



EUROPEAN COMMISSION
Health and Consumers Directorate-General
Director-General

SANCO

26.05.2008

Brussels,
SANCO/E1/CV/al D(2008) 510302

Dear [REDACTED]

Subject: request for internal review of 3 GM food and feed decisions

Thank you for your letter dated 3 December 2007 whereby you requested, on behalf of your organisation, the Commission to review its Decisions 2007/701/EC¹, 2007/702/EC² and 2007/703/EC³, dated 24 October 2007, authorising the placing on the market, pursuant to Article 7(3) and 19(3) of Regulation (EC) N° 1829/2003 of the European Parliament and of the Council on genetically food and feed⁴ of products containing, consisting of, or produced from genetically modified maize NK603xMON810, 59122, and 1507xNK603 respectively.

Your request for internal review has been lodged on the basis of Title IV of Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies⁵.

You argue that the labelling provisions set out in Article 3 of each of these Decisions are in contradiction with the labelling requirements laid down in the Regulations of the European Parliament and of the Council (EC) N°1829/2003 and (EC) No 1830/2003 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/EC⁶.

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¹ OJ L 285, 31.10.2007, p. 37,

² OJ L 285, 31.10.2007, p. 42.

³ OJ L 285, 31.10.2007, p. 47.

⁴ OJ L 268, 18.10.2003, p.1.

⁵ OJ L 264, 25.9.2006, p. 13.

⁶ OJ L 268, 18.10.2003, p. 24

Article 3 of the three Decisions, entitled "labelling," reads as follows:

"1. For the purpose of the labelling requirements laid down in Article 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 documents accompanying products (...)"

You consider that it follows from these three Decisions that the respective authorization-holders do not have to label their products with the words "genetically modified" but merely with the words "maize" and "not for cultivation".

The Commission however cannot follow this interpretation of the above mentioned Decisions.

According to the Commission, the reference, in Article 3 of these three Decisions, to the word "maize" is not intended to replace the labelling requirements set out in the corresponding articles of Regulation (EC) No 1829/2003 and Regulation (EC) No 1830/2003, but only to complete them.

Indeed Article 13(1) and 25(2) of Regulation (EC) No 1829/2003, as well as Article 4(6) of Regulation (EC) No 1830/2003, contain mandatory rules applicable to food and feed containing or consisting of GMOs, as well as to food and feed produced from or containing ingredients produced from GMOs, which require these products to be labelled as such. Depending on the case, the wording which, according to these provisions, shall appear on the label are: "genetically modified", "produced from genetically modified (name of the ingredient)", "contains genetically modified (name of the organism)", "contains (name of the ingredient) produced from genetically modified (name of the ingredient)" and "produced from genetically modified (name of the organism)".

The reference provided for in Article 3 of the three Decisions to the word "maize" aims therefore only at describing the "name of the organism" which is subject to the labelling obligations laid down in the two basic Regulations. This is evidenced by the wording of the first paragraph of the Article 3 of these Decisions: "For the purpose of the labelling requirements laid down in Article 13(1) and 25(2) of Regulation (EC) No 1829/2003 and in Article 4(6) of Regulation (EC) No 1830/2003". It is also explicated in the recital of these Decisions related to the labelling. See for instance recital 8 of Decision 2007/701/EC which reads as follows:

"on the basis of the EFSA Opinion, no specific labelling requirement other than those provided for in Articles 13(1) and 25(2) of Regulation (EC) N° 1829/2003 appears to be necessary for the foods, food ingredients, and feed containing, consisting or produced from NK603xMON810 maize".

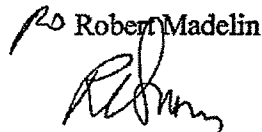
Furthermore, as explained in the same recitals of Decisions 2007/701/EC, 2007/702/EC and 2007/703/EC, the obligation to mention the words "not for cultivation" on the label of and in documents accompanying the product aims at ensuring that the product will be used "within the limits of the authorisation".

The reference to the words "*maize*" and "*not for cultivation*" in Articles 3 of Commission Decisions 2007/701/EC, 2007/702/EC and 2007/703/EC therefore do not aim to replace the requirements set out in Regulations (EC) No 1829/2003 and (EC) No 1830/2003 to label the presence of GMOs, or products derived from GMOs, in food and feed but only to designate the identity of the organism concerned and to draw the attention of the consumer to the limits of the authorisation.

On the basis of the aforementioned observations, the Commission considers that there are no contradictions between the above mentioned Decisions and Regulations (EC) No 1829/2003 and (EC) No 1830/2003. As a consequence, Decisions 2007/701/EC, 2007/702/EC and 2007/703/EC are in line with provisions of law regarding the environment and do not need to be amended by the Commission.

Should you not agree with the present reply, you may bring the matter before the Ombudsman or before the Court of First Instance if you have a complaint which falls within the conditions laid down in Articles 195 and 230 respectively of the Treaty establishing the European Community.

Yours sincerely,

 Robert Madelin

