

**1. INTRODUCTION****1.1 What is the name of your organisation?**

Monsanto

**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)**

Question 2.1: About the “issues and problems that may require actions” (point 2.2 of the “Options and analysis paper”) we think that some of the problems have not been correctly identified and/or the issues addressed: Complexity and fragmentation of the legislation: While we fully subscribe to the observations about the complexity and the objective of an improved consistency and a simplification of the legal base of Seed Marketing in the EU, we would like to highlight that “more fundamental changes” should not mean to go away from the current pillars of the worldwide seed marketing regulations established on variety registration based on DUS, VCU and seed certification (the two last parameters for agricultural crops only). High level of administrative burden in particular for public authorities: The document proposed is highlighting administrative burdens generating cost for the public sector. We think that, in the current system, the pressure on the private sector should not be underestimated as well. Therefore, the objectives of the revision of the regulation as a potential transfer of activity and cost from public to private are wrongly stated. It should be about simplification and harmonization leading to a cost saving and administrative burden decrease for both stakeholders public and private. Distortions in the internal market: We do share the observations about the non-harmonized implementation of the EU legislation for the various items indicated in the proposed text. We would also propose to add the one related to the authorization for placing on the market seeds of varieties not yet registered but under registration process in one of the member state (based on the commission decision of 1st December 2004). Minimize distortion between members states should be one of the main goals of this regulation revision. Room to strengthen sustainability issues: Sustainability is definitely a key element to take into account as a driver of any regulation about seed marketing in EU. There are always room for improvement but it is wrong to say that “Under the current system the main focus of testing is on improving productivity” which also intend to oppose productivity and sustainability. Productivity is a strong element of sustainability: with the constant reduction of arable land (70 kha/year in France, largest agricultural country of the EU27), to produce more goods per hectare basis is an imperative and this should come from, in part, the utilization of improved varieties for genetic yield potential. Seed regulation should allow identifying the high yield potential varieties. This increased production should be obtained with the consumption of less input per quantity produced. This reduction should be supported by the seed regulation incentivizing characters such diseases resistance allowing pesticide use reduction, draught tolerance leading to less irrigation for some crops, fertilization efficiency. It is important to

highlight that some of those criteria are already taken into account in the regulations in place for variety registration in some EU countries (key diseases: bonus/malus + elimination systems in place in France for oilseed crops (Sunflower, Oilseed Rape), mandatory resistance claims for vegetable seed registration in CPVO protocols, testing protocols for official trials without fungicide treatment (Oilseed Rape UK) without irrigation (Sunflower France)... An other illustration is the work currently developed by some registration offices to take into account in the variety registration system new local regulation (Grenelle de l'environnement in France) or other EU regulations (Nitrates directive, Ecophyto 2018) and some of them are quite advanced.

Question 2.2: Problems / issues being overlooked: The remark is more that some problems have been wrongly looked at instead of over looked. As mentioned above, administrative burden and cost is as critical currently for the private sector as for the public one. The way sustainability is being addressed here is biased by a too restrictive definition of this concept. Also, one of the elements missing about "Distortion within EU" is the one related to customer information and the current inconsistency between members state on the time required to go from the national list to the EU one as well as the delay existing between any national listing and publication on the common catalog.

### **2.3 Are certain problems underestimated or overly emphasized?**

Underestimated

#### **2.3.1 Please indicate the problems that have not been estimated rightly**

1. Overly emphasized - As an element of complexity, the diversity of the current testing requirements between crops highlighted here is mainly relevant for VCU protocol for some agricultural crops (but not all: protocols are relatively consistent for corn all over Europe) but not at all for DUS testing which present already a high level of consistency mainly based on UPOV guidelines. - Development of organic production as a solution to environmental issues is highly overestimated in this analysis. Development of organic production at a very large scale would lead to a decrease of the production increasing the gap with the increased international demand for food supply generating environmental issues. As well, overemphasis of mechanical weed control program, for example, against well managed chemical one would increase soil erosion risk and Green-house Gas emission that would not be in favor of the environment. 2.

Underestimated - The risks associated to a massive cost transfer from the public sector to the private one such increased cost of goods for the industry that could affect the final customer and generate inflation or generate resources competitions within the company between administrative tasks and investment in innovation and research, are not taken into account here. This last element will lead to decrease the competitiveness of the European Seed Industry on the worldwide market. - Even if some elements of distortion within EU are highlighted here, the complexity generated by the inconsistency among Member States in interpreting and implementing current EU seed regulation is underestimated: difficulty to get the registration on the national list to access to the EU one, quality, timing and confidentiality of the informations communicated by the officials, duration of the possibility to sell under "provisional registration" (= authorization under "Orange tag" regulation) recognition of official bodies between themselves (for exchanges of DUS report for example)

#### **2.4 Other suggestions or remarks**

Comment about one statement made in point 2.4 of the "Options and analysis paper": "The relative inflexibility of the current variety registration system does not help innovation ensuring access to the market for new varieties giving a higher yield on a same land surface with less need for irrigation, fertilizers or pesticides." This is wrong. As mentioned above, registration systems are flexible and open to take into account the efforts done by the breeding industry on some new variety criteria representing an improvement in term of sustainability and innovation answering to a market demand. Few examples among many others: - Registration of High Oleic sunflower varieties: since many years, the development of HO sunflower varieties (currently more than half of the total sunflower cultivated in France) has been supported by a lower level of requirements on some VCU criteria (including yield) for variety registration. - Introduction of new Pl genes in sunflower varieties for France to control new races of Downy Mildew: accelerated variety scheme

has been developed allowing to faster the introduction of new resistant phenotype answer to a key grower's concern - Shorten registration system established in Hungary to address the equivalent sunflower issue (registration in 1 year of varieties considered as "version" of already registered on). - Shorten registration system established by the Spanish authorities with lower requirements on some criteria, including yield, allowing the registration of sunflower varieties carrying resistant genes to the plant parasite *Orobance cumana* - First DUS cycle done by company for Corn parental lines in France. System has been established with company accreditation to transfer some work from public to private. - Registration systems are open to innovation: ? French authorities have been flexible on the glucosinolates content for introducing hybrid oilseed rape on the market in defining a transition period and in taking into account major agronomical improvements such as disease resistance ? Most of them have room for introducing innovations clearly stated in technical protocol: - new fatty acid composition in oilseed rape introduced in France, UK, Germany, Denmark - new diseases resistance in oilseed rape (ex.: Club Root in UK and Germany). - Registration of Yushu, very high protein content soybean varieties, by CTPS in France despite a yield penalty: this registration has been supported by a study done in common between Monsanto and feed industry. - Specific rules set up by Dutch officials allowing to register some varieties as root stock emphasizing some diseases tolerance traits vs yield

### **3. OBJECTIVES OF THE REVIEW**

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

Yes

#### **3.2 Have certain objectives been overlooked?**

Yes

##### **3.2.1 Please state which one(s)**

see 3.3.1

#### **3.3 Are certain objectives inappropriate?**

Yes

##### **3.3.1 Please state which one(s)**

Question 3.1, 3.2 and 3.3: The policy objectives are clearly defined in the document, nevertheless the weight given to some of them through the way it is presented in the document seems inappropriate in some cases: - General policy objectives: Innovation should be an objective as such and not "only" a support for achieving some goals in term of biodiversity and sustainability. - Specific objectives: ? As already said above, the objective to reduce the cost of the system is not only for the public sector but for the private one as well. ? Access for the farmer to a wide diversity can not be considered as a objective as such. The farmer should get access to variety addressing his main requirements with a high level of information's about the varieties available - Operational objectives: - The enhancement of the role of the common catalogues should be focused on facility to access (WEB access of a unique catalogue for both agricultural crops and vegetable with daily update and simultaneous listing on any national list of any Member State. Content should remain simple and easy to understand focused on information related to registration. - The enhancement of market transparency and improvement of traceability should not come only from the registration of the operators. Maintenance of a system based on mandatory registration based on DUS and VCU for row crops plus seed certification for row crops should also serve the traceability imperative.

#### **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**

3

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

**Empower users by informing them about seed and propagating material**

**Contribute to improve biodiversity, sustainability and favour innovation**

**Promote plant health and support agriculture, horticulture and forestry**

### **3.6 Other suggestions and remarks**

Comment on question 3.4: Variety protection and variety registration can be complementary but can not be reduced at the same time: - Our company policy is to get PVP for all parental lines which are never sold therefore do not need registration. - Not all our hybrid varieties are being protected when we need the registration to place them on the EU market On the other hand we are strongly in favor of full alignment of DUS studies done for protection or for registration purposes. This should lead to a more consistent situation and should allow decreasing the fees paid to get either variety protection either variety registration or both of them. Comment on question 3.5: All the objectives listed in the table are relevant ones but refer to various objectives of the EU Seed Marketing policy revision. Force ranking between those elements would only lead to misinterpretation therefore we will not do it.

## **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)**

see 4.5

**4.3 Are certain scenarios unrealistic?**

Yes

**4.3.1 Please state which one(s) and why**

Scenario 1 looks unrealistic to us as cost recovery by the industry is already the case in some key Member States as stated above and it would only increase cost and administrative burden on the industry which is not realistic within the highly competitive globalized environment. Scenario 3 is unrealistic and not in line with several of the policy goals. It would generate a complexity leading to big confusion at the market place: variety with or without VCU for Agricultural crops, development of varieties with weak diseases resistance profiles hurting sustainability goals, duplication of official catalogues and high risk to see new development of national Recommended List to fill the gap created, generating discrepancies within EU Scenario 4 is unrealistic in the intention to address a specific question related to conservation varieties with local adaptation and interest in term of biodiversity through the establishment of a complete deregulated market beside a highly regulated one. The way to address this very relevant question is inappropriate and would put at risk some of the policy goals such, among others, healthy and quality seeds, information to the users, innovation, competitiveness of S&PM sector on the international market, transparency and traceability as well as consistency with other EU policies.

#### **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**

The level of details in the definitions of the scenarios in the "Options and analysis paper" varies. Scenario 1 will be easier to assess with an evaluation of the cost recovery; especially taking into account that it is already the case for some countries like Germany, France and UK where the level of fees is very high or where a significant part of the workload is already transferred to the industry such the field inspection for certification in France for example. Scenario 2 is probably the better described here keeping the key pillars (DUS, VCU and certification for agricultural crops) which have demonstrated their value through the development of a very strong seed industry in Europe for both Vegetable and Agricultural crops. Nevertheless, when the transfer from public to private is clearly described there, the balance within public between competent authorities of the Member States and CPVO is unclear and status quo about the EU catalogue is not acceptable. Scenario 3 would depend a lot about what the level of coordination and audit at EU level by CPVO would be. What seems clear is that this would lead to a weaker identity testing by transferring the verification entirely to the industry, a double offer to the market with some varieties with VCU data and other without as well as the end of seed certification controlled by official bodies for agricultural crops. scenario 4 : same comment than for scenario 3 would apply. This one goes even further in organizing a double regulation leading to a double seed market in Europe. This would put at risk customer satisfaction, innovation, EU Ag industry competitiveness. Scenario 5 is by far vaguer than the others and we wonder how this would work. We do not see how the coexistence between remaining national catalogues and an EU one would work while CPVO would "coordinate and decide on variety registration" (VCU network will be organized across countries, some countries will not be part anymore of a CPVO testing network ?). We do support the driver of this last scenario that should allow more harmonization, standardization, consistent information for the user through an easier access to the Common Catalogue of varieties. Therefore we would like to see a detailed scenario built on the key elements content in scenario 2 including some key ones from the scenario 5 targeting a high level of harmonization and standardization between Member States and minimizing national interpretations of EU regulation.

### **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)**

- Cost and administrative burden for the public sector versus the private one has been clearly overlooked across all scenarios. - Clearly overlooked is the role of innovation only as a tool to serve sustainability, with a too narrow definition as stated above, and biodiversity. Innovation is also about addressing customers and market demands such new quality traits (new types of oil produced by oil crops, omega 3 sources) non food trait such specific qualities for energy production etc...

#### **5.3 Are certain impacts underestimated or overly emphasized?**

Underestimated

##### **5.3.1 Please provide evidence or data to support your assessment:**

In scenario 3, impacts of both "administrative burden and cost for authorities" as well as on "competitiveness..." are underestimated. In that scenario, the official system should remain in place allowing to complete the VCU done on request and the double regulation would generate complexity and cost. The impact of scenario 4 proposed in the document seems to be very

unrealistic and too positively presented. On top of generating the same risk than the scenario 3 for the two criteria mentioned, this scenario would have a negative impact on “cost and administrative burden for the private sector” in generating a double regulation supporting the development of a different markets and more a very negative impact on innovation through an overall decrease of the seed market value leading to a decrease of the investments in breeding and research by the industry and also a negative impact on the environment by allowing the cultivation on large scale of non adapted varieties not carrying the right diseases resistance profile, for example, supporting the multiplication of pathogens and the apparition of new races that would require more pesticide usage to secure the production.

**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**

Fairly 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:**

As highlighted above: Scenario 1 would increase cost for our company, leading to a resources competition with research activity and to slow down the innovation rate. Scenario 2 combine with some good element about harmonization and centralization of the scenario 5 would be a strong improvement compared to the current situation in keeping the core regulatory principles around variety registration and seed certification while optimizing the overall cost of the system and decreasing the administrative burden. This increased efficiency would allow more concentration on research and innovation instead of administrative tasks to better address new market needs. Scenario 3 and 4, leading to a double regulation and generated a kind of generic seed market, would put at risk all the strategy of the company focused on providing its innovation power to the EU market as well as other places in the world.

**6. ASSESSMENT OF SCENARIOS**

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

Scenario with new features

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

**6.1.1 Please explain the new scenario in terms of key features**

The coming regulation should be based on elements combining scenario 2 and scenario 5 of the “Options and analysis document .

**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:**

As already stated, the scenarios presented are difficult to compare in term of implementation. The level of details provided for each of them varies a lot. What can be clearly identified are the key drivers for each of them allowing to express a more positive feeling or to ask to get them eliminated.

**7. OTHER COMMENTS**

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

**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:**

