



GM Free Welsh Local Authorities

July 2003

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Synopsis

- The Farmers Union of Wales, the National Federation of Women's Institutes - Wales, GM Free Cymru and Friends of the Earth Cymru have formed an alliance and are asking all Welsh Local Authorities to take steps towards becoming GM-free areas.
- There is scientific evidence that growing GM crops will pose a threat to the natural environment and lead to gene stacking, with the creation of superweeds.
- GM crops pose a serious threat to organic and non GM farming; as things stand, organic farmers and farmers whose non GM crops are contaminated by GM crops will have no right to financial compensation.
- The British Medical Association has raised concerns over the potential health effects of GM organisms.
- Local Authorities can declare their areas GM-free and ensure that no GM crops are grown on land which they control. They can also adopt a GM-free policy for all goods and services for which they are responsible;
- In addition, legal advisers to Friends of the Earth consider that local authorities can use the European Deliberate Release Directive (2001/18/EC) to apply to stop GM crops being grown in their area.

Background

The Government is expected to decide later this year whether or not to allow GM crops to be commercially grown across the UK. If such approval were to be granted, it would lead to widespread GM contamination of our food, crops and environment, and would remove people's right to choose food free from GM content. The stance of the Welsh Assembly continues to be to apply the most restrictive approach consistent with EU legislation.

Against this background, the Farmers' Union of Wales, the National Federation of Women's Institutes - Wales, GM-Free Cymru, and Friends of the Earth Cymru are inviting all Welsh Unitary Authorities to take steps towards becoming GM-free areas.

Our alliance is supported by Merched Y Wawr, The Organic Strategy Group, The Soil Association, Welsh Beekeepers Association, Welsh Black Cattle Society, The West Wales Ecocentre and Y Urdd.

Rationale for GM-Free Areas

The creation of GM-free areas is an essential element in the development of robust local food economies and a sustainable farming sector. There are diverse reasons for resisting the commercial introduction of GM crops, some of the most important being:

- Growing of GM crops is very likely to affect the local environment and wildlife. Gene stacking, leading to the creation of "superweeds", is an outstanding concern. For example, an extensive study commissioned by English Nature of GM herbicide-tolerant oilseed rape crops in Canada (English Nature research report no. 443) revealed that genes from separate GM varieties can accumulate in plants that grow from seed spilled

at harvest (volunteer plants). In Canada these plants are now resistant to several widely used herbicides and are in effect on the road to becoming nuisance weeds.

- The Welsh Assembly has recently planned to increase support to organic farming. GM crops pose a serious threat to organic farming. As the number of organic farms increases, it is inconceivable that any GM crop could be placed between them without contamination. This could lead to removal of organic status, as organic standards do not allow GM contamination. As things stand, farmers so affected have no right to financial compensation.

- There is currently no legal obligation for biotechnology companies to clean up the local environment if a GM crop or food is found to be unsafe. Local authorities may find that they have responsibility for dealing with such situations.

- Few toxicology tests have been conducted, despite the fact that the United Nations and the British Medical Association (BMA) have called for careful toxicology and allergy tests prior to the release of GM organisms. In November 2002 the BMA concluded "There has not yet been a robust and thorough search into the potentially harmful effects of GM foodstuffs on human health. On the basis of the precautionary principle, farm scale trials should not be allowed to continue." There is also the issue of antibiotic resistance, regarding which the BMA concluded: "Antibiotic resistance 'markers' help identify GM plants and there is evidence that these genes may be transferred to non-GM plants. There is a significant risk that antibiotic resistance markers may progress through the food chain, possibly into pathogenic organisms causing human disease."

- The public overwhelmingly reject GM crops and food. According to a recent MORI poll (February 2003), 56% of British people oppose GM food compared to only 14% who support it. An NOP survey in October 2002 showed that 57% do not want the Government to allow GM crops to be commercially grown across the UK. According to a 2001 survey, 94% of Europeans want the right to choose whether to eat GM food and 71% do not want to eat it at all (Guardian, 2 July 2002).

Siôn Aron of the FUW has commented, "The advantages to Wales of remaining GM free are apparent. The public, on the whole, is sceptical of GM technology and would rather eat GM-free food. Wales can gain a marketing advantage from remaining GM-free which we could never achieve through the use of GM products."

Role of Local Authorities

We are calling on local authorities to take steps to protect their area from GM crops, thereby supporting organic and sustainable food production.

When a local authority declares its intention to be GM-free there are certain concrete measures that it can take in order to help realise that aspiration. These include ensuring that the services they provide, such as school meals and catering are free of GM ingredients, and ensuring that any land over which they have control is not used for the growing of GM crops.

The Legal Framework

In addition to, and separately from, declaring their area GM free, Local Authorities have a new legal tool they can use to help them achieve their desire to be GM free - Article 19 of the Deliberate Release Directive (Directive 2001/18/EC).

In the opinion of Friends of the Earth legal advisers, local authorities can use Article 19(3)(c) to ask the Secretary of State and the National Assembly to seek a "geographical area" exemption from specific GM crops. While this Article cannot be used to gain blanket protection against all future GM crops, it may be used on a case-by-case basis each time that an application for marketing consent is made to the Commission.

Provisions of Article 19, Deliberate Release Directive

Article 19(1) of the Directive provides that a GMO can only be used "so far as...the environments and/or geographical areas stipulated in these conditions are strictly adhered to".

Article 19(3)(c) requires that any Part C consent must "[in all cases, explicitly specify]...conditions for the protection of particular ecosystems/environments and/or geographical areas".

Using Article 19 – what local authorities can do

Each type of GM crop needs its own Part C (marketing) Consent. Each time that a Part C Consent application is made, the Secretary of State can object to the consent being granted or can argue that, if the Consent is granted, it should be subject to certain stipulated conditions. Local authorities are in a position to examine each Part C consent in question and to write to the Secretary of State to seek protection for their particular geographical area against the proposed marketing consent for that crop.

Local authorities in Wales should also write to the Assembly's Agriculture Minister since the National Assembly is the "competent authority" dealing with deliberate GM releases in Wales, and will thus have a significant role in presenting objections to the European Commission.

Finally, we believe that the local authority should also write directly to the Commission about each prospective Part C consent during the 30-day comment period, thereby ensuring that comments do reach the decision makers at the Commission level. Responses to the Commission should be made by email via the Joint Research Council website, email to gmo-info-comments@jrc.it. Website at http://gmo-info.jrc.it/partc_browse.asp.

The argument for seeking a "geographical exemption" for an area is strengthened when the reasons for seeking the exemption are related to the environment or human health, especially when they reflect the specific character or concerns of that area.

Such specifically local concerns can include:

- The amount of land under organic management
- The number and size of designated wildlife habitats
- The number of bee keepers
- The presence of wild relatives of GM crops
- The number of food businesses engaged in local and added value food

- production
- The terms of any local sustainability or community plans and the objectives of any local biodiversity action plan
- The numbers of farmers who produce their own farm-saved seeds
- National Parks, Sites of Special Scientific Interest or other specially protected areas
- The value of the area's natural environment and organic agriculture to the local tourist industry
- presence of rare species in any habitat
- number and length of quality water courses
- extent use of ground water

Friends of the Earth is currently producing some environmental information which will help local authorities make their case for "geographical exemptions". Contact Julian Rosser at Friends of the Earth Cymru for more information.

Some people have tried to argue that local authorities do not (generally) have the power to declare their area GM Free or to ask the Secretary of State to protect their area. Section 2 of the Local Government Act 2000 gives all local authorities very broad powers to do anything which it considers is likely to promote or improve the environmental well-being of its area. Declaration of GM Free status might fall into this category. In addition, the Courts recognise that local authorities are entitled to take into account ethical considerations when making decisions (the most well known case in this area is a Court of Appeal decision which concerned a local authority's decision to ban deer hunting on its land).

Local authorities which have passed GM-free resolutions include Flintshire, Pembrokeshire, Cornwall, South Gloucestershire, South Hams, Devon, Dorset, Lancashire, Penwith and West Dorset (although not all of these authorities' resolutions refer to Article 19 of the Deliberate Release Directive).

We enclose a Draft Resolution, which will be of use to you when considering and adopting a policy on this issue. If you need any help or advice on this, please contact Julian Rosser.

Friends of the Earth's legal team are happy to help any councillors to draft appropriate wording for a GM-Free resolution and to advise on any letters to the European Commission, DEFRA and the Welsh Assembly.

Draft Resolution for Local Authorities

This Council recognises that:

- Genetic modification of crop plants is a relatively new branch of science and technology.
- There is still scientific debate about the safety of GM crops.
- The commercial growing of GM crops presents legal, economic, social and ethical problems that have not yet been properly addressed.

This Council therefore declares that the County/District/City of [...] will, so far as is possible, be kept free of GM crops and GM food and feed. Further, the Council recognises that there are issues of particular concern to the people of [...] and of particular importance to the protection of the environment of [...]. These include:

[Insert specific areas of concern relevant to your area – see pages 3-4]

The Council therefore commits itself:

1. to ensuring that no GM crops are grown on land over which it has control;
2. to adopting a GM-free policy for all goods and services for which the Council is responsible;
3. to consider, in respect of each Part C Marketing application (under Directive 2001/18/EC), the potential adverse impacts of the proposed GM Crop on [name of Authority] and having done so to request (where appropriate) the European Commission (directly and through the Secretary of State for Environment Food and Rural Affairs and the Agriculture Minister at the National Assembly) to exclude the geographical area of [...] from the ambit of such a Consent under Art. 19(3)(c), in order to protect the distinctive environment of [...] and to protect the integrity of [...] as a GM-free area.

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