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NOTE

From:	Presidency
To:	Permanent Representatives Committee/Council
Subject:	Regulation on the sustainable use of plant protection products – study complementing the impact assessment - <i>Information from the Commission</i> - <i>Exchange of views</i>

Delegations will find in the annex a Presidency note on the abovementioned subject, which will be dealt with at the Council meeting (Agriculture and Fisheries) on 25 July 2023.

**Proposal for a Regulation on the sustainable use of plant protection products:
Commission's Response to Council Decision (EU) 2022/2572 of 19 December 2022
- Background Note from the Presidency -**

BACKGROUND

On 22 June 2022, the European Commission adopted a proposal for a Regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115¹.

The proposal aims to replace the current directive (Directive 2009/128/EC) with a regulation in order to harmonise national policies on the use of plant protection products and to contribute to reaching the objectives of relevant EU flagship initiatives such as the European Green Deal, the Farm to Fork Strategy and the Biodiversity Strategy.

On 13 July 2022, the Commission presented its proposal, together with the accompanying impact assessment, to the Working Party on Plants and Plant Health Questions (hereinafter 'the Working Party'), and then have a presentation to the AGRIFISH Council on 18 July 2022. The examination and detailed discussion of the proposal continued during the Czech Presidency, in several Working Party meetings, mainly focusing on chapters I, II, III and IV of the proposal. A number of bilateral meetings and technical meetings were also organised.

¹ 10654/22 + ADD 1 to 6

The impact assessment has been one of the key aspects of the proposal raising concerns since the beginning of the discussions in the Council. At the September 2022 AGRIFISH Council meeting, several agriculture ministers expressed concerns about the impact assessment and stressed that it did not take sufficient account of the impacts of the proposal on food security in the European Union and on the competitiveness of the EU agricultural sector, especially as it had been conducted before the outbreak of the war in Ukraine and the energy and food price crises. Several ministers pointed out, in particular, that the impact assessment did not provide an adequate quantitative analysis of the potential dependence of the European Union on food imports, or of the ban on plant protection products in sensitive areas, especially given the limited availability of low-risk alternatives and the lack of mirror clauses for imported food.

On 15 November 2022, the Commission services tabled a non-paper on the definition and scope of ‘sensitive areas’, moving away from a total ban towards a restriction on the use of plant protection products in some specific areas, and introducing a set of elements of flexibility.

On 19 December 2022, the Council adopted Decision (EU) 2022/2572 requesting that the Commission submit a study complementing the impact assessment of the proposal and propose follow-up actions, if appropriate, in light of the outcomes of the study.

The Council considered that a study complementing the existing impact assessment and providing additional information was necessary, but that meanwhile work should continue on the various technical aspects of the proposal without undue delay.

Throughout the Swedish Presidency, discussions were limited to those chapters not affected by the abovementioned Council Decision. In June, the Swedish Presidency presented a progress report², which reflected the results of the work and the state of play after the first six months of the year.

² 9803/23

In March 2023, the Commission sent a letter to the Swedish Presidency, replying to the Council's request by way of the above Council Decision. The letter stated that 'the Commission will, in the spirit of sincere cooperation and on an exceptional basis, be providing additional input, as requested by the Council, on the basis of available evidence and data as soon as it becomes available in the course of spring 2023'.

On 5 July 2023, the Commission submitted its response to the Council³. The executive summary provided in the Commission's response is presented in the annex to this Note. In preparation for the exchange of views on this item at the AGRIFISH Council meeting on 25 July 2023, the Presidency is proposing the following questions to guide the ministerial debate:

- Question 1:

The targets for the reduction of the use and risk of plant protection products at national level, together with the prohibition on the use of plant protection products in so-called sensitive areas, are the aspects identified as most difficult by the majority of delegations.

Following the presentation by the European Commission of its study complementing the impact assessment and taking into account the non-paper presented by the Commission (15 November 2022) on sensitive areas, how do you think these two issues should be addressed at technical level in our future discussions?

- Question 2:

Which other important aspects of the proposal, if any, do you consider it essential to further address in preparation for our future discussions on the proposal?

³ 11644/23+ WK 9761/2023

Executive Summary

Council Decision (EU) 2022/2572 of 19 December 2022¹ requested the Commission to submit to the Council a study complementing the impact assessment of the proposal for a regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115, and to propose follow-up actions, if appropriate, in view of the outcomes of the study. This proposal for a sustainable use of plant protection products regulation² ('SUR proposal') was adopted on 22 June 2022 as part of a package of measures to reduce the environmental and health footprint of the EU's food system and to help mitigate the economic losses that we are already suffering due to climate change and biodiversity loss.

The Commission does not always have the granular and Member State specific data, and particularly on pesticide use, that Member States have, which limits the ability to provide Member State and crop-specific analysis. Regulation (EU) 2022/2379 of the European Parliament and of the Council³ will in the future provide valuable statistics on pesticide use to enable more precise monitoring of progress towards further pesticide reduction targets.

¹ [Council Decision \(EU\) 2022/2572](#) of 19 December 2022 requesting the Commission to submit to Council a study complementing the impact assessment of the proposal for a Regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115 and to propose follow-up actions, if appropriate in view of the outcomes of the study (*OJ L 331, 27.12.2022, p. 6*).

² [Proposal for a regulation of the European Parliament and of the Council on the sustainable use of plant protection products and amending Regulation \(EU\) 2021/2115](#) (2022/0196 (COD)).

³ [Regulation \(EU\) 2022/2379 of the European Parliament and of the Council](#) of 23 November 2022 on statistics on agricultural input and output, amending Commission Regulation (EC) No 617/2008 and repealing Regulations (EC) No 1165/2008, (EC) No 543/2009 and (EC) No 1185/2009 of the European Parliament and of the Council and Council Directive 96/16/EC (*OJ L 315, 7.12.2022, p. 1*).

In response, this study provides information on the specific aspects listed in the Council Decision. These include: (i) the potential impact of the SUR proposal on food production in the EU and on food and feed prices; (ii) the potential consequences for food and feed availability in the EU; (iii) the potential impacts of increased administrative burden on competitiveness and profitability of small and medium-sized farms; (iv) the availability of alternatives to plant protection products and the potential increased risk of introduction and spread of harmful organisms in the EU; (v) the potential impact of banning the use of plant protection products in sensitive areas, especially in areas used by the general public and in human settlements; and (vi) the potential impact of the proposed restriction concerning the use of plant protection products on forest stands and forest dependent biodiversity⁴. It confirms the conclusion of the evaluation and impact assessment that there is a need to revise the Sustainable Use of Pesticides Directive⁵ to address important policy issues such as poor and variable implementation across Member States, the lack of national targets and the need to protect sensitive areas. It also supports the measures set out in the SUR proposal. It further reaffirms the objectives of the SUR proposal and the SUR pesticide reduction targets, noting that since the SUR proposal was adopted the EU and all EU Member States have adopted the Kunming-Montreal Global Biodiversity Framework at the Fifteenth meeting of Parties to the United Nations Convention on Biological Diversity (COP15) and subscribed to a globally binding target of ‘reducing the overall risk from pesticides and highly hazardous chemicals by at least half including through integrated pest management (IPM), based on science, taking into account food security and livelihoods’ by 2030. This global target is fully in line with the SUR pesticide reduction targets set out under the SUR proposal.

⁴ Throughout this study, the term ‘pesticides’ is generally used to refer to plant protection products.

⁵ [Directive 2009/128/EC of the European Parliament and of the Council](#) of 21 October 2009 establishing a framework for Community action to achieve the sustainable use of pesticides (OJ L 309, 24.11.2009, p. 71).

The potential impact of the SUR proposal on **food and feed availability** in the EU, and the possibility of increased dependence on imports as well as reductions of exports, will depend on the potential effect on crop yields. This needs to be seen from two angles – an unmanaged or badly managed reduction in pesticide use may indeed lead to yield reductions, but a well-managed transition will not have such negative effects. At the same time, it is also clear that, in the medium and long terms, the lack of pollinators will also reduce crop yields, indeed the trend is already visible today. It should be noted that the SUR pesticide reduction targets are for 2030, and this time-period, plus the time for the entry into application for various proposed measures, means there is a managed transition with time to introduce alternatives and make gradual changes. The information provided in **Chapter 1 (economic issues)** of this study highlights several studies that already provide quantitative data on the potential impact on agricultural yields for the main crop types in the EU if pesticide use and risk were to be reduced by 50%. Given the lack of empirical data on pesticide use, the published impact studies have used broad assumptions of yield decline or have used crop- and region-specific estimates of yield declines based on expert opinions. The largest yield impacts in these studies were estimated to occur in crops that have limited relevance for food and feed security, such as grapes, hops and tomatoes. These estimates of potential yield impacts should be seen as an upper limit due to several factors that are not considered in these studies (this is explained in more detail later in this study). A significant reduction in pesticide use and risk may also be achieved in non-food and non-feed sectors, thereby helping to meet the SUR pesticide reduction targets without any impact on food security, food production, availability or prices. The existing variations in current pesticide use between similar farms also suggests that it can be reduced without significant repercussions on crop yields.

A key element of the SUR proposal is that it allows Member States to decide, in their national action plans, how to apply the SUR national pesticide reduction targets, taking account of the need to protect production of specific crops, in specific regions or by specific practices. They can thus limit the impact of the measures, distributing them to less critical areas. Very significant progress towards achieving the Farm to Fork pesticide reduction targets has already been achieved by substituting low-risk pesticides for higher risk pesticides without having any effect on crop yields. A broad variety of alternative agronomic and technological strategies also make it possible to reduce pesticide use and risk while maintaining crop yields. Many precision agriculture technologies permit the targeted and controlled application of pesticides or provide alternatives to pesticides. These are supported by the SUR proposal and a range of associated measures, including through the use of Common Agricultural Policy (CAP) funding.

Chapter 2 (administrative burden) compares the additional administrative burden for small and medium-sized farms of the SUR proposal compared to the existing Sustainable Use of Pesticides Directive, which is calculated as 10 hours per year per farm. Depending on the hourly tariff used, this could equate to a cost of EUR 161-210 per year per farm, including non-wage labour costs and a standard 25% for overheads. This can be compared with the administrative burden on farmers in other areas arising from compliance with EU legislation or rules. For example, a study analysing administrative burden arising from the Common Agricultural Policy assessed the average cost related to aid administration in the EU to be around EUR 220 per farm. There could be an additional cost of EUR 180 per year for such small and medium-sized farms to obtain annual obligatory ‘strategic advice’ under the SUR proposal, although providing such advice via group or online/remote means could reduce this cost significantly. Member States could decide to compensate farmers for these costs via common agricultural policy (CAP) Strategic Plans. Evidence from the impact assessment and the supporting external study suggests that farmers could partially or even fully recoup the cost of advice received from the savings generated by the reduced use of pesticides. The Commission does not have precise, harmonised EU-level data to quantify the potential impact of such an increased administrative burden on the competitiveness and profitability of small and medium-sized farms. Concerning the terminology and specific request included in the Council Decision, there is no standard EU definition of what constitutes a small or medium-sized farm. In this context, the Statistical office of the EU (Eurostat) normally uses parameters for farm physical size, or economic size, or for separation of family/non-family farms⁶. It is to be expected that the Member States’ definitions differ substantially, especially since there are significant variations in the type of farming practised (e.g. greenhouses versus field crops). There are also many ways in which the co-legislators can reduce and mitigate any additional potential costs and administrative burden, especially for small and medium-sized farms.

⁶ https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Farms_and_farmland_in_the_European_Union_-_statistics#Farms_in_2020

The request in the Council Decision to consider the availability of alternatives to plant protection products is covered in **Chapter 3 (alternatives to chemical pesticides)**. It should be noted that several measures to increase the knowledge and spreading of holistic IPM principles and relevant tools are already in progress, strongly supported by research and innovation. The Commission has already established a legal framework for accelerated approvals of low-risk and biological control pesticides (such as data requirements for approval of microorganisms) and is taking steps to extend this to a broader range of types of biocontrol. The Commission has also suggested how the co-legislators might consider certain possible changes during negotiations that might further facilitate the market in low-risk and biological control pesticides. With the framework provided by the Commission, with action being taken by industry and with Member State authorities setting the appropriate priorities and providing the necessary resources, it appears that sufficient tools will be available within the timeframe of the SUR pesticide reduction targets to achieve the required reduction in chemical pesticide use and risk without unacceptable implications on food security or food affordability.

Chapter 4 (sensitive areas) notes that a published Commission non-paper on sensitive areas that was submitted to the European Parliament and to the Council on 15 November 2022⁷ sets out various options for the use of biological control and low-risk pesticides in all sensitive areas and for all but the more hazardous pesticides in agriculture within ecologically sensitive areas – including all pesticides authorised for use in organic farming. The primary purpose of proposing restrictions on the use of pesticides in sensitive areas is to protect human health and the environment. Public and urban areas are protected primarily because of the higher risk of human exposure. Areas protected under environmental legislation for habitats or water protection reasons are prioritised because of their ecological importance. A transition towards pesticide-free management may require a change in visual aesthetics, in urban areas in particular, and to the overall approach to weed management. This can be done without affecting overall financial costs but with positive effects on the environment. There are challenges (especially in cemeteries and sports grounds), but many technical solutions are available to substantially reduce the use and risk of pesticides in such areas without any negative economic impacts. Concerning agricultural areas Good Agricultural and Environmental Condition standard 8 will limit the use of pesticides in non-productive areas independently of the SUR. An additional requirement to use only low-risk pesticides or biological control in a 3-metre buffer zone around those non-productive areas could make a contribution to the biodiversity function of the non-productive areas and features. In practice, the buffer zone will mostly be required for farms with more than 10 hectares of arable land where the limitation on pesticide use due to the buffer zone will be less relative to the overall size than it would be for a smaller farm.

⁷ [pesticides_sud_sur-non-paper_en.pdf \(europa.eu\)](#)

Allowing only biological control and low-risk pesticides in urban areas covered by watercourses or water features, recreational/ bathing water and areas designated for the protection of economically significant aquatic species is expected to have a negligible impact on agriculture. Given the environmental importance of surface water and the negative medium-term outlook for water quality, it appears prudent to introduce such a restriction. The Commission non-paper on sensitive areas includes various options for the protection of drinking water resources. In addition to the aims of protecting human health and the good status of water bodies, there is also a high economic cost (borne by the consumer) that arises from the need to treat water polluted by pesticides. There are therefore strong economic reasons to address contamination at source, in line with the prevention-at-source principle. The inclusion of Natura 2000 and areas protected under national legislation and areas reported to the nationally designated protected areas inventory (the Common Database on Designated Areas (CDDA)) will help to protect rare and threatened species and rare natural and semi-natural habitat types and to maintain, enhance, or restore the integrity, connectivity and resilience of all ecosystems.

Concerning the Council request to provide a quantification of the impacts of the proposed restriction concerning the use of plant protection products on forest stands and forest dependent biodiversity, it should be noted that the Commission does not possess data at EU level on pesticide use in forest stands, although research shows that such use is rare compared with use in agriculture. As pesticide restrictions in forest stands are part of wider proposed restrictions on pesticide use in sensitive areas, the Commission has also provided information on this point.

As regards the potential increased risk of introduction and spread of harmful organisms in the EU, the SUR proposal will help to address biodiversity loss and the availability of alternatives to chemical pesticides. The SUR proposal already provides for exceptions to allow pesticide use for control of harmful organisms in relation to restrictions in sensitive areas to mitigate that risk. Consideration could potentially be given during the negotiations to further expanding this in certain circumstances and possible options are set out in the Commission non-paper on sensitive areas, while further potential options are included in this study.