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**WORKING DOCUMENT FOR THE CONFERENCE 'TOWARDS A NEW PLANT HEALTH LAW'
BRUSSELS, 28 SEPTEMBER 2010**

From June 2009 to May 2010, the Food Chain Evaluation Consortium (FCEC) carried out an evaluation of the Common Plant Health Regime (CPHR). The full report of the evaluation is available on the web page of the Commission dedicated to the evaluation (http://ec.europa.eu/food/plant/strategy/evaluation_CPHR_en.htm). Enclosed with this note is an Executive Summary. The evaluation report and the recommendations for the future contained therein will be the foundation for the coming review of the CPHR.

In the light of the urgent need for a new plant health strategy and revised legislation, the Commission has decided to speed up the legislative process and has included the plant health review in the Commission Work Programme (CWP)¹ which lists the major policy initiatives. The CWP foresees adoption by the Commission of the new plant health strategy, included in legislation, by 2012. Commission initiatives with significant impacts should be accompanied by an impact assessment (IA).

During the evaluation process, Member States, stakeholders and external experts have been consulted through questionnaires, interviews and at the Conference 'Modernising the Common Plant Health Regime in view of Globalisation and Climate Change' on 23-24 February 2010. Consultation will continue during the coming review phase (2010-2012). First step in these consultations is to check with stakeholders and Member States the key elements that will change in the regime that will have significant economic, social or environmental impacts; elements that should be assessed further through the Commission's Impact Assessment process.

The current working document lists the areas of the evaluation report for policy change and suggests the areas that we believe should be included in the impact assessment. The objective of the working document is to agree at the conference 'Towards a new plant health law' on the key areas the impact assessment should focus on and the areas where further assessment is not necessary. Views on the recommendations and options proposed by the FCEC in relation to the scope of the impact assessment can be sent to robert.baayen@ec.europa.eu up to 4 weeks after the conference. A summary report of the input received during the discussion at the conference and in the reply period after the conference will be uploaded on the relevant web page.

¹ http://ec.europa.eu/governance/impact/planned_ia/docs/148_sanco_plant_health_en.pdf

Proposal of DG SANCO concerning the key areas of policy change that are likely to have significant economic, social or environmental impacts:

- (1) Scope of CPHR
 - (a) Invasive alien species (IAS)
 - (b) Regulated non-quarantine pests (RNQP)
- (2) Intra-EU surveillance obligations
- (3) Plant passport system
 - (a) Scope
 - (b) Harmonisation
- (4) Protected zones system
- (5) Incentives for effective implementation
 - (a) Co-financing of measures against natural spread
 - (b) Coverage of losses of growers, cost-responsibility sharing, plant health fund, sanctions

Reasoning:

Substantive impacts could ensue for recommended options which expand the scope of the regime (1 – IAS; 3 – RNQP) (see below under category A). This could also be the case when existing elements of the regime are substantially modified or obligations expanded (5 – mandatory surveillance; 7 – tightening of the plant passport system; 8 – upgrading the protected zones system) (see below under category B).

Recommendations with substantial financial impacts do require inclusion in the impact assessment (2 – solidarity funding in cases of natural spread; 5 – co-financing of surveillance; 9 and 15 – introduction of incentives, co-financing losses of destroyed plant material, cost-responsibility sharing schemes, plant health fund) (see below under category C).

No impact assessment is necessary for recommendations which do not bring along substantial modifications of the regime but rather focus at improved practices (4 – import; 6 – emergency action) (see below under category D). Widely supported recommendations on horizontal issues without multiple policy options do not require impact analysis either (10 – research; 11 – diagnostics; 12 – training; 13 – EU/MS emergency team; 14 – communication) (see below under category E).

The new plant health law will build on the entire series of recommendations from the evaluation report, regardless of whether they are included or not in the impact assessment. The new plant health law will not be restricted to recommended changes that were included in the impact assessment. The purpose of the impact assessment is to further analyse specifically those changes that are likely to have significant economic, social or environmental impacts.

A. Recommendations² expanding the scope of the regime:

Recommendation 1: Invasive Alien Species

– OPTIONS:

- i. *Status-quo*
- ii. *Explicit inclusion of IAS plants of economic impact [direct and indirect impact on plant health] (e.g. invasive weeds) [clarification of application] – examples here would be *Cyperus esculentus* and *Striga spp.*;*
- iii. ***Inclusion of IAS plants with wider/ environmental impacts (habitats and ecosystems) and/or economic impacts on wider range of stakeholders [Impact via plants on plant health and biodiversity] (this would include aquatic plants) – examples here would be *Hydrocotyle ranunculoides*, *Eichhornia crassipes*;***
- iv. *Inclusion of IAS with important human health impacts [Impact via plants on human health] - examples here would be *Ambrosia artemisifolia*, *Thaumatococcus danoniana*, and *Toxicodendron radicans*;*
- v. *Inclusion of IAS vertebrates with impact on plants [moving in the direction of the DG ENV IAS strategy] – an example here would be the grey squirrel (*Sciurus carolinensis*).*

– PROPOSAL: Include in IA

- REASON: Significant impacts possible of full alignment with IPPC scope on resources of Commission and Member States for implementation of plant health regime

Recommendation 3: Regulated non-quarantine pests (RNQPs)

– OPTIONS:

- i. *Status quo (PH remains quarantine regime, with some improvements);*
- ii. ***Zero tolerance regime: manage RNQPs by positioning within PH regime all HOs for which zero tolerance is required;***
- iii. *Specified tolerance regime: introduce RNQPs with threshold levels other than zero within the PH regime, as a specific Annex to the Directive 2000/29/EC.*

– PROPOSAL: Include in IA

- REASON: Amendment of scope of CPHR versus S&PM regime (options ii and iii) may have significant impacts on the volume/costs of import controls (no import controls required for harmful organisms if only regulated by S&PM regime). Combining inspections and certification for both regimes may be more efficient and reduce the administrative burden.

B. Recommendations substantially modifying existing elements of the regime or expanding obligations:

Recommendation 5: Intra-EU surveillance

– OPTIONS:

- i. *Status quo (with emphasis on improving enforcement);*
- ii. ***Development of common principles and guidelines for harmonized surveillance and reporting;***

² Options from the evaluation report; options recommended in the report are given in bold.

- iii. *General surveillance mandatory at EC level for priority HOs (other than Emergency Measures and Control Directives) (agreed at EC level and carried out by MS; covering areas where pests could be established):*
- iv. *Introduction of co-financing for surveillance.*

– PROPOSAL: Include in IA

– REASON: Significant impacts possible on MS and EU budgets for plant health

Recommendation 7: Plant Passport (PP) system

– OPTIONS:

- i. *Status quo (with emphasis on improving enforcement);*
- ii. *Revise the scope of application, in terms of:*
 - a. *Adjust and define application specificities, e.g. lot or individual plant, source and species to improve transparency and administrative manageability;*
 - b. *Define stage of marketing chain to which plant passports should apply (chain extends from importer/grower to final consumer);*
- iii. *Harmonise plant passport document;*
- iv. *Setting up an EU wide database.*

– PROPOSAL: Include in IA

– REASON: Revision of the plant passport system may have significant impacts on administrative burden for private operators

Recommendation 8: Tightening the system of Protected Zones (PZ)

– OPTIONS:

- i. *Status quo with improvements (enforcement):*
 - a. *Improve surveillance targets (more proportionate approach);*
 - b. *Involve stakeholders;*
 - c. *Harmonised eradication programmes;*
 - d. *Ending status on time (timing and procedure);*
- ii. *Moving to PFA concept:*
 - a. *Maintain PZ in addition to PFA;*
 - b. *Abolition of PZ system;*

– PROPOSAL: Include in IA

– REASON: Revision of the PZ system links into the plant passport system revision

C. Recommendations with substantial financial impact:

Recommendation 2: Natural spread

– OPTIONS:

- i. *Status quo;*
- ii. *Inclusion in scope of regime of measures concerning presence (in addition to movement, which is current focus);*
- iii. *Inclusion of prevention measures (for natural spread) in solidarity regime.*

– PROPOSAL: Include in IA

- REASON: Significant impacts possible on EU/MS budget for plant health

Recommendation 9: Incentives

- OPTIONS:

- i. *Extend current scope of solidarity:*
 - **Eradication measures (current scope):**
 - a. *Extend (within current scope) to cover loss of destroyed material;*
 - b. *Extend (within current scope) to cover business losses;*
 - **New measures (new scope):**
 - c. *Co-financing of certain measures e.g. surveillance, contingency planning;*
- ii. *Potential role for cost-responsibility sharing (in line with current discussion on such initiatives in the context of the EU Strategy on Animal Health).*

- PROPOSAL: Include in IA

- REASON: Significant impacts on EU/MS budget for plant health

Recommendation 15: Financial Framework

- OPTIONS:

Only a recommendation is given concerning the need to increase resources and/or prioritise to meet the objectives set out in the options. The recommendation also refers to the need for a financial instrument for better preparedness in case of emergency such as a Plant Health Fund (= Recommendation 9).

- PROPOSAL: Include in IA (under Recommendation 9)

- REASON: Significant impacts on EU/MS budget for plant health

D. Recommendations largely focussing on improved practices:

Recommendation 4: Prevention strategies at import

- OPTIONS:

- i. *Status quo with improvements ('soft' interventions);*
- ii. *Widen the list of HOs subjected to import controls (Annexes to Directive 2000/29/EC);*
- iii. ***For emerging risks (particularly new trade in plants for planting/ propagating material (PM): commodity pathway analysis;***
- iv. *For plants for planting/propagating material strengthen measures:*
 - a. ***Official post entry inspections for latent HOs;***
 - b. *Improve collaboration with country of origin, including via pre-export inspections where necessary (e.g. on the basis of repeated interceptions for certain products from certain origins);*
 - c. ***On the basis of commodity pathway analysis, introduce import bans where necessary.***

- PROPOSAL: Not necessary to include in IA

- REASON: Broad support for improvement and better application of the current system

Recommendation 6: Emergency action

- OPTIONS:
 - i. *Status quo, with improvements;*
 - ii. ***Horizon scanning;***
 - iii. ***Compulsory development of contingency plans according to harmonized framework;***
 - iv. *Minimum mandatory emergency actions (e.g. definition of demarcated areas, intensifying monitoring);*
 - v. ***Speed up process for adoption and adaptation of both emergency and control/eradication measures.***
- PROPOSAL: Not necessary to include in IA
- REASON: Broad support; no significant financial impacts foreseen

E. Widely supported recommendations on horizontal issues without multiple policy options:

Recommendation 10: Research and development and scientific advice

- OPTIONS:

Only a recommendation is given concerning the need to continue EUPHRESKO for coordination of national research funding, the availability of stable EU/MS plant health research funding, and cooperation between SANCO, EFSA and EPPO.
- PROPOSAL: Not necessary to include in IA
- REASON: Broad support; no significant financial impacts foreseen

Recommendation 11: Diagnostics

- OPTIONS:

Only a recommendation is given concerning the need to enhance the diagnostic capacity in this sector in the EU, to complete the establishment of NRLs in MS and to establish EU-RLs.
- PROPOSAL: No direct need for further analysis in IA
- REASON: Broad support; no significant financial impacts foreseen

Recommendation 12: Training

- OPTIONS:

Only a recommendation is given concerning the need to continue and strengthen training activities.
- PROPOSAL: Not necessary to include in IA
- REASON: Broad support; no significant financial impacts foreseen

Recommendation 13: EU/MS emergency team

- OPTIONS:
Only a recommendation is given concerning the need to establish an EU/MS Emergency Team.
- PROPOSAL: Not necessary to include in IA
- REASON: Broad support; no significant financial impacts foreseen

Recommendation 14: Communication and transparency

- OPTIONS:
Only a recommendation is given concerning the need for an increased public and political awareness through EU and MS level public awareness campaigns.
- PROPOSAL: Not necessary to include in IA
- REASON: Broad support; no significant financial impacts foreseen