



Brussels, January 25th 2005

RE: Commission Proposal for a Council Regulation on Organic Production and Labelling

Dear Sir/Madam,

We are writing to you about the European Commission's proposal for a new Regulation on Organic Production¹.

We welcome the Commission's support of Organic Farming, and take note of the statement in the Proposal that "*Organic production has seen an impressive growth since the adoption of the Regulation in 1991 and the contribution of the organic agricultural sector is still on the increase in most Member States. According to the most recent statistical data, 149 000 holdings are certified as organic or in conversion to organic production. In 2003 these holdings represent 1,4% of the total of agricultural holdings in the 25 Member States. The certified organic and in-conversion area covered 5,7 mio ha and represented 3,6% of the Utilised Agricultural Area in 2003.*"

However, the undersigned organisations see serious threats to the growth of GMO-free organic production. In particular, we must object to the Commission interpretation of the 0.9% threshold for adventitious or technically unavoidable GMO contamination established by the Food and Feed Regulation².

As Commissioner Fisher-Boel has stated: "*We have to make sure that European farmers have a real choice to produce the type of products consumers demand and to be able to react in a flexible way to the needs of the market*"³

In our view freedom of choice for farmers and consumers can only be safeguarded if the risk of genetic contamination of organic and other non-GM products is solved. Organic production must be given the means to be and stay GMO-free, that is to say, to contain no trace of GMOs. This is what European Union consumers want. The organic sector is prepared to take its part of the responsibility, but the political institutions of the European Union also need to fulfill theirs.

The European Union is expected to take a decision on coexistence legislation this year. If the EU is serious about supporting organic farming and protecting freedom of choice, the following points must be taken into account;

¹ Commission Proposal for a Council Regulation on Organic Production and Labelling, December 2005

² Regulation (EC) number 1829/2003

³ Speech at Round Table at the CoR on Coexistence, June 27th 2005

1. EU wide coexistence legislation that protects conventional and organic farming is needed urgently

The 2003 Commission Recommendation to Member States on coexistence, puts forward a 0.9% threshold for coexistence. This will effectively allow a certain level of permanent contamination rather than providing a framework for preventing contamination other than adventitious or technically unavoidable. This is unacceptable as it will take away farmer and consumer choice and also endangers a growing organic sector.

Independent legal advice commissioned by Friends of the Earth, Greenpeace, the UK Soil Association and other organisations⁴ has concluded that the 0.9% threshold is legally irrelevant in the context of coexistence. This is because there is no legal provision which requires the Member States to limit its coexistence measures to go no further than is necessary in order to ensure that GMO content stays below the Community's labelling threshold. Paul Lasok QC argues that the structure of the legislation would indicate that a limitation on the scope of "appropriate" coexistence measures by reference to labelling thresholds would be illogical since coexistence measures precede the fulfillment of the labelling requirements.

Instead what is needed are coexistence measures which would ensure no contamination of non-GMO products. Where it is not possible to identify practical measures to ensure that contamination does not occur, for instance in the case of oilseed rape, the commercialisation of that crop should not be authorised.

Furthermore, coexistence rules must ensure that liability in the case of contamination is strictly defined by law, and that the burden of costs be on the biotechnology company holding the consent, the farmer growing GMOs and the company distributing and importing them.

2. The 0.9% threshold should be interpreted according to the provisions in the food and feed directive

The 0.9% labelling threshold as established in EC Regulation 1829/2003 is supposed to apply only for the **adventitious or technically unavoidable presence of GMOs**. Our legal advice, referred to above, is that "adventitious or technically unavoidable" should mean exactly that and not planned level of contamination. If a food is intentionally contaminated with GMOs below the 0.9% level, it should be labelled⁵.

The current interpretation of this maximum threshold, both by the European Commission and several member states, is that it is the level up to which contamination is permanently allowed. This is not in line with the Food and Feed regulation 1829/2003.

3. The certification process of Organic Agriculture must be acknowledged and respected

The Commission correctly notes that labelling thresholds under the Food and Feed Regulation⁶ apply equally to organic and conventional products. However, GMO contamination in organic products is not primarily addressed by the Regulation, but by organic certification and the organic market.

Under the present organic regulation, certified organic producers are not allowed to use any inputs containing GMOs or GMO products. This restriction is unchanged in the revision proposal.

⁴ Legal advice of Paul Lasok QC http://www.gmofree-europe.org/Summary_Lasok_Advice.pdf and http://www.gmofree-europe.org/Coexistence_Lasok_Advice.pdf

⁵ Legal advice of Paul Lasok QC http://www.gmofree-europe.org/Coexistence_Lasok_Advice.pdf (para 39-45)

⁶ Regulation (EC) number 1829/2003

In current practice, organic certifiers will generally take action as soon as any contamination at all is detected or suspected. Furthermore, as organic consumers do not accept any GMO contamination in organic foods, nor do organic processors and retailers.

4. Avoiding contamination of seed.

The Commission has previously made proposals for setting a threshold for GMO presence in seeds. The seed thresholds have been based on the labelling threshold, which is currently 0.9% in the Food and Feed Regulation. This does not take into account the protection of the environment and human health or the requirements of organic producers. It is therefore essential that the Commission ensures that a threshold be set for seeds at the detection limit (technical zero).

We therefore urge you to:

- **ensure that strict EU wide coexistence legislation be adopted**
- **ensure that the 0.9% threshold is not used in coexistence legislation**
- **ensure that non GMO agriculture is given the means for economically viable and uncontaminated production**
- **ensure that clear EU liability rules put the cost of contamination on the polluters and not on taxpayers or the polluted**
- **recognise the importance of independent organic certification and protect this system of ensuring that organic means no GMOs thus allowing farmer and consumer choice**
- **ensure that Members States enforce the Food and Feed Regulations so that all labelling is accurate and all companies operate to the same traceability standards as organic producers.**
- **ensure that the threshold for all non-GM seed is set at the lowest detectable level.**

We look forward to your prompt response, and would happily meet with you to discuss these issues.

Yours sincerely,

Friends of the Earth Europe
GeneWatch UK
GM Freeze UK
Greenpeace
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