BASF Plant Sciences have applied to field test GM potatoes in England. Three varieties of GM potatoes resistant to late potato blight may be tested.

Public consultation ended on 19th October yet Defra’s scientific advisory committee (ACRE) still went ahead and discussed the application on 28th September. Such action is hardly designed to encourage participation in the approvals process.

Late potato blight is a major disease of potatoes and left to run its course can destroy an entire crop. The proposed BASF GM trials are planned for Borrowash in Derbyshire and the National Institute of Agricultural Botany (NIAB) trial grounds in South Cambridgeshire.

Potato breeders have been developing blight resistance for decades and have had a lot of success. Around one in five conventional varieties have good resistance in either foliage or tubers and of these 10 score highly for both. Blight is a fungal disease which constantly mutates and also reproduces sexually. So there is constant need for breeders to develop new blight resistant varieties. How long GM resistance would last is unknown. One very promising source of natural resistance is the Hungarian Sapo varieties which have been developed in the UK by the Sarvari Research Trust. Unfortunately these highly blight resistant potatoes have not yet forced their way into the top twenty most popular varieties.

Defra’s response to BASF’s application pointed out that GM was not needed to produce blight resistant potatoes and in any case there would be no market for them. So taking a risk of contamination is not necessary. GM potatoes can contaminate in two ways. Either by surviving underground after being missed at harvest and coming up in following non-GM crops (known as ground keepers) or by pollinating a non-GM crop and forming GM seeds which could emerge in future non-GM crops.

One of the main pollinators of potatoes is the pollen beetle which is capable of carrying GM pollen hundreds of metres. Although the blight resistant genes in BASF’s GM potatoes come from tomatoes, this does not rule out unpredictable changes within the receiving potato. Genetic engineering of potatoes has already produced some surprising changes (See GM Freeze briefing on the BASF application for details www.gmfreeze.org) and were at the heart of the Pusztai controversy in the late 1990s.

If the trial goes ahead (as seems very likely given ACRE’s track record) GM Freeze has demanded amongst other conditions that the GM varieties should not be allowed to flower and that no potato crop is grown on the trial site for at least ten years to ensure all ground keepers are removed.

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The GM Freeze campaign is calling on the Government for a Freeze on;

1. On the growing of genetically modified plants and the production of genetically modified farm animals for any commercial purpose
2. On the adoption of the 0.9% GM threshold for labelling GM ingredients as an agricultural baseline for crops in the field it says: “The labelling thresholds are... legally irrelevant and, with a police escort, were allowed in to Defra to present officials with the hamper. The event was a success and was followed by food and socialising in a nearby pub.

Legal opinion
On the same day, a new legal opinion by top European lawyers on the Defra GM consultation was published by GM Freeze, the Soil Association and Friends of the Earth. The lawyers considered whether the proposals in Defra’s consultation are compatible with current European law. In several key areas they concluded that the Defra proposals are legally flawed and inconsistent with EU law. This means that if Defra were to draft legislation based on their proposals in the consultation document they could open to a serious legal challenge from civil society groups.

Authorities in Scotland, Wales and Northern Ireland have yet to publish their coexistence consultations and we hope that the Defra proposals will force them to come up with more robust and legally sound proposals than Defra’s. Several of the consultation proposals that people are most opposed to are revealed to be legally flawed. The main points of the legal opinion are:

1. On the proposal to limit the scope of coexistence rules to purely economic factors it says: “[the legislation] was not intended to be limited in scope to the economic aspects of coexistence” Paragraph 28.

2. On the proposal to exclude the scope of coexistence measures is concerned” Paragraph 51.

3. On the Government’s suggestion that a GM Crop Site Public Register is not legally required under EU Law: “Its position that there is no requirement in law for a public register is fundamentally flawed and ignores the provisions of Directive 2001/18” Paragraph 6.

4. On the exclusion of allotment holders and gardeners from those who should be legally informed of the intention to plant a GM crop near their land: “This approach is fundamentally flawed” Paragraph 56.

Continued on page 2
Rice contamination proves GM is impossible to control

Thin Ice

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In August, the US notified the EU that it had detected trace amounts of unauthorised GM rice in its long-grain rice supplies intended for human consumption. Since then there have been over 107 incidents of contaminated rice found in 46 different countries. No one seems to know how the contamination occurred, or just how widespread it is. This incident highlights just how difficult it is to contain and monitor GM genes once they are in the environment.

Contamination found

Between 1998 and 2001 Bayer CropScience carried out trials in the US on a variety of herbicide resistant rice it calls LL601. For reasons we do not know, Bayer decided not to continue with the process of commercial approval for LL601. However, five years later, in August this year, the EC was notified that traces of the unapproved LL601 rice had contaminated long-grain rice grown in Arkansas, Missouri, Mississippi, Louisiana and Texas and may have been exported to Europe. No GM rice is authorised for sale anywhere in Europe, so any contaminated US rice on sale would be illegal.

The EU’s immediate response was to order the UK and other EU member states to stop importing US long-grain rice certified to be free of LL601 to enter Europe. The rice had also not been fully approved for safety and so it was not certain whether it presents a health risk or not. Despite this, leaked minutes from a meeting with food companies showed that the Food Standards Agency (FSA), charged with protecting consumers and the food chain, told retailers that it did not expect them to remove rice already on their shelves that might be contaminated from sale, so long as the rice was safe to eat. The FSA advice to retailers ran contrary to requirements set down in the EU’s emergency measures agreed in August, and also indicated to retailers that they could break the law by selling an illegal product.

This has led Friends of the Earth to start proceedings of a Judicial Review of the FSA handling of the contamination issue. The FSA subsequently revised its public advice that retailers should remove any contaminated rice already on sale, but continues to state that LL601 is safe to eat.

Out of control

In the meantime, contaminated rice was found in products sold by Morrison’s, Tesco, Sainsbury’s and the Co-op. Friends of the Earth found LL601 in rice from Morrison’s, who responded by assuring the public they had taken all contaminated rice off sale. However, a week later campaigners in the South West discovered rice from the same contaminated batch on sale in their local Morrison’s which also proved to contain LL601. Bayer also appeared to be a problem in European ports, as a shipment of US U.S. rice in Rotterdam that had certificates from the U.S. declaring it to be GM-free, turned out to contain LL601 when tested. The U.E.U then entered into a prolonged discussion with the US on a new risk management, but was unable to reach agreement and now requires all US rice to be tested on arrival in EU ports before being distributed. Japan has gone even further, flying over samples from the US to be tested before allowing shipments to set sail from the US to Japan.

GM Freeze believes that the only answer is to introduce international protocols whereby any country testing a GM trait in a crop that it exports must provide the countries it imports to with the templates for each experimental trait. Authorities in the EU should then regularly and routinely test imports for those experimental traits. The same should also apply to GM traits approved in a country exporting crops to countries where the GM traits have not been approved. Only then will we be in a position to accurately monitor and control GM contamination around the world.

Bayer only supplied this to a handful of labs. This is a common problem for all experimental GM crops being tested outside Europe or those awaiting EU commercial approval. A GM Freeze survey of local authorities in 2005 highlighted the serious lack of money devoted to testing for unwanted and illegal GM presence in imports.

The rice incident has shown that experimental lines are now contaminating the food chain, and no one would have been testing rice in Europe for GM because they would not have been expecting to find it. This raises the very significant question of what other foods are contaminated with GM traits that we are unaware of and are not looking for, and how do we ensure that we do know what we are eating?

In the US there are significant outdoor trials growing pharmaceuticals in food crops. This would be very difficult to detect in food, as the authorities here would not necessarily know what they were looking for when testing for GM traits before we find GM Pharma crops in our food supply.

Bayer’s reaction to the incident shows that it had detected trace amounts of unauthorised GM rice in its US long-grain rice supplies intended for human consumption. A press release from the US Rice Federation refers to the EU actions as an ‘unfortunate over-reaction’ that is ‘denying EU consumers of wholesome American rice’.

In the final report the Panel appeared to change its ruling introducing the possibility that parts of the EU regulations on GM might be interpreted in the future as violating WTO rules. The Panel also decided that international laws, such as the Cartagena Protocol on Biosafety, governing the safety of trade in GMOs is not agreed to by the US and so did not apply between the parties in the WTO case.

A legal analysis of the WTO Dispute Panel’s report has revealed that this is at odds with other WTO decisions and international law. If unchallenged it could mean that the precautionary principle will not be allowed to be used in laws designed to protect the environment, health or other consumer concerns.

The Panel’s legal reasoning undercuts the Biosafety Protocol leaving the US and its members, many of which have not set up their GM regulatory frameworks yet, in a situation where European regulations could be challenged at the WTO if the plaintiffs are not Protocol Members.

The WTO is incapable of reconciling global free trade ideology and what citizens require of their governments for socio-economic, health and environmental protection based on the Precautionary Principal.

The panel’s report will be formally adopted by the WTO within 60 days and the US, Canada, Australia, New Zealand and the European Union can lodge appeals. The WTO panel’s report will be formally adopted by the WTO within 60 days and the US, Canada, Australia, New Zealand and the European Union can lodge appeals. The WTO panel’s report will be formally adopted by the WTO within 60 days and the US, Canada, Australia, New Zealand and the European Union can lodge appeals.