



OPEN LETTER TO COMMISSIONER VELLA AND COMMISSIONER ANDRIUKAITIS

Contact for IFOAM EU:
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Position of the European Union during the COP 14 – CP/MOP9 – NP/MOP3 Sharm El Sheikh, Egypt, 2018

Dear Commissioner Vella and Commissioner Andriukaitis,

From 17–29 November 2018, the Parties to the Convention on Biological Diversity (CBD) will have important discussions on the Convention and the Cartagena and Nagoya Protocols. Among those

discussions, notably on threats posed by synthetic biology, we would like to draw your attention to three important topics related to genetic engineering and genetic resources that will be discussed in November.

1. **We strongly call upon the European Commission to support an international moratorium on the release into the environment of organisms modified by gene drive technology.** This technology aims to genetically modify or even eradicate entire populations. Considering the lack of knowledge about this technique and its potential serious ecological and societal effects, in particular on agri-food systems, it is crucial that the European Union apply the precautionary principle and make sure that the philosophy of the Convention and its Protocols will be respected, notably to ensure *'an adequate level of protection'*¹. Since gene drives are designed to spread through entire populations with no regard for boundaries, the EU must also respect *'the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction'*, according to the provision of the Convention².

2. On 25 July³, the European Court of Justice clarified the legal status of certain new genetic engineering techniques: the European legislation on GMOs (Directive 2001/18/EC) fully applies to these new techniques. The EU delegations must uphold this interpretation in the UN negotiations. **The European Commission must uphold the ruling of the European Court of Justice that the products of genome editing techniques are considered as 'Living Modified Organisms'**⁴. Any other position would be highly inappropriate and would violate the European legislation on GMOs. We furthermore urge the European Commission to support language calling on Parties to the Cartagena Protocol on Biosafety to assess the potential adverse effects on the conservation and sustainable use of biodiversity from living modified organisms produced through genome editing, including through further work and development of guidance material on risk assessment for such organisms.

3. **Likewise, we ask the European Commission to align its position regarding Digital Sequence Information (DSI)⁵ with the CBD (Article 1) and the Nagoya Protocol.** We strongly disagree with the position presented in the submission of the EU and its Member States to the CBD Notification 2017-037⁶, that DSI should not be considered as a genetic resource. Digital Sequence Information must be considered as genetic resources, as defined in the CBD, in order to **enable the implementation of a benefit-sharing mechanism, in accord with Article 1 of the CBD regarding 'the fair and equitable sharing of the benefits arising out of the utilization of genetic resources'**.

The position the European Commission is currently working on, also contradicts the European legislation (Directive 98/44/EC), under which the protection of patents granted on one piece of genetic information, covers also all genetic material resources that contain this information and that express the specific claimed function. It is not acceptable that on one hand, regarding access to DSI, the information originating from genetic material resources is to be seen as separate from those resources and on the other hand, that patents granted on the very same DSI do cover genetic resources material. This contradiction with existing EU law is not tenable.

¹ Article 1, Cartagena Protocol.

² Principle 3, Convention on Biological Diversity.

³ ECJ, Confédération Paysanne and others, [C-528/16](#).

⁴ As defined in article 3 of Cartagena Protocol.

⁵ Also called 'genetic information'.

⁶ Submission by the EU and its Member States to CBD Notification 2017-037: Views on any potential implications of the use of digital sequence information on genetic resources, 21st September 2017.

The international negotiations held under UN agreements like the CBD and its Protocols are of huge importance for environmental protection and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. That is why it is crucial for the European Commission, as well as EU Member States, to take positions that uphold EU law and that fully support the objectives of the Convention.

Yours sincerely,



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On behalf of:

- Jeanneke van de Ven, Aardewerk
- Annemarie Volling, Expert of GMOs of Arbeitsgemeinschaft bäuerliche Landwirtschaft (AbL) e.V.
- Gerald Miles, Agri-Activism.UK
- Astrid Goltz, Co-founder, Aktion Agrar
- Fulya Batur, Policy Expert, Arche Noah
- Pat Thomas, Director, Beyond GM
- Rüdiger Stegemann, Member of the Executive Board, BUND Kandertal
- Nina Holland, Researcher and Campaigner, Corporate Europe Observatory
- Joël Spiroux de Vendômois, President, CRIIGEN
- Helena Paul, Co-Director, Econexus
- Ramona Duminiçoiu and Antonio Onorati, members of the Coordinating Committee of the European Coordination Via Campesina (ECVC)
- Angelika Hilbeck, Board Member, ENSSER
- Jim Mc Nulty, Co-founder, Genetic Engineering Network
- Heidemarie Porstner, GMO Campaigner, GLOBAL 2000 – Friends of the Earth Austria
- Liz O'Neill, Director, GM Freeze
- Claire Robinson, Editor, GMWatch
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