



EUROPEAN COMMISSION

Office of President José Manuel Barroso  
Head of Cabinet

Brussels, 02.06.2008

**Subject: Implementation of GMO policy**

*Dear colleague,*

The recent rise in food prices, and its implications for animal feed have added a new dimension to the public debate on GMOs. As you know, the EU has a strict, science based system for authorising GMOs for use in food and feed and for cultivation. Despite this, most individual approvals in recent years have been difficult and a source of controversy. Our international partners have a different approach and, following the WTO panel results, the EU faces possible retaliation because of undue delay in implementing our own system.

Against this background, the Commission would like to initiate an informal discussion with Member States on the way in which we implement existing EU legislation in this area. GMOs cut across a number of different policy areas – agriculture, environment, health etc – and thus require a co-ordinated effort at national and EU level. For this reason, the President of the Commission has asked me to invite you to nominate a senior official to participate in this discussion and represent the overall view of your government. The aim of establishing an informal discussion is to take stock of experience so far and to look at whether there are ways of facilitating the decision making process, including making further improvements to it, where appropriate. The outcome of this informal discussion would then be brought to the decision-making level.

I would be grateful if you could send me your nomination by 10 June as we would like to have a first contact before the end of June. I am enclosing an annex setting out a short description of the current EU legal framework together with references to the economic, international and public opinion aspects of the issue which I hope you will find useful.

Yours sincerely,

João Vale de Almeida

## **1. The EU legal framework**

The EU legal framework was entirely recast in the late 1990's. Two pieces of legislation with two different procedures provide for the pre-marketing authorisation of GMOs. Both set strict, science based standards for authorisation and give the EU the strictest authorisation system in the world in term of food, feed and environmental assessment.

However, the EU legal framework for the approval of GMOs remains complex. One of the main reasons for this complexity is that the two main pieces of legislation (i.e. Directive 2001/18 on the environmental release of GMOs and Regulation 1829/2003 on GM food and feed) are intertwined. Under the current system, responsibility for scientific assessment is assigned to different bodies, namely the European Food Safety Authority (EFSA) but also the Member States scientific authorities, which play a different role depending on the legislation.

Since 2004, the Commission has adopted 16 authorisation decisions, in accordance with the legislation. In all cases, it has proved impossible to reach a qualified majority in favour or against Commission's proposals to authorise GMOs. The Council has rejected three Commission proposals requesting Member States to lift national bans on cultivation, even though EFSA, acting in accordance with Directive 2001/18, concluded that the bans were not scientifically justified.

## **2. Economic aspects**

In the EU, the development of GMO agriculture has been limited. However, over the last three years GM maize cultivation has seen a rapid development in several Member States. In addition, as GMOs are used by our trading partners in feed and food production they are already indirectly present in EU processed products or directly imported for food and feed purposes. As a matter of fact, the EU is probably one of the largest importers of GMOs in the world, due to the high dependence of the EU livestock industry on the importation of plant proteins. There are concerns that the gap in GMO approval between the EU and major agriculture exporting countries could have serious negative economic consequences for parts of EU agriculture.

Although not linked to the GMO issue, the recent surge in agricultural commodity prices could be exacerbated by trade obstacles related to GMOs thus resulting in an increase of feed and food prices in the EU higher than in other parts of the world. This could affect the competitiveness of the EU livestock sector and of emerging bio-based industries such as the biofuel industry.

Widespread opposition to GMO cultivation has negative impacts on European public and private research in plant science that, in the long run, could affect the competitiveness of certain European industries.

### **3. International aspects**

In 2006, the EU was criticised by a WTO panel mainly for having failed to apply its own legislation. The WTO panel found that the EU unduly delayed the approval of GMOs and that some national bans breached WTO law because they were not based on scientific assessment.

On 17 January 2008, as a signal of dissatisfaction with what it sees as a lack of EC efforts to comply with the WTO ruling, the US submitted a request for retaliation in the WTO. On 6 February, the EC objected and the matter was referred to an arbitration panel. In accordance with the procedural agreement between the EC and the US, this arbitration was suspended on 18 February. Those procedures can be only resumed when a compliance procedure is concluded which could take up to 9 months if there is an appeal. However, the US may publish at any time a list of products that would be subject to trade sanctions. Such a list could have negative effects on certain EU exports well before the WTO decides on the legitimacy of US request.

The reasonable periods of time for implementation of the panel ruling (RPT) agreed with Argentina and Canada expire respectively on 11 and 30 June 2008. From these dates, the two complainants may decide that the EC is now in compliance with WTO rules. But, they may also consider that the EC does not yet comply with the WTO ruling; in such case, Argentina and Canada could decide either to ask for a further extension of the RPT or to submit a request for retaliation to the WTO.

### **4. Public opinion**

The Commission is aware that public opinion is worried with the use of GMOs in food and agriculture; these concerns are particularly high when it comes to the cultivation of these products and many local authorities are concerned about the potential impact of GMO cultivation on local agriculture production systems. The farming community is also split on the issue of GMOs. Some farmers see GMOs as an opportunity while others see them as a threat to certain types of agriculture productions.