

(The following is the GM Freeze Submission to the FSA's review of their handling of the 2006/7 GM contamination of US rice, submitted 19 November 2007)

GM RICE INCIDENT FEEDBACK FORM

NAME OF organisation: GM Freeze

1. YOUR ROLE

i.) What was your involvement in the incident?

GM Freeze monitored the FSA's actions in response to the LL601 rice contamination from August 2006. We had previously written to the FSA Chair warning the enforcement of import controls on cargoes which might contain GMOs and the GMO Traceability and Labelling Regulations were inadequate to prevent illegal GMOs entering the UK food and feed chains and to ensure that labelling was accurate. This warning was based on research carried out by GM Freeze which included a random survey of enforcement agencies in the UK.

See

2. INFORMATION EXCHANGE

i.) Please comment on the quality of the information supplied from the Agency during the incident? How was the information provided?

In the early part of the incident the information provided by the FSA was very poor – it was ambiguous and left holders of potentially contaminated products in doubt as to what to do. The FSA failed to clearly convey to retailers, wholesalers and catering establishments that it was illegal to sell contaminated rice regardless of any safety considerations. The FSA's failure to issue a Food Alert illustrates the lack of intent to deal with the contamination incident quickly. GM Freeze supporters were still able to buy contaminated packs of long grain rice at Morrisons in Taunton six weeks after the initial announcement of the incident. It seems very unlikely that the catering industry took any serious action about removing contaminated rice until November 2006. The initial reaction of the FSA seemed to have more to do with protecting the industry from the cost of product withdrawal than protecting public health and consumer choice. The majority of people do not want to consume GM products and yet, since its formation, the FSA has sought to portray GM food and feed as being equivalent to conventional food and plant breeding. The Agency actively lobbied against the current traceability and labelling regulations when they were being debated in the European Parliament. These attitudes may well have influenced their judgement over the LL601 contamination.

ii.) What could be done to improve the quality of the information provided from the Agency and the mechanism for providing information?

A Food Alert, clearly setting out the legal obligations, should have been issued in August to all companies selling US long grain rice or providing prepared food using it in the public and private sector. This should have been issued regardless of safety considerations. The FSA and ACNFP should have made it clear that the food safety information on the rice was not complete and that it had been only grown experimentally and never been developed commercially. Their decision to concentrate on the apparent lack of safety concerns (although

this could not be supported by sufficient data) in August and September 2006 meant that messages to the public and the food industry were very confused. Fortunately most major retailers took the correct action and removed all contaminated packs. However, other sectors –eg catering, public procurement and smaller retailers were left in the dark because of the lack of a Food Alert. This arises from the FSA’s lack of knowledge of the UK rice markets which meant no effective contingency plans had been thought about before the incident took place. Indeed the FSA only received commissioned research in to the market for long grain rice well into the incident in November 2006. Again this illustrates the shambolic nature of their response.

iii.) Were you satisfied with the information flow between yourself and the Food Standards Agency? If not, state why?

YES/NO

NO. The FSA had received our report on the enforcement of the GMO Labelling and Traceability Regulations in early 2006 which clearly warned that the illegal import of Bt10 GM maize, which occurred in 2005, was inevitable unless monitoring and ports of incoming cargoes and general surveillance of the food and feed networks were greatly improved. The FSA’s performance in handling the LL601 incident was as bad as their response to the Bt10 incident. We find this extremely disturbing and believe that, in part, it stems from the FSA’s internal culture on GMOs which is very positive towards their use in food and feed. The FSA website still has a section which seeks to “educate” the public about GMOs. Other parts of the food chain, such as the use of food and feed additives and pesticides, do not benefit from such a positive treatment on the FSA’s site although the Agency appears happy with the presence in food and feed from a safety perspective.

iv.) Where you asked for further information, was this provided in a timely manner? If not, why not?

YES/NO

No. Why this was should be at the heart of the review process. The minutes of the meetings between the FSA and the Food and Drink Federation and the British Retail Consortium presented by Friends of the Earth at the Judicial Review in January demonstrate that the FSA’s initial reaction was to play down the significance of the contamination.

2. INFORMATION EXCHANGE (CONTINUED)

v.) What additional information, if any, would have been useful to you during the incident?

A Food Alert should have been issued in August 2006 immediately after the EU Emergency Measures Order was agreed, Letters and press releases aimed at all companies and institutions likely to be using US long grain rice setting out clearly what the legal position was would have helped enormously. The FSA's response may have been better had they had any prior knowledge of how long grain rice was shipped and traded once it has left the rice mills. This lack of basic knowledge raises serious doubts about the FSA ability to deal with any sort of contamination incident in the food and feed network with any degree of effectiveness. In our view, The Agency need to have contingency plans for all supply chains so that products be identified and companies can be quickly alerted in the event of any sort of contamination. The use of GMOs to produce pharmaceuticals in food crops (eg maize) raises the prospect of a GM contamination incident where the genes involved are without question biologically active – GM vaccines in cornflakes is a distinct possibility. We urge the review to examine the FSA's performance on LL601 rice in the context of what actions would be requires if such a contamination incident did take place.

Part of contingency planning must include a constant assessment of where illegal GMOs may enter the food/feed net and an international effort to ensure that the UK's laboratories have the reference materials and analytical techniques available in advance of GMO contamination incidents.

3. AGENCY'S OVERALL RESPONSE

i.) In your view, what aspects of the Agency's response went well?

GM Freeze cannot recall any aspect of the FSA's performance which was done well. When they finally decided to take action in November (which they should have taken in August) it was past the date which their own research on the rice supply network suggested that all contaminated rice would have been passed through the system.

ii.) What aspects of the Agency's response were less effective, and what could be done to rectify this in future incidents?

The Agency's initial response to the incident did not provide clear guidance to companies affected by the contamination incident. A Food Alert issued in August 2006 setting out the legal issues to every food business would meant a quicker recall contaminated batches,

The following need to change to improve thing in the future:

- It needs to be clear who is the competent authority for enforcing GMO legislation in the UK. GM Freeze believes that this should be the Food Standards Agency working with local authorities at ports and in the supply chain to monitor imports as they enter the UK and then to ensure no cross contamination has occurred post ports.***
- Local authorities require additional funds to carry out enforcement at***

ports and in finished products

- **Attitude of the FSA to GMOs and the enforcement of GMO regulations (see above) need to change.**
- **The development of FSA knowledge of all food and feed supply networks into and in the UK to enable contingency planning in advance of contamination incidents**
- **Monitoring of the use of GMOs and field testing of GMOs in the world to identify imports at risk of contamination.**
- **International agreement to release reference materials for all GMOs to accredited laboratories to improve monitoring of imports and cross contamination in the EU.**
- **Liability legislation to make companies causing contamination strictly liable for any harm to health or the environment and economic damages caused should mean that companies would take more care in growing and handling GMOs.**
- **Local authority enforcement at ports and in the supply chains needs to be planned so that at risk cargoes and batches can be monitored No at risk cargo should leave port before being cleared as an approved GMO, Contaminated cargoes**
- **The nature of the commodity trade has to be considered by the FSA to assess the risk of imports with no record of genetic modification could be subject to contamination due to co-mingling. For instance, is it possible that wheat imports from North America could contain a percentage of GM soya or maize?**

Finally

- **GM Freeze believes that the FSA would benefit from some Parliamentary scrutiny because the Agency is central to delivering a safe food supply and implementing aspects of the government's public health agenda. We would like to see a FSA Select Committee appointed post haste to expose the FSA's management to public questioning of their policies and practices on a regular basis.**

iii.) Any other general comments regarding this incident?

GM Freeze welcomes the FSA review. We expect changes to occur as a result of this process and believe the review should establish a transparent time table for these to be implemented by the FSA. There are many aspects of the LL601 incident which paralleled the Bt10 maize contamination in the previous year so it is essential that lessons are learnt now before another incident occurs. We have drawn up a series of questions we believe the Review should answer if the final report and findings are to have any credibility with the public. These are set out below:

1. **Did the FSA have forward planning in place to deal with a contamination incident of any type in the rice supply web?**
2. **Does the FSA have in-house expertise to produce emergency plans to deal with contamination of different food and feedstuffs?**
3. **Has the FSA done any mapping of food and feed supply webs so that they are able to have a complete understanding of how food and feed ingredients and final products are traded and transported to the level that they can produce an emergency plan quickly and efficiently?**

- 4. In the case of long grain rice did the FSA have sufficient knowledge of the supply web to identify where contaminated rice might be held and in what quantity?**
- 5. How was the FSA's reaction to the Emergency Notice from the EU handicapped by the lack of ability to test for LL601 presence in August 2006?**
- 6. How was the handling of the contamination effected by the limited number of laboratories who had access to the LL601 reference materials released by Bayer?**
- 7. Has the FSA , at the time of the contamination or later, made contact with the EU to discuss the availability of analytical methods for GM currently being tested or commercially grown in the world**
- 8. Given that the presence of LL601 was illegal, why did the FSA not issue a general Food Alert in August 2006 and ask all suspect packs to be withdrawn?**
- 9. What criteria do the FSA use to assess the need to issue a Food Alert?**
- 10. Why did the FSA delay the establishment of an ad hoc Incident Team for the LL601 incident and then disband it? How is the need for such a team assessed and decided? And by whom?**
- 11. Why did the FSA choose to focus on the safety of LL601 rather than the illegality of its presence when dealing with the retail sector in August and September 2007?**
- 12. Prior to the incident had the FSA carried out any risk assessment of the potential for future GM contamination of food and feed with unapproved genes and experimental genes including modification to pharmaceutical and industrial products?**
- 13. Prior to the LL601 rice contamination incident being announced had the FSA carried out any monitoring for GM presence in rice given that GM rice experimental releases were taking place in at least three countries from where we import rice: USA; China; and India?**
- 14. Who should be in control of monitoring programmes for GM contamination? The FSA or Local Authorities? And who should fund them?**
- 15. Who should be responsible for enforcement of GM regulations and prosecutions? The FSA or the local authorities? And who should fund it?**
- 16. Are the local authorities sufficiently well funded to monitor and enforce the GMO regulations including the traceability and labelling laws?**
- 17. Has the FSA analysed the supply webs for ingredients which may be contaminated with GMOs or may include approved GMOs which are legally required to be labelled for the "pinch points" where monitoring would be most cost effective?**
- 18. Are analytical techniques and monitoring protocols robust enough to detect low level GM contaminants?**
- 19. What input can the FSA in Scotland, Wales and Northern Ireland have into the emergency decision making processes?**
- 20. What input can local authorities have into the emergency decision making process?**
- 21. Can the FSA in Scotland, Wales and Northern Ireland act independently on food contamination incident? If so in what circumstances?**
- 22. Does the FSA in Wales, Scotland and Northern Ireland have sufficient expertise and finances to deal with a GMO contamination incident?**
- 23. Were local authorities and the food and feed industries well enough**

- informed about the nature of the LL601 incident, the actions required and how to monitor and test?*
- 24. Did the FSA have any direct contact with the USFDA or the USDA over the LL601 incident and did this influence their approach to handling the incident?**
 - 25. Did the FSA have any direct contact with Bayer CropScience over the LL601 incident and did this influence their approach to handling the incident?**
 - 26. What representations concerning the LL601 rice incident did the FSA receive from the BRC, FDF and Rice Association in August 2006 and did these influence their handling of the incident?**
 - 27. Why did the FSA ignore the mass careering market for long grain rice when the incident was first revealed?**
 - 28. What independent oversight of FSA handling of food and feed incidents is routinely carried out aside from the Sudan 1 review and the current review?**
 - 29. Is there a need for greater oversight of FSA operations per se given that that Parliament does not have a regular opportunity to review overall performance and crisis/incident management at the FSA?**
 - 30. How did the FSA's relationships with the UK food industry and their trade bodies impact on their handling of the LL601 incident?**

Please return completed form by Monday 19 November to the email address below or by post as indicated below.

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