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The Netherlands Calls for an Amendment of the GMO Directive

Report Categories:

Biotechnology - GE Plants and Animals

Biotechnology and Other New Production Technologies

Approved By:

Susan Phillips

Prepared By:

Bob Flach

Report Highlights:

On November 30, the Dutch Cabinet presented its position to the Dutch Parliament on the recent decision of the Court of Justice of the European Union to require plants edited with new mutagenesis techniques to be subject to the EU GMO Directive. The Dutch government will call the European Commission and EU Member States for an amendment of the Directive in line with their earlier proposal.

Summary

On November 30, three ministries of the Dutch Cabinet (Ministry of Infrastructure and Water Management, Ministry of Agriculture, Nature and Food Quality, and the Ministry of Health, Welfare and Sport) informed the Dutch Parliament about their conclusions regarding the decision of the Court of Justice of the European Union (the Court) on mutagenesis. Their [letter](#) (Dutch language) stated that the [verdict](#) (No 111/18 on July 25, 2018) does not provide sufficient clarification on which new plant breeding methods should fall under the GMO Directive 2001/18/EC and which should not. As a result, the Dutch Government will call for an amendment of the EU Directive in line with their earlier proposal that plants resulting from new breeding techniques should be exempt from the GMO Directive provided they are at least equally safe as plants obtained through traditional breeding. In the long term, the Dutch Government will call for broader modernization of the EU biotech legislation.

Dutch Government's Interpretation of the Court's Verdict

The letter starts by clarifying what was not included in the Court's decision. The Court did not provide an explanation of the term "mutagenesis". It did not determine which plant breeding techniques are safe enough to be excluded from the obligations of the GMO Directive. In addition, it did not conclude how safety should be determined. The Cabinet's letter concluded that based on the Court ruling it cannot be determined whether plant breeding methods known as new mutagenesis techniques (including their application in CRISPR/Cas9) qualify for an exemption.

The letter argues that the questions left unanswered will require action by the EU legislature (European Commission, Council and Parliament) to remove uncertainties, improve practicability of the GMO Directive and to ensure that the directive reflects the most current knowledge and applied technologies.

The letter further states that, in line with the standpoint of both the Dutch Cabinet and Parliament, it is the aim of the Netherlands to exclude precision plant breeding techniques from the GMO Directive provided that species' boundaries are not crossed and that the products do not entail more risk to humans, animals and the environment than what one might expect from conventional breeding methods.

The Dutch Government will urge the EU Presidency to place the status of precision plant breeding techniques with the Dutch proposal as legislative option as discussion item on the agenda of the EU Council. The Netherlands will submit three subjects for this debate:

Firstly, the Netherlands will call on the European Commission and the EU Member States to work urgently towards clarifying when a product is considered a GMO and when it is not. Secondly, the Netherlands will continue to call for excluding precision plant breeding techniques as it has been determined that they do not entail greater risks than derived with traditional breeding methods. Thirdly, the Netherlands will argue within the EU for a broader modernization of biotechnology policy. The letter further affirms that the Netherlands will adopt a critical attitude towards EU Member States with additional, national legislation and regulations in the area of precision breeding techniques.

Background

On September 7, 2017, the Dutch Government presented a proposal to the European Commission and EU Member States. The proposal holds the view that plants resulting from new plant breeding techniques are genetically modified organisms (GMOs) but should be exempted from the conditions laid down in the GMO Directive 2001/18/EC. This exemption is with the provision that the resultant products are at least equally safe as plants obtained by traditional breeding. The Directive imposes expensive and lengthy approval processes as well as traceability, labelling, and monitoring obligations for GMOs.

On July 25, 2018, the Court of Justice of the European Union issued its judgment that organisms created through mutagenesis are to be regulated as GMOs, with the exception of certain mutagenesis techniques (using chemical and radiation), which have been conventionally used and have a long safety record.

For more information see:

[GAIN Report - Dutch Government Proposal to Legislate NBTs, dated October 2, 2017](#)

[GAIN Report - EU Court Extends GMO Directive to NBTs, dated July 27, 2018](#)

[GAIN Report - Netherlands, Agricultural Biotechnology Annual, dated October 26, 2018](#)