Power Struggles over Biotech in Brussels

Biotech companies, NGOs and EU institutions in unfinished battle over new rules for GM in food and agriculture

Nina Holland

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1. Unexpected backlash for biotech industry in Europe

Less than a decade ago, not many people in the biotech industry would have thought that the introduction of genetically modified (GM) crops[1] in Europe would prove to be so difficult. A wide range of factors have contributed to keep GM inside the laboratories, rather than become succesfull products on the shelves: strong opposition in several countries, PR blunders by the industry, the nature of the first generation of GM products (no consumer benefits), personal opinions of some key ministers, and maybe most significantly a series of food scandals (BSE, food and mouth) that made both public and governments wary of any new experiments.

Nevertheless, too much money was invested in the technology to give up, and besides, EU political rethorics kept talking favourably about the opportunities for GM in agriculture. Both European Commission and national governments supported biotech research and start-up biotech companies with funding programmes. To make a political choice *not* to go ahead with GM crops never seems to have been an option.

However, in 1999 a group of EU Member States decided to systematically block the EU's authorisation of any new GM products (both import and cultivation), until a legislative framework would be in place that would guarantee consumer choice (labelling and traceability), food and environmental safety (novel food and feed regulation, deliberate release directive), and liability in case of damage to the environment because of GMOs. This situation was called an ''ad hoc moratorium".

Since then, most of these laws have been made and implemented (or in process). Each and every one of them triggered huge lobby campaigns by industry, environmental organisations and other interest groups. However, these days the "green" biotech industry is more frustrated than ever that even after years of law making, politicians refuse to take responsibility to give 'green' biotech the green light.

As said, the idea of GM food has not gained any popularity in Europe. The arguments used to make GM acceptable have not changed much from the beginning: claiming benefits like 'GM is good for the environment, is safer because more scientific, is beneficial for hungry people", as well as appealing to the fear to 'miss the boat, loose jobs, brain drain'. At this moment, as the Dutch presidency of the EU has made the Lisbon Agenda its top priority, competitiveness is the buzz word again for biotech[2]. To not much avail, as consumer resistance, direct actions causing direct damage, and time consuming legislation processes have resulted in virtually no positive sales figures to make up for all the investments. Despite the recent ending of the moratorium, GM still has not fulfilled by far its promise to be a money making machine on the European market. But where does it go from here?

With the number of lobbyists in Brussels estimated to be over 15,000, questions about democratic decision making in the EU are raised more frequently. Is lobbying part of a 'normal way of conducting politics' in which politicians eagerly make use of all the free expertise that is offered to them? Do we need to worry about the imbalance of the *quantity* of lobby activities in Brussels between private (industry associations, individual companies) and more public (environmental, labour union) interest groups?

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[1] In this article, the terms 'green biotech', 'agricultural biotech', 'GM crops' and 'GMOs' are used, all referring to the use of genetically modified crops in agriculture

[2] The EU 'Lisbon Agenda' (2000): in 10 years, the EU has to become the world's most dynamic and competitive economy. (see http://europa.eu.int/comm/lisbon_strategy/index_en.html and http://www.corporateeurope.org/ebs2004.html)

Sure is, we need to know more about it. This article is a backgrounder providing an overview of GM policy making in the EU focussing on the institutions involved and the lobbying efforts that were made to influence them. First, we provide an overview of GM legislation in the EU that has been focus of heavy lobbying. We then pay attention to the main EU institutions (European Commission, Council of Ministers and European Parliament), their functions and nature and how that relates to their 'lobbyability'. The main lobby groups are highlighted, as well as the next issues coming up. If anything, this articles shows that lobbying, despite the money and contacts that are behind it, is not a straightforward business. This is mainly caused by the (at times abruptly) changing political agendas of national governments and ministers in the EU.

2. The EU regulatory framework for GMOs

To get an impression what the GM debates in Brussels in the last few years have been about, the box below summarises the different pieces of legislation made to regulate the use of GMOs in the EU.

- **How to get permission for new GMOs: Deliberate Release Directive and Novel Food and Feed directive**

Directive 2001/18 puts in place an approval process for any new GMO (or a product containing GMO), based on a case by case assessment of the risks for human health or the environment. Naturally, there have been fierce debates on exactly how these risks are measured and judged. Under this directive, a company intending to introduce a new GMO into the EU first has to submit an application to one of the Member States. If this Member State has no objections, it informs the other Member States via the Commission. If any objections are raised, a decision has to be taken at the EU level. If the Council cannot decide by a qualified majority, the Commission itself can take the decision. This procedure has always been hugely criticised, as in this way, an non-elected body makes major decisions over what people get to eat.
Products *derived* from GMOs (like tomato ketchup) are covered by the new GM Food and Feed Regulation. Before this Regulation came into being, no EU legislation governed the use of GM for animal feed. The European Food Safety Authority (EFSA) is responsible for the scientific risk assessment covering both the environmental risk and human and animal health safety assessment. However, EFSA does not do any reseach itself; it only relies on data provided by the company.

- **Labeling and Traceability Regulation**

This new Regulation demands more food stuffs to be labeled than before, if they contain or are derived from more than 0.9% GMOs. Also, it introduces the labeling of animal feed, which was not mandatory before. This has greatly disturbed industry. However, animal products (dairy, meat, eggs) from animals fed with GM feed do not have to be labeled. The same for products that were made with use of GM enzymes or bacteria (only in the process, not present in the end product); a point heavily criticised by the environmental organisations. The rules on traceability provide means to trace products containing or produced from GMOs through the food production and distribution chains. (EC MEMO04/16)

- **Liability Directive**

One big issue has been how to deal with possible damage caused by GMOs, either to the environment, to human health or to organic producers. The Commission decided to create a general ''Environmental Liability Directive'', not specifically for GMOs. This directive only covers for damage to biodiversity, even limited to protected species and habitats. And then only in case that the GMOs were *not properly used.* If a farmer has applied all the rules and instructions, and is using a GMO authorised by the EU, he or she will not have to fear liability claims. Economic damage to other (especially organic) farmers, by cross pollination for example, is not provided for by this directive. In that case farmers will have to start a liability case under civil law, proving that their damage was caused by one specific neighbour. Clearly, industry was not unhappy with this outcome, whereas environmental organisations were furious with this empty shell.

- **The Cartagena Protocol on Biosafety**

In the EU, the UN Biosafety Protocol (part of the UN Biodiversity Convention), setting rules for international trade of GMOs, is implemented through laws like the ones mentioned above, *and* a special Biosafety Regulation that sets rules for the export of GM products *from* the EU to other parts of the world. In the light of the position of the US government and the heavy lobbying by the biotech

industry, it was a miracle that the Biosafety Protocol came into being in the first place. Especially noteworthy is its acknowledgement of the precautionary principle, very much against the wishes of the US (who in the end did not sign the Protocol). Its value however was reduced immensely by the fact that a clause was added stating that provisions of the Protocol will not affect other international agreements (read: the WTO agreements)..

3. The lobbyists and the lobbied

Let's have a look now at the players: *who is lobbying whom?* To start with, the three main institutions that make EU policy are the European Commission, the Council of Ministers (the Council), and the European Parliament (EP). EU Member States are most directly represented in the very powerful Council; which means that the role of lobbying on the national level is still crucial.
A decisive role in the GM authorisation process is being played by the newly established European Food Safety Authority (EFSA). Their task is to assess the data provided by companies regarding the safety of their GM products. Therefore, in principle they should not be open to lobbying. In order to avoid accusations, the 21 members of the EFSA GMO Panel state their relations and any income from industry sources on the EFSA website. Only a couple of them declare to have direct industry involvement.[3]

- **The Commission**

The Commission is the institution to *take initiative for legislation,* and is known to be very open to lobbying. New legislation starts here, and for lobbyists from all sides it is crucial to have good contacts in the relevant 'Directorates General' (DGs). Once the initial Commission proposal is sent to Council and Parliament, the focus of lobbyists moves away from the Commission.[4] DG Environment has initiated most biotech legislation; at times also DG SANCO (health and consumer protection) and DG Agriculture were involved. Now, DG Industry and DG Trade try to gain influence on the debate.

Although the Commission is not supposed to be a very political institution, regarding the case of biotech they have clearly chosen sides: GM is great for the environment, human health and the competitiveness of Europeas business. DG Environment's website starts its biotechnology section with alarming words about population growth in the world. *"Life sciences and biotechnology are likely to be important tools in the fight to feed the world's growing population. New biotechnology techniques have the potential to deliver improved food quality and environmental benefits through agronomically enhanced crops. Enhanced food and feed quality may be linked to disease prevention, and may result in the reduced use of chemical pesticides, fertilisers and drugs, leading to more sustainable agricultural practices in both the developed and developing world."*[5] Promoting GM as a tool in fighting hunger has always been highly criticised as, up till now this has not been at all the focus of most GM research or investment. As a solution to a very complicated problem, it is obviously very far removed from the roots of that problem. Most of the time, hunger is related to access to food, and not to the absence of it. Where drought or pests are the main cause, other (organic) solutions are being worked on but are obviously of no economic interest to biotech companies. [6]

However, in contrast to this very biased pro-GM attitude without any critical sounds, the Commission (i.e. DG Environment) has not always purely accommodated the biotech industry's interests when drafting new legislation (see 2. 'Labeling directive' and 4. 'Seeds directives')

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[3] http://www.efsa.eu.int/science/gmo/gmo_members/catindex_en.html
[4] There are exceptions to this. For example in the case of the REACH proposal of the Commission, initiating a huge re-evaluation and testing program for chemical products, the initial proposal was so fundamentally opposed to by industry that enormous pressure was put not only on Council and Parliament, but also on the Commission to change the proposal. Succesfully, as the Commission watered down its own proposal, ignoring the Council and Parliament that had called for an even stronger program. See for full report www.etuc.org/tutb/uk/pdf/reach1sw.pdf
[5] http://www.europa.eu.int/comm/environment/biotechnology/index_en.htm
[6] see IFOAM briefing 'Genetic Engineering vs Organic Farming', http://www.ifoam.org/ge_ifoam_2.pdf

It is hard to estimate the extent to which Commission officials are being lobbied, and to what extent this lobbying is effective; unless one has very good contacts inside. When a Commission proposal for new legislation is being published, it is unclear whether certain lobby groups already have managed to put their stamp on it. Unlike the Parliament, the Commission does not even have a list of registred lobbyists. Meetings between industry lobbyists and Commission officials are reported when asked, but according to the Commission, no minutes of these meetings are ever taken. For example, a very high-level meeting between EuropaBio (see below) and Commissioners Byrne (SANCO), Wallström (Environment) and Fischler (Agriculture) and their Cabinets took place in January 2003.[7] Although the Commission claims to meet 'on a regular basis' with all stakeholders, it definitely does not meet all of them on the same level.[8] Other parts of the European Commission have already gone much further though. Instead of waiting for lobbyists to come forward, DG Trade actively pushed European industry to get engaged in WTO negotiations on the liberalisation of services (the General Agreement on Trade in Services, GATS) in 2000.[9]

- **The Council**

The Council is the *main decision-making body* of the EU. Depending on the issue on the agenda, each country will be represented by the responsible Minister for that subject (foreign affairs, finance, social affairs, transport, agriculture, etc.). The Presidency of the Council is held for six months by each Member State on a rotational basis. Council decisions are prepared by working groups comprising delegates from the Member States. They resolve technical issues and forward the dossier to the Permanent Representatives Committee (Coreper), made up of the Member States' ambassadors to the European Union. The Council takes decisions by a vote of Ministers from the Member States. There are three types of vote depending on the subject being dealt with. In the case of authorising a new GMO, for example, a 'qualified majority' (a weighted voting system based on the populations of Member States) is necessary for a decision. Every Council meeting is presided by the minister of the country that holds the presidency of the EU at that time. Holding presidency means more influence on the agenda, i.e. pushing certain issues.

According to lobbyist Von Essen of the European Seed Association (ESA), no EU presidency so far has pushed the GM issue. Only the new Food and Feed regulation has been pushed by the Italian government. Von Essen explains this was because *".. they did not get anything else done. They put a lot of pressure on Parliament and Council to finalise this subject, even though they did not like the GM issue so much"*. He makes another interesting observation: the country holding presidency usually generally takes less radical positions (on any issue), as its political aim is more to achieve consensus among the member states. This means that a pro-GM country being president means a *weakening* of the 'pro-GM camp' (UK, NL, BE,..); and vice versa. When decisions have to be taken by qualified majority, this is very important as every vote counts.

To lobby the Council on the highest level, one needs to raise attention on the national Ministerial level in each Member State. The Council working groups can be lobbied in Brussels; however they usually only meet in Brussels for a few days, it is therefore not possible to see many of them. Lobby organisations rely on their members who work on the national level to meet with these people.
The Council has been the greatest hurdle for the biotech industry. Here, the personal opinion of the key Minister (or his/her party position) can be crucial. In the case of biotech, Pronk (NL), Kunast (GER) and Alemanno (IT) have caused the biotech industry severe headaches with their GM-critical attitude.[10] The Council upheld the Moratorium for years; and till this day showes great dividedness over authorising new GMOs. According to an industry spokesperson[11], this proves how 'politicised' the

[7] From information provided by DG ENVI to Corporate Europe Observatory on our request
[8] See the 'Open letter to Barroso', a demand by NGOs for improved transparency and reporting requirements, http://www.corporateeurope.org/barroso.html
[9] European Commission asks industry to organise itself into a new lobby group, the European Services Forum; http://www.corporateeurope.org/hallofshame/gats.html
[10] Renate Kunast (the first Green Minister of Agriculture of Germany) and Giovanni Alemanno have been in power as Ministers of Agriculture in their respective countries since 2001; Pronk (Social Democrat) served as Minister of Environment during the period 1998-2002.
[11] Interview with Garlich von Essen, ESA spokesperson (May 2004, Brussels)

GM debate has become, and that Ministers instead of taking responsibility, leave it to the Commission to be the 'blackjack' and approve a new GMO.

Accessibility for lobbyists to the political process on the national level varies greatly amongst the EU countries. The UK and some Scandinavian governments are much more open to lobbying than, for example, the German government. In Germany the involvement of the outside world in policy making is often strictly limited to an official 'consultation meeting'. This attitude towards lobbying on the national level is thus quite important in terms of how one can influence the powerful Council.
One example of succesfull lobbying on the national level, affecting EU policy making is the case of the Dutch Government. In its own proposal for the new Deliberate Release directive, a questionary was included to gain more information on the effects of GMOs on the environment. After intensive lobbying from the Dutch Biotechnology Association (Niaba), this questionary was dropped again, therefore not making it to the EU level.[12]

As said, the Council is not only very powerful and hard to lobby; it is also the most unpredictable institution, especially after enlargement. Ten countries have recently joined the EU. None of them is using GM technology on a large scale, or is very involved in research. In the first voting in the new enlarged Council on a new GM crop authorisation (Monsanto's maize NK603), the new EU Members were as divided as the old ones: Latvia, Lithuania, Hungary, were amongst the opponents, Czech Republic, Slovakia, and Estonia amongst the ones voting in favour.

Another example of a recent change in the balance between pro- and con-GM countries is the case of Spain. The train attacks of 11/3 helped the (Social Democrate) opposition to win the elections that were held shortly after. The previous (Conservative) Spanish goverment had been extremely pro-GM, resulting in Spain being the only EU country to commercially grow a GM crop (a Syngenta maize variety). According to sources inside the environment Ministry, where before Monsanto people were walking in and out the Ministry, the current Minister is a lot more cautious. This was proven by a sudden ban on the cultivation of the Syngenta maize that was carrying the antibiotic-resistance gene. In the Council voting on Monsanto's NK603 maize, Spain abstained. Previously, Spain categorically voted in favour of every new GMO.

- **The Parliament**

The European Parliament (EP) can advise or amend proposals of the Commission. Its power to do so greatly depends on which procedure is being followed. When the so-called 'co-decision' procedure applies, like in the case of most biotech issues, the Parliament has relatively more influence and can even completely reject a proposal.

The EP is organised in thematic Committees, in which all political groups are represented. New legislation is discussed in one (the most relevant) 'main' Committee, from which a 'rapporteur' and 'shadow rapporteur' are appointed for this issue. For lobbyists, these people are amongst the most important to get access to. The rapporteur co-ordinates the decision making process in the Parliament and communicates with the relevant officials in the Commission. Other key people to lobby are the (vice)chairman and other members of this Committee, especially the ones that advise their political fraction on how to vote. According to ESA lobbyist Von Essen, it is also worthwile to approach MEPs (Members of European Parliament) that are not necessarity members of these Committees, but that have a certain interest or expertise in a particular issue.

It is very common and accepted for MEPs to receive lobbyists. Lobbyists are often seen as cheap information sources; they provide MEPs with reports, background information and even worked out proposals for amendments to legislation. It is not uncommon hat MEPs put these amendments forward for voting in the Parliament without even changing a word.
Therefore, a basic screening of MEPs is necessary and a good informal network in the Parliament an essential part of industry lobbying strategies. In addition, *"It also makes sense to talk to people at a time when they are not directly involved in decision making. Keep them in the picture of the*

[12] Niaba Jaarverslag 2003

discussion. Provide them with something, not ask something of them". (Von Essen) Now with the Enlargement, the Parliament has grown to 732 members. For lobbyists, it will become even more important to do good political screening of which MEPs are important to talk to.

The Lobbyists

Green biotech has been a heavily lobbied issue by both opponents and proponents. We will concentrate on the latter. The lobby to promote the use of GM in agriculture includes representatives of sectors/producers from the entire food chain.
The main economic stakeholders are the biotech seed companies developing new seeds (and producing the accompagnying chemical products); they either also produce and distribute the seeds, or license out the technology to others. In addition, grain producers using GM seeds from these companies and looking for export markets have a huge interest. The centers of political discussions of the pro-GM lobby in Brussels are EuropaBio and the European Seed Association, both representing the four biotech giants: Monsanto, Syngenta, Pioneer (DuPont) and Bayer. These four companies also have offices in Brussels from which they carry out their own lobbying activities. Both EuropaBio and ESA are the European umbrella organisations. Their members are both national (biotech / seeds) associations, and individual companies. The box below provides an overview of the main GM lobby groups.

Pro-GM lobby groups

EuropaBio (the European Association for Bioindustries), has 35 corporate members that operate worldwide and 23 national biotechnology associations representing some 1200 small and medium sized enterprises involved in research and development, testing, manufacturing and distribution of biotechnology products. [13] EuropaBio's Plant Biotechnology Unit co-ordinates the work relating to agricultural biotech issues. Eight members from different companies work together in this Unit to develop collective positions on issues that come up [14]. Lobby activities are co-ordinated. For example, information is shared concerning who is seeing who and when.
The **European Seed Association** (ESA) represents the totality of the European seed industry (both non-GM and GM) active in research, breeding, production and marketing of seeds. ESA's primary goals are to work for strong intellectual property rights relating to plants and seeds (i.e. against the rights of farmers to save seeds); 'fair and proportionate regulation' of the European seed industry (i.e. against obligatory labeling and other restrictive rules); and freedom of choice for customers (i.e. GM seeds should be an option for farmers). [15]
The food companies operating more down the stream also have an interest in the GM issue. Most of these other organisations work on only one or a few issues, that are of their specific concern.
The **American Soybean Association** (ASA), for example, promotes the interests of thousands of US soy farmers always looking for export markets. Their lobby efforts therefore focused on getting GMOs authorised, and the labeling directive. The upcoming issues of co-existence and the Seeds Directives will not be of their interest.
The **CIAA** (Confederation of Food and Drink Industries of the EU) represents the food and drink industry that has huge interests in the use of GM ingredients in consumer products. They have focussed mainly on the Food and Feed regulation and labeling. Companies like Unilever, Nestlé and Kraft Foods were initially very opposed to the new labelling rules, claiming that labels would 'stigmatise their products and confuse consumers'. [16] Later, CIAA dropped this attitude and designed guidelines for companies to help them applying the new rules. *"A considerable number of consumers throughout Europe are still reluctant to buy GM-derived products. The food and drink industry respects this", explains the CIAA website.*

[13] http://www.europabio.org
[14] Interview with Simon Barber, EuropaBio (May 2004, Brussels)
[15] http://www.euroseeds.org
[16] 'EU Parliament may expand biotech food labeling rules, Wall Street Journal, July 2002, http://www.biotech-info.net/EU_parliment.html

Other pro-GM industry sectors include the oil crushers, the enzyme industry, and to a certain extent the lobby organisation for (big) conventional farmers **COGECA**. However, they represent quite different groups of producers and therefore often have difficulty at arriving at a common position. **AMCHAM-EU**, the American Chambers of Commerce in Brussels, described by the Economist as *"the most effective lobbying force in town* (Brussels, red.)". Their AgroFood Committee, chaired by Cargill, deals with biotechnology issues but their lobbying activities have been rather invisible for the outside world.

Anti-GM lobby groups
Greenpeace and Friends of the Earth Europe (FOEE) have been at the core of the European anti-GM lobby campaign. Other organisations opposed to GM in agriculture and active in Brussels include small farmers organisations, **IFOAM** (organic farming), **EuroCommerce** (retail industry) and several development/North-South groups. Both FOEE and Greenpeace have made GM top priority in Brussels. ESA lobbyist Von Essen calls them "well equipped and well informed" because of their world wide networks. However, in terms of financial resources, it is needless to say that the situation of industry lobbyists is imcomparably more favorable.
Remarkably, at the very end of the food chain, the European retailers organised in Eurocommerce (including national retail associations, and individual companies like Royal Ahold) sided with the environmental crowd in advocating strong labelling and traceability rules. Of course, they are facing the consumer resistance and are not willing to be the ones to pay for it.

4. Lobbying GM into Europe: hurdles to take

The biotech industry booked an early success when finally the 'Life Patents Directive' was agreed on. This directive allows the patenting of (amongst others) genetic material, cell lines, and plant varieties. Patents are nowadays crucial for a company's attactiveness to investors. An earlier version of this directive had been rejected by the Parliament, which was a unique event.
Therefore, when the Commission made a second attempt for a biotech patents directive immediately after, no costs were spared by the industry to get what they wanted this time. A new lobby forum was set up especially to push for this directive, the Forum for European Bioindustry Coordination (FEBC) [17]. Their strategy was to focus on patents for the pharmaceutical industry. The negative consequences of patents on plant varieties for farmers are so evident that they put no attention at all to green biotech. Patient organisations were financially supported to take part in the campaign. The slogan 'No Patents No Cure' was invented, wheeling in chronically ill patients in yellow t-shirts with that text. Unfortunately, medical associations worried about the limitations put on medical research by extensive patenting, did not speak out loud enough.
The giant pressure from industry was met by an unprecendented lobby campaign by environmental, farmers and development organisations, emphasising the desastrous effects on farmers rights, and the theft of genetic resources especially from the South (biopiracy). Nevertheless, the European Parliament finally surrendered in 1998 by voting in the new life patents directive.

However, the intensity of both pro and con-campaigns could have warned the industry that the acceptance of GM products could also face heavy opposition. People became sceptical after a series of food scandals, and more importantly, don't see the need for GMOs. This public concern has made politicians very cautious. The pro-GM lobby say the whole GMO issue is *"..completely politicised and out of proportion"* (Von Essen). The rules have been made, but it is clear that some politicians do everything they can to slow down the process. Certain Member States are accused of abusing the implementation phase to further delay the process and create more obstacles for GM products. *"If you are a Green minister like Renate Kunast you can not go around and say, 'by the way GMOs rock'. She will get big political difficulties in her party. So she makes use of every opportunity to delay things but*

[17] The Forum for European Bioindustry Coordination (FEBC) consisted of sector-specific industry groups such as AMEEP (food and feed enzymes), CEFIC (chemicals), CIAA (food), COMASSO (plant breeders), EDMA (diagnostic products), ECPA (plant protection products), EFPIA (pharmaceuticals), FAIP (farm animals), EuropaBio, FEDESA (animal health products), FEFAC (compound feed), FEFANA (feedstuffs additives) and GIBIP (plants and seeds). EuropaBio hosts the FEBC Secretariat.

the legislation for that is already there, with her signature under it. It is not a clean game that is being played." (Von Essen)

The arguments used by the industry in favour of GM, are often still a political hot potato. For example the proclaimed benefits for the South are not widely supported by national EU governments. They are afraid to be told off in their home countries; the suggestion that feeding poor people a one-staple diet (rice) that has all necessary elements is OK, causes great indignation amongst many. The ever growing choice in luxury and exotic products on the supermarket shelves in the rich part of the world makes this suggestion even more cynical.

Therefore, one trend in pro-biotech lobbying that can be seen both on European and national level is a renewed focus on creating a more favourable political climate for GM. On the EU level, this has meant for example to involve other DGs (like Enterprise, Trade, Research) than just Environment and Consumer Protection in the discussions preceding the making of legislation. In the words of the ESA lobbyist: *"... [other DGs like Trade and Research] should make their voice heard, and not leave it up to DG Environment or DG Consumer Affairs to make legislation that will affect their clientele like researchers or grain traders."* Von Essen explains that now more people are involved in the discussion, so that now other points are also raised like costs of legislation for business etc. *"We have been able to convince people that it is an economic issue.This legislation is going to determine competivity of industry here in Europe vis à vis our main competitors in the US or other parts of the world."* DG Enterprise puts it this way: *"It is clear that one of the major achievements of the DG's work has been to keep high on the political agenda the questions of competitiveness, innovation, entrepreneurship in a period when societal and, in particular, environmental issues have crowded the agenda."*[18]
This means that the different DGs in Brussels apparently have very different understanding of what the 'general interest' that they are supposed to serve, really means.

A similar trend can be seen on the national level. Top priority of the Dutch Biotechnology Association (NIABA) in 2003 was the "improvement of a better biotechnology-climate" in Dutch politics. The report, titled "Building behind the scenes", mentions that its lobby strategy is characterised by an approach aimed at "strengthening of relation-networks on the official (within Ministries) and the political level". Referring to a general biotechnology debate in the Dutch Parliament (November 5th 2003), Niaba said it was 'remarkable' how often its wishes were brought up by Parliamentarians. Wishes that mainly related to *"cutting down the jungle of rules for biotechnology".*

Now, most focus is on three issues: getting the authorisation process for new GM varieties and the consequent listing of these varieties in the Common Catalogue going again[19]; the Seeds Directives (setting new thresholds for the adventitious - technically unavoidable - presence of GMO seeds in other seed lots); and the co-existence debate.

Seeds Directives
An internal note from the Commission explains, *"the experience of recent years clearly shows that the 'adventitious' or 'technically unavoidable' presence of traces of GMOs in conventional seed lots has become largely inevitable."* The Seeds Directives will therefore set thresholds for this 'technically unavoidable' presence of GM seeds in conventional seed lots. Above this thresholds, seed lots will have to be labelled as 'containing GMOs'.
In September 2004 the revision of the Seeds Directives was moved away again from the responsibility of DG Agriculture to DG Environment. On top of that, the Commission decided to remove the issue entirely from the agenda for the moment. ESA and EuropaBio are furious. EuropaBio: *"...The seed industry and farmers in Europe face extraordinary legal uncertainty because the Commission has not been able to agree on practical and workable thresholds. To allow for the present situation of unrealistic, unclear and legally disputable national legislation to remain is irresponsible."* [20]

[18] DG Enterprise and Industry: http://europa.eu.int/comm/dgs/enterprise/activit_goals_en.htm
[19] The Common Catalogue is the EU version of the national seed lists or catalogues. Unless a variety is registered , the seeds of this variety cannot be sold on the market.
[20] http://www.europabio.org/articles/article_336_EN.doc

In an earlier stage, ESA has been succesfull in convincing the Commission that these thresholds should be set, but without specifying exactly what measures companies or seed producers should take to stay below those thresholds. At first the Commission intended to issue rules on isolation distances, rotation of crops etc. Further, ESA argues for thresholds that are not too low. Von Essen says that low thresholds could put European seed producers to a disadvantage compared to for example US multinationals. An independent seed producer operating in an area with relatively more small scale farming, the thresholds might be more difficult and therefore costly to achieve. Monsanto on the other hand, can move its production to whereever it likes, and can therefore be more cost effective. This might be true, but also multinationals of course benefit from higher thresholds. What is alarming is that ESA even argues for allowed contamination with GM seeds that are NOT authorised yet in the EU, but that are authorised in third countries like the US 'with similar approval rules as in the EU'. This is clearly not in the advantage of small European seed producers!

Co-existence

One of the issues still to be decided is the framework that is to be established, in order to regulate the co-existence of GM, conventional and organic farming. It was decided that there can be no blueprint for such a framework, as the agricultural system, crops produced and regional environmental conditions like climate vary greatly between all Member States. Therefore, Member States have to deal with this on their own, using guidelines provided by the Commission. These guidelines make very clear that they should be seen as facilitating the use of GM, conventional and organic agriculture together; and not as obstructing it. Co-existence legislation on the national level should provide farmers with a practical choice, according to the Commission.

Again a crucial issue for GM lobbyists, in this case a combined effort of national associations and their EU umbrella organisations. Industry dreads a situation with dozens of different co-existence systems in the EU. Also, they fear that certain Member States or regional authorities will use this opportunity to once more obstruct the introduction of GM in their country or region. The Italian Biotechnology Association Assobiotec reported to EuropaBio four cases of regional co-existence legislation (in Tuscany, Basilicata, Apulia and Marches) that basically meant a ban on the use of GM in those regions. Already before this, the Italian Minister of Agriculture Alemanno, an outspoken opponent of GM, had issued a draft Italian decree on co-existence with similar contents. In response to this, EuropaBio complained heavily with the Commission; and tries especially to involve also DG Enterprise, Internal Market and Trade. The Commission was quick to reassure them that such laws would not be allowed.

So far, only three Austrian regions (Upper Austria, Salzburg and Carinthia) have made notifications to the Commission of their regional laws on co-existence, basically containing a ban of GM cultivation throughout the region. Already one of these has been rejected. In a country like the Netherlands, after having some socalled stakeholder meetings, it was decided to leave it up to the agricultural sector to come up with practical solutions. This leaves organic (and conventional) farmers in great uncertainty, should their crops get contaminated with GM.

5. Lobbying Forever?

After the Agricultural Biotechnology International Conference in September 2004 in Cologne (Germany), a BBC correspondent wrote: *"If a 3 m-high inflatable maize cob can keep GM foods out of Europe, then the biotech industry doesn't have a hope."* Having this biannual conference (initially set up in Canada, but supported by biotech industry around the world) for the first time in Europe in the post-Moratorium era might not have been a coincidence. The hopes are high that finally, GM will enter the market. During this conference the PR talks about the promises biotech holds for the environment and the South were repeated once more. Apart from the flow of critique on these claims, the GM products that are in the pipeline to be commercialised first still do not hold benefits for European consumers.

And yet the GM industry knows that it cannot survive without more political and public support. If hunger, human health and environment claims are not convincing enough, biotech as a job creator will have to be taken out of the closet again. The Lisbon Agenda will be the new coat hanger of this strategy. Hopefully, some people will ask for solid, absolute figures of this supposed growth of jobs. That means, jobs created without causing job elimination somewhere else, as is the case with many technologies designed for enlarging the scale of production.
As civil society, we will need to keep critically following the moves of the new Commissioners, and the new Parliament. In general, more information is needed on the lobby activities towards very closed parts of the EU such as COREPER (the permanent representatives of all Member States in Brussels), and the Council working groups. Also, it would be good to gain more understanding of the different attitudes of the Directorates General (DGs) of the Commission. To what extent are DGs Trade and Enterprise lobbying the DGs Environment and Consumer Protection on biotech issues, for example?

In any case, some GM companies like Bayer CropScience, need to start to make money soon - with GM. Otherwise investors might demand to move out of it. Syngenta has announced to withdraw all GM research activities from Europe, following similar decisions earlier by Monsanto, DuPont and Bayer Cropscience[21]. Reasons named were public resistance, high authorisation hurdles and the lack of market opportunities. Ultimate prove that overall the biotech lobby has not been a great success. At least the biotech climate in Europe is *not* changing...

Further reading:

- GMOs the way out of hunger? - http://www.gmwatch.org/archive2.asp?arcid=4208
- Profiles of UK biotech lobby groups - http://www.gmwatch.org/profile.asp
- Biotech company profiles – www.corporatewatch.org
- IFOAM briefing 'Genetic Engineering vs Organic Farming', http://www.ifoam.org/ge_ifoam_2.pdf
- Industry and the Life Patent Directive, Corporate Europe Observer May 1998: http://www.corporateeurope.org/observer1/patents.html

[21] Die Welt, 29 November 2004