

ASSEMBLY MEMBER BRIEFING

GM-FREE WELSH ENVIRONMENT



Friends of
the Earth
Cymru

Cyfeillion
y Ddaear
Cymru

BACKGROUND

Friends of the Earth (FOE) Cymru launched the GM-Free Welsh Environment campaign in July 1999 at the Royal Welsh Show. The campaign calls on the National Assembly for Wales not to permit any releases of GM crops into the Welsh environment unless it can be satisfied that to do so would be safe for the environment and human health. The campaign is based around FOE Cymru's legal analysis of the Assembly's powers in this area.

FOE Cymru then commissioned an independent legal opinion which confirmed its belief that the Assembly *does* have this power. This opinion was presented to the Assembly on the 9th of March 2000. The opinion has now been put forward as a motion, supported by Mike German, Jocelyn Davies, Nick Bourne and Ron Davies. This motion will be debated in the full Assembly on **Wednesday the 24th of May 2000.**

WHAT THE ASSEMBLY CAN DO

The motion, put simply, states that the Assembly will not grant GM crop releases into the Welsh environment unless it has enough information for it to be confident that the release would not cause damage to human health, other living organisms, or their ecological systems.

Assembly Members (AMs) now have the opportunity to turn this sound legal opinion into Assembly policy. It is based on the precautionary principle, which is now an internationally recognised principle by which policies can be made in the absence of full scientific knowledge.

Mike Fordham, one of the UK's leading judicial review lawyers, and Kate Gallafent gave the following opinion: "***we consider that the adoption of such a policy would be lawful. We do not think it could successfully be challenged in Court.***" Legal advice received by the Assembly's Presiding Officer supports our opinion that decisions on GMO release consents may be the subject of a general policy statement.

FIRST STEP

This is the first *crucial* step towards full control over future GM crop releases and is one that the Assembly must take if the public is to have any confidence in the Assembly's handling of the issue. This is a chance for the National Assembly to use its powers in the interests of human health and the environment. However, it is important to point out that this motion will not be enough to stop all planting of GM crops in Wales.

WHAT THE MOTION CAN DO

If passed this motion will enable the Assembly to exert full control over future experimental releases of GM crops. Experimental releases are those which are covered by a Part B release consent under the EC Directive 90/220/EEC (the GMO Directive) for purposes other than marketing.

The Assembly would have a policy which would 'presume against' granting consent. It would not amount to a blanket ban as the motion commits the Assembly to considering representations on a case-by-case basis.

The motion would enable the Assembly to demand higher standards of proof of safety than has hitherto been demanded. It will be able to direct Government Advisory Committees to tell the Assembly how confident they are that no damage will be caused.

WHAT THE MOTION WILL NOT DO

The motion will *not* deal with the current problem of the Sealand trial in Flintshire. That GM crop (the T25 maize) has a Part C release consent under the GMO Directive. This is a commercial release consent, not an experimental release consent.

Although the Agriculture Secretary has stated there is nothing the Assembly or the UK Government can do about the trial this is not strictly true. It is accurate to say that, as it did not grant consent for the planting, the Assembly

cannot withdraw consent for this specific site. However, the UK Government does have the power to ban planting of crops with Part C consents on its territory, under Article 16 of the GMO Directive. This has been confirmed by Catherine Eva, the Head of EC Representation in Wales.

WHAT THE ASSEMBLY NEEDS TO DO IN THE FUTURE

Article 16 of the GMO Directive (90/220/EEC) states that, *“Where a member state has justifiable reasons to consider that a product which has been properly notified and received written consent under this Directive constitutes a risk to human health or the environment, it may provisionally restrict or prohibit the use of and/or sale of that product in its territory”*. FOE is seeking legal advice on how the Assembly can use Section 33 of the Government of Wales Act to call on the UK Government to invoke Article 16 of the GMO Directive in Wales. It is likely that the Assembly will have to adopt another motion, calling on the UK Government to make such representations, in its role as the Member State.

Article 16 has already been used by Austria to ban the import and cultivation of the T25 maize - the maize which is being grown in Sealand. The Article allows the banning of a product if there is ‘a risk’ of harm. There is more than enough reason to suppose that GM crops would pose at the very least ‘a risk’.

Aventis has publicly stated that it would stop the trial in Sealand if the Government told it to. It has said it would do this as the trials are sponsored by the Government. Therefore, if the company has not withdrawn the trial, it would appear that it has not been instructed to.

We suggest that the Assembly considers appointing its own civil servants in appropriate Government Departments. This will ensure that the Assembly’s views and policies are considered from the beginning when decisions are made.

WHY SHOULD THE ASSEMBLY DO THIS?

Each day new stories and studies come to light, which increasingly point out deficiencies in the scrutiny of GM products. The Assembly should address these deficiencies. It will not be able to do this unless it demands more robust assurances of safety from the Government’s advisors.

* The T25 maize that has been planted in Flintshire has

not been tested on cattle, yet has been approved for the UK market as cattle fodder. This is not ‘sound science’, despite assurances to the contrary.

* The herbicide to be used with this crop is glufosinate, known to be toxic to soil micro-organisms, essential for the well-being of the soil. Little is known about soil ecology; killing off beneficial bacteria and fungi will have uncertain effects on future farming. However, the Government’s Farm Scale Trials do not include any monitoring of these organisms.

* GM pollen has now been found in honey - posing a threat to the beekeeping industry. Beekeepers will now have to go to enormous expense to move their hives (if they wish to guarantee the purity of their honey) yet will not be compensated for doing so.

* The biotech industry has lobbied hard to avoid liability for any damage that may be caused to the environment or human health by GM crops. This indicates that they are not confident enough in the safety of their products to actually stand by them.

* The Assembly has to take urgent action to control GMOs *now*, before they get full commercial approval, with a Part C consent. The biotech industry does not need to inform the Government, the local communities or neighbouring farmers if it is releasing a GM crop under a Part C consent. This will have terrible implications for organic farmers and beekeepers who will not know whether they live within pollination-distance from a GM site.

* Government research has stated that cross-pollination between GM and non-GM crops (known as genetic pollution) is ‘inevitable’. The separation distances between GM trials and non-GM (or organic) crops are woefully inadequate.

The further planting of GM crops in Wales is contrary to the Assembly’s vision of sustainable agriculture as an environmentally, socially and economically sound future for farming and the rural economy.

To make this vision a reality, the Assembly must use the powers it has to prevent experimental releases of GMOs in Wales

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**PLEASE VOTE IN FAVOUR OF
THE GM MOTION
ON THE 24TH MAY**