

To:

Executive Vice-President Frans Timmermans
Commissioner Stella Kyriakides
Commissioner Janusz Wojciechowski

cc:

DG Sante, Deputy Director-General, Claire Bury
DG Sante, Head of Unit Biotechnology, Irene Sacristán Sánchez
DG Agri, Deputy Director General, Pierre Bascou
DG Agri, Director Strategy & Policy analysis, Catherine Geslain-Lanéelle
DG Trade Head of Unit – Agriculture, Food, SPS Matters, Flavio Coturni

Brussels, 10 May 2023

Re: Policy Proposal for Plants derived from New Genomic Techniques

Dear Vice-President,

Dear Commissioners,

The undersigned value chain partners reiterate their support of the Commission's plans for a legislative proposal on plants obtained by New Genomic Techniques (NGTs) and call for an enabling and proportionate regulatory framework.

We are of the opinion that for NGT plant products that could have been produced by conventional means or occur naturally (conventional-like NGT-plants), the Commission's proposal should treat them in the same manner as their conventionally bred counterparts to avoid regulatory discrimination of similar products.

This includes not imposing traceability and labelling obligations, and coexistence measures that place specific obligations on farmers growing conventional-like NGT varieties. This is specifically important in the global context, considering the trade-related challenges that might arise in case the EU's approach would not align with the enabling policies increasingly being adopted by Europe's trade partners.

Due to intrinsic technical capacity for more efficient, and precise breeding, NGTs are poised to become - over the next decades and at global level- one of the (default) delivery models for genetic improvement of plant characteristics that attract the interest of farmers, processors and consumers and would prove to be a benefit for society as a whole.

Transparency and Freedom of Choice

The undersigned partners recognise the importance of transparency, information sharing and support customer and consumer choice. The 12-week public consultation confirmed that regarding conventional-like NGT plants the majority of respondents considered transparency for consumers and operators as either not being necessary at all, or as not being necessary for conventional-like NGT plants, or they considered a public register as adequate.

To support and facilitate informed choice for conventional-like NGT-plant varieties, registers providing public information on all varieties obtained with NGTs like the national variety lists and the European Common Catalogues could be utilised. Such information would allow full freedom of choice to all farmers and growers as well as the proper organisation of value chains that may not wish to use conventional-like NGT plants in their production. A similar approach was just recently implemented in Canada¹, which introduces a registry for genome edited plant varieties to ensure transparency and choice as well as the integrity of the organic sector. International catalogues of NGTs varieties could also be helpful, but there are several implementation challenges to be addressed specifically in view of different regulatory requirements in different jurisdictions as well as the diversity of players involved.

Already today, some private organic certification standards exclude plant varieties obtained from certain techniques of genetic modification which are exempted from Directive 2001/18/EC (e.g. cytoplasm fusion) from their value chains and co-exist without the need for a specific regulatory framework². These private standards are facilitated by the information provided by the seed sector³.

However, transparency as such does not necessarily imply traceability (and/or labelling). It stands at the beginning of value chains and, with this, does not disrupt food chain operations and product flows but provides freedom of choice for farmers and growers. In addition, labelling of a breeding method could erroneously be perceived as a warning statement and with this discriminate conventional-like products. It would effectively prevent those products from becoming widely available. Ultimately, the potential of NGT plants to contribute to sustainable agricultural production and food security would not be realised.

We believe that freedom of choice should be correctly interpreted and not misused. Consumers get limited value from receiving excessive (and in some cases misleading) information on labels on aspects which, *per se*, do not provide information on distinctive features vis-à-vis their conventional-like counterparts already available under the EU-harmonised legislation. By doing so, there would be a breach of the fundamental principles of non-discrimination of like-products and factual information under the General Food Law.

Detection and identification for market control and consumer trust

It is not possible to distinguish how the genetic change in a conventional-like NGT plant occurred. For market control, it is therefore highly unlikely that enforcement laboratories will be able to detect and identify the presence of conventional-like NGT derived plant products in

¹ Directive 2009-09: Plants with novel traits regulated under Part V of the Seeds Regulations: Guidelines for determining when to notify the CFIA <https://inspection.canada.ca/eng/1304466419931/1304466812439>

² https://www.ifoam.bio/sites/default/files/2020-03/Breeding_position_paper_v01_web_0.pdf

³ [FiBL - Positive list of cell fusion-free vegetable varieties updated](#)

food or feed entering the EU-market⁴. Traceability and product identification without validated detection and identification methods creates enforcement issues and legal uncertainty for operators.

In addition, any mandatory traceability requirements (e.g. paper trail systems) for final food and feed product and segregation requirements of technically similar products would bring important costs and logistical burdens for operators that will discourage the adoption of NGT plants in the EU. Such segregation requirements are not aligned with the current operations of food trade and processing, requiring transit of big volumes usually in cargo ships.

To ensure that consumers can trustfully rely on traceability and labelling systems, the EU should not impose those measures for conventional-like NGT plants. The EU regulatory systems risks losing trust, if it is unenforceable and with this, becomes vulnerable to fraud.

Coexistence of farming systems and international trade

Today, EU regulations do not impose coexistence measures between conventional and organic farming, even though some organic farming standards already exclude plant varieties from certain non-regulated-GMO² breeding methods. Only potential cross-pollination with non-compliant products (e.g. regulated GMOs) would lead to the loss of the organic status.

Notably, the US, with which the EU agreed on equivalency schemes for organic food does not impose specific coexistence measures between organic or conventional farmers (including conventional-like NGT products). This has the obvious advantage for US organic growers and food producers that such food will also be accepted as organic in the EU. In sharp contrast, always imposing risk assessment and traceability plus labelling requirements (as well as coexistence measures) for conventional-like NGT plants and products would be incompatible with organic standards in third countries like the US. This would endanger well-established equivalency standards and international organic value chains.

Imposing traceability and labelling obligations, and coexistence measures that place specific obligations on farmers growing conventional-like NGT varieties would have strong implications for the competitiveness of the EU agri-food value chain as well as the enforceability of regulations. Coexistence of established commodity supply chains with new or expanded supply chains for crops and products with unique functional attributes (from varieties that are known to be gene edited or not) is a key element for a sustainable supply chain. It is a long-held tenet in agriculture that the crop with unique functional attributes isolates its supply chain from the commodity supply chain. Identity-preservation systems or similar programs can produce products with particular attribute(s) under controlled conditions. While crops and products with unique functional attributes can be highly profitable, the development, management and maintenance of separate supply chains to maintain the value of these crops and products, and to protect the fungibility of global commodity supply chains, can be complex and costly. These systems cannot and should not replace the current bulk handling system for agri-commodities.

Correct use of democratic instruments

The Commission's impact assessment comprises established and validated democratic tools, such as public consultations as well as targeted stakeholder consultations that are drafted in a neutral way to allow all interested citizens and stakeholder groups to provide their view. It is

⁴ The European Network of GMO Detection Laboratories (ENGL): [Report on Detection challenges with a specific view on the EU regulatory Detection Requirements](#).

our hope and expectation that the Commission will continue to follow the recognised democratic participatory processes and to pursue this standard approach based on scientific evidence.

While we strongly welcome the prospect of further policy action for plants, we also would like to encourage the Commission to promptly initiate discussions with the relevant stakeholders, notably the livestock and fermentation sectors, on the review of the regulatory approach in other sectors, in the EU and on a global level.

Yours faithfully,

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