

Brussels, 22 FEB. 2011  
C/2011/1082

Dear President,

*The Commission would like to thank the Austrian Bundesrat for its analysis of the Commission proposal for a Regulation of the European Parliament and of the Council amending Directive 2001/18/EC as regards the possibility for the Member States to restrict or prohibit the cultivation of GMOs in their territory {COM(2010)375}.*

*The Commission welcomes the fact that the Austrian Bundesrat supports the Commission's proposal to grant the Member States the freedom to decide on the cultivation of GMOs and would like to see its provisions entering into force as soon as possible. In this regard, the Commission underlines that this freedom will only be granted to Member States once the proposal is adopted through the ongoing ordinary legislative procedure with the European Parliament and Council and subsequently enters into force. The Commission welcomes the opinion of the Austrian Bundesrat that the proposal in question complies with the principle of subsidiarity.*

*The Commission has carefully noted the requests by the Bundesrat to include arguments on the protection of health and the environment, in line with the precautionary principle, to justify Member States' decisions to restrict or ban GMO cultivation in their territory. Like the Austrian Bundesrat, the Commission believes that GMOs need to be assessed in line with the precautionary principle enshrined in the existing EU legislation, which has as a fundamental objective to prevent potential adverse effects of GMOs on human and animal health and the environment. The potential adverse effects on health and environment are already addressed by this harmonised set of EU rules. In this context, Member States are particularly encouraged to provide detailed scientific information on the risk of specific GMOs for their environment, in particular as regards GMOs for cultivation so that the specific characteristics of their environment can be taken into account during the decision making process.*

*The Commission recalls that the existing legal framework allows Member States to invoke the special procedures of the safeguard clause of Directive 2001/18/EC (Article 23) or the emergency measure of Regulation (EC) No 1829/2003 (Article 34) in case they have serious grounds to consider that the authorised product is likely to constitute a serious risk to health and environment. Against this framework, and to preserve the existing authorisation system based on science, the Commission proposal stipulates that Member States cannot invoke protection of health and environment to justify a national ban of cultivation of GMOs outside these special procedures.*

Herrn Gottfried KNEIFEL  
Präsident des Bundesrates  
Dr.-Karl-Renner-Ring 3  
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*The Commission takes note of the demand by the Bundesrat to allow Member States to take appropriate measures to avoid the presence of GMOs in their environment and in organic agriculture. In this regard, it is precisely the intention of the Commission's proposal to allow Member States to decide on GMO cultivation on their territory. In addition, and in order to protect the special needs of some types of production, such as organic agriculture, the Commission adopted also on 13 July 2010 a Recommendation on co-existence, which refers to the possibility for Member States to restrict GMO cultivation from large areas of their territory to avoid the unintended presence of GMOs on conventional and organic crops.*

*As part of the ongoing discussions with the European Parliament and the Council, the Commission is preparing a non-exhaustive list of grounds, other than risk to health or the environment, which could be invoked by Member States to justify their national measures.*

*The Commission remains available to provide any further information on these issues if needed.*

*I am looking forward to continuing our policy dialogue in the future.*

*Yours faithfully,*