

Voluntary Report – Voluntary - Public Distribution

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Report Name: French implementation of European Court of Justice ruling jeopardizes exports of rapeseed to France

Country: France

Post: Paris

Report Category: Biotechnology and Other New Production Technologies, Biotechnology - Plants and Animals, Oilseeds and Products

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Report Highlights:

In May 2020 France notified the European Commission of its intention to delist in-vitro random mutagenesis with chemical or physical agents to comply with French Council of State's February 2020 ruling. That ruling was based on the European Court of Justice (ECJ) 2018 decision on New Breeding Techniques (NBTs). This decision will ban Clearfield herbicide resistant varieties of rapeseed for use, disallowing these varieties of rapeseed and requiring a zero-tolerance for any contamination from these varieties. It will negatively impact rapeseed and seed exports from Canada, other EU countries and South America to France. If France determines additional measures are needed to implement the ECJ decision, U.S. agricultural exports for products developed using NBTs could be negatively impacted as well.

Overview

France [notified](#) the European Commission of its intention to delist in-vitro random mutagenesis with chemical or physical agents to comply with the French Council of State's (France's Supreme Court) ruling in February. That ruling was based on the 2018 European Court of Justice (ECJ) decision on New Breeding Techniques (NBTs). For more information see [GAIN USEU Report FAS E18052](#). The French Court ordered that this decision be implemented by August 7, 2020. The deadline will be difficult to meet because prior to passing the final rule France must:

- * Complete an EU TRIS (Technical Regulation Information System) consultation.
- * Hold a French public debate.
- * Review the rule through France's High Council for Biotechnology.

Impacts on Trade and Production

This decision will ban *Clearfield* herbicide resistant varieties of rapeseed for use, disallowing these varieties of rapeseed and requiring a zero-tolerance for any contamination. Both planting seeds and rapeseeds for feed and further processing are subject to testing. Rapeseeds and planting seeds for rape are primarily imported from Canada, South America and other EU countries. The implication is that even if one bean in a shipment were found to contain the prohibited gene, the whole shipment would be rejected and would have to be re-exported or destroyed.

Because of the timing of the decision rapeseed plantings are likely to begin before the decree is passed. According to the draft decree, cultivation of the crop already planted at the publication of the decree would be allowed through harvest. However, French farmers' unions are urging growers to exercise caution when purchasing their rapeseed seed for the 2021 crop.

Interestingly, the French decree only names *Clearfield* rapeseed that was planted on a minimal 10,000 hectares out of a total rapeseed area of 1.1 million hectares in 2020. It exempted sunflower varieties that were developed using similar techniques that were widely adopted by French growers. One-third of the 2020 French sunflower area of 700,000 hectares is believed to be planted with *Clearfield* sunflower varieties. Herbicide resistant chicory varieties were also not included into the French list.

Implications for EU Single Market

France also notified the commission of its intention to amend its official catalog of seed. It will remove seven banned *Clearfield* herbicide resistant varieties of rapeseed registered on the French official seed catalog as well as 103 varieties listed on the official European seed catalog (developed and approved in other EU Member States). This decision could undermine the EU single market principle as those 103 varieties are legally marketable in any EU countries under EU rules.

Details on Decision and Process

Following the ECJ ruling on NBT of July 25, 2018, on February 7 the French Council of State ordered the French government to comply to the ECJ ruling within 6 months, so before August 7, 2020. On May 6, 2020 France [notified](#) the European Commission its intention to issue a decree delisting “in-vitro random mutagenesis with chemical or physical agents” as an unregulated method. The French notification opened a TRIS (Technical Regulation Information System) consultation period until August 7, 2020. The French legislation will set a positive list of unregulated techniques “which are not considered to result in genetic modification, or which have been the subject of traditional use without proven harm to public health or the environment.” NGOs and anti-biotech activists have criticized this method of categorization as too vague. Plants developed outside this list, namely with in-vitro random mutagenesis, would have to follow the same approval as GMOs. Marketing and sales of such plants already on the French market will be prohibited.

Attachments:

No Attachments.