

## **1. INTRODUCTION**

### **1.1 What is the name of your organisation?**

Swedish Seed Trade association

### **1.2 What stakeholder group does your organisation belong to?**

Other

#### **1.2.1 Please specify**

Swedish Seed Trade Association (SSTA) is a Swedish organisation, owned by, and representing the interest of, companies with activities in breeding and seed production of agricultural plant 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 would like to highlight the following areas: 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 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. The problem definition also 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. 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. This is an important and positive feature of the current legislation which ESA supports and would like to see maintained. (In this respect we refer to letter ESA 10.0466.1 sent to the Commission on May 27, 2010.) 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 as provided in the "Options and analysis paper" and consequently 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 oversimplistic 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 not the least because

it already takes care of important sustainability criteria. "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. 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. - 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**

>1. The problem described as "room to strengthen sustainability issues" is not correctly estimated. We would like to emphasise that sustainable intensification is the right solution to meet the sustainability policy goal. >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 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. >3. 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**

## **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)**

As to question 3.1: We are of the opinion that the following objectives have not been correctly 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. 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). 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. 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)**

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 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**

5

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

3

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

2

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

4

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

## **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 ESA welcomes the possibility offered by the Commission to execute such a combination. We can imagine a combination of elements from scenarios 2 and 5 with the addition of some new elements.

#### **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. 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 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.

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

No opinion

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

**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:**

Comments to scenario 2 Impact on plant health and quality of S&PM: In the text it is stated that the transfer of responsibilities under official supervision to industry for testing and certification is not considered to raise any concerns as regards health and quality of S&PM. However, in the summary table an 'X' is given as assessment result. We do not see the reason why this conclusion is drawn. If there are good quality standards that apply we see no risks for plant health and quality of S&PM even if tasks are transferred to the industry if those tasks remain under official supervision. Impact on employment and jobs in the public sector is rated at 'xx' by the Commission, assuming that a total of 2000 jobs are going to be lost or transferred to private operators. It remains to be seen how many private operators will indeed perform their own DUS and VCU-testing. The impact rate should be 'x' rather than 'xx', in our opinion. Impact on administrative burden for private sector operators: We assume that the 'X' is based on the small increase in workload and some additional costs (related to record keeping etc). This might be true to a limited extent but all together transfer of more tasks to private sector operators will reduce administrative burdens, will improve efficiency and will save costs as tests that are in any case carried out by companies would not have to be redone for a high amount of money but data generated during the breeders' tests could be used. The impact therefore should be rated at ???.

Innovation: Cost savings are foreseen under this scenario due to the transfer of tasks to industry. This also implies that there will be more money available to be invested in R&D. Environmental impact: According to the paper of the Commission no positive impacts are foreseen as regards sustainability since no "environmental VCU" is foreseen. In reality, breeders do not need an extra stimulus by a so-called "environmental VCU" to breed for 'sustainable intensification'. This trend is already there and will not be more or less with the implementation of an 'environmental VCU' test for sustainability elements. (See also answers to questions 2.1 and 2.3 in particular.) We disagree with the assumption with regard to minor crops on which the Commission's negative assessment result is supposedly based. If costs are reduced they are reduced for everybody. The assessment should be neutral. Impact on consumer information / protection: Given that DUS testing and VCU testing for agricultural crops remain obligatory – as it is the case under the current legislation – no changes are likely as regards consumer information on the qualities and characteristics of the varieties marketed. Since the shift of tasks to the private sector is likely to cause cost efficiencies it is also likely that this will bring forward better price offers for consumers. The overall impact should be estimated as neutral. Comments to scenario 3 and 4, please look at answers to question 4.3

## **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**

In our 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. Also, we are of the view that certain impacts have been incorrectly identified.

## **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:**

- 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

