

**FOI Release**  
*Information released under the Freedom of Information Act*

**Title:** GM Science Update – CST correspondence

**Date of release:** 20 May 2014

**Information request**

All correspondence, documentation and other information (including early drafts of the report or associated material) held related to the preparation, publication and associated publicity or debate of the Council for Science and Technology report for the Prime Minister: 'GM Science Update'.

This should include correspondence (emails and letters) and meetings (agendas, minutes, briefing papers) between CST with any of the following (including with their support staff or on their behalf) in relation to the GM report:

- Professor Sir David Baulcombe, University of Cambridge
- Professor Jonathan Jones, Sainsbury Laboratory
- Professor Jim Dunwell, University of Reading
- Professor Pere Puigdomenech, University of Cambridge/ Barcelona
- The Science Media Centre and/or its CEO Fiona Fox
- The No 10 Policy Unit/Number 10 Downing St
- Sir Mark Walport

**Information released**

A copy of the information that can be disclosed accompanies this release.

The material includes exchanges between Professor David Baulcombe and the experts involved in the development of the GM Science Update. We believe that the Environment Information Regulations are the relevant legislative framework for this material.

This information included a number of journal articles. These are in the public domain, but only at a cost. It would effectively breach copyright to publish them, so these have been removed

from the material. The articles are listed in the annex. These are being withheld under EIR regulation 12(5)(c) - Intellectual Property Rights. The public interest in disclosure here needs to be balanced against the risk that inquiries might be used to get information free from government which is subject to copyright provisions.

Personal information included in this material is also being withheld under EIR regulation 13(1) (Personal Information).

### **Other information**

Some of the information requested is exempt from disclosure under:

- Section 36 FOIA (Prejudice to effective conduct of public affairs);
- Regulation 12(4)(d) EIRs (Material in the course of completion, unfinished documents and incomplete data);
- Regulation 12(4)(e) EIRs (Internal communications); and
- Section 40 FOIA (Personal Information).

Most of these exemptions/exceptions are 'qualified' (except Regulation 13 (1) and FOIA Section 40 which are absolute in most circumstances); that is, subject to a public interest test. This means that the information can only be withheld if the public interest in withholding is greater than the public interest in release. Below are brief details of the type of material held and the public interest considerations we have weighed in reaching our decision.

### **Section 36 FOIA**

The material consists of papers and exchanges (both internal to CST and external) relating to the development of CST's letter to the Prime Minister on GM technologies which was published at the same time as the GM Update are being withheld under Section 36.

#### *Public interest considerations:*

There is a general presumption in favour of promoting transparency, accountability and participation. However, in this case, the Council for Science and Technology's letter to the Prime Minister which made a number of recommendations to government, and the accompanying report to CST 'GM Science Update' - published on the CST website, [www.gov.uk/cst](http://www.gov.uk/cst) - represent a clear expression of their views and an authoritative account of the evidence on which they are based. (As noted above, exchanges between the scientists involved in the development of the 'GM Science Update', including early drafts of it, are being disclosed). Further disclosure beyond this is, therefore, unlikely to significantly enhance the quality of overall debate on the issues involved.

Against disclosure, there is need for officials at all levels and ministers to engage in frank and

open debate about GMO policy issues. It is especially important that there is a 'safe space' for those whose primary role (as with CST) is to advise government to formulate and debate issues away from public scrutiny. This is especially the case given the sensitivities and ongoing extensive media interest in the field of GMOs. Given this background, there is a significant risk that disclosure would inhibit the frankness and candour in debate and which is essential to the work of an advisory NDPB like the Prime Minister's Council for Science and Technology, which has a continuing role in providing advice to the Prime Minister.

#### **Regulation 12(4)(d) and 12(4)(e) EIRs**

Material here includes communications within the group of experts and CST relating both to:

- a) government approaches to policy on GMOs, briefings and meetings to discuss and debate those approaches; and
- b) information which, whilst not directly related to formulating or developing government policy on GMOs, concerns issues such as communication and dissemination of the approach to GMOs.

These exceptions also relate to the material discussed under the previous heading, including: internal communications relating to the developing draft of CST's letter containing advice to the Prime Minister; and discussion and commentary on the draft letter by CST and its stakeholders.

#### *Public interest considerations:*

These are as set out under the previous heading, in relation to the 'safe space' required for frank and open discussion by CST of options and issues for the development of its final advice to ministers on policy. Against disclosure, there is need for officials at all levels and Ministers to engage in frank and open debate about GMO policy issues, their communication and dissemination. It is especially important that there is a 'safe space' for government and civil servants to formulate and debate issues away from public scrutiny.

#### **Regulation 13 (1) EIR**

Some information constitutes personal data and has been withheld. Regulation 13(1) of the EIRs provides an absolute exemption for personal data which then falls to be dealt with under the Data Protection Act. Personal data of third parties can only be disclosed in accordance with the data protection principles. In particular, the first data protection principle requires that disclosure must be fair and lawful and must comply with one of the conditions in Schedule 2 of the Data Protection Act. We do not think that it is fair to release the names of junior officials and third parties (plus other personal identifiers) and do not think that any of the relevant conditions apply.

## **Section 40 FOIA**

Section 40(2) exempts information from disclosure if that information constitutes personal data of someone other than the applicant, and if disclosure of that information would contravene any of the data protection principles in schedule 1 to the Data Protection Act 1998. In this case, we believe disclosure would contravene the first data protection principle, which provides that personal data must be processed fairly and lawfully.

Section 40(2)(a)(iii) and section 40(3)(a)(i) apply to information whose disclosure would contravene any of the data protection principles in the Data Protection Act 1998 (or certain other provisions of the Data Protection Act 1998). This exempts information constituting the personal data of living individuals, the release of which would be in breach of the Department's obligations in respect of the Data Protection Principles as set out in the Data Protection Act. The definition of personal information to which section 40 applies is wide and can include references to identifiable individuals.

We consider that the names of junior officials and third parties (plus other personal identifiers) fall within the ambit of the first Data Protection Principle, that the Personal data must be processed fairly and lawfully and, in particular, must not be processed unless at least one of the conditions in Schedule 2 to the DPA is met. Our view is that release of this information would not be fair and that none of the conditions of Schedule 2 are met. The exemption from the duty to disclose personal data where to do so would breach a data protection principle is an absolute exemption; the public interest test in section 2 of the FOI Act does not apply.

### **Overall public interest assessment**

Having considered the public interest in relation to material falling within each of the exemptions/exceptions, we consider that the public interest in disclosing this information is outweighed by the public interest considerations in favour of withholding the information. The decision is therefore to withhold the information.

## **Annex: Attachments not in the public domain**

### **Scientific papers**

Gatehouse AM1, Ferry N, Raemaekers RJ. (2002) The case of the monarch butterfly: a verdict is returned. *Trends Genet.* 18(5):249-51.

Chen H1, Lin Y. (2013) Promise and issues of genetically modified crops. *Curr Opin Plant Biol.* 16(2):255-60.

Alan B. Bennett, Cecilia Chi-Ham, Geoffrey Barrows, Steven Sexton, and David Zilberman (2013) Agricultural Biotechnology: Economics, Environment, Ethics, and the Future, *Annual Review of Environment and Resources* 38: 249-279

Rana Munns, Richard A James, Bo Xu, Asmini Athman, Simon J Conn, Charlotte Jordans, Caitlin S Byrt, Ray A Hare, Stephen D Tyerman, Mark Tester, Darren Plett & Matthew Gilliam (2012) Wheat grain yield on saline soils is improved by an ancestral Na<sup>+</sup> transporter gene *Nature Biotechnology* 30; 360–364

Christopher J. M. Whitty, Monty Jones, Alan Tollervey & Tim Wheeler (2013) Biotechnology: Africa and Asia need a rational debate on GM crops. *Nature* 497; 31–33

Sayed AH1, Schuler TH, Wright DJ. (2003) Inheritance of resistance to Bt canola in a field derived population of *Plutella xylostella*. *Pest Manag Sci.* 59(11):1197-202.

Hutchison WD1, Burkness EC, Mitchell PD, Moon RD, Leslie TW, Fleischer SJ, Abrahamson M, Hamilton KL, Steffey KL, Gray ME, Hellmich RL, Kaster LV, Hunt TE, Wright RJ, Pecinovsky K, Rabaey TL, Flood BR, Raun ES. (2010) Areawide suppression of European corn borer with Bt maize reaps savings to non-Bt maize growers. *Science.* 8;330(6001):222-5

David B. Tattersall, et al. (2001) Resistance to an Herbivore Through Engineered Cyanogenic Glucoside Synthesis *Science* 293, 1826

#### **Other documents**

Croplife international, Plant biotechnology pipeline, Updated June 2013

United soybean board, soybean industry portfolio, Pipeline of Biotech Events and Novel Trait Releases for Quality/Food Traits. Prepared by ASA, USSEC, USB. Updated January, 2010.