

1. INTRODUCTION

1.1 What is the name of your organisation?

Syngenta Seeds

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 our opinion at least part of the problems of S&PM legislation have not been correctly identified. Complexity and fragmentation of the legislation: The problem definition 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 concerning the consistency of the S&PM legislation with other legal acts consistency should be looked for only with those other legal acts that concern seed quality, plant health and plant variety rights. The problem definition also states that "more fundamental changes may need to be considered". We support the "modify" scenario because the S&PM legislation needs some improvements to make the system more effective. However, 'fundamental changes' are not needed. High level of administrative burden in particular for public authorities: According to the problem definition of the paper the administrative burden needs to be lowered for the public sector. The review should not only look at public burdens but also to the administrative burden of industry. The system has to be cost effective for everyone, public and private. Room to strengthen sustainability issues: We agree with the Commission that strengthening sustainability is an important issue. However we do not agree with the problem definition and analysis of sustainability and of related impacts throughout the paper. The paper demonstrates a too simplistic perception and understanding of the meaning of productivity. Productivity is a relation between input and output (including also processing and quality aspects). Productivity is THE key factor in variety testing as it already takes into account important sustainability criteria. (Please also see references under question 2.4) "Global food supply will need to increase without the use of substantially more land and with a diminishing impact on the environment: Sustainable intensification is a necessity." (The Foresight report (2011): The future of food and farming, Government Office for Science, London). Sustainable intensification means raising yields, increasing the efficiency with which inputs are used and reducing the negative environmental effects of crop production. Therefore, 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. Question 2.2, the following problems / issues have been overlooked: - Page 3 of the "Options and analysis paper" rightly states that the initial objective of S&PM legislation, 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 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, as it leads to a distortion of the internal market.

2.3 Are certain problems underestimated or overly emphasized?

Underestimated

2.3.1 Please indicate the problems that have not been estimated rightly

1. The problem described as “room to strengthen sustainability issues” is not correctly estimated. In this respect we refer back to our answer provided above 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. See references at end of document 2. 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 conservation varieties and niche markets is overestimated throughout the paper. Such varieties are important for the genetic pool and breeding work but this concept is going into the direction of extensification of agriculture. This is not a sustainable solution and therefore is not consistent with the environmental goal sought by the Commission. 3. 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. 4. In the problem definition of “complexity and fragmentation of legislation” the benefit of a single Regulation is somewhat overestimated. Replacing 12 Directives by 1 Regulation in itself is not delivering 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, fertilizers 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 is 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: - Specific DUS-protocols for rootstock varieties that help to overcome soil borne problems in Solanaceous crops and Cucurbits. - Inclusion of resistances as decisive characteristics in the DUS protocols of vegetable Species, with up to 20 different resistances possible for some Species. – Inclusion of Tolerances to abiotic stress factors in DUS-protocols. - VCU protocols in certain MS already consider environmental criteria in relation to water uptake, Nitrogen efficiency, chemical tolerances, etc. - “provisions contained in the EU S&PM marketing legislation on registration of varieties and on certification of individual S&PM lots are strict and time-consuming“ The impact of this issue is overestimated by the Commission. Although there is room for improvement, we are satisfied with the general criteria of variety registration and seed quality control as laid down in EU S&PM legislation. These criteria must not be questioned as such but they must be maintained and further improved. It is clear from the national lists and the Common catalogue that the current system already allows for a wide choice of varieties including conservation and amateur varieties.

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)

Question 3.1: 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 a too restrictive 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). Innovation is a separate and overall objective of the S&PM legislation and should be identified as an individual objective by itself. It is key that S&PM legislation allows for flexible adaptation of methods and criteria, to keep pace with the innovation in plant breeding and in the S&P industry in general. As to question 3.2: The following objectives have been overlooked: - 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. 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 respect of the Common Catalogue the objective is not only to improve the level of information provided but also to improve accessibility and user-friendliness of the Common Catalogue by making it a real-time, web-based application.

3.3 Are certain objectives inappropriate?

Yes

3.3.1 Please state which one(s)

The objective which reads “improve farmers’ choice and access to a wide diversity of plant varieties” is inappropriate. Wider diversity is not a goal in itself. 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 in the relevant market segments.

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

3.4. - 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 So it is essential to have freedom of choice for either registration for listing and/or application of Plant variety Rights. In those case where these two applications are combined optimal efficiency needs to be supported both in administration and use of DUS test results. 3.5. All the objectives listed in the table above are important but we would describe our priorities as follows: - 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 propagating material - Functioning of the market, both internal and export - Biodiversity - Information of the users

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.

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 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. 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 conservation varieties and niche markets is overestimated by the Commission. We support the current system (Directives 2008/62 and 2009/145) which has been put into place for conservation and amateur varieties with some production and marketing restrictions for such varieties. Restrictions that are in line with the goal of conservation and are necessary also in order to prevent market failure with regard to sustainable productivity. Scenario 4 introduces mandatory VCU-testing (sustainability aspects) for "tested" varieties of Vegetables. That is an unneeded and unrealistic addition which would increase the administrative and financial burden, slow down the registration process, at no added value for the users of vegetable seeds.

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 as well as on traceability of each scenario should also be considered. If certain elements of the current 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. N.B. Consumers cover the actors of the whole chain including farmers, growers, processors.

5.3 Are certain impacts underestimated or overly emphasized?

Underestimated

5.3.1 Please provide evidence or data to support your assessment:

See separate 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

Neutral

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

Scenario 5 provides an option of application via CPVO. Although we do not fully understand how this scenario would work in practice, we feel that if well organized and supported it could be an attractive alternative. For the other scenarios please see the reasoning under Q 5.3

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

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. Please see our preferred scenario in a separate 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:

- 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 are inconsistent at several points. - Also - as extensively explained under question 5.3 certain impacts have been incorrectly identified. For these reasons please find below our comparison of the scenarios. including our proposed new scenario: table attached

7. OTHER COMMENTS**7.1 Further written comments on the seeds and propagating material review:**

We would like to draw attention to the procedure of applying for provisional marketing allowance of a variety, during the period of application and testing for listing. This procedure should also be implemented in a harmonized way and we propose that administrative handling of these applications and subsequent publication of the allowance is done at EU-level by CPVO. We have some general concerns on the efficiency and efficacy of centralization. In itself we support this idea, but our concerns relate to the current level of service and operational expertise at CPVO. These will have to be greatly enhanced and supported by adequate web-based systems, so they can play this more central role efficiently. Time is a key issue in planning and performing of DUS/VCU testing in view of seasonality of crops. On technical level, for example the selection of reference varieties for DUS/VCU testing will require enhanced technical capabilities of CPVO. Today these competences rest solely with the National CA's. Delegation to private operators should be seen in a broad way. Not only to private companies, but it should also be possible for specialized institutes or associations to apply to become authorized to perform operational tasks in relation to DUS/VCU testing and seed certification. In this way it will be better possible to achieve the targets of cost reduction and flexibility. We suggest an automatic link between EU variety listing and adding of registered varieties to the OECD variety list (agricultural crops)

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:

- 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

