

Ref.: Comments on the French draft Decree amending the list of techniques for obtaining genetically modified organisms traditionally used without any noted drawbacks regarding public health or the environment.

Notification #: 2020/280 F, 2020/281 F y 2020/282 F

Based on the proposed decree restricting the import and use of Clearfield oil seed rape grain and seed developed by in vitro mutagenesis methods, the Seed Association of the Americas (SAA), representing the seed industry along the Americas expresses concern to the proposed measures based on the following statements:

- The proposed decree will create barriers providing burden and risks to the current seed and grain trade of many varieties from different crops obtained by random in vitro mutagenesis originated outside the EU.
- The seed sector is of the view that regulatory decisions should be science based. The French Decree proposal lacks any scientific explanation or justification and unsubstantiated differentiates in vitro versus other forms of mutagenesis. This is priori artificial and creates legal uncertainty for market operators, grain, and seed traders, and controlling agencies in member states. Moreover, these products have been lawfully marketed and traded since decades, and it is virtually impossible to identify if a product was obtained via random in-vitro mutagenesis. If the decree enters into force, then there is a risk to bringing unintentionally unauthorized products to the French market.
- The Cartagena Protocol on Biosafety to the Convention of Biological Diversity (Cartagena Protocol) was ratified by the EU on 27th August 2002 and pursuant to the preamble of the EU-GMO Directive, this directive should be interpreted consistently with the Cartagena Protocol. Nevertheless, the French Decree proposal is inconsistent with the definition of LMO's by the Cartagena Protocol, since random in vitro mutagenesis does not fall within that definition.
- France has not referenced or invoked any justification for restricting free movement of seeds and derived products in the EU, thus it will create technical barriers to trade by violating the WTO TBT agreement (Technical Barriers to Trade) affecting goods imported to France from outside the EU.
- With this proposed decree France started to eliminate certain varieties from the French seeds catalogue, varieties that are nowhere in the world treated as GMO's and which grains are today imported as commodity grains into France, thus creating disruption to the current trade and commercial activity.

For these justifications, SAA considers that the proposed decree should not enter into force since it is creating legal uncertainty, it is not in compliance with the Cartagena Protocol and creates barriers to trade according to the WTO's TBT agreement and it lacks any scientific justification. The French Decree proposal is therefore an isolated, national initiative, which creates an untenable market landscape.

The Seed American Association - www.saaseed.org - is a non-governmental organization that fully represents the interests of the seed industry within the Americas. The main purposes of the SAA are to educate and support development, marketing, and free movement of the seed within the continent and globally, while advocating seed industry legislation as to ensure fair and science-based seed regulations

A handwritten signature in black ink, appearing to read 'DRisso', is positioned above the name of the signatory.

Diego Risso
Executive Director