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#### **INFORMATION NOTE**

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from: General Secretariat  
to: Permanent Representatives Committee/Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law)  
- Outcome of the European Parliament's first reading  
(Strasbourg, 10 to 13 March 2014)

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#### **I. INTRODUCTION**

On 14 February 2014, the Committee on Agriculture and Rural Development adopted a report for submission to the plenary, calling for the Commission proposal to be rejected and for the Commission to withdraw its proposal and submit a new one.

## II. DEBATE

The Rapporteur, Mr Sergio SILVESTRIS (EPP - IT), opened the debate, which took place on 10 March 2014 and:

- emphasised the need to reduce bureaucracy and to facilitate small enterprises' access to commercial operations - which is a key guarantee for the survival of all non-commercial operators;
- noted the great interest in this proposal, but also the lack of clarity - particularly in the absence of an impact assessment. This had resulted in no fewer than 1,400 amendments being tabled;
- called on the Commission to withdraw its proposal and to submit a new proposal to the next Parliament;
- emphasised the concern that the Commission was proposing no fewer than 90 delegated acts. The Parliament cannot accept such a lack of transparency and the postponement of decisions, particularly for some of the new concepts on heterogeneous or niche material. The Parliament does not want to give the Commission any blank cheques. It is a co-legislator;
- called for a realistic time-frame; and
- argued that it had been over-ambitious to introduce a proposal to reduce twelve current pieces of legislation into just one as well as to introduce themes such as reproductive material and plant breeding.

Commissioner BORG:

- noted that there was a widespread - but erroneous - impression that traditional seeds are not currently regulated, but soon will be. In fact, traditional seeds are already regulated but would, under the new proposal, be subject to a lighter registration procedure. The same applies to fees;
- argued that the Commission's proposal was basically a good one, although the Commission would do its best to engage with the co-legislators on some of the concerns that had been raised;
- stated that the Commission's proposal:
  - sought to regulate the marketing of seeds, but not their use. All the criticisms that the Commission wants to regulate the use of seed, whether on farms or in private gardens, are false;
  - did not seek to regulate intellectual protection of varieties or GMOs, plant breeding or the size of companies in Europe;

- would not regulate the use of seed by private gardeners, who would be able to buy, sell or produce material in small quantities without any testing and to exchange seeds with other private gardeners without falling under the rules of the proposed regulation;
- stated that the aim of the proposal is simply to ensure the identity, health and quality of seed sold to users - be they farmers, gardeners, foresters or consumers;
- noted that European farming organisations - both organic and non-organic - support the revision of the legislation. So do seed suppliers and plant breeders, as well as the majority of Member States;
- stated that the aims of the proposed Regulation are to:
  - streamline and revise existing legislation - which an evaluation of the experience of 40 years and the 12 separate directives that are currently in place shows to be necessary;
  - introduce flexibility where this is currently lacking, and to foster innovation and respond to the needs of specific types of production, whether conventional, traditional or organic;
  - encourage innovation, with faster market access for new improved varieties and through sustainability criteria for variety testing. The new concepts of plant reproductive material should lead to the creation of new business opportunities;
  - reduce administrative burdens and costs, especially for micro-enterprises; and
  - simplify access to the market for traditional varieties and for new concepts of plant reproductive material such as heterogeneous material and niche market material. This would not stifle traditional varieties. It would contribute to the conservation and sustainable use of plant genetic resources;
- noted that at present even traditional varieties have to be tested, officially or using results provided by the applicant, for distinctness, stability and relative uniformity. There are quantitative and areal marketing restrictions as the law currently stands. The Commission's proposal, however, would no longer require testing in order to register a traditional variety - the applicant would simply have to provide a description which is recognised by the competent authority. Quantitative and areal marketing restrictions would be abolished and, since testing would no longer be required, registration fees would fall. All micro-enterprises - unlike today - would in any case be exempted from registration fees. How could anyone therefore criticise the Commission's proposal for making life harder with regard to traditional varieties?

- noted that, under the current 12 directives, the empowerments for secondary acts number some 278. Under the Commission's proposal these would be reduced to 62 - almost a 75% decrease in the enabling acts of delegated acts. The number of secondary acts themselves would be reduced from 80 to fewer than 40. Since the proposal contains more substantial provisions than the existing 12 directives, this implies an increased involvement of the Parliament compared to the current situation; and
- assured the Parliament that the Commission is willing to study the concerns as expressed in the tabled amendments, to look at the issue of delegated acts (despite the near 75% reduction) and to contribute to finding clarifications and solutions which take into account the interests of stakeholders.

Speaking on behalf of the Committee on Industry, Research and Energy, Mrs Pilar AYUSO (EPP - ES):

- stated that more time is needed in order to permit a proper discussion of the proposal;
- noted the inclusion of forestry reproductive material, which is not linked to food safety (one of the Commission's key justifications for the proposal);
- stated that the proposal seeks to do too much;
- stated that some of the proposal's definitions are vague and ambiguous. This would create an administrative burden as well as leading to legal uncertainty for Member States and businesses; and
- stated that many delegated acts would be impracticable.

Speaking on behalf of the EPP political group, Mr Albert DESS (EPP - DE):

- expressed the concern that the proposed new delegated acts would not allow the Parliament to have sufficient influence. The Parliament had not had a good experience with delegated acts in the context of CAP reform;
- argued that the Commission's proposal was trying to do too much. Simplification is indeed desirable, but the overall end-product should not be more complex than at present. He singled out the inclusion of the forestry topic as a matter of concern in this regard; and

- stated that there was no urgency to conclude this file. The current system has largely proved itself. It would therefore be better to review this legislation calmly after the election. That would allow small and medium-sized producers to participate.

Speaking on behalf of the S&D political group, Mrs Karin KADENBACH (S&D - AT):

- questioned whether it makes sense to consolidate the current 12 directives into one;
- stated that simplification of the system and protection of biodiversity do not feature in the Commission's proposal;
- argued that the proposal would in fact produce new bureaucracy; and
- warned that the Regulation is tailored to the needs of industry. Smaller producers would be overwhelmed by bureaucracy.

Speaking on behalf of the ALDE political group, Mrs Britta REIMERS (ALDE - DE):

- agreed with the Commissioner that the proposal is basically about marketing;
- characterised as an explosive cocktail the combination of a consolidation of 12 pieces into legislation on the one hand and the introduction of new themes on the other hand;
- referred to the many differing imperatives in this area, such as protection of old seed varieties, assistance to small enterprises, protection of intellectual property, enabling the development of new seed types, health protection, environmental protection, ensuring sufficient food globally, climate change and biofuels. This had complicated the Committee's debate and work. The Commission was supposed to build bridges. Old divisions had instead re-emerged. Hence the large number of amendments; and
- called for a rejection of the proposal in order to allow a proper factual debate at a later, calmer, point in time.

Speaking on behalf of the Greens/EFA political group, Mr Martin HÄUSLING (Greens/EFA - DE):

- stated that the Commission's proposal was a bad proposal. That is why the Committee on Agriculture and Rural Development is united in calling for its rejection;
- argued that the proposal was tailored to the needs of large enterprises and would favour both seed uniformity and conventional agriculture;

- stated that the proposal would transfer ecological production and conservational breeding into niches - where they absolutely do not belong because they are the future of agriculture, especially in the context of climate change;
- referred to a report which showed that 95% of vegetable seeds are now controlled by just five companies. He stated that the Commission has no response to this concentration;
- stated that the Commission has no answer to the loss of 75% of biodiversity in agriculture over recent decades. Companies must be encouraged to encourage biodiversity; and
- found it incredible that the Commission could today come to the plenary and say that it has no changes to make to its proposal. MEPs had introduced almost 1,500 amendments. The Commission has the time to submit a new proposal after the elections. The Commission should not recycle the current proposal, because that too will be rejected.

Speaking on behalf of the ECR political group, Mrs Julie GIRLING (ECR - UK):

- noted the unusually widespread desire of the Parliament to reject the proposal altogether and send it back to the drawing board;
- recalled that the Commission was presenting the proposal as a simplification and an improvement. This is not at all evident, however. In many areas, the proposal takes one step forward and then two steps back;
- noted that much of the justification offered for the Regulation is based around the claim that it would provide more certainty in food production. Yet the proposal would add costs for farmers and the seed industry. For example, all new varieties of fruit and vegetables would need distinctiveness, uniformity and stability testing - which is not currently the case. All ornamental species would need a detailed, officially-recognised description - leading to unknown and unestimated additional costs. The need for registration is extended to forestry reproductive material without any justification;
- argued that the ramifications of many of these proposals have been underestimated or not considered at all. The impact assessment is, in short, inadequate;
- stated that the proposal fails to explain new concepts such as niche markets and heterogeneous materials. It does not make a convincing case for their inclusion;

- noted the normal practice that concerns about a proposal would be handled at committee level through the asking of questions (and, hopefully, Commissioners providing answers), followed by the negotiation and agreement of compromises. This had not proved possible in the present case because of the sheer range of concerns and the real possibility that the final text would be confused, incoherent and unworkable - the exact opposite of the smart regulation principles that the Parliament had been seeking over the past five years; and
- pointed out that the proposed regulation would supersede all current national regulations implementing the 12 existing directives. Member States would be required to create new penalties for infringements.

Speaking on behalf of the EUL/NGL political group, Mrs Martina ANDERSON (EUL/NGL - UK):

- called for the rejection of the proposal, which she described as a joke and not fit for purpose. The Commission needs to go back to the drawing board;
- stated that the Commission had put the needs of industry before those of farmers. Should the proposal be adopted, some established farming practices might become illegal;
- argued that seeds are a resource given by nature and that there should be no attempt at all to regulate their use in agriculture. Any attempt to do so, especially in times of food insecurity, would be absolutely preposterous; and
- stated that the proposal would severely limit the freedom of Member States and give the Commission excessive powers over markets that are far removed from the Commission.

Speaking on behalf of the EFD political group, Mr John AGNEW (EFD - UK) stated that the Parliament would be right to reject the report. The Commission was trying to introduce major new legislation far too close to the end of the current Parliament.

Mrs Elisabeth JEGGLE (EPP -DE):

- stated that she had never in her 15 years as an MEP experienced such a case of rejecting a Commission proposal;
- stressed the need for consideration of legislation in this area in a clear and calm context; and
- expressed her concern that the Parliament would lose control through the delegated acts.

Mr Pavel POC (S&D - CZ) criticised what he characterised as a blatant attempt to tie together several unrelated sectors. The proposal should be rejected.

Mr Bart STAES (Greens/EFA - BE):

- expressed concern regarding the concentration of control in the seed sector in the hands of a small number of private companies; and
- called for the rejection of the proposal and the submission of a serious new proposal after the elections.

Mrs Ruža TOMAŠIĆ (ECR - HR):

- warned that stringent requirements would place an unbearable financial burden on small farmers; and
- criticised the proposed extensive use of delegated acts as undemocratic.

Mr Hans-Peter MARTIN (NA - AT) castigated Commissioner Borg, stating that he was too close to lobbyists and that the proposal would give too much power to a very small number of companies.

Mr Tonino PICULA (S&D - HR):

- stressed the need to protect seed biodiversity; and
- warned against the danger of a narrow oligarchy gaining control of this sector.

Mr Marc TARABELLA (S&D - BE):

- stressed the importance of protecting biodiversity, small enterprises and old seed types;
- recalled the amendments that would exclude varieties obtained by open pollinisation and belonging to the public domain from the scope of the Regulation, because it is clear that the Regulation would not be suitable for them. He stressed the cost of registration, not only for operators but also for the administration. Registration would be a disproportionate burden for public domain varieties which interest only a limited public. There had therefore been a proposal that varieties intended only for amateur gardeners should be excluded from the scope; and



- called for the proposal to be rejected and sent back to the Commission so that it could re-work the key points and propose it once more to the Parliament with all due calm.

Commissioner BORG once more took the floor and:

- noted the frank criticism to which he had been subjected, but expressed the belief that the Parliament could at least agree with him that there is an urgent need to update and modernise this legislation, which has been repeatedly amended since the 1960s, in order to introduce a measure of flexibility. He believed that the Commission's proposal did this, though practically the entire Parliament disagreed;
- argued that it is necessary to ensure harmonisation and implementation in all Member States, thereby creating a level playing field within the EU market; and
- expressed his belief that it would be a good solution to refer the proposal back to the Committee on Agriculture and Rural Development for further fruitful consideration.

The Rapporteur once more took the floor and stated that the Parliament's difficulties with the proposal were not due to poor communication. The detailed content of the proposal is problematic and so is the fact that the proposal came to the Parliament so late in its current term. The Parliament was unanimous in calling for the Commission to withdraw the proposal.

### **III. VOTE**

When it voted on 11 March 2014, the plenary followed the proposal of the Committee on Agriculture and Rural Development by adopting a legislative resolution rejecting the Commission proposal and calling on the Commission to withdraw its proposal and submit a new one.

The text of the legislative resolution is set out in the Annex to this document.

**Production and making available on the market of plant reproductive material  
(plant reproductive material law) \*\*\*I**

**European Parliament legislative resolution of 11 March 2014 on the proposal for a regulation of the European Parliament and of the Council on the production and making available on the market of plant reproductive material (plant reproductive material law) (COM(2013)0262 – C7-0121/2013 – 2013/0137(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2013)0262),
  - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0121/2013),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Austrian Federal Council and the Netherlands House of Representatives, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to Rule 55 of its Rules of Procedure,
  - having regard to the report of the Committee on Agriculture and Rural Development and the opinion of the Committee on the Environment, Public Health and Food Safety (A7-0112/2014),
1. Rejects the Commission proposal;
  2. Calls on the Commission to withdraw its proposal and submit a new one;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.