. In Spain, we have undertaken a

large-scale process and I think we need to take into consideration all the conclusions about that. One of the cases of contamination I mentioned this morning is an organic maize, which was contaminated up to 35%. That was the result of accumulated contamination over several years. My question is: how can you accept that seeds and agricultural products will be contaminated by GMOs? How are you going to keep the threshold below the 0.9%?

A.- Janusz Wojciechowski, MEP for the PPE

Regarding the question about the chance for a discussion on GMOs in the debate about rural development and farming, we have discussed the rural development farming programme in the EP Committee on Agriculture and it will go to a Plenary session during the coming months. However, we have not discussed about GMOs there. But, of course, there are urgent discussions required on the GMO issue in the Committee of Agriculture and I will encourage that, especially after this conference. But I do not think that the rural development debate is the best opportunity to solve this problem.

A.- Friedrich Wilhelm Graefe zu Baringdorf, MEP for the Greens/EFA Group

For rural development, the European Parliament can organise a hearing or vote a resolution but we do not have the legal initiative. We need a debate about how we can get co-decision on these matters. Certainly it is a tactical matter.

The Parliament (80% of the members) agreed the report on coexistence¹, for which I was draftsman and which establishes that coexistence measures should be implemented.

With regard to freedom of choice, there are various issues. If everything is packaged together, then people would be annoyed because they want to ensure that they have free choice. We need to force the Commission to establish legislation, although the Parliament does not have the right of initiative. We have to exert pressure on the Commission, although it is not enough if it is just political pressure, because it is not elected. The Commission is an administrative body with political and legislative power. However, the fact is that the legislation on seeds, coexistence and liability does

¹ European Parliament. Report on coexistence between genetically modified crops, conventional and organic crops 2003/2098(INI).

not seem to be very important to the Commission. But it can lose its moral high ground on this political issue if we have enough facts to back up our case on GMOs and we can present a position to the Commission on this issue.

A.- Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

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Yes, concerning additional costs regarding coexistence for potential non-GM growers. The Commission agrees that farmers who continue already established production patterns should not be forced to adopt any additional measures, simply because someone else would like to introduce GMO cultivation. That also means that there is no general obligation for testing of non-GM production. In fact, the Member States have been requested to develop good farming practices. These should work and should be efficient to segregate GM and non-GM production to the degree necessary. This kind of good farming practice should also be monitored, so Member States should also ensure that there is adequate legislation in place. It does not mean that the individual farmer will have any obligation to check his non-GM production. Of course, they need an agreed level of purity that it is also legally binding. If some farmers would produce under contracts for special purity requirements, that is, of course, very difficult for neighbours to predict, and special arrangements would be required if someone would like to produce at a purity level which is higher than the Community level.

Another question was: how we remain below 0.9%? Of course, that depends on the crop, on field sizes, on climatic conditions, etc., and that it is why it is quite complicated and the rules to be applied differ in different regions of the Member States. So, it might be necessary to have different coexistence measures in the Member States on the basis of different climatic conditions, farm structures, etc. That is the reason why the Commission has decided to give that responsibility to the Member States.

Q.- Maaïke Raaijmakers, International Federation of Organic Agriculture Movements (IFOAM)

I just want to react on what the Commission has said about not having an obligation to sample. In theory, that sounds nice but we all know that, in practice, the 0.9% threshold for purity is not accepted. Neither by consumers nor by producers. Even if there is no actual contamination of a product, there can be financial damage. If farmers do not trust their products or buyers do not trust the products to be GMO-free, there will be a need for sampling. That is just a fact. So, saying that is not a legal obligation is not going to solve this problem. If farmers want to sell their products, they need to sample.

Q.- Daniele Govi, Regione Emilia-Romagna

This is a question for Mr Gumbert from the European Commission. Emilia-Romagna is one of the regions that has signed up to the "Florence Charter". We are surprised by the position of the Commission on a number of issues that we find very sensitive. First, I would like to state that we are not a region that is, in principle, against GMOs but we want to safeguard traditional, organic and conventional products. One thing we are very worried about is the position of the Commission on the threshold level, which seems to forget that the 0.9% threshold is for labelling in case of accidental contamination. And we would like the Commission to better define the concept of "technically unavoidable" contamination. That will define the measures that we will have to adopt in the regions. The regional measures should safeguard our traditional production and should not be at a contamination level of 0.9% which for some sectors, such as organic farming, is unacceptable. For the organic farming sector, which has very sensitive consumers, they cannot accept the 0.9%.

Q.- Pawel Polanecki, Vice-President of the Regional Assembly of Mazowieckie.

I would like to refer to Mr Graefe zu Baringdorf's intervention and his reference to Article 26a. This is the only legal basis that we can use. Actually, Poland is doing that. After several regions announced their declarations as GMO-free zones, the government announced on 21st April a ban on Monsanto maize seeds in Poland. It is illegal at the moment and tomorrow there will be a session in the

Seeds Committee with regard to this ban in Poland. Article 26a refers to case-by-case studies and my question to Mr Gumbert is: what kind of studies you need and whether they are biological, technological, financial or social studies. Also, who is going to do those studies, and with what money? Do we have any regulations regarding those studies?

A.- Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

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The 0.9% threshold applies in the case that the GM presence is technically unavoidable or adventitious. So, technically unavoidable means that the impurity is resulting in the case of crop production, for instance, from pollen flow, or certain impurities in seeds, since it is a fact that this can happen and is to some extent technically unavoidable. Adventitious means that it is unintended. So, in practice, that means that people have to demonstrate that they have taken necessary steps to avoid it.

It also means agreement on good farming practices. With good farming practices, we should stay under the thresholds established. What should be avoided with this provision are deliberate acts of introducing GM presence in other products, for instance by mixing Gm and non-GM products.

Regarding what kind of studies are required to justify regional measures. In fact, there are no specific rules,. The Commission recommends to the Member States that first they try to look at the issue from the perspective of measures which are to be taken at the level of individual farms like isolation distances, cleaning of harvesting machines, etc. If, under certain conditions, it is demonstrable that it is not feasible, the Commission will require a justification and proper scientific studies to demonstrate that it is, in fact, not feasible. There are no specific rules but, if you believe that it is too expensive to conduct such studies, nobody is forcing you to go that way, there is no obligation to take regional measures.

Q.- Chairman of the panel - Tomas Miglierina, Correspondent. RTSI (Radiotelevisione Svizzera di lingua italiana)

During the last few minutes of the conference, I would like to come back to the proposals, the ten points. So, please, can I ask you to give comments, proposals on the 10 points.

I have a question concerning the legislation that has been proposed. I think I can say there is a broad consensus on the proposals at this conference. In fact, it seems evident that many people already considered coexistence a compromise and some of you call openly for zero tolerance for the presence of GMOs in non-GM products today.

My question is, in case legislation of that kind is proposed, how likely is it that the European Union will have to pay serious consequences at the WTO? How likely is that a country sues the EU the day after?

A.- Andreas Gumbert, Directorate General Agriculture and Rural Development, European Commission

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There are a number of principles the Commission could subscribe to, although there are a number of principles that the Commission could not subscribe to and that is in particular concerning the question of GMO-free zones. We have a regulatory framework related to the authorisation of GMOs, and this regulatory framework does not provide the possibility for regions to simply ban this kind of authorised products. This could lead to international conflicts.

Q.- Chairman of the panel - Tomas Miglierina, Correspondent. RTSI (Radiotelevisione Svizzera di lingua italiana)

Thank you. My question for the MEPs is: how concerned are you for the international dimension of this legislation?

A.- Benedikt Haerlin, Foundation on Future Farming, Germany

We are talking too much about the WTO implications. But what we are talking about here are measures for cultivation. Around the world there are phytosanitary provisions, taken by members of the WTO, which go far beyond the proposals here. If you have ever tried to enter California, you will see that the police will open the car boots and have a look at what kind of fruit you may bring in. That is just to give an example. I do not think any measures regarding cultivation can be challenged at the WTO. It is a different game when it comes to the introduction of food, or the introduction of products as food and their imports.

I think I would like to agree, if I may, with Mr Gumbert on a couple of points.

Number one, I agree that if Member States really want to stop approvals of GMOs, they would vote against it, and the fact that they do not vote against does not mean that they seriously reject it. I totally agree with that, and I think it is something to take home and to confront national governments and the representatives of Member States with.

I also agree that there is no such thing as the total zero in nature, and that technical thresholds and definitions are needed for any kind of technical management. What we are looking at, for instance, when talking about a realistic detection level is actually by a magnitude above what you can detect at the moment by PCR analysis. The limit to the detection level is usually not determined by the technical detection level of the test and the possible error at this level, but is determined by the size of samples and the probability of missing the right piece, because a tolerance of 0.0% would require a total analysis of everything. You would not have anything left to plant. This is the kind of detection level that we are talking about.

Mr Graefe zu Baringdorf quite rightly characterised this position as an opinion not based upon any legal acts under European legislation. Mr Gumbert said that if health and environmental risks are totally assessed not to exist, then the only difference between a GMO and a non-GMO was the fact that GMOs must be labelled. Now if I may conclude with this argument, Mr Gumbert you will probably agree with me that there is no such thing as zero risk and that is what scientists repeat again and again, especially when assessing the safety of GMOs. That is why the legislation provides only for a limited time

of approval of ten years, that is why a list of risk management measures is included in the law. So to assume that simply because a scientific committee at some time said we cannot see a concrete risk, this product was entirely safe is not a science-based assumption. Yet if this argument fails, all the rest of your argumentation, including why regions, national authorities, farmers should not take more protective measures, fail as well.

A.- Kathy Sinnott, MEP for the Independence/Democracy Group

I just wanted to challenge the idea of dialogue. You know, the process of decision that you have been describing here does not mean that we are having a dialogue. The decisions are imposed on us and we may agree or abstain. I think here we have to use the Aarhus convention and insist that, under this convention, we must have a say. I know that there has been talk of excluding GMOs from Aarhus. This would be bad of us and for democracy.

I also would like to say it will be unacceptable to have 0.9% of GMOs in our food and seed. It will be unacceptable to allow a 0.9% threshold of GMOs in so-called non-GM products. I think when we accept 0.9% as a kind of standard, then we are accepting total mixture 20 years down the line. To pretend anything else I think is dishonest. I think in a real dialogue this point will come out.

A.- Friedrich Wilhelm Graefe zu Baringdorf. MEP for the Greens/EFA Group

We have all said that the Commission is, in some instances, resistant to political reality.

It does not mean that we should not put some pressure on the Commission, because it has an important position and could do a reasonable work on it. So we should talk to the Commission and should not give up on our precautionary work.

But Mr Gumbert also said that the Member States have an important role to play and many of the Member States lack political will. The position of many countries is not clear. However, look at the example of Austria - it is clear that the government will take a precautionary approach due to the fact that there is enough opposition. We have seen how far they can use Article 26, starting with the debate whether GMOs are healthy or not.

The real question is political because regions can always use the court procedure. So it is up to

countries themselves to decide how they want to act. This is where we need to come in; we need to supply the political arguments, not by playing the scaremongers but by being systematic.

We have authorised some GMOs at EU level and now we need to ask ourselves whether there are some regions that we want to keep GM-free, or whether there are any supply chains that we want to keep GM-free. Consumers have an important role because they have a political power that we should not under-estimate. We need to work on those questions and then the Commission will also respond.

The Commission is afraid that we strengthen the opposition to GMO using the WTO, health or ecological damage. The Commission does not want to lose its control.

A.- Janusz Wojcieszowski, MEP for the PPE

We are waiting for concrete initiatives from the European Commission. The ten points are a very good base for this legislation and the WTO is a problem but I think we have to confirm our point of view. We have to discuss our freedom of choice; consumers are afraid of GMOs, farmers are afraid of GMOs, and those are very important reasons to defend the right to restrictive legislation. I think we should confront the WTO with our resolution.

CONCLUSIONS OF THE CONFERENCE

**Chairman of the panel -Tomas Miglierina,
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It is going to be impossible to summarise all the points we have discussed. But I have been asked and I will try. I will choose the most important points from my non-scientific background. Of course there have been many other points. Firstly, we said consensus and I think there is broad consensus on the ten points, the issue of standards, technical figures and percentages. Also the question of quality and the identity of the territory that is linked to the GMO-free agriculture, mentioned by the Coldiretti representative. But the most interesting thing to me, as a journalist when I look at this thing, is the political messages that have been sent. The fact that regions get together, and fill the legislative loophole is something that is a nice story, media-wise. That is my new story to cover because it is something very new for the European debate. Hopefully, that will lead to consideration of this point by the Commission.

The second point is that we are entering into a very technical and scientific debate on GMOs but the issue is inherently political as we can see here. It has to do with certain choices that the European Union will make and not only with the political aspect as was demonstrated in our panel. It is also linked to the way that Europeans see agriculture and the economy linked to quality agriculture.

It is a political question but also a question of relations with EU citizens, as the European Union struggles to have a better constitution, better communication with its own citizens. It is a political question that will have to be resolved at the highest level and in an open a debate on what kind of living standards and consumer standards we want to keep in relation to other parts of the world.

Thanks to all of you for having participated in today's conference.

May 17th 2005

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Originally educated as a land surveyor, he turned to environmental campaigning in the early 1990's. From 1997 he jointly coordinated the campaign against GMOs in the UK for Friends of the Earth and was at the centre of the campaign when it hit the headlines over the next few years. In 2003 he moved to Germany and has since worked at the European and international level.

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