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From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Council Decision regarding the status of novel genomic techniques under
Union law
- *Adoption*
= Statements

Statement by Cyprus, Hungary, Latvia, Luxemburg, Poland and Slovenia

With a view to the objective of protecting the environment and human health, respecting the precautionary principle, we consider that any technique, which alters the genetic material for agricultural purpose in a way that does not occur naturally, requires a special attention.

In this regard, Cyprus, Hungary, Latvia, Luxemburg, Poland and Slovenia recall that the preparation of the Council decision was triggered by the situation resulted from the Court of Justice's judgment in Case C-528/16 which brought legal clarity as to the status of new mutagenesis techniques, but also raised practical questions which have consequences for the national competent authorities (referred to recital (4) of the draft Council decision).

We generally support the idea of the preparation of a study on this important topic. Nevertheless we are of the view that this study should be based on a clear and well-defined terminology. In this respect the term used in the above Court Ruling, "new mutagenesis techniques" should determine the scope of the study, as the term "novel genomic techniques" is not clearly defined by EU law.

The protection of human health and the environment requires that due attention be given to controlling the risks from any technique that alters the genetic material, and the current level of protection should be maintained.

Joint statement by the Netherlands and Spain

The Netherlands and Spain recall the broad support of Member States at the AGRIFISH council of 14/05/2019 for calling upon the Commission to address “the adequacy of the European legislative framework for GMOs” and strongly welcomes the initiative by the Finnish Presidency regarding new breeding techniques to adopt a council decision that provides a follow-up to the judgment of the European Court of Justice (ECJ) in case C-528/16.

The call was explicit regarding the need for a common EU approach and a review of the current GMO legislation. The decision requests a study on the status of novel genomic techniques under Union law. The Netherlands and Spain are of the opinion that an objective review of the legal framework is necessary when evaluating the consequence of the Court ruling. Therefore, the abovementioned countries expect the study to address the adequacy, efficiency and consistency of the currently existing legal framework, thereby adding value to what the Commission is required to report. In effect, Directive 2001/18/EC already requires the Commission to report on the status of new genomic techniques under Union law and its consequences for the implementation of European GMO legislation.

The Netherlands and Spain underline the urgency of the steps to be undertaken in view of the broad extent of implications of the current situation.

In addition the Netherlands and Spain draw attention to several practical and legal implications of the ruling which have been highlighted also by several recent EU led studies¹.

We cannot afford any delay in achieving a comprehensive way forward and a review that takes into account the efficacy of the legislation is therefore urgently needed. The Netherlands and Spain expect the Commission to assess as part of the requested study, in view of the ECJ ruling, the existing legal framework, sufficiently taking into account the principles of precaution and proportionality.

Finally, the Netherlands and Spain call on the Commission to inform and consult, as appropriate, the Member States on the progress of the study at regular intervals, so as to ensure an inclusive approach.

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- The Scientific Advice Mechanism (SAM) report: New techniques in Agricultural Biotechnology, High Level Group of Scientific Advisors Explanatory Note 02, Brussels, 28 April 2017
- NL discussion proposal to amend Annex IB of Directive 2001/18/EC, 7 September 2017
- European Court of Justice decision for genome editing: Consequences on food/feed risk assessment and detection, 25. July 2018
- The SAM statement after the ECJ ruling: A Scientific Perspective on the Regulatory Status of Products Derived from Gene Editing and the Implications for the GMO Directive, November 2018
- The Norwegian Biotechnology Advisory Board (Bioteknologirådet) (2018). The Gene Technology Act – Invitation to Public Debate.
- Open letter from EU Researchers: Open Statement: European scientists urgently reach out to the newly elected European Parliament and European Commission to enable the potential of genome editing for sustainable agriculture and food production.
- The ENGL report on Detection of food and feed plant products obtained by new mutagenesis techniques, 26 March 2019.
- Danish Council of Ethics (29 April 2019) recommends GMO legislation be changed to help achieve sustainability objectives
- Joint statement French/German Association Française des Biotechnologies (AFBV) and Wissenschaftlerkreis Grüne Gentechnik e.V. (WGG) proposing small changes to the GMO Directive enabling and accelerating smart breeding in European agriculture, 10 September 2019

Statement by Sweden

Sweden welcomes the fact that the attention of the new Commission has been drawn to the Court of Justice's ruling on novel genetic techniques and its implications. Sweden is keen that the study should include the novel mutagenesis techniques for plant breeding (directed mutagenesis) which are mentioned in the Court's ruling, and assumes that they will form an integral part of the study.

Sweden considers that the study should include cost estimates in order to be complete, and looks forward to that part of the study in particular.
