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Dear Dr Wainwright

Commission Proposals on the Freedom for Member States to Decide on the Cultivation of GM Crops

BCPC (The British Crop Production Council) is pleased to have the opportunity to comment on these proposals ahead of the forthcoming discussions. This response may be made public without restriction.

Given the certainty that some Member States would not and will not agree to the Commission's original proposals relating to the cultivation of GM crops within the EU, we can see little alternative to the present proposals. At least, these proposals appear to offer a way forward that would enable the cultivation of GM crops in those Member States which wished to grow them.

This is a regrettable position because it is clear that the opposition expressed by some Member States in the Council was not based on any evidence of adverse effects, or risks of adverse effects, on human health or on the environment. But this should be no surprise, given the history of lawmaking on matters affecting GM crops within the EU. As BCPC has pointed out on numerous occasions, the present EU legislation on GM crops is full of inconsistencies and illogicalities. These arise mainly because the legislation has been framed in terms of "process" and not in terms of "outcome". Thus, for example, two cultivars containing the same gene for herbicide tolerance (that *might* be considered an environmental hazard) would be treated very differently if the gene had been transferred into one cultivar by GM technology and transferred into the other cultivar by non-GM technology. The environmental hazard from the herbicide tolerance, *if there is any*, rests in the gene itself, and in its expression, and not in the technologies that were used to effect its transfer into the new crop cultivars.

We are concerned that the implementation of the Commission's proposals will almost certainly result in a raft of new issues and problems for agriculture and consumers in the EU. However, this outcome may well be no worse, and may perhaps be better, than that which would come to pass by continuing with the current legal framework unchanged. For this reason, BCPC would not oppose the proposal.

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We note that the Commission's proposal should provide a basis for the adoption of a regional approach to the cultivation of GM crops within any Member State that wishes to implement a zonal system to facilitate separation between GM and non-GM crops, for example, to deal with the issue of "co-existence". Within the UK we would argue strongly against any zoning at a level below that of the territories covered by the four administrations with responsibility for agriculture, i.e. the four territories of England, Scotland, Wales and Northern Ireland.

One unintended benefit of the proposal is that it will provide a valuable precedent for territorial derogations in other areas of activity covered by EU legislation where decisions have been driven by political considerations rather than scientific risk assessment.

There is, of course, a delightful irony in the Commission's proposal, given that the original driver of the EU was to provide a "single market" with a level playing field for trade. The proposed territorial derogation will allow those Member States that see a marketing advantage for their crop products if they take a "No GM" stance, to opt-out of the "single market" and seek to gain by this approach. Equally, the territorial derogation will allow a market advantage to those Member States whose producers can utilise the GM technology effectively in the increasingly competitive production of foodstuffs and crop products.

Please do not hesitate to contact us if you require any further information or wish to discuss any of the points we have raised.

Yours sincerely

Colin Ruscoe
(by e-mail)

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