

## Results from the consultation with stakeholders and member states concerning BPD for monitoring efficiency of coexistence measures in maize crop production

The consultation process took place on:

1. Regulatory Committee 2001/18/EC on 4<sup>th</sup> of November 2013;
2. Advisory Group on the Food Chain and Animal and Plant Health on 22<sup>nd</sup> of November 2013. The deadline for submission of the written comments was set up by 14 of February 2014

### Summary table

Contributor	Remarks	Response of TWG-Maize of ECoB	Follow up
<b>General comments</b>			
IFOAM EU	<p>IFOAM EU made more extensive comments on a similar document drafted by ECOB in 2009. Despite the fact that this and other stakeholder inputs, as well as numerous studies are available, this new ESEB document leaves out significant risk points and does not provide appropriate best practice guidance.</p> <p>Missing in the document:</p> <p>The following questions have not been discussed in the document, while they are of utmost importance for the food sector:</p> <ul style="list-style-type: none"> <li>• Who covers the transaction costs?</li> <li>• What would be the cost of segregation at collection points (data from coextra.eu projects)?</li> <li>• Price differences between organic and conventional crops: who covers the costs, if an organic harvest is downgraded to an conventional harvest due to adventitious presence?</li> <li>• only pollen is taken into account as a source of</li> </ul>	<p><u>It is ECoB, not ESEB document</u></p> <p>On p.9/par.2 of the current draft of the BPD is clearly stated that: <i>"This document focuses on the best practices for monitoring the efficiency of coexistence measures for maize crop production – it is a BPD for monitoring. <u>It does not address the issues of: legal compliance with the regulated binding labelling thresholds, or compensation for damage caused by an adventitious presence of GM material as a result of the correct application of coexistence measures or as violation of the coexistence rules.</u>"</i></p> <p>The fourth paragraph of the same page continues that: <i>"The BPD for monitoring is elaborated on the basis of coexistence measures previously recommended by"</i> the Best Practice Document on maize crop production. Therefore for additional information please check the results from stakeholder consultation on the Best Practice Document on maize crop production, available on ECoB webpage:</p>	Not needed

	<p>GMO material in GMO-free material on the field, but other sources are possible, such as:</p> <ol style="list-style-type: none"> <li>1. Adventitious presence in seeds (s. Field simulation of transgenic seed admixture dispersion in maize with a blue kernel color mark, Dietiker Dominique, Oehen Bernadette, Ochsenbein Christian, Westgate Mark E., Stamp PeterCrop Science 51, 1-9, 2011, doi: 10.2135/cropsci2010.06.0311</li> <li>2. Volunteers <ul style="list-style-type: none"> <li>• Beekeeping is not covered.</li> </ul> </li> </ol>	<p><a href="http://ecob.jrc.ec.europa.eu/stakeholder.html">http://ecob.jrc.ec.europa.eu/stakeholder.html</a></p>	
FoEE	<p>The legal framework is not accurate reflected in the document:</p> <p>Regulation 1829/2003 states that any GM contamination above the threshold of 0.9% must be labelled but also make it mandatory that contamination below 0.9 must be labelled if is technically avoidable or non-adventitious. Article 12,2 states:</p> <p><i>This Section shall not apply to foods containing material which contains, consists of or is produced from GMOs in a proportion no higher than 0,9 per cent of the food ingredients considered individually or food consisting of a single ingredient, provided that this presence is adventitious or technically unavoidable.</i></p> <p>The draft BDP wrongly assumes that any GM contamination below 0.9 would not be labelled this is a wrong reading of the key regulation. Furthermore this threshold and requirements define the final food product and not the harvest of one crop. As discussed in various stakeholders meeting with DG Sanco, representatives of various business organisations underlined that industry</p>	<p>On p.7/par.3 of the current draft of the BPD is clearly stated that: <i>"Recommendation 2010/C 200/018 of the EC provides guidelines for the development of national coexistence measures to avoid the unintended presence of GMOs in conventional and organic crops, replacing Commission Recommendation 556/20039. Recommendation 2010/C 200/01 recognizes that the market demand for particular food crops may result in economic damage to operators who would wish to market them as not containing GMOs, even if GMO traces are present at a level below 0.9%. Therefore Member States may establish different thresholds for adventitious and technically unavoidable presence of GMOs in non-GM harvests, taking into account the demands of the consumers and their market."</i></p> <p><i>(see the response to the general comments of FoEE and IFOAM EU)</i></p>	Not needed

	<p>works with much stricter thresholds for GM contamination rather 0.1-0.3 for raw material.</p> <p>Conclusions: Coexistence measures and monitoring based on legally and market reality flawed thresholds cannot contribute for this highly important debate.</p> <p>Highly biased scope of the draft:</p> <p>The title of draft BPD refers to coexistence with organic farming, but it seems that the actual text does not refer to the organic farming sector.</p> <p>For years Friends of the Earth Europe has been waiting that the Commission is launching research, guidance and legislation to protect those 99 % of farmers who fulfil market demands by producing conventional and organic crops. After 19 EU governments just reaffirmed their broad concerns against the cultivation of a new GM maize on Europe's field on 11 February 2014, we continue waiting that JRC and DG Sanco focuses how this 99% can be protected against GM contamination. Once more this draft BPD focus on those farmers who want to cultivate GM crops and set their interest as a base line. „Feasibility of the measure from the farmers point of view“ focuses on this small minority of farmers who actually cultivate GM maize.</p> <p>Your reflections on sampling and testing methods are an ongoing burden for the conventional and organic farmers who are faced with thread of ongoing contamination by neighbours cultivating GM maize as in some areas of Spain without a public registers for GM maize.</p> <p>Conclusions: This draft BDP cannot be used to monitor</p>		
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	efficiency of coexistence measure in maize production in EU due to substantial methodology mistakes.		
		<b>Detailed comments</b>	
FR	When discussing the stratified simplification of field sampling to be added reference to Messeguer et al. (2009)	On p.21/par.2 of the current draft of the BPD, when is introduced the methodology for simplification of field sampling the reference of Messeguer et al. (2009) is mentioned	Not needed
IFOAM EU	<p><u>ESEB document, Page 6 and 7, GMO labelling under EU law</u></p> <p>The formulation in the text is not clear enough. Legislation: 0.9% is clearly defined by law as labelling threshold only for adventitious or technically unavoidable presence of GMO in GMO-free feed and food in regulation 1829/2003. All co-existence practices if taken serious have to be designed to keep contamination at 0 (detection limit) - because the aim of coexistence measures is simply to avoid all technically avoidable contamination (reg. 1829/2003, Article 12 and 24, Paragraph 3: "In order to establish that the presence of this material is adventitious or technically unavoidable, operators must be in a position to supply evidence to satisfy the competent authorities that they have taken appropriate steps to avoid the presence of such materials."); only unforeseeable failures in the system may be counted adventitious and only if all possible technical measures have been taken to avoid contamination, it may be declared as technically unavoidable - until a technique has been found to avoid them as well. Article 26a of directive 2001/18 encourages appropriate measures on member state</p>	<p><u>This document is from ECoB not from ESEB</u></p> <p><i>(see the response to the general comments of FoEE and IFOAM EU)</i></p>	Not needed

	<p>level: „Member States may take appropriate measures to avoid the unintended presence of GMOs in other products.” Herewith member states are encouraged to take serious steps to avoid contamination. Moreover, a contamination of 0.9 % is far beyond of what level is being accepted in practice on the food market, especially – but not only - on the organic food market.</p> <p>"These labelling rules are also valid for organic products, including food and feed, according to Regulation (EC) No 834/2007.1"</p> <p>This statement is right in claiming that labelling rules for GMO presence as laid down in Regulation 1829/2003 also apply for organic products, whereas an organic product loses its organic status if any GMO must be labelled on the product. However, as described in the last paragraph, the text ignores that the obligation for GMO labelling applies for all contamination if it is not adventitious or technically unavoidable and below 0.9%. Moreover it ignores the fact that food consumers and food processors insist on lower thresholds even for adventitious and technical unavoidable contamination. The practice in food production reality is different from the situation described in this text - organic food processors usually do not accept any contaminations above 0.1% and also the majority of conventional food processors in Europe test at thresholds that are significantly lower than 0.9% to satisfy consumers demand. This is current practice and there is no reason that producers would be forced to accept higher levels of contamination or face higher cost.</p>		
IFOAM EU	<i>Page 7: "Adequate technical and organizational measures during cultivation, on-farm storage and</i>	If continue with the next sentence in this paragraph (p.7/par. 2):	Not needed

	<p><i>transportation may be needed to ensure the ability of the agricultural sector to efficiently maintain different production systems and thus ensure freedom of choice throughout the food chain."</i></p> <p>The assumption that additional measures not only "may" be needed but are necessary is sufficiently proven in the literature. But these measures are needed in the throughout the production and supply chain, but this paper does ignore many of them (e.g. shared machinery such as harvesters; collection points/elevator, processing facilities). Seed has been left out of the scope of the paper, whereas the purity or contamination level in seed is a major determinant for the quality of the harvest.</p>	<p><i>"As local environmental conditions and farm structures may have a significant impact on the effectiveness and efficiency of coexistence measures their development is under the remit of individual Member States."</i></p> <p>is becoming clear that the scale of adopted coexistence measures is regionally specific and is dependent of the influence of variety of factors. As consequence in some cases additional measures may or may not be needed.</p>	
IFOAM EU	<p><i>Page 10: Consequently its scope is limited to GM maize containing single transformation events and is applicable to both insect-resistant and to herbicide-tolerant GM maize.</i></p> <p>Limiting the best practice document to maize containing just a single transformation event makes it insufficient for practice, as in more recent GMOs "stacked events" are prevailing.</p>	<p><i>(see the response to the general comments of FoEE and IFOAM EU)</i></p>	Not needed
IFOAM EU	<p><i>P 10: The main costs of coexistence are assumed to be borne by the farmer cultivating the GM variety. However the cost structure of non-GM farms is also altered by transaction costs and risk exposure. Therefore the European Commission</i></p> <p>The costs for coexistence should be borne by the farmer cultivating the GM variety and the company bringing the GMO to the market, but this is unfortunately not yet the rule. Therefore the assumption is not true. The paper should suggest guidance to member states on how to</p>	<p>On p.9/par.2 of the current draft of the BPD is clearly stated that:</p> <p><i>"This document focuses on the best practices for monitoring the efficiency of coexistence measures for maize crop production – it is a BPD for monitoring. <u>It does not address the issues of: legal compliance with the regulated binding labelling thresholds, or compensation for damage caused by an adventitious presence of GM material as a result of the correct application of coexistence measures or as violation of the coexistence rules.</u>"</i></p>	Not needed

	<p>better regulate, so that it is guaranteed that costs of prevention and potential contaminations are borne by those who cause the costs by bringing GMO into the market and onto the fields (liability). Liability must include costs for the prevention of contamination (e.g. temporal or spatial segregation measures), testing (sampling, analyses, etc.) and also the price difference between the conventional and the organic price would have to be compensated for in case an organic farmer loses the certificate due to contamination.</p>		
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IFOAM EU - International Federation of Organic Agriculture Movements EU  
FoEE - Friends of the Earth Europe  
FR - France