European Parliament
2014-2019

Committee on the Environment, Public Health and Food Safety

2017/0000(RSP)

6.6.2017

DRAFT MOTION FOR A RESOLUTION

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

on the draft Commission implementing regulation amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance clothianidin
(D050283 – 2017/0000(RSP))

Committee on the Environment, Public Health and Food Safety

Member responsible: Julie Girling

B8-0000/2017

European Parliament resolution on the draft Commission implementing regulation amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance clothianidin (D050283 – 2017/0000(RSP))

The European Parliament,

– having regard to the draft Commission implementing regulation amending Implementing Regulation (EU) No 540/2011 as regards the conditions of approval of the active substance clothianidin (D050283),

– having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC[1], and in particular the second alternative of Article 21(3) and Article 78(2) thereof,

– 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 exercise of implementing powers[2],

– having regard to the Commission Implementing Regulation (EU) No 485/2013 amending Implementing Regulation (EU) No 540/2011, as regards the conditions of approval of the active substances clothianidin, thiamethoxam and imidacloprid, and prohibiting the use and sale of seeds treated with plant protection products containing those active substances[3],

– having regard to the guidance by the European Food Safety Authority on the risk assessment of plant protection products on bees[4],

– having regard to the peer review by the European Food Safety Authority of the pesticide risk assessment for the active substance clothianidin in light of confirmatory data submitted[5],

– having regard to Directive 2009/128/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides[6],

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

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1 OJ L 309, 24.11.2009, p.1.
2 OJ L 55, 28.2.2011, p. 13.
3 OJ L 139, 25.5.2013, p. 12.
4 EFSA Journal 2013; 11(7):3295 [266 pp.].
5 EFSA Journal 2016; 14(11):4606 [34 pp.].
6 OJ L 309, 24.11.2009, p. 71.

– having regard to Rule 106(2) and (3) of its Rules of Procedure,

A. whereas honey bees and other pollinators play a vital role in agriculture; whereas insect pollination is estimated to add an annual value to the global economy of USD 235 to 577 billion [7];

B. whereas access to plant protection products is an essential part of the toolbox available to farmers enabling them to meet the objectives of achieving food security and reducing food losses;

C. whereas Directive 2009/128/EC on the sustainable use of pesticides and national action plans ensure and enforce the safe use and handling of plant protection products; highlights the importance of good stewardship practices including the responsible use of crop protection products within a sustainable integrated pest management programme;

D. whereas Directive 2009/128/EC on the sustainable use of pesticides recognises the need for a broad range of plant protection products with different modes of action;

E. whereas if groups of chemistries used for plant protection are restricted, the remaining groups will become more widely used, resulting in an increased risk of pests developing resistance to them[8]; whereas, for many arable crops there are no alternatives to neonicotinoid seed treatments to address pest pressure, for example, in the case of sugar beet - which will be impacted by this proposal - the control of aphids and the diseases they transmit is entirely reliant of neonicotinoid seed treatments because the aphids are resistant to all other control chemistries[9];

F. whereas one of the guiding principles of Union policy is the 'substitution principle'[10] whereby substances are gradually replaced by newer, safer and more sustainable alternatives, whereas restricting the use of neonicotinoids may lead to a situation of "reverse substitution"[11] whereby farmers will switch to reliance on older substances;

G. whereas a report published by the French Ministry of Agriculture in 2015 recommended against extending restrictions to cover seed treatment for sugar beet until a reliable alternative has been developed[12];

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7 www.ipbes.net%2Farticle%2Fpress-release-pollinators-vital-our-food-supply-under-threat&usg=AFQjCNEK-_mhE7VyJO-4m27U91DYCVxrnw&sig2=HJRjeO1fsH3-tyPAcKgEzQ

8 "Rothamsted questions EU pesticide ban as chemicals industry eyes Brexit for breakthrough on bees", 10 May 2017, available at: https://www.rothamsted.ac.uk/news/rothamsted-questions-eu-pesticide-ban-chemicals-industry-eyes-brexit-breakthrough-bees

9 Ibid.

10 Lofstedt R. (2013), "The substitution principle in chemical regulation: a constructive critique", Journal of Risk Research.

11 Norman L., Carreck & Francis L., W. Ratnieks (2014), "The dose makes the poison: have "field realistic" rates of exposure of bees to neonicotinoid insecticides been overestimated in laboratory studies?", Journal of Apicultural Research, 53:5, 607-614.

12 http://agriculture.gouv.fr/rapport-filiere-betterave-sucre-francaise-perspective-fin-des-

H. whereas Member States have thus far granted a total of 62 derogations to the existing restrictions on the three suspended neonicotinoids[13]; whereas derogations for specific substances are only granted in case of emergency, are subject to strict controls, and are limited to a maximum period of 120 days, on the basis of Article 53 of Regulation (EC) No 1107/2009;

I. whereas there has been no assessment carried out by the Commission to estimate the impacts of switching to alternative products; whereas increased application of alternative pesticides may lead to unintended environmental impacts including the effects on non-target organisms, and increased water consumption and greenhouse gas emissions[14];

J. whereas the Humboldt Forum for Food and Agriculture published a research report in 2013[15] estimating that restrictions on neonicotinoid pesticides on uses covered by the present proposals would result in 3 million hectares of crop production being relocated outside of the Union, resulting in significant additional CO_2 emissions and water consumption;

K. whereas evidence shows that major declines in pollinator biodiversity occurred in European countries before 1990[16] and thus before the introduction of neonicotinoids in the 1992[17]; whereas the Commission's own data shows that since that date there has been an increase in overall honeybee colony numbers; over the past 13 years there has been a 35% increase in the number of hives[18];

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quotas

13 http://www.pan-europe.info/sites/pan-europe.info/files/20170215%20Press%20Release%20Hearing%20neonics%20Bee%20Emergency%20Call%20report%20on%20derogations%20of%20neonics.pdf

14 HFFA (2017), "Banning neonicotinoids in the European Union: An ex-post assessment of economic and environmental costs", Research Paper 01/2017, this research paper was financed by Bayer and others.
ADAS (2016), "The impact of the neonicotinoid withdrawal on the EU oilseed rape and maize industries", GOL(16)798:2, unpublished briefing paper.
Dewar A. M. (2016), "The adverse impact of the neonicotinoid seed treatment ban on crop protection in oilseed rape in the UK", Pest. Manag. Sci.. accepted author manuscript, doi:10.1002/ps.4511.
Presentation by Jonas Kathage (JRC), "Pest management after neonicotinoid and fipronil restrictions", 11 January 2017, Brussels.

15 http://www.hffa.info/files/wp_1_13_1.pdf

16 Carvalheiro LG., Kunin WE., Keil P., Aguirre-Gutierrez J., Ellis WN., Fox R. et al., "Species richness declines and biotic homogenisation have slowed down for NW-European pollinators and plants", Ecol Lett 16:870–878 (2013).

17 Blacquière T., Smagghe G., Van Gestel CAM and Mommaerts V., "Neonicotinoids in bees: A review on concentrations, side-effects and risk assessment", Ecotoxicology 21:973–992 (2012).

18 Report from the Commission to the European Parliament and the Council on the implementation of the measures concerning the apiculture sector of Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common

L. whereas data from the COLOSS honey bee research association shows that colony losses doubled during the winter following the entry into force of Regulation (EU) No 485/2013[19];

M. whereas there has been an increased focus on conservation measures and actions to protect biodiversity on farmland under the common agriculture policy (such as agri-environment schemes) which have helped to improve the situation over the past 20 years; whereas those pollinators most common in agricultural settings did not show declining trends compared to species found outside of these areas[20];

N. whereas there is little evidence on wild pollinator population trends; whereas according to a study published by the Commission[21] which looked at population trends for European bee species, 7,7% (150 species) of the species have declining populations, 12,6% (244 species) are more or less stable and 0,7% (13 species) are increasing, and the population trends for 1 535 species (79%) remains unknown;

O. whereas there is a general consensus in the scientific community that bee and wider pollinator populations are not affected or threatened by one single factor[22]; whereas studies including one carried out by an EU Reference Laboratory have found that the factors contributing to pollinator losses were primarily the parasitic varroa mite and other pests and diseases, as well as weather, habitat loss, and forage quantity/quality[23];

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organisation of the markets in agricultural products, 7.12.2016, COM(2016) 776.

19 Coloss, http://www.coloss.org/coloss; http://www.coloss.org/publications/2016-coloss-proceedings-romania; http://www.coloss.org/announcements/losses-of-honey-bee-colonies-overthe-2015-16-winter; http://www.coloss.org/announcements/losses-of-honey-bee-colonies-over-the-2014-15-winterpreliminary-results-from-an-international-study [13 March 2017].

20 Kleijn D., Winfree R., Bartomeus I., Carvalheiro LG., Henry M., Isaacs R. et al., "Delivery of crop pollination services is an insufficient argument for wild pollinator conservation", Nat Commun 6:7414 (2015).

21 http://ec.europa.eu/environment/nature/conservation/species/redlist/downloads/European_bees.pdf

22 Neumann P. and Carreck NL., "Honey bee colony losses", J Apicul Res 49:1–6 (2010); Ratnieks FLW. and Carreck NL., "Clarity on honey bee collapse?" Science 327:152–153 (2010); VanEngelsdorp D. and Meixner MD., "A historical review of managed honey bee populations in Europe and the United States and the factors that may affect them" J. Invert Pathol 103:S80–S95 (2010); 12 Moritz RFA, de Miranda J., Fries I., Le Conte Y., Neumann P. and Paxton RJ., "Research strategies to improve honeybee health in Europe", Apidologie 41:227–242 (2010); 17 De la Rúa P., Jaffé R., Dall'Olio R., Muñoz I. and Serrano J., "Biodiversity, conservation and current threats to European honeybees", Review Apidologie 40:263–284 (2009); Kluser S., Neumann P., Chauzat M-P. and Pettis JS., UNEP Emerging Issues: Global honey bee colony disorder and other threats to insect pollinators (2011), available: http://www.unep.org/dewa/Portals/67/pdf/Global_Bee_Colony_Disorder_and_Threats_insect_pollinators.pdf

23 Blacquiere T. and van der Steen J., (2016) Three years of banning neonicotinoid insecticides based on sub-lethal effects: can we expect to see effects on bees? Pest

whereas of these factors it is estimated that the greatest threat to honeybee populations is varroa, and habitat loss is the major challenge facing wild bee populations;

P. whereas varroa mite control, viruses and the age of the queen are all part of the management choices of beekeeper and are often overlooked in the policy debate[24]; whereas more attention needs to be paid to the other causes of pollinator decline, particularly pathogens and parasites[25];

Q. whereas the Commission's EPILOBEE colony loss monitoring programme reported a correlation between beekeeper experience and colony losses, indicating the importance of good beekeeping practices as critical to colony health[26];

R. whereas the Commission noted in 2012 that "no link between the correct use of pesticides, in particular insecticides, and the decline in bee populations has been established so far"[27];

S. whereas the guidance developed by the European and Mediterranean Plant Protection Organisation (EPPO)[28] is the most current, scientifically acknowledged basis for the risk assessment of plant protection products on bees in the European Union; whereas EPPO guidance, last updated in November 2010 is the legally applicable basis for the risk assessment of plant protection products for bees in the Union[29];

T. whereas the present proposal is based on the 2016 evaluation by the European Food Safety Authority (EFSA) of confirmatory data[30] using its unapproved guidance on the risk assessment of plant protection products on bees[31];

U. whereas internationally validated test guidelines are not available for many of the tests prescribed by the guidance on the risk assessment of plant protection products on bees;

V. whereas in December 2013, the Commission, EFSA and Member States had acknowledged the need for a revision of certain elements of the document and that it could not be implemented as such; whereas so far, no progress has been made in several

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Manag Sci, Status and value of pollinators and pollination services at https://www.gove.uk/government/groups/pollinators-expert-advisory-group

24 Neumann P. and Blacquière T., "The Darwin cure for apiculture? Natural selection and managed honey bee health", Evol App 10:226–230 (2017).

25 Smith KM., Loh EH., Rostal MK., Zambrana-Torrelio CM., Mendiola L. and Daszak P., "Pathogens, pests, and economics: drivers of honey bee colony declines and losses", EcoHealth. 10:434–45 (2014).

26 https://ec.europa.eu/food/sites/food/files/animals/docs/la_bees_epilobee-report_2012-2014.pdf

27 Decision of the European Ombudsman closing his inquiry into complaint 512/2012/BEH against the European Commission, paragraph 10, 02 Oct 2012.

28 https://www.eppo.int/PPPRODUCTS/honeybees/honeybees.htm

29 onlinelibrary.wiley.com/doi/10.1111/j.1365-2338.2010.02419.x/abstract;jsessionid=8BB9B573CDD80D9D0A1A3B6F85AC979A.f03t03

30 EFSA Journal 2016;14(11):4606 [34 pp.].

31 EFSA Journal 2013;11(7):3295.

of the identified areas[32];

W. whereas there is no scientific data from testing under realistic field conditions and with a correct mode of application which link the use of neonicotinoids to colony losses for honeybees; whereas the limited number of field studies which have been carried out, such as large scale field monitoring conducted in northern Germany, where bees were allowed to forage naturally among treated crops, no evidence was found to suggest a harmful impact on bees from the use of neonicotinoid insecticides[33];

X. whereas if it is not possible to identify harm caused by neonicotinoids under true field conditions then it will likely be impossible to detect any measurable benefit of restricting the use of neonicotinoids;

Y. whereas the studies assessed by EFSA ("Spring 2012 studies")[34] have all been subject to criticism, including that the doses of insecticide administered to bees were unrealistically high, and that studies were poorly designed[35];

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32 Conclusions of Commission Workshop on EFSA Guidance Document on the Risk Assessment of Plant Protection Products on Bees, 11-12 December 2013, Brussels.

33 Schmuck R. & Lewis G., "Ecotoxicology: Review of field and monitoring studies investigating the role of nitro-substituted neonicotinoid insecticides in the reported losses of honey bee colonies (Apis mellifera, Ecotoxicology (2016)", DOI: 10.1007/s10646-016-1734-7; Heimbach, F., Russ, A., Schimmer, M. et al. "Large-scale monitoring of effects of clothianidin dressed oilseed rape seeds on pollinating insects in Northern Germany: implementation of the monitoring project and its representativeness, Ecotoxicology (2016)", DOI: 10.1007/s10646-016-1724-9; Rolke D., Persigehl M., Peters B. et al. "Large-scale monitoring of effects of clothianidin-dressed oilseed rape seeds on pollinating insects in northern Germany: residues of clothianidin in pollen, nectar and honey" Ecotoxicology (2016), DOI: 10.1007/s10646-016-1723-x; Rolke D., Fuchs S., Grünewald B. et al., "Large-scale monitoring of effects of clothianidin-dressed oilseed rape seeds on pollinating insects in Northern Germany: effects on honey bees (Apis mellifera)", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1725-8; Sterk G., Peters B., Gao Z. et al. "Large-scale monitoring of effects of clothianidin-dressed OSR seeds on pollinating insects in Northern Germany: effects on large earth bumble bees (Bombus terrestris)", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1730-y; Peters B., Gao Z. & Zumkier U., "Ecotoxicology: Large-scale monitoring of effects of clothianidin-dressed oilseed rape seeds on pollinating insects in Northern Germany: effects on red mason bees (Osmia bicornis)", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1729-4.

34 Gill RJ, Ramos-Rodriguez O and Raine NE, "Combined pesticide exposure severely affects individual – and colony – level traits in bees", Nature 491:105–119 (2012), Whitehorn PR., O'Connor S., Wackers FL. and Goulson D., "Neonicotinoid pesticide reduces bumble bee colony growth and queen production", Science 336:351–352 (2012), Lu C., Warchol KM. and Callahan EA., "In situ replication of honey bee Colony Collapse Disorder", Bull Insectol 65:99–106 (2012); Henry M., Béguin M., Requier F., Rollin O., Odoux J-F., Aupinel P., et al., "A common pesticide decreases foraging success and survival in honey bees", Science 336:348–351 (2012).

35 "The dose makes the poison: have "field realistic" rates of exposure of bees to

Z. whereas the publication of this proposal took place before the EFSA review of the data call-in which is scheduled to be completed in November 2017 and may have indicated that the present restrictions are no longer scientifically justified; whereas preliminary results from an ex-post analysis conducted by the Joint Research Centre highlight that beneficial insect presence did not improve in the years following the adoption of Regulation (EU) No 485/2013;

AA. whereas the proposed measures apply to non-bee-attractive crops including sugar beet, winter cereals and leafy vegetables;

AB. whereas sugar beet grows below ground and does not flower before harvest; whereas therefore neonicotinoid seed treatment of sugar beet constitutes a highly unlikely route of exposure for bees[36];

AC. whereas it is established[37] that winter cereals are not an attractive source of pollen[38] and no incidents related to exposure of honeybees to neonicotinoids used in the sowing of winter cereals have ever been reported;

AD. whereas risks from dust emissions for both cereals and sugar beet were considered as acceptable based on several higher tier studies submitted to the rapporteur member state; whereas EFSA has regrettably failed to take into account evidence delivered by submitted higher tier studies, partially because an adequate review was considered not feasible in the framework of the confirmatory data procedure[39];

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neonicotinoid insecticides been overestimated in laboratory studies?", the International bee Research Association (IBRA), November 2014, available at http://www.ibrabee.org.uk/index.php/component/content/article?layout=edit&id=3727

36 "Neonicotinoids in sugar beet cultivation in Central and Northern Europe: Efficacy and environmental impact of neonicotinoid seed treatments and alternative measures": http://www.sciencedirect.com/science/article/pii/S026121941630357X

37 "Evaluation Manual for the Authorisation of Plant protection products and Biocides according to Regulation (EC) No 1107/2009", NL part Plant protection products, Chapter 7, Ecotoxicology: terrestrial, bees version 2.1, October 2016, http://ctgb.nl/docs/default-source/gewas.-toetsingskader/evaluation-manual-v2.1/nl-part-v2.1/g-7-ecotox-terrestrial-bees-nl-em2-1-alg.pdf?sfvrsn=2; van der Steen, et. al., 2015 report n. 606, Wageningen University, Steen J. van der en Cornelissen B., Dracht in Nederland (cultuurgewassen en wilde planten) (deel II) Rapport 606. http://edepot.wur.nl/343688

38 USDA United States Department of Agriculture, 2015, "Attractiveness of agricultural crops to pollinating bees for the collection of nectar and/or pollen", available at https://www.ree.usda.gov/ree/news/Attractiveness_of_Agriculture_crops_to_pollinating_bees_Report-FINAL.pdf

39 For example for clothianidin, despite the submission of 8 complex higher tier studies by the registrant for cereals and sugar beet EFSA concluded "Overall, it was agreed that these studies alone are not sufficient for estimating the exposure from dust deposition and it was considered that no refined risk assessment could be performed." [EFSA, 2016. Conclusion on the peer review of the pesticide risk assessment for the active

AE. whereas the Commission has sought to partially justify in recital 6 of the draft Commission implementing regulation the extension of the restrictions to non-bee-attractive crops on exposure to residues in succeeding crops; whereas for clothianidin "Chronic and acute risks to bees were … identified in succeeding crops for all field uses" according to EFSA's conclusion;

AF. whereas the Commission considers neonicotinoid residues in succeeding crops to be a route of exposure posing an unacceptable risk to honey bee colony survival; whereas the EFSA conclusions regrettably assume the highest exposure scenario as standard exposure; highlights that multi-year infield realistic exposure values were submitted by the applicant, showing that the 96% of nectar samples and 98% of pollen samples had residues below the maximum value and 92% of nectar and 56% of pollen had no measurable residues of clothianidin;

AG. whereas studies evaluated by the Rapporteur Member State[40] led it to the conclusion that exposure to residues of clothianidin in succeeding crops was an acceptable risk to honey, bumble and solitary bees;

AH. whereas under the principle of proportionality as expressed in Article 5 of the Treaty on European Union and in Protocol (No 2) on the application of the principles of subsidiarity and proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties; whereas in this case it is neither demonstrated that this proposed measures will actually achieve a positive impact on bee and pollinator populations, nor is it demonstrated that this objective could not be met by less burdensome means, such as prohibiting the planting of bee attractive crops in the year following the use of neonicotinoid seed treatments have been used, or

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substance clothianidin in light of confirmatory data. EFSA Journal 2016;14(11):4606, 41 pp. doi:10.2903/j.efsa.2016.4606]

40 Schmuck R. & Lewis G., "Ecotoxicology: Review of field and monitoring studies investigating the role of nitro-substituted neonicotinoid insecticides in the reported losses of honey bee colonies (Apis mellifera, Ecotoxicology (2016)", DOI: 10.1007/s10646-016-1734-7; Heimbach F., Russ A., Schimmer M. et al., "Large-scale monitoring of effects of clothianidin dressed oilseed rape seeds on pollinating insects in Northern Germany: implementation of the monitoring project and its representativeness", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1724-9, Rolke D., Persigehl M., Peters B. et al., "Large-scale monitoring of effects of clothianidin-dressed oilseed rape seeds on pollinating insects in northern Germany: residues of clothianidin in pollen, nectar and honey", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1723-x; Rolke D., Fuchs S., Grünewald B. et al., "Large-scale monitoring of effects of clothianidin-dressed oilseed rape seeds on pollinating insects in Northern Germany: effects on honey bees (Apis mellifera)", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1725-8; Sterk G., Peters B., Gao Z. et al., "Large-scale monitoring of effects of clothianidin-dressed OSR seeds on pollinating insects in Northern Germany: effects on large earth bumble bees (Bombus terrestris)", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1730-y, Peters B., Gao Z. & Zumkier U., "Ecotoxicology: Large-scale monitoring of effects of clothianidin-dressed oilseed rape seeds on pollinating insects in Northern Germany: effects on red mason bees (Osmia bicornis)", Ecotoxicology (2016), DOI: 10.1007/s10646-016-1729-4.

through the promotion of product stewardship measures such as seed treatment certification schemes and the use of deflectors during sowing[41];

AI. whereas Regulation (EU) No 485/2013 is subject to several pending annulment proceedings before the Court of Justice of the European Union[42]; whereas judgements in those court cases can be expected in the coming weeks; whereas if the plaintiffs in each case are successful then Article 266 of the Treaty of Functioning of the European Union would require the Commission to take all necessary measures to comply with the judgment, including repealing or withdrawing any subsequent acts or proposals affected by the same grounds for annulment; whereas each ground for annulment invoked before the Court in these cases would apply equally to the present proposal;

AJ. whereas in the review of authorisations of plant protection products under Regulation (EC) No 1107/2009 it is usual to identify data gaps;

AK. whereas in the present case the Commission relied on the identified data gaps themselves to justify the proposed restrictions; whereas based on EFSA's opinion the Commission failed to explain why the data gaps and alleged risks identified by EFSA warrant these measures; whereas there is no explanation why the risks identified are unacceptable and therefore why clothianidin no longer meets the approval criteria under Regulation (EC) No 1107/2009;

AL. whereas the Commission has thus failed to provide any positive conclusion based on evidence that the approval criteria of clothianidin are not met, as required by the applicable legal provisions under Article 21 of Regulation (EC) No 1107/2009[43];

AM. whereas according to the Commission's Better Regulation Guidelines[44], "an IA [impact assessment] is required for Commission initiatives that are likely to have significant economic, environmental or social impacts"; whereas it highly likely that the proposal for the draft implementing regulation will have significant economic impacts given the widespread economic losses as a result of Regulation (EU) No 485/2013[45]; whereas no such impact assessment was conducted prior to the proposal for the draft implementing

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41 http://esta.euroseeds.eu/; https://beecare.bayer.com/media-center/beenow/detail/reducing-dust-drift-to-protect-pollinators

42 T-429/13 and T-451/13.

43 In order to review and amend existing active substance approvals under Article 21 of Regulation (EC) No 1107/2009, the Commission must reach a conclusion – based on new technical and scientific knowledge – that the approval criteria are no longer met. The approval criteria in point 3.8.3 of Annex II to the plant protection products regulation are based on showing – using an appropriate risk assessment – an unacceptable risk to honeybee colony survival and development.

44 SWD (2015) 111.

45 HFFA (2017), "Banning neonicotinoids in the European Union: An ex-post assessment of economic and environmental costs", Research Paper 01/2017, "Banning Neonictoinoids in the European Union – An ex-post assessment of economic and environmental costs", Noleppa S. 2017, http://hffa-research.com/new-hffa-research-paper-published-the-economic-and-environmental-costs-of-banning-neonicotinoides-in-the-eu/

regulation being published;

AN. whereas according to the Communication from the Commission on the precautionary principle[46], where action is proposed based on the precautionary principle "a comparison must be made between the most likely positive or negative consequences of the envisaged action and those of inaction in terms of the overall cost to the Community, both in the long- and short-term. The measures envisaged must produce an overall advantage as regards reducing risks to an acceptable level"; whereas no such analysis was made prior to the proposal for the draft implementing regulation being published;

AO. whereas in his opinion in Case C-111/16 Advocate General Bobek finds that the precautionary principle cannot give any legal ground to the adoption of emergency measures beyond the terms of the relevant legal provision, and that a higher standard for adopting emergency measures is warranted where the products in question have already been approved and have undergone a scientific assessment;

1. Considers that the draft Commission implementing regulation exceeds the implementing powers provided for in Regulation (EC) No 1107/2009;

2. Considers that the draft Commission implementing regulation is not consistent with Union law in that it fails to demonstrate that the approval criteria of the active substance clothianidin are no longer met, as required by the applicable legal provisions under Article 21 of Regulation (EC) No 1107/2009;

3. Considers that the draft Commission implementing regulation is not consistent with Union law in that it violates the principle of proportionality by failing to demonstrate that the proposed measures are necessary to achieve the objectives, and by failing to demonstrate that the proposal could not be achieved my less burdensome means;

4. Calls on the Commission to promote and finance more research on pollinators in order to obtain accurate information on population trends and to better address the different causes of pollinator declines, particularly parasites and pathogens; considers that this will allow future legislative proposals aimed at protecting pollinator populations to be based on scientific evidence;

5. Calls on the Commission to withdraw its draft implementing regulation;

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

[46] COM (2000) 1.