



**Position Paper
on the Commission's
proposal on plants obtained
by certain new genomic
techniques (NGTs) and
their food and feed, and
amending Regulation (EU)
2017/625**

16th October 2023







General remarks

1) Innovation in the plant breeding sector is among the levers that will enable European agriculture to successfully make the transition to a more resilient and sustainable form of farming. This legal proposal is, thus, key in contributing to the Farm to Fork and Biodiversity Strategy objectives such as improved pest-resilience, tolerance to climate change and environmental stress as well as enhanced nutrient and water-use efficiency and carbon sequestration. It should support European farmers across all sectors and regions in responsible production on a more sustainable basis while mitigating climate change and ensuring food affordability and security in the Union and beyond EU borders. Nevertheless, New Breeding Techniques (NBTs) are not a universal solution and cannot be regarded as a substitute for the further development and holistic optimisation of farming systems.

2) New Breeding Techniques differ from old conventional selection techniques in terms of their precision, low cost and acceleration of varietal selection programmes. NBTs are additional items in the toolbox that enable breeders to bring better plant varieties to the market more quickly, helping European farmers who face many challenges, such as the acceleration of climate change and consequently yield stagnation and the emergence of new pests and diseases. Plants obtained by certain categories of NBTs are similar to plants obtained by natural or conventional breeding and the difference cannot be detected after breeding. The public and private sectors must support communication regarding consumers' acceptance and confidence in new modern plant breeding techniques.

3) Many countries around the world are already reviewing their regulations to give breeders access to these techniques by regulating and treating certain NBT plants and products as conventional products. It is, therefore, essential to take into account scientific progress and to envisage the development of these plant varieties in the European Union without distorting competition with the rest of the world. In the near future, the EU will be importing products obtained from NBT plants, which is why an EU regulation on NBT products is highly needed and necessary. The EU needs a solid, proportionate and scientific regulatory framework on NBT plants. Copa and Cogeca welcome the Commission's desire to clarify the status of NBTs in its proposal and to finally open up the debate on the modalities of access to these techniques. Copa and Cogeca insist that the legislative proposal must be based on sound science and not arbitrary limitations.

4) Copa and Cogeca welcome the approach of the Commission's proposal with a regulation which exempts specific NBTs and category 1 NBT plants and their products from the EU GMO legislation and consider this a prudent choice.

5) Copa and Cogeca want the NBT plant regulation to pursue the following objectives:

a) It must ensure that research, development and innovation projects on NBTs are not outsourced to outside of the EU and that public research institutes are able to continue enjoying access to these new techniques and investments.

b) It must guarantee European farmers secure and competitive access to varietal innovation, enabling them to meet the dual challenge of European food sovereignty and the fight against global warming.

c) The definitions adopted must be applied in a uniform manner across all sectors, whether they are standard or quality products.

d) It must avoid distortion within the EU and between the EU and imported products despite the impossibility of analytically detecting the production technique for most of the agricultural products obtained. The regulation must be compatible with third countries' legislation and not lead to significant product divergence, nor cause any market disruption or additional bureaucracy. Divergent legislation must not put the EU at a disadvantage.

e) The traceability rules that will be required must be appropriate to ensure that the right level of information is fed to farmers and the food chain. These rules must apply to imported products as well.

6) The Plant Reproductive Material and the Forest Reproductive Material pieces of legislation are closely interlinked with the NGT regulation. The proposed regulation on NGT plants alone is not sufficient to allow European farmers to obtain access to improved plant and forest reproductive materials (PRM/FRM). PRM and FRM must be tested, certified and registered according to the PRM/FRM Regulation to be placed on the EU market as plant varieties.

7) Copa and Cogeca suggest using the terminology "New Modern Breeding Techniques" (NBTs) instead of "New Genomic Techniques", which is more appropriate for a law that covers innovation in the plant breeding sector which excludes transgenesis.



Specific remarks

1) Copa and Cogeca support the following elements of the proposed regulation:

a) Scope and classification - The scope excluding transgenesis and the classification of NGT plants using two categories, based on sound science and providing both legal certainty and harmonisation is ensured for category 1 NBT plants across the EU. Copa and Cogeca support the delegation of power to the Commission to adapt the equivalence criteria to be in line with scientific and technological progress as well as extending the list of permitted modifications regarded as occurring naturally or those produced through old conventional breeding.

b) Procedure - The verification procedure of category 1 NBT plants by national competent authorities which must be science-based and predictable - In addition, it must not involve high costs if there is a marked increase in the number of plants introduced within the aforementioned category as this would exclude small breeders from the market.

c) Linkage with PRM/FRM - The listing of category 1 NBT plant/forest propagating materials in accordance with the Plant/Forest Reproductive Material legislation (PRM/FRM). New plant varieties must offer additional advantages over existing plant varieties, such as more stable agricultural production in fluctuating conditions. Knowing that these varieties have been tested and assessed against established criteria is a form of reassurance for farmers. Increased testing of plant varieties for sustainability purposes while maintaining production levels is an improvement for the sustainability of the agri-food system (see position paper on PRM SEM(23)04037);

d) Seed database sufficient for transparency throughout the chain - Transparency is sufficiently ensured through the establishment of a public database for category 1 NBT plants. Farmers are consumers of seed varieties and take the decision on seed varieties based on the national variety lists or the EU common catalogue of varieties.

e) Strong single market - The prohibition of opt-outs and the free movement of NBT plants of the two categories. Any opt-out would undermine the EU single market and would contradict the objective of harmonising the PRM/FRM legislation.

f) Incentives for SMEs - The regulatory incentives provided for SMEs are welcome, in particular for small sectors, such as ornamental plants.

2) Copa and Cogeca advocate for some amendments to the Commission proposal as follows:

a) Category 1 NBT plants - The proposed criteria in annex I must find acceptance among the vast majority of consumers in the EU. If the criteria are not refined to take better account of the genetic specificities of each plant species (polyploid species, for example) and traits that are under the control of many genes, such as yield, drought tolerance or public health concerns¹, it would be difficult to place category 1 NBT plants on the market for all agri-food sectors. The 20 genetic changes should be based on the haploid genome.

b) Transparency and freedom of choice - Labelling of category 1 NBT variety bags is not relevant for end consumers. In addition, it creates extra costs that would be transferred to the supply chain and would unnecessarily increase the costs of PRM/FRM. As plants from category 1 cannot be distinguished from plants obtained through conventional breeding, category 1 NBT plants must be regulated according to the rules of conventionally bred plants. Provisions relating to “NGT cat 1” labels on seed bags must be removed². Information on category 1 NBT plant reproductive material must be easily accessible to farmers at the level of the official EU Common Catalogue and national variety lists to ensure transparency and freedom of choice for farmers. As plants from category 1 cannot be distinguished from plants obtained through conventional breeding, labels on food/feed or other products obtained from category 1 NBT plants would be misleading for consumers and, therefore, violate the Food Information to Consumers Regulation. In addition, if there is no difference in the labelled product, it would not be possible to enforce labelling. Any recordkeeping comes with a cost in financial and human resources and such costs will be passed down the chain to the primary producer. Costs must always be proportionate to the benefits and value they generate.

c) Herbicide Tolerant Varieties - The proposed sustainability criteria that incentivise category 2 NBT plants contradict the sustainability characteristics of the Value for Sustainable Cultivation and Use in PRM Regulation. Herbicide tolerant genes exist in nature. Herbicide tolerant plants intentionally bred to be tolerant to herbicides when used properly allow for a reduction in the use of herbicides. This trait should not be considered unsustainable. Copa and Cogeca ask that the sustainability criteria set in Annex III must be harmonised between NGT and PRM regulations.

d) Coexistence - The proposal falls short of the objective of full European harmonisation of the rules of coexistence for category 2 NBT plants. This approach would create considerable legal uncertainty and also contradict the basic idea of a European level playing field. It is imperative to regulate the measures within the regulation currently under discussion as this would unnecessarily prolong

¹ Achieving gluten-free wheat, for example, requires intervention in 36 genes.

² Reserve of Coldiretti : coldiretti's reservation on the sentence bearing footnote 2

the period of legal uncertainty for the economic operators. The following points are particularly important when it comes to the obligation of proof: who is responsible for it, requirements for labelling, practicable tolerance and threshold values for the individual stages of the production chain.

e) The wording “breeders’ gene pool” mentioned in Article 356 of the proposal should be replaced by the more appropriate “gene pool for breeding purposes”.

f) Testing NBT 1 plants in laboratory - considering the procedure for testing of cat 1 NBT is currently under the GMO Directive, Copa and Cogeca would request a derogation from GMO provisions regarding the laboratory testing of cat 1 NBT plants in order to accelerate rolling out access to the use of better performing varieties to European farmers.

3) Copa and Cogeca call on the co-legislators to rapidly adopt the Commission’s proposal with a limited number of amendments.



Other remarks on the communication “Ensuring resilient and sustainable use of EU’s natural resources” (see COM(2023)410 final - page 9)

1) Patent - Copa and Cogeca will engage in the Commission’s analysis of the impact that the patenting of plants and related licensing and transparency practices may have on innovation in plant breeding, on breeders’ access to genetic material and techniques and on availability of seeds to farmers as well as market concentration. Copa and Cogeca call for the 2026 deadline to be met.

2) Free access to entire gene pool - In parallel with the proposals on PRM/FRM and NGTs, Copa and Cogeca are calling for a clearer regulatory framework for patents and the protection of plant breeders’ rights. Copa and Cogeca want to preserve the PVR/UPOV system whereby the proliferation of a variety, growing, harvesting and further breeding of the variety is free of charge, which stimulates maximum innovation and development for the benefit of society, farmers and breeders. Copa and Cogeca are asking for the exclusion from patentability of plants, genes and genetic traits that can be found in nature or obtained by conventional breeding techniques.





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Copa and Cogeca are the united voice of farmers and agri-cooperatives in the EU.

Together, they ensure that EU agriculture is sustainable, innovative and competitive, guaranteeing food security to half a billion people throughout Europe. Copa represents over 22 million farmers and their families whilst Cogeca represents the interests of 22,000 agricultural cooperatives. They have 66 member organisations from the EU member states.