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MEETING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Genetic Resources and Innovation in Agriculture (Innovation in Agriculture)
Subject:	WP Innovation in Agriculture – Meeting of 20 January 2025 – Item 2: Presentation of the revised Presidency text

Following the meeting of the Working Party on Genetic Resources and Innovation in Agriculture (Innovation in Agriculture) of 20 January 2025, delegations will find in annex the presentation given by the Presidency on the above subject.



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Working Group on Genetic Resources and Innovation in Agriculture
Meeting on 20 January 2025

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Proposal for a Regulation of the European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed, and amending Regulation (EU) 2017/625



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The negotiations have been ongoing since July 2023 and there is still no sufficient majority

The Polish Presidency
wants to address concerns about
the existence of plant patents

The Polish Presidency hopes to obtain a
qualified majority



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The Polish Presidency's compromise proposal is based on the text presented in COREPER on 7 February 2024, which is supported by a large number of Member States

The amendments were inspired by the Belgian Presidency's proposal of June 2024



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**The Polish Presidency's
compromise proposal does
not affect legislation related to
intellectual property**

- Directive on the legal protection of biotechnological inventions (Directive 98/44/EC)
- The Unified Patent Court Agreement (UPCA)
- The World Trade Organisation Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs).



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Key points of the Polish Presidency's compromise proposal

- The definition of 'category 1 NGT plant' remains unchanged
- The amendments only concern the marketing of NGT 1 plant propagating material
- The existence of a patent affects the placing on the market of NGT plant propagating material.



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Key points of the Polish Presidency's compromise proposal

- There is a differentiation between process patents protecting basic technologies and process patents that result in a specific characteristic (trait)
- The existence of patents protecting the basic technologies don't affect the marketing of NGT 1 plant propagating material



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Placing on the market of plant propagating material of category 1 NGT

Not protected by a patent, as demonstrated by a decision under Article 7bis	Patent protected
No opt-out under Article 7ter possible, no additional label under Article 10bis required	Member States may take measures to restrict or prohibit the use for cultivation of reproductive material. Article 7ter (opt-out)
	The use of an additional label: <i>patent protected</i> or <i>patent pending</i> Article 10bis



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Further points of the compromise proposed by the Polish Presidency

- It is possible to revoke a decision under Article 7 bis under certain conditions and only in the public interest (Article 11bis)
- The Commission's report on the impact of patenting practices will be published one year after the entry into force of the Regulation (Article 30bis(4)).



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The Presidency's proposal aims at reaching a wide compromise

We look forward to hearing your views

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