

Bayer AG – Investor Relations

Investor Conference Call

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Welcome

Oliver Maier

Head of Investor Relations, Bayer AG

Thank you, everybody, for joining today's second briefing call after the announcement we've made last night regarding the series of agreements that will substantially resolve the legacy Monsanto litigation, including Roundup, dicamba and PCB.

We have with us today, as last night, Werner Baumann, our CEO, Wolfgang Nickl, our CFO, Liam Condon, President of our Crop Science business and Bill Doderer, our Global Head of Litigation.

You should have received, obviously, all the press release and the announcement we've had last night. I would like to start the call also here by drawing your attention to the cautionary language that is included in our safe harbour statement as well as in all the materials that we have distributed yesterday.

[See disclaimer](#)

We have a little change. As we've had huge participation last night, and the narrative is online on our website, we will use the time today just for a short Q&A and we will won't read the narrative one more time. So we would like to open up for Q&A right away, and to see if there are any questions remaining based on the material that you had to digest since last night.

Questions and Answers

Jo Walton, Credit Suisse

Hello, it's Jo Walton here with Dominic. We just have a few questions about the degree of closure that you can get from this. So, if I could start with just looking at the science panel, who is going to be the – how are they going to be chosen? Presumably the scientists needs to be mutually agreed by both sides, and is there any body of evidence that you can point to that the scientists can use in their review that was not available to the juries? The agricultural health survey, of course, was available

to the juries and yet it didn't seem to sway them. And, if you could, give us some sense as to why it's going to take so long to come to a decision.

So that's one aspect to it, and then just a broader one on, is there anything you can do differently, going forward, that appears to remove you and the regulators from being seen so closely? So it appears that in the past a lot of the issues have been, 'Well, the regulators would say that, wouldn't they, because that's what the industry has told them.' So I don't know if there's anything that you can do that gives us more sort of confidence that this sort of thing won't happen again, if there's anything you can do with more external publications.

And just a final thing, do you have a timeline for when the judge is going to rubber-stamp this and the settlement can get underway? Thank you.

Werner Baumann

Okay, thank you, Dominic. So your question one on the science panel and then also on the scientist selection and the available information and studies and so on, and your last one on when the judge is going to rule, are going to be taken by Bill Dodero and then followed by Liam, who is going to talk about what is being done currently, what can be done differently in order to, let's say, reduce our exposure relative to regulation and litigation. Bill, please.

Bill Dodero, Global Head of Litigation, Bayer AG

Yes, good morning, everyone. The panel members, by agreement, are selected through a robust process. They are to be experts in their field. They will be selected by the parties by mutual agreement, and if there is not mutual agreement each party will select two; the four will select the remaining fifth. Importantly, the panel members will be objective, of course, learned in their areas, and will not have been involved for either party in the litigation to date. They will objective and a blue-ribbon panel to fully assess the evidence.

The evidence they will assess is the full evidentiary record that regulators the world over have long looked at and for 40-plus years have relied on to independently assess and find, as is the case, that glyphosate is safe and not carcinogenic. For example, the EPA interim decisions will be made available to the panel. They were not to the juries. So the fulsome review will involve all evidence that is available. Importantly as well, Bayer will post the public non-proprietary evidence that the panel is to be reviewing, so it is transparent.

And finally, to the other question Werner asked me to address, we don't know exactly when the judge will take on the preliminary approval hearing. We expect it to be very quickly, and after the issues preliminary approval there would be a 150-day notice period for class members and opt-out opportunity.

I'll turn over to Liam.

Liam Condon, President Crop Science Division, Bayer AG

Thanks, Bill. Thanks, Jo, for the question. So maybe just again to highlight, from a regulatory point of view, and if we stick to just the concrete example of glyphosate, basically every regulator in the world has again confirmed the safety and the fact that the product is non-carcinogenic, and nonetheless we lost the first three cases, as you know. And I think the underlying issue is there is a

lack of public trust, and this has potentially multiple reasons, and we're trying to actively address this now with a multitude of different approaches.

Number one is we believe there needs to be significantly more transparency around the scientific data that is behind the product safety. So I think there was a sense, and this was kind of brought forward in some of the media reporting around the jury trials, that somehow the scientific data was loaded. So what we're doing is basically making all of our scientific data related to glyphosate publicly available and explaining to anybody who's interested, whether it's journalists, investors, anybody, basically inviting them also to our own labs to explain how scientific studies are actually done.

So a concrete example, in Europe we have the glyphosate re-registration process ongoing since 2017. This is completely open. It's the first time ever that a re-registration process is basically public – all information is publicly available. This is one thing, one key element, so massively enhancing transparency around scientific data.

A second one is, we need to do more consumer outreach and explain why do you even need these products. So a herbicide, a glyphosate, why is this needed. It's easy to be critical of it if you don't see any benefit in the product. So we've got to talk a lot more about the benefits of these products and the way we want to do this, and we're doing this more and more actually together with food companies, because it's food companies who have the connectivity to consumers, and food companies are extremely interested in sustainability nowadays, because a lot of brands are linked to sustainability from a purpose point of view.

And we are explaining that, for example, glyphosate is not only about controlling weeds. It's actually crucial from a sustainability point of view because it allows no-tillage farming, which reduces CO₂ emissions. It allows highly productive farming, which means you can use less land, which means there's more land available for native habitats, which can help protect biodiversity. So these are arguments that we need to be much more open about and get across much more forcefully. So this is part of our approach as well, to do much more consumer outreach and simply explain the benefits of our products. So the science side is rather talking about transparency and then with the consumer outreach explain the benefits of our products.

And the final point I'd make, we're actively working on new business models that put sustainability at their core. A classic example, agriculture today is one of the primary sources of greenhouse gasses, with about 23-25% of greenhouse gasses emitted through agriculture. There is a possibility to make agriculture carbon-zero, and actually herbicides and glyphosate can play a key role in this, again, through CO₂ sequestration. And we're developing a business model that will allow us to help farmers ensure that they have the right practices on the farm to do emission-free farming and to tap them into carbon-trading markets so they can actually get rewarded for their sustainability efforts.

So these are some of the things that we're working on much more forcefully than in the past, because just having science on our side isn't enough.

Werner Baumann

Okay, thanks Liam.

Falko Friedrichs, Deutsche Bank

Thank you and good morning. I would have three questions, please. Firstly, is there a plan B in place if the court doesn't approve the class science panel? Secondly, on dicamba, can you share to what extent the \$400 million payout is giving finality to this litigation or is there a risk that further claims could evolve, going forward? And then thirdly, regarding the \$1.25 billion set apart for potential future glyphosate claims, what happens in the unlikely event that the panel says glyphosate is definitely carcinogenic? Is there a risk that this amount will have to be increased again?

Werner Baumann

Good morning, Falko, and thanks for your questions. So all three are going to be addressed by Bill.

Bill Doder

Yes. First it's important to recall what we've announced is a holistic settlement that, through at least three very important elements, achieves the closure we've long indicated is a requirement. As you know from the reports already and yesterday's materials, settlement of the vast majority of the current litigation already completed, including the trial set cases and the leadership, and we expect to close the rest in due course, so taking care of the currents. For the potential future, the class mechanism, as you know, our confidence is based on the extensive scientific record fully supporting the safety of the product, so the expectation is that the science panel will be a favourable conclusion consistent with the existing evidence.

Certainly a plan B continues along the lines of respecting the full scientific development that has been happening, and as recent as last week the courts are acknowledging, one in California in a Prop 65, that a cancer warning is not required because the product is not carcinogenic. So we are confident that the scientific evidence that is continuing to be well understood provides the appropriate closure for the future context as well.

The dicamba closure, just to give you a sense of it as well, involves product and growing years 2015 through 2020. The closure it provides as well is allotted to the fact that there is a minimum requirement that 97% of the plaintiffs who have advanced claims through those years must participate, and as well, 97% of alleged acreage that suffered a dicamba impact and resulting yield loss that is proven must also participate, so, again, a very high degree of confidence of closure in that, given the requirements that the agreement contemplates.

And, finally, the future claims mechanism in the class panel, the 1.25 is capped for purposes of the class, and even no matter how many participants or class members there are in the class it will not be exceeded. During the review of the class panel work and the benefits that are provided to the class members, that is a capped amount.

Falko Friedrichs

Okay, thank you.

Werner Baumann

Okay, thanks, Bill. I hope that answers your questions, Falko.

Falko Friedrichs

Yes, it does, thank you.

Jemma Permalloo, JP Morgan

Hi, good morning. Thank you for taking my questions. I've got two. So my first one is, on the potential bond issuance alluded in the statement as well, are you in a position to indicate whether that could be a sort of senior unsecured bond or maybe hybrid? And, from a credit perspective, my second question is on your rating. How confident do you think – I mean, you've obviously reiterated your comment about investment grade ratings, but do you think there is a downgrade risk, based on your settlement indications and magnitude? Thank you.

Werner Baumann

Okay, Jemma, thanks. Wolfgang is going to take both questions.

Wolfgang Nickl, Chief Financial Officer, Bayer AG

Could you repeat the first one, please, Jemma?

Jemma Permalloo

Yes, sure, so my first question was if you would be in a position to indicate whether a potential bond issuance, that would be partly used towards the settlement, whether that could be senior unsecured or more the hybrid bond.

Wolfgang Nickl

Yeah, thanks for your questions. So I think we're not going to go into exactly the details what size, what form, etc, a bond could look like. I think we said we will go to the bond market and likely rather soon. It's important to note, again, that we entered the bond market not because we needed as a factor for the settlements. We financed that out of surplus liquidity, free cashflow and the Animal Health proceeds, but it does provide us flexibility in payments. We're mainly going into that market to address maturities that we're going to have in 2020 and 2021.

As it relates – so stay tuned there, Jemma. The ratings, we of course have very active dialogue with the rating agencies. Up until last night we could, of course, not talk to them about details. If you look at all the research on potential settlement amounts, I think we are very well within those ranges, so from that perspective no big surprise. I think they will be positively surprised by the phasing of the pay-outs, that we're not writing a cheque tomorrow, that we have less than 5 million this year, another 5 million next year and then the balance in 2022 and beyond.

So from that perspective we do believe that we clearly stay investment grade, and we have the dialogue with them right now and we'll have to leave it up to the credit committees but we're very confident here, because we continue to be absolutely committed to de-levering our balance sheet while we're doing bold-ons and while we're sticking to the dividend policy. So nothing has really changed there too much, so that should be okay.

Werner Baumann

Okay, thanks, Wolfgang.

Jemma Permalloo

Thank you.

Andreas Heine, MainFirst

Good morning. There are two questions I have. The first is, could you elaborate a little bit how much the legal costs are, this year, next year and to come? Is there anything major we have to think of? And the second is, you addressed already that you have to explain better the advantage of glyphosate. Are there other things in regard of glyphosate, dicamba or other of your agri products where you have to change the way you market it, you label it and anything else you might have learned from all these litigation cases?

Werner Baumann

Okay, thanks, Andreas. Let me take a first step and then hand it over to Wolfgang on the legal costs. So we've announced the settlement cost, which is a comprehensive package that includes also some of the costs of the administrations. We do still have an accrual on the balance that also goes towards administrating and working through the expenses that we expect over the next years to come, and we update these provisions regularly, in line with our accounting policy on a quarterly basis. So there's nothing new that I can tell you right now. The next quarter, and it's not that far away, and that is a standard process that we apply to all of our provisions on the balance sheet.

I don't know, Wolfgang, is there anything else to be said on it?

Wolfgang Nickl

No, I think you said it all. You know, the total legal reserve for three-year defence costs as of end of March was 1.4 billion. You can assume that a substantial portion is for these three complexes that we're putting behind us. And, like you said, we are evaluating this every quarter and will update you as we go.

Werner Baumann

Okay, and then as it relates to the second question you had, Andreas, Liam is going to answer that question.

Liam Condon

Thank you, Andreas. I think it's very similar to Jo. In essence, again, we think this comes back to public trust. I mean, I would remind you we don't expect any change in labelling. All regulators have again confirmed the safety and the non-carcinogenicity of glyphosate. Safety has never been an issue with dicamba. This was a different issue. This was related to drift. So there's no change in labelling. There's no change in the perception of customers, because I had a lot of discussions last night with customers, and they continue to be very positive.

Where we see, really, the bottleneck and where we believe we struggled in the courtroom, was simply for a general public that is far away from farming there's a lack of appreciation of what the benefits of these products actually are. Why do you even need them? So we've got to do a lot more explaining in the public about these benefits. And, again, that starts with being much more transparent about the scientific data behind the products. It goes on to more collaboration with food companies, explaining the sustainability benefits, and goes fully down the chain to developing new business models that do actually tap into the sustainability benefits, again, particularly from a carbon sequestration point of view, because this is something that we can monetise but it's something that will actually help address climate change, and we think that will have a strong consumer appeal. So this is an area where we want to take a leading role.

Werner Baumann

Okay, thanks Liam and Wolfgang.

[Missy Hancock?], Bernstein

Hello. Thanks for taking my questions, and congratulations on a settlement. The question is more, I guess, a clarifying question. As you said in the statement, 25% of unfiled cases and 5% of trial cases, excluding Johnson, Pilliod and Hardeman remain. Are these guaranteed to be covered by the future litigation panel? If not, is this an element that the court is still to rule on, and what is the risk that these – the full amount will not be included in the future litigation panel? Thank you.

Werner Baumann

Yeah, thank you for the question. So Bill is going to take that question for you.

Bill Dodero

Yes, let me also make sure what needs to be understood here, in terms of the holistic resolution and the three parts that we've discussed. The currents, we have settled 95% of the trial set cases and 75% of the current litigation we have active discussions, and the amount that we've disclosed includes an allowance for those remaining cases, with whom we expect to settle in the near term and resolve in the near term, already included in the amounts we've put forward. They are not part of the futures class mechanism which will resolve and manage future claims. They are instead part of the, and included in the, amounts we've disclosed for resolution of the current litigation that are the two really important parts of our holistic announcement yesterday.

Likewise, including as well, just to refresh everyone's memory, the important pendency of our appeals to similarly provide guidance and possibly reduce or forestall any future litigation.

Werner Baumann

Okay, thanks, Bill.

Go ahead. If you have a follow-up clarification go ahead.

Missy Hancock

Thank you. And just to confirm the timing on those remaining cases which are included in this announced figure, do you have a guidance on when you expect to conclude those? Thank you.

Werner Baumann

Bill?

Bill Dodero

Yeah, of course, in any negotiation situation there are two parties at the table. Those conversations continue. We have placed offers and made commitments to offers to all such parties, and we expect it to be rather efficient in the near term. I couldn't give you a precise timing but, given the substantial closure already announced, the benefits to the litigants to settlement and the ongoing discussions, we expect that in due course.

Werner Baumann

Okay, thanks.

Missy Hancock

Thank you.

Peter Spengler, DZ Bank

Thank you. Good morning. Thank you for taking my questions. I have one left, and it's a follow-up question on the question before on the 125,000 cases. So maybe you could build a bridge for us from the 52,500 cases you announced in the first quarter, then yesterday in the call I think I learned that it's a cap, so that's the maximum of cases the attorneys can settle with you. Is this correct? And the third question, again a clarification. The 25% which are not part of the settlement of all the cases, they are obviously not covered, so what can we expect in the future? Is it then – could it be amount of 25% of the settlement agreement that you announced yesterday or is it less, and what's the timeline to settle with the other attorneys? Thank you.

Werner Baumann

Yeah, thanks, Peter, for these questions. They're all very important. I'll ask Bill to address them as well.

Bill Dodero

Yes, the case increase and why our settlement provides the closure we've long indicated is because, with respect to the first part that you noted, the number of filed cases, as disclosed in our quarterly report, were a part of it. The other part are that the plaintiffs' lawyers, through the advertising campaign of which we spoke, accumulate inventories of cases that are not filed or available to us,

but through the settlement process we are able to learn information about and likewise therefore include them in the comprehensive resolution we articulated.

And so it aims to resolve not only those cases that are actually filed in the court but the entire inventory. And that's important because when we settle with a plaintiff, in this example the lead plaintiffs, we want to take care of that entire inventory and resolve their entire holding, both filed and unfiled. That's a very important element to the closure we've announced and obtained.

In terms of the 25% that are simply just not in at the moment, as mentioned, we have made an allowance in the total amount disclosed for settlement, based on our review on ongoing discussions that we believe is sufficient to likewise bring to resolution in the near term the 25% who are not part of yesterday's announcement. Those conversations continue, and because we are able to view and see that inventory of cases, we are able to make an assessment that, based on the track record established through yesterday's settlement, allows us to include that allowance to resolve the remaining 25%.

Of course it's a process and, given the magnitude of the settlement, it takes time. It's not unusual in US mass torts to settle in somewhat of steps. Given the breadth of this litigation and the number and closure we've provided it simply takes both some time and some effort to reach a number of decentralised parties. And so we're confident that our efforts, which continue in earnest, will provide closure fully in due course.

Your last question about the timeline, I can't really speculate, because it is a two-part process, exactly how long it will take but we have, of course, been at this for quite some time. It's, again, been a process where we can see into that inventory to bring the full closure we desire, and we remain at that effort to bring the closure expeditiously.

Peter Spengler

Thank you very much. Very clear.

Bill Dodero

Thank you.

Oliver Maier

Thank you very much for participating, everybody. Looking forward to our next call. Take care.

Cautionary Statements Regarding Forward-Looking Information

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