

**STANDING COMMITTEE ON  
ENVIRONMENT AND PUBLIC AFFAIRS**

**INQUIRY INTO MECHANISMS FOR COMPENSATION FOR ECONOMIC LOSS TO  
FARMERS IN WESTERN AUSTRALIA CAUSED BY CONTAMINATION  
BY GENETICALLY MODIFIED MATERIAL**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
FRIDAY, 31 AUGUST 2018**

**SESSION FIVE**

**Members**

**Hon Matthew Swinbourn (Chair)  
Hon Colin Holt (Deputy Chair)  
Hon Tim Clifford  
Hon Samantha Rowe  
Hon Dr Steve Thomas**

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**Hearing commenced at 2.13 pm**

**Mr STEEN BONDE**

**Head of Department, Danish Agricultural Agency, Ministry of Environment and Food, examined:**

**Ms NAJA STEEN ANDERSEN**

**Ministry of Environment and Food, examined:**

**Ms KAREN VIGGERS**

**Ministry of Environment and Food, examined:**

**Mr MORTEN STORGAARD**

**Ministry of Environment and Food, examined:**

**The CHAIRMAN:** My name is Hon Matthew Swinbourn. I am the Chair the Standing Committee on Environment and Public Affairs in Western Australia. To my left is our advisory officer, Alex Hickman. To his left is our deputy chair, Hon Colin Holt, and to his left is Hon Tim Clifford. To my right is Hon Samantha Rowe and to her right is Hon Dr Steve Thomas. On behalf of the committee, I would like to welcome you to our meeting. Could each of you, just for the record, please state your full name, contact address and the capacity in which you appear before our committee today?

**Mr BONDE:** Thank you, Mr Chairman. It is a great honour for us to have this opportunity to explain the Danish coexistence law and regulation regarding compensation for losses due to the presence of GM materials in conventional and organic crops to the committee.

**The CHAIRMAN:** Sorry, I have to go through some formalities here, so please bear with me. These proceedings are being recorded by Hansard and broadcast over the internet. A transcript of your evidence will be provided to you. To assist the committee and Hansard, if you refer to a document, can you please quote the full title of the document. Because we are dealing with this over Skype, just be aware of the delays that can sometimes happen. If only one person can speak at time, that would be most helpful. Your transcript will become a matter of public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public.

Would you like to make an opening statement to the committee?

**Mr BONDE:** No, I think, as I just said, it is a great honour for us to have this opportunity to explain our regulation to your committee.

**The CHAIRMAN:** Excellent, thank you; and it is greatly appreciated as well.

Could you please give us a general overview of your scheme in Denmark in terms of the compensation for genetically modified materials contaminating non-genetically modified crops?

**Mr BONDE:** The regulation was set up in 2004, and to this date no GM crops have been grown commercially in Denmark. Therefore, Denmark has so far no experience with the operation of the scheme of compensation. However, we can explain in more detail and answer your questions on how we have set up the regulation. According to the Danish frame law on coexistence, farmers who

wish to cultivate or handle genetically modified crops must have an authorisation or a similar official recognition issued by the Danish Agricultural Agency. To receive an authorisation, the farmer must have an education in the cultivation and handling of genetically modified crops in coexistence with conventional and organic crops. The education must provide the farmer with competence regarding active observation of cultivation distances to neighbouring fields with a crop of the same species as the genetically modified species or a genus that can be crossed with conventional and organic crops. In addition, the law demands cultivation intervals between the cultivation of a genetically modified crop and subsequent cultivation of a conventional and organic crop of the same species. Furthermore, the education should make the farmer aware of the obligation to inform neighbours of the plans for cultivation of genetically modified crops and of the need to report to the Danish Agricultural Agency on the location of fields with genetically modified crops et cetera. Eventually, the education should draw farmers' attention to the necessary cleaning of machinery used for the sowing, harvest and transport of genetically modified crops.

[2.20 pm]

The requirements make sure that a farmer possesses the necessary qualifications to handle and minimise the risks of genetically modified crops, as the farmer is responsible for the presence of genetically modified material above a certain limit in conventional or organic crops as a result of, for example, pollen dispersal from his or her fields with genetically modified crops. This could result in economic loss for the conventional or organic farmers, and especially for organic farmers with the loss of the organic status of their fields in question. However, even though a farmer might comply with all the above mentioned requirements, there might be a risk of involuntary spreading of genetically modified material from fields with genetically modified crops to neighbouring fields with no genetically modified crops, and it is such the case that there is a likelihood that the farmer of the non-genetically modified crop will seek compensation. It is the function of the law.

**The CHAIRMAN:** Thank you for that. When setting up the Danish frame law on coexistence between GM and conventional and organic crops—are you able to give us a summary of the feedback that you received from the stakeholders on the proposed compensation measures, broken down by stakeholder groups?

**Mr BONDE:** Yes, I can give you a summary of their reaction.

**The CHAIRMAN:** Yes, that would be helpful.

**Mr BONDE:** If we look at the green organisations of Denmark—comprising Organic Denmark, an organisation consisting of organic farmers, organic enterprises and consumers; the Danish Consumer Council; and the Danish Society for Nature Conservation—they had general concerns about growing GM crops in Denmark. However, they all supported the Danish compensation scheme and in particular the cultivation fee, even though some of them would have liked it to be higher. Then we have Greenpeace Denmark. They did not support the Danish compensation scheme because they found it insufficient and the cultivation fee too low. Instead, they suggested that the responsibility for the grower of GM crops ought to be based on a strict basis for the loss they inflict on others. The Danish agricultural council, which is the farmers' union, supported the Danish compensation scheme and the cultivation fee; however, they pointed out that it was important for them that the Ministry of Environment and Food carried the establishment costs of the compensation scheme. The Danish food industry did not support the cultivation fee. They found it unfair to impose such a tax on the grower of GM crops. That is a summary of the reactions from the main interest groups in Denmark.

**The CHAIRMAN:** Thank you. That is appreciated. What was the basis for choosing the compensation model? For example, why was it decided it would be funded by a fee paid by GM farmers and not,

for example, by the state using taxpayer funds or a fee paid by all farmers or the fee would be 100 Danish kroner per hectare payable by farmers; and to limit compensation to the price difference between the market price of a crop that had to be labelled and containing GM material and a crop for which no such labelling is required and not for it to cover potential damage such as loss of markets?

**Mr BONDE:** Yes. To the first question, cultivating GM crops in Denmark would be a new form of production in Danish agriculture. Compliance with the rules on co-existence requires that responsibility lies within the one who grows GM. The basis for choosing the compensation model was to make it easy and burden free for the farmers of conventional and organic crops to seek compensation for their losses due to the events of spreading of GM material from fields with genetically modified crops to their fields with non-genetically modified crops. Without the compensation model, the farmer whose non-GM crops have been mixed with GM material would have to seek compensation for any losses from the farmer cultivating genetically modified crops in civil proceedings and the burden of proof would then be on the farmer seeking compensation and the procedures may be very time consuming. With no insurances available in Denmark to cover the losses due to admixture of non-GM crops with GM material, it was decided to put the burden on the GM farmers and let them pay for the compensation model. At the same time, the GM farmer, by paying a smaller amount, is to some degree covered against a long civil proceeding with a possible bigger payment in the end. So this is my answer to the first question. Is it sufficient?

**The CHAIRMAN:** Yes. One of my colleagues, Hon Colin Holt, has a question for you.

**Hon COLIN HOLT:** Thanks for joining us, Mr Bonde, and others. Thank you for your time. I am just reading in the notes that a fee of 100 Danish kroner per hectare is applicable for the GM farmer. Is that seen as prohibitive in Denmark? Is it seen as a burdensome fee to pay? Is it a lot of money?

**Mr BONDE:** It is not a lot of money. It is quite low; 100 kroners per hectare is not a high rate. It is about in —

**Hon COLIN HOLT:** Euros? How many Euros is that?

**Mr BONDE:** In Australian dollars it is about—I do not know. It is about—I think it is about 10 or 25 perhaps —

**Hon COLIN HOLT:** Is it €10?

**Mr BONDE:** It is about €10 per hectare, yes.

**Hon COLIN HOLT:** The money that is collected goes into a special fund, but that is at zero at the moment, is it not, because no-one is growing any GM crop?

**Mr BONDE:** Yes, it is zero. There is no worth from the fee, but there is a—on the national financial bill there is a sum of two million kroners, I think, earmarked for this purpose, but this has not been in function.

**Hon COLIN HOLT:** But the actual fee itself, so the 100 kroner, it is not seen as prohibitive for the growing of GM necessarily by itself.

**Mr BONDE:** No. It is not meant to be prohibitive, but it is meant to be a kind of co-financing from the GM farmers' side.

**Hon Dr STEVE THOMAS:** It is \$A22 at the current exchange rate.

**Mr BONDE:** If I could turn to the next question, the second question, about the fee, yes, I would think but you also have touched this question. The Department of Food and Resource Economics at the University Copenhagen calculated that the fee of 100 Danish kroner per hectare would be

payable by the GM farmers and at the same time sufficient. So, it was an independent economic scientific institute that made this research calculation for us.

[2.30 pm]

**The CHAIRMAN:** Has that been reviewed since your legislation and laws came into force?

**Mr BONDE:** No, it has not been reviewed.

**Ms ANDERSEN:** The calculation has been—it was calculated back in 2016.

**Mr BONDE:** It has been calculated again in 2016. But it was not changed by this occasion.

**The CHAIRMAN:** And the third part to that question, have you got a response to that available for us?

**Mr BONDE:** Yes. It was a political decision to limit the compensation to be the price difference between the market price and a crop that had to be labelled and containing GM material and a crop for which no such labelling is required. However, in the case of organic farming, compensation may be given for the conversion period until the production can again be sold as organic.

**The CHAIRMAN:** We have made reference at our question 1.4 about whether you could provide an English language version of the report that was prepared by the Department of Food and Resource Economics supporting the 100 kroner fee per hectare. Is that possible—to be able to provide us an English version?

**Mr BONDE:** We are happy to share the report, but, unfortunately, it is only in Danish.

**The CHAIRMAN:** Did you have an English executive summary or anything else like that that may help us out? There are not a lot of native Danish speakers in Western Australia, unfortunately.

**Mr BONDE:** We can help you to have the report translated, but I think that the expenses would be at your cost then.

**The CHAIRMAN:** All right. We may liaise with your people regarding the translation. Thank you for that. What is the relevant distance GM crops need to be grown from non-GM crops for compensation to be paid? That is our next question, 1.5.

**Mr BONDE:** Yes. The compensation distance is explicitly set for each crop species. The compensation distance is calculated as the cultivation distance for the crop, with an addition of 50 per cent as additional security. An example: if cultivation distance between genetically modified maize and conventional or organic maize is 150 metres, the compensation distance is 225 metres for maize. This means that a farmer growing organic maize in a field where part of the field is inside the compensation distance to a field with genetically modified maize, then he can apply for compensation if he finds genetically modified maize above a certain threshold in the harvest from his field.

**The CHAIRMAN:** Do you have the example for GM canola, by any chance, or rapeseed, as you may call it over there?

**Mr BONDE:** No.

**The CHAIRMAN:** Are you able to provide that to us by any chance at a later date?

**Mr BONDE:** Yes. We are able to do that.

**The CHAIRMAN:** Thank you. That is the GM crop that we have in Western Australia at the moment, GM canola, so that is the thing that is of most interest to us. So, moving to question 1.6, within what time frame must testing be undertaken after an application for compensation has been made?

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**Mr BONDE:** The testing will be done immediately after the Danish agricultural agency has received the application for compensation and the request for sampling. Samples can be taken within three days and the subsequent analysis can be done in an authorised laboratory within a week.

**The CHAIRMAN:** I take it the government there does the testing; it is not the individual farmer?

**Mr BONDE:** It is the government, yes. It is a government-authorised laboratory.

**The CHAIRMAN:** If they did not get it done by the authorised lab authority, would that not be eligible for compensation?

**Mr BONDE:** It has to be a government-authorised laboratory; then there will be no compensation, I think. But we have our own laboratory. It is a government laboratory within the agency of food with the ministers.

**The CHAIRMAN:** What does such testing involve, and must GM contamination be above or below a certain threshold and why?

**Mr BONDE:** In the authorised laboratory, the first test is a quantitative PCR analysis that will provide a yes or no result on the presence of foreign DNA in the same sample. If the result is yes, a second quantitative test, a real-time PCR analysis will be done that quantifies the amount of foreign DNA found in the sample. To obtain compensation, the GM contamination in the crop must be above a threshold of 0.9 per cent following the genomes from the [inaudible]. In addition, farmers of organic crops can obtain compensation if they find GM material in their seed or vegetative propagation material and the contamination is above the threshold for labelling. At the moment the threshold is zero for organic seeds.

**The CHAIRMAN:** All right. Thank you for that. What would the time frame be for compensation to be paid?

**Mr BONDE:** There is no time frame but compensation will be paid as soon as possible after the loss has been calculated.

**The CHAIRMAN:** This is 1.9: would non-GM farmers be prevented from taking legal action if they are granted compensation? This would be for losses that are greater than what are provided for under the compensation scheme.

**Mr BONDE:** If compensation is paid under the notified measures, the Danish agricultural agency takes over the claims for damages from the farmer who has received compensation. The non-GM farmers do not need—or are not supposed to sign—a legally enforceable agreement not to do so.

**The CHAIRMAN:** What kind of legal action might you take against a farmer that had been responsible for contamination on somebody else's farm?

**Mr BONDE:** What legal action we will take —

**Ms VIGGERS:** It would have to be in a civil court.

**Mr BONDE:** It would be a civil court action, yes. We will bring it to the civil court.

**The CHAIRMAN:** Is that to recover the amount that would have been paid out under the compensation scheme against them?

**Ms VIGGERS:** Yes, probably. If we have any losses, we have to be repaid.

**The CHAIRMAN:** Would that be your administrative costs as well?

**Mr BONDE:** The administrative costs will also be—probably, I think, yes.

**The CHAIRMAN:** I suppose you have been fortunate in not having to have tested any of these things just yet, so it is a little bit hypothetical.

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**Mr BONDE:** It is —

**The CHAIRMAN:** I suppose that leads to my next question: how is GM contamination proved in order for a farmer to claim compensation? Is this through the testing that you have spoken about? Sorry, you have covered that question off, I will leave that aside.

This is my final question, and it might be a little bit controversial: do you think your compensation scheme has effectively discouraged the adoption of GM crops in Denmark?

**Mr BONDE:** I do not think it has any effects on that. It has not been the purpose of the compensation scheme. The compensation scheme has only been in the case of contamination, then we could go in and support the farmers affected by this contamination. But I do not think it has prevented it and it has not been the purpose of it.

[2.40 pm]

**Ms VIGGERS:** No, we are not allowed to make rules that prevent —

**Mr BONDE:** We are not allowed to make rules preventing it.

**The CHAIRMAN:** Would your Ministry of Environment and Food support a farmer who wanted to bring a GM crop into Denmark to grow GM food?

**Mr BONDE:** If we —

**The CHAIRMAN:** Would you be supportive of a farmer? Would you provide technical support that you might provide for other farmers who want to introduce new crops into your country?

**Mr BONDE:** As I explained at the beginning, I think, Denmark is a part of the EU and is therefore only allowed to cultivate GM crops that are approved for cultivation in the EU. However, Denmark has the possibility to restrict or prohibit the cultivation of GM crops in their territory. The Danish Parliament decides whether GM crops will be permitted to be grown in Denmark in the future. Thus it is a political decision and, so far, Denmark has decided case by case; therefore, there might be a possibility that GM crops will be permitted to be grown in Denmark in the future, but it depends on political decisions.

**Hon COLIN HOLT:** Colin Holt here again. This may be a difficult question, but the compensation scheme came in in 2004 or 2005 when the legislation came through. What motivated the bringing in of that scheme? Was it political motivation or was there some other driving force that made the implementation or bringing into law of a compensation scheme? Does that make sense in English?

**Mr BONDE:** I think that if you have a coexistence law, then you also have to deal with the question about compensation. As I explained, I think that it has very much to do with the set-up in Denmark. If we did not have this compensation scheme, the farmer affected by a contamination would have had to put it through civil proceedings and bear the cost of it. Then you can say that because it is a political decision that you will make legislation that the farmers who are affected by this contamination will not bear the burden of this. I think that it is a political decision based within the framework of the coexistence law.

**Hon COLIN HOLT:** Thank you. Do you have any other similar compensation schemes in existence in Denmark?

**Mr BONDE:** It is a good question. I have not investigated that in detail but I think that if you have to compare, then you can go into animal diseases, I think. I think there are some compensation schemes but I am not quite sure also when you are going to—if you have to slaughter animals and so on.

**Ms VIGGERS:** That is different. It is because it is an unknown area and the insurance company did not want to make insurance in this area because they did not know the risks.

**Mr BONDE:** I think it is very difficult to compare to other areas within agriculture, because there would be no possibility of insurances here.

**Hon COLIN HOLT:** One last question from me: who is your organic certification organisation? Is it a government organisation or is it some other body that certifies for organics?

**Mr BONDE:** It is a government organisation and in fact it is the agricultural agency.

**Hon COLIN HOLT:** So it is you guys, your department, that does it?

**Mr BONDE:** It is not my department, but it is another department in the agency.

**Hon Dr STEVE THOMAS:** Can I just ask you to explain little about the legislative and parliamentary process that you mentioned earlier? You are not allowed in theory to have a generic ban on genetically modified organisms, but what is the parliamentary process? What kind of act of Parliament is put up? Is it a species-by-species approach? Is it an event-by-event approach? What sort of process are you going through with it?

**Mr BONDE:** It is event by event, case by case, species by species. It is GM event by GM event.

**Hon Dr STEVE THOMAS:** In that case, is it the case that an application would come in to bring in a genetically modified organism and for each application, effectively, Parliament involves itself and an act of legislation is passed to prevent it from occurring?

**Mr BONDE:** Yes.

**Hon Dr STEVE THOMAS:** How many of those have you had in recent years? How often does that occur?

**Mr STORGAARD:** We handle it in the EU system first and then there is a national procedure afterwards. Last year we had three cases and none of them were agreed to cultivate in the EU, so it never came up that we should cultivate them here. Actually, we did have a process the year before that if they were approved in the EU, we would not allow them to be grown in Denmark. It should also be mentioned that these GMOs were resistant to some insects that are not a problem in Denmark. They are a problem in southern Europe, but they are not a problem in Denmark; therefore, it is not relevant for Danish agronomists to grow these crops in Denmark.

**Hon TIM CLIFFORD:** Just one more question: could another driving factor behind Denmark's farmers not moving to GM be because of organic produce demanding a higher premium in return over GM? So it is an economic driver, not so much a driver against people just not liking GM or, as you said before, not just because of the insects, but because there is a higher economic return?

**Mr BONDE:** As I mentioned in answer to your question about actions from the different interest groups in Denmark, the consumer organisations and consumers have been very reluctant and against growing GMOs in Denmark, so I think it has been one of the drivers, and the main driver maybe.

**The CHAIRMAN:** I just have a point of clarification for you so that we can be clear. Is it a 0.9 per cent threshold for GM contamination except for your organic farmers where the contamination is above zero per cent, which would then make it compensable?

**Mr STORGAARD:** The 0.9 per cent is for food and feed, and also for the organic side.

**The CHAIRMAN:** We are just trying to clarify what we heard. Just to be clear, it is a 0.9 per cent tolerance essentially for all and there are no special arrangements for organic?

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**Mr STORGAARD:** No.

**Ms ANDERSEN:** For the organic seed, the threshold level is zero.

**Mr BONDE:** It is for organic cereals. Okay, then there is a difference.

**Ms ANDERSEN:** Yes.

**The CHAIRMAN:** Okay, so organic seeds and cereals are zero per cent. Do you have an import standard for organic foods? If Australia, for example, was to export our canola seeds to Denmark, do you accept a 0.9 per cent potential adventitious contamination or does it have to be zero per cent?

**Mr STORGAARD:** It is zero per cent, because no canola has been approved in the EU and therefore there is zero tolerance against that. If in the future canola is accepted and approved in the EU and Denmark, then we would accept 0.9 per cent in product, but not in seed. There we would accept 0.1 per cent.

**The CHAIRMAN:** Would you like to make a closing statement?

**Mr BONDE:** No, only to thank you for your very good questions. Again, it is an honour to have this opportunity to serve your highly esteemed committee.

**The CHAIRMAN:** We actually really appreciate your involvement and we also appreciate the fact that you speak English and we do not speak Danish, so you have helped us out considerably in that regard. I am just going to finalise here with our formalities. Thank you for attending with us today. I appreciate the difficulties that Skype always presents, but I think we have all persevered through that. A transcript of this hearing will be forwarded to you for your correction. If you believe that any corrections should be made because of typographical or transcription errors, please indicate these corrections on the transcript. The committee is also available for you to provide any additional information or to elaborate on any particular points that you may have made and to provide any supplementary evidence for our consideration when you return your corrected transcript of evidence. Once again, thank you very much for participating with us today.

**Hearing concluded at 2.52 pm**

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