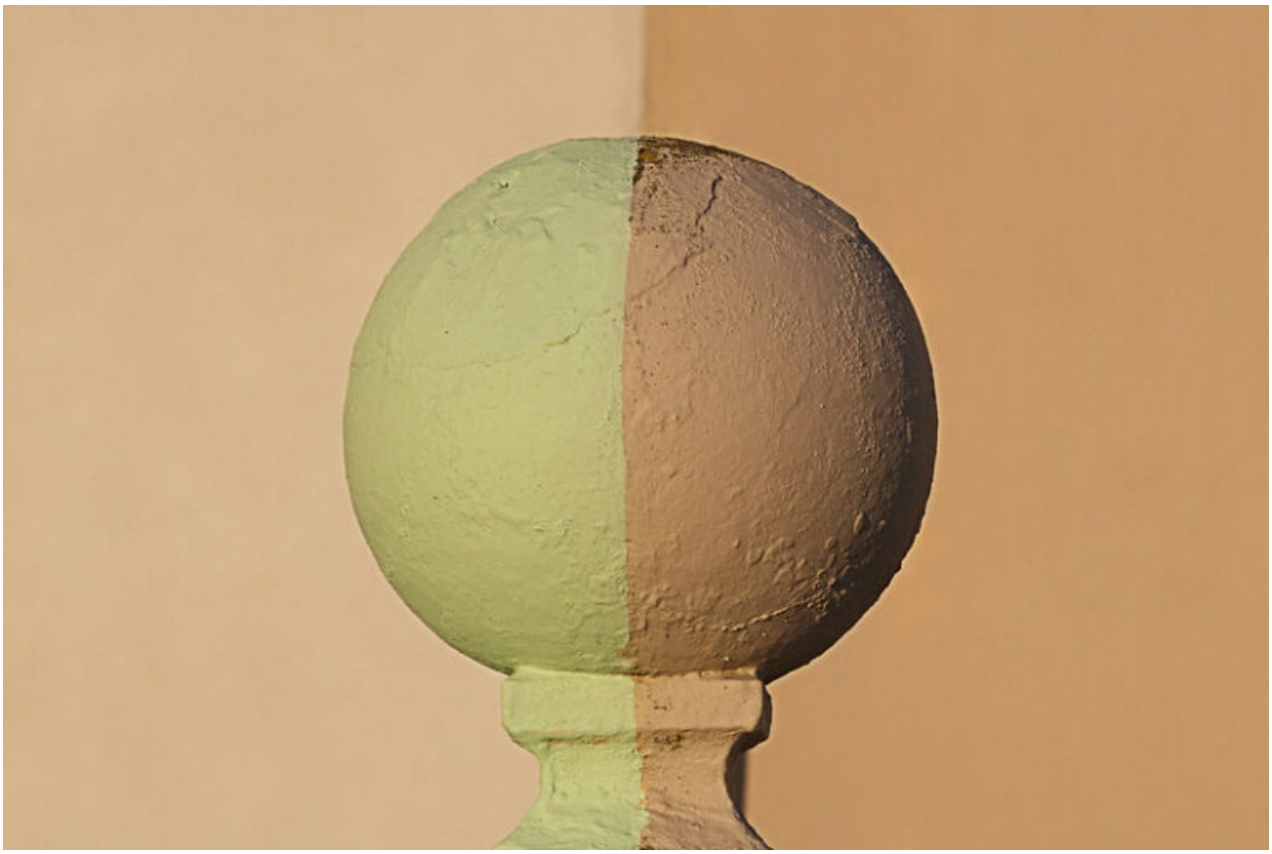
Veille citoyenne d'information sur les OGM et les semences

The French Ministry of Agriculture concedes a compromise on patents in the GMO/NGT regulations

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At a "*Seed Sector Meeting*" in February 2026, the representative of the French Ministry of Agriculture defended the proposed deregulation of numerous GMOs. However, his remarks primarily revealed tensions, misunderstandings and disagreements within the French administration regarding the issue of patents… a subject that is nonetheless central to the future of plant breeding!



Léo Reynolds

The "*Seed Sector Meeting*" held on 4 February[i] took place against a specific political backdrop: the ongoing European discussions on a proposal to deregulate GMOs derived from new genetic

modification techniques (GMOs/NGTs) have entered their final phase (votes scheduled for the Council of the European Union on 21 April and the European Parliament on 19 May). These discussions thus took place at a time when Member States still had the option to make decisions, as did MEPs. The Parliament can either definitively approve or reject the proposed text, or adopt one or more amendments that will open new negotiations with the Council and the Commission.

A presentation by Laurent Jacquiau, from the DGAL (Directorate-General for Food) of the Ministry of Agriculture, who took part in the interministerial negotiations on the GMO/NGT Regulation, attracted particular attention. He highlighted the hesitations that existed within the French government itself when taking a stance on the issue of patents.

Political support despite shortcomings on patents

During the meeting, Laurent Jacquiau conceded that the Ministry had had to make a political compromise during the negotiations on the GMO/NGT Regulation. The government did, in fact, choose to support a draft regulation lacking real and effective safeguards on the issue of patents (obligation to describe the process for identifying GMOs, transparency, exemption for breeders)[ii]. Laurent Jacquiau notably acknowledged that this had been debated internally: *“At the time of the vote, we asked ourselves whether or not to vote for the text, despite the fact that we had secured nothing more binding on intellectual property. But we preferred to provide breeders with tools quickly to meet the challenges facing agriculture”.*

This statement by the DGAL representative summed up the tension generated by the issue of patents. The Ministry of Agriculture chose to press ahead with the deregulation of GMOs/NGTs in order to *“provide breeders [Editor’s note: primarily industrial ones] with operational tools*”, whilst leaving unresolved the issue of patents and their impact on the work of the most vulnerable among these same breeders. The political compromise chosen by France was therefore to prioritise the demands of the agro-industrial sector over the protection of small and medium-sized players in the agricultural sector (seed producers, breeders, farmers). The French government has thus refrained from reforming European patent law to adapt it to the specific issues relating to living organisms and agriculture.

This choice is indeed not without consequences for these stakeholders. By facilitating market access for GMOs/NGTs plants, the text of the provisional compromise encourages the use of patent protection strategies for these plants. However, this dynamic is taking effect in an economic sector historically structured around the Plant Breeders’ Rights (PBR) alone, which prioritises the intellectual property of varieties whilst allowing their reuse, free of charge for the selection of other varieties, but restricted and subject to payment for farmers. The development of GMOs/NGTs will strengthen the role of patents to the detriment of this balance, a point that was also addressed during this "*Seed Sector Meeting*".

The forced coexistence of patents and PBRs

Echoing the comments of François Desprez, co-director of the seed company Florimond Desprez, Laurent Jacquiau pointed out that the tension between PBRs and patents existed long before NGTs and that this imbalance was already a major issue for the seed sector: *“It is particularly pronounced in the vegetable sector. Improvements are therefore needed in the granting of patents, so that they genuinely cover innovations, and not simply native genes*”. It should be noted that a patent granted on a genetic trait (such as resistance to a pathogen) can affect several varieties, making it a powerful tool for, where appropriate, prohibiting or demanding licence fees for the marketing of several plant varieties expressing that trait.

This observation by the DGAL representative is also echoed by the UFS (French seed association for seed companies & plant breeders), represented at this meeting by its vice-president Régis Fournier (who is also a strategic advisor to the French firm Limagrin/Villemorin). The UFS has long defended the view that the PBR is a pillar of the European seed model, enabling the reconciliation of varietal innovation and the circulation of genetic resources. Régis Fournier nevertheless emphasises and acknowledges the divided stance of UFS members on the issue of patents: *"We [the UFS] have stood in solidarity with the [French] administration, but we feel isolated in Europe. We must therefore organise the coexistence of plant variety rights and patents*".

However, such coexistence remains difficult to envisage. Some operators do not believe this is possible. The main risk lies in the lack of transparency regarding patented plant traits, to the extent that many breeders describe the situation as *"a minefield*". This lack of transparency is accompanied by an extension of the scope of patents to traits already present in plants other than those resulting from the original invention.

Furthermore, the accumulation of patent rights on the traits of a single variety greatly complicates the work of breeders. It gives rise to both legal uncertainties, particularly regarding potential infringement, and economic constraints linked to the multiple royalties payable to patent holders.

Internal disagreements and a lack of understanding of the issues

A particularly telling episode illustrating the public authorities' predicament in this matter is when Laurent Jacquiau highlights the difficulties faced by the DGAL in gaining recognition for these issues, including within French and European institutions: *"We ourselves are struggling to convince our colleagues at Bercy [French Ministry of the Economy], and, at the European Commission, they are struggling to convince the economic directorate in charge of patents that there are issues specific to plants. They didn't even know that PBRs existed, nor that other protection systems existed. We will therefore really need your help [that of the seed producers present in the room] to convince them that there are real issues at stake, and that the world of plant variety innovation is not the same as that of industrial or pharmaceutical innovation*".

This institutional ignorance reinforces the sense that there is a disconnect between the reality on the ground and the influence of certain lobbies on decision-making processes. This is also due to a more general confusion between different models of innovation, as patents may, according to the proposal to deregulate GMOs/NGTs – which removes the requirement to publish methods for detecting and identifying modified and patented traits – cover existing traits, and thus "*discoveries*" that are in principle not patentable[iii]. Plant variety innovation relies on long, cumulative processes based on cross-breeding and selection. Laurent Jacquiau emphasises that *"cross-breeding plants has been practised since the dawn of agriculture: it is the foundation of the breeder's profession. It is therefore essential that breeders are able to continue practising their profession*". In this context, the application of patent law originally designed for other technical sectors (mechanical engineering, chemistry, etc.) appears inappropriate and contributes to maintaining tensions over whether or not to protect plant innovations. This was one of the reasons for the creation of the *sui generis* right known as plant breeders' rights.

A compromise with fragile foundations

The French Ministry of Agriculture's support for the deregulation of GMOs/NGTs is based on a political compromise that leaves aside the issue of patents. The DGAL also acknowledges the existence of a problem of coexistence and imbalance between patents and plant breeders' rights. Somewhat surprisingly, the DGAL further highlights internal disagreements, as well as certain

limitations in understanding within the institutions, regarding these industrial property issues. All of this could explain the chaotic nature of the process of drafting and finalising the GMO/NGT regulation.

Whilst the UFS, representing the seed sector, is currently attempting to maintain a balance between different intellectual property tools, it cannot, however, guarantee a fully stabilised and secure framework for the most vulnerable of its members. Amid political trade-offs, legal uncertainties and divergent analyses, the issue of intellectual property – patents and plant breeders' rights – remains largely unresolved at a key juncture in the evolution of the European framework. The European Parliament's decision – demanding, yet clear – to reject the patentability of GMOs/NGTs would have spared the EU legislator many difficulties.

i This "2026 Seed Sector Meeting'" brought together Laurent Jacquiau (Head of the "*Seeds and Alternative Solutions Office*" at the DGAL), Régis Fournier (Vice-President of the French Seed Growers' Union) and Denis Jamet (farmer and director of the AGPB, General Association of Wheat Producers).

ii Denis Meshaka, "The Council of the EU wants to maintain the patentability of GMOs/NTGs", *Inf'OGM*, 21 January 2026.

iii Denis Meshaka, "Patents, living organisms and GMOs/NGTs", *Inf'OGM*, 25 March 2026.

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