



2020/2535(RSP)

28.1.2020

DRAFT MOTION FOR A RESOLUTION

pursuant to Rule 112(2) and (3) of the Rules of Procedure

on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified soybean MON 87708 × MON 89788 × A5547-127, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (D065067/03 – 2020/2535(RSP))

Committee on the Environment, Public Health and Food Safety

Members responsible: Tilly Metz, Sirpa Pietikäinen, Günther Sidl, Anja Hazekamp, Eleonora Evi

European Parliament resolution on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified soybean MON 87708 × MON 89788 × A5547-127, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (D065067/03 – 2020/2535(RSP))

The European Parliament,

- having regard to the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified soybean MON 87708 × MON 89788 × A5547-127, pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (D065067/03),
- having regard to Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed¹, and in particular Articles 7(3) and 19(3) thereof,
- having regard to the vote of the Standing Committee on the Food Chain and Animal Health referred to in Article 35 of Regulation (EC) No 1829/2003, on 9 December 2019, at which no opinion was delivered, and to the vote of the Appeal Committee on 23 January 2020, at which again no opinion was delivered,
- having regard to Articles 11 and 13 of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers²,
- having regard to the opinion adopted by the European Food Safety Authority (EFSA) on 22 May 2019, and published on 5 July 2019³,
- having regard to its previous resolutions objecting to the authorisation of genetically modified organisms ('GMOs')⁴,

¹ OJ L 268, 18.10.2003, p. 1.

² OJ L 55, 28.2.2011, p. 13.

³ Scientific Opinion of the EFSA Panel on Genetically Modified Organisms on the assessment of genetically modified soybean MON 87708 × MON 89788 × A5547-127, for food and feed uses, under Regulation (EC) No 1829/2003 (application EFSA-GMO-NL-2016-135), EFSA Journal 2019;17(7):5733, <https://doi.org/10.2903/j.efsa.2019.5733>

⁴ In its eighth term, Parliament adopted 36 resolutions objecting to the authorisation of GMOs. Furthermore, in its ninth term Parliament has adopted the following resolutions:

- European Parliament resolution of 10 October 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MZHG0JG (SYN-ØØØJG-2), pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P9_TA(2019)0028).

- European Parliament resolution of 10 October 2019 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified soybean A2704-12 (ACS-GMØØ5-3) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P9_TA(2019)0029).

- having regard to Rule 112(2) and (3) of its Rules of Procedure,
 - having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,
- A. whereas, on 28 October 2016, Monsanto Europe N.V. on behalf of Monsanto Company, submitted to the national competent authority of the Netherlands an application in accordance with Articles 5 and 17 of Regulation (EC) No 1829/2003 ('the application'); whereas the application covered the placing on the market of foods, food ingredients and feed containing, consisting of or produced from genetically modified (GM) soybean MON 87708 × MON 89788 × A5547-127, as well as the placing on the market of products containing or consisting of GM soybean MON 87708 × MON 89788 × A5547-127 for uses other than food and feed, with the exception of cultivation;
- B. whereas, on 22 May 2019, EFSA adopted a favourable opinion, which was published on 5 July 2019, in relation to that application;
- C. whereas GM soybean MON 87708 × MON 89788 × A5547-127 has been developed to confer tolerance to dicamba, glufosinate ammonium and glyphosate-based herbicides⁵;

Complementary herbicides

- D. whereas it has been shown that the cultivation of herbicide-tolerant GM crops results in a higher use of herbicides, due in large part to the emergence of herbicide-tolerant weeds⁶; whereas, as a consequence, it is to be expected that crops of GM soybean MON

- European Parliament resolution of 10 October 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 89034 × 1507 × MON 88017 × 59122 × DAS-40278-9 and genetically modified maize combining two, three or four of the single events MON 89034, 1507, MON 88017, 59122 and DAS-40278-9 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P9_TA(2019)0030).

- European Parliament resolution of 14 November 2019 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified cotton LLCotton25 (ACS-GHØØ1-3) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P9_TA (2019)0054).

- European Parliament resolution of 14 November 2019 on the draft Commission implementing decision renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified soybean MON 89788 (MON-89788-1) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P9_TA (2019)0055).

- European Parliament resolution of 14 November 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize MON 89034 × 1507 × NK603 × DAS-40278-9 and sub-combinations MON 89034 × NK603 × DAS-40278-9, 1507 × NK603 × DAS-40278-9 and NK603 × DAS-40278-9 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P9_TA (2019)0056).

- European Parliament resolution of 14 November 2019 on the draft Commission implementing decision authorising the placing on the market of products containing, consisting of or produced from genetically modified maize Bt11 × MIR162 × MIR604 × 1507 × 5307 × GA21 and genetically modified maize combining two, three, four or five of the single events Bt11, MIR162, MIR604, 1507, 5307 and GA21 pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (Texts adopted, P9_TA (2019)0057).

⁵ EFSA opinion, p. 3.

⁶ See, for example, Bonny S., 'Genetically Modified Herbicide-Tolerant Crops, Weeds, and Herbicides: Overview and Impact', Environmental Management, January 2016, 57(1), pp. 31-48, <https://www.ncbi.nlm.nih.gov/pubmed/26296738> and Benbrook, C.M., 'Impacts of genetically engineered crops

87708 × MON 89788 × A5547-127 will be exposed to both higher and repeated doses of the complementary herbicides (glufosinate, dicamba and glyphosate), which will potentially lead to a higher quantity of residues in the harvest;

- E. whereas a peer-reviewed study found that glyphosate accumulates in GM soybeans⁷; whereas a pilot project carried out in Argentina found surprisingly high levels of glyphosate residues on GM soybeans⁸;
- F. whereas questions concerning the carcinogenicity of glyphosate remain; whereas EFSA concluded in November 2015 that glyphosate was unlikely to be carcinogenic and the European Chemicals Agency concluded in March 2017 that no classification was warranted; whereas, on the contrary, in 2015, the International Agency for Research on Cancer, the specialised cancer agency of the World Health Organization, classified glyphosate as a probable carcinogen for humans; whereas a number of recent scientific peer-reviewed studies confirm the carcinogenic potential of glyphosate⁹;
- G. whereas glufosinate is classified as toxic to reproduction 1B and thus meets the ‘cut-off criteria’ set out in Regulation (EC) No 1107/2009 of the European Parliament and of the Council¹⁰; whereas the approval of glufosinate for use in the Union expired on 31 July 2018¹¹;
- H. whereas in GM plants, the way that complementary herbicides are broken down by the plant, and the composition and thus toxicity of the break-down products ('metabolites'), may be driven by the genetic modification itself¹²;
- I. whereas, in spite of this, the assessment of herbicide residues and their metabolites on GM plants is considered to be outside the remit of the EFSA Panel on Genetically Modified Organisms;
- J. whereas, whilst EFSA states in its opinion that ‘the assessment of herbicide residues relevant for this application has been investigated by the EFSA Pesticide Unit’, this is not sufficient in itself since the combinatorial toxicity of the complementary herbicides and metabolites as well as their potential interaction with the GM plant itself, in this case GM soybean MON 87708 × MON 89788 × A5547-127, have not been taken into account;

on pesticide use in the U.S. - the first sixteen years’, Environmental Sciences Europe 24, 24 (2012),

<https://enveurope.springeropen.com/articles/10.1186/2190-4715-24-24>

⁷ <https://www.ncbi.nlm.nih.gov/pubmed/24491722>

⁸ https://www.testbiotech.org/sites/default/files/TBT_Background_Glyphosate_Argentina_0.pdf

⁹ See, for example, <https://www.sciencedirect.com/science/article/pii/S1383574218300887>,

<https://academic.oup.com/ije/advance-article/doi/10.1093/ije/dyz017/5382278>,

<https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0219610>, and

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6612199/>

¹⁰ Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC (OJ L 309, 24.11.2009, p. 1).

¹¹ <https://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/public/?event=activesubstance.detail&language=EN&selectedID=1436>

¹² This is indeed the case for glyphosate, as stated in EFSA Review of the existing maximum residue levels for glyphosate according to Article 12 of Regulation (EC) No 396/2005, EFSA Journal 2018;16(5):5263, p. 12, <https://www.efsa.europa.eu/fr/efsajournal/pub/5263>

- K. whereas, in addition, according to the EFSA Pesticide Unit, toxicological data allowing a consumer risk assessment to be performed for several metabolites of glyphosate relevant for GM glyphosate-tolerant crops are missing¹³ and there are insufficient data to derive maximum residue levels ('MRLs') for glyphosate on GM soyabeans¹⁴;
- L. whereas the lack of analysis of herbicide residues on the GM crops and the potential health risks for consumers has been raised as a concern by a number of Member State competent authorities¹⁵;
- M. whereas the conclusions of an international research project entitled 'Risk Assessment of genetically engineered organisms in the EU and Switzerland', presented in January 2020, found that the Union risk assessment of GMOs fails to deal in a satisfactory way with risks to public health and the environment, including in relation to the health risks associated with the consumption of products derived from herbicide-tolerant GM plants¹⁶;

MRLs and related controls

- N. whereas, under Regulation (EC) No 396/2005 of the European Parliament and of the Council¹⁷, which aims to ensure a high level of consumer protection in relation to MRLs, the residues on imported crops for food and feed of active substances which are not authorised for use in the Union should be carefully controlled and monitored¹⁸;
- O. whereas, on the contrary, under the latest coordinated multiannual control programme of the Union (for 2020, 2021 and 2022), Member States are not obliged to measure glufosinate residues on any products, including soybean¹⁹; whereas it cannot be excluded that glufosinate residues on GM soybean MON 87708 × MON 89788 × A5547-127, or products derived from it for food and feed, will exceed MRLs, which have been put in place to ensure a high level of consumer protection;

Undemocratic decision-making

- P. whereas the vote on 9 December 2019 of the Standing Committee on the Food Chain and Animal Health referred to in Article 35 of Regulation (EC) No 1829/2003 delivered no opinion, meaning that the authorisation was not supported by a qualified majority of

¹³ EFSA Conclusion on the peer review of the pesticide risk assessment of the active substance glyphosate, EFSA Journal 2015;13(11):4302, p. 3, <https://www.efsa.europa.eu/en/efsajournal/pub/4302>

¹⁴ EFSA Review of the existing maximum residue levels for glyphosate according to Article 12 of Regulation (EC) No 396/2005 – revised version to take into account omitted data, EFSA Journal 2019;17(10):5862, p. 4, <https://doi.org/10.2903/j.efsa.2019.5862>

¹⁵ Member State comments on GM soybean MON 87708 × MON 89788 × A5547-127 can be accessed via EFSA's register of questions: <http://registerofquestions.efsa.europa.eu/roqFrontend/login?>

¹⁶ https://www.testbiotech.org/sites/default/files/RAGES_%20Factsheet_Overview_0.pdf

¹⁷ Regulation (EC) No 396/2005 of the European Parliament and of the Council of 23 February 2005 on maximum residue levels of pesticides in or on food and feed of plant and animal origin and amending Council Directive 91/414/EEC (OJ L 70, 16.3.2005, p. 1).

¹⁸ See recital 8 of Regulation (EC) No 396/2005.

¹⁹ Commission Implementing Regulation (EU) 2019/533 of 28 March 2019 concerning a coordinated multiannual control programme of the Union for 2020, 2021 and 2022 to ensure compliance with maximum residue levels of pesticides and to assess the consumer exposure to pesticide residues in and on food of plant and animal origin (OJ L 88, 29.3.2019, p. 28).

Member States; whereas, the vote on 23 January 2020 of the Appeal Committee also delivered no opinion;

- Q. whereas the Commission recognises that the fact that GMO authorisation decisions continue to be adopted by the Commission without a qualified majority of Member States in favour, which is very much the exception for product authorisations as a whole but which has become the norm for decision-making on GM food and feed authorisations, is problematic²⁰;
- R. whereas, in its eighth term, Parliament adopted a total of 36 resolutions objecting to the placing on the market of GMOs for food and feed (33 resolutions) and to the cultivation of GMOs in the Union (three resolutions); whereas, to date, Parliament has adopted seven objections in its ninth term; whereas there was not a qualified majority of Member States in favour of authorising any of those GMOs; whereas despite its own acknowledgement of the democratic shortcomings, the lack of support from Member States and the objections of Parliament, the Commission continues to authorise GMOs;
- S. whereas no change of law is required for the Commission to be able not to authorise GMOs when there is no qualified majority of Member States in favour in the Appeal Committee²¹;

Upholding the Union's international obligations

- T. whereas Regulation (EC) No 1829/2003 provides that GM food or feed must not have adverse effects on human health, animal health or the environment, and requires the Commission to take into account any relevant provisions of Union law and other legitimate factors relevant to the matter under consideration when drafting its decision; whereas these legitimate factors should include the Union's obligations under the United Nations' (UN's) Sustainable Development Goals ('SDGs'), the Paris Climate Agreement and the UN Convention on Biological Diversity ('UN CBD');
- U. whereas a recent report by the UN's Special Rapporteur on the right to Food found that, particularly in developing countries, hazardous pesticides have catastrophic impacts on health²²; whereas SDG Target 3.9 aims by 2030 to substantially reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination²³;
- V. whereas EFSA found that the estimated operator exposure to glufosinate, classified as toxic to reproduction, when used for weed control in GM maize exceeded the acceptable operator exposure level (AOEL) even when personal protective equipment was used²⁴; whereas the risk of increased operator exposure is of particular concern in

²⁰ See, for example, the explanatory memorandum of the Commission's legislative proposal presented on 22 April 2015 amending Regulation (EC) No 1829/2003 as regards the possibility for the Member States to restrict or prohibit the use of GM food and feed on their territory and the explanatory memorandum of the Commission's legislative proposal presented on 14 February 2017 amending Regulation (EU) No 182/2011.

²¹ The Commission 'may', and not 'shall', go ahead with authorisation if there is no qualified majority of Member States in favour at the Appeal Committee according to Regulation (EU) 182/2011 (Article 6(3)).

²² <https://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Pesticidesrighttofood.aspx>

²³ <https://www.un.org/sustainabledevelopment/health/>

²⁴ EFSA Conclusion regarding the peer review of the pesticide risk assessment of the active substance glufosinate, EFSA Scientific Report (2005) 27, 1-81, p. 3,

relation to herbicide-tolerant GM crops, given the higher volumes of herbicides used;

- W. whereas deforestation is a major cause of biodiversity decline; whereas emissions from land-use and land-use change, mostly due to deforestation, are the second biggest cause of climate change after burning fossil fuels²⁵; whereas the Paris Climate Agreement and the Strategic Plan for Biodiversity 2011-2020 adopted under the UN CBD and the Aichi Biodiversity Targets promote sustainable forest management, protection and restoration efforts²⁶; whereas SDG 15 includes the target of halting deforestation by 2020²⁷; whereas forests play a multifunctional role that support the achievement of most SDGs²⁸;
- X. whereas soya production is a key driver of deforestation in the Amazon, Cerrado and Gran Chaco forests in South America; whereas 97 % and 100 % of soya cultivated respectively in Brazil and Argentina is GM soya²⁹;
- Y. whereas the Union is the world's second largest importer of soya, the majority of which is imported for animal feed; whereas analysis by the Commission has found that soya has historically been the Union's number one contributor to global deforestation and related emissions, accounting for nearly half of the deforestation embodied in all Union imports³⁰;
1. Considers that the draft Commission implementing decision exceeds the implementing powers provided for in Regulation (EC) No 1829/2003;
 2. Considers that the draft Commission implementing decision is not consistent with Union law, in that it is not compatible with the aim of Regulation (EC) No 1829/2003, which is, in accordance with the general principles laid down in Regulation (EC) No 178/2002 of the European Parliament and of the Council³¹, to provide the basis for ensuring a high level of protection of human life and health, animal health and welfare, and environmental and consumer interests, in relation to

<https://efsa.onlinelibrary.wiley.com/doi/pdf/10.2903/j.efsa.2005.27r>

²⁵ Communication of the Commission of 23 July 2019, 'Stepping up EU action to Protect and Restore the World's forests', COM(2019)0352, p. 1.

²⁶ Idem, p. 2.

²⁷ See target 15.2: <https://www.un.org/sustainabledevelopment/biodiversity/>

²⁸ Communication of the Commission of 23 July 2019, 'Stepping up EU action to Protect and Restore the World's forests', COM(2019)0352, p. 2.

²⁹ International Service for the Acquisition of Agri-biotech Applications, 'Global status of commercialized biotech/GM crops in 2017: Biotech Crop Adoption Surges as Economic Benefits Accumulate in 22 Years', ISAAA Brief No. 53 (2017), pp. 16 and 21,

<http://www.isaaa.org/resources/publications/briefs/53/download/isaaa-brief-53-2017.pdf>

³⁰ Technical Report - 2013 - 063 of the Commission, 'The impact of EU consumption on deforestation: Comprehensive analysis of the impact of EU consumption on deforestation', study funded by the European Commission, DG ENV, and undertaken by VITO, IIASA, HIVA and IUCN NL,

<http://ec.europa.eu/environment/forests/pdf/1.%20Report%20analysis%20of%20impact.pdf>, pp. 23-24: Between 1990 and 2008, the Union imported crop and livestock products embodying 90 000 km² of deforestation. Crop products accounted for 74 000 km² (82 %) of this, with oil crops having the largest share (52 000 km²). Soybeans and soya cake accounted for 82 % of this (42 600 km²), equivalent to 47 % of the Union's total import of embodied deforestation.

³¹ Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1).

- GM food and feed, while ensuring the effective functioning of the internal market;
3. Calls on the Commission to withdraw its draft implementing decision;
 4. Calls on the Commission not to authorise the import for food or feed uses of any GM plant which has been made tolerant to a herbicide, in this case glufosinate, which is not authorised for use in the Union;
 5. Calls on the Commission to fully integrate the risk assessment of complementary herbicide residues and their metabolites, including combinatorial effects, into the risk assessment of herbicide-tolerant GM plants, regardless of whether the GM plant concerned is to be cultivated in the Union or is for import into the Union for food and feed uses;
 6. Calls on the Commission to withdraw proposals for GMO authorisations, whether for cultivation or for food and feed uses, if no opinion is delivered by the Standing Committee on the Food Chain and Animal Health;
 7. Notes and welcomes that the mission letter of each Commissioner states that they ‘will ensure the delivery of the United Nations Sustainable Development Goals within their policy area. The College as a whole will be responsible for the overall implementation of the Goals.’³²;
 8. Welcomes that the European Green Deal, the flagship project of the Commission, has been put forward as an integral part of the Commission’s strategy to implement the UN’s 2030 Agenda and the SDGs;
 9. Recalls that SDGs can only be achieved if supply chains become sustainable and synergies are created between policies³³;
 10. Reiterates its alarm that the Union’s high dependence on imports of animal feed in the form of soybeans causes deforestation in third countries³⁴;
 11. Calls on the Commission not to authorise the import of GM soybeans, unless it can be shown that their cultivation did not contribute to deforestation;
 12. Urges the Commission to review all its current authorisations for GM soybeans in light of the Union’s international obligations, including those under the Paris Climate Agreement, the UN CBD and the SDGs;
 13. Reiterates its call for the implementation of a European vegetable protein production and supply strategy³⁵, which would enable the Union to become less dependent on

³² See, for example, https://ec.europa.eu/commission/commissioners/sites/comm-cwt2019/files/commissioner_mission_letters/mission-letter-frans-timmermans-2019_en.pdf, p. 2.

³³ European Parliament resolution of 11 September 2018 on transparent and accountable management of natural resources in developing countries: the case of forests (OJ C 433, 23.12.2019, p. 50), para. 67.

³⁴ Idem

³⁵ European Parliament resolution of 15 January 2020 on the European Green Deal (Texts adopted, P9_TA(2020)0005), http://www.europarl.europa.eu/doceo/document/TA-9-2020-0005_EN.html, para. 64.

GM soybean imports and to create shorter food chains and regional markets; insists that this be integrated into the upcoming Farm to Fork Strategy;

14. Instructs its President to forward this resolution to the Council and the Commission, and to the governments and parliaments of the Member States.