

**Follow up to the European Parliament non-legislative 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**

- 1. Resolution tabled pursuant to Rule 112 (2) and (3) of the European Parliament's Rules of procedure**
- 2. Reference numbers:** 2020/2535 (RSP) / B9-0121/2020 / P9_TA-PROV(2020)0069
- 3. Date of adoption of the resolution:** 14 May 2020
- 4. Competent Parliamentary Committee:** Committee on the Environment, Public Health and Food Safety (ENVI)
- 5. Brief analysis/assessment of the resolution and requests made in it:**

The resolution calls for the withdrawal of the draft Commission implementing decision (**paragraph 3**) on the grounds that the draft measure exceeds the implementing powers provided for in Regulation (EC) No 1829/2003 (**paragraph 1**) and that it is not compatible with the aim of that regulation and the general principles of Regulation (EC) No 178/2002, i.e. protection of human life and health, animal health and welfare, the environment and consumer interests (**paragraph 2**). The resolution calls on the Commission not to authorise the import for food and feed uses of any genetically modified (GM) plant which has been made tolerant to a herbicide which is not authorised for use in the Union (**paragraph 4**) and also not to authorise genetically modified organisms (GMOs) if no opinion is delivered by the Member States in the Standing Committee on the Food Chain and Animal Health (**paragraph 7**).

The resolution recalls that the genetically modified soybean is tolerant to dicamba, glufosinate ammonium and glyphosate-based herbicides (**recital C**) and calls 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 where the GM plant is cultivated (**paragraph 6**).

The resolution welcomes that the European Green Deal has been put forward as an integral part of the Commission's strategy to implement the United Nation (UN)'s 2030 Agenda for Sustainable Development (**paragraph 8**). The resolution recalls that the sustainable development goals can only be achieved if supply chains become sustainable (**paragraph 10**).

The resolution reiterates the European Parliament's 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 (**paragraph 11**) and mentions that the Union is the world's second largest importer of soya (**recital Y**). The resolution mentions that soya production is a key driver of large-scale deforestation in South America (**recital X**). The resolution argues that the Union's commitment to the sustainable development goals and obligations under the Paris Climate Agreement and the UN Convention on Biological Diversity should be considered in the authorisation process as legitimate factors (**recital T**). The resolution 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 (**paragraph 12**).

Finally, the resolution reiterates its call for the implementation of a European vegetable protein production and strategy, which would enable the Union to become less dependent on GM soybean imports and to create shorter food chains and regional markets, the resolution also insists that this is integrated into the Farm to Fork Strategy (**paragraph 14**).

The resolution mentions that potentially higher quantities of residues from spraying with glyphosate, glufosinate and dicamba, will be present in the harvest and that a pilot project carried out in Argentina found high levels of glyphosate residues on GM soybeans (**recitals D and E**). The resolution mentions that questions concerning the carcinogenicity of glyphosate remain (**recital F**) and recalls that the use of glufosinate is no longer permitted in the Union (**recital G**).

The resolution recalls the voting results on the draft implementing decision in the Standing and Appeal Committees (**recital P**). Furthermore, it recalls that the return of the draft authorising decisions to the Commission for final decision, after not being supported by the Standing Committee, has become the norm for decision-making on genetically modified food and feed authorisations, which is problematic (**recital Q**). Finally, the resolution recalls the numerous resolutions objecting to GMOs authorisations adopted by the European Parliament in its eight term (**recital R**), and states that no change of law is required for the Commission not to authorise GMOs in the absence of qualified majority of the Member States in favour in the Appeal Committee (**recital S**).

6. Responses to the requests and overview of actions taken, or intended to be taken, by the Commission:

The Commission would like to recall that the draft implementing decision at stake authorises the placing on the market of products containing, consisting of or produced from genetically modified soybean MON 87708 × MON 89788 × A5547-127, but not the cultivation of this soybean.

With respect to **paragraphs 1 to 3** of the resolution, the Commission would like to point out that the draft decision has been processed in line with the procedural steps set out in Regulation (EU) 182/2011 on comitology and Regulation (EC) No 1829/2003 on genetically modified (GM) food and feed, as illustrated below:

- On 28 October 2016, Monsanto Europe S.A./N.V submitted to the Commission an application, in accordance with Articles 5 and 17 of Regulation (EC) No 1829/2003, for the authorisation for the placing on the market of GM soybean MON 87708 × MON 89788 × A5547-127 for food/feed uses.
- On 5 July 2019, the European Food Safety Authority (EFSA) published a favourable opinion in accordance with Articles 6 and 18 of Regulation (EC) No 1829. It concluded that genetically modified soybean MON 87708 × MON 89788 × A5547-127, as described in the application, is as safe as and nutritionally equivalent to its conventional counterpart and the tested non-genetically modified soybean reference varieties with respect to the potential effects on human and animal health and the environment.
- In its opinion, EFSA considered all the specific questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for by Article 6(4) and Article 18(4) of Regulation (EC) No 1829/2003.

- The public commented on the EFSA opinion and all the scientific comments received were scrutinised by EFSA¹.
- The draft decision was voted on 9 December 2019 in the Standing Committee with no qualified majority against or in favour.
- In accordance with the rules set in Regulation (EU) 182/2011 on comitology, the Commission proposed the draft decision to the Appeal Committee of 23 January 2020, where no qualified majority against or in favour was obtained either.

The Commission, therefore, considers that by adopting a decision that fully complies with the procedural steps set out by the co-legislators in the GMO legislation it does not exceed its implementing powers. Consequently, there are no reasons to withdraw the draft decision for the authorisation of the GM soybean MON MON 87708 × MON 89788 × A5547-127. Furthermore, following the submission of an application and the respective opinion of EFSA, Article 7(3) and Article 19(3) of Regulation (EC) No 1829/2003 oblige the Commission to act, namely to adopt a final decision on the application.

With respect to the **other provisions of the resolution**, the Commission considers that they fall outside the remit of the right of scrutiny, which is limited to the question of whether the draft implementing act exceeds the implementing powers provided for in the basic act. The Commission is not required to justify the draft implementing act as regards these points. Nevertheless, the Commission has carefully considered the positions expressed by the European Parliament and would like to make the following comments:

On the concerns about plant protection products (**recitals D to L, N and O**), the Commission would like to point out that the risk assessment in the context of an application for food and feed uses of a herbicide-tolerant GM crop is focused on the potential impact of the genetic modification on human and animal health and on the environment. Considerations on environmental protection in the area of pesticides are within the scope of Regulation (EC) No 1107/2009 concerning the placing on the market of plant protection products according to which each active substance and each plant protection product is assessed for its environmental safety before a risk management decision to approve a substance or authorise the use of a product is made. The authorisation of GMOs is not linked to the authorisation of herbicides. However, herbicides and their respective maximum residue levels, authorised under respectively Regulation (EC) No 1107/2009 and Regulation (EC) No 396/2005, apply to all the concerned products, whether GMO or not. It is important to recall that the EU has no power to interfere with the environmental law and standards established in third countries, including the authorisation of herbicides.

As for the concerns expressed in **recitals T to Y**, the Commission would like to explain that in its decisions it takes into account scientific evaluation of the highest possible standard, relevant provisions of EU law and other legitimate factors relevant to the matter in consideration.

The Commission is highly committed to respect international commitments in the field of the environment. However, it does not consider that an individual Commission decision authorising the placing on the market of a given genetically modified food and feed which does not present risks to health or to the Union environment, is the appropriate tool to achieving the objectives set out by international instruments quoted in the resolution. The international commitments of the EU under the UN Convention on Biological Diversity, the

¹ http://ec.europa.eu/food/plant/gmo/public_consultations/index_en.htm

2030 Agenda for Sustainable Development and Paris Agreement on climate change, relate to diverse objectives encompassing environment, education, fight against poverty, energy, innovation and many others.

At this point, the Commission would like to recall that, at present, the volume of imports of soybean depends on the high protein feed demand in the EU.

With regard to deforestation, in its Communication on a Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system the Commission announced that to reduce the EU's contribution to global deforestation and forest degradation, it will present a legislative proposal and other measures to avoid or minimise the placing of products associated with deforestation or forest degradation on the EU market.

Reagrding to the lack of support by the Members States for any authorising decision of GMOs for food and feed uses (**recitals P and Q**), the Commission submitted a proposal to the European Parliament and Council on 14 February 2017 for a regulation amending Regulation (EU) No 182/2011 to change the voting rules at the Appeal Committee, which if adopted by co-legislators, would increase transparency and accountability in GMO decision-making process. The Commission would also like to recall that it regrets the decision of the European Parliament of 28 October 2015 to reject the proposal of 22 April 2015 amending Regulation (EC) No 1829/2003, which, if adopted, would enable Member States to address at national level considerations, which are not covered by the EU decision-making process.

In conclusion, while the Commission reflects on a new approach that is aligned to the political ambition set by the European Green Deal and the Farm to Fork Strategy, it will continue processing the already submitted applications for GM food and feed under existing rules and until a different approach based on sustainability considerations is designed.