

To: Minister of Agriculture Mr John Steenhuisen
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Private Bag X250, Pretoria, 0001
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CC: The Registrar: Act No. 36 of 1947, Mr. Jonathan Mudzunga
Agriculture Place, 20 Steve Biko Road, Pretoria
Private Bag X343, Pretoria, 0001
Tel: (012) 319-6530, Fax: (012) 319-7179
MalutaM@Dalrrd.gov.za

6 December 2024

Dear Minister Steenhuisen,

**REQUEST FOR INTERVENTION RE NO RESPONSE OR ACTION FROM REGISTRAR RE
REQUEST FOR REVIEW OF 2,4-D PESTICIDE**

We write to you from the African Centre for Biodiversity (ACB), a non-profit organisation focused on research and advocacy for food sovereignty and agroecology in Africa. Our work focuses on biosafety, seed systems, and agricultural biodiversity.

The ACB has been engaging with biosafety issues for the past 21 years at national, regional, and international levels. It has a long track record of interacting with the Executive Council (EC) established in terms of the Genetically Modified Organisms Act. This includes the ACB having submitted more than 60 objections regarding various applications for approval, involving diverse genetically modified organisms (GMOs) and associated herbicides for various activities.

It has also participated in various stakeholder consultations over the years, as well as having been involved in litigation with the Department and Bayer/Monsanto regarding its GM drought-tolerant maize.

In this letter, we urgently request your intervention regarding our request to the Registrar one year ago, requesting him to institute a review on the continued registration of 2,4-D in terms of Section 4 of Act 36 of 1947. This application was supplemented with a further submission on the 28th of March 2024, by us, and since then, we have had no response to the various follow-ups we made by us.

Fair administrative justice demands that a response must be furnished to us, setting out the decision of the Registrar, as well as his reasons for such decision. However, since the Registrar is unable or unwilling to discharge his duties in terms of South Africa's administrative justice law, we are now turning to you Mr Minister, to take whatever steps you deem necessary to ensure that a decision regarding our request is communicated to us, within a reasonable time, from the date of receipt of this letter, and as required by our Constitution and the Promotion of Administrative Justice Act.

For your ease of reference, we set out below the history of our engagements with the Registrar, as well as bringing to your attention the link between the toxic pesticide, 2,4-D, and GM seed and crop plants in South Africa.

Further to this, we briefly summarise the grounds upon which we have requested a review of the registration of 2,4-D.

Engagement with the Registrar, in regard to 2,4-D

- On the 6th of December 2023, we submitted a formal application in writing to the Registrar requesting him to review the registration of 2,4-D.¹
- On the 10th of January 2024, the ACB followed up with the Registrar's office, having failed to receive acknowledgment of receipt of our submission. Only then was an email received from the Registrar's office acknowledging receipt of our submission and advising us that the Registrar was on leave, and they would revert once he was back.
- On the 30th of January, the ACB received a written response from the Registrar's office requesting more information. The ACB asked for some time to respond to this request.
- On the 28th of March, the ACB supplemented its submission substantially, in response to the questions raised by the Registrar's office.²
- Despite follow-ups, we only received an acknowledgment response from the Registrar's office on the 9th of July.
- The ACB continued to make written follow-ups with the Registrar but to date, we have not received any response.
- On the 28th of November, the ACB noted the lack of response from the Registrar, writing to advise that we would be bringing this matter to you as Minister, for intervention. We would like to state that it has been exactly a year since we made our submission, and there has been no substantive response from the Registrar.

Our rights to fair administrative justice are being severely undermined and we request that you kindly remedy this situation.

Situation regarding GM 2,4-D varieties in South Africa

2,4-D was first registered for use in South Africa in 2007 and it is currently banned in ester form and restricted from use in several parts of South Africa. In 2012, the South African government approved its first 2,4-D herbicide-resistant GM maize variety (DAS40278-9) by Dow AgroSciences (now Corteva) for commodity clearance, despite civil society opposition. A similar approval followed in 2013 for a 2,4-D resistant soybean variety (DAS 44406-6).

¹ <https://acbio.org.za/gm-biosafety/south-africa/24d-submission-south-africa/>

² <https://acbio.org.za/gm-biosafety/24d-highly-hazardous-pesticide-south-africa>

Following these approvals, **2,4-D resistant GM maize varieties** including multiple stacked varieties (combining 2,4-D with other traits) have received approvals between 2015 and 2024 for import and trial releases, commodity clearance, and general release. These include:

- DAS40278-9 (general release 2019)
- NK603 x DAS40278-9 (general release 2019)
- MON89034 x 1507 x NK603 x DAS40278-9 (general release 2019)
- MON89034 x TC1507 x MON 88017 x DAS 59122-7 x DAS 40278-9
- NK603 x T25 x DAS 40278-9
- MON89034 x TC1507 x MIR162 x NK603 x DAS 40278-9 (general release 2023)
- MON89034 x TC1507 x MIR162 x NK603 x DAS 40278-9 and
- DP202216 x NK603 x DAS40278-9

All general-release maize seed varieties containing the transgenic trait to confer tolerance to 2,4-D have been permitted for import for planting since 2020.

Furthermore, concerning **2,4-D soybean GM varieties**, there have also been approvals for stacked varieties for commodity clearance, import and trial release, and import for planting for events approved for general release. These varieties include:

- DAS44406-6 (general release)
- DAS68416 x MON89788-1
- DAS44406-6 x DAS81419-2 (general release)

The ACB has opposed applications for the authorisation of the use of several GM events that are engineered to resist herbicides such as 2,4-D in South Africa for the past 10 years and thus is on record, in this regard. In these objections, we have raised several concerns surrounding:

- regulatory failures;
- herbicide residue risks;
- risks to human health and biodiversity from aerial spraying;
- environmental and health concerns; and
- entrenchment of corporate control of agriculture in South Africa,³ all of which are deeply concerning.

³ See https://acbio.org.za/wp-content/uploads/2023/12/Call-review-deregistration-24D_ACBsubmission_Dec2023-1.pdf

We continue to reiterate that the proliferation of 2,4-D products and the extensive commercial cultivation of GM maize genetically engineered to withstand copious amounts of 2,4-D will increase the use of toxic chemicals within the food and agricultural system in South Africa, posing unacceptable risks to the health of farmers, farm workers, consumers, biodiversity and the environment at large.

As such, the ACB has for years demanded transparency and multidisciplinary, inclusive, public assessment of the environmental, socio-economic, and food safety impacts of GMOs and their associated chemicals, based on the precautionary principle, which is well entrenched in international and South African environmental law, taking especially into account that maize is a staple food in SA for tens of millions of people.

In addition, the ACB has continued to urge the government to ban highly hazardous pesticides, including 2,4-D, and transition out of industrial agriculture.

ACB's request for Review and Deregistration of 2,4-D to the Registrar (Act 36, 1947)

On the 6th of December 2023, the ACB, supported by 18 organisations/networks in South Africa, made a substantive submission (hereby attached for your reference) to the Registrar of the Fertilisers, Farm Feeds, Seeds and Remedies Act 36 of 1947, to institute a review in terms of section 4 of the Act, into the continued registration of the toxic chemical 2,4-D.⁴

In the submission, the ACB outlined potential key health and environmental impacts of 2,4-D, and placed this issue within the South African context.

Regarding health impacts, the ACB has particularly highlighted impacts such as:

- Cancer
- Oxidative stress
- Immunosuppression
- Impact on the auditory function in infants
- Haemal, liver, and kidney issues

⁴ Ibid

- Reproductive health effects
- Neurological health impacts
- Adverse impacts on the environment and biodiversity

Specifically, the ACB emphasised that 2,4-D, which is an immunosuppressant, is being used in a country with the highest rate of HIV/AIDS in the world. As such, GM varieties sprayed with 2,4-D pose a threat to the State's health programme, with its massive expenditure on bringing down the levels of mortality from HIV/AIDS. The ACB further called on the Registrar to exercise a precautionary approach and proactively prevent reasonably foreseeable harm.

In January 2024, the ACB received a response from the Registrar to the submission (hereby attached for your reference). His response entailed a reference to the Globally Harmonised Systems (GHS) and the European Chemicals Agency (ECHA) classification and labelling of chemicals, pointing out these two bodies could not establish links between 2,4-D and cancer, oxidative stress, immunosuppression, endocrine disruption, reproductive damage in males and auditory damage of the developing child.

The Registrar requested the ACB to provide additional information linking 2,4-D to these potentially harmful and unacceptable impacts.

In March 2024, the ACB duly made a follow-up submission (hereby attached for reference) based on the request from the Registrar, wherein the ACB set out, in great detail, information on health and environmental impacts, where we specifically stated that the GHS and ECHA systems are not the final determinants of risks, hazards and health impacts of chemicals but constitute only guidance to manufacturers, retailers, or governments.

The ACB reiterated that the Registrar must act in line with the precautionary principle and review the further registration of 2,4-D chemicals, in the public interest, based on the initial and follow-up submissions made by the ACB.

Regrettably, since the follow-up submission from the ACB, we have not received any letter or email from the Registrar containing his decision, as is required by our administrative justice legislation. We look forward to your expeditious intervention in this matter and to a formal decision from your department to our request.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mariam Mayet', with a stylized flourish at the end.

Mariam Mayet,
Executive Director
African Centre for Biodiversity (ACB)

