

1. INTRODUCTION

1.1 What is the name of your organisation?

Lantmännen SW Seed AB

1.2 What stakeholder group does your organisation belong to?

Breeder of S&PM; Supplier of S&PM; International company

1.2.1 Please specify

1.3 Please write down the address (postal, e-mail, telephone, fax and web page if available) of your organisation

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2. PROBLEM IDENTIFICATION

2.1 Are the problems defined correctly in the context of S&PM marketing?

No

2.2 Have certain problems been overlooked?

Yes

2.2.1 Please state which one(s)

We support the Commission in its overall objective to more strongly reflect the link of agriculture to sustainable development in the S&PM legislation. However, we are of the opinion that the Commission has completely misinterpreted the term "productivity" in relation to sustainability. Agriculture has to meet the demands of a growing population when at the same time the agricultural land decreases, thus yield is and remains an important part of sustainable agriculture. The VCU system already includes sustainability, as the evaluation of value for cultivation includes a combination of characteristics such as resistances to pests and diseases, nitrogen efficiency, tolerance to different soil conditions (dry, low/high pH, salinity etc), and, of course, yield per hectare. May it be that the value for cultivation and use is somewhat differently interpreted in different countries, but the main reason for that is the different climatic conditions between and/or within countries. Other factors that contribute to less harmonization between member states in VCU evaluation is different quality requirements from the processing industry (and other users) and the financing of the system. This misconception of sustainability is found through out the "Option and analysis" paper, leading to strange conclusions regarding the impact of the different systems evaluated and proposed. We believe that changing from directives into a regulation is positive with regard to the implementation, but we also believe that the complexity of the legislation will remain, thus the objective to simplify will not be fulfilled to the extent that the Commission wishes. The burden of administration in the implementation of the current S&PM legislation is not only a problem for public bodies, but as much so for the private sector.

2.3 Are certain problems underestimated or overly emphasized?

Underestimated

2.3.1 Please indicate the problems that have not been estimated rightly

We would like to refer to our answers given under 2.2.1. Some problems have been underestimated, and some have been overestimated. The statement in the "Options and Analysis" paper that the VCU system is inflexible is an underestimation of the potential of the VCU system. The VCU system has a built in flexibility; it is rather how that flexibility is used by the competent authorities in registration of new varieties that limits its use. The flexibility would not benefit from more detailed requirements and guidelines, but rather from more involvement from the stakeholders, for example by assuring that variety committees making decisions or

recommendations for variety listing consist of representatives from relevant stakeholders (public authorities, breeders, farmers, processors, etc.). The role of niche markets, such as organic production and conservation varieties, is overestimated throughout the paper. These markets are indeed valuable and contribute to the diversification of agricultural and horticultural production in the European Union. The "Options and Analysis" paper assign these niches an unproportionate importance resulting in unbalanced conclusions on the need for changes in the current S&PM legislation.

2.4 Other suggestions or remarks

3. OBJECTIVES OF THE REVIEW

3.1 Are the objectives defined correctly in the context of S&PM marketing?

No

3.2 Have certain objectives been overlooked?

Yes

3.2.1 Please state which one(s)

The initial objectives of the S&PM remain of great importance (improve productivity in agriculture to ensure food security in the EU, to improve the competitiveness of related sectors and to contribute to the harmonisation of the legislation at EU level). We would however like to emphasize the importance of longterm competitiveness of EU agriculture in an international perspective. Limited access to improved plant varieties as an effect of the conservative view on the use of new technologies and tools in plant breeding will have a negative impact on the competitiveness of all stakeholders in the agricultural sector. Competitiveness is also closely connected to fostering innovation, which is one of the specific objectives. The Commission has chosen to connect the objective "foster innovation" to sustainability (third bullet point under 3.2. in the "Option and Analysis" paper), which we believe is a far too narrow interpretation, especially given the scope of sustainability as used in the paper.

3.3 Are certain objectives inappropriate?

Yes

3.3.1 Please state which one(s)

The specific objective "improve farmers' choice and access to a wide diversity of plant varieties" is inappropriate. It should not be a objective in itself of the legislation to obtain "a wide diversity". The objective should rather state that the future S&PM regulation should secure access to varieties beneficial for the farmers and for society.

3.4 Is it possible to have a regime whereby a variety is considered as being automatically registered in an EU catalogue as soon as a variety protection title is granted by CPVO?

No

3.5 If there is a need to prioritise the objectives, which should be the most important ones? (Please rank 1 to 5, 1 being first priority)

Ensure availability of healthy high quality seed and propagating material

1

Secure the functioning of the internal market for seed and propagating material

2

Empower users by informing them about seed and propagating material

5

Contribute to improve biodiversity, sustainability and favour innovation

3

Promote plant health and support agriculture, horticulture and forestry

4

3.6 Other suggestions and remarks

We are not in favour of having to prioritize among the objectives as many of them are equally important and the objective of the legislation should be to find a balance between the objectives listed above. The answer given under 3.4 is justified as follows: - we wish to maintain VCU as a requirement for variety registration, hence an EU PBR grant cannot qualify for variety registration as VCU is and shall not be evaluated for the purposes of granting PBR; - PBR is and should remain a voluntary system for intellectual property protection of plant varieties, whereas VCU should be a requirement for registration of commercialisation of varieties. A breeder does not always apply for protection and the system proposed under 3.4 would force breeders to do so; - protected varieties are not necessarily commercialised, e.g. parental lines in hybrids, and thus it would be wrong to force breeders this way to have their varieties listed; - application for national protection is still possible and the EU PBR system would be favoured in an unfair way should the proposed system be implemented; - according to Article 3 of the council regulation 2100/94, the Community PVR system "shall be without prejudice to the right of the Member States to grant national property rights for plant varieties" and the proposal in 3.4 of this questionnaire would undermine that right of the member states, unless also national protection automatically qualifies for immediate registration into the EU Common Catalogue; - the proposal in 3.4 would indirect require a variety to be "new" (as defined in council regulation 2100/94) to qualify for registration and we are not in favour of introducing such a feature for variety registration.

4. OPTIONS FOR CHANGE**4.1 Are the scenarios defined correctly in the context of S&PM marketing?**

No

4.2 Have certain scenarios been overlooked?

Yes

4.2.1 Please state which one(s)

It is extremely difficult to make a proper evaluation of the scenarios as presented as they give rise to many more questions than they answer, and as they are presented we believe that none of them will achieve the objectives of the review.

4.3 Are certain scenarios unrealistic?

Yes

4.3.1 Please state which one(s) and why

Scenario 1 is unrealistic as the problems in today's S&PM directives will remain, and one of the specific objectives of this review of the regulation is to reduce costs which will not be achieved if full recovery from the stakeholders of costs incurred by the public authorities shall be obtained. Furthermore, scenario 1 only focuses on one of the objectives. Scenario 3 and 4 are unrealistic as they will be confusing to the stakeholders considering the complexity of the systems and the two parallel systems that would be established under such a regime. We also believe that abolishing mandatory seed certification will increase the use of farm saved seed, hence this will have an opposite effect on the specific objective to foster innovation in plant breeding. We also believe that scenario 4 favours niche markets out of proportion to the actual situation. We wish to maintain VCU assessment for variety registration, continuing taking into account sustainability INCLUDING assessment of yield. The proposed VCU and certification approaches as described in scenario 3-5 will be detrimental to consumer protection, sustainability and competitiveness of the S&PM sector on the international market.

4.4 Do you agree with the reasoning leading to the discard of the "no-changes" and the

"abolishment" scenarios?

Yes

4.5 Other suggestions and remarks

5. ASSESSMENT OF OPTIONS

5.1 Are the impacts correctly analysed in the context of S&PM marketing?

No

5.2 Have certain impacts been overlooked?

Yes

5.2.1 Please state which one(s)

The impact on consumer protection would have been a valuable feature in this analysis, especially concerning traceability in the case that mandatory seed certification is abandoned. The impact on international competitiveness on removing the requirement on VCU for variety registration in terms of the possibility for varieties registered on the EU Common Catalogue to be included on the "OECD list of varieties eligible for certification" should be considered.

5.3 Are certain impacts underestimated or overly emphasized?

No opinion

5.3.1 Please provide evidence or data to support your assessment:

5.4 How do you rate the proportionality of a generalised traceability/labelling and fit-for-purpose requirement (as set out in scenario 4)?

5 = not proportional at all

5.5 How do you assess the possible impact of the various scenarios on your organisation or on the stakeholders that your organisation represents?

Scenario 1

Rather negative

Scenario 2

Very beneficial

Scenario 3

Very negative

Scenario 4

Very negative

Scenario 5

Fairly beneficial

5.5.1 Please state your reasons for your answers above, where possible providing evidence or data to support your assessment:

Scenario 1 is rated as "rather negative" as it will lead to increased costs for plant breeding and seed companies and not fulfill any of the objectives of the review. Scenario 2 is rated as "very beneficial" as we believe that the stakeholders could take more responsibility for evaluation (VCU) of new varieties. Varieties could be evaluated and recommended regionally to a larger extent and would to greater extent be adapted to the market needs rather than to the national VCU trials. Scenario 3 and 4 are rated as very negative as we believe that stakeholders will be confused by two parallel systems for variety registration and seed certification and because

those systems may lead to increased use of farm saved seed. Moreover, in scenario 4 testing for VCU remains but "tests for yield and value for use will be optional", again proving the narrow scope of "sustainability", which is most unfortunate. Scenario 5 is rated as "fairly beneficial" as it is not a significant change to the present system, although it is very difficult to understand the impact of the system as very little detail is given on the scenario.

6. ASSESSMENT OF SCENARIOS

6.1 Which scenario or combination of scenarios would best meet the objectives of the review of the legislation?

A combination of scenarios

6.1.1 What are your views with regards to combining elements from the various scenarios into a new scenario?

The level of detail given in the "Option and Analysis" paper in describing the scenarios does not provide sufficient information on the features of the different scenarios. There is far too much room for interpretation in the description of the scenarios. With our interpretation of the scenarios we believe that scenario 2 with some features from scenario 5, would be the most efficient and flexible scenario, and that such scenario could possibly fulfill the general and specific objectives of the review. We support strengthening the role of the CPVO and to allow for variety catalogues with more detailed VCU information. Concerning harmonisation and the level of detail of criteria for variety registration we refer to our answer given under 2.2.1. We believe that it is important to maintain the requirement on seed certification as a quality assurance system, effective towards both farmers and the seed industry. We fear a significant increase of farm saved seed if mandatory seed certification was to be abandoned.

6.1.1 Please explain the new scenario in terms of key features

6.2 Do you agree with the comparison of the scenarios in the light of the potential to achieve the objectives?

No

6.2.1 Please explain:

It is very difficult to make an unbiased comparison of the scenarios in the light of the potential to achieve the objectives. Certain parts of the impact analysis summarized in 6.2 of the "Option and Analysis" paper are hard to understand as there seems to be a lack of knowledge about the seed market. For example, the impact of scenario 4 on "Reduction of costs and administrative burden for the industry" is rated as "Large positive impact". What the Commission seems not to have taken into account in this case is that the removal of mandatory VCU for variety registration does not mean that the industry will stop performing its own VCU trials, through extension service providers, cooperatives and so on. Removing mandatory VCU does not remove the need for VCU evaluations as these are important tools in the marketing and commercialization of plant varieties. Thus we cannot anticipate any significant reduction of costs for the industry as an impact of the scenario 4 approach on variety registration. The same applies to the administration; the industry still needs to set up systems for seed quality control and traceability, which also requires a significant administration, and hence also cost. We believe that the S&PM system works fairly well and that it won't benefit from fundamental changes. Hence, we conclude that the comparison does not reflect our view and experience of the seed industry.

7. OTHER COMMENTS

7.1 Further written comments on the seeds and propagating material review:

The description of the scenarios and the use of terms is not consistent in the "Option and analysis paper", which forces the reader to make guesses on the intention on some terms used. Should for example "variety registration" in the sentence "variety registration continues to be an obligation" as described in scenario 2 be interpreted as having the same meaning as "VCU" in "VCU of agricultural crops will no longer be a legal requirement" as described in scenario 3? The

scenarios are much too generally described and therefore extremely difficult to evaluate and compare.

7.2 Please make reference here to any available data/documents that support your answer, or indicate sources where such data/documents can be found:

