

## **1. INTRODUCTION**

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

British Society of Plant Breeders Ltd.

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

Breeder of S&PM; Other

#### **1.2.1 Please specify**

B BSPB is the representative body for the UK plant breeding industry. BSPB represents 57 members, comprising virtually 100% of public and private sector crop breeding activity in the UK. The Society licences breeders' IP and collects royalties in the UK. It is the organisation licensed by the UK authorities to organise VCU testing for the UK under official supervision and it supports and promotes members' interests on technical, regulatory and intellectual property matters at a national and international level.

### **1.3 Please write down the address (postal, e-mail, telephone, fax and web page if available) of your organisation**

BSPB Ltd. Woolpack Chambers Market Street Ely Cambs CB7 4ND United Kingdom Tel:+44 (1353) 653200 Fax: +44 (1353) 661156 E-mail: penny.maplestone@bspb.co.uk Web www.bspb.co.uk

## **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)**

The problems have been identified as the admin burden, sustainability, simplification and harmonisation. The need for simplification and for harmonisation with other areas of legislation and across Member States are correctly defined as problems, as is the high level of administrative burden but there are some important issues and concerns with the way in which these problems are defined, which we have elaborated below in answer to question 2.3. Sustainability is set out as a problem requiring action. This is appropriate but if 'sustainability' is not understood properly there are serious dangers for productive agriculture in Europe and this policy area will find itself at odds with another major policy objective, which is to increase the food supply in the context of global food security and to address the challenges that were set out in the recent Foresight report on the Future of Food and Farming (The Foresight Report 2011: The Future of Food and Farming, Government Office for Science and Technology). The EU as a productive agricultural region has a responsibility to maintain, and try to increase, that productivity, not to increase the burden on the natural environment in other parts of the world. The problem definition in the paper refers to a focus on 'developing varieties that need fewer treatments with pesticides, less fertilisers or less water, to allow an improved sustainability of farming'. This is a dangerous definition of sustainability. If seeds marketing legislation is directed towards promoting the development and marketing of 'low input' varieties to be grown with reduced levels of fertiliser and crop protection chemicals, breeders can and will respond and will develop varieties accordingly but genetics means that this will be accompanied by yield reduction as a consequence of the well documented phenomenon of genetic linkage drag and overall European productivity will be reduced. The far-reaching implications of such a policy must be considered very carefully. If sustainable VCU along the lines hinted at by this paper, were introduced to drive EU agriculture in a particular direction, there could come a point in future at which policy makers might decide that yield is a priority. At that point breeding programmes would no longer have the appropriate gene pool to be able to respond and it would take many years to change course. The implications of VCU criteria based on the sustainability characters

envisaged in this options paper must be analysed very carefully in the context of the various scenarios and modelled against commercial reality to understand the possible consequences for the seeds and varieties market and for agriculture. For example sustainable (in the meaning of the options paper) VCU within scenario 4 would lead to a situation in which mainstream varieties which would not pass the sustainable VCU test would be marketed through an unlisted, uncertified route. The alternative would be that they would not pass VCU and they would thus be denied to the market. Varieties that meet what might be expected to be the criteria for the sustainable VCU concept in this paper do from time to time come to market but without exception they fail commercially as they are not what the market requires. Legislating for nitrogen use is premature. A large EU funded R & D programme is underway investigating whether varieties respond to nitrogen in different ways. The paper has ignored this work, the results of which must be awaited before deciding whether and how to select varieties for nitrogen use efficiency in any more sophisticated way than happens at present. The current system which selects for yield is in effect selecting for nitrogen use efficiency, as a plant that yields more must have used the available nitrogen more efficiently. Whether there is any genetic effect that means that some varieties may achieve high yields at lower N levels remains to be proven and it is premature and potentially dangerous to design a new VCU system around this presumption before the results of the research are known. It is important to understand that nitrogen use efficiency is not the same thing as using less fertiliser and the options paper has seriously over-simplified this issue. An intelligent evidence based investigation of the meaning of sustainability in the context of plant varieties and seeds is essential. It is stated in this section of the paper that organic crops are increasing their share of the market. We cannot find evidence to support this but nevertheless it is the case that good varieties for organic production are often the same varieties that perform well in conventional farming. The varieties that perform well in treated trials are often those that also perform well in untreated trials as these varieties include the best yield genes. If a vibrant organic sector exists and there is a market demand to be met then breeders will breed for it. It is not the role of legislation to be pro- or anti- any particular special interest in agriculture but to take a realistic market based approach. The list on p 5 of who is affected by this review fails to mention the national authorities. Authorities should be listed in this section as the relief of administrative burden on them is stated as a driver for the review.

### **2.3 Are certain problems underestimated or overly emphasized?**

Underestimated

#### **2.3.1 Please indicate the problems that have not been estimated rightly**

Simplification has been rightly estimated as important but has not been addressed in some of the scenarios. As far as the administrative burden is concerned, the paper focuses only on the burden for authorities and does not consider the burden for industry. There is a danger that changes introduced to reduce the admin burden on the authorities will simply push the problem across to industry. The total problem must be looked at in the round. The public benefit of testing varieties and seeds is overlooked in this analysis; rather than a requirement to reduce the administrative burden on the public sector, a more appropriate objective is determined through a cost benefit analysis of the value of this work being done by officials. The need for better harmonisation is rightly identified as a problem but there are some problems with the proposals for addressing it. Firstly, it is not clear whether the EU has the ability to legislate for full cost recovery across all Member States. Secondly there is a requirement for some flexibility between Member States in testing regimes and whilst harmonisation at a top level should be a goal, absolute standardisation should not be and could restrict access to the market for valuable and useful material. Differences in requirements in different Member States can but do not necessarily, lead to distortions in the market. Sustainability has been wrongly estimated not in terms of its importance rather in terms of its interpretation, for a full explanation see answer to question 2.2 above. Flexibility has been underestimated to the extent that it has been omitted. One of the original concepts at the outset of this evaluation was to set up new legislation so as to have more opportunity to amend it as new knowledge becomes available. Very disappointingly this seems to have been dropped and does not feature in this analysis. Flexibility is mentioned on page 28 but it is not clear whether this is in the context of ease of adapting and amending

legislation.

## **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)**

The major general objective should be to stimulate innovation and ensure and promote the availability of better varieties. Whilst fostering innovation is listed as a specific objective, it should be an overarching general one and not linked as it is in the paper with a focus on 'varieties that can be grown in a more sustainable manner', a phrase that is highly problematic as explained throughout this submission. We do not feel that this objective has been given sufficient prominence. Objectives relating to consumers have been left out, as has any objective relating to increasing food production to address food security and to negate adverse environmental impact in other parts of the world outside the EU. Avoiding indirect land use change must be an objective, i.e. ensuring that EU legislation does not lead to reduced productivity in the EU and hence to indirect land use change and negative environmental impact globally. This is recognised to some extent in the final sentence of p5 of the paper in mention of the global consequences but no direct link is made with the proposals relating to sustainability. Consumer protection is not mentioned or included in the objectives. It was originally a significant part of this area of legislation and should be brought back in as an objective. Protection of Europe's plant breeding and seeds industry should also be an objective given the strategic importance of the sector in relation to agriculture and food production. It is stated as a specific objective to reduce the costs and administrative burden on public authorities and operators. It must be clear that this objective relates to the overall administrative burden and not just to that on the public sector. Farmers' choice is mentioned as a specific objective in section 3.2. The current system is not anti-choice; it delivers a restricted choice but one that maintains high standards and drives innovation and crop improvement forwards. A broader choice in the market, particularly if there is limited information to accompany that choice, risks an overall lowering of the standard of the genetic material available, a slowing of innovation and genetic gain and an overall decrease in potential productivity gain or even loss of overall productivity. There is a serious risk that implementing the proposals set out in this paper, relating to sustainability in an uncontrolled market such as that envisaged in scenario 4, would lead to a market of more varieties, of lower quality in which farmers would have limited information on which to base their technical choice, leading them to choose solely on price. The consequences of this would be detrimental to overall quality of plantings and productivity in the EU. Science, innovation and productivity are the route to true sustainability and must be drivers for regulatory reform.

#### **3.3 Are certain objectives inappropriate?**

No

##### **3.3.1 Please state which one(s)**

#### **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. The one key several doors policy should remain for DUS testing with a single DUS test being able to be used for both variety registration and PVR but these are separate issues; registration is obligatory, PVR is not they and cannot be linked in this way. The ranked list is missing reference to productivity - this may be included in objective 4 but this is only on the understanding that the definition of sustainability and its relationship with innovation and productivity is understood and that the definition of sustainability is not related to selection of varieties under low input regimes as it appears to be in the paper. Objective 5 is a very obvious one and it either goes without saying as underlying all the others or else it must be the top priority. It is very difficult to separate the other objectives; they are all high priorities. We are uncomfortable with indicating priorities in a ranked order; the question is leading and there is potential for the answers to give a misleading view of the industry's position. We support the list of priorities that has been put forward by ESA as part of its submission to this consultation i.e., ranked highest priority first: • 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 for 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)**

None of the scenarios is an exact match for the scenario that BSPB would support.

### **4.3 Are certain scenarios unrealistic?**

Yes

#### **4.3.1 Please state which one(s) and why**

In scenario 1 we are uncertain as to whether the EU can dictate through Regulation that the authorities in each Member State have to achieve full cost recovery for statutory services. Can this be regulated for or is it a matter for individual Member States to decide? Scenario 2 does not appear to move too far from the status quo, certainly as far as the UK is concerned. However more clarity is needed on the question of the choice to use official registration and certification or not and when and why a seeds supplier would want this. BSPB's preferred option would be official certification with industry performing the activities required to attain certification under official supervision. A suppliers' label would allow companies to compete on quality but it is not clear that this would definitely work to improve that quality overall. It is important that an official step be retained in seed certification. DUS must be retained and VCU where it exists today

though some further analysis of the VCU requirement for minor agricultural species is desirable. Please refer to our answer to 4.2 above. In scenario 3, harmonised testing at EU level would be very difficult to achieve in the context of differing variety performance in different environments. Testing needs to be localised in relation to climate. In the diagram relating to scenario 3 an optional VCU is shown but this is not referred to in the text. A business model could be envisaged that would be based on no VCU but it would lead to an extremely confused market place and certainly not achieve the objective of simplification. A compulsory VCU for those species where it currently exists is the remedy for the market failure of investment in research and is in line with the general objective of making sure that there is continual improvement. It is also important to define what VCU means in the context of the scenarios. If VCU is changed to mean simply testing varieties at low N and is optional then no one will choose to use it as it would not lead to the best varieties for output being selected. Marketing all seed with suppliers label only, could mean a withdrawal of this area of legislation from all consumer protection which could not be a good outcome for farmers. Scenario 4 appears to be the favoured option in this paper. However it represents an uncontrolled and confused market. It would be impossible to link in seeds legislation based on scenario 4 with that of other areas such as plant health. Given a choice of routes to market, a breeder with a variety with any kind of failing that he did not want to be exposed through a testing system would opt to market it through the proposed alternative unregistered uncertified route. Breeders would choose to market varieties early, and with less information. This could potentially speed the rate of innovation but only if the varieties entered through this route were improved. Without testing and quality hurdles to overcome it is highly unlikely that they would be anything other than 'me too' varieties. In addition varieties from overseas would come into the market with special claims, that would have no testing or verification to back them up and farmers, as consumers, would be exposed. This confusion makes any attempt at an impact analysis very difficult. The regime would not be simple, it would not be harmonised, it would not help the farmer or the consumer and there would be no guarantee of quality or identity. The farmer's decision on what to sow would be very high risk under scenario 4. In addition, with many varieties in the market place without having had a DUS test, breeders would incur the additional expense of having to check the identity of varieties to guard against plagiarism. The system would also open up the potential for much more adulteration of seed and passing off than currently exists in the controlled market. There is an important cross over here with PVR legislation that has not been considered. Scenario 4 is regressive and opens up all kinds of market failure issues that have not been taken into account in the impact assessment. It represents a de-professionalisation of the seeds industry. Any scenario in which there is a choice of routes to market for any particular group of varieties as to be of concern. As soon as there is choice there is potential for confusion and abuse. Scenario 4 also proposes the deregulation of conservation varieties. The current level of regulation of such varieties which allows restricted marketing aimed at conservation of genetic resources and the production of premium products is entirely appropriate and should not be relaxed. It would be dangerous to create a scheme with no control or restriction which could lead to unfair competition from unregulated heritage varieties or varieties purporting to be heritage varieties entering mainstream markets. The revisions that have been made already to the seeds marketing directives in respect of conservation and amateur varieties are appropriate for these niche products to ensure that growers have some protection and know that what they are getting is the genuine heritage variety and also to protect the mainstream seed market. If the market for a product is larger than the current volume restriction for a conservation variety then it clearly has a significant value and it is completely appropriate that it should be required to pass through the normal registration process. Scenario 5 extends the concept of centralising activity on the CPVO to its maximum level. This centralisation is appropriate for the oversight of DUS for the purposes of registration and PBR, under the well supported principle of one key several doors for DUS and it is sensible to extend the coordinating role of the CPVO to variety denomination but VCU testing requires a degree of national flexibility albeit working within common high level guidance. The proposal for online publication with continual updating of the common catalogue is welcomed. Like scenario 4, scenario 5 includes the possibility of dual streams of varieties, some officially certified and some marketed on a supplier's label. This is unworkable for the same reasons as given for scenario 4. It would be appropriate to evaluate conservation varieties in their

region of origin if they are genuinely conservation varieties with specialist characteristics and uses but the level of information given here about the proposed evaluation is too scant to be able to determine whether it would be effective in determining that a conservation variety was truly that. Restrictions by volume are not mentioned and these are essential to ensure that any less regulated route to market for conservation varieties is not abused. The options paper appears to miss a key point about innovation in appearing to want more varieties in the market place. More varieties does mean more choice for growers but it also means more 'me too' varieties without genetic gain. Allowing more varieties into the market is therefore a barrier to, rather than a promoter of, innovation. Legislation which opens the market to larger number of average or inferior varieties slows innovation and genetic gain, again a serious negative in the context of the global food security issue and the need for productivity gain. Legislation which restricts choice to a smaller number of better varieties is in contrast a driver for improvement. BSPB agrees completely with discarding the abolishment scenario. However it regards some of the scenarios that have been put forward, particularly 3,4 and 5 if adopted without modification, to be significantly worse than the status quo or no change scenario.

#### **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**

None of the scenarios is an exact match for the scenario that BSPB would support. The closest to this is scenario 2 but this still has some problems, mainly a lack of clarity as to whether it is intended that breeders and suppliers have a choice of route to market for any crop. BSPB would support a scenario which promotes innovation in breeding and seeds production and ensures that European farmers continue to have access to a continually improving supply of new and better varieties which contribute to enhanced productivity through genetic gain and help to achieve the EU's strategic requirements for sustainable production which is based on growing more with less whilst not doing environmental harm. This might best be achieved through:

- Variety registration obligatory and including DUS testing for identity and a VCU measure of merit.
- This to apply to all crops as it does under the current regime but a review may be undertaken of the way in which VCU testing is conducted for minor crops such that it is very light touch and the cost becomes proportionate.
- Member States retain flexibility over VCU testing protocols. Activities and testing leading to variety registration are carried out as far as is possible by industry under official supervision and the limits of official supervision extended if necessary to allow this.
- One key several doors approach remains for DUS such that a single test can serve for both variety registration and PVR.
- CPVO responsible for all variety denomination and the management of the Common Catalogue. Common Catalogue to be published online, available to all and updated in real time.
- Certification remains obligatory for currently regulated crops but as much work as possible is carried out by industry under official supervision. The limits of official supervision are extended as necessary to allow this to happen.
- All breeders and suppliers are registered with no exclusion for those trading only in conservation or amateur varieties. Official inspection, audit and enforcement remains in place.
- No change to the approach for conservation varieties from that currently enshrined in the legislation other than the registration requirement for all companies. No relaxation of the regulation of conservation or amateur varieties.
- There cannot be a system in which breeders and suppliers have a choice of routes to market for any crop which could lead only to confusion in the market place, a slowing of innovation and genetic gain with all the consequences that that would have for the productivity and competitiveness of European agriculture. This is very much in line with the seed industry preferred scenario that has been put forward by ESA in its submission to this consultation and which has the full support of BSPB.

## **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 paper misses reference to the impact on consumer protection and the availability of information to consumers and traceability of material which is a key feature of consumer protection. Consumers here are viewed in the widest context. Scenarios which allow for a deregulated route to market for certain crops that are currently regulated and for which established mechanisms for consumer protection and traceability are not established must include consideration of these issues.

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

Underestimated

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

Scenario 1 – we agree broadly with the impact assessment presented in the paper except for the omission of impacts on consumer protection and information as described above. Scenario 1 with its full cost recovery objective would mean increases in the cost burden on the industry. These increases would have to be passed onto customers which would in the end mean higher prices for consumers and the impact would be very great in some Member States where fees are a long way currently from achieving full cost recovery. Scenario 2 - our view of the impacts differs from that of the Commission in the following areas:

- Plant health & quality: there is a discrepancy between the table and the text in the Commission's analysis, the text indicates the impact to be neutral but the table shows it as negative. The text assessment seems right; plant health and quality should be maintained or could even be improved through market competition in a scenario of extended official supervision.
- Employment & jobs in the public sector: although public sector jobs would be lost if official supervision were extended, the impact is probably overstated and an increase in jobs (though probably not a matching one) would be expected in the private sector.
- Administrative burden on the private sector: we perceive a strongly positive impact here, not the negative one that is identified in the paper. Whilst there will be some additional work for companies to do from the transfer of competence under official supervision, overall there will be some elimination of duplication and cost and from improved efficiency so we see this as a positive not a negative impact.
- Innovation: the impact should be positive rather than neutral as the transfer of competence and anticipated associated cost reduction- or at least protection from cost increase - should protect the amount of money that is available for investment in R&D by breeding companies.
- Environmental impact: we cannot foresee any negative impact for the environment and believe this should be marked as neutral. Breeders are already breeding for sustainability based on the definition of sustainability that we have discussed at length in this submission. The argument that minor crop breeding would decline under this scenario is flawed in that transfer of competence to the industry with associated cost reduction has instead the possibility to reduce costs for such breeders and increase their ability to innovate and compete.
- Consumer information/protection: the impact here of scenario 2 will be neutral provided that VCU and DUS continue for all varieties of the crops to which these requirements currently apply. If an unregulated stream within any crop is envisaged however, the impact will be negative.

Scenario 3 We disagree with the Commission's assessment of all of the impacts of this scenario except for the impact on plant health and quality of S & PM and the impact on employment and jobs where we agree that the impact of scenario 3 is negative. Our reasons for disagreement with the analysis of other impacts are as follows:

- Admin burden and costs for authorities: having dual streams of varieties will be a more complex system for the authorities, as well as for the market. Testing systems will have to be maintained but throughput will be lower if companies opt for the unregulated route and unit costs will therefore be increased.
- Admin burden & costs for private sector: this is difficult to predict and much will depend for individual companies on the route to market that they choose. Costs could be lower through an unregulated route but marketing budgets may need to be higher as there will be no tests and trials data from organised trials on which to sell the varieties. Costs for those wanting to use a regulated route in a dual track system would be higher as explained above, the unit cost will increase in a system with lower throughput.
- Competitiveness, markets and trade: the impact of scenario 3 is more likely to be negative than

positive. A confused market with dual tracks for varieties will as explained earlier in this submission, mean a market of more varieties of overall lesser quality than a regulated market of a more restricted number of varieties of overall higher quality and in which breeders are encouraged to compete on the strength of the improvements that they can make through genetic gain.

- Innovation: the impact will be negative for the reasons given directly above.
- Environmental impact: scenario 3 is more likely to being negative impact than the neutral position expected by the Commission. More deregulated varieties in the market place does not necessarily equate to increased biodiversity of the material available. The lower overall productivity that we anticipate from a deregulated market as explained earlier could even be detrimental to the environment if more land has to be farmed to achieve yield from overall lower yielding varieties both in Europe and through indirect land use change in other parts of the world. Varieties at threat of genetic erosion are catered for adequately by the existing legislation in this area.
- Consumer information/protection: the impact will be negative. Consumer information is provided through a standardised system at present; this will not be available in a deregulated market and consumers will have only the suppliers' own data on which to make their decisions. More information in a smaller, more regulated market is more beneficial to consumers than less information about more varieties in a deregulated scenario.

Scenario 4 Many of the comments that we make in relation to scenario 3 also apply to scenario 4. We agree with the Commission's conclusion that negative impacts will apply to plant health and quality of S & PM and to employment and jobs but see the other impacts which the Commission has judged to be positive as more likely to be negative, or at the best neutral, for the reasons set out below:

- Admin burden and costs for authorities: same as answer for scenario 3
- Admin burden and costs for private sector: the introduction of VCU testing for vegetables under this scenario would lead to hugely increased costs for the vegetable seeds sector. There is a well-established route to market for vegetable varieties based on relationships and test and trials arrangements with customers which works well and cost effectively for all parties and which there is no benefit from disrupting. See also answer to same point under scenario 3.
- Competitiveness: there would be a strongly negative impact on competitiveness for vegetable seed companies from the introduction of VCU which in turn would impact on growers and suppliers as the outcome would be fewer new varieties and slower genetic gain. The dual system market could potentially lead to unfair competition between regulated and deregulated varieties; for reasons elaborated previously this could lead to a decline in the overall rate of genetic improvement and with it productivity, which would have negative implications for the competitiveness of European agriculture and food production as a whole. The Commission may be right in its assumption that there could be a lower seed price for agricultural crops from some of this deregulation but it is not true that this will necessarily make traded seed more competitive with farm saved seed as price is far from being the only criterion on which farmers base their certified versus farm saved seed decision.
- Innovation: see answer to this point under scenario 3.
- Environmental impact: see answer to this point under scenario 3.
- Consumer information/protection: see answer to this point under scenario 3

Scenario 5 We support the Commission's conclusion that the impact on employment and jobs will be negative under this scenario, that the impact on the admin burden for the authorities would be positive and that the impact on competitiveness would be positive, though not to the same extent that the Commission considers it to be. We disagree with other estimates of likely impact for the following reasons:

- Plant health and quality – the Commission describes centralisation of testing based on CPVO and greater uniformity of testing leading to better variety descriptions. This may be true but it does not have any impact on plant health or quality and therefore the impact here is neutral.
- Admin burden and costs for the private sector: see answer to scenario 4 ref the introduction of VCU for vegetable species.
- Innovation: again see answer to scenario 4 ref the vegetable seeds sector.
- Consumer protection/information: we perceive a positive impact from greater harmonisation of testing and the availability of more information through the Common Catalogue.

#### **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:**

Please refer to the answers that we have given at question 4.2 and 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**

Please refer to the answer given to questions 4.2 and 4.3.

**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 statements in the text of the options and analysis paper and the indications given in the tables are difficult to reconcile in some places and we think that they may contain errors. Also please refer to our answers to question 4.2 and 4.3. BSPB supports the analysis of the comparison between scenarios that has been provided by ESA in its submission to this consultation

**7. OTHER COMMENTS**

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

We support fully the ESA proposal of an alternative scenario that will achieve the goals of better regulation for regulators, the seeds industry and its customers alike. We refer you to the ESA submission to this consultation for the full details of this scenario. The way in which this review has been conducted is very disappointing and concerning in relation to the potential outcome. Firstly, seed industry associations at National and European level spent a very great deal of time in careful and detailed thought and analysis to produce considered and comprehensive papers and submissions on this issue which is absolutely critical for the future functioning and competitiveness of the breeding and seeds sector. Associations at national and European level have spent time in their boards and committees developing these positions and many senior representatives of companies have devoted very many hours to ensuring that there is an industry

position that is well thought out and strongly supported as being a workable improvement on existing legislation and protecting the interests of producers and users alike. There is a gratifying convergence in the opinions of the key associations representing the farmers and users and the seed associations as producers. It is therefore disappointing to say the least that the seeds industry's views made strongly and clearly in response to the initial evaluation exercise are not easily recognisable in the scenarios that are presented in this options and analysis paper. Such industry views are difficult and time consuming for associations to develop, given the need to consult all different sectors of the industry and pull together disparate views and different needs of different sectors into an industry position that can be supported by all. It is therefore challenging to say the least to be asked to do this in a month for such a complex paper as this one, especially when its publication by the Commission has been delayed by several months prior to that. It is a serious underestimate by the Commission of the importance which the industry attaches to this exercise to suggest that a response could be completed in 30 minutes. We also have some concerns about the way that the current paper and the questionnaire have been constructed. The paper could be very misleading for anyone who does not have a detailed knowledge and understanding of crop production and seeds. The review and this paper have very seriously overlooked the risks of market failure in terms of innovation. Faster innovation, genetic gain and closing the yield gap between potential and realised yields are all required to make the productivity gains that are needed to feed the increasing global population (reference Foresight). This must be a key objective for this legislation but the review ignores it. We urge the Commission to take proper and appropriate account of the views and concerns of the major stakeholders in this exercise who are plant breeders and seed producers. We are not a special interest group but a strategically important sector in agriculture and food production in Europe and as the sector that is regulated by this legal framework it is the survival and competitiveness of our businesses that depends on the outcome of this evaluation and new legislation which in turn means whether Europe leads or falls behind in its sustainable agricultural productivity.

**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 - The potential to increase productivity of wheat and oilseed rape in the UK (Spink et al 2009, report to the Government Chief Scientific Adviser) - The feeding of the nine billion: global food security for the 21st century – Chatham House January

