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Potential criteria to determine whether a plant obtained by targeted mutagenesis or cisgenesis could also occur naturally or be produced by conventional breeding techniques

Introduction

In the context of the impact assessment of a legislation for plants produced by targeted mutagenesis and cisgenesis, the public consultation enquired about possible criteria to assess whether a plant obtained by targeted mutagenesis and cisgenesis could also occur naturally or be produced by conventional breeding techniques (equivalence criteria) and the targeted consultation provided an initial comprehensive indicative list of criteria as a working basis for the impact assessment analysis. This indicative list of potential equivalence criteria was developed taking into account relevant work of the JRC and EFSA, available scientific literature and the analysis of similar criteria used in third country legislation.

Various comments on these possible equivalence criteria were received in the consultations and work continues on them, taking into account available scientific evidence in the literature as well as the feedback received during the consultation.

Purpose of this note

This note serves as a basis for discussion with Member States on potential equivalence criteria to assess whether a plant obtained by targeted mutagenesis and cisgenesis could also occur naturally or be produced by conventional breeding techniques. It does not prejudge in any way a future policy decision based on the impact assessment on a legislative proposal for plants produced by targeted mutagenesis and cisgenesis.

Potential equivalence criteria

A thorough analysis of the literature confirmed that targeted mutagenesis and cisgenesis techniques can lead to genetic modifications that are similar to mutations occurring naturally or resulting from conventional breeding techniques (including random mutagenesis techniques). These mutations include **substitutions, insertions and deletions** of nucleotides in the DNA. Such mutations are commonly observed with conventional breeding techniques and are of **variable sizes**: <u>substitutions and insertions introduced by conventional breeding techniques are often of limited size</u> (although large substitutions and insertions can also occur), <u>while both small and large deletions are frequently observed</u>. Insertions of cisgenes or part of cisgenes are also possible through natural crossing or conventional breeding; however, the insertion of part of a cisgene is generally only possible when it takes place in its natural location. As regards the **number of modifications** introduced by conventional breeding techniques, the literature shows that the number of mutated DNA sequences is also variable (see technical annex for the detailed analysis).

It seems appropriate that the criteria would be product rather than technique-based, reflecting the majority scientific view that the risk profile is mainly dependent on the characteristics of the product. Product-based criteria would also be more future-proof compared to technique-based criteria.

As shown by the scientific literature analysis, conventional breeding techniques can lead to a high number of modifications. However, the likelihood that certain combinations of modifications occur by conventional methods may be low. To take this into account, a threshold for the combinations of different modifications might be considered.

Based on the above, the following type of criteria could be considered:

1. Targeted mutagenesis

- a. Substitution and insertion of a limited size.
- b. Deletion of any size.

2. Cisgenesis

- a. Targeted insertion of a complete cisgene.
- b. Targeted substitution of a part of a cisgene in its natural location.
- **3.** Combinations of the above modifications: Up to a pre-defined threshold.

For a possible application of the criteria, all modifications would have to fulfil at least one of the criteria under 1 or 2. In addition, they would have always to fulfil criterion 3.

Member State experts are invited to provide their views on the potential criteria above and the analysis in the annex. A discussion will take place at the forthcoming Joint Working Group meeting of GMO competent authorities of 9 February 2023 and if appropriate may be followed by further exchanges of views on the matter.

Annex

Analysis of the scientific literature on mutations occurring naturally or obtained by conventional breeding techniques

Introduction

Targeted mutagenesis and cisgenesis techniques can lead to genetic modifications that are similar to mutations that are generated following the application of certain conventional breeding techniques, such as random mutagenesis, or that occur spontaneously in nature. The mutations induced by random mutagenesis techniques (e.g. ethyl methanesulfonate (EMS), gamma rays, fast-neutron irradiation, etc.) include **nucleotide substitutions, insertions and deletions** of various sizes. We analysed the scientific literature regarding the size and occurrence of these type of mutations, as well as the number of mutated genes. We mainly focused on random mutagenesis techniques such as irradiation and EMS when determining the size and occurrence of mutations. These mutations are comparable to mutations derived from New Genomic Techniques (NGTs), in which breaks are induced in the DNA and edits result from imperfections in the natural DNA repair mechanism of plants (Pacher and Puchta 2017). According to the consulted literature, random mutagenesis techniques lead to a lower number of mutations compared to e.g. *in vitro* breeding techniques such as tissue culture and clonal propagation (Zhang et al. 2014; Adamek et al. 2022). Also, the natural variation found in cultivars, cumulated over time, is much larger than the number of mutations induced by random mutagenesis (Anderson et al. 2016).

Type and size of mutations caused by random mutagenesis techniques

Substitutions

Single base substitutions (SBSs), i.e. the replacement of a single nucleotide or a few adjacent nucleotides in the DNA, were the most common group of edits when using fast-neutron (FN) irradiation in rice (52.6% of observed mutations) (Li et al. 2016a). The majority of mutations in carbon irradiated *Arabidopsis thaliana* also constituted SBSs (38%-43% in dry seed and 59%-62% in seedlings) (Hase et al. 2018). SBSs were also four times more frequent compared to short insertions or deletions (indels) in six gamma irradiated rice lines where they were randomly distributed on the genome (Li et al. 2016b). Also, the application of EMS in Arabidopsis, soybean and rice for random mutagenesis leads to predominantly transition mutations (>99% of mutations are G/C to A/T transitions in Arabidopsis) (Greene et al 2003; Cooper et al. 2008; Henry et al. 2014). These results indicate that SBSs are commonly observed as a result of random mutagenesis.

<u>Deletions</u>

Although SBSs were most abundant, deletions affected the largest number of mutated genes in FN mutated rice (71.5%) (Li et al. 2016a). In FN mutated *A. thaliana* lines, deletions sizes were as high as 12 kB, but the majority of the deletions were between 0-4 kb in size (58.3%) (Li et al. 2001). The majority of indels in FN mutated rice lines were small (≤10 bp) deletion and insertion events (73.2%), although large deletions also occurred and affected several genes (e.g. 49 genes were disrupted by a 300 kb deletion in one line) (Li et al. 2016a). Large deletions were also observed in 264 analysed FN irradiated soybean lines, where an average of 2-3 homozygous deletions (>500 bp) per line was detected (Bolon et al. 2014). In five FN irradiated common bean plants large deletions that ranged in size from 40 bp to 43,000 bp were found (O'Rourke et al. 2013). The most frequent mutation type in 24 individuals with a mutant phenotype after gamma irradiation of rice were small deletions (1-16 bp; 62.5%) (Morita et al. 2009). The majority of the deletions in carbon-ion irradiated dry seed and seedlings of *A. thaliana* were <50 bp (95%)

in dry seed, and 91.5% in seedlings), but larger deletions (>1 kb) were also observed (Hase et al. 2018). Single base deletions were most frequently observed (36%) in FN irradiated *Arabidopsis*, but again larger deletions were also seen (up to 7.2 kb) (Belfield et al. 2012). The majority of the deletions (97%) were <56 bp in length (Belfield et al. 2012). Large deletions were also seen in characterised deletion mutant alleles, derived from random mutagenesis techniques (FN bombardment) (Li and Zhang 2002). In conclusion, although small deletions seem to be more abundant when using random mutagenesis techniques, large deletions also frequently occur.

Insertions

In FN irradiated rice, most insertions were 1 bp long (69%). Insertions of 2-6 bp were also observed (27%), while insertions of >10 bp (up to 26 bp) were rare (Li et al. 2016a, Supplemental material "insertions"). In carbon-ion irradiated Arabidopsis, single base insertions were most frequent (18 out of 35 insertion events), seven events were insertions of 2 bp, and the rest ranged between 3 and 46 bp (Hase et al. 2018, Table S5). In Belfield et al. (2012), only +1 bp insertions were seen in six FN irradiated mutated Arabidopsis lines. Although insertions are less reported than deletions, they do occur and the length of the insertions is usually limited. Moreover, next to insertions, duplications of genic regions are also possible: in 264 FN-treated soybean plants, on average one segmental duplication (with a mean size of >2 Mb) was identified per mutant line (Bolon et al. 2014).

Number of mutations introduced by random mutagenesis techniques

The number of mutations and mutated genes observed are dependent on the random mutagenesis technique used. In FN irradiated rice, the average number of mutated genes per line was 31 (varying between 7 and 147) and the number of mutations per line was on average 59 (Li et al. 2016a). In another paper, where six mutation lines of FN irradiated *Arabidopsis* were analysed, the number of mutations ranged between eight and 32 per line (Belfield et al. 2012). In EMS treated rice, an average of 37 deleterious gene mutations per plant was observed in a population of 72 individuals (the total number of mutations was >2700) (Henry et al. 2014). Between 41 and 76 homozygous substitutions were found in 10 lines with a mutant phenotype in FN irradiated soybean (Anderson et al. 2016, Table S3). As mentioned above, 1216 duplications and deletions were induced by FN irradiation in a total of 264 soybean plants (averaging one segmental duplication, 2-3 homozygous deletions, and 1 hemizygous deletion per individual (Bolon et al. 2014)). On average, higher mutation densities are seen in polyploid species when using random mutagenesis techniques (Kurowska et al. 2011).

Mutations as a result of other conventional breeding techniques

In vitro plant tissue/cell culture and clonal propagation

Genetic variation may result from stress factors during *in vitro* plant tissue or cell culture propagation (somaclonal variation) or from clonal propagation. This variation can be a source of mutations for the development of new and improved cultivars, but it is not always desired, e.g. in cases of *in vitro* cloning or germplasm preservation (Krishna et al. 2016).

In *in vitro* propagated rice, somaclonal variation in the form of Single Nucleotide Polymorphisms (SNPs) and indels was observed. The mutation rate of these regenerated rice lines was estimated as 1.74×10^{-6} base substitutions per site per generation (Miyao et al. 2012). Zhang et al. (2014) also identified extensive inheritable somaclonal genomic variation in rice tissue culture and estimated a mutation rate of 5×10^{-5} base substitutions per site.

Non-heritable somatic mutations can accumulate in clonal propagation of micropropagated crops (e.g. strawberry, banana, potato, and coffee). In Adamek et al. (2022) more than 1 million Single Nucleotide Variants (SNVs, a single nucleotide change in the DNA), were found in a clonally propagated cannabis line, with variation seen between different tissues.

Larger structural genomic variations are also possible. For example, all analysed potatoes regenerated from protoplasts displayed aneuploidy or structural chromosomal changes (Fossi et al. 2019). In addition, gene duplications and new gene insertions can occur through transposon activity (Cerbin and Jiang 2018). These changes are sometimes intentionally induced: the chemical mutagen colchicine is commonly applied *in vitro* for polyploidisation in conventional breeding (Alemanno and Guiderdoni 1994; Eng and Ho 2019). Several commercial varieties from various species have been derived from somaclonal variation (Bhojwani and Dantu 2013; Krishna et al. 2016).

Natural mutation rate and inter-cultivar variation

Ossowski et al (2010) observed a natural mutation rate of 7.1 x 10⁻⁹ per site per generation in *A. thaliana*. A more recent study came to a similar conclusion with 6.95 x 10⁻⁹ per site per generation of single nucleotide mutations for lines that went through 25 generations in the lab (Weng et al. 2019). The rate of indels was lower (1.30 x 10⁻⁹ per site per generation) and deletions were more frequent and larger (excluding deletions >100 bp, the mean was 6.5 bp) than insertions (mean 3.9 bp) (Weng et al. 2019). In maize, the natural substitution rate was estimated as 2.17 x 10⁻⁸ and 3.87 x 10⁻⁸ per site per generation (Yang et al. 2017). Analysis of SNPs and indels showed that these were common in 12 analysed maize lines: SNPs and indels occurred on average every 73 and 309 bp respectively (Vroh Bi et al. 2005). Genomic structural variation is also found in polyploid crops and can take the form of presence-absence variation, copy-number variation, and homeologous exchanges (Schiessl et al. 2018).

Although the natural mutation rate is lower than the rate obtained through induced random mutagenesis, the amount of inter-cultivar variation already present is extensive. Anderson et al. (2016) examined the genomic variation in soybean cultivars and mutagenized plants. The inter-cultivar variation (> 1 million SNPs) was far more extensive than the variation seen in FN and *Agrobacterium*-transformed plants (<100 single nucleotide substitutions genome-wide). Other examples include variation among elite maize inbred lines (Lai et al. 2010), structural variation in rice (Fuentes et al. 2019), and genetic diversity in US wheat varieties (Sthapit et al. 2022).

Gene introgression

Whole Genome Sequencing (WGS) can be used to identify the genetic diversity present in a species, and this can be utilized in crop improvement programs by introgressing genetic regions into elite cultivars (Tao et al. 2019).

Resistance breeding

Resistance breeding is used for the development of new cultivars resistant to pathogens by introgressing *Resistance* genes (*R* genes) from wild germplasm (Dangl et al. 2013). This is often a time-consuming task, further limited by the large pool of genetic plant diversity that remains uncharacterized (Sánchez-Martín et al. 2019). Next-generation sequencing (NGS) and high-throughput genotyping technologies (HTGT) can contribute to unveiling new *R* genes (Sánchez-Martín et al. 2019). Introgressing *R* genes into elite cultivars can be time consuming for some crops such as those that are usually vegetatively propagated (e.g. potato and banana) or trees (e.g. apple and citrus). In potato, it can take up to 50 years to introgress resistance into a new variety (Haverkort et al. 2009). Furthermore, to prevent resistance

breaking in the field, multiple *R* genes would need to be introgressed (Dangl et al. 2013). The stacking of *R* genes through resistance breeding ("gene pyramiding") has been demonstrated in sexually propagated crops such as tomato, wheat, and pepper (Fuchs 2017). For example, a cross was made between two grapevine cultivars carrying one *R* gene each to generate a new cultivar with two *R* genes using marker assisted breeding (Eibach et al. 2007). Similar successful attempts have been done in rice for bacterial leaf blight resistance (Suh et al. 2013), in maize for virus resistance (Zambrano et al. 2014), in barley for disease resistance breeding (Friedt and Ordon 2007), and in wheat for powdery mildew (Liu et al. 2008) and stem rust resistance (Liu et al. 2020) to name a few.

Examples of introgression of other traits

Hybridization and mutation breeding are two techniques that can be used in breeding soybean to create varieties with high protein content (Guo et al. 2022). Several introgression lines carrying quantitative trait loci (QTLs) in e.g. rice and tomato can be used for breeding programs (Ashikari and Matsuoka 2006; Lippman et al. 2007). Abiotic tolerance traits have been introgressed in sunflower by hybridising two North American sunflower species (Whitney et al. 2010). Traits related to drought tolerance have also been introgressed in e.g. rice (Dharmappa et al. 2019) and wheat (Placido et al. 2013).

Modifications that are difficult to obtain by conventional breeding techniques

Through conventional breeding, new or improved cultivars are made by stacking genes or making new genomic combinations (Prohens 2011; Bradshaw 2017). Random mutagenesis has further advanced conventional breeding, by inducing mutations in agronomical interesting crops, which can be later crossbred into elite cultivars. However, these techniques are more successful for some crops and genes than for others. Several examples are given below where conventional breeding is slower and/or less efficient compared to NGTs.

Gene stacking in vegetatively propagated crops is relatively difficult using conventional breeding techniques despite advances such as speed breeding, genotyping, marker-assisted selection, and highthroughput phenotyping (Hickey et al. 2019; Hasan et al., 2021). Another factor making stacking of desirable traits less efficient is the possibility of linkage drag: the association of desirable with undesirable traits (Wolter et al. 2019; Lee and Wang, 2020). Furthermore, the targeting of specific genes is not possible when using conventional mutagenesis techniques, hence requiring large progeny populations and extensive screening. Nonaka et al. (2017) reported that, in an attempt to mutate the Cterminal of GAD3 to increase the level of GABA in fruits, no such mutation was found in an EMS population of ~4500 lines. Likewise, the targeting of homologous genes especially in polyploidy species can be difficult using conventional breeding techniques (Liu et al. 2022). For example, MLO is a wellknown pathogen susceptibility gene that leads to enhanced resistance to powdery mildew when knocked out (Jørgensen 1992). mlo mutants have since also been naturally found or induced through random mutagenesis in crops such as cucumber, pea and tomato (Kusch and Panstruga 2017). NGTs (CRISPR/Cas) has been used in bread wheat since no spontaneous or induced mlo mutants had been reported, probably due to the presence of three MLO homoeoalleles (Wang et al. 2014). Since then, the same results were obtained by TILLING and combining the mutations by crosses (Acevedo-Garcia et al. 2017). Conventional breeding techniques can therefore be used to obtain similar results to NGT derived products, but it is less efficient, requires more resources and takes longer. Even more so when an increasing number of genes or difficult to edit genes are targeted.

An example of multiple gene knockouts is the low-gluten wheat that was obtained by CRISPR-Cas editing by targeting homologs of the α -gliadin gene family (Sánchez-León et al. 2018). Similar products have been obtained through conventional breeding, such as low-gluten barley and wheat by combining

recessive alleles or deletion lines (Tanner et al. 2016; Van den Broeck et al. 2009). Compared to conventional breeding however, the use of NGTs for multiplex targeted gene editing appears to be more efficient and requires less back-crosses (Nogué et al. 2016).

Conclusions

The most frequent mutations resulting from random mutagenesis techniques are SBSs, followed by deletions, and lastly short insertions. Although the mutation frequency when using random mutagenesis is higher compared to the natural mutation rate, it is lower than the accumulated number of SNPs naturally seen between cultivars (Anderson et al. 2016) or the number of genetic mutations resulting from tissue culture (Zhang et al. 2014), clonal propagation (Adamek et al. 2022) or protoplast regeneration (Fossi et al. 2019). Larger deletions, translocations, inversions and genome duplications also occur naturally; they are less common and crop-dependent (e.g. during the repair of DNA breaks, or due to (retro-) transposons (Xiao et al. 2008; Anderson et al. 2019)), but can be enhanced when using conventional breeding techniques (Custers et al. 2019; Martínez-Fortún et al. 2022). Introgression of genes is also possible by conventional breeding methods. Finally, the number of mutations per gene and mutated line observed with conventional breeding methods is quite variable and dependent on the technique and the reproduction capability of the plant material.

In certain cases, NGTs can produce genetic modifications that are difficult to obtain by conventional breeding techniques: 1) "Gene pyramiding" is common for sexually propagated crops, but more challenging for crops with a low regenerative potential or long generation time. Cisgenesis using NGTs can greatly improve efficiency and reduce breeding time. 2) Targeting of multiple homologous genes is efficient using NGTs, but is impractical or extremely difficult using random mutagenesis, which involves screening of large progeny populations.

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