DRAFT FOR AC21 DISCUSSION ONLY May 22, 2012

**Potential framing points/themes for AC21 report addressing the Secretary’s charge:**

* This report of the AC21 is based on the premise that American agriculture production practices are diverse in nature and the need for enhancing coexistence between all sectors of agriculture has never been greater.
* Coexistence is not a new practice in agriculture, nor has it widely failed in recent times. Most farmers try to “do the right thing” and work with their neighbors towards their common success. Rather, the number and scope of demands for differentiated products and markets have increased and mechanisms for precisely evaluating the composition of products have become increasingly widely used as market tools. In this situation, it may not take much deviation from best practices on the part of farmers to result in crops (their own or their neighbors’) that may fall out of market specifications.
* All U.S. citizens benefit from agriculture: consumers benefit from diverse food choices, export markets support farmers and the overall economy, and the success of agriculture leads to strong rural communities. Everyone needs to be involved in making coexistence work.
* All members of the AC21 acknowledge benefits that come from coexistence. As a committee we recognize that it is not constructive to argue over who gets the most benefit. Similarly, all farmers face risks in their farming operations, not matter which production methods they use. There are risks to farmers, big and small, and technology companies as well.
* The discussion of coexistence focuses on the choices of farmers and consumers among legal products and methods of production. In particular, GE products in the marketplace are legal products. The unintended presence of such materials in others’ crops should not be a topic for assigning fault or blame, nor should there be penalties applied to the growers of such crops. The AC21 is operating under the assumption that farmers are generally acting in good faith.
* The AC21 has wrestled with identifying and quantifying economic losses to farmers resulting from the unintended presence of GE material in their crops. It is difficult to get direct data on actual farmer losses suffered for a variety of reasons… There are, however, clear data that some consignments of identity-preserved and organic commodities have been tested and found to contain GE material in amounts that exceed de facto market standards. Such rejected shipments clearly pose problems for those farmers whose loads have been rejected and pose concerns to USDA for the smooth functioning of the marketplace and for maintaining respectful relationships among the various participants in agriculture.
* Members of the AC21 are not in agreement about the extent to which a systemic problem exists, whether there is enough data to devise an appropriate compensation mechanism to address it, and whether it is good public policy to devise such a government-based solution. Members recognize that there are unintended GE materials found in commercial products, but differ in their assessment of the severity of actual economic harm and whether the problem is getting better or worse.
* All AC21 members recognize the central role of seed quality in meeting their customers’ needs and in successfully fostering coexistence at the farm level. The continued success of agriculture depends on a diverse supply of high-quality seed that is of adequate purity to meet all farmers’ diverse needs.
* In considering potential USDA actions to bolster coexistence, the AC21 understands that voluntary innovation and incentives are a tradition in agriculture and are generally more strongly supported by farmers than government mandates or regulations.
* Farmers need to have ongoing dialogues on coexistence at the local level. When advantageous to support the diversity of farmers’ needs, we encourage farmers to create coexistence zones or other local mechanisms to support farmer preferences and strengthen communities.
* AC21 members differ in their assessment of risks and rewards associated with non-GE and organic crop production. Some members believe that with a farmer’s agreement to the terms of a contract, including purity and other specifications and the premium associated with meeting those specifications, the risks associated with fulfilling that contract are to be entirely assumed by him and should be accounted for by the premium demanded. Others believe that farmers producing GE crops that inadvertently show up in neighbors’ organic or non-GE crops or that potentially compromise their neighbors’ ability to produce those identity-preserved crops bear at least some responsibility for containing the outflow of GE traits.
* When growers use written contracts, those contracts should be transparent and provide clarity on at least the following parameters: grower practices for producing a crop of desired quality and characteristics[, and for working with neighbors to address shared concerns]; the percentage of unintended GE presence allowed; point of delivery; time of delivery; and compensation [and should explicitly acknowledge/incorporate the need for the grower to work with his/her neighbors to address shared concerns]. Strengthening the transparency of contract requirements will bolster coexistence. USDA should support appropriate industry measures to strengthen the transparency of contract requirements and of actions taken to meet the requirements set out in those contracts.
* Any compensation mechanism that is put in place that is perceived by one segment of agriculture as placing unfair burdens on that sector will only further divide agriculture.. At the same time, however, most producers individually believe that they are already taking sufficient steps in their own operations to promote coexistence.
* No member of the AC21 believes that simply putting in place a compensation mechanism to address economic losses to farmers arising from unintended GE presence would completely eliminate such unintended presence and strengthen neighborly relations among farmers. All members of the AC21, however, do believe that steps to enhance neighbor-to-neighbor relations and interactions and to strengthen farmer stewardship would lessen occurrences of unintended GE presence with financial implications and promote a spirit of common purpose among American farmers.
* AC21 members recognize that, were USDA to decide that it should play a role in establishing a new compensation mechanism, the process of seeking authority to develop such a mechanism, developing appropriate actuarial information, and proposing and finalizing regulations, would probably be a fairly long and complex one. However, the process might be positively affected by a high degree of support across all stakeholders.
* A pilot program designed to test out some parameters for such a program on a smaller scale might be developed somewhat more quickly, but even then, Congressional authority would still need to be sought and the effort might not be quick undertaking.
* While efforts to evaluate how such a program or pilot program might operate and to seek authority to establish such a program if necessary are underway, a program to strengthen coexistence could be developed and put in place fairly rapidly. This program might involve both public and private components and might consist of:……
* Then the future decisions on whether to propose and then to finalize regulations establishing a compensation mechanism could be conditioned on: better data on the extent of actual financial losses and how they have arisen; any changes in market demands for new products; the operation of the new stewardship measures put in place; and the effects of those measures on reducing the incidence of losses relating to unintended presence of GE materials.
* In this way, a compensation mechanism, if put in place, might serve as a “backstop” in the event of changing circumstances or a future decision on the adequacy of stewardship measures.
* There needs to be greater focus on the elucidation and evaluation of best management practices for different types of crop production in different regions of the U.S. in terms of their ability to strengthen stewardship and management of gene flow [as well as pest movement??].
* Stewardship plans increasingly need to focus not only on management practices designed to produce high quality crops but also on measures that support neighbors’ efforts to do the same.
* Many on the AC21 have voiced the view that farmers should be able to choose whether to enroll in any compensation mechanism that may be developed.
* Farmer support for any future crop insurance-type mechanism addressing unintended GE presence and applicable to organic and identity-preserved non-GE farming operations would be bolstered if additional attention is given by USDA to improving existing conventional crop insurance coverage for these operations.
* Future support by GE producers for a crop insurance mechanism addressing unintended GE presence may be bolstered by also providing coverage to those ntional crop insurance coveragefarmers if they suffer economic losses as a result of unintended GE presence. Such an effort would be part of overall planning for a future with in which many types of “non-commodity” GE crops are grown.