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*Plenary sitting*

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**B8-1083/2016**

3.10.2016

## **MOTION FOR A RESOLUTION**

pursuant to Rule 106(2) and (3) of the Rules of Procedure

on the draft Commission implementing decision concerning the placing on the market for cultivation of genetically modified maize Bt11 (SYN-BTØ11-1) seeds

(D046173/01 – 2016/2919(RSP))

Tabled by: Bart Staes, Lynn Boylan, Guillaume Balas, Sirpa Pietikäinen, Eleonora Evi

**Committee on the Environment, Public Health and Food Safety**

**European Parliament resolution on the draft Commission implementing decision concerning the placing on the market for cultivation of genetically modified maize Bt11 (SYN-BTØ11-1) seeds (D046173/01 – 2016/2919(RSP))**

*The European Parliament,*

- having regard to the draft Commission implementing decision concerning the placing on the market for cultivation of genetically modified maize Bt11 (SYN-BTØ11-1) seeds (D046173/01),
- having regard to Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC<sup>1</sup>, and in particular Article 18(1) thereof,
- having regard to the opinion delivered by the European Food Safety Authority on 19 May 2005<sup>2</sup>,
- having regard to the opinion updating the risk assessment conclusions and risk management recommendations on the genetically modified insect-resistant maize MON 810 delivered by the European Food Safety Authority on 11 December 2012<sup>3</sup>,
- having regard to the opinion supplementing the conclusions of the environmental risk assessment and risk management recommendations for the cultivation of the genetically modified insect-resistant maize Bt11 and MON 810 adopted on 11 December 2012 by the European Food Safety Authority<sup>4</sup>,
- having regard to the opinion updating risk management recommendations to limit exposure of non-target Lepidoptera of conservation concern in protected habitats to Bt-maize pollen delivered by the European Food Safety Authority on 28 May 2015<sup>5</sup>,
- 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

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<sup>1</sup> OJ L 106, 17.4.2001, p. 1.

<sup>2</sup> Opinion of the Scientific Panel on Genetically Modified Organisms on a request from the Commission related to the notification (Reference C/ES/01/01) for the placing on the market of insect-tolerant genetically modified maize 1507, for import, feed and industrial processing and cultivation, under Part C of Directive 2001/18/EC from Pioneer Hi-Bred International/Mycogen Seeds, The EFSA Journal (2005) 181, 1-33.

<sup>3</sup> EFSA Panel on Genetically Modified Organisms (GMO); Scientific Opinion updating the risk assessment conclusions and risk management recommendations on the genetically modified insect resistant maize MON 810. EFSA Journal 2012; 10(12):3017. [98 pp.] doi:10.2903/j.efsa.2012.3017

<sup>4</sup> EFSA Panel on Genetically Modified Organisms (GMO); Scientific Opinion supplementing the conclusions of the environmental risk assessment and risk management recommendations for the cultivation of the genetically modified insect resistant maize Bt11 and MON 810. EFSA Journal 2012;10(12):3016. [32 pp.] doi:10.2903/j.efsa.2012.3016.

<sup>5</sup> EFSA GMO Panel (EFSA Panel on Genetically Modified Organisms), 2015. Scientific Opinion updating risk management recommendations to limit exposure of non-target Lepidoptera of conservation concern in protected habitats to Bt-maize pollen. EFSA Journal 2015;13(7):4127, 31 pp. doi:10.2903/j.efsa.2015.4127

exercise of implementing powers<sup>1</sup>,

- having regard to its resolution of 16 January 2014 on the proposal for a Council decision concerning the placing on the market for cultivation, in accordance with Directive 2001/18/EC of the European Parliament and of the Council, of a maize product (*Zea mays* L., line 1507) genetically modified for resistance to certain lepidopteran pests<sup>2</sup>,
  - having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,
  - having regard to Rule 106(2) and (3) of its Rules of Procedure,
- A. whereas a notification (Reference C/F/96/05.10) concerning the placing on the market of genetically modified maize Bt11 was submitted in 1996 by Syngenta Seeds SAS (formerly Novartis Seeds) (hereinafter ‘the notifier’) to the competent authority of France pursuant to Council Directive 90/220/EEC<sup>3</sup>; whereas an updated notification was submitted in 2003 pursuant to Directive 2001/18/EC;
- B. whereas the genetically modified event maize Bt11 expresses the Cry1Ab protein, which is a Bt protein (derived from *Bacillus thuringiensis subsp. Kurstaki*) conferring resistance to the European corn borer (*Ostrinia nubilalis*) and the Mediterranean corn borer (*Sesamia nonagrioides*), and the Pat protein, which confers tolerance to the herbicide glufosinate-ammonium;
- C. whereas glufosinate is classified as toxic to reproduction and thus falls under the exclusion criteria set out in Regulation (EC) No 1107/2009; whereas for substances that have already been approved, the exclusion criteria apply when the approval needs to be renewed; whereas the approval of glufosinate expires in 2017; whereas the use of glufosinate should therefore in principle end in 2017;
- D. whereas pursuant to Article 26c(2) of Directive 2001/18/EC the cultivation of genetically modified maize Bt11 is prohibited in the following territories: Wallonia (Belgium); Bulgaria; Denmark; Germany (except for research purposes); Greece; France; Croatia; Italy; Cyprus; Latvia; Lithuania; Luxembourg; Hungary; Malta; the Netherlands; Austria; Poland; Slovenia; Northern Ireland (United Kingdom); Scotland (United Kingdom); Wales (United Kingdom);
- E. whereas, according to the European Food Safety Authority (EFSA), the evidence indicates that approximately 95 to 99 % of the released pollen is deposited within about 50 metres of the pollen source, though vertical wind movements or gusts during pollen shedding can lift pollen high up in the atmosphere and distribute it over significant distances up to several kilometres;
- F. whereas in an opinion of 2005 EFSA considered that maize has no cross-compatible wild relatives in Europe, thus at the time taking the view that no unintended environmental

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<sup>1</sup> OJ L 55, 28.2.2011, p. 13.

<sup>2</sup> Texts adopted, P7\_TA(2014)0036.

<sup>3</sup> Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (OJ L 117, 8.5.1990, p. 15).

effects due to the establishment and spread are anticipated;

- G. whereas teosintes, the ancestor of cultivated maize, has been present in Spain since 2009; whereas teosinte populations might become recipients for transgenic DNA stemming from genetically engineered maize MON 810, which is cultivated in Spain in some of the regions where teosinte is spreading widely; whereas gene flow may cross to teosinte, causing it to produce Bt toxin, and confer higher fitness to the hybrids of maize and teosinte in comparison with the native teosinte plants; whereas this is a scenario carrying major risks for farmers and the environment;
- H. whereas the competent Spanish authorities have informed the Commission about the presence of teosinte in Spanish maize fields, including very limited presence in GM maize fields; whereas the available information indicates that teosinte has also been identified in France;
- I. whereas on 13 July 2016, the Commission requested EFSA to assess by the end of September 2016 whether, on the basis of the existing scientific literature and any other relevant information, new evidence has emerged which would change the conclusions and recommendations of the EFSA scientific opinions on cultivation of genetically modified maize MON 810, Bt11, 1507 and GA21;
- J. whereas in point 24 of its draft implementing decision the Commission claims that as regards local mortality, EFSA considered two levels of 'acceptable' local mortality (0.5 % and 1 %); whereas, however, in its scientific opinion adopted on 28 May 2015 updating risk management recommendations to limit exposure of non-target lepidoptera of conservation concern in protected habitats to Bt-maize pollen, EFSA clearly states that 'any specific protection level used here for illustration by the EFSA GMO Panel is intended as an example only' and that 'any threshold applied here must, by necessity, be arbitrary and should be subject to amendment according to the protection goals in operation within the Union';
- K. whereas in its draft implementing decision the Commission chose a level of local mortality of below 0.5 %, providing in the Annex for arbitrary isolation distances of at least 5 metres between a maize Bt11 field and a protected habitat as defined in Article 2(3) of Directive 2004/35/EC, despite the fact that EFSA actually clearly states as confirmed that imposing an isolation distance of 20 metres around a protected habitat from the nearest crop of maize Bt11/MON 810 would be expected to reduce local mortality even of extremely highly sensitive non-target lepidopteran larvae to a level below 0.5 %, that distance being four times greater than that proposed by the Commission;
- L. whereas in its scientific opinion adopted on 28 May 2015 updating risk management recommendations to limit exposure of non-target lepidoptera of conservation concern in protected habitats, EFSA stated that 'currently, there are insufficient data available to allow Bt-related larval mortality to be put into the context of overall mortality';
  - 1. Considers that the draft Commission implementing decision exceeds the implementing powers provided for in Directive 2001/18/EC;
  - 2. Considers that the risk assessment of cultivation conducted by EFSA is incomplete and

the risk management recommendations proposed by the Commission are inadequate;

3. Considers that the draft Commission implementing decision is not consistent with Union law, in that it is not compatible with the objective of Directive 2001/18/EC of the European Parliament and of the Council, which is, in accordance with the precautionary principle, to approximate the laws, regulations and administrative provisions of the Member States and to protect human health and the environment when carrying out the deliberate release into the environment of genetically modified organisms for any other purposes than placing on the market within the Community and placing on the market genetically modified organisms as or in products within the Community;
4. Calls on the Commission to withdraw its draft implementing decision;
5. Instructs its President to forward this resolution to the Council, the Commission, and the governments and parliaments of the Member States.