

To: European Commission  
DG Growth  
Unit 2B "Prevention of Technical Barriers"

Grow-B2@ec.europa.eu

Gouda, 7 July 2020

**Subject:** Draft decrees submitted by France on GMO rules with respect to mutagenesis  
**Your Ref:** TRIS Reference 2020/280/F, 2020/281/F, 2020/282/F  
**Our Ref:** 20070715a

Plantum herewith submits to the European Commission, pursuant to Directive 2015/1535, its comments on the three technical regulations that were notified to the Commission by France on 6 May 2020. The draft decrees create a new definition of certain types of breeding, which in Plantum's view, is not compatible with the EU single market as it seriously risks to create unjustified barriers to trade. These are significant and we therefore respectfully urge the Commission to issue a detailed opinion pursuant to Article 5 of the Single Market Transparency Directive. Plantum is of the position that the draft decrees need to be withdrawn to avoid undue effects on the Single Market.

*Plantum is the Dutch association for companies in the sector plant reproductive material. Plantum represents over 300 companies involved in plant breeding and production and trade in planting materials, including seeds, cuttings, tubers, bulbs and young plants for agriculture and horticulture. A large share of those materials are traded internationally, including to other members states of the EU. This illustrates a strong interest of Plantum in the said decrees.*

The creation of a new class of regulated GMO's at the national level through an unclear definition has in itself a negative effect on the operation of the Single Market as seeds and products will have a different status across borders within the EU.

Secondly, we expect the impact of intra EU trade to go beyond the oil seed rape varieties mentioned in the text when the decree will be applied uniformly to all crops and varieties that fall within the scope of the new definition. When it will not be applied uniformly, legal certainty is challenged even more.

Moreover, since the proposal intends to be retroactive in terms of varieties that have been bred in the past and that are currently in the market, we want to stress that it is impossible for chain partners, including breeders, to know for sure that a certain technique has not been used in the pedigree of their variety, and thus to ascertain whether or not the seed or produce may fall under the French definition. This leads to further legal uncertainty and as a result, to a large scale distortion of the European Single Market.

Finally, we do not see a justification for the special treatment of what is called “in vitro random mutagenesis” since the proposal does not provide scientific evidence of specific risks for man or environment, the basic argument to regulate GMO’s. It is clear that “in vitro random mutagenesis” is not a novel technique. Mutagenesis protocols for suspensions of plant cells have been published in the Netherlands in 1979. The French example might spur a variety of interpretations at the national level of definitions in EU law, which likely leads to additional disruptions of markets within the EU and beyond.

We remain at your disposal should you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to be "N.P. Louwaars". The signature is written in a cursive style and is positioned above the typed name.

Dr. Ir. N. P. Louwaars  
Director Plantum