

1. INTRODUCTION

1.1 What is the name of your organisation?

ITAB (The Technical Institute for Organic Farming in France)

1.2 What stakeholder group does your organisation belong to?

Other

1.2.1 Please specify

Organisation operating on national level

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

ITAB 149 rue de Bercy 75595 Paris Cedex 12 FRANCE Phone: + 33 468 47 85 36
<http://www.itab.asso.fr/> Contact person for this issue: Frederic REY, organic seed committee
frederic.rey@itab.asso.fr

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 political, cultural, structural and environmental developments that have taken place since the first EU S&PM legislation has been established must be taken into consideration (1.

Environmental challenges: loss of biodiversity continues and the loss of agricultural diversity is an important part of this – which is recognised also by the EU Commission Biodiversity strategy of 3rd May 2011; the necessary adaptability of agriculture to the consequences of climate change;

2. Policy developments: commitments to halt the loss of biodiversity on EU and UN level, Treaty on Plant genetic resources; 3. Structural change: Accession of new member states with many small scale farmers and gardeners, concentration on seed market, structural change in farming;

4. Cultural change: After a the development of varieties aimed mainly on higher yields in the middle of the last century, a development has taken place, more attention is nowadays paid to the use of traditional, old, organic, rare, open pollinating plant varieties for the sake of diversity in taste and environmental considerations.) - The description and characterisation of varieties according to DUS/VCU criteria are – amongst other bureaucratic obstacles – a main hurdle to the

maintenance and further development of biodiversity on the market for seed and plant propagating material (S&PM). Whereas these criteria perfectly match with varieties bred for use under standardised conditions, they prevent the marketing of S&PM of many varieties that are of potential additional benefit for organic and low input farming: open pollinating varieties and varieties bred for a higher level of adaptability and resilience regarding different environmental

conditions and climate change (thus with a higher intra-varietal genetic diversity). - The current legislation favours big seed companies and uniform varieties and is disproportionate for small breeding companies, farmer/breeders and small markets. Small markets for seed and propagating material face still high costs and bureaucratic burden (on member state level:

monitoring requirements) under the new exceptional rules for conservation varieties. Moreover, new farmer's varieties and new breeders' varieties with high intra-varietal diversity cannot be registered under these rules. Even direct sales and exchange of small amounts of S&PM that cannot be considered as "marketing" and should therefore not be in the scope of the regulation but be allowed without any kind of registration on a de-minimis basis, are prohibited in some member states. These restrictions cannot be argued for with consumer protection as no immediate threat for public health or general plant health can be expected from seed or plant propagating material of vegetable, fruit and grain species in general. The restrictive rules are moreover a barrier for consumer's choice, for the development of genetic diversity and hinder the

development of the full innovation potential of farmers and gardeners. - Some novel (GM) breeding techniques and methods are not defined as GM (at the moment) under EU legislation or are excluded from the regulation (mutagenesis, cell fusion) and therefore not labelled. This lack of transparency is a big concern for breeders, farmers and consumers who reject the use of these techniques. This is also the case concerning the intellectual plant property rights: it is very difficult to get information on patent (on genes or process) and Plant Variety Right (in particular for national protections). It is therefore necessary that the variety description indicate all breeding methods used during the breeding process as well as the basic varieties, their origin and if it is the case, the plant variety right protection and/or patents. - A differentiation between high-risk varieties and low risk varieties is missing. If just after being released, a variety is grown on a large area and for the global market, the risk level is high for farmers and retailers. In this case, high costs related to high performing tests and certification are appropriated and necessary. However, for varieties targeted to niche markets and with low market share (ex. Varieties to Low Input or Organic Agriculture), the risk for the community is much lower. In addition these varieties are contributing to increase cultivated biodiversity as well as innovation. In this 2nd case, test and cost must be adapted and related to the market share.

2.3 Are certain problems underestimated or overly emphasized?

Overestimated

2.3.1 Please indicate the problems that have not been estimated rightly

- The bureaucratic burden and costs of registration, DUS and VCU testing are underestimated, as it is a problem that hinders the registration of many varieties with a low(er) commercial importance. This has a negative impact on agro-biodiversity. - At the same time we think it is crucial that national authorities remain in charge of ensuring advise and tests for local breeders; this is necessary to keep SME breeding companies in business and to encourage farmer communities to register their varieties, as the burden to contact national offices are significantly lower (e.g. language problems) than to contact the European CPVO directly; moreover, testing and description must be ensured under conditions the variety is adapted to. For instance: a variety bred in Sweden cannot be tested in a Mediterranean area for example.

2.4 Other suggestions or remarks

Whereas shortly mentioned, consumer's right to choose has not been sufficiently addressed in the problem definition. Farmers and gardeners as users of S&PM, as well as the final consumer of a food product, want the freedom of choice - for a diversity of taste, texture, colour and shape of crops - for GMO free products - for open pollinating, local and traditional varieties besides hybrids - for varieties adapted to specific ways of farming (organic and low input farming, High Nature Value farm systems, etc.) or to specific local conditions Characteristics addressed in the VCU and also any additional issues (sustainability characteristics such as reduced water use) can therefore not be made valid for the use of plant varieties all over Europe and need to be included in the description of varieties on a voluntary basis, instead of being a mandatory criteria and burden to registration. The VCU is now problematic for the registration of many varieties targeted for the use in organic and low input agriculture. Where reference is made to competitiveness, it has not been considered that different kinds of markets exist: Breeders and farmers deliver different qualities of seed and food. Special food qualities and the need for raw materials for specific processed products and the diversity of taste have not been considered.

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)

- Freedom of choice for consumers, see above; - The needs of organic and low input agriculture

are overlooked as well the importance of the availability on the market of traditional and local varieties that meet consumers need.

3.3 Are certain objectives inappropriate?

Yes

3.3.1 Please state which one(s)

plant health is addressed as an overall objective here, but in order to reduce the financial burden for the registration of a plant variety, it must not be part of the S&PM marketing legislation, but should be ensured through the plant health legislation, as no major impacts on public health are to be expected from a new plant variety; “a posteriori” controls and potentially putting varieties in quarantine would be sufficient - innovation and international competitiveness – can be considered in the S&PM marketing legislation but must under no circumstances be an objective that leads to mandatory requirements for all plant varieties, as not all plant varieties need to be innovative or competitive on the world market; instead the innovation potential of farmers, gardeners, farmer groups and small breeders for locally adapted varieties and varieties adapted to particular conditions, as well as for the maintenance of biodiversity must be recognised and promoted.

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

4

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

3

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

5

3.6 Other suggestions and remarks

Additional objectives should be: - to enable farmers, gardeners, farmer groups and small breeders to contribute to innovation as well as to the maintenance and further development of agricultural biodiversity by establishing an adapted legal framework - establish exemptions from all registration requirements for small quantities of seed and propagating material sold for special purposes (regional speciality products, direct marketing of non-retail conform but tasteful vegetables, maintenance and identification of fruit varieties and local types) and for varieties maintained with the aim to maintain biodiversity - establish proportionate rules for different types of S&PM marketing (see attached illustration) Sustainability in the context of this legislation must not be defined as a set of characteristics one variety shows under standardised growing conditions (e.g. water efficiency), but must also consider the complexity of the agricultural systems in which the variety is likely to be grown (crop rotation, etc.) and the sustainability of this system. Remarks: The objective to “empower users by informing them about seed and propagating material” must include information to users about the breeding methods used in the variety and the parent lines. Genetic modification techniques including several novel breeding techniques such as cis-genesis, reverse breeding, tilling, site-directed mutagenesis, and gene silencing, are rejected as production methods by many end users. It is therefore necessary that

the variety description and every seed package at the point of sale indicate the breeding methods by which a variety and his parent-lines have been produced. For instance: This variety has been made with the use of reverse breeding. Cell fusion, including protoplast fusion, is a GMO breeding technique which is excluded from the GMO regulation (EC 2001/18) and therefore not labelled. As a consequence it is very difficult to implement a ban. For the organic sector it is important that the use of protoplast-fusion (to produce CMS varieties) is mentioned on the label. This should be mandatory. Moreover, clear labelling requirements can address the fear that users might not be offered with appropriate qualities if the VCU requirement and the strict DUS criteria would be lifted for the "light" registration of certain varieties. Officially tested varieties (and in the case of cereals VCU tested varieties) would be clearly distinguishable due to a precise labelling system.

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)

Whereas scenario 4 seems to open the possibility of section 2 registration for "non-tested" varieties and scenario 5 introduces a "light VCU", we still miss a clear commitment to simplify market access for open pollinating varieties with a higher intra-varietal diversity. We also miss solutions to face the challenge diminishing diversity of the genetic basis for future food security. Moreover we see a lack of ambition to recognize the role of farmers, gardeners, maintainers of old varieties and small breeders in innovation and the maintenance and further development of the "domestic" part of biodiversity: genetic resources shaped by human selection and breeding activities over the last thousands of years. Under current legislation, exemptions only exist for certain groups of varieties, especially for cereals and potatoes a framework that allows new development of small farmer or breeder varieties does not exist. Geographic and quantitative restrictions as well as bureaucratic burden and monitoring requirements for member states are an obstacle. A legal framework that provides for a "light registration" of "multi-line-varieties", "family-varieties" or "populations" must be created. Varieties registered under this section can be labelled as "non-officially tested varieties" to allow consumers to distinguish between the standard DUS conform and VCU tested varieties and the more diverse varieties. Registration under this section should be based on the description of frequencies of characteristics. Varieties registered under this section may be excluded from any kind of intellectual property rights (Plant Variety Right and/or patent on genes or process), but not from marketing. Moreover the definition of marketing in the legislation needs revision: The exchange of small amounts of S&PM between farmers and gardeners as well as direct sale of small amount of S&PM for example on markets to private users must be excluded from the scope of the legislation and shall be allowed without any registration.

4.3 Are certain scenarios unrealistic?

No

4.3.1 Please state which one(s) and why

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)

Scenario 2: Competitiveness disadvantages resulting from this scenario for SME breeders and consequences for employment have been overlooked. Moreover the impact on biodiversity has been underestimated: Under this scenario, the disappearance of varieties with broader intra-varietal diversity will continue. Scenario 5: Possible negative impacts for SME breeders due to language problem and possibly cultural differences if they lose direct contact points in their countries; resulting in further concentration in the seed sector, reduction of diversity, diminution of innovation potential of small breeders and farmers. Moreover, the loss of variety diversity will increase.

5.3 Are certain impacts underestimated or overly emphasized?

Rightly estimated

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)?

3 = 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

Rather negative

Scenario 3

Rather negative

Scenario 4

Very beneficial

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:

Scenario 4 can be a basis for an improved option, better serving the need for consumer choice, diversity and making use of a broad innovation potential (see other points and illustration attached). What has to be improved: 1. Transparency of breeding methods that go beyond selection and natural re-combination used for the variety and the parent lines (see also answer to question 2.5) 2. "Non-tested" varieties under section 2 should be re-named as "non officially tested varieties", as all varieties brought to the market have usually undergone some tests internally conducted in the breeding company or notifiers can refer to experience gained with the variety over time. 3. For varieties under section 2, no certification requirements should apply. 4. Varieties under section 2 should be excluded from the possibility of any intellectual property rights (Plant Variety Right and/or patent on genes or on process). 5. Seed exchange and sales on the

informal seed market (direct sale to end user) are not subject to any registration requirement.

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

Scenario 4 can be a basis for an improved option, better serving the need for consumer choice, diversity and making use of a broad innovation potential (see other points and illustration attached). What has to be improved: 1. Transparency of breeding methods that go beyond selection and natural re-combination used for the variety and the parent lines (see also answer to question 2.5) 2. "Non-tested" varieties under section 2 should be re-named as "non officially tested varieties", as all varieties brought to the market have usually undergone some tests internally conducted in the breeding company or notifiers can refer to experience gained with the variety over time. 3. For varieties under section 2, no certification requirements should apply. 4. Varieties under section 2 should be excluded from the possibility of any intellectual property rights (Plant Variety Right and/or patent on genes or on process). 5. Seed exchange and sales on the informal seed market (direct sale to end user) are not subject to any registration requirement.

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:

We would like to thank the European commission for giving us the opportunity to present our point of view. This contribution is essentially based on the contribution made by IFOAM UE in which we were involved.

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:

1. FAO document CGRFA/WG-PGR-5/11/Inf.5 ; STRENGTHENING SEED SYSTEMS: GAP ANALYSIS OF THE SEED SECTOR, 2011 2. 'Seed policies and the right to food: Enhancing agrobiodiversity, encouraging innovation' Report (A/64/170) presented at the 64th session of the UN General Assembly (21 October 2009) 3. FAO document CGRF A-12/09/Inf.20, STRENGTHENING SEED SYSTEMS: A CONTRIBUTION TO THE PREPARATION OF THE SECOND REPORT ON THE STATE OF THE WORLD'S PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE 4. Bocci (Riccardo), Chable (Véronique), Kastler (Guy) and Louwaars (Niels), Set of recommendations on farm conservation strategy, the role of innovative market mechanisms, legislative framework for landraces, conservation varieties and amateur varieties in Europe, Farm Seed Opportunities, 2009. www.farmseed.net 5. Lipper L., Anderson L., Dalton T.J. (eds), 2010, Seed trade in rural market, FAO. 6. Louwaars N., 2007 Seeds of Confusion; The impact of policies on seed systems. PhD dissertation, Wageningen, The Netherlands – with references – with summaries in English and Dutch 7. M. S. Wolfe M.S., Baresel J.P., Desclaux D., Goldringer I., Hoad I., Kovacs G., Miedaner T., Østergaård H., Lammerts van Bueren E.T., 2008, Developments in breeding cereals for organic agriculture, Euphytica , 163:323–346 8. Osman A., Chable V., 2009, Inventory of initiatives on seeds of landraces in

Europe, Journal of Agriculture and Environment for International Development, Istituto Agronomico per l'Oltremare. 9. Vetelainen M., Negri V., Maxted N. (eds), 2009, European landraces: on-farm conservation, management and use, Bioversity International. 10. Visser B. 2002, An Agrobiodiversity Perspective on Seed Policies, in Louwaars N. ed., Seed Policy, Legislation and Law: Widening a Narrow Focus, The Haworth Press.

