

Comments of COPA/COGECA

(Main European Farmers Association)

SEM(02)09P3-jf Brussels, 11 March 2002

European Commission Directorate-General SANCO For the attention of Mr. Coleman,
Director-General

Re: Your request for comments on the working paper (SANCO/1542/02 – January 2002) –
implementation of action no. 77 in the White Paper on Food Safety (COM(1999)719).

Dear Sir,

COPA/COGECA have received and are grateful for your request for consultation relating to
the document cited above. By way of response, they are pleased to inform you of the
following observations.

COPA/COGECA ask you to take these observations into account, and would like to be kept
informed on the results of this consultation procedure.

COPA/COGECA reserve the possibility of making additional remarks at a later date.

Implementation of compulsory labelling for genetically modified seed, as provided for by Directive 98/95

1. COPA/COGECA support the formulation proposed in the document, but nevertheless wish
to see further clarification on what the Commission services understand by information
relating to genetic modification. Does this refer to the unique identifier mentioned in Directive
2001/18? If so, COPA/COGECA would like this code, recognised internationally, to be
included on the labels. It reiterates its interest in having a clear, simple and precise labelling
system as a means of providing useful information and facilitating consumer/user choice.

Marketing conditions for conventional seed with an fortuitous content of genetically modified organisms (GMO)

General Remarks

2. Although this draft only concerns seed, it raises fundamental questions for the agricultural
sector and for consumers with regard to the coexistence of GMO and GMO-free products,
and their definition. The sine qua non condition of this coexistence is that each product type
is economically viable, given the constraints imposed on it. This viability must be preserved
in the long-term by taking the possible development of GMO crops into account.

COPA/COGECA consider that this draft must make it possible to facilitate the coexistence of
the different forms of agriculture, without excluding either one or the other.

3. The establishment of excessively low threshold levels for the fortuitous presence of GMOs
could render this coexistence impossible. And vice versa: setting overly high thresholds in
the seed sector in comparison to the thresholds fixed for food and feed could end up
challenging the production of conventional seed.

4. In particular the decision made by the Commission to propose the delimitation of GMO-
free production zones as a way of controlling the risk of the fortuitous presence of GMOs

gives rise to a number of questions. Such an idea must be debated by all parties affected. At this stage, COPA/COGECA see two major economic risks: a destabilisation of production structures for farmers and their cooperatives, and a reduced range of products supplied for consumers. In any case, the implementation of such a measure can only be valid with the support of all farmers concerned, in order to prevent conflicts linked to the freedom of enterprise.

5. Taking into account that there are currently conventional GMO-free production sectors existing in a balanced economic system that has always functioned well, it is necessary to prevent the possible introduction of GMOs from compromising this balance. That is why new GMO production should be introduced in such a way as to maintain the total integrity of conventional production. Possible costs and additional constraints to guarantee this integrity should therefore be met by those operators who intend to introduce GMOs. In this context, GMO production zones could ensure maximum isolation from conventional production, thus allowing the latter to preserve their traditional balance.

6. COPA/COGECA request that this draft limit additional costs linked to the introduction of GMO and GMO-free sectoral branches as much as possible.

7. COPA/COGECA think that the rapid introduction of Community regulations dealing with the problem caused by the accidental or fortuitous presence of genetically modified organisms in conventional seeds is in fact urgently necessary. COPA/COGECA support the Commission's initiative, the aim of which is to provide a restrictive legal basis for the "gentleman's agreement" currently applied as a provisional arrangement. Producers need legal backup for their professional activities. According to the opinion issued on 7 March 2001 by the Scientific Committee for Plants, the fortuitous presence of GMOs is inevitable, and realistic thresholds must be established: there is no sense in promising consumers GMO-free products, because producers are not in a position to respond to this demand. They could on the other hand respond to such a demand for GMO-free products within the context of a defined threshold for the fortuitous presence of GMOs.

8. On reading the document, COPA/COGECA notice that the responsibility and additional costs linked to respecting the obligations introduced for marketing conventional seed, i.e. non GMO seed, are shouldered uniquely by producers of conventional seed, and not by those who choose to produce genetically modified plants. Such an approach is obviously dubious and must be reviewed. It does not correspond to the expectations of European consumers, who, in the current context, are calling rather for the isolation of GMO crops, not the creation of GMO-free niches, and are refusing to pay for the additional cost of conventional products.

9. Does coherency with the applicable rules for organic farming exist? COPA/COGECA ask the Commission to think about this, and if need be to make proposals for the provision of maximum thresholds for organic products.

Specific Remarks

1. Scope of the text – non-authorized GMOs in accordance with EU regulations – the problem of responsibility

10. COPA/COGECA take note of the fact that the current legal framework of the Community limits the scope of the present draft to genetically modified organisms that have received market authorisation in accordance with EU regulations. However, they regret that this text is limited to genetically modified varieties authorised for commercial production when genetically modified plants authorised for experimentation may have been at the root of the fortuitous presence.

11. In practice, GMO-free conventional seed may very well contain fortuitous traces of GMO events that are authorised for experimentation and/or production and/or importation. In this context, it is imperative that the draft be completed, in order to deal with this problem. Otherwise, there will be the question of who is legally and financially responsible for the damage incurred as a result of the impossibility of marketing seed containing GMOs that are not authorised for production and/or experimentation and/or importation.

12. In the opinion of COPA/COGECA, it is clear that seed producing farmers and their cooperatives cannot automatically be held responsible for such damage.

13. This issue is of the utmost importance. It cannot be evaded and must be dealt with as soon as possible by the Commission services in order to avoid any long and costly points of conflict.

2. Proposed Thresholds

14. COPA/COGECA think that it would have been preferable to fix all thresholds concomitantly (for food or feed, seed, etc.), and that it would have made more sense to start by fixing the thresholds for seeds, which could then be adapted for derived products. However, the opposite approach to this was adopted.

15. COPA/COGECA think that these thresholds must be based on regularly updated scientific data. COPA/COGECA therefore support the idea of regular reviews of the texts proposed by the Commission. Of course, any revision must take account of the further acquisition of knowledge on the subject, and could just as easily lead to an increase as to a decrease in the thresholds, according to each plant species and each processing stage.

16. COPA/COGECA take account of the fact that these data are based on the scientific opinion issued on 7 March 2001, and that they are provisional. In fact, the opinion clearly indicates that these thresholds are proposed within an EU context, where GMO production is not widespread, and that in the light of scientific progress and the development of GMO crops within the EU, the current thresholds should be reviewed.

17. The separation of crops for the production of conventional seed and GMO seed must be as complete as possible so as to minimise the accidental presence of GMOs and perhaps even exclude the latter from conventional seed. The additional costs should be borne by GMO seed producers, who must not endanger the integrity of conventional products. Fortuitous presence thresholds for seed must take account of the risk of a possible presence of GMO pollen surrounding seed or grain products. These thresholds must take the biological nature of each species into consideration.

18. COPA/COGECA are also aware of the fact that public opinion is divided on this subject, and that some people believe that zero tolerance should be established. However, COPA/COGECA producers and cooperatives cannot commit themselves to respecting conditions that are impossible to attain in practice.

19. In the opinion issued on 7 March 2001, the Scientific Committee for Plants laid emphasis on the fact that in practice, it was impossible to achieve zero tolerance for genetically modified organisms that have not received EU authorisation. It also pointed out that at international level, it was important to establish a databank on DNA sequences and analysis procedures that allow non-authorised occurrences to be detected. COPA/COGECA support this suggestion.

20. When we talk about non-authorised GMOs, it is necessary to distinguish between those for which authorisation has been refused and those that have obtained authorisation for use

after having been assessed, from the moment that the country concerned has the required means to carry out an assessment.

21. COPA/COGECA are therefore interested in the Commission's suggestion to look into the possibility of fixing thresholds for non-authorized GMOs that have undergone positive scientific testing, and to deal with these GMOs and authorized GMOs in a uniform manner. In this case, COPA/COGECA would be in favour of establishing the same thresholds. Therefore, more detailed and in-depth consideration ought to be given to the idea of applying the same thresholds for GMOs authorized within the EU and those that have been the subject of positive scientific analysis. With regard to the fortuitous presence of GMOs, it would make sense to look for a certain amount of coherency by applying the same thresholds across the board, independently of the place of authorisation.

3. Analysis and sampling methods

22. Furthermore, in as far as some thresholds would be established at levels close to detectability thresholds for new DNA, COPA/COGECA would warn the Commission of inevitable controversies, which would be a source of long and costly disputes. That is why COPA/COGECA are in favour of economically and technically realistic thresholds.

23. Furthermore, COPA/COGECA entirely support the Commission's proposal to establish harmonised Community methods of controlling the thresholds before they have been established. This is essential.

24. Moreover, the inspection and control systems must be harmonised at international level and must take risks and costs into consideration.

4. Previous cropping

25. COPA/COGECA share the Commission's desire to find ways of limiting the presence of genetically modified adventive plants and consider that the provision of regulations concerning preceding crops is necessary. However, in COPA/COGECA's opinion, that should not lead to the creation of additional constraints for conventional seed producers, with the obvious financial consequences. COPA/COGECA query the real impact of such measures.

5. Isolation distances

26. COPA/COGECA likewise share the Commission's wish to limit all sources of fortuitous GMO content, as far as is reasonably possible. But will an increase in the current isolation distances have a real impact on the level of GMO content? It would inevitably pose practical and most likely insurmountable problems for crop growing, in particular for hybrid rapeseed.

27. Disparities between farmers may increase, because large-scale farmers would be better able to respect these distances. This would put European family-run farms at a disadvantage.

28. The present draft overlooks the problem of the responsibility that should be assumed by seed production companies and GMO seed growers with regard to respecting the isolation constraints laid down in the regulations in order to avoid the contamination of conventional seeds. It cannot be left up to the goodwill of each person to meet obligations as important as the respect of isolation distances.

29. Consequently, it would be interesting to look into the possibility and practical feasibility of regulatory measures that organise the coexistence of GMO and GMO-free sectoral branches (delivery authorisation granted by the governmental authorities, plot identification, etc.).

30. For some seed producers, these last two conditions (preceding crop and distances) can constitute additional constraints, thus undermining the production of conventional seed in Europe to the benefit of imports from third countries.

31. The distances proposed of 2000 metres for beet and 5000 and 3000 metres for basic seed and certified hybrid rapeseed should be reconsidered on the basis of a full scientific evaluation, because in the opinion of COPA/COGECA, these distances are too high, and are liable to endanger the production of hybrid varieties in certain Member States. Moreover, these figures were not proposed in the scientific opinion of 7 March 2001.

32. Whenever fertile hybrids are not GMOs, or particularly in the case of male sterile GM plants, there is no scientific reason for fixing isolation distances that differ from those currently being applied.

6. Good Farming Practice

33. COPA/COGECA believe that it is indeed crucially important to ensure that accidental mixes are avoided at all stages of production. The member organisations of COPA/COGECA generally consult the codes of good farming practice adapted to each country, and are aware of this issue.

7. Imported Seed

34. COPA/COGECA believe that the same obligations must by all means be applied for imported seed, and question the ability of the Commission to ensure that these obligations are respected by third countries, bearing in mind the WTO agreements.

35. COPA/COGECA are of the opinion that this draft must not pose a threat to the competitiveness of European production by creating discriminatory situations vis-à-vis extra-Community production.

Yours faithfully,

Risto VOLANEN Secretary General

Cc: MM. CHECCHI-LANG, DEL BINO, OBST, ANDRE, MARTIN POWER, Mme Nelly BANDARRA