

Member States' possibility to 'opt out' from GM food and feed import authorisations

In April 2015 the European Commission put forward a proposal that would allow the Member States to 'opt out' from using genetically modified (GM) crops authorised to be imported to the EU for food and feed purposes. The proposal has faced fierce opposition from different stakeholders, as well as Members of the European Parliament, with both the Committee on the Environment, Public Health and Food Safety (ENVI) and the Committee on Agriculture and Rural Development (AGRI) voting to reject the proposal. The plenary vote is scheduled at the October III plenary.

Background

All genetically modified organisms (GMOs) need to be authorised, and their safety assessed, before they can be placed on the EU market. Although, in general, more Member States support than oppose draft Commission decisions proposing authorisation of GM crops to be imported for food and feed uses, up to now a qualified majority has never been found among the Member States either in favour or against a proposal. The result of such votes is 'no opinion' in both stages of the decision-making process, i.e. in the standing committee (consisting of Member States' experts) and in the appeal committee (which is set up if no result can be found in the standing committee). The final decision then has to be taken by the Commission, which in practice has little choice but to give the authorisation, if the European Food Safety Authority (EFSA) has concluded that there are no risks to human health or the environment.

There are currently 67 GMOs authorised for food and feed use in the EU. Listed in the [EU Register of authorised GMOs](#), these include maize, cotton, soybean, oilseed rape and sugar beet. Some 43 applications for authorisation are pending.

The market situation in the EU differs significantly between food and animal feed. While there is hardly any GM food on the market, the livestock sector in the EU is heavily dependent on imports of vegetable proteins, mainly soya and soymeal, from third countries, for feeding cattle, pigs and poultry. According to [Commission figures](#), in 2013 the EU imported 18.5 million tonnes of soymeal and 13.5 million tonnes of soybean, representing more than 60% of its plant protein needs. Most of the imports come from countries where GM crops are widely cultivated: 90% originate from four countries in which around 90% of cultivated soybeans are genetically modified.

According to the [review](#) of the GMO decision-making process conducted by the Commission, the reasons why Member States vote against authorisations of GMOs are often not based on science, but rather on other considerations reflecting national concerns. The Commission has therefore concluded that the legal framework for decision-making on GM food and feed needs to be adapted, and proposes to extend to GM food and feed the solution agreed by the European Parliament and the Council on GMO cultivation ([Directive \(EU\) 2015/412](#)). The Member States would thus be allowed to restrict or prohibit the use of genetically modified food and feed on their territory, despite it being authorised at EU level.

Commission proposal

The Commission [proposes](#) to amend [Regulation \(EC\) No 1829/2003](#) by adding a new Article 34a, allowing Member States to restrict or prohibit the use of GM food and feed in part or all of their territory, complementing the possibilities they already have concerning GMOs for cultivation.

The current authorisation system and the labelling rules would not be amended. Member States would have to justify the measures they are adopting. They would, however, not be allowed to use justifications related

EPRS Possibility to 'opt out' from GM food and feed import authorisations

to risks to human and animal health or to the environment, as these are already assessed by EFSA at EU level during the authorisation procedure.

Any opt-out measures must comply with the principles of the internal market and EU's international obligations, including those related to the World Trade Organization (WTO). The measures have to be based on compelling grounds in accordance with Article 34 TFEU, and they need to respect the principles of proportionality and non-discrimination between national and non-national products.

Stakeholders' views

In a [joint press release](#), the EU food and feed chain partners, including Copa-Cogeca (European Association of Farmers and Agri-cooperatives), EuropaBio (European Association of bio industries), COCERAL (European Association of the Agrosupply Trade) and FEFAC (European Compound Feed Manufacturers' Federation), urged the Parliament and Council to reject the Commission's proposal, on the grounds that it would cause serious distortions of competition and result in substantial job losses and lower investment in the agrifood sector in 'opt-out' countries.

A group of NGOs, including Friends of the Earth Europe, Greenpeace and IFOAM (European Organisation for Organic Food and Farming) sent an [open letter](#) to Commission President, Jean-Claude Juncker, saying that the attempt to shift the responsibility for GM crops from the EU to the national level would not make the EU any more democratic, as the Commission would still be able to authorise GM crops against the majority view of the Council, Parliament and European citizens. NGOs have complained that the proposal only gives empty promises to national governments wishing to ban GM food and feed, without actually giving them the legal grounds to do so.

The United States Trade Representative Michael Froman [commented](#) on the proposal saying he was 'disappointed' with it, stating that it appears hard to reconcile with the EU's international obligations.

At a July 2015 meeting of the WTO's Sanitary and Phytosanitary Measures (SPS) Committee, Argentina, Brazil, Canada, Paraguay, Uruguay and the US reportedly [contested](#) the proposed new EU legislation allowing individual EU Member States to ban products without a risk assessment.

European Parliament

The AGRI Committee adopted its opinion on 3 September, calling on the ENVI Committee to propose rejection of the Commission proposal.

The ENVI Committee adopted its [draft report](#) on 13 October 2015 (rapporteur: Giovanni La Via, EPP, Italy), rejecting the Commission proposal and calling on the Commission to withdraw it. In the explanatory statement, the rapporteur refers to concerns expressed by Members of the ENVI Committee in the exchange of views with Commissioner Vytenis Andriukaitis, including the lack of an impact assessment, the compatibility of measures taken by Member States with internal market and WTO rules, the practicability of the proposal as well as discontent that the decision-making process itself (i.e. the authorisation procedure for GMOs) was not to be reviewed. The rapporteur considers that the proposal may seriously endanger livestock production, which remains dependent on proteins from GM sources, and harm EU agriculture. In addition, he argues that it would be almost impossible to implement, as border controls no longer exist within the EU's agricultural sector. Furthermore, the proposal contains no definition of the term 'use'. According to the rapporteur, it fails to ensure the necessary legal certainty and adequate tools for Member States wishing to ban the use of GM food and feed.

The Council, for its part, has not yet taken a position on the proposal.

The plenary vote in Parliament is scheduled for the October III session (26-29 October 2015).

According to Rule 60 of Parliament's Rules of Procedure, if a motion for rejection of a Commission proposal is adopted, the President shall, before Parliament votes on the draft legislative resolution, ask the Commission to withdraw the proposal. If the Commission does so, the procedure is declared closed and the Council informed accordingly.

If the Commission does not withdraw its proposal, the Parliament can refer the matter back to the committee responsible, or proceed to vote on the draft legislative resolution, rejecting the proposal in first reading.