

1. INTRODUCTION

1.1 What is the name of your organisation?

Association KOKOPELLI (France)

1.2 What stakeholder group does your organisation belong to?

Breeder of S&PM; Supplier of S&PM; SME company; 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)

2 problems haven't been identified : - the prior authorization procedure for registration is disproportionate for economic operators as long as no specific risks (of sanitary or environmental nature) are being assessed concerning seeds. - there is a confusion between registration criteria and IPR granting criteria. This has led to the monopoly of protected varieties on the market and the exclusion of local varieties belonging to the public domain. IPRs shouldn't have the role of regulating economic activities.

2.3 Are certain problems underestimated or overly emphasized?

Underestimated

2.3.1 Please indicate the problems that have not been estimated rightly

- "room to strengthen sustainability" : the issue of biodiversity in S&PM has been underestimated : the current legislation has led to a dramatic loss of biodiversity in cultivated crops and vegetables. The result is a lack of adaptability to changing climate and soil conditions and the necessary use of chemical inputs, due to always renewing pests and diseases spreading without difficulty in this very uniform biological context. - If VCU, at present time, is not oriented towards sustainability, neither is the case of the DUS criteria. Uniformity criteria, in particular, serves a standardisation objective which is not compatible with sustainability.

2.4 Other suggestions or remarks

Legislation on the marketing of seeds imposes a certain view of agriculture needs to be designed, in a very authoritarian way. Excluding from the market local and traditional varieties because they don't meet the criteria for a standardised and industrialised agriculture is not compatible with our fundamental democratic principles. All agricultural models, as well as seed standards (as long as they comply with basic rules on sanitary quality or germination for ex.), must have the right to coexist. A general European legislation on these topics, sanctioned on an ex-post examination base (as for "standard seeds") would be sufficient to properly and democratically regulate the seed sector.

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)

- keeping legislation and administrative burdens strictly proportionate - ensuring the full exercise of the freedom of economic activities principle - ensuring consequently the diversity of economic activities and operators on the seed market

3.3 Are certain objectives inappropriate?

Yes

3.3.1 Please state which one(s)

- It's not the role of the European legislator to "improve competitiveness of the S&PM sector on the international market" : legislator must protect the consumers on fundamental sanitary criteria, on loyalty of trade exchanges, on good and fair competition context, and ensure that, in that fundamental framework, all operators can practice their activity. - EU policy on seeds shouldn't strive for "better consistency with plant variety rights" : these two areas must remain different and separate, in order not to lead to a fully protected market where public domain has become illegal. Public domain stimulates innovation (see open source software for ex.) that must be protected. It is not the role of IPRs to regulate economic activities. - the role of EU on international standards and bilateral relations has been lately very negative. It has led to the prohibition, once again, of local and farmers varieties and the growing dependance of rural populations to global markets, chemical inputs and big seed companies. This is not respectful of the general interest of farmers around the world. The EU should not play the role of a commercial representative of European seed companies.

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

4

Empower users by informing them about seed and propagating material

5

Contribute to improve biodiversity, sustainability and favour innovation

1

Promote plant health and support agriculture, horticulture and forestry

2

3.6 Other suggestions and remarks

"healthy high quality seed", as well as "plant health" are important objectives, but the way in which they are fulfilled is even more important at the present time : up to now "quality" has meant nothing but the fulfillment of DUS and VCU criteria. In our opinion, however, these criteria do not provide good quality seeds (uniformity and agriculture highly dependant on chemical inputs). These criteria need to be questioned and reformed.

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)

- the scenario 4 is the best in our opinion, but it is not fully coherent. If it is made to facilitate the marketing of conservation and niche varieties, the UPOV rules should not be applicable, in particular the uniformity and stability criteria. There is still, in this scenario, a widespread confusion between IPR criteria and function and minimum standards for the seed market. Seeds marketed to non professional users should not fall into the scope of any of the scenarios, as it would be disproportionate.

4.3 Are certain scenarios unrealistic?

No

4.3.1 Please state which one(s) and why

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

No

4.5 Other suggestions and remarks

The adoption of a general legislation, providing with mandatory minimum standards on the most important issues (germination and plant health for ex.) and completed by ex-post examinations (no prior authorization procedure) could be an option for an "abolishment" scenario. This situation applies in the US. It provides good quality seeds to the market and allow to offer a very large choice of varieties to farmers and consumers, as well as the existence of a broad panel of economic operators.

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)

- "quality" of seeds is very relative. It corresponds to the actual registration criteria only. These criteria need to be questioned. That's why the "impact on quality of seeds" is overlooked.

5.3 Are certain impacts underestimated or overly emphasized?

Underestimated

5.3.1 Please provide evidence or data to support your assessment:

- the impact on the environnement and biodiversity is underestimated in every scenario. Actual legislation has a strong negative impact on biodiversity and sustainable practices in agriculture. This should be taken into account with crosses (xxx). Scenario 4 is the only one to have a positive impact on the environment. It could be a lot more positive than estimated.

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

2 = fairly proportional

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

Very negative

Scenario 2

Very negative

Scenario 3

Very negative

Scenario 4

Fairly beneficial

Scenario 5

Very negative

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

The registration criteria have made the seeds marketed by Kokopelli illegal and have had a very negative effect on its activity (several trials launched against Kokopelli by the state of France and by "Graines Baumaux" Company, a conventional seed company) See :

[http://www.legifrance.gouv.fr/affichJuriJudi.do?](http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000018073813&fastReqId=345350412&fastPos=1)

[oldAction=rechJuriJudi&idTexte=JURITEXT000018073813&fastReqId=345350412&fastPos=1](http://www.legifrance.gouv.fr/affichJuriJudi.do?oldAction=rechJuriJudi&idTexte=JURITEXT000018073813&fastReqId=345350412&fastPos=1)

Certification is not a problem for Kokopelli's seeds as long as it remains on an ex-post examination base, as for "standard seeds". If the legislation does not allow the marketing of traditional, less homogeneous seeds, back, by letting the fulfillment of the above mentioned criteria up to the stakeholders, it will continue to have a very negative impact on Kokopelli's activity.

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

Scenario 4 would best meet the objectives of the review of the legislation, but it should be combined with new features : - no application of UPOV rules and criteria for registration of self-tested varieties (second section) - no confusion between IPR rules and seed market regulation (should remain 2 different issues) - letting outside its scope non-professional uses of seeds.

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:

More focus should be put on environmental impact. It is one major concern today and it needs to be fully addressed.

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:

