

1. INTRODUCTION

1.1 What is the name of your organisation?

European Coordination Via Campesina

1.2 What stakeholder group does your organisation belong to?

Breeder of S&PM; Supplier of S&PM; User of S&PM; International organisation

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)

1 - The proposal does not take into account the role of farmers and gardeners in the renewal and local adaptation of crop biodiversity. For half a century public policies have favored only "improving plants" in experimental stations and genetic technology laboratories, away from agricultural production fields and gardens. The goal of increasing gross yield per hectare has been achieved at the cost of excessive use of chemical inputs that have replaced many farming jobs, and at the cost of a standardization of food. Hundreds of thousands of local varieties have disappeared, from which only a few have been collected and stored in ex situ collections of genetic resources. Some are still cultivated and disseminated outside of the formal seed marketing channels, particularly in the new accessing countries of Eastern Europe. In western countries, where they had almost completely disappeared, they are starting to be grown again to meet the new demand for local products from organic and peasant agriculture, and to satisfy the current need to reduce the use of chemical inputs and to adapt to climate change. Since they are selected and propagated by open pollination, these varieties are neither homogeneous nor stable and can therefore not be listed in the catalogues that require compliance with CPVO and UPOV standards. Their development requires legal recognition of two things. One, a series of rights specific to farmers and gardeners: the rights to preserve, replant, exchange and sell the seeds they produce on their farms. These rights are necessary for them to continue improving seeds and to manage living biodiversity. The second is the dissemination of seed varieties from variable heterogeneous populations, for the preservation of biodiversity and for subsistence agriculture. Constrained as it is by the economic imperatives of economies of scale and standardization, the seed industry cannot develop varieties suited to each region or use. This prevents the industry from preserving crop biodiversity, which it is forced to abandon in favor of elite varieties adapted to the same chemical inputs regardless of the region in which they are grown. 2 - The very rapid development of new genetic technologies facilitates the emergence of a new category of actors: developers of patented genetic events or processes which are introduced into existing varieties. These actors want to shorten the development time of new varieties obtained through these technologies by relaxing the evaluation requirements of the current catalogue. However, the nature of the technologies used, most of which fall outside the regulations on GMOs, would in fact require a more stringent evaluation and increased requirements for consumer information. By contrast there is no justification for imposing on seeds produced by natural methods of selection and multiplication the reinforced sanitary, plant protection, environmental and biosecurity controls which are essential for seeds "in which the

genetic material has been altered in a way that does not occur naturally by mating and/or natural recombination". 3 – The strengthening of industrial property rights on plant varieties and the very rapid development of patents on genes or genetic processes related to plants impose on users new constraints which they cannot meet without better information on the patents and variety protection certificates that protect the seeds they buy. By contrast there is no justification for imposing on varieties which are in the public domain the requirement to identify the intellectual property of plant varieties or genes (CPVO criteria and molecular markers). Finally, while it is logical that whoever demands a guarantee of their return on investment by requiring government protection of their IPR pay the cost of this protection, it is unfair to impose these same costs on those who provide a public service they do not charge for by ensuring the continued breeding and preservation of plant varieties freely available to all.

2.3 Are certain problems underestimated or overly emphasized?

Underestimated

2.3.1 Please indicate the problems that have not been estimated rightly

Plant varieties for organic farming, local varieties and varieties meant for the preservation of biodiversity do not meet the CPVO and UPOV criteria. To force these criteria on them is to sentence them to extinction. Moreover, the limits currently proposed by the various conservation catalogues are too narrow to allow continued conservation and commercialisation of such varieties. The impossibility of protecting a conservation variety through a variety protection title, together with the national extent of the relevant markets, are sufficient to prevent unfair competition with seed varieties destined for the European or world markets, which are subject to the identification requirements of IPR.

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)

1 – To ensure consistency with the international policies and commitments of the EU concerning the preservation of biodiversity and especially the conservation and renewal of crop biodiversity in situ on the farm. To ensure consistency with Articles 5, 6 and 9 of the ITPGRFA, and to this end to define a statute and specific marketing rules, different from those of the catalogue, for farmers who exchange and sell seeds they select, preserve and multiply in the crops they grow for the market. 2 – To inform consumers on IPR and the selection techniques which are used.

3.3 Are certain objectives inappropriate?

Yes

3.3.1 Please state which one(s)

1 - Public authorities should maintain their mission of ensuring availability of seeds adapted to sustainable organic and peasant agriculture, and to the conservation of crop biodiversity. The costs of registration and control should be borne by the private sector only for seeds that are privatized through IPR or technical restrictions on their reproduction (F1 hybrids). For freely reproducible seed varieties in the public domain, these costs must be borne by the public sector. The costs of ensuring biosecurity must be charged to the operators that generate biosecurity problems by disseminating GMOs, and not to all operators or to public authorities. 2 - Sustainable agriculture requires seeds and plants which are adapted, selected and multiplied locally. Therefore the objective of improving the competitiveness of seeds and plants on the international

market is not a priority.

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 opinion

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

5

Empower users by informing them about seed and propagating material

2

Contribute to improve biodiversity, sustainability and favour innovation

1

Promote plant health and support agriculture, horticulture and forestry

4

3.6 Other suggestions and remarks

The varieties which are granted a variety protection title (PVR), mentioned in question 3.4, could only be automatically registered in the catalogue if at the same time the CPVO criteria are not required in order to register in the catalogue those varieties which are not protected by a PVR.

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)

All the scenarios ignore the seeds currently selected and multiplied by farmers, small businesses and researchers, or as part of participatory breeding programs, whose genetic material has been altered only "in a way that occurs naturally by mating and/or natural recombination", and which belong to public domain varieties that have no patent or PVR. Only the older varieties of this type are taken into account, and only in the excessively narrow and inadequate framework of "conservation varieties". These varieties require a specific framework both for registration in the catalogue and for the quality control of seed lots. This framework must not be reduced to niche amounts or geographic zones; nor should it include the distinction, homogeneity and stability criteria of the PVR; or the requirements of Regulation (EC) 882/2004, which are designed for industrial selection and multiplication practices. It is also important that seed exchanges among farmers who select and preserve plant genetic resources, and the sale of seeds for subsistence agriculture, be clearly excluded from the scope of regulations on the marketing of seeds.

4.3 Are certain scenarios unrealistic?

Yes

4.3.1 Please state which one(s) and why

Scenario number 5.

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)

- Impacts on the conservation and renewal "in situ" of crop biodiversity and on the rights of farmers to save, use, exchange and sell their seeds. - The impacts of liberalizing the marketing of seeds which contain patented genetic information. This liberalized marketing is a threat both to the existence of many small and medium seed companies and to the rights of farmers, who are the only ones capable of guaranteeing the availability of seed varieties diverse enough to adapt to the diversity of European agricultural ecosystems, to reduce the use of chemical inputs and to ensure that Europe can remain autonomous in food production.

5.3 Are certain impacts underestimated or overly emphasized?

Underestimated

5.3.1 Please provide evidence or data to support your assessment:

Results of the FSO research program.

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

4 = not very 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

Rather negative

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:

Biodiversity threats, role of farmers not enough taken into account.

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

An adaptation of Scenario number 4, as follows: - Mandatory information on the genetic modification methods used and on the property rights which protect each variety or set of genetic information; - Varieties in which the genetic material has been altered in a way that does not occur naturally by mating and/or natural recombination; PVR-protected varieties; varieties descended from parental lines protected by a PVR; and varieties which contain genetic information protected by a patent shall be compulsorily registered in Section 1 of the catalogue for tested varieties. Section 2, "untested", must only be open to public domain varieties in which the genetic material has been altered in a way that occurs naturally by mating and/or natural recombination. No mandatory certification can be imposed on seeds from varieties included in this section 2. The description of the varieties included in Section 2 remains the sole responsibility of the grower without obligation to respect all the CPVO and UPOV criteria; - Costs of testing and registration in Section 1 are charged to the breeder. Registration in section 2 is free. Administrative costs for this section 2 of the catalogue and the cost of seed controls are borne by the public authority, to compensate for the actual work of preservation and development of crop biodiversity. Regulation (EC) 882/2004 does not apply to seeds of varieties registered in this section 2. Health and vendor registration requirements are adapted to all the lots sold, not only to the lots meant for the local market and non-professional users. The costs of all tests related to biosafety performed on non-GM seeds are borne by companies who disseminate or sell GMOs. - Seed exchanges among farmers who select and preserve plant genetic resources, and the sale of seeds for cultivation for home consumption are not affected by this regulation.

6.2 Do you agree with the comparison of the scenarios in the light of the potential to achieve the objectives?

No opinion

6.2.1 Please explain:

7. OTHER COMMENTS

7.1 Further written comments on the seeds and propagating material review:

ECVC is critical about this consultation, because it has to be done in a very short term, only in English and only online.

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:

