

Genetically modified organisms (GMOs): possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory

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The Council examined progress with a proposal that would allow Member States to ban or restrict the cultivation of genetically modified organisms (GMOs) in their territory.

Member States are still examining the draft act that would give EU countries the possibility to ban or restrict the cultivation of one or several GMOs in all or part of their territory. In view of the doubts about the conformity of national GMO bans adopted under the proposed legislation with the internal market and WTO rules, some delegations consider that further reflection and analyses are needed.

In light of the discussions in the Council meetings and in the Ad hoc Working Party and taking into consideration the report of the Committee on the Environment, Public Health and Food Safety of the European Parliament, the Presidency prepared a **compromise proposal**.

In the course of the discussions the Presidency was keen on encouraging an exchange of views on possible overlaps and/or inconsistencies of the environmental considerations that could be used as grounds. The Presidency was also aiming at clarifying the question of likeness with regard to the national treatment obligation imposed by Article III.4 GATT.

Discussions identified the following **main issues and concerns** of delegations:

- the majority of delegations pointed to the need to advance this file in view of forging an agreement with the European Parliament and expressed support for the Presidency approach;
- it was pointed out by several that the position of the Committee on the Environment, Public Health and Food Safety of the European Parliament shared sufficient common ground with the Presidency's suggestions to engage informal dialogues with the European Parliament;
- a large number of delegations restated the importance of such opt-out possibility as a step in the right direction and invited the upcoming presidencies to move forward;
- some delegations rejected the proposal in general insisting on leaving the science based decision-making on GM-cultivation at EU level, and opposing the flexibility of Member States to decide on GM cultivation in their territory;
- a large number of delegations noted that the Presidency proposal was a good basis for further work and acknowledged that further fine-tuning of some parts (acceptable grounds, importance of avoiding possible overlaps and/or inconsistencies between the risk assessment at EU level and national measures using "General/complementary environmental policy objectives", recitals) might be welcomed;
- several delegations asked for more time to address doubts in relation to the legal compatibility of some of the grounds contained in the suggested list with WTO and EU internal market rules; others questioned the choice of the legal base and the modification of the form of the legal act;
- some voiced concerns with regard to the impact on the internal market and the Common Agriculture Policy and questioned whether the proposal constitutes a legally sound and workable option.

At its meeting on 25 May 2011 Coreper considered the **Presidency's new compromise proposal a good basis for further work within the Council**. Discussions showed that although a large number of delegations supported the Presidency's compromise text, it was felt nevertheless that, at this stage, more time was needed to address questions and concerns by several delegations.

It was pointed out by several that the position of the Committee on the Environment, Public Health and Food Safety of the European Parliament was not far from the Presidency's suggestions; therefore a unique momentum was provided to reach a compromise which was also supported by the European Commission.