

EUROPEAN COMMISSION

*Brussels, 15.9.2015
C(2015) 6328 final*

Dear Presidents,

The Commission would like to thank the Houses of the Oireachtas for their Opinion concerning the proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of genetically modified food and feed on their territory {COM(2015) 177 final}.

The objective of the proposal is to allow Member States to restrict or ban the use of genetically modified food and feed on their territory after the EU authorisation has been granted, on the basis of grounds other than those which are assessed at EU level. This proposal was made following the observation that Member States which abstain or vote against draft decisions authorising genetically modified food and feed tabled by the Commission usually do not justify their vote on grounds related to the quality of the risk assessment but on the basis of other criteria. Granting Member States a decisional power allowing them to take account, in such a controversial subject, of legitimate concerns which correspond to their specific national context would create more trust in the EU authorisation system.

To ensure that national measures adopted on the basis of the proposal are legally defensible and compatible with EU primary law and international obligations, the proposal specifies that measures adopted by Member States have to respect certain substantial conditions. In particular, these measures must be proportionate, non-discriminatory and based on compelling grounds. It is important to note that the notion of compelling grounds of public interest is recognised in Article 36 of Treaty of the Functioning of the European Union (TFUE), and in the related case-law of the Court of Justice, and allows derogations from the single market rules.

*Mr Seán BARRETT T.D.
President of Dáil Éireann
Houses of the Oireachtas
Leinster House
Kildare Street
IRL – DUBLIN 2*

*Senator Paddy BURKE
President of the Seanad Éireann
Houses of the Oireachtas
Leinster House
Kildare Street
IRL – DUBLIN 2*

No list of grounds has been included in the proposal because Member States are the best placed to identify these compelling grounds which best correspond to their national contexts. They can however find in Article 36 of the Treaty, related case-law or secondary legislation, examples of compelling grounds which they may consider appropriate.

Granting such a possibility to Member States does not mean however that more genetically modified organisms (GMOs) will be authorised at EU level. Indeed, the proposal will not affect the procedure leading to the authorisation of GMOs at EU level, in which Member States have the possibility to accept or reject the Commission's draft decision. Similarly, the provisions of EU GMO legislation, which forbid the placing on the market of GMOs that are not authorised in accordance with that legislation, will also remain unchanged. Importantly, the competences of the European Food Safety Authority (EFSA) to assess the potential risks to health and to the environment of genetically modified food and feed will not be affected by the proposal. The Commission considers that, instead of jeopardising the objectives which are highlighted by the Houses of the Oireachtas, the proposal may on the contrary contribute to those objectives in a legally sound manner, while preserving the EU decision of authorisation based on a sound EU-wide risk assessment.

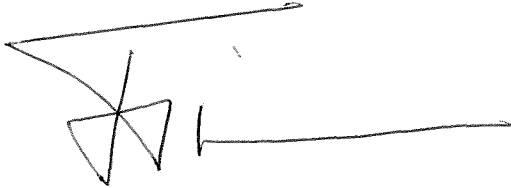
The Commission agrees with the Houses of the Oireachtas that GMO products on sale should be properly labelled so as to allow consumers to make an informed decision on whether or not to purchase them. This position was also shared by the European Parliament and the Council when adopting the GMO legislation. Since 2003, EU legislation thus foresees that the presence of authorised genetically modified material in food and feed must be labelled, unless this presence is adventitious or technically unavoidable and below 0.9% of each of the ingredients of the food or the feed. Furthermore, EU legislation does not prevent the development in Member States of labels promoting the absence of GMOs in products.

Finally, like the Houses of the Oireachtas, the Commission recognises the importance of protein crop production in the EU, both from an economic and environmental perspective. In the last reform of the Common Agriculture Policy, protein crop production was promoted by offering additional flexibility to Member States to grant support coupled to the production of protein crops and by recognising the environmental value of nitrogen-fixing protein crops in the greening requirements. However, in light of the quantities needed to meet demand (the EU currently produces 1 million tons of soybean and imports 32 million tons of soybean and soymeal), it appears difficult to completely replace imports of vegetable proteins with domestic production, especially because these crops need particular climatic conditions which are not present in the whole EU and also because this would mean dedicating a significant amount of land currently used for different crops, including cereals, to this objective.

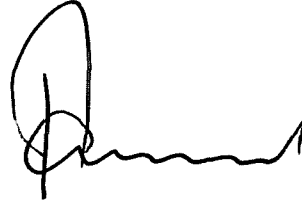
The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving both the European Parliament and the Council in which your government is represented.

The Commission hopes that these clarifications address the issues raised by the Houses of the Oireachtas and looks forward to continuing our political dialogue in the future.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized 'F' followed by a horizontal line and a vertical stroke.

*Frans Timmermans
First Vice-President*

A handwritten signature in black ink, featuring a large, circular initial 'V' followed by a series of connected loops and a final vertical stroke.

*Vytenis Andriukaitis
Member of the Commission*