

How to establish GMO cultivation bans

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Directive 2015/412

Option 1 . GMO manufacturer limits the territorial scope of its application for EU authorisation

Option 2 . EU Member State government adopts national GMO cultivation ban(s)

Option 1 = manufacturer decision

- “ During authorisation / renewal process;
- “ Individual GM crops;
- “ All or part of the country's territory;
- “ No justification needed for request by the government;
- “ No justification needed for acceptance / refusal by the GM company;
- “ No legal means to challenge the decision in court



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Option 2 = GMO cultivation bans

- “ Only after EU authorisation, only if no request to manufacturer or request rejected;
- “ Individual GM crops or *a group of GMOs defined by crop or trait*;
- “ All or part of the country's territory;
- “ *Reasoned, proportional and non-discriminatory*;
- “ Based on *compelling grounds* that do not conflict with the EFSA risk assessment

Option 2 is preferable

Option 2	Option 1
Government decision	Corporate decision
Coherent policy approach	Case-by-case approach
Certainty for farmers, beekeepers, organic sector etc	Companies can act differently, change policy over time, engage in negotiations

GMO bans should ...

- (1) Cover groups of GM crops defined by trait, such as Bt or HT crops;
- (2) Be based on a combination of %compelling grounds%from the list in the Directive;
- (3) Have national not regional scope.

(1) Groups of GM crops, such as Bt, HT crops

- “ Scientifically sound: similar impacts on the environment, agricultural practices;
- “ Justifiable through a combination of compelling grounds;
- “ Avoids the risk of discrimination between GM crops, GM manufacturers;
- “ Two measures could prevent the cultivation of (almost) all GM crops commercially available.

(2) Several compelling grounds based on the list (a) to (f) in the Directive

Increases legal solidity of the measure; particularly if based on the list (a) to (f)

Compelling grounds

Based on complementary risk assessment taking into account risks not covered by EFSA, e.g. linked to biogeographical region, change in herbicide use;

Better: **(a) environmental and (f) agricultural policy objectives**, e.g. development of organic farming; reduction of pesticide use (Directive 2009/128); protection of pollinators etc

...

õ in combination with:

(d) socio-economic impacts, e.g. cost of GM contamination of conventional and organic production; cost of EFSA risk mitigation measures; costs linked to long-term impacts of GM crops on biodiversity;

(e) avoidance of GMO presence in other products, e.g. impracticability of implementing co-existence measures; need to protect specific products.

(3) National scope

- “ Ensure consistency, especially if compelling grounds (e.g. agricultural policy objectives) relevant to whole territory;
- “ Avoid claims that measures are not adequately reasoned and/or discriminatory;
- “ No need to adopt additional measures to prevent cross-border contamination into neighbouring states . liability is at national level.

Regulatory approach

Bans can refer to groups of GMOs but can only be adopted after EU authorisation?!

Regulatory solution:

- (a) One general legislative measure** defining the group of GMOs, compelling grounds and territorial scope of the ban;
- (b) Several implementing measures** identifying the individual GMOs to which the measure applies.

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HANDBOOK

HOW TO ESTABLISH GMO CULTIVATION BANS

Making the most out of EU legislation allowing Member
States to prohibit the cultivation of GMOs in their territory
(Directive (EU) 2015/412)

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