

GM Rapeseed contamination scandal

UK Briefing

22 May 2000

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What's Happened?

- Conventional rape seed (canola) from Canada sold by Advanta has become contaminated with Monsanto Roundup Ready Rape. The contamination happened by cross-pollination to a batch of conventional hybrid rapeseed sold as Hyola 38, Hyola 330 and Hyola 401. The GM variety is Monsanto's RT73 (also known as GT73) and resistant to Monsanto's weedkiller 'Roundup'.
- The contamination seems to have occurred 'in the field' in Alberta, Canada over a distance of at least 800 metres. In one report in the Times, Advanta is claiming there was a larger separation distance between their rape and the GM rape of between 1.4km and 4 km. Current field trials in the UK require a separation distance of only 200m from other crops. Advanta have now moved their seed production to Montana and New Zealand to ensure GM-free purity.
- Advanta's contaminated rape has gone to UK, Sweden, France and Germany. In the UK we understand 500 - 600 farms have been affected by 22.5 tonnes of contaminated seed. This may amount to up to 34,000 acres (13,700 hectares). Last year 22,500 acres were planted and this year it has probably been used on 12000 acres. In Sweden 500 ha of the contaminated rape was sown, In Germany 300 ha and in France 600 ha.
- Initially the government said that about 1% of the seeds had been contaminated. It is now clear from the Swedish authorities that in one batch up to 2.6% of the seeds were contaminated. This particular batch was recalled. However such thresholds are irrelevant with seeds, They describe how many seeds are GM contaminated out of every hundred but, since seeds multiply, a small percentage can quickly grows into a larger percentage of the crop over a few years. A seed can't be only partly contaminated - it either GM or its not - it's like being pregnant - you can't be a little bit pregnant.
- The Government have told press that the GM seed will grow up 'male sterile'. In fact Advanta have said they will be 'mostly' male sterile.

That is not really relevant however because its female parts can still be pollinated by other rape plants in the field and still produce a seed (which will be both fertile and GM). These seeds, if allowed to set, can stay in the soil up to 8 years. This means farmers will have to deal with the GM contamination for years to come. There is some evidence that GM seeds persist in the soil even longer.

- Advanta learned about the contamination on the 3rd April as a result of spot testing by authorities in Baden-Wuerttemberg (Germany). The UK government learned about the contamination on the 17th April. Rape planting season was still underway and indeed many rape farmers planted late this year because of the bad weather - yet no attempt at seed recall was undertaken. The public was finally told a month later on the 17 May. Under this year's IACS (European subsidy scheme) rules the oil seed rape planting deadline has been extended to the 31st of May. This means that even now farmers who have the contaminated seeds could still plough up the crop and replant with a non-contaminated OSR seed.
- This is not the first time this has happened. In the spring of 1997, two varieties of Roundup-Ready rape seeds had to be recalled by Monsanto Canada (its licensee was the seed company Limagrain) after quality assurance tests revealed the seed contained genetic material that had not received full government clearance. The recall amounted to 60,000 bags of seed sold in Manitoba, Saskatchewan and Alberta. Two Alberta farmers who had planted the crop ploughed it under and received undisclosed compensation from Monsanto Canada.

The legal status of the seed

"The cultivation of genetically modified crops requires a written consent. Such a consent for cultivation of the genetically modified oil seed rape in question does not exist, neither in Sweden or the EU. It also requires a consent to place a prospective yield on the market. Such a consent does not exist and the farmers may therefore neither sell nor give away a prospective yield"

Swedish Board of Agriculture 19 May 2000

- The oil derived from Monsanto's RT73 has been officially cleared for safety in human food. The Advisory Committee on Novel Foods and Processes gave this clearance in 1997. However the oilseed itself cannot be sold for processing into oil.
- There is no consent for the rape meal from the crop to enter animal feed. ACAF (the Advisory Committee on Animal Feedingstuffs) has been asked for its comments and advice on the implications of feeding the RT73 variety and its by-products to farm livestock. Greenpeace believes that it would be wrong for ACAF to approve this product for animal feed, especially given that no safety tests or novel feed regulation exist for GM crops in animal feed. The meal can be very

easily tested and identified by animal feed companies using an SDI strip test (like a pregnancy test).

- Monsanto have a limited consent to release RT73 under part B of EU directive 90/220. This permits limited experimental growing on named field trial sites with conditions and monitoring. Due to the Government's failure to take any steps this Advanta release of RT73 rape remains a general uncontrolled and unmonitored commercial release on unspecified sites with no monitoring in place.
- In order to have a general commercial release of a GM crop it is necessary to obtain a consent under part C of EU directive 90/220. There is no such part C consent for this Monsanto rape. For the past 2 years it has been commercially sold and grown by Advanta and others in the food chain without this EU level approval. This requires that the competent authorities of all member states agree to the GMO in question entering and being sold within the EU. They haven't and are unlikely to in the near future.
- To allow unapproved varieties to enter the EU furthermore shows a complete disrespect for the Cartagena Biosafety Protocol - an international convention which governs the 'transboundary movement' of GMO's. This explicitly requires that states provide 'agreed informed consent' for GMO's to be imported and does not allow thresholds for seeds. The EU agreed to this in January and EU directive 90/220 is the process by which the EU comes to give that 'agreed informed consent' to a particular GM crop. The protocol is due to be signed this week in Nairobi.
- The government has tried to claim that the EU allows for thresholds of GM contamination. This is untrue. EU legislation does set thresholds for levels of GM contamination in foodstuffs (not seeds) above which labelling is mandatory. This only applies to approved GM varieties, which GT73 is not. There are also thresholds relating generally to seed purity - however these seed purity thresholds do not permit contamination by unapproved GM varieties. EU Amendments to regulations on seed purity to allow GM contamination are currently scheduled for December 2000.
- The government appear to have told Advanta that they didn't consider the release illegal. Baroness Harman has claimed that it wasn't possible to take action because the seeds were already in the ground. In fact both the Government and Advanta could have acted before some planting went ahead. The truth is the Government can still prevent this year's release and take action to stop volunteers from last years release. They could have done this at any point in the last month.

Responses by other Governments:

- In Sweden the Agriculture Ministry is strongly of the opinion that the release is illegal. They are actively considering an injunction to destroy the crop and have given relevant bodies until 4pm on Tuesday 25th May to respond (see above) and are likely to be telling farmers they should pull it up. According to the Swedish Board of Agriculture the company responsible for distributing the seeds, Svalöf Weibull, has traced buyers of 4,635 kg of totally 4,775 kg seed this year.
- In France Environment Minister Dominique Voynet called for the destruction of about 600 hectares of rapeseed being grown from seeds contaminated by genetically modified (GM) material. Voynet, who is a leader of France's Greens Party, called for an inquiry into how the GM seeds had been mixed with normal seeds and sold in France. This came after a farm ministry official said legally there was nothing the government could do because the level of contamination was less than one percent. French farm officials later retracted this but there appears to be a split within government. As already explained the level of contamination is irrelevant. There is no consent to release a single GM plant.
- In Germany the Baden-Wuerttemberg authorities (Lebensmittelchemische Untersuchungsanstalt BaWü) confirmed that they knew about it since April 3, before planting, but were not allowed to talk about it. It seems that some interagency discussions about it were started, but with no final decision. The Federal Agricultural Ministry says it is only a contamination in the range of 0.03% and claims this would not be illegal (This is wrong - even a single unauthorised plant is illegal). The Environmental Protection Agency (UBA) was not aware of this rapeseed but sent out official warnings to all states (Laender) and the federal regulatory authorities. In the evening news the agricultural ministry was quoted as saying that they don't see a problem since the harvest could be used for bio-gas production instead of food. This would mean that they actually do know where the fields are.
- Italy's Agriculture Minister Alfonso Pecoraro Scanio was cited as saying he was ordering anti-fraud checks after farmers across Europe found themselves unwittingly growing genetically modified crops, adding, "I have asked the anti-fraud inspectorate to verify whether transgenic seeds have been sold to (Italian) farmers without their knowledge."
- *"Beate Gminder, spokeswoman for EU Food Safety Commissioner David Byrne, was cited as saying it was up to EU member states to ensure seeds of genetically modified (GM) crops were not mixed with traditional varieties and that new Europe-wide seed legislation was not expected before the autumn, adding, "It's up to member states to trace where it came from and why it happened. They must take the action."*
 - EU SAYS MEMBER STATES MUST ENFORCE GM CROP RULES May 18, 2000

The UK Government response

- The UK government was warned in June last year by its own scientists at the John Innes Institute that contamination of up to 1% could be occurring with seed imports from the US. (Dr Philip Dale). In March, following the Greek cottonseed contamination scandal, Greenpeace wrote to EU Environment Commissioner Wallstrom urging her to inform all member states that no seed import should be allowed into the EU from states that do not comply with EU GMO legislation and that it was necessary to undertake to obtain all necessary measures include PCR analysis to ensure compliance with directive 90/220 and other relevant EU legislation. However it has emerged that the UK government has undertaken no checks on seed imports so far.
- Since being informed about the contamination on April 17th the UK Government consulted secretly with ACRE on the 10th May. Meanwhile they apparently met daily with the UK seeds sector. They also apparently received legal advice. Only on the 17th of May (one month later) was the information sneaked out in response to a planted parliamentary question. Meanwhile the Food Standards Agency has come to the view that this GM rape is safe for human health and the environment and therefore has decided to take no action.
- Prior to coming to this view no consultation appears to have been undertaken with consumer groups, environmental groups, Statutory conservation bodies, supermarkets, rapeseed processors or the affected farmers. Nor was information given to these and other affected parties until a month later. In just this sort of incident the Food Standard Agency, which was established at the beginning of April, has a commitment to being open and transparent, to representing the consumer, consulting widely and to inform all players in the food chain. In the words of its Chairman Sir John Krebs:

" We will conduct our business in and open and accessible way. The old 20th century model, in which experts met behind closed doors and emerged to make pronouncements about whether or not things are safe to eat or good for you, has had its day. We in the agency will be much more interactive, bringing people (from all sides - industry consumers, health experts and so on) into our discussion and decision making at an early stage and keeping them involved throughout"

(Science and Public Affairs, April 2000)

The Food Standards Agency has clearly failed to do all of this.

- The Government has however announced new measures introducing steps to agree common codes on seed purity: - introduce spot checks

on imports of seeds (beginning June 1st), to monitor GM content in seeds and research into the possibility of GM presence in seeds. This is partly to be achieved by a voluntary code agreed by the seeds industry and partly by pressing the EU to adopt new standards. Worryingly this set of measures are seem concerned with setting 'acceptable levels' of contamination rather than eliminating unwanted GM contamination. The driving principle appears to be ensuring that future contamination cases will be technically legal and therefore less troublesome. Rather than keeping illegal seeds out these proposed measures may be a loophole to let illegal varieties in. These are not measures for seed purity but for allowing GM impurity. The government appears to have accepted that GM contamination is inevitable everywhere if GM is being grown somewhere. Ironically this is exactly why Greenpeace believes that GM has to be banned globally.

- The fact that the government has decided to set up another voluntary code of conduct for the industry to self police is evidence that, far from representing the interests of the consumer, the farmer, the processor or the environment, the government has once again abdicated responsibility in favour of the seed and biotech industry. This makes a mockery of the food standards agency's commitment to consumers and the food chain.
- There has been no acknowledgement of the need for action by the government or the illegality of the commercial growing. The Food Standards Agency is neither recommending monitoring, crops being removed, testing in oil mills, recall or testing of existing rapemeal feed, prosecution of Advanta, compensation or even information for farmers. There is no halt on rapeseed imports, no testing of existing seed stocks, no meaningful information provided to consumers, supermarkets or feed users nor requirements for labelling at any stage in the food chain. In short the whole 'farm to fork' approach of the food standards agency suddenly seems strangely forgotten in favour of a deal that suits industry. Sir John Krebs should be ashamed.

Other responses

- French farm union spokesman Patrice Vidieu was quoted as saying the government was "treating citizens like they are imbeciles."
- Rapeseed traders: "traders said even if the affected rapeseed were destroyed, as anti-GM activists have urged, the effect on future supply would be minimal.. But traders said the issue could still affect prices over the coming weeks depending on how the government authorities and foreign customers reacted to the disclosure."- Reuters, May 19th
- A spokeswoman for Safeway Plc was quoted as saying, "We have a policy of no GM ingredients and no GM derivatives in our own-brand

products."

- A spokeswoman for retailer Marks & Spencer Plc was quoted as saying, "We took a commitment to take out all GM ingredients and derivatives. We do tests all the time for accidental contamination. There is currently absolutely no evidence that there is any GM in any of our foods."
- A spokesman for Tesco Plc, Britain's biggest supermarket chain, was quoted as saying, "We're consulting with the Food Standards Agency, the ministry of agriculture and the department of the environment to find the affected farms. When we've done that we're going to take a look at it." The Tesco spokesman said, "What we do know is our customers don't want it."
- Duncan Bogie, spokesman for Unilever's Van den Bergh Foods was quoted as saying, "We've got the strongest IP (identity preserved) sourcing we believe can be achieved." Van den Bergh's Bogie pointed out only a very small amount of rapeseed was involved and that rapeseed was only one of the potential ingredients of margarine. "There's more sunflower in Flora," he said, referring to one of Van den Bergh's brands.
- Juliet Howarth of the Margarine and Spreads Association was cited as saying the industry was taking its lead from the FSA, adding, "There is no DNA or protein in the final oil. It's exactly the same as conventional oil."
- In an interview with Reuters in September, John Kyle, managing director of Glasgow-based Cardowan Creameries which supplies bakers and food manufacturers, expressed his concerns for the supply chain by saying, "We don't want them tinkering with rapeseed."
- The Consumers Association called on the government to prevent the GM contaminated oilseed rape from entering the food chain. Sheila McKechnie, Director of Consumers association said: "This scandal also makes a mockery of the efforts supermarkets and manufacturers have gone to secure non-GM supplies.. Consumers have made their views known about GM and the government will be guilty of treating them with contempt unless it takes quick and strong action."
- European consumer groups said the accidental mixing of genetically-modified rapeseed with traditional varieties in several countries highlighted the need for legal measures to make industry responsible. "This...clearly demonstrates what we have long argued: that biotechnology companies must take legal responsibility for their products," the EU's consumer lobby BEUC said in a statement. "Only with this legal incentive will the biotechnology industry pay adequate attention to researching, understanding and limiting the possible adverse effect on the environment and on human health of GMOs (genetically modified organisms)."

The serious implications of this scandal

- Widespread commercial growing of GM crops is already taking place, despite government assurances that there will be no widescale commercial growing of GM crops until the end of the farm scale trials. The fact is that the government still can stop this contamination and can easily identify and isolate it with cheap testing kits but have instead done nothing. This makes a mockery of the farm scale trial programme. The government is clearly not genuine in its concerns for the environment or the consumer.
- Far from using this as an opportunity to show decisive action on behalf of the consumer and the environment to eliminate the contamination or even to provide meaningful information and support through the food chain, the Government has entered into deals with industry to seek permitted levels of contamination in the future. The Food Standards Agency is clearly a farce and Tony Blair's supposed 'change of tone' on GM in February is proven equally false. The government is making it easier for GM contamination to keep happening.
- This is an accident - Both human negligence and cross pollination are involved - it's exactly the sort of accident that will keep happening with GM crops which are an unpredictable and uncontrollable technology. It is clearly time for a global ban on any release into the environment of GMO's.
- There may be illegal GM products on the market, particularly animal feed -untested, unlabelled and unapproved. It is unclear what position of liability this leaves unwitting individual farmers, processors and sellers in as they now become aware. Farmers in particular may have to deal with the effects of this contamination for 8 years or longer due to seeds contaminating soil. According to the Royal Institution of Chartered Surveyors the fact of GM contamination may depress agricultural land prices.
- This is particularly an issue for farmers turning organic - they may now have GM contaminated land through no choice or fault of their own if they grew this rape last year. GM contaminated land currently can't become organic. Farmers who seek to sell produce as GM-free to supermarkets and other markets may also be heavily penalised.
- Government is signing away the GM free status of UK commercial agriculture and flouting their own and EU law as they do so - what sort of a message does that send to foreign markets who will not touch GM contaminated goods? Since the introduction of Monsanto GM rapeseed Canadian rapeseed exports to Europe have dropped off to effectively zero as a result of consumer resistance. US maize exports have slumped for the same reason. This may well be the tip of the iceberg - so far the government has tested no rape or corn seed imports.

- The barrier distances used for all GM rapeseed field trials are grossly inadequate. All field trials should be stopped at once and surrounding crops and honey checked for contamination - both here in the UK and in the Americas.
- Greenpeace believes the crops should be immediately ordered to be ripped up, farmers compensated and Advanta prosecuted. Greenpeace is looking into the legality of the release given the lack of part C consent and also into the behaviour of the food standards agency in relation to their statutory duty. Greenpeace is also very concerned that the package of measures announced by the government relating to seed purity and GM contamination be redrawn. They must begin with the purpose of eliminating G. contamination not allowing it.