

**COMMISSION IMPLEMENTING DECISION (EU) 2021/63****of 22 January 2021****renewing the authorisation for the placing on the market of products containing, consisting of or produced from genetically modified maize MON 89034 (MON-89Ø34-3) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council***(notified under document C(2021) 261)***(Only the Dutch text is authentic)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 feed <sup>(1)</sup>, and in particular to Articles 11(3) and 23(3) thereof,

Whereas:

- (1) Commission Decision 2009/813/EC <sup>(2)</sup> authorised the placing on the market of food and feed containing, consisting of or produced from genetically modified maize MON 89034. The scope of that authorisation also covers the placing on the market of products, other than food and feed, containing or consisting of genetically modified maize MON 89034 for the same uses as any other maize, with the exception of cultivation.
- (2) On 3 August 2018, Monsanto Europe N.V. on behalf of Monsanto Company, United States, 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.
- (3) By letter dated 27 August 2018, Monsanto Europe N.V. informed the Commission that it converted its legal form and changed its name to Bayer Agriculture BVBA, Belgium.
- (4) On 7 November 2019, the European Food Safety Authority ('the Authority') issued a favourable opinion <sup>(3)</sup> in accordance with Articles 6 and 18 of Regulation (EC) No 1829/2003. It concluded that the renewal application did not contain evidence for new hazards, modified exposure or scientific uncertainties that would change the conclusions of the original risk assessment on genetically modified maize MON 89034, adopted by the Authority in 2008 <sup>(4)</sup>.
- (5) In its opinion, the Authority considered all the questions and concerns raised by the Member States in the context of the consultation of the national competent authorities as provided for in Articles 6(4) and 18(4) of Regulation (EC) No 1829/2003.
- (6) The Authority also concluded that the monitoring plan for the environmental effects, consisting of a general surveillance plan, submitted by the applicant, is in line with the intended uses of the products.

<sup>(1)</sup> OJ L 268, 18.10.2003, p. 1.

<sup>(2)</sup> Commission Decision 2009/813/EC of 30 October 2009 authorising the placing on the market of products containing, consisting of, or produced from genetically modified maize MON 89034 (MON-89Ø34-3) pursuant to Regulation (EC) No 1829/2003 of the European Parliament and of the Council (OJ L 289, 5.11.2009, p. 21).

<sup>(3)</sup> EFSA GMO Panel 2019. Assessment of genetically modified maize MON 89034 for renewal authorisation under Regulation (EC) No 1829/2003 (application EFSA-GMO-RX-015). *EFSA Journal* 2019;17(11):5845.

<sup>(4)</sup> Scientific Opinion of the Panel on Genetically Modified Organisms on application (Reference EFSA-GMO-NL-2007-37) for the placing on the market of the insect-resistant genetically modified maize MON89034, for food and feed uses, import and processing under Regulation (EC) No 1829/2003 from Monsanto. *The EFSA Journal* (2008) 909, 1-30.

- (7) Taking into account those conclusions, the authorisation for the placing on the market of food and feed containing, consisting of or produced from genetically modified maize MON 89034 and of products consisting of it or containing it for other uses than food or feed, with the exception of cultivation, should be renewed.
- (8) By letter dated 28 July 2020, Bayer Agriculture BVBA Belgium informed the Commission that, as of 1 August 2020, it changes its name to Bayer Agriculture BV, Belgium.
- (9) By letter dated 28 July 2020, Bayer Agriculture BVBA Belgium representing Monsanto Company, United States, informed the Commission that, as of 1 August 2020, Monsanto Company, United States, converts its legal form and changes its name to Bayer CropScience LP, United States.
- (10) A unique identifier has been assigned to genetically modified maize MON 89034, in accordance with Commission Regulation (EC) No 65/2004 <sup>(5)</sup>, in the context of its initial authorisation by Decision 2009/813/EC. That unique identifier should continue to be used.
- (11) For the products covered by this Decision, no specific labelling requirements, other than those provided for in Articles 13(1) and 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003 of the European Parliament and of the Council <sup>(6)</sup>, appear to be necessary. However, in order to ensure that the use of products containing or consisting of genetically modified maize MON 89034 remains within the limits of the authorisation granted by this Decision, the labelling of such products, with the exception of food products, should contain a clear indication that they are not intended for cultivation.
- (12) The authorisation holder should submit annual reports on the implementation and on the results of the activities set out in the monitoring plan. Those results should be presented in accordance with the requirements laid down in Commission Decision 2009/770/EC <sup>(7)</sup>.
- (13) The opinion of the Authority does not justify the imposition of specific conditions or restrictions for the placing on the market, for the use and handling, including post-market monitoring requirements regarding the consumption of the food and feed containing, consisting of or produced from genetically modified maize MON 89034, or for the protection of particular ecosystems/environment or geographical areas, as provided for in Articles 6(5)(e) and 18(5)(e) of Regulation (EC) No 1829/2003.
- (14) All relevant information on the authorisation of the products covered by this Decision should be entered in the Community register of genetically modified food and feed referred to in Article 28(1) of Regulation (EC) No 1829/2003.
- (15) This Decision is to be notified through the Biosafety Clearing-House to the Parties to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity, pursuant to Articles 9(1) and 15(2)(c) of Regulation (EC) No 1946/2003 of the European Parliament and of the Council <sup>(8)</sup>.
- (16) The Standing Committee on Plants, Animals, Food and Feed has not delivered an opinion within the time limit laid down by its Chairman. This implementing act was deemed to be necessary and the chair submitted it to the appeal committee for further deliberation. The appeal committee did not deliver an opinion,

<sup>(5)</sup> Commission Regulation (EC) No 65/2004 of 14 January 2004 establishing a system for the development and assignment of unique identifiers for genetically modified organisms (OJ L 10, 16.1.2004, p. 5).

<sup>(6)</sup> Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC (OJ L 268, 18.10.2003, p. 24).

<sup>(7)</sup> Commission Decision 2009/770/EC of 13 October 2009 establishing standard reporting formats for presenting the monitoring results of the deliberate release into the environment of genetically modified organisms, as or in products, for the purpose of placing on the market, pursuant to Directive 2001/18/EC of the European Parliament and of the Council (OJ L 275, 21.10.2009, p. 9).

<sup>(8)</sup> Regulation (EC) No 1946/2003 of the European Parliament and of the Council of 15 July 2003 on transboundary movements of genetically modified organisms (OJ L 287, 5.11.2003, p. 1).

HAS ADOPTED THIS DECISION:

*Article 1*

**Genetically modified organism and unique identifier**

Genetically modified maize (*Zea mays* L.) MON 89034, as specified in point (b) of the Annex to this Decision, is assigned the unique identifier MON-89Ø34-3, in accordance with Regulation (EC) No 65/2004.

*Article 2*

**Renewal of the authorisation**

The authorisation for the placing on the market of the following products is renewed in accordance with the conditions set out in this Decision:

- (a) foods and food ingredients containing, consisting of or produced from genetically modified maize MON-89Ø34-3;
- (b) feed containing, consisting of or produced from genetically modified maize MON-89Ø34-3;
- (c) products containing or consisting of genetically modified maize MON-89Ø34-3 for uses other than those provided for in points (a) and (b), with the exception of cultivation.

*Article 3*

**Labelling**

- 1. For the purposes of the labelling requirements laid down in Articles 13(1) and 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize'.
- 2. The words 'not for cultivation' shall appear on the label of and in the documents accompanying the products containing or consisting of genetically modified maize MON-89Ø34-3, with the exception of products referred to in point (a) of Article 2.

*Article 4*

**Method for detection**

The method set out in point (d) of the Annex shall apply for the detection of genetically modified maize MON-89Ø34-3.

*Article 5*

**Monitoring plan for environmental effects**

- 1. The authorisation holder shall ensure that the monitoring plan for environmental effects, as set out in point (h) of the Annex, is put in place and implemented.
- 2. The authorisation holder shall submit to the Commission annual reports on the implementation and the results of the activities set out in the monitoring plan in accordance with the format set out in Decision 2009/770/EC.

*Article 6*

**Community register**

The information set out in the Annex shall be entered in the Community register of genetically modified food and feed, as referred to in Article 28(1) of Regulation (EC) No 1829/2003.

*Article 7***Authorisation holder**

The authorisation holder shall be Bayer CropScience LP, United States, represented in the Union by Bayer Agriculture BV, Belgium.

*Article 8***Validity**

This Decision shall apply for a period of 10 years from the date of its notification.

*Article 9***Addressee**

This Decision is addressed to Bayer Agriculture BV, Scheldelaan 460, 2040 Antwerp, Belgium.

Done at Brussels, 22 January 2021.

*For the Commission*  
Stella KYRIAKIDES  
*Member of the Commission*

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## ANNEX

**(a) Applicant and Authorisation holder**

Name: Bayer CropScience LP

Address: 800 N. Lindbergh Boulevard, St. Louis, Missouri 63167, United States of America

Represented in the Union by Bayer Agriculture BV, Scheldelaan 460, 2040 Antwerp, Belgium.

**(b) Designation and specification of the products**

- (1) foods and food ingredients containing, consisting of or produced from genetically modified maize (*Zea mays* L.) MON-89Ø34-3;
- (2) feed containing, consisting of or produced from genetically modified maize (*Zea mays* L.) MON-89Ø34-3;
- (3) products containing or consisting of genetically modified maize (*Zea mays* L.) MON-89Ø34-3 for uses other than those provided for in points (1) and (2), with the exception of cultivation.

The genetically modified maize MON-89Ø34-3 expresses the *cry1A.105* gene and the *cry2Ab2* gene, which confer protection against certain lepidopteran pests.

**(c) Labelling**

- (1) For the purposes of the labelling requirements laid down in Article 13(1) and Article 25(2) of Regulation (EC) No 1829/2003, and in Article 4(6) of Regulation (EC) No 1830/2003, the 'name of the organism' shall be 'maize'.
- (2) The words 'not for cultivation' shall appear on the label of and in documents accompanying the products containing or consisting of genetically modified maize MON-89Ø34-3, with the exception of products referred to in point (b)(1) of this Annex.

**(d) Method for detection**

- (1) Event specific real-time PCR based method for the quantification of genetically modified maize MON-89Ø34-3.
- (2) Validated by the EU reference laboratory established under Regulation (EC) No 1829/2003, published at <http://gmo-crl.jrc.ec.europa.eu/StatusOfDossiers.aspx>
- (3) Reference Material: AOCS 0906-E accessible via the American Oil Chemists Society at <https://www.aocs.org/crm>

**(e) Unique identifier**

MON-89Ø34-3

**(f) Information required under Annex II to the Cartagena Protocol on Biosafety to the Convention on Biological Diversity**

[Biosafety Clearing-House, Record ID number: *published in the register of genetically modified food and feed when notified*].

**(g) Conditions or restrictions on the placing on the market, use or handling of the products**

Not required.

(h) **Monitoring plan for environmental effects**

Monitoring plan for environmental effects in accordance with Annex VII to Directive 2001/18/EC of the European Parliament and of the Council <sup>(1)</sup>.

[Link: *plan published in the Community register of genetically modified food and feed*]

(i) **Post-market monitoring requirements for the use of the food for human consumption**

Not required.

*Note:* Links to relevant documents may need to be modified over the time. Those modifications will be made available to the public via the updating of the Community register of genetically modified food and feed.

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