

1. INTRODUCTION

1.1 What is the name of your organisation?

ANOVE - Spanish Association of plant breeders

1.2 What stakeholder group does your organisation belong to?

Other

1.2.1 Please specify

ANOVE - Spanish Association of plant breeders represents the interests of those active in research, breeding, production and marketing of seeds of agricultural, horticultural and fruit plants species.

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)

As to question 2.1: In point 2.2 of the "Options and analysis paper" the problems have been identified by the Commission. As said under question 2.1 we are of the opinion that at least part of these problems have not been correctly identified. We have the following comments:

Distortions in the internal market: The problem definition states that additional or stricter national requirements which may be applied by Member States 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. **Complexity and fragmentation of the legislation:** The problem definition states that "more fundamental changes may need to be considered". We have always been supporting the "modify" scenario because the S&PM legislation needs some improvements to make the system more effective. However, - as it was also the conclusion of the final report – fundamental changes are not needed in the legislation. The problem definition also states that a recast of the S&PM legislation seems reasonable "with a view to its simplification and increased consistency with itself and other legal acts." We agree that both simplification and consistency is needed however as regards the need to work on the consistency of the S&PM legislation with other legal acts we are of the view that the consistency should be looked for only with those other legal acts that concern seed quality. **High level of administrative burden in particular for public authorities:** 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. **Room to strengthen sustainability issues:** we do not agree with the Commission's analysis of sustainability and of related impacts throughout the paper. First, it has to be underlined that the Commission seems to have an over simplistic perception and understanding of the meaning of productivity. As also shown above, productivity is a relation between input and output (including also processing and quality aspects). The problem definition states that the current legislation is focused on productivity which is still an important factor. We would like to underline that productivity is THE key factor in variety testing non the least because it already takes care of important sustainability criteria. Sustainability is optimised when the amount of natural resources (land, water, fuel, fertiliser) used per unit of useful crop production is

the lowest, i.e. via the most productive varieties. See the link:
http://www.agriculturasostenible.org/v_portal/informacion/informacionver.asp?cod=1648&te=163&idage=2048&vap=0 Sustainability Indicators of Spanish agriculture and livestock. This study attempts to provide a general and integrated vision of the main sustainability indicators of Spanish Agriculture, and the role played by agricultural technologies. TECHNOLOGICAL PLATFORM FOR SUSTAINABLE AGRICULTURE As to question 2.2: Problems 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

UNDER AND OVERESTIMATED PROBLEMS: - The problem defined as “room to strengthen sustainability issues” makes a reference to specific markets for organic crops which are increasing their market shares. As a matter of fact the issue of niche markets is overestimated throughout the paper. We are of the opinion that such varieties are important for the genetic pool and breeding work but such markets are going into the direction of extensified agriculture. To produce them is not a sustainable solution and therefore is not consistent with the environmental goal sought by the Commission. - The problem described as “room to strengthen sustainability issues” is not correctly estimated. In this respect we refer back to our answer provided under question 2.1 and emphasise that sustainable intensification is the right solution to meet the sustainability policy goal. This is also supported by a number of scientific studies: - The Royal Society (2009): Reaping the benefits – Science and sustainable intensification of global agriculture - Bruinsma, J. (2009): The resource outlook to 2050: by how much do land, water and crop yields need to increase by 2050?, FAO, Rome - The Foresight report (2011): The future of food and farming, Government Office for Science, London - The problem defined as “high level of administrative burden” underestimates the high public benefit of the Member State’s investment into the testing of both varieties and seed. It also seems to only concentrate on the wish to reduce the administrative burden on the side of public authorities and underestimates the need to also reduce such burdens on companies. - In the problem definition of “complexity and fragmentation of legislation” the benefit of a single Regulation is somewhat overestimated. In case instead of twelve Directives one Regulation is defining the legislative framework but that one Regulation is of very high complexity, in the end it will not deliver the desired simplification. The number of legislative instruments is not the decisive point where improvement could be brought but it is the content of such legislative instrument which counts.

2.4 Other suggestions or remarks

We would like to comment on some statements 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, 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: 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)

Answer to question 3.1: We are of the opinion that the following objectives have been incorrectly defined and placed in the "Options and analysis paper": It seems that the objective of fostering innovation is placed into the context of sustainability which is too restrictive and interpretation. As already explained under questions 2.1 and 2.3 it is indeed very important to select sustainable varieties but the main focus of breeding and innovation in breeding should be on productivity which is the best way of taking care of sustainability matters. 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). Having said that, we consider that 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. Answer to question 3.2: Objectives overlooked: - In respect of the Common Catalogue the objective is not only to improve the level of information provided but also to improve accessibility of the Common Catalogue by making it a real-time, user-friendly web-based application. - Fulfilling the EU's global responsibilities for food security and globally sustainable agriculture. - Official testing / testing under official supervision of both variety performance and seed quality is crucial for agricultural crops with regard to high risk of market failure. In agricultural crops the characteristics of the harvested material are less specific than e.g. in the production of vegetables. Farmers not using the best performing varieties of agricultural crops would lose productivity and competitiveness but not their clients, at least not immediately. With farmers being quite often under cost pressure there is a high risk of farmers choosing not the most innovative varieties but rather those with low seed prices. In the long term this abstention from using innovation would not just jeopardise the farmers' competitiveness but also the goal of sustainability, since varieties would be used which are not the most productive and effective ones. In addition, varieties of agricultural crops must perform well under a wide range of environmental conditions which – other than in vegetables- can not be influenced. Farmers must be put in a position that this ability of varieties to perform well under these conditions is sufficiently tested for in a reliable way.

3.3 Are certain objectives inappropriate?

Yes

3.3.1 Please state which one(s)

"improve farmers' choice and access to a 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

1

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

2

Empower users by informing them about seed and propagating material

3

Contribute to improve biodiversity, sustainability and favour innovation

5

Promote plant health and support agriculture, horticulture and forestry

4

3.6 Other suggestions and remarks

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 As to question 3.4: Our answer given to question 3.4 is justified by the following reasons: - 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)

.We believe that none of the scenarios as defined in the "Options and analysis paper" can achieve the desired goals. A combination of elements presented in the different scenarios might lead to a better scenario therefore ANOVE welcomes the possibility offered by the Commission to execute such a combination.

4.3 Are certain scenarios unrealistic?

Yes

4.3.1 Please state which one(s) and why

Scenario 1: 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 per se. 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: We believe that scenario 3 is unrealistic and detrimental to almost all policy goals. It introduces the possibility of registering agricultural varieties without proper performance testing and certification which leads to massive disharmonization 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. Scenario 4: We believe that 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. As already stated before the issue of niche markets is overestimated by the Commission. We can support the current system (Directives 2008/62 and 2009/145) which has been put into place for conservation and amateur varieties. Some production and marketing restrictions for such varieties, which restrictions are in line with the goal of conservation as defined in those Directives, are necessary in order to prevent market failure with regard to sustainable productivity and should also be reasonable in view of the size of the market concerned. In addition, this scenario also foresees the introduction of mandatory "environmental VCU" for all tested varieties including also vegetables which is unneeded and unrealistic. Such a requirement would increase administrative and financial burden, would slow down registration for vegetables and would not generate any added value for users of vegetable seeds but would be rather detrimental to progress.

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 information and protection (consumers cover the actors of the whole chain including farmers, growers, processors) – also with a view to traceability - of each scenario should also be considered. 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:

Yes, there are both impacts underestimated and others overly emphasized

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 has some interesting elements but we don't understand how it would work in 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

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:

- We have realized that unfortunately the assessment presented in the individual tables after each scenario under Chapter 5 of the "Options and analysis paper" and the assessment presented under Chapter 6 - on several occasions - contain important mistakes or typing errors.

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:

- Sustainability Indicators of Spanish agriculture and livestock (2011)- TECHNOLOGICAL PLATFORM FOR SUSTAINABLE AGRICULTURE. See the link:
http://www.agriculturasostenible.org/v_portal/informacion/informacionver.asp?cod=1648&te=163&idage=2048&vap=0 - The Royal Society (2009): Reaping the benefits – Science and sustainable intensification of global agriculture - Bruinsma, J. (2009): The resource outlook to 2050: by how much do land, water and crop yields need to increase by 2050?, FAO, Rome - The Foresight report (2011): The future of food and farming, Government Office for Science, London

