1. INTRODUCTION

1.1 What is the name of your organisation?
Nickerson-Zwaan

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)
In relation to question 2.1 and in point 2.2 of the "Options and analysis paper" problems have been identified by us. In question 2 at least part of the problem is not correctly identified. We would like to give following comments: Sustainability: The Analysis Report gives reason to lead to a wrong impression that the current regulation is based on productivity, which "sustainability", a new topic, excludes. Sustainability must be understood as the need to supply sufficient food worldwide using fewer natural resources, including land. Productivity in the sense of production per hectare, will still be needed and it is an essential component of a sustainable horticulture and agriculture. The current regulation already allows for the implementation of environmental criteria. New varieties often show a better performance under stress conditions. Breeding has resulted in big improvements, not only in intensive horticulture and agriculture, but also under low input conditions(see ref. list on 7.2) Complexity and fragmentation of the legislation: The complexity of the legislation is mainly due to differences between crops and their markets, including the requirements of end users. Therefore, segmentation according to species is necessary, but within a framework of overall harmonization. The high level of administrative burden and in particular for the public authorities: According to the problem definition of the paper the administrative burden needs to be lowered for the public sector. We think that the review should not only look at public burdens but also to the burdens that are born by business. The system has to be cost effective for everyone, public and private. Distortions in the internal market: We think that it is not the system by itself which causes distortion, but its lack of harmonized implementation across MS, which is even amplified with the increasing number of MS Additional or stricter national requirements may be applied by Member States and this may lead to a non-harmonized implementation of the legislation. It is indeed possible that there are somewhat different requirements in some Member States but the fact that there are some differences in the requirements does not necessarily lead to a distortion. IT has to be underlined that the stricter national requirements in the context of the S&PM legislation are meant to reflect the environmental conditions that can vary from one Member State to another. As to question 2.2: The following problems / issues have been overlooked: - Page 3 of the "Options and analysis paper" rightly states that the objective – when the S&PM legislation was first developed – was to improve the productivity of agriculture in order to ensure food security in the EU. This objective is still among the key objectives the S&PM legislation has to focus on also in respect of the role of productive agriculture in view of sustainability – as presented under question 2.1. - The lack of consistency between national variety lists and the Common Catalogue is an issue the review of

the S&PM legislation should seek to find a solution to.

2.3 Are certain problems underestimated or overly emphasized?
Underestimated

2.3.1 Please indicate the problems that have not been estimated rightly
Scenario 2 is not flexible: We do not agree with the statement in the report that the current variety registration does not promote innovation towards sustainability. The examination of VCU, as defined in Annex III of directive 2003/90, deals with a package of traits (yield, diseases and pests resistance, physical environment behavior and quality characteristics) which are all important to maintain a sustainable agriculture. Moreover, we need to define what are the best additional criteria for sustainability.

2.4 Other suggestions or remarks
We have some additional remarks on some statements made in point 2.4 of the "Options and analysis paper": I. "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, fertilisers or pesticides." This statement is not true. All these sustainability goals are already taken care of by breeders in their breeding programs. Land use, water use, nutrient use efficiency etc. are all key for achieving the sustainability goal but these can be best measured in terms of yield. We do not agree with the statement that the current variety registration would be inflexible and that it does not help innovation towards sustainability. The following examples show how the abovementioned important sustainability criteria are taken care of already today in variety testing: 1. DUS protocols for vegetables: – disease resistances/reduced pesticide use: Approximately 50% of the breeding effort in vegetables is devoted to introduce pests and diseases resistances including more than 150 host plant/pathogens couples on 36 vegetable species. The reduction of use of pesticides can be estimated at 25% during the last twenty years with an objective of 50% in the next 10 years. Some examples of the number of disease resistances/pathotypes tested in vegetables according to CPVO/UPOV testing protocols are as follows: French bean (6); corn salad (2); cucumber (7); lettuce (18); melon (14); vegetable pea (5); pepper (11); spinach (11); tomato (24); white cabbage (1) - in vegetables the breeding of rootstock varieties is also very important in view of sustainability as they enhance the global vigor and yield per square meter of the plants (tomato, pepper, eggplant, melon, watermelon...) with a limitation of acreage and help overcoming soil borne diseases and prevent the use of chemical soil disinfection.

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 following objectives have been incorrectly defined and placed in the "Options and analysis paper": As stated in the report, the current S&PM legislation has placed EU seed production and exports in a world leading position. Any changes will have global consequences. Therefore, the objective of the revision has to be to continue to foster support for the plant breeding, and seed industry competiveness. The economic objective should be the valorization of innovation for the social and economic benefit of the whole downstream chain. It has to be underlined that innovation in plant breeding, the creation of new and more varieties also contributes to biodiversity (to the gene pool). Innovation is a separate and overall objective of the S&PM legislation and as such it has to be identified as an individual objective by itself. Revised regulation should focus towards intensive horticulture and agriculture, which is ecologically sustainable and uses new performing varieties rationally to ensure the food supply. Moreover "Fulfilling the EU's global responsibilities for food security and globally sustainable horticulture

and agriculture" has been overlooked as well as that the objective of the Common Catalogue is not only to improve the level of information provided but also to improve accessibility of this Common Catalogue by making it a real-time, user-friendly web-based application. That would already be a big improvement.

3.3 Are certain objectives inappropriate?
Yes

3.3.1 Please state which one(s)
The specific objective (3.2, bullet point 2) to improve farmer's choice and access to wide diversity of plant varieties is inappropriate. Wider diversity is not a goal in itself in the framework of the seed marketing legislation. The improvement of farmers' choice is indeed an important goal of the S&PM legislation but this choice should focus on varieties which are beneficial, fit for use and fit for sustainable intensification.

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

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
As stated in the report, all the general policy objectives contribute to the general goals of supporting agriculture and promoting plant health (§ 3.1 bullet point 4). All the objectives listed in the table are important but we feel uncomfortable with this question as it might give a misperception of the priorities as understood by the industry. Therefore we prefer indicating our list of priorities here below: - Availability of high quality, innovative, clearly identifiable varieties allowing sustainable intensification - EU's responsibility for global food security (for agricultural crops) - Availability of healthy, high quality seed and PM - Functioning of the market - Biodiversity - Information of the users - not all varieties that are applied for listing are protected - not all varieties that are protected are placed on the market (this is, in particular, the case for hybrid parent lines) - plant variety protection is only based on DUS whereas registration of agricultural crops also should involve VCU testing - in some cases breeders only apply for national plant variety protection and not protection on EU level

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)
In our opinion, none of the scenarios are aligned with the overall objective and,as such, none of them is acceptable .

4.3 Are certain scenarios unrealistic?
Yes

4.3.1 Please state which one(s) and why
Scenario 1: Only answers an objective to reduce costs. It does not fulfill any other objective. As full cost recovery will lead to shift of cost burden from (some) Member States to stakeholders which is not 'compensated' by increased efficiency or flexibility in scenario 1 we are of the view that there is no justification for this scenario. Furthermore, scenario 1 only focuses on one of the identified objectives but none of the others and it is therefore inconsistent with the overall aims of the review. Scenario 3: Scenario 3 is unrealistic and very harmful to in fact all goals. It introduces the possibility of registering agricultural varieties without proper performance testing and certification which leads to massive dis-harmonization and creates a double market. It is complex for users and confusing for consumers and the reactions the market may produce in case of such a scenario have been incorrectly assessed. This could lead to varieties choice by processors and distributors being made with a very short view that is incompatible with the very long term process of plant breeding. Scenario 4: Scenario 3 is unrealistic and very harmful to in fact all goals. It goes against the general objective of maintaining competitiveness and innovation. It could lead to downward spiral with: - high risks for plant breeding and the seed industry - negative influence on plant health as low quality seeds could be marketed - introduction of market distortions from a confusing multi-level system - short term policy by processors and distributors, incompatible with long term breeding - short term market drivers that would detract from quality requirements, and increase prices, to the detriment of consumers. Scenario 4 is unrealistic and detrimental to almost all policy goals. It is complex for users and confusing for consumers and the reactions the market may produce in case of such a scenario have been incorrectly assessed. The scenario will lead to massive dis-harmonization and the creation of a double market whereby this scenario seems to focus on turning existing niche markets into large markets.

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)
Also the effect should also be considered on consumer information and protection (consumers cover the actors of the whole chain including farmers, growers, processors) – also with a view to traceability - of each scenario. If certain elements of the legislation are taken away, there is less information to consumers and with that also reduced protection of consumers which would also be contrary to the trend in other policy areas.

5.3 Are certain impacts underestimated or overly emphasized?
Underestimated

5.3.1 Please provide evidence or data to support your assessment:
Please see our answer in a separate document (ESA_11.0407_Q 5.3) annexed to the present document.

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
Don't know

5.5.1 Please state your reasons for your answers above, where possible providing evidence or data to support your assessment:
Scenario 5 is interesting for some parts but is is very doubtful if it will work in real practice.

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
Our scenario integrates the following elements : A EUROPEAN CATALOGUE, registering decisions taken by the public authorities and based on: - national application - a unique and mandatory DUS valid for all Member States o observed during 2 growing cycles o performed by public and or testing stations accredited by CPVO (scenario 5) o partly carried out by private breeders under official supervision (scenario 2) - VCU for agricultural crops, including the main characteristics leading to sustainable agriculture, carried out by the various stakeholders under official supervision (scenario 2) - Progressive and rational introduction of new criteria, especially those linked to environmental issues, in DUS or VCU (already implementable in scenario 2). - Variety denomination centralized at the CPVO, with online web tools (scenario5). Certified and Standard Seed controls: - Supervision of seed quality as certified or standard categories, achieved through a greater delegation of tasks to the seed industry under official supervision (scenario2 and scenario 5) - Harmonization within an international scheme The possibility to market varieties in advance of listing for trial purposes (existing provision for orange labels) Registration of accredited operators with an obligation to follow standard protocols Specific provisions should continue to be applied for ornamentals (scenario3), and for non-professional varieties (scenario 2) provided that this category is well defined , with minimum official measures to control seed health, as well as a genetic identity . Official testing and official seed control

should be possible on request, if an operator has no means to perform it himself (scenario 2) Concerning governance, there needs to be open consultation with the downstream sectors concerning longer term objectives, including dialogue between the public and private sectors. As already stated under question 4.2 we are of the opinion that a combination of some elements from scenarios 2 and 5 can be taken as a basis for a new scenario together with some new elements.

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:
see table in Annex

7. OTHER COMMENTS
7.1 Further written comments on the seeds and propagating material review:
Seed business and seed markets are very specific compared to any other sector. This specificity needs to be taken into account - progress in plant breeding is a long term process, which is incompatible with short term market views - technological differences of varieties cannot be directly or immediately appreciated by users. Because of the biological nature of the product, which interact with environmental factors,, products cannot be standardized as other goods. Plant products need to be assessed to give reliable information to users - each crop sector has specific constraints, which need to be considered - Reform of the regulation must be driven by science-based criteria; innovation and productivity characteristics towards sustainable crop production

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: