Genetically modified soybean A2704-12 (ACS-GMØØ5-3)

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 (D062417/04 – 2019/2828(RSP))

The European Parliament,

– having regard to 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 (D062417/04),

– 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 11(3) and 23(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 11 June 2019, at which no opinion was delivered, and to the vote of the Appeal Committee on 12 July 2019, at which again no opinion was delivered,


– having regard to the opinion adopted by the European Food Safety Authority (EFSA) on 29 November 2018, and published on 14 January 2019³,

³ Scientific opinion on the Assessment of genetically modified soybean A2704-12 for renewal of authorisation under Regulation (EC) No 1829/2003 (application EFSA-
– having regard to its previous resolutions objecting to the authorisation of genetically modified organisms (GMOs),

– having regard to the motion for a resolution of the Committee on the Environment, Public Health and Food Safety,

– having regard to Rule 112(2) and (3) of its Rules of Procedure,

A. whereas Commission Decision 2008/730/EC² authorised the placing on the market of food and feed containing, consisting of or produced from genetically modified soybean A2704-12 (soybean A2704-12); whereas the scope of that authorisation also covers the placing on the market of products other than food and feed, containing or consisting of soybean A2704-12 for the same uses as any other soybean, with the exception of cultivation;

B. whereas, on 29 August 2017, the authorisation holder Bayer CropScience AG submitted to the Commission an application, in accordance with Articles 11 and 23 of Regulation (EC) No 1829/2003, for the renewal of that authorisation (the renewal application);

C. whereas, on 29 November 2018, EFSA adopted a favourable opinion in relation to the renewal application, which was published on 14 January 2019³;

D. whereas soybean A2704-12 was developed to confer tolerance to glufosinate ammonium-based herbicides; whereas tolerance to those herbicides is achieved by expression of the PAT (phosphinothricin acetyltransferase) protein⁴;

Complementary herbicides

E. whereas a number of studies show that the cultivation of herbicide-tolerant genetically modified (GM) crops results in a higher use of those herbicides⁵; whereas, as a consequence, it has to be expected that crops of soybean A2704-12 will be exposed to

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¹ In its eighth term, Parliament adopted 36 resolutions objecting to the authorisation of genetically modified organisms.
³ EFSA Journal 2019;17(1):5523.
both higher and repeated doses of glufosinate, which will potentially lead to a higher quantity of residues in the harvest;

F. whereas, under the Union’s latest coordinated multiannual control programme (for 2020, 2021 and 2022)\(^1\), Member States are not obliged to measure glufosinate residues on imports of soybeans; whereas it cannot be excluded that soybean A2704-12 or products derived from it for food and feed will exceed the Union’s Maximum Residue Levels (MRLs), which have been put in place to ensure a high level of consumer protection;

G. whereas glufosinate is classified as toxic to reproduction (European Chemicals Agency category 1B) and thus meets the ‘cut-off criteria’ set out in Regulation (EC) No 1107/2009 of the European Parliament and of the Council\(^2\); whereas the approval of glufosinate for use in the Union expired on 31 July 2018\(^3\);

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 itself\(^4\);

I. whereas assessment of herbicide residues and their metabolites on GM plants is considered outside the remit of the EFSA Panel on Genetically Modified Organisms;

**Member State comments**

J. whereas Member States submitted many critical comments to EFSA during the three-month consultation period\(^5\); whereas the most critical comments regard the impossibility of properly assessing the risks relating to the use of soybean A2704-12 in food and feed, owing to the insufficient number and variety of field studies, a general lack of data on glufosinate residues and the absence of any chronic or subchronic toxicity studies; whereas several Member States remark that the environmental monitoring plan is neither in line with Directive 2001/18/EC of the European 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).


\(^1\) [https://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/public/?event=activesubstance.detail&language=EN&selectedID=1436](https://ec.europa.eu/food/plant/pesticides/eu-pesticides-database/public/?event=activesubstance.detail&language=EN&selectedID=1436)


\(^3\) [https://www.efsa.europa.eu/fr/efsajournal/pub/5263](https://www.efsa.europa.eu/fr/efsajournal/pub/5263)

\(^4\) For example, EFSA states that this is the case when the complementary herbicide is glyphosate: EFSA review of the existing maximum residue levels for glyphosate according to Article 12 of Regulation (EC) No 396/2005, 2018, p12.

Parliament and of the Council, and the corresponding guidelines, nor with the EFSA guidance on post-market environmental monitoring (2011); whereas several Member States express concern over the impact of soybean A2704-12 cultivation on biodiversity and public health in producing and exporting countries;

K. whereas an independent study concludes that the risk assessment by EFSA is not acceptable in its present form, having failed to identify knowledge gaps and uncertainties and having failed to properly assess the overall safety and potential toxicity of soybean A2704-12; whereas the study finds that EFSA has failed to acknowledge changes which have occurred in the 10-year period since the initial authorisation of soybean A2704-12, regarding the agronomic conditions under which herbicide-resistant soybeans are cultivated, for example the increasing number of problems with herbicide-resistant weeds necessitating ever-higher amounts of herbicides;

**Upholding the Union’s international obligations**

L. whereas Regulation (EC) No 1829/2003 states 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 UN’s Sustainable Development Goals (SDGs), the Paris Agreement on climate change and the UN Convention on Biological Diversity (CBD);

M. 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 health and the potential to lead to human rights abuses against farmers and agricultural workers, communities living near agricultural lands, indigenous communities, and pregnant women and children; whereas SDG Target 3.9 aims, by 2030, substantially to reduce the number of deaths and illnesses from hazardous chemicals and air, water and soil pollution and contamination;

N. 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 the burning of fossil fuels; whereas the Paris Agreement and the global Strategic Plan for Biodiversity 2011-2020, including the Aichi Biodiversity Targets, adopted under the CBD, promote sustainable forest management, protection

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2 Testbiotech comment on the EFSA assessment of genetically engineered soybean A2704-12 for renewal [https://www.testbiotech.org/en/content/testbiotech-comment-soybean-a2704-12-renewal](https://www.testbiotech.org/en/content/testbiotech-comment-soybean-a2704-12-renewal)

3 [https://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Pesticidesrighttofood.aspx](https://www.ohchr.org/EN/Issues/Environment/ToxicWastes/Pages/Pesticidesrighttofood.aspx)


5 Commission communication of 23 July 2019 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘Stepping up EU action to Protect and Restore the World’s forests’ (COM(2019)0352), p 1.
and restoration efforts\(^1\);

O. whereas SDG 15 includes the target of halting deforestation by 2020\(^2\); whereas forests play a multifunctional role that support the achievement of most SDGs\(^3\);

P. 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 in Brazil and Argentina, respectively, is GM soya\(^4\); whereas soybean A2704-12 is authorised for cultivation in, among other places, Brazil and Argentina\(^5\);

Q. whereas the European Union is the world’s second largest soya importer and the majority of the soya imported into the Union is for animal feed; whereas analysis by the Commission 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 imports\(^6\);

R. whereas nine GM soybeans authorised for cultivation in Brazil are already authorised for import as food and feed into the Union; whereas, in addition, authorisation for import into the Union for food and feed for three GM soybeans authorised for cultivation in Brazil, including soybean A2704-12, is pending\(^7\);

S. whereas a recent pan-Union survey found that almost 90 % of respondents think that new laws are needed to ensure that products sold in the Union do not contribute to global deforestation\(^8\);

Undemocratic process

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\(^1\) Idem, p. 2.
\(^2\) See target 15.2: [https://www.un.org/sustainabledevelopment/biodiversity/](https://www.un.org/sustainabledevelopment/biodiversity/)
\(^3\) COM(2019)0352, p. 2.
\(^6\) European Commission technical report 2013 - 063 entitled ‘The impact of EU consumption on deforestation: Comprehensive analysis of the impact of EU consumption on deforestation’, pp23-24, [http://ec.europa.eu/environment/forests/pdf/1.%20Report%20analysis%20of%20impact.pdf](http://ec.europa.eu/environment/forests/pdf/1.%20Report%20analysis%20of%20impact.pdf): Between 1990 and 2008, the Union imported crop and livestock products embodying 90 000 km\(^2\) of deforestation. Crop products accounted for 74 000 km\(^2\) (82 %) of this, with oil crops having the largest share (52 000 km\(^2\)). Soybeans and soya cake accounted for 82 % of this (42 600 km\(^2\)), equivalent to 47 % of the Union’s total import of embodied deforestation.
T. whereas the votes of both the Standing Committee on the Food Chain and Animal Health, referred to in Article 35 of Regulation (EC) No 1829/2003, which took place on 11 June 2019, and the Appeal Committee, which took place on 12 July 2019, resulted in no opinion being delivered, meaning that the authorisation is not supported by a qualified majority of Member States;

U. whereas, both in the explanatory memorandum of its 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 in the explanatory memorandum of the legislative proposal presented on 14 February 2017 amending Regulation (EU) No 182/2011, the Commission deplored the fact that, since the entry into force of Regulation (EC) No 1829/2003, authorisation decisions have been adopted by the Commission without the support of the opinion of the Member States’ committee and that the return of the dossier to the Commission for final decision, which is very much the exception for the procedure as a whole, has become the norm for decision-making on GM food and feed authorisations; whereas that practice has, on several occasions, been deplored by the Commission President as not being democratic¹;

V. whereas, in its eighth term, Parliament adopted 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 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 even though it is under no legal obligation to do so;

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 Council², 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 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. Reiterates its commitment to advancing work on the Commission proposal amending Regulation (EU) No 182/2011; calls on the Council to move forward with its work on that Commission proposal as a matter of urgency;

¹ See, for example, the Opening Statement at the European Parliament plenary session included in the political guidelines for the next European Commission (Strasbourg, 15 July 2014) or in the State of the Union Address 2016 (Strasbourg, 14 September 2016).

5. Calls on the Commission to suspend any implementing decision regarding applications for GMO authorisation until the authorisation procedure has been revised in such a way as to address the shortcomings of the current procedure, which has proven inadequate;

6. Calls on the Commission to withdraw proposals for GMO authorisations if no opinion is delivered by the Standing Committee on the Food Chain and Animal Health, whether for cultivation or for food and feed uses;

7. Calls on the Commission not to authorise any herbicide-tolerant GM plants without a full assessment of the residues from spraying with complementary herbicides, of metabolites and commercial formulations as applied in the countries of cultivation;

8. Calls on the Commission to fully integrate the risk assessment of the application of complementary herbicides and their residues into the risk assessment of herbicide-tolerant GM plants, regardless of whether the GM plant concerned is to be cultivated in the Union or imported into the Union for food and feed uses;

9. 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 that is not authorised for use in the Union, in this case glufosinate;

10. Recalls that the SDGs can only be achieved if supply chains become sustainable and synergies are created between policies;

11. Reiterates its alarm at the fact that the Union’s high dependence on imports of animal feed in the form of soybeans causes deforestation in third countries;

12. 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;

13. Urges the Commission to review all its current authorisations for GM soya in the light of the Union’s international obligations, including under the Paris Agreement, the CBD and the SDGs;

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

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2 Idem.