1. INTRODUCTION

1.1 What is the name of your organisation?
Agriculture Ministry of France

1.2 What stakeholder group does your organisation belong to?
Competent Authority (CA) involved in S&PM certification and control

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
Ministère de l'agriculture, de l'alimentation, de la pêche, de la ruralité et de l'aménagement du territoire Direction Générale de l'alimentation (DGAL) 251, rue de Vaugirard 75 732 Paris Cedex 15 tél : +33 (0)1 49 55 50 30 Fax : +33 (0)1 49 55 59 49

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 first global problem that shall be defined is the global food crisis and the climatic change and the role of agricultural and forestry productions cans play to contribute in solving this issues. - - The question of the genetic progress is fully missed. Many available references and data support the fact that absence of regulation oriented genetic progress drives to a dramatic decrease, in quantity and in quality, of the agricultural and forestry productions : Brisson & al 2010 for cereals, Fields Crops Research 119, 201-212 / Van der Heijden and Roulund, 2010 for forage crops, S.A.G. van der Heijden and N. Roulund, 2010. Genetic Gain in Agronomic Value of Forage Crops and Turf: A Review. In C. Huyghe (Ed) Sustainable Use of Genetic Diversity in Forage and Turf Breeding, p 247-260) ; - - In the problems definition, the Commission argues that the main current focus of the regulation is only based on productivity. However, the current legislation allows member states to define specific national VCU criteria in the view of varieties registration. In France, VCU testing integrates the evaluation of varieties adaptation to agro environmental constraints and diversified cultural practices that favor the decrease of inputs use (testing without pesticide, without irrigation, diseases and pests genetic resistance characterization …).

2.3 Are certain problems underestimated or overly emphasized?
Overestimated

2.3.1 Please indicate the problems that have not been estimated rightly
- Costs issue: overestimated. Document argues that the second of the 4 problems that shall be solved is related to the cost of the implementation of the regulation in the Member states. However at the French level, the implementation of the regulation (registration and certification) does not represent 3% of the value of the sector but about 0,3%. This data proves that the French system is more cost efficient that most of the other EU member states systems. This situation is partly due to the current implementation of the “under supervision controls” for VCU and certification. - The difference of costs between member states cannot be linked with the lack of harmonization concerning the implementation of the seed and plant regulations. Indeed, the difference is mainly due to the difference of work’s cost among the member states. - Other point : the transfer of certain tasks performed by industry under official supervision don’t reduce the total costs but transfer the public costs to the industry. This total cost would probably be higher in case

of the DUS testing. - Trade distorsion in the common market : the more stringent requirements implemented by a member state does not create distorsion at the EU level because S&PM meeting the communautary rules can be sold in the member states which implement stricter standards

2.4 Other suggestions or remarks
- In the problems definition, the lack of efficiency of the current systems is not proved. As regard the current economic results, the systems are efficient (France is the 2d country for exportation of S&PM in the world and the 1st producer at the EU level). - In all the document, the definition of the word “innovation” is mistaken for the word “creativity”. The word “innovation” should be based on the definition given by Schumpeter as early as 1911 (in his first edition of Theory of economic development) and which is the basis of most innovation economists who consider that an innovation is a novelty which reaches the market and meets its expectations, thus contributing to an increase of the economic activity. - In the impact assessment document, there is confusion between the notion of biodiversity and genetic resources or genetic diversity. Biodiversity includes both the variation among species and the variation within-species. The variation among species may be measured at various scales, such as ?, ? and ? diversity considering both the within and between fields diversity (see de Bello et al, 2010 Journal of Vegetation Science 21, 992-1000). It may also be considered on the basis of the functional traits (functional biodiversity). Although there are some examples of relationship between species diversity and genetic diversity within species (Vellend and Geber, 2005, Ecology Letters 8, 767-781), both levels of diversity may be regarded independently. Plant breeding will mainly influence within-species genetic diversity (either through cultivated genetic diversity or ex situ genetic resources) while agronomic practices will have a crucial impact on the biodiversity in agricultural and forestry production systems.

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 following objective has been missed: productivity, quality and regularity of the productions. This objective shall be placed in 1st position in the view to be consistent with the expected role of the EU agricultural and forestry productions in the global food security and thus in avoiding food crisis. This collective responsibility must still be considered as crucial. - The issue of the innovation is overlooked. It shall not be placed at the third place after biodiversity and sustainability. Indeed, innovation is the key issue that enables to reach the objectives of sustainability. - The issue of traceability shall be at the same level as the question “healthy high quality S&PM”. Indeed, this issue is a component of the quality of the S&PM. - The general objectives address the question of the information to the users. This information shall be qualified as well as reliable, impartial, official and available for the whole chain of users (from the farmers to the consumers). - The specific objective based on the improvement of the competitiveness shall be clarified and not based only at the EU level. Indeed, in the frame of the international market / exchanged, based on equivalence systems, the role of official certification for S&PM and health is crucial especially for the EU whose agricultural economy is mostly based on exports to third countries.

3.3 Are certain objectives inappropriate?
Yes

3.3.1 Please state which one(s)
- The specific objective related to the costs and the administrative burden is not well defined. The objective is not to reduce these costs but to optimize, adapt and proportionate as regard the main objectives dealing with food and sanitary security, environmental risks, agricultural and forestry

production sustainability, biodiversity protection... - The difference made between the global and the specific objectives is not appropriate. For example the question of competitiveness of the S&PM is not a specific objective but a general one in the frame of the common agricultural policy.

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
2

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
1

Promote plant health and support agriculture, horticulture and forestry
4

3.6 Other suggestions and remarks
- As regard the question 3.4, it is not acceptable to consider a variety automatically registered as soon as it is protected by a PBR. Indeed, first, the registration is a public authorisation for marketing through a compulsory regime whereas the PBR is a private voluntary right. Second, PBR examination is only based on DUS testing and then, for agricultural crops, the proposed system would conduct to loosing benefit of VCU evaluation. This benefit is currently useful for the whole food supply chain. - As regard question 3.5, the first objective must be: productivity, quality and regularity of agricultural and forestry productions. Consequently, this objective is classified n°1 and then the ones ranked from position n°2 as proposed. - In the objective 4 (« contribute to improve biodiversity, sustainability and favour innovation ») innovation must be placed before sustainability and biodiversity which can not be promoted without innovation. On this basis we propose to rank this objective at the same level as “productivity, quality and regularity of agricultural and forestry productions”.

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)
- Miss a scenario that enables the improvement of the current system through technical and financial optimisation (and not reduction) to integrate to the objectives of the current legislation (innovation, productivity, quality and regularity of the production) the implementation of the environmental issues. This can be done through the official environmental evaluation of the varieties and their sustainable use. - The scenarios of evolution proposed are exclusive and the most appropriate answer shall be based on the combination of different aspects of each scenario.

4.3 Are certain scenarios unrealistic?
Yes

4.3.1 Please state which one(s) and why
- Scenario 3 and 4 are unrealistic. By allowing breeders and suppliers to supply the market without any formal and official control, compare to the current situation these scenarii represent a strong regression, specially with regard to user informations and public leverage aimed at orientating genetic progress. - Specially for certification, if EU would stop compulsory certification, the all OECD seed schemes will collapse. - We have to remind that on 58 members countries, 34 are from Europe and the others from America, Africa, or Asia clearly joined the system because it is compulsory if you want to sale seeds on the first market of the world: EU market . - We have to remind also that America with Australia, Japan and New Zealand has its own voluntary seed scheme, which is AOSCA. And last, USA already questioned in the nineties the OECD seed schemes. - Scenario 5 alone

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
The issue of innovation shall not be mistaken with the notion of creativity. The increase of the varietal flow through the increase in the number of varieties available for the users does not guarantee the actual diversity of the offer. Indeed this offer shall be officially characterized in conformity with the objective of the users' protection.

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)
- Weakening of the suppliers, operators position on national, EU and international levels. - Impact on food security, - Impact on environmental aspects as regard sustainable genetic resistance against diseases and pests, - Agronomical impact and impact of the evolutions on the production systems.

5.3 Are certain impacts underestimated or overly emphasized?
Underestimated

5.3.1 Please provide evidence or data to support your assessment:
- The loose of mandatory certification for agricultural crops could lead to the reinforcement of phytosanitary and sanitary (at human level) problems. - The positive impact on continuous and officially recognized genetic improvement is supported by Brisson & al.,2010. - Alhemeyer et al, 2008, Options Méditerranéennes 81, 43-47 (Evaluation of the evolution of the yield of barley in Germany since 40 years in 13 locations of trials showing that the genetic progress represent approximately 50 % of the increase of the yield. This study shows also, based on SSR's molecular markers analysis, that the genetic diversity decreased slightly for "4 rows barleys" but increased strongly for "2 row barleys". Reference : Ahlemeyer J.; Aykut F.; Kohler W.; Friedt, W. ; Ordon, F., 2008 .Genetic gain and genetic diversity in German winter barley cultivars. Options Méditerranéennes. Série A, 81, 43-47

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
Fairly beneficial

Scenario 2
Fairly beneficial

Scenario 3
Very negative

Scenario 4
Very 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:
- scenario 1 & 2 are in line with the objectives to inform correctly the users, to protect him against on the quality of the production he will have and are in favor of innovation. They can also protect the quality and the biodivesrsity of the seeds which are on the market, even for the niche markets. They allow member states to lead innovation towards an sustainable innovation, ie to reduce pesticides uses. At least, the cost have to be reduced and transferred to seed industry, without being a too important commercial charge for them : other scenarios will lead to monopole of some seed companies and defavorze innovation in little companies. - scenario 3 and 4 will notreach the objectives of innovation, quality of the seed and loyal information given to the farmers. - scenario 5 alone is uninteresting.

6. ASSESSMENT OF SCENARIOS
6.1 Which scenario or combination of scenarios would best meet the objectives of the review of the legislation?
A combination of scenarios

6.1.1 What are your views with regards to combining elements from the various scenarios into a new scenario?
- registration at national level, with participation of industry and with DUS and VCU ; - VCU for the more important crops (by country/by export balance...); this VCU could be organized at the EU level to reduce costs, but each memeber state could choose its own priorities. - control and certification have to lead the same quality (or better) othe the S and PM sector. This could be done under certification by independant organisms, with a general responsability of the member states. - registration of the suppliers is very important ; - theres is no need to have a niche market seed sector where the seed quality and the information to the farmer would be lower than the classic sector.

6.1.1 Please explain the new scenario in terms of key features

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:
On the basis of the previous answers as regard the missing or misdefined objectives (innovation, productivity, quality, regularity of the productions) and the overlooked scenario based on the current technically and financially optimised (current objectives completed by the environmental issues) the comparison of the scenarios in the light of the objectives is hedged. - On the basis of

the analysis of the Commission, scenario 4 appears to be the most positive whereas on the basis of our arguments, the scenario 4 does not best enable to achieve the objectives as we propose them. - It's why an alternate scenario is proposed and evaluated in regards the objectives defined and misdefined in the proposal

7. OTHER COMMENTS

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

The previous regulation prooved its capacity to : - have a fair internal market ; - have a seed sector important and useful for the EU farmers ; - have a high quality of the seed and PM marketed ; - market a high diversity of S and PM in internal market. The next regulation has to : - maintain these previous objectives ; - reduce the cost of these official controls (but compulsory transfer to industry is not a real benefit for the EU) ; - simplify the procedures, using, as possible, the conbtrols made for other objectives (internal companies quality procedures, HACCP, ...). But simplify procedure is not always in line with simplify regulation, but the first objective is more important.

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: