International Workshop

on the consequences of the ECJ judgement on GM pollen in honey for GM crop releases and cultivation in Germany and the EU

Berlin, December 13-14, 2011

Session 1: General Issues
Since the ruling of the Court of Justice of the European Union was published last 6 September, the topic of GM pollen in honey has attracted extensive press coverage, many parliamentary questions and a dedicated session at the European Parliament last October. The ruling has practical implications at two different levels – the production of honey within the EU and imports of honey from third countries (EU imports 45% of its honey, mainly from Third Countries cultivating GMOs). The analysis of the consequences of this ruling is a task that the Commission has taken very seriously. The Commission has examined in detail this issue with Member States at all the Standing Committee meetings since September, at the 2001/18/EC competent authorities meeting in October -as concerns the implications on field trials- and at the Coexnet meeting on 11 November to see in detail the possible implications on co-existence. The Commission has also met on several occasions since September all stakeholders concerned, including the food industry, farmers’ organisations and beekeepers, as well as key affected third countries such as Argentina, Canada or Brazil. In all these occasions the Commission has underlined the need for reacting in a co-ordinated manner. Individual initiatives, being at state or local level, should be avoided.

WHAT THE RULING SAYS: Very clearly, the ruling determines that pollen becomes an ingredient of honey. The fact that pollen of GM plants (such as MON810 maize) in honey becomes an ingredient has consequences of the authorisation, labelling and detection of GM pollen in honey under the GMO legislation. By concluding that pollen is an ingredient of honey, the Court ruling also impacts the labelling of honey: pollen needs to be listed as an ingredient even if the honey is GM-free. There are 2 ingredients: pollen and honey.

AUTHORISATION ASPECTS: The consequences of the ruling on the authorisation of GMOs are clear: GM plants need a full scope authorisation covering the use of their pollen in honey. Detection and quantification aspects are also important and are being examined with the help of the Joint Research Centre since no validated method are available. JRC encounters difficulties to extract and quantify. The Commission has advised Member States that official control on honey should be risk based, and that the Rapid Alert System for Food and Feed notifications should only be issued if there is a serious risk to
human or animal health. Commission presented to Member States on 20 October the EFSA opinion concluding that MON810 maize pollen is as safe as non GM maize pollen. The Commission has also invited EFSA to issue an opinion for the GM oilseed rape events GT73 and Ms8xRf3, as a matter of urgency. Both will be followed by full opinions and authorisations of their pollen in food. This is mostly a regulatory, and not a safety issue. The authorisations in question focus on particular food uses, which do not include pollen. The Commission is now taking the necessary steps to have so-called "full scope" authorisations of pollen with authorised GMOs, covering explicitly all food uses (including use of pollen in honey).

- **LABELLING ASPECTS:** It is clear that the ruling puts the spotlight on the organisation of GMO cultivation at national level. However, this is not a new issue. Member States may define the appropriate measures to organise co-existence in their territory. The extent of the consequences of the Court ruling on coexistence is dependent on the analysis of its labelling aspects. We cannot put the cart before the horse and start discussing in detail the coexistence aspects until we have a clear conclusion on the labelling aspects! Implementing the ruling as regards labelling requires making sure that there are no inconsistencies in the EU rules interpreted by the Court. We thus examine the honey Directive, GM legislation, Food Information legislation, Codex rules. The key issue here is the fact that the Court concludes that pollen is an ingredient of honey. We cannot cherry pick and chose what we like from the Court ruling and decide that the "ingredient" aspect applies to the GMO legislation and not to the labelling and honey provisions contained in EU law. The Commission is examining whether it is necessary to clarify that pollen is not an ingredient of honey but a constituent.

- **CONCLUSION:** The GMO legislation applies: GM pollen needs adequate authorisation. This is essential for consumers to be reassured that GM pollen is assessed for its safety. The recent MON 810 EFSA statement is reassuring in this regard. The legal question has to be addressed now. We are working on the detection and labelling aspects, which are fundamental to assess the consequences of the Ruling. In the meantime we recommend waiting for a harmonised approach as regards detection and implementation of the labelling threshold. The Commission will report on further progress on harmonisation.