



## **RESPONSE BY GM FREEZE TO THE EUROPEAN COMMISSION'S "TECHNICAL SOLUTION" TO THE LOW-LEVEL PRESENCE OF UNAUTHORISED GMOs**

**November 2010**

### **GM Freeze**

GM Freeze is an alliance of 26 organisations *calling for a moratorium on GM foods, the growing of GM crops for any purpose and on patents on genetic resources in agriculture, food production and forestry until the need for and safety of GM technology has been established and alternative approaches have been fully evaluated.*

Our members include consumer groups, farming organisations, environmental groups, development agencies, religious groups, animal welfare groups and food companies.

### **Introduction**

Before answering the specific raised in the FSA document of 28 October 2010, we would like to set out why the "technical solution" is not necessary because the problem of contamination of animal feed imports with GM traits which are not authorised in the European Union (EU) has been exaggerated, erroneously linked to other problems in the feed industry and can easily be addressed within the current regulatory framework. In addition, the proposals do not take into account the wishes of the majority of the EU population to avoid the presence of GMOs in the food chain. In the most recent poll of the UK public carried out by GkF/NOP (based on 1000 respondents in June 2010) showed growing opposition to the use of GMOs in animals feed (66% from 50% in 2006), very strong support for labelling products produced using GM feed (89%) and a willingness to pay extra to avoid the use of GM feed (72%)<sup>1</sup>.

### **Exaggerated Problem**

We note that the FSA document makes no attempt to quantify the extent to which imports of crops are rejected because of the presence of unauthorised GM traits. We believe that such a significant change in approach should be underpinned by evidence to show the extent of the problem and that the proposed changes will prove effective in addressing it. The EC proposals as set out in the FSA's document fail to do either.

The evidence is that the problem is small and that the problems that have occurred emanate from the USA:

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<sup>1</sup> See summary at <http://www.gmfreeze.org/page.asp?ID=436&iType=1083>

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*“According to EU’s Rapid Alert System on Food and Feed (RASFF) the USA was responsible for about 90 percent of all contaminations from 2004 till end of June 2009 (37 out of 42 contamination cases). Including RASFF-data from 31<sup>st</sup> of July 2009 until end of the year 2009 more than 70 percent (43 out of 58) contamination cases originated from the United States.*

*Compared to the 32 million tons of soya imports to the EU a maximum rejected amount of 66 000 tonnes which is confirmed officially, not all of which is feed, is insignificant and it is highly unlikely that these amounts could cause any kind of a feed crisis<sup>2</sup>.*

Thus the total amount rejected due to the presence of unauthorised was only 0.2% of the total imported. The imports of soya meal from the USA is also small (2.3%). It is therefore important to view the EC’s proposals in this context .

Other countries, such as Argentina and Brazil, have been more respectful of the EU’s policy and regulatory process for GMOs and consequently have made every effort to ensure that unauthorised GMOs do not find their way in cargoes bound for the EU feed industry. Thus “asynchronous approvals” (see above) is a problem for the USA and stems directly from their failure to recognise that the supplier of goods should respect the wishes of the purchaser if trade is to continue. The drop in US feed exports to the EU since GMOs were introduced shows that the USA has failed to follow this fundamental rule of trade and as a consequence their farmers have missed out on the large EU feed market to the benefit of other countries. It is ironical that the USA adopts a similar zero tolerance policy to unauthorised imports itself and yet appears happy to try an influence EU policy despite public opposition to the use of GMOs. The same approach is adopted by China. It would therefore be strange if the EU dropped the zero tolerance policy when other major importers appear to have no intention of doing so.

### **Animal Feed Prices**

The volatility of prices in the animal feed sector has been mirrored in the food sector which is hardly surprising as the two are so closely linked. It is a global problem not an EU GMO approval problem. Analysis for the causes of the very large price increases which have occurred never mention the EU’s zero tolerance policy on GMOs as a reason. Instead the focus has been on more likely causes:

- Diversion of feed crops to produce biofuels.
- Increasing fuel and agricultural input costs.
- Poor harvests in some grain belts due to drought. .
- Speculators in the commodity markets putting profit before feeding people and animals.

In recent times analysts have increasingly focused on the role of speculators in causing sudden shortages and price increases<sup>3</sup>. We respectfully suggest that those supporting the EU proposals to end the zero tolerance policy on GMOs in feed should concentrate

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<sup>2</sup> Friends of the Earth Europe, 2010. No link between animal feed crisis and zero tolerance policy. At [http://www.foeeurope.org/GMOs/zero\\_tolerance\\_paper\\_2010.pdf](http://www.foeeurope.org/GMOs/zero_tolerance_paper_2010.pdf)

<sup>3</sup> WDM, 2010, The great hunger lottery. How banking speculation causes food crises.

on dealing with the problem of speculation and the mechanisms needed to prevent it causing crises for farmers and hungry people.

**Specific Questions from the FSA consultation.**

1. Whether it is appropriate to adopt the proposed “technical solution” for the low-level presence of unauthorised GMOs and GM-derived materials in imported consignments of commodity crops intended for use in feed?

GM Freeze opposes the “technical solution” because it will lead to confusion, make problems worse, ignores public opinion, could result in major public health problems requiring very expensive recalls of products and potentially to environmental problems.

At present the EU policy on GMOs entering the food and feed change is simple and easy to understand. If the GMOs does not have an approval under Regulation 1829/3003 then it cannot be placed on the market. The current proposal would allow any GMO which is subject of a valid application and for which a validated quantitative method of analysis exists to contaminate animal feed imports and be permitted.

This would open the way for GMOs with no EU safety assessment to enter the feed market. GM Freeze opposes this for a number of reasons:

- Small amounts of unauthorised and untested GM presence could cause health problems in animals (for example allergic reactions). Our interpretation of the proposal is that the 0.1% threshold would apply to any trait regardless of whether it had received an approval in a third country so contamination with experimental traits cannot be ruled out.
- Some feed imports are processed in the EU and derivatives such as vegetable oil and lecithin are used in human food where the trait would be illegal and result in regulatory and market chaos.
- The history of attempting to only approve a GMO for animals and not human food is one of a costly and risky disaster, ie the Starlink maize approval in the USA in 2000.
- The assumption that because applications have been made for the unauthorised GM trait makes it safe and therefore that it will eventually be approved is not valid. Applications to the EU can be rejected or withdrawn by the applicants because they fail to meet the requirements of the EU’s GMO risk assessment, for example applications for high lysine maize (LYO38 and LYO38 x Mon810) were both withdrawn by the applicants.

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- Companies could apply to the EU for GMO approvals well ahead of time to avoid the need to segregate crops efficiently. No analysis of safety data dossiers would need to be carried out. Applications for approvals for GM crops with pharmaceutical traits well ahead of a realistic date for commercialisation cannot be ruled out. Contamination with these traits would cause immediate and significant animals and potentially public health implications. There have already been significant problems in the US, for example, when ProdiGene's GM pig vaccine modification of maize contaminated a soya crop in 2002<sup>4</sup>.
  - Some GMOs are imported as live seed which could be split in the environment leading to the establishment of feral population or crop or seed contamination in due course. The presence of 0.1% unauthorised GMO in oilseed rape import (one seed per thousand) would result on a release of 20,000 seeds from a spillage of just 1kg. Experience from the movement of oilseed rape suggest such a spillages would be common place and indeed have taken place in Japan already.
  - Labelling to inform consumers and farmers of the presence of GMOs would become very confusing because of the problems of establishing Whether the low level GM presence was adventitious or technically unavoidable. If a non-GM cargo containing an unapproved GMO at 0.1% is allowed in and the presence is deemed not to be adventitious or technically unavoidable then labelling would be required. This situation would not arise if unapproved GM presence was not permitted.
2. If not, what alternative procedure might be adopted to control the potential presence of unauthorised GMOs and GM-derived material in imported consignments?

GM Freeze believes that the solution to the low level occurrence of unauthorised GMOs in imports is to ensure that no cargo be allowed to leave port until its complete GM presence (authorised and unauthorised) has been confirmed by independent analysis by the port authorities. Any unauthorised presence should automatically be rejected. Eventually this could change practices in the US and other GMOs exporting countries to ensure that export crops are segregated from unapproved crops at all stages of the production and supply chain. This appears to work in South America where contamination problems are minimal and there also is a thriving export on certified non-GM and organic crops.

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<sup>4</sup> See <http://www.aphis.usda.gov/lpa/news/2002/11/prodigene.html>

A useful analysis would be for the EC to assess who their proposal would have affected those imports which have so far been rejected because of the presence of unauthorised GM traits.

3. Whether it is appropriate to set a threshold level of 0.1% for the detection of the presence of unauthorised GMOs and GM-derived materials, and to regard any analytical result below that as equivalent to zero for enforcement purposes?

GM Freeze believes that the selection of the 0.1% threshold is not based on any scientific or economic analysis but on political pragmatism. We do not think the 0.1% threshold will be acceptable to the biotechnology industry whose wish is to gain greater entry to the EU through systematic contamination. The 0.1% threshold can be seen as the thin edge of a wedge that will lead to pressure to increase the threshold and relax the conditions attached to it year on year. This would be fundamentally undemocratic and goes against the wishes of the majority of Europeans and cause huge disruption to markets as well as being potentially harmful.

4. If not, what other threshold level might be adopted instead of 0.1%?

GM Freeze believes that the tolerance level for unauthorised GMOs in imports should be “not detectable” at the current validated level of detection which we believe is currently around 0.01%, but which is likely to decrease over time as technology improves. To facilitate the prevention of unauthorised imports the EU should require biotechnology companies to supply reference materials for all their GM traits, commercial and experimental, as they are released in test sites.

5. Whether it is appropriate to restrict the operation of the “technical solution” to consignments of commodities intended only for use in or as feed?

The proposal is unworkable because the food and feed chains are not exclusive. It will cause the EU’s food sector untold problems and increase their costs of monitoring raw materials for ingredients. The presence of unauthorised and untested GM ingredients, including proteins, entering the food chain would seem to be highly probable and this seems to be reason enough to reject the whole proposal.

6. Whether it will in practice be possible to distinguish whether an imported consignment is intended for food or feed use, or both, at the point of import and/or analysis?

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As we have indicated above crops are processed in the EU and produce feed and food ingredients. Any attempt to limit imports for feed only would be fraught with difficulties unless EU production of oil and other derivatives were to be abandoned causing inconvenience, loss of jobs and increased costs to the EU food sector. The case for rejecting the proposal is overwhelming.

7. If not, whether in consequence the “technical solution” should be extended to encompass all imported consignments which may contain unauthorised GMOs or GM-derived materials, irrespective of their eventual use?

It is clear from this question that the FSA see the major problems for the food and feed chains stemming from the Commission’s “technical solution” which has more to do with politics than business, commerce, logic and consumer choice and safety. Any suggestion to broaden the “solution” to food imports would open up serious public health concerns as well as demonstrating that the EC and UK, if they should be so foolish as to support such a proposal, had lost touch with EU citizens. It would be seen by many as the EU putting the interests of biotechnology companies and commodity traders ahead of the wishes of their own people. The EU and UK government should stand firm against any suggestions to relax the zero tolerance policy.

8. What additional costs or savings to UK organisations may flow from this “technical solution”, with a breakdown of the assumptions and figures used to arrive at these estimates?

As we have indicated above we do not accept the analysis that recent feed price increases arose because of the EU “zero-tolerance” policy on the presence of unauthorised GMOs in feed imports. Therefore we anticipate the feed ingredients will continue to mirror world prices and be strongly influenced by speculative buying and trading. Consequently the occasional barring of a cargo because of unauthorised GM presence should not have a huge impact on overall feed prices.

If the “technical solution” is adopted much of the costs will fall to the food industry who will have to ensure that no unauthorised ingredients enter the food chain. The costs of sampling, testing, replacement ingredients and product withdrawal are very high for the food manufacturing and retail sector if contamination takes place. The FSA need only to look at the recent contamination incidents involving Bt10 maize, LL601 rice, Bt63 rice and Triffid flax for themselves and the food industry to see how much future incidents may cost.

### **Conclusion**

The “technical solution” offered by the EC is not a solution but could make problems worse for the food and feed industries in the EU. The simple and most cost effective measure to deal with the presence of unauthorised GMOs in imports is to prevent their entry at ports by having rigorous sampling and

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monitoring procedures in place. By verifying the nature of each import in this way the costs of enforcing the EU's traceability and labelling regulations for GM in food and feed could be reduced and made more efficient because the GM content of all imports of food and feed would be known before entering the food/feed web.

The presence of any unauthorised GMO in the feed chain can transfer to the food chain and the result would be spiraling costs of industry and regulators. The presence of biologically active GM traits, such as pharma genes, would create a major public health crisis.

Our very strong recommendation to the UK Government is that the EC's proposals should be rejected and replaced with a greatly improved version of the current regulatory and enforcement regimes.