

**Basic points to be included in the Spanish rules on coexistence between  
genetically modified, conventional and organic crops**

**Madrid, 29<sup>th</sup> March, 2005**

**Introductory remarks**

Despite the commercial cultivation of Genetically Modified Organisms (GMOs) in her territory since 1998, Spain has never adopted measures to allow for coexistence between these varieties and conventional or organic GM free crops. The debate on coexistence between GM crops and conventional and organic crops arose in Spain following the recommendations of the European Commission, which in the summer of 2003 decided it would be the Member States themselves who would introduce legislation on the issue. In February 2004, the Ministry for Agriculture, Food and Fisheries (MAPA) presented a draft Ministerial Order regulating coexistence to the BioMonitoring Commission, followed by a draft Royal Decree in November 2004.

From the start, the civil society has been analysing the Administration's proposals and different organizations completely rejected both draft documents, arguing that they would not adequately protect non-GM farming, in particular organic farming (1)

European Union environmental policy is based on the **precautionary and preventive action principle** and the **polluter pays principle**. Additionally, in the chapter on "competitiveness and quality in the agro-food sector" the following was clearly stated in the March 2004 electoral programme: "we propose a policy on GMOs based on transparency, on the right of consumers to choose... on information on transgene crops in public registers. The Government will work towards a consensus based on the need to guarantee compatibility along the food chain, between GMO, conventional and organic products".

The following extract is from Spanish President Zapatero's speech at his investiture: "a commitment with rural Spain that guarantees its survival and permits quality of life. This requires a clear stance in favour of rural development, the viability of family farms and competitiveness of the food industry".

The text of the program agreement between the PSOE (Socialist Party) and the Greens states that "for the PSOE and the Greens, a high level of consumer protection is an objective that cannot be renounced by public authorities" and "we should help to increase consumer awareness about the important environmental and social repercussions of our decisions as consumers"...

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- (1) From Spring 2004 onwards, several critiques of the draft Ministerial Order and Royal Decree were submitted to the Ministry for Agriculture, Food and Fisheries and to the Ministry for Environment by organizations signing this document and others.

The organizations undersigning this document consider that the different drafts on coexistence proposed by the Ministry of Agriculture do not respect these statements nor do they bear in mind these considerations. Instead they seem to be designed for just the opposite.

Most producers, distributors and consumers of food in the EU reject transgene ingredients, as proven by studies undertaken by some of the undersigned organizations and by numerous public statements and opinion polls. Community legislation requires labelling of all food and feedstuffs if 0.9% or more of any of their ingredients are derived from GMOs (the presence of GMOs up

to 0.9% is permitted without labelling **only when such presence is “accidental or technically unavoidable”** (2). It should be clear that this percentage refers to the final product and cannot be used, under any circumstances, as a threshold for pollution in crops, given foreseeable additional pollution in other parts of the food production and marketing chain. On the other hand, European legislation must not tolerate pollution of presence of non-labelled GMOs in conventional seed; this objective can only be reached with strict coexistence rules. Additionally, European legislation forbids the presence of GMOs in organic farming (3).

Politicians in Government must protect the health of consumers and the environment. They must also guarantee the right of farmers and consumers to choose which type of farming and food they want. They are also obliged to guarantee the income of all farmers, giving special protection to the most fragile.

Thus, **coexistence rules** must guarantee that the level of GMO pollution of conventional GM-free crops and organic crops is the minimum possible, and thus guarantee that this sort of (GM free) farming is maintained in the medium and long term, as is recommended by the European Parliament Report of 19<sup>th</sup> December 2003 (4)

A numerous group of organizations (5), representing farmers and consumers, organic product certification bodies, environmentalist organizations and groups supporting organic farming, decided to write this consensus document, which, amongst other aspects that the said organizations consider should be borne in mind, includes the basic

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- (2) Regulation 1830/2003 on traceability and labelling of genetically modified organisms and traceability of food and feedstuffs produced from these. Regulation 1829/2003 on genetically modified food and feedstuffs.
  - (3) Regulation EEC 2092/91 and subsequent modifications
  - (4) *Report on coexistence between genetically modified cultivated plants and organically or conventionally cultivated plants*. Proposed by the Commission on Agriculture and Rural Development on 4-12-2003 (Final A5-0465/2003) and approved by the European Parliament on 18-12-2003
  - (5) The names are listed at the end of this document.

points without which coexistence is impossible: the **concept of coexistence** itself, **seed protection, distances between cultivated fields, the register and authorisation of sowing, responsibility for pollution and declaration of transgene free areas**. The present document, the result of a consensus between the undersigned organizations, concludes with a request that these aspects be borne in mind in the drawing up of coexistence rules.

### **1. Concept of coexistence**

The organizations that sign this document believe that coexistence should be understood as the absence of pollution by transgenes in conventional and organic production. The coexistence proposed by the MAPA implies legalization of generalized pollution with the only objective of not surpassing the 0.9% presence of GMOs in food at the end of the chain of production. This concept is unacceptable, as are those proposals that only consider coexistence in economic terms without bearing in mind environmental impacts or health and social problems caused by pollution.

The objective of coexistence rules must be preservation of GM-free farming and food, recognising the right of farmers to produce such crops and of consumers to buy GM-free food.

Thus, coexistence rules must be based on the **precautionary principle** and the measures to be introduced must uphold the viability of non-transgene farming.

A logical conclusion of the above is that a series of measures for segregation, tracking and monitoring, for seed protection, for distances between fields, etc are needed, which should be legally binding and the costs of which should be borne by those responsible for the new GMO technology and its release into the environment at each stage.

## **2. Protection of seeds**

As the first link in the farm production chain, the protection of seeds is of utmost importance for the protection of farming as a whole. Thus, seed protection should receive special attention in coexistence rules.

**Tolerance of presence of transgene material in non-transgene seeds should be the technical zero (currently 0.1%, in other words the *detection level*) in order to guarantee the future of GM-free farming. To fulfil this aim, the possibility of introducing specific restrictions or requirements should be considered, over and above the general regulation, for fields in which seed production and / or multiplication is undertaken.**

## **3. Distances between cultivated fields**

The potential for fertilization and cross pollination between different fields varies, obviously, from species to species and, thus, each one will need specific treatment when considering the distance necessary between cultivated fields to protect non-GM crops from pollution by transgene pollen.

However, given that the only GM crop cultivated at a commercial scale in Spain at present is corn (maize), it is worth stressing that corn is fertilized by cross pollination (6), is a species that produces vast quantities of pollen (about several million grains of pollen per plant) that is dispersed in the air and can travel great distances and that pollution of other fields sown with corn is thus highly likely. Examples of pollution have been monitored at distances of over 800 metres and the conclusions of most studies coincide that the possibility of long distance pollution cannot be ignored (7). The most significant data revealed by a report by the European Environmental Agency that analysed all the major studies undertaken until 2002 (8), were, for example, that according to a three year study, levels of hybridisation reached 13.1% at 25m, 1.6% at 200m and 0.2% at 500m (9); a similar study revealed levels of hybridisation of 0.8% at 600m, and 0.2% at 800m (10). More recently, the results of a British study (11) confirm the possibility of relatively high levels of pollution in fields over 150m away from a GM crop (12). Genetic pollution of crops, however, does not only depend on proximity to GM fields, but rather on multiple factors such as size and shape of fields, their disposition, dominant winds, the land's relief and the total area under GM crops in one

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(6) In cross pollination, the female flowers of a plant are fertilised by pollen from other plants, in corn due to maturity of female and male flowers of one given plant being out of step.

- (7) Treu, R. & Emberlin, J. (2000). *Pollen dispersal in the crops Maize (Zea mays), Oil seed rape (Brassica napus ssp. Oleifera), Potatoes (Solanum tuberosum, Sugarbeet (Beta vulgaris spp and vulgaris wheat (Triticum aestivum)*. Edited by the Soil Association.
- (8) K. Eastham & J. Sweet (2002). *Genetically modified organisms (GMOs): the significance of gene flow through pollen transfer*. European Environmental Agency. Environmental issue report n° 28.
- (9) Jones, M.D. & Brooks, J.S. (1950) *Effectiveness of distance and border rows in preventing outcrossing in corn*. Oklahoma Agricultural Experimental Station. *Technical Bulletin N° T-38*. (Editor's note: this study is considered by most authors to be the most complete and exhaustive available).
- (10) Salamov, A.B. (1940). *About isolation in corn*. Sel. I. Sem., 3 (Russian translation by Michael Afanisiev in 1949).
- (11) DEFRA. Department for Environment, Transport and the Regions (2003). *On-farm GMO's crops' monitoring trials*. September 2003.
- (12) Henry, C., Morgan, D., Weekes, R., Daniels, R. & Boffey, C. (2003). *Farm scale evaluations of GM crops: monitoring gene flow from GM crops to non-GM equivalent crops in the vicinity. Part I. Forage maize*. Final Report 200. Central Science Laboratory (CSL), Centre for Ecology and Hydrology (CEH) & DEFRA.
- given area (a county, for example).

**Defining distances between GM and non GM fields should bear in mind, apart from the above-mentioned parameters, the pollution potential of each species, the results of reliable field studies and the absolute need to guarantee zero pollution in organic farming and bee keeping.**

#### **4. Register and authorization of sowing**

Knowledge of intent to sow transgenes in fields is essential for prevention of pollution of non transgene crops and the control and monitoring of transgene crops. Directive 18/2001 on deliberate release of GMOs to the environment recognizes the importance of this point and obliges Member States to introduce “*public registers in which the location of deliberately released (experimental or commercial) GMOs is recorded*” and adds that “*the competent authorities should be notified about these locations, notifications which should be made public*” . However, this article of the Directive was perniciously transposed into Spanish legislation (Law 9/2003 and Royal Decree 178/2004), which state that “*the information concerning the location of crops of GM plant varieties will be that corresponding to their distribution in regional communities and provinces*” and limits the general public's access to the register (13) (First Additional Disposition of Royal Decree 178/2004).

The design of coexistence rules presents a very good opportunity for Spain to correct the erroneous transposition of the said Directive 18/2001 by the former Government, above all regards registers and information available to the general public. Thus, **those farmers that wish to sow GM seed should be obliged to declare, three months beforehand, their intention to do so and the exact location of the fields to be sown**. Additionally, **this information should be made public**, with the exception of any confidential data as defined by law.

Again, the results of Monitoring and Tracking Plans should be made public and in the shortest term possible.

**The authorities should have the right to forbid the sowing of GMOs in given circumstances, if the risk of GM pollution of conventional and organic farming or beekeeping exists.**

### **5. Responsibility for pollution**

The undersigned organizations ask for application of the **polluter pays** principle and, thus, that responsibility for pollution be assumed by those releasing GMOs to the environment, as the European Parliament itself recommended.

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(13) Access to this information is only possible at present if the petitioner is recognised as an “interested party”.

Cases of pollution of conventional and organic crops in those countries in which there is large scale cultivation of GMOs are generating numerous problems for farmers. Our country is no exception regarding this problem which is inherent to the sowing (even experimental sowing) and marketing of transgene crops. Spain was the first European country to give the green light to commercial cropping of GM varieties, authorizing as it did the sowing of several varieties of GM corn since 1998 and several cases of genetic pollution which caused important damage to the farmers affected have been detected. Genetic pollution has affected crops, seeds, harvests and livestock feedstuff in corn and/or soya in both conventional and organic sectors. To date no liability has been established and those farmers affected by pollution and consequent economic loss are completely defenceless.

Given that liability following GMO pollution is not addressed in any national or Community legislation (14), **it is essential that rules on liability be introduced, which clearly specify that those responsible for GM release into the environment assume economic or other costs of any damage caused, excluding those farmers that comply by existing legislation.**

Equally, Member State authorities (whether regional or national) should be responsible for the correct fulfilment of coexistence rules to avoid pollution due to inadequate management of GM seed by farmers.

Genetic pollution below the 0.9% threshold will also be considered as damage, as was explained in the introductory remarks to this document. Environmental impacts due to release should also be classified as damage, a concept that cannot be confined only to crop pollution.

### **6. GM-free zones**

Given areas are of special value, whether for their natural biodiversity, their traditional cultivated plant varieties or a specific type of production (for example, seed production, organic farming or denomination labels). The people living in and off these areas have the right to defend a stance preventing introduction of GMOs in their territory in order to protect natural diversity or existing farm models.

Equally, decisions concerning the use of reproductive material in a common environment cannot be made individually, given that they affect all those people sharing the said common environment. Thus, at local and even regional levels thought is needed regarding the convenience of introducing GMOs in farming.

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These arguments justify **recognition of the right of local and regional authorities to declare their areas GM-free**, as part of a strategy to protect their environment and

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(14) This has, in fact, been regulated in national legislation on coexistence in various Member States of the EU such as Germany, Denmark, Luxembourg and Italy.

landscapes, their culture and heritage, their seeds and farm practices, their sustainable rural development and the future of their economies.

The possibility of also declaring GM-free those areas that are defined as areas of seed production for species the cultivation of which is legally restricted (such as, for example, the potato) should also be considered.

Thus, coexistence rules should recognize this right and guarantee that different authorities do not impede the expression of these rights.

### **Concluding remarks**

Release of GMOs in our agro-systems should be strictly regulated in such a way as to prevent pollution of the products of conventional and organic farmers.

Any legal text in Spain on coexistence between transgene and non-transgene crops should include the basic points outlined in this document. Additionally, a series of guarantees must be offered by the relevant Authorities for compliance of traceability and labelling rules and undertaking of controls and monitoring, from the field to the plate, evaluating environmental, social, economic and health impacts.

Consequently, the undersigned organizations request that all the points made in the document be taken into immediate consideration for the regulation of coexistence between GM, conventional and organic crops in our country.

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## ORGANIZATIONS THAT SIGN THE DOCUMENT

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### Farm organizations

**COAG:** Coordination of Arable and Livestock Farmers

**UPA:** Union of Small Farmers

### Environmental organizations

**Friends of the Earth**

**Greenpeace**

**Ecologistas en Acción**

### Organic Farm Sectors

**SEAE:** Spanish Society for Organic Farming

**CAAE:** Andalusian Committee for Organic Farming

**INTERECO**

Also from CAAE:

- Aragonese Committee for Organic Farming
- Council for Organic Farm Production of Asturias
- Balearic Council for Organic Farm Production
- Canary Isle Organic Farm Control Council
- Madrid Committee for Organic Farming
- Murcia Council for Organic Farming
- Navarre Council for Organic Farm Production
- Valencia Committee for Organic Farming

**Institute for Organic Farming and Sustainability**

### Various

**REDR:** Spanish Network for Rural Development

Association for the Rural Development of Andalusia, Aragón, Asturias, Canary Isles, Cantabria, Catalonia, Extremadura, Castilla-La Mancha, Castilla-León, Murcia, País Vasco

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## ORGANIZATIONS THAT SUPPORT THE DOCUMENT

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### Environmental organizations

Colla ecologista d'Almassora

### Organic farming sector

**ALIECO SL**

Spanish association for biodynamic farming

**ADGE:** Association for the development of organic farming

Association for the promotion of organic farming

**BIOCOP** Organic Products SA

**EKOLUR:** Association of organic farming, Bizkaia

### Consumer organizations

Associations of consumers of organic produce: SAO, ECOGERMEN, HESED,

LA CALENDULA, EL ZOCO, Vida Sana

**FACUA:** Association of Consumers in Action

**CECU:** Spanish Confederation of Consumers

**ALMOCAFRE:** Andalusian Cooperative for Organic Consumers

**EcoOrtiga:** Andalusian Cooperative Society

### Unions

Environmental Department of **CCOO** (Worker Commission)

**ITSAS:** Unión Institute for Work, Environment and Health

**UGT:** General Workers Union

### Various

Association for Creative Action for Solidarity

Association for Peasant Studies and Earth Sciences

**Attac** Madrid

**CERAI:** Centre for Rural and International Farm Studies

Kybele Collective for Agroecology (Madrid School of Agronomy)

**ECEAT-Spain:** European Centre for Ecological and Agricultural Tourism

Global Nature Foundation

**Plataforma Rural :** Rural platform

Farm organizations apart from COAG:

SOC (Rural Farm Workers Union)

SLG (Galician Farmer Union)

Environmental organizations (already mentioned but belonging to the PR)

Friends of the Earth

Ecologistas en Acción

Organic farm sector and rural organizations (apart from the

SEAE)

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Seed Network, Movement of Young Rural Christians, MRC (Rural Christian Movement), CAS (Collectives for Solidarity Action), Campos de Castilla Association, COCEDER (Confederation of Centres of Rural Development), CIFAES

DNGOs:

CERAI, Cáritas-Spain, Entrepueblos, Vets without Frontiers, Sodepaz, Sodepau, Africa-Europe Network, FIAN-Spain

Consumer Organizations (apart from CECU)

Xarxa Consum Solidari

Andalusian Seed Network "Cultivating biodiversity"

REDES: Network for Solidarity minded development

Seed Network "resowing and swapping"

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