

‘Brussels Effect’: Europe’s CRISPR crop rules may have ‘costly’ international economic impacts

The CJEU decision of July 2018 has far-reaching economic implications, given that products derived through the application of NPBTs are currently regarded as GMOs, such that they are not covered by the mutagenesis exemption. This reduces the possibilities available to EU farmers to take advantage of NPBTs, thereby reducing their comparative advantage. As a consequence, it will be more costly to achieve the objectives of the European Green Deal.

The decision increases the costs of plant breeding both within and beyond the EU. The “Brussels effect” may result in substantially fewer applications of NPBTs—not only from within the EU, but also from countries that export to the EU. This is particularly likely to affect the United States, as plant breeding companies that release crops in the US that are regarded as GMOs in the EU could potentially be held liable under the Lanham Act. Even if this is not the case, any crops derived from NPBTs would need approval for import and processing in the EU, thereby increasing costs.

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Many scientists and other stakeholder groups have requested a revision of the EU policies on GMOs. The EU Council of Ministers has recently started exploring the possibilities for a change. In addition, there is a legal possibility for clarifying the legal uncertainty resulting from the CJEU decision. Nevertheless, any change in policy—if possible at all—would take several years, given the highly controversial nature of the topic.

As new developments continue to emerge in the area in plant breeding and biotechnology in general, the EU and its major trading partners will be affected. This offers opportunities for China and the states it supports, which do not depend on exports to the EU. These countries are able to adopt NPBTs and enjoy a relatively higher rate of growth in their agricultural sectors, in addition to possessing the knowledge of new technologies, as well as improvements in human health and environmental protection.

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