

SUMMARY OF RESPONSES TO THE DEPARTMENT'S COEXISTENCE CONSULTATION PAPER

Introduction

1. In January 2007 the Department of the Environment issued a consultation paper on proposals for managing the coexistence of GM, conventional and organic crops in Northern Ireland, should approved GM crops be grown here commercially in the future. The proposals aim to minimise unwanted GM presence in conventional and organic crops (which for example might arise through cross-pollination) and thereby allow people to choose between GM and other products. Commercial GM cultivation is not expected in the UK for several years at least, but the Department intends to have coexistence measures in place beforehand so that farmers in particular are clear on the rules that will apply.
2. The consultation paper was sent to over 280 stakeholder groups, posted on the Department's website, and hard copies made available on request. The consultation period lasted for three months, ending on 30 April 2007.

Overview of consultation responses

3. 122 responses were received in total. The Department also received a petition with approximately 140 signatures.
4. Most of the responses from members of the public (about 88%) were in the form of stock letters, pre-printed forms and a petition drawn up by groups or individuals campaigning against the release of GM crops and/or GM 'contamination'. The general message these responses convey is a basic disagreement with the Department's proposals. A key concern expressed is that the proposals should not have regard to a 0.9% threshold for GM presence (as specified in EU law), but

should aim to prevent any detectable GM presence in conventional and organic crops (with 0.1% referred to as the limit of GM detection).

Overall scope of our coexistence proposals.

5. Several organisations broadly supported the proposed scope of the regime as set out in the consultation paper. Against this, several organisations disagreed with nearly every aspect. Taken together, these critical responses argued that:
 - the aim for the coexistence regime should be to avoid any detectable GM presence in non-GM crops/products (allied to this, some organisations referred to a legal opinion they had commissioned which argues that the 0.9% EU labelling threshold for GM presence is irrelevant to coexistence policy, and that the Department's interpretation of the 0.9% provision is flawed)
 - the regime should cover coexistence in relation to gardeners, allotment holders, beekeepers and crops grown for people's own use
 - the regime should cover within-farm coexistence (not just farm-to-farm), coexistence in relation to certified seed production, and coexistence arrangements across the whole supply chain (not just at farm level)
 - coexistence is not just an economic issue, but should also be considered in terms of safety (some conservation groups said specifically that GM crops should not be grown unless or until evidence shows they would not harm wildlife)

RESPONSES TO SPECIFIC QUESTIONS IN THE CONSULTATION PAPER

6. There were few responses from individuals that addressed directly the questions highlighted in the consultation paper. Therefore, the summary below mainly reflects the response made by organisations.

Where a stock response submitted by members of the public is relevant to a consultation question, this is noted.

POTENTIAL SOURCES OF GM PRESENCE

Q. Do stakeholders accept the above analysis (In the consultation paper) of the potential sources of GM presence and the assumptions that the Department is proposing should underpin the coexistence regime?

7. Several organisations broadly accepted the Department's analysis and assumptions, describing them variously as thorough, precautionary and the best possible on current evidence. Other organisations disagreed, raising various questions and concerns. These included the following:

- the approach set out in the consultation paper is flawed, because it envisages levels of GM presence arising which technically could be avoided
- a more comprehensive analysis is needed of potential GM sources
- in relation to possible EU thresholds for GM presence in seeds:
 - it should not be assumed that they will be 0.3%-0.5%
 - they should be 0.1% (as the limit of detection)
 - the implications of different possible thresholds should be considered.
- In relation to the assumption that GM presence from sources other than seed impurity and cross-pollination should not exceed 0.1%:
 - there is evidence to suggest that volunteer and bolter control is not normal practice, and that volunteer presence and machinery transfer could exceed 0.1%
 - the scope for GM transfer through increasing use of shared storage and drying facilities needs to be considered
 - research indicates that weedy beet can be moved off farm

- no machinery cleaning protocol would be fully effective, especially at busy times.
- not enough allowance has been made for possible GM admixture beyond the farm gate.

STATUTORY AND NON-STATUTORY COEXISTENCE MEASURES

Q. Do stakeholders accept the Department's proposed overall basis for the coexistence regime as outlined above [in the consultation paper]?

8. The consultation paper proposed that farmers growing GM crops should observe statutory crop separation distances and a farmer-to-farmer notification rule, with other coexistence measures being included in a non-statutory code of practice. Several organisations were content with this approach, provided that the proposed measures are open to review. Other organisations took the opposite view, saying all the envisaged measures should be implemented on a statutory basis. Among the comments made to support this line were that:
- voluntary initiatives in agriculture have a poor record
 - all the envisaged measures should be seen as essential, and the suggested difficulty in framing and enforcing certain rules is not an acceptable reason for not giving them statutory backing
 - voluntary measures are unlikely to be rigorously implemented, GM farmers need a financial or statutory incentive to do so, and statutory control is needed to underpin good practice
 - an entirely statutory regime could help to restore confidence in the Government's handling of this issue.

REGULATORY IMPACT ASSESSMENT (RIA)

Q. Do stakeholders have particular comments on the analysis in the draft Regulatory Impact Assessment, and on what it says about the Department's plans to enforce, monitor and review the coexistence regime?

9. Some organisations supported the draft RIA and the proposed approach on enforcement, monitoring and review. Other organisations made critical comments, including the following:

- rather than the Department, an independent agency should be responsible for monitoring and enforcing the coexistence regime
- the RIA is based on wrong or biased assumptions (e.g. a 0.9% GM threshold, or that approved GM crops are safe)
- the analysis of costs is too limited and the data used not robust enough
- the analysis should cover the extra costs for those wishing to produce to a threshold below 0.9%

STATUTORY SEPARATION DISTANCES

Q. Do stakeholders agree with these proposed separation distances [in the consultation paper]? If not, which aspect(s) of the supporting analysis and proposed assumptions made by the Department are thought to need further consideration?

10. A number of organisations disagreed with the proposed separation distances, stating or implying that they should be longer. Various points were noted in this respect, including:

- the aim should be to minimise GM cross-pollination to 0.1% (as the limit of detection), rather than 0.3%

- the NIAB study used by the Department is too narrow and flawed because it only covers single field-to-field cross-pollination
 - other studies indicate cross-pollination over longer distances for maize and oilseed rape
 - separation distances should be specified for potatoes and beet, and take account of how far pollen can travel and/or the distances over which cross-pollination has been recorded.
11. Other organisations broadly accepted the proposed distances, providing they are kept under review and can be altered as growing patterns and varieties change. A few organisations went further and, while not disagreeing with the Department's analysis as such, suggested that distances should not be fixed until further information is available and/or EU seed thresholds are agreed.
12. Several organisations also commented on the suggestion that barrier rows might be used to minimise GM cross-pollination, as an alternative to separation distances. Some did not think barrier rows should be an option, or at least not without further evidence on their efficacy. One specific concern was that the environmental impact of barriers must be considered because they might affect biodiversity in field margins. Other groups favoured having barrier rows as a coexistence option, viewing them as part of the necessary flexibility that they believe farmers should have.

Q. What do stakeholders think of the Department's proposal not to differentiate separation distances by GM Index or field depth?

13. Some organisations thought it appropriate to have a single separation distance per crop type. One group argued for flexibility to reflect the prevalent types of GM crop on the market, with separation distances being legally established in due course based on the specific

characteristics of each GM variety (e.g. differentiating by GM Index).

Q. Do stakeholders accept how the proposed separation distance requirement would apply? What do stakeholders think of the idea at paragraph 83 (of the consultation paper) that some local discretion might be allowed?

14. Some organisations said it would be sensible and pragmatic for neighbouring farmers to have the discretion to apply their own coexistence arrangements (subject to this being agreed in writing by both the GM and non-GM farmer involved). Several other organisations disagreed, thinking that local discretion was either inappropriate, could only be acceptable in the context of a much more precautionary approach overall, or should only be considered after the coexistence regime has been in place for some time and confidence had been gained in its operation.

STATUTORY NOTIFICATION AND LIAISON REQUIREMENT

Q. Do stakeholders have any comments on how the proposed notification and liaison requirement would operate? What do stakeholders think about having a single notification deadline for spring-sown crops, rather than separate deadlines for spring rape and maize respectively? (Paragraphs 87 and 88 of the consultation paper).

15. There was some support for the proposed rules on this point, but organisations made a number of contrary suggestions or comments, including the following:
- a single notification date offends the crop-by-crop principle, and crop-specific deadlines would be fairer

- neighbours should have longer to respond to notifications than the proposed 14 days
- gardeners, allotment holders and beekeepers should be notified
- the approach should be similar to planning-permission procedures
- instead of a fixed notification deadline, which is arbitrary, the approach should be based on the GM farmer having to wait a minimum period after informing a neighbour before the intended GM crop can be sown. (This would allow for differences in sowing patterns between crops and across regions and seasons).
- there could be problems if a notification is not received or the neighbouring non-GM farmer is unable to reply for some reason.

OTHER COEXISTENCE ISSUES

Q. Do stakeholders think this is a reasonable way forward on farm-saved seed [as set out in the consultation paper]?

16. Several organisations agreed with the analysis in the consultation paper that existing best practice for saving seed would be enough to ensure effective coexistence, when combined with the proposed statutory separation distance for oilseed rape. However, other organisations disagreed with or questioned the proposed approach. A particular concern was that farmers should not be prevented from saving seed over more than one generation. Other points raised were that:

- best practice could be difficult to follow
- seed savers will have to pay for tests if GM cropping becomes widespread
- the risk of contamination might force farmers to buy certified seed

- it was wrong to put any onus or burden on non-GM seed savers.

17. A specific technical comment was that the consultation paper understated the potential for GM accumulation to occur during the storage, cleaning and dressing of saved seed. Relevant to this, one of the responses noted that guidance would need to be provided for processors of saved seed to ensure that no GM admixture occurs during cleaning and treatment operations.

Q. Do stakeholders agree that a formal training requirement is unnecessary?

18. Several organisations agreed with the Department's thinking that it would be disproportionate to require farmers wanting to grow GM crops to undergo statutory coexistence training. Other organisations said that there should be a statutory training requirement or that one might be necessary. Among the justifications cited for this were that it would promote consistent and rigorous control, that it is essential GM growers understand their obligations, and because the planned coexistence regime depends on the observance of voluntary measures. One organisation suggested that GM growers should have to sign a statement to confirm that they understand and will comply with coexistence rules.

Q. Do stakeholders accept this conclusion on honey production (in the consultation paper)?

19. Several organisations supported the analysis in the consultation paper, that given the EU regulatory position and the evidence that any GM presence in honey should be well below the 0.9% labelling threshold, no specific action is necessary in respect of the coexistence of GM crops and honey production. Other organisations disagreed, noting various points for consideration. These included the following:

- a GM presence in honey might not be regarded as adventitious or unavoidable, e.g. if hives are deliberately placed near GM crops
- consumers expect GM-free honey and beekeepers should be able to produce this
- any GM presence in honey would adversely affect its reputation and could threaten the livelihood of beekeepers
- there should be a minimum separation distance between GM crops and bee hives.

REDRESS FOR ECONOMIC LOSSES

Q. Have we correctly identified the range of losses that might occur in crop values? What are your views on the proposed approach for dealing with the corn-on-the-cob scenario?

20. Several organisations broadly supported the analysis in the consultation paper on how potential losses in crop value might be treated under a redress scheme. Other groups stated that any losses from a GM presence at any level should be compensated (i.e. losses should not be restricted to those relating to a GM presence above 0.9%), and that gardeners, allotment holders and others should be able to claim for losses they may incur, in addition to farmers.
21. There were relatively few responses on the specific question about how losses might be assessed in relation to sweetcorn intended for sale as individual corn-on-the-cob (which might need different treatment from crops where the harvest from the field is homogenised). Some responses questioned the need for separate coexistence and redress arrangements for sweetcorn, given that producers already take special measures to minimise cross-pollination from forage maize crops because it affects sweetcorn quality. Other responses noted that assessing the extent of a potential loss in a field of corn-on-the-cob

could be done in different ways. One response suggested that if a GM presence were detected at any point in the field it should mean that the whole crop has to be classed as GM.

Q. Should consequential or additional losses be covered by any redress mechanism? If so, which should be covered and why? How likely are these to occur? Are there any other types of loss that should be considered?

22. Some organisations accepted that extra costs related to handling a crop with an unwanted GM presence above 0.9% (e.g. for storage or transport) might be treated as a recoverable loss, but questioned the idea that indirect losses or those arising from voluntary standards or market-led decisions might be included in a redress scheme. Conversely, a number of organisations made the general point that all types of loss should be covered and not limited to those arising as a result of a breach of the 0.9% GM labelling threshold. Between them, these responses cited the following as losses that should be recoverable: extra costs for crop storage, transport, legal work and GM testing, and loss of business, reputation, organic status and property value.
23. Although they did not address this question directly, several of the stock responses submitted by members of the public implied that liability or redress arrangements should cover all types of loss, and not be confined to instances where a GM presence exceeds 0.9%.

Q. What should the eligibility requirements be for non-GM farmers to seek redress? Are there particular criteria that have not been highlighted [in the consultation paper]?

24. Some organisations expressed concern that the eligibility criteria for making a redress claim should not be too burdensome or put too much onus on non-GM farmers to prove their case. Other organisations gave

broad support to the analysis and suggested criteria set out in the consultation paper. A couple of responses referred to the need for sampling and testing for GM presence to be undertaken on a standardised or representative basis.

Q. Are there any alternative ways of distributing the burden [of paying compensation] on the GM sector? Are there any strong arguments or pros/cons to each approach [set out in the consultation paper] that have not been covered?

25. Several organisations said that GM companies should be strictly liable for a redress or compensation scheme. Others made the point that if GM growers are negligent they should be held liable. Some responses noted that if GM companies were made to fund a redress scheme they could decide for themselves how to do this and recover their costs, or that it would be a commercial matter as to how the financial burden was allocated along the supply chain. Two organisations said that in practice the GM companies would pass on their costs to farmers.

Q. Which redress mechanism do you favour and why? If a compulsory redress mechanism is your preferred option, which of the models at paragraph 135 (of the consultation paper) should it employ?

26. Several organisations said that a voluntary, industry-led redress scheme is the best option, in terms of simplicity, flexibility and keeping burdens to a minimum. Some noted specifically that they favoured the scheme being developed by the industry group SCIMAC.

27. Other organisations said that a statutory mechanism is needed which makes GM companies strictly liable. Several of these responses questioned the efficacy or appropriateness of an industry-led scheme, and noted that there should be a specific, independent body to administer and adjudicate on redress claims.

28. The stock responses submitted by members of the public, stated that Government should ensure strict liability on GM companies for any costs resulting from contamination of conventional and organic crops as well as damage to the environment.

A PUBLIC REGISTER OF GM CROPS

Q. How could a crop register aid coexistence? Are there other reasons [than those given in the consultation paper] to justify the establishment of a register? If a register is established should the information be available to everyone? How would a register be funded?

29. The stock responses received from members of the public stated that a detailed, fully-accessible register is necessary, giving prior notice of intended GM crop locations. This view was shared by several organisations who commented. Common reasons given for favouring a detailed register were public confidence, transparency and openness, the idea that the public has a right or need to know where GM crops are being grown, including gardeners and allotment holders, and that a register is essential to help those wanting to be GM-free or avoid GM contamination. However, several organisations were against a detailed register, on the basis that it would be unnecessary, burdensome, costly, open to abuse, and unjustified for crops approved as safe.

VOLUNTARY GM-FREE ZONES

Q. Do stakeholders have particular comments on the guidance that the Department could make available on GM-free zones? Are there relevant points that have not been covered in the above [of the consultation paper]?

30. The stock responses received from members of the public stated that EU law should be changed to allow local authorities to decide whether GM crops could be grown in their area.