REPORT

on coexistence between genetically modified crops and conventional and organic crops
2003/2098(INI))

Committee on Agriculture and Rural Development

Rapporteur: Friedrich-Wilhelm Graefe zu Baringdorf
PRINI
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At the sitting of 5 June 2003 the President of Parliament announced that the Committee on Agriculture and Rural Development had been authorised to draw up an own-initiative report under Rule 163 on coexistence between genetically modified crops and conventional and organic crops.

The committee appointed Friedrich-Wilhelm Graefe zu Baringdorf rapporteur at its meeting of 12 June 2003.

At the sitting of 22 September 2003 the President of Parliament announced that the Committee on the Environment, Public Health and Consumer Policy had been asked for its opinion.

The committee considered the draft report at its meetings of 11 September, 4 November and 2 December 2003.

At the last meeting it adopted the motion for a resolution by 27 votes to 1.

The following were present for the vote: Joseph Daul, chairman; Friedrich-Wilhelm Graefe zu Baringdorf, vice-chairman and rapporteur, Albert Jan Maat, vice-chairman; Gordon J. Adam, Danielle Auroi, Reimer Böge (for Encarnación Redondo Jiménez), Niels Busk, Christel Fiebiger, Christos Folas, Jean-Claude Fruteau, Georges Garot, Lutz Goepel, Willi Görlach, Liam Hyland, Elisabeth Jeggle, Salvador Jové Peres, Hedwig Keppelhoff-Wiechert, Heinz Kindermann, Christa Klaß (for Michl Ebner), Dimitrios Koulorianos, Xaver Mayer, Jan Mulder (for Giovanni Procacci), Karl Erik Olsson, Neil Parish, Christa Prets (for António Campos), Agnes Schierhuber, Robert William Sturdy and Marialiese Flemming (for João Gouveia, under Rule 153(2)).

The opinion of the Committee on the Environment, Public Health and Consumer Policy is attached.

The report was tabled on 4 December 2003.
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on coexistence between genetically modified crops and conventional and organic crops (2003/2098(INI))

The European Parliament,


– having regard to Commission Recommendation 2003/556/EC of 23 July 2003 on guidelines for the development of national strategies and best practices to ensure the coexistence of genetically modified crops with conventional and organic farming4,


– having regard to Council Regulation (EEC) No 2092/91 of 24 June 1991 on organic production of agricultural products and indications referring thereto on agricultural products and foodstuffs7,

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4 OJ L 189, 29.7.2003, p. 36.
6 SANCO/1542/2 July 2002.
– having regard to the proposal for a directive of the European Parliament and of the Council on environmental liability with regard to the prevention and remedying of environmental damage¹,

– having regard to Rule 163 of its Rules of Procedure,

– having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on the Environment, Public Health and Consumer Policy (A5-0465/2003),

A. whereas coexistence between genetically modified varieties on the one hand and non-genetically modified conventional and organic varieties on the other hand provides the basis for freedom of choice for both consumers and farmers and is at the same time the precondition for risk management in dealing with GMOs, which is prescribed in the Community,

B. whereas the extensive cultivation of GMOs will make it impossible, or at least extremely difficult, to exclude the outcrossing of genetically modified varieties with non-genetically modified useful plants,

C. whereas there is a great deal of uncertainty among large sections of the population and many farmers regarding the use of GMOs in food production,

D. whereas the current state of scientific knowledge regarding the outcrossing and spread of GMOs as a result of their extensive use is still limited and is insufficient for a precise estimate of the consequences,

E. convinced that the introduction of GMOs in agriculture must not bring with it any additional costs for farmers who do not use these technologies and who wish to grow and market non-genetically modified products,

F. whereas seed production takes place under particular conditions which must guarantee the highest possible degree of purity, and the limit value for the labelling of GMO-impurities in seed should be set at the technically measurable and reliable detection threshold, with account being taken of scientific assessments regarding practical applicability; whereas it will otherwise be impossible for agricultural production to ensure compliance with the current labelling threshold of 0.9% for food,

G. whereas, if genetically modified organisms have been found to be present in their seed, farmers would no longer be able to claim that the presence of GMOs in their products is adventitious and technically unavoidable and, under the current legislation, they would then be obliged to label them and suffer potential losses of income,

I. Points out that information on the presence of GMOs in seed does not merely serve to inform farmers and consumers but is a precondition for the proper implementation of Directive 2001/18/EC (particularly as regards monitoring and placing on the market, the registration of cultivation, the expiry and withdrawal of authorisation and emergency measures) and the Regulations on the authorisation, labelling and traceability of GMOs;

2. Calls on the Commission to stipulate the labelling of GMOs in seed at the technically measurable and reliable detection threshold on the basis of Article 21(2) of Directive 2001/18/EC, and to take account of scientific assessments regarding practical applicability;

3. Calls for uniform and binding rules to be established without delay at Community level on the coexistence of genetically modified crops on the one hand, and non-genetically modified conventional crops on the other hand; calls for the European Parliament to be included in this process under the codecision procedure;

4. Calls on the Member States, in implementing Article 26a of Directive 2001/18/EC, to take legislative measures swiftly to safeguard the coexistence of genetically modified, conventional and organic crops; considers that it makes no sense at all that this requirement is not even mentioned in the Commission Recommendation;

5. Calls on the Commission, in view of contradictory scientific opinions on the costs of coexistence, to submit to the European Parliament and the Council a report on the economic impact of the requisite coexistence measures, taking account of the different cultivation conditions and plant species;

6. Welcomes the fact, bearing in mind the ‘polluter pays’ principle, that the Commission Recommendation states that ‘during the phase of introduction of a new production type in a region, operators (farmers) who introduce the new production type should bear the responsibility of implementing the farm management measures necessary to limit gene flow’;

7. Calls on the Commission to submit a proposal on Community-wide civil liability and insurance in respect of possible financial damage in connection with coexistence;

8. Calls on the Commission and the Member States to include workable and legally enforceable civil liability provisions for sufficient insurance cover on the part of the applicant as a component of the authorisation procedure for placing GMOs on the market, so that claims by persons affected can be dealt with adequately and quickly in the event of damage;

9. Calls on the Commission and Member States not to proceed with the approval of the release of any further genetically modified varieties of plant until such time as binding rules on coexistence, backed up by a system of liability based firmly on the ‘polluter pays’ principle, have been agreed and implemented;

10. Asks the Commission to establish a legally binding definition of the concepts ‘adventitious’ and ‘technically unavoidable’;

11. Calls on the Commission to draw up a public register of national strategies and best practices relating to the coexistence of genetically modified, conventional and organic crops, which are pursued in the Member States and third countries and have cross-border impact in the Union, and to make periodic reports to Parliament on that subject;

12. Points out that particular attention should be paid to the cross-border coexistence of genetically modified crops and conventional and organic crops (between Member States
and with third countries); calls on the Commission to study all aspects of cross-border coexistence, and calls on the Member States to adopt measures concerning the interaction and coexistence of genetically modified crops at a cross-border level, following consultations;

13. Takes the view that the voluntary or regionally restricted renunciation of GMO cultivation in certain areas and under certain cultivation conditions may be the most effective and least costly measure to ensure coexistence and that it must be available to the Member States when implementing Article 26a of Directive 2001/18/EC, on condition that all the players involved agree, with the aim of guaranteeing full freedom of choice;

14. Takes the view that Community coexistence rules must allow Member States the right to prohibit completely the cultivation of GMOs in geographically restricted areas so as to safeguard coexistence;

15. Instructs its President to forward this resolution to the Commission and Council, and the governments and parliaments of the Member States.
EXPLANATORY STATEMENT

The goal of coexistence is to provide lasting freedom of choice for farmers and consumers in relation to the use or consumption of genetically modified organisms (GMOs). Consequently it must provide clear rules to resolve conflicts wherever the entitlement to use GMOs conflicts with the right or obligation to renounce GMOs and may give rise to costs and risks.

Coexistence concerns the development of seed and its multiplication, cultivation and all aspects of farming practice, including environmental protection, transport, farm-to-farm handling and storage, the production of renewable raw materials, processing and trade in food and feed in its various stages down to the final consumer, as well as the export and import of agricultural products and food. The segregation of GM and non-GM will play a role in all these phases of food and raw material production, and will lead to changes in business and market conditions. Solutions to the problem will succeed in practice only if this interconnectedness is taken into account.

In contrast to the introduction of other technologies or substances in the agricultural and food economy, GMOs are capable of reproducing and exchanging genetic information with other crops and wild plants. Whilst the assessment of the risks posed by GMOs to health and the environment is regulated in the context of their authorisation, coexistence conditions play a key role for risk management. As for all technologies, it should be assumed that risk assessments are imperfect and may be overtaken by more recent scientific knowledge. The key factor in organising coexistence in the context of risk management is therefore the question of whether the placing on the market and release of GMOs can be reversed. The coexistence conditions should also be geared to the use of future GMO products, for example industrial products not suitable for human consumption or pharmaceutical products, which must meet stricter criteria on purity.

The scientific knowledge and experience currently available with regard to potential outcrossing, overwintering and accumulation in the soil, and ways in which GMO varieties may be carried or otherwise spread, do not yet make it possible to draw any reliable and dependable conclusions regarding the possible extent of contamination of non-genetically modified crops with GMOs in the event of the extensive long-term cultivation of GMO crops. This demands a cautious and rather restrictive approach, particularly at the start, which might then be made more flexible in the light of further experience and knowledge. It is vital to avoid a situation where inadequate and unclear rules on coexistence make the provisions which have just been adopted on authorisation, traceability and labelling impracticable in the face of growing GMO contamination.

Authorisation for placing GMOs on the market and rules on the labelling and traceability of GMOs establish Community-wide rights and obligations which define the legal conditions for coexistence. Basic provisions on ensuring coexistence should therefore also be regulated in Community law and with the full participation of the European Parliament, but should at the same time leave sufficient room for manoeuvre for implementing provisions adapted to national, regional and local conditions.
Seed

Seeds stand at the beginning of the production chain, multiply by a factor of between 40 and 1000 depending on variety and may remain in the soil for a long time. In the case of cross-pollinating plants, GMOs in seeds fertilise neighbouring crops and any wild relatives growing nearby. Seeds and pollen can be carried over long distances. These dimensions in time and in space make strict seed purity and labelling requirements necessary as a precondition for coexistence and the most important single measure to prevent contamination. Such rules are not only the precondition for ensuring that the prescribed labelling threshold (currently 0.9%) for non-genetically modified cultivation can be complied with. Full information on the presence of GMOs in seeds is also the precondition for proper risk management as stipulated in Directive 2001/18. This Directive makes provision for the setting of thresholds for particular groups of product below which labelling would not be necessary. However, no corresponding derogations are provided in respect of the requisite information on cultivation (register), post-market monitoring, the expiry of authorisation after a certain period and emergency measures in the event that authorisation has to be withdrawn and a GMO has to be recalled, all of which are also stipulated in the Directive. It follows that it is vital that GMOs in seed lots should without exception be labelled at the detection threshold and seed containing GMOs, regardless of the concentration of the GMO in individual lots, should be permitted to be cultivated and marketed only in accordance with the conditions governing authorisation of the GMOs contained therein.

Moreover, such an approach is also necessary for economic reasons: only if there is a clear segregation at the start of the production chain will it be possible to keep impurities, which will be ‘technically unavoidable’ where GMOs are grown, reliably below the prescribed labelling threshold without placing an unreasonable burden on neighbouring farmers and downstream treatment, processing and marketing firms. Economic analysis shows that it is much more logical to keep seeds free of GMOs, since seed production takes place in an almost closed system anyway. If, on the other hand, impure seed is used at the start of farm production, farming and the food sector will be faced with an avalanche of economic costs and risks which bears no relation to the economic benefits of GMO use.

This becomes particularly clear in areas which have decided to forgo the use of GMOs and are reaping economic benefits from that decision. The GMO-free region of Upper Austria has become a magnet for seed firms and has attracted foreign investment because strict business rules can be complied with here. In such a situation, retaining GMO-free status may represent the most economic and effective measure for coexistence.

Alongside the seed industry, it is the processing sector which is most directly exposed to customers’ desire for GM-free products. The German food sector, for example, demands a guarantee from grain mills that their flour stays below 0.1% GMO contamination. Business is setting standards in practice which would be undermined by a higher GMO labelling threshold for seed. The costs to producers of fulfilling the wishes of consumers would rise sharply if a labelling threshold was set along the lines now proposed by the Commission.

Good farming practice

As explained in the Commission’s guidelines on coexistence, a multitude of measures may be required in relation to segregation, cleaning and monitoring, the planning and carrying-out of
cultivation harvesting, transport and storage in order to ensure coexistence, depending on the variety, cultivation conditions and location. Early information and, where appropriate, consultation with neighbouring farmers within a region is also necessary. Compliance with such measures must be verifiable, sufficiently transparent and documented in order to make state controls possible, ensure that the costs of these measures can be estimated and allocated and guarantee the traceability of GMOs.

The requisite good farming practice to ensure coexistence must therefore unavoidably be laid down in Community law so that all those involved in the common agricultural market are placed on an equal footing and distortions of competition are avoided, in other words so that a common internal market for agricultural products is maintained. These rules should set binding minimum standards whilst providing adequate room for manoeuvre in relation to the various regional and economic conditions.

These factors also make it desirable to adopt a regulation on GMO cultivation which would lay down the particular conditions for GMO cultivation in the same way as for organic farming. It should be based on the principle that measures to prevent contamination are incumbent on the farm cultivating GMOs. Only where measures are not sufficient without the participation of farms not cultivating GMOs would those farms also be required to act. It would have to be clarified to what extent and by whom they would be compensated for such measures.

Liability

Financial damage may arise for farmers, feed and food processors and traders, in particular where their products are contaminated with GMOs to such an extent that they must be labelled as genetically modified. In addition, farmers may suffer damage in the longer term resulting from GMO contamination of their soil, which would also affect the value of their land. Finally, farmers and processors may suffer serious, if not always precisely quantifiable damage resulting from the loss of trust among their customers.

Liability for this and other damage should rest with those who have caused the damage. It must ensure that those affected are compensated quickly and reliably. According to the relevant national law in the Member States, affected farmers would currently be obliged themselves to identify the person directly responsible for contamination, to prove culpable behaviour and the resultant damage in the courts and sue for compensation. This will often be difficult or completely impossible in practice and would lead to legal action between neighbours, whereby it might be assumed that the parties responsible would receive legal and expert advice from their GMO suppliers in order to increase the risk involved in bringing legal action.

General product liability on the part of the original manufacturer of a GMO, i.e. the notifier within the meaning of Directive 2001/18, might offer a solution. The notifier should be required to cover or insure possible damage as an element of authorisation for the product to be placed on the market. Notifiers could be exempted from this general liability requirement through corresponding contracts with their customers (seed producers or traders, farmers) in which customers are required to comply with conditions applicable to the sale and use of the product designed to prevent such damage. If these conditions are not complied with by users, liability would pass to them. GMO manufacturer liability which could be delegated in this
way tallies with the principle of ‘product stewardship’ now gaining worldwide acceptance and would guarantee that all those involved, and not just the end user, have an economic interest in avoiding contamination and creating practicable conditions for coexistence. The preconditions have already been established by the provisions of the Traceability Regulation (unmistakable identification and detection methods for each GMO). The national rules on liability recommended by the Commission do not take due account of the Community-wide sale of GMOs and agricultural products and could lead to considerable distortions of competition in the internal market.

**Institutional issues**

The Commission has submitted a proposal for the setting of thresholds for the labelling of the adventitious or technically unavoidable presence of genetically modified seeds in seed lots of non-genetically modified varieties to the Management Committee on Seeds and Propagating Material\(^1\). After years of negotiations between the European Parliament, Commission and Council on the conditions for the use of GMOs, Parliament cannot accept that a decision with such significant implications for the future should be taken within the framework of a management committee.

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6 November 2003

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY

for the Committee on Agriculture and Rural Development

on coexistence between genetically modified crops and conventional and organic crops (2003/2098(INI))

Draftsman: Karin Scheele

PROCEDURE


It considered the draft opinion at its meetings of 7 October and 4 November 2003.

At the last meeting it adopted the following suggestions by 25 votes to 10 with no abstentions.

The following were present for the vote: Caroline F. Jackson (chairman), Mauro Nobilia (vice-chairman), Karin Scheele (draftsman), Maria Luisa Bergaz Conesa, Herbert Bösch (for David Robert Bowe pursuant to Rule 153(2)), Chris Davies, Véronique De Keyser (Dorette Corbey), Avril Doyle, Jillian Evans (for Hiltrud Breyer), Anne Ferreira, Marialiese Flemming, Christos Folias (for John Bowis pursuant to Rule 153(2)), Pernille Frahm, Robert Goodwill, Françoise Grossetête, Marie Anne Isler Béguin, Margot Keßler (for Bernd Lange pursuant to Rule 153(2)), Wilfried Kuckelkorn (for Riitta Myller pursuant to Rule 153(2)), Paul A.A.J.G. Lannoye (for Patricia McKenna), Caroline Lucas (for Alexander de Roo), Torben Lund, Minerva Melpomeni Malliori, Rosemarie Müller, Ria G.H.C. Oomen-Ruijten, Marit Paulsen, Dagmar Roth-Behrendt, Yvonne Sandberg-Fries, Inger Schörling, Jonas Sjöstedt, Renate Sommer (for Peter Liese), Maria Sornosa Martínez, Antonios Trakatellis, Elena Valenciano Martínez-Orozco, Peder Wachtmeister and Phillip Whitehead.
CONCLUSIONS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Agriculture and Rural Development, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Believes that, in view of the current legal uncertainties and the lack of regulatory measures for coexistence, there is no sufficient legal basis for the authorisation of GM crops in European agriculture;

2. It is regrettable that, having hosted a Round Table on 24 April of this year to review the results of research into coexistence, the Commission did not consult the stakeholders and organisations affected, Member States or the European Parliament on the substance of the Commission Recommendation of 23 July 2003 on guidelines for the development of national strategies and best practices to ensure the coexistence of genetically modified crops with conventional and organic farming (2003/556/EC). The European Parliament points out that more than 70% of Europe's population are opposed to GM crops, and that a genuine democratic debate must be held with European citizens.

3. Bearing in mind the 'polluter pays' principle, it is encouraging that the Commission recommendation states that ‘during the phase of introduction of a new production type in a region, operators (farmers) who introduce the new production type should bear the responsibility of implementing the farm management measures necessary to limit gene flow.’

4. Believes that the introduction of GMO technologies in agriculture must not create additional costs or competitive disadvantages for farmers who chose not to use these technologies and wish to continue marketing their products as 'GM-free'.

5. In contrast to the Commission’s view, the subject of coexistence is certainly not limited only to ‘economic aspects associated with the admixture of GM and non-GM crops’ but should also cover the coexistence of genetically modified and naturally occurring organisms and the consequences for the environment and human health, as well as freedom of choice for farmers and consumers, which needs to be safeguarded. The GMO consent holder must be liable for the costs involved with monitoring and controlling any wild species where transgenes have become incorporated into the genome of those species.

6. With regard to the technical possibilities, the European Parliament points out that a synthesis report drawn up in May 2002 by the IPTS - JRC on scenarios for coexistence of genetically modified, conventional and organic crops shows that the generalised marketing of GMOs on a European scale would involve very heavy socio-economic costs which would be difficult for the farming industry to deal with and overcome. Levels of segregation measures are therefore conditioned more by these costs than by technical capabilities.

7. The limit value for labelling food and feed set in July of this year is applicable only where there are ‘adventitious or technically unavoidable’ traces of GMOs. Any food or feed
containing traces of GMOs must now be labelled accordingly if their presence is down to chance or is technically unavoidable. In contrast to the Commission’s view, coexistence measures should therefore guarantee not only that conventional or organic food and feed do not exceed the limit value for labelling of 0.9 %; rather, all coexistence measures should have as their principal objective the exclusion of GMOs or material produced from them from conventional or organic food and feed, as far as is technically possible.

8. In implementing Article 26a of Directive 2001/18/EC, Member States are called on to take legislative measures swiftly to safeguard the coexistence of genetically modified, conventional and organic crops. It makes no sense at all that this requirement is not even mentioned in the Commission Recommendation.

9. EU legislation must be drawn up to ensure that farm equipment (used to transport, sow, cultivate and harvest), storage facilities and modes of transportation which are used for GM crops do not contaminate conventional and organic crops.

10. As the development of coexistence measures by Member States can lead not least to distortions of competition, the Commission needs urgently to propose a common legislative framework on coexistence covering the use of genetically modified organisms at all stages of food and feed production; this Community legislation must include clear measures providing for the precautionary and the polluter pays principles - at all stages of the chain - to be applied by defining rules which the consent holder and users of GMO crops must respect; the costs of these precautionary measures and of possible contamination must be carried by the consent holder and users of GM crops.

11. It should be compulsory for farmers planning to cultivate GMOs to be recorded in the public register provided for in Article 31(3)(b) of Directive 2001/18/EC. Any farmer planning to cultivate GMOs should be required to request authorisation from the competent public authority at least 12 weeks in advance. Authorisation should be refused if the release is to be carried out in a protected area or within the minimum distance separating the planned plot from plots used for organic production, seed production or conventional non-GM production. In all other cases, authorisation should be subject to compliance as regards the anti-contamination measures planned by the farmer and the taking-out of insurance covering the environmental and economic damage caused by GMO cultivation.

12. Community coexistence rules must allow Member States the right to prohibit completely the cultivation of GMOs in geographically restricted areas so as to safeguard coexistence.

13. The European Parliament notes and regrets the Commission’s decision\(^1\) not to grant the request by the province of Upper Austria to ban the use of GMOs in this region.

\(^1\) Decision (C(2003) 3117/4 and 5) of 2 September 2003.
14. Particular attention should be paid to the cross-border coexistence of genetically modified crops and conventional and organic crops (between Member States and with third countries). The Commission is called upon to study all aspects of cross-border coexistence, and the Member States should adopt measures concerning the interaction and coexistence of genetically modified crops at a cross-border level, following consultations.

15. The Commission is called on to present a proposal to supplement the rules on liability for environmental damage caused by GMOs, so as to complete the rules required for developments in modern biotechnology; the proposal should deal in particular with damage caused by the presence of GMOs in products the producers of which did not use such organisms.

16. Calls on the Commission and Member States not to proceed with the approval of the release of any further genetically modified varieties of plant until such time as binding rules on coexistence, backed up by a system of liability based firmly on the 'polluter pays' principle, have been agreed and implemented.

17. In order to guarantee economically viable coexistence, the limit value for labelling of seeds should be defined as the detectability threshold; a decision on these thresholds may not be taken by the Standing Committee on Seeds and Propagating Material of Agriculture, Horticulture and Forestry, which is acting as a management committee, but needs a legislative proposal to be presented to Parliament and Council on the basis of Articles 37, 100a and 152.