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### WORKING PAPER

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#### **INFORMATION**

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From:	General Secretariat of the Council
To:	Working Party on Agricultural Questions (Pesticides/Plant Protection Products)
Subject:	Revision of the Sustainable Use of Pesticides Directive (SUD) - Combined evaluation roadmap/inception impact assessment

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Further to the informal video-conference of the members of the Working Party on Agricultural Questions (Pesticides/Plant Protection Products) on 22 July 2020, delegations will find in the annex the combined evaluation roadmap/inception impact assessment of the revision of the Sustainable Use of Pesticides Directive (SUD), provided by the Commission.

In addition to the information in the above-mentioned document, delegations are invited to note that the steps in the evaluation have also been presented and discussed at the SCPAFF Pesticides and will be further presented throughout the year both in this meeting and the planned SUD Working Group.

Furthermore, the Commission plans to procure a study in the autumn which will also involve contacts from the consultants preparing the study with MS from Q4 2020 to mid-2021, and aim for adoption in early 2022. Additionally, the Commission plans to hold a (virtual) seminar under the BTSF contract with Member States in November/ December 2020 to discuss the main results of the initial consultation phase and discuss some of the options considered.

## COMBINED EVALUATION ROADMAP/INCEPTION IMPACT ASSESSMENT

This combined evaluation roadmap/inception impact assessment aims to inform citizens and stakeholders about the Commission's work in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are, in particular, invited to provide views on the Commission's understanding of the current situation, problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

<b>TITLE OF THE INITIATIVE</b>	Revision of the sustainable use of pesticides Directive
<b>LEAD DG – RESPONSIBLE UNIT – AP NUMBER</b>	DG SANTE, Unit F3 (plants and organics)
<b>LIKELY TYPE OF INITIATIVE</b>	Legislative proposal
<b>INDICATIVE PLANNING</b>	Q1 2022
<b>ADDITIONAL INFORMATION</b>	<a href="https://ec.europa.eu/food/plant/pesticides/sustainable_use_pesticides_en">https://ec.europa.eu/food/plant/pesticides/sustainable_use_pesticides_en</a>

**This combined roadmap/inception impact assessment is provided for information purposes only. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by this document, including its timing, are subject to change.**

### A. Context, Evaluation, Problem definition and Subsidiarity Check

#### Context

Pesticides (plant protection products) are used against plant pests, plant diseases and for weed control mainly in agriculture but also in forestry and green urban areas. Since pesticides can have harmful effects on the environment and on human health they are strictly regulated at EU level and their use is a societal concern. Pesticides can be classified into categories depending on their hazard to health and the environment and can be chemicals or microorganisms. The [Sustainable Use of pesticides Directive](#) (SUD) was adopted in 2009 with the aim of reducing the risk and impacts of the use of pesticides on human health and the environment. Integrated pest management (IPM), similar to other low-pesticide input pest management practices such as organic farming, is a key concept of the SUD and includes actions like crop rotation, pest monitoring and adoption of non-chemical pest control techniques and less hazardous pesticides. The SUD covers the use of pesticides, complementing the EU legislation on placing on the market of pesticides ([Regulation \(EC\) No 1107/2009](#)), on pesticide residues ([Regulation \(EC\) No 396/2005](#)) and on pesticide statistics ([Regulation \(EC\) No 1185/2009](#)).

As part of the [European Green Deal](#), the Commission's [Farm-to-Fork strategy](#) highlights the need for shifting to fair, healthy and environmentally-friendly food system, while also stressing the importance of improving the position of farmers (who are key to managing the transition) in the value chain. It proposes specific targets to reduce the use and risk of chemical pesticides and of more hazardous pesticides by 2030. This initiative is complementary to the Commission's EU [Biodiversity Strategy for 2030](#) and Zero Pollution Strategy. The SUD is seen as a crucial tool to achieve the targets outlined in the Farm to Fork Strategy and, as such, should be strengthened.

[Audits, fact-finding work and implementation reports](#) by the Commission, the [European Parliament's report on the implementation of the SUD](#), and a recent [report of the European Court of Auditors](#) point to weaknesses in the implementation, application and enforcement of the SUD and a failure to sufficiently achieve its overall objective. In addition, numerous petitions, letters and European Parliamentary questions concerning the use of pesticides show growing societal concerns. The Commission is, therefore, **evaluating the SUD and assessing the impacts of possible future measures** intended to significantly reduce the use and risk of chemical pesticides.

#### Evaluation

The evaluation will assess the extent to which the intended objectives of the SUD are relevant today, and the extent to which the SUD delivered against them. It will look into the reasons for the observed weaknesses in implementation, application and enforcement of the legislation. The evaluation will assess whether the SUD is best designed to sufficiently promote low pesticide input pest management systems as well as take advantage of existing knowledge and new findings and technologies and the wider application of innovative and precision farming techniques that may help to reduce the use and risk of chemical pesticides. It will investigate to what extent a coherent link with other EU legislation and policies such as on agriculture, water, waste, safety of workers, farm machinery and biodiversity has been sufficiently implemented and if this has influenced the achievement of the objectives. The evaluation will take into account the recent [evaluation of the EU legislation on plant protection products and pesticides residues](#) and will assess how and to what extent these legislative acts together with the SUD provide for a coherent policy framework. It will assess costs and benefits of the actions and their EU added value. Any potentially unnecessary burden and complexity linked to the implementation of this legislation will be explored.

The **scope** of the evaluation will also cover the harmonised risk indicators established by [Commission Directive \(EU\) 2019/782](#) that characterise the potential risks from pesticide use. In relation to improving the monitoring of the effects of pesticide use, the evaluation will also cover the [Commission guidance](#) on monitoring and surveying of impacts of pesticide use on human health and the environment. It will assess how effective and coherent data gathering requirements in the [pesticide statistics Regulation](#) are in supporting the monitoring. The evaluation will cover the period from 2011 (year in which Member States had to transpose the Directive) until 2020. The analysis will compare the objectives with those in the years before 2011, taking into consideration the influences from external elements. The geographical scope will be EU Member States, including the UK up

to and during its EU exit transition period.

The preliminary results of the evaluation will be used to establish the baseline situation for the impact assessment, refine the problem definition and the policy options and feed into their analysis.

### Problems the initiative aims to tackle

The Commission is launching a revision of the SUD to address the key problem of the **limited effectiveness of the SUD** in reducing pesticide use and potential risks to human health and the environment across Member States. Compliance monitoring indices [published by the Commission](#) demonstrate significant shortcomings in the implementation, application and enforcement of various elements of the SUD across Member States. [Available data](#) show that sales of pesticides in the EU have remained more or less stable since 2011 and that there has been a low-uptake of non-chemical pesticides. This may be due inter alia to their limited availability or effectiveness or a lack of incentives or pressure on pesticide users to adopt such alternative techniques. There are indications that the use of chemical pesticides as it currently stands is contributing to an increasing trend of biodiversity loss and to possible water and soil pollution across the EU.

Possible causes for the limited effectiveness of the SUD include:

- The implementation, application and enforcement of various provisions of the SUD has been insufficient and uneven across Member States. In particular, the application and enforcement of integrated pest management to promote low pesticide-input pest management and prioritise the use of non-chemical methods has been weak.
- National Action Plans adopted and implemented by the Member States under the SUD often lack adequate content and commitment to implement the SUD's requirements (e.g. on the establishment of quantitative objectives, targets, measures and timetables).
- Difficulties for the Member States to operationalise into their National Action Plans the principles of integrated pest management as currently laid down in the SUD.
- The absence of EU requirements for pesticide users to keep records of integrated pest management actions, leading to difficulties for Member State competent authorities or EU experts to confirm if or how such actions have been taken;
- Pesticide users may lack knowledge and advice on the risks and benefits of chemical pesticide use, for example they may not be aware of the detailed risk profiles of different pesticides;
- Limited availability of less hazardous and non-chemical pesticides compared to other more hazardous categories;
- Limited incentives for pesticide users to switch to alternative pest control methods or low-risk pesticides (where available) under the EU Common agricultural policy (CAP) but also through price drivers in the food production and distribution chain and consumer demand.

The root causes and drivers for the problems will be analysed in the evaluation. Based on this analysis the problem definition will be refined and the possible policy options further developed.

The use (or non-use) of pesticides may affect crop yields and quality. Due to a weak and uneven implementation, application and enforcement of the SUD, producers may be subject to more or less stringent rules on pesticides or inconsistent application. This may in turn affect the cost of food production. Producers in one Member State may therefore benefit from a competitive price advantage compared to producers in other Member States, resulting in unfair market competition for foods in the EU.

Lack of data (e.g. on pesticides' sales at disaggregated level and use of pesticides) currently hamper efforts to evaluate progress in reducing the use of and risk associated with pesticides and limit the evidence available to inform policy-making. This issue will be addressed in [the framework regulation on Statistics on Agricultural Input and Output](#) that will cover also pesticide statistics.-Monitoring data on the implementation and application of the SUD are also scarce and possible ways to increase its availability will be explored in the impact assessment.

### Basis for EU intervention (legal basis and subsidiarity check)

The legal basis for action in this area is Article 192(1) of the [Treaty on the Functioning of the European Union](#) (TFEU), which empowers the European Union to take action in order to preserve, protect and improve the quality of the environment and to protect human health. EU action in this area is justified by the environmental, public health and Single Market issues at stake. If some Member States do not take action to reduce the use and risk of pesticides, this could negatively affect biodiversity, water quality and human health in the whole EU. In addition, different rules on pesticide use across Member States might create unfair competition and undermine the proper functioning of the Single Market for food commodities. The variation in efforts across Member States to achieve the sustainable use of pesticides in practice may hint at a need for more coordinated and uniform measures at EU level to drive progress in this area and respond to long-standing societal concerns concerning the use of pesticides.

## B. Objectives and Policy options

In line with the **European Green Deal** and the **Farm to Fork Strategy** to ensure a **fair, healthy and environmentally-friendly food system** and complementary to the **EU Biodiversity Strategy for 2030**, measures will be brought forward with the aim to **significantly reduce the use and risk of chemical pesticides**, building on the existing evidence and the additional assessment carried out by the Commission. This initiative will be driven by the following objectives:

- **reduce the use and risk of pesticides containing more hazardous active substances;**
- increase the uptake of **less hazardous and non-chemical alternatives** for pest control;
- improve the **implementation, application and enforcement of the SUD** across all Member States;
- improve the availability of monitoring data, e.g. on the implementation and application of the SUD and health and

environmental aspects.

The preliminary outcome of the evaluation will be used by the Commission to gather evidence on the problems identified and better define policy options to be examined during the impact assessment. These policy options, along with other EU policies such as the CAP, will be the **instrument to deliver on the pesticide target(s)** announced under the Farm to Fork Strategy to reduce the use and risk of synthetic chemical pesticides, while also taking into account the need to improve the position of farmers in the value chain who are key for this transition to materialise.

The **policy options** will be developed on the following elements **on the basis of the evaluation** findings and analysed in the impact assessment.

- **Baseline scenario:** if there were no policy or legislative changes as regards the SUD, Member States would continue implementing the existing SUD and the Commission would continue carrying out audits to assess compliance, and start infringement proceedings against Member States in case of clear non-compliance with current legislative provisions. This baseline scenario focuses on post-2020 and incorporates other EU initiatives currently under way which do not involve changes to the SUD, for example proposals already announced by Eurostat to increase the availability, detail and usefulness of data and statistics on pesticide use and planned changes to the CAP which would help to promote the objectives of the SUD.
- **Elements to be covered by policy options**
  - a) legally binding targets (for the EU and for Member States) to reduce the use and risk of synthetic chemical pesticides, as announced in the Commission's Farm to Fork Strategy;
  - b) clearer link between the objectives of the SUD and other legislation linked to their implementation such as the CAP and water framework directive;
  - c) improved enforceability of the SUD, for example through better operationalisation of integrated pest management principles, a greater emphasis on implementation of national action plans and possible annual reports on progress achieved by Member States, improved guidance and possible trainings from the Commission, or the possibility of changing the legal instrument to a Regulation to ensure direct applicability in all Member States;
  - d) more effective supervision of SUD implementation by Member States, for example through detailed rules on official controls performed by national competent authorities as per the [new official controls Regulation](#), and heightened enforcement oversight by the Commission for example through expert audits;
  - e) promote the use of new technologies and alternative techniques to reduce the use and risk of chemical pesticides and better achieve the objectives of the SUD, especially to address possible current barriers to the use of new technologies such as drones. New technologies and alternative techniques could include biological alternatives to chemical pesticides, mechanical methods of weed control and more modern and targeted pesticide application systems;
  - f) reduce the use and risk of chemical pesticides through additional measures, for example through specific restrictions on the use of chemical pesticides and additional record-keeping requirements on the use of pesticides and testing of pesticide application equipment;
  - g) mandatory collection and sharing of more detailed statistics on pesticides use (going beyond the [planned proposal on farming statistics](#)) and implementation of various aspects of the SUD (such as training of operators and testing of pesticide application equipment) will also be considered to facilitate the possible development of new monitoring indicators on the use of more hazardous active substances and overall dependency on pesticide use to better assess the extent to which the objectives of the SUD are being achieved.

The options will be designed to allow for simplifying the existing regulatory framework and reducing unnecessary regulatory burdens (including administrative/reporting obligations) where possible.

## C. Preliminary Assessment of Expected Impacts

### Likely economic impacts

The above-mentioned elements are expected to have an economic impact upon Member States competent authorities and the Commission involved in greater implementation, enforcement and supervision of the existing legal provisions. A greater emphasis on enforcement could also have an impact upon farmers due to the more stringent application of IPM, and on economic operators involved in the distribution and use of pesticides who could face increased pressures to demonstrate their compliance with the existing legal provisions. Such costs would be borne mainly by those Member States where the level of enforcement is currently low. On the other hand, an improved and more uniform enforcement of the existing legislation could help to reduce competitive distortions across the single market linked to currently diverging states of implementation of the SUD in different Member States. Measures to increase organic farming production could have an impact on farmers' incomes and the food prices paid by consumers. A reduction in the use and risk of chemical pesticides could translate into some benefits for public health and associated benefits for worker productivity and reduced sick leave and healthcare costs. In addition, some of these costs could be offset by the CAP and other support instruments.

The more sustainable and reduced use of pesticides provide an opportunity to contribute to transforming EU agriculture into a modern, resource-efficient, resilient and diversified sector as aimed for in the European Green Deal. A reduction in the use of pesticides could result in an increase in products produced under organic farming conditions and thus address the demand of consumers for these products. Stricter rules on the distribution and use of pesticides introduced in the EU could affect crop yield and food production in the EU (with associated possible trade implications), and have consequent effects on rural communities, producers and distributors of pesticides, manufacturers of pesticide application equipment and other agricultural

inputs etc. Complying with the Farm to Fork Strategy targets to reduce the use and risk of chemical pesticides could lower costs for farmers as pesticides represent a significant expense but may increase the overall cost of food production (including to consumers) if alternative methods (e.g. low-input farming) prove to negatively affect agricultural yields and production quality.

Possible impacts of a change in farming and food production costs on the competitiveness of EU producers as regards food imports from outside the EU will be framed within the European Green Deal's commitment that imported food that does not comply with relevant EU environmental standards is not allowed on EU markets. Any possible economic impacts will be assessed in conjunction with other elements of the growth strategy envisaged under the European Green Deal. The possible impact of restricting pesticide use in non-agricultural contexts could also have an impact, for example in the use along airport runways and railway lines but also in parks and sporting facilities. These address citizens' expectations for a clean environment while they may add costs for operators for alternatives in weed control.

Lower sales of chemical pesticides will affect the sales and distribution sector negatively but may be compensated by higher sales of less hazardous products and biological alternatives. More effective promotion of new technologies and alternative techniques could create innovation potential and an associated increase in demand and economic boost in the linked sectors. These take account of the European Green Deal objectives to increase the competitiveness of the agricultural sector and ensure fair incomes, while promoting the application of knowledge and innovations. Introducing stricter legal requirements may impact the resources of Member State competent authorities, which will be called upon to implement and enforce the new regulatory requirements. Costs could be imposed upon farmers and other economic operators to adapt to any new legislative obligations.

### **Likely social and health impacts**

Reductions in the use and risk of chemical pesticides would be expected to have some positive health impacts as they would reduce the direct exposure to pesticides for pesticide users, including farmers, and for members of the public especially those living in rural areas. These positive health impacts would translate into economic benefits (reduced healthcare expenditure, higher labour productivity) as described above. Reduction targets in combination with use restrictions would respond to societal concerns and address societal demands on healthier food choices. It would strengthen farmers and rural communities position within society as supplier of healthy food with respect towards the environment.

### **Likely environmental impacts**

Implementing further policy options to reduce the use and risk of chemical pesticides would be expected to have positive environmental impacts on biodiversity and the quality of water and soil. Environmental exposure would be reduced through better implementation of certain measures, such as better application of IPM principles and compliance with requirements on pesticide application equipment, which ultimately would lead to reduced use of more hazardous pesticides and improved application of pesticides respectively. Stricter regulatory rules could have a greater environmental impact if, for example, the use of more hazardous pesticides was subject to stricter conditions. Positive environmental impacts on biodiversity and the quality of water and soil would be expected linked to complying with the Farm to Fork Strategy targets to reduce the use and risk of chemical pesticides.

### **Likely impacts on fundamental rights**

This initiative is considered to have limited impacts on fundamental rights. Better enforcement of the SUD could contribute to the fundamental right of 'fair and just working conditions' (article 31, [Charter of fundamental rights of the EU](#)). In particular, it could contribute to the right to working conditions that respect workers' health, safety and dignity.

### **Likely impacts on simplification and/or administrative burden**

Administrative burden will be assessed with other costs of the policy options considered for different stakeholders, including farmers and other economic operators. Improving the implementation of certain SUD requirements, for instance on pesticide application equipment, or new reporting requirements for example on IPM could increase the administrative burden for operators. Ways to minimise the administrative burden will be explored. It is also expected that trade-offs between administrative burden for operators and positive health and environmental benefits exist and will be taken into account in the analysis.

## **D. Evidence base, Data collection and Better Regulation Instruments**

### **Impact assessment**

The impact assessment will build on the preliminary results of the evaluation to assess the economic, environmental and social impacts of the proposed measures under each of the policy options considered to significantly reduce the use and risk of pesticides, as part of the European Commission's commitment to the European Green Deal and Farm to Fork Strategy for sustainable food. The options considered in the impact assessment should be consistent with the outcome of the recent evaluation of the EU legislation on plant protection products and pesticides residues and should address any current unfair competition and obstacles to the proper functioning of the Single Market.

In undertaking the analysis of impacts for all the involved stakeholder groups (e.g. pesticide users, national and local competent authorities, EU citizens etc.) the impact assessment will make best use of all available [Better Regulation tools](#).

### **Evidence base and data collection**

The evaluation and impact assessment will be supported by an external study, which will cover the consultation activities and



gather the necessary data and information. The analysis will take into account **qualitative and quantitative evidence** obtained by the Commission Services and through stakeholders' consultation, desk research and literature review. An initial list of sources that will support the analysis includes:

- [Audits and fact-finding work carried out by DG Health and Food Safety including on the implementation of Member States' national action plans under the SUD.](#)
- [The recent evaluation of the regulations on pesticides residues and placing on the market of plant protection products.](#)
- [The European Parliament's report on the implementation of the SUD.](#)
- The 2017 [Report](#) from the Commission to the European Parliament and the Council on Member State National Action plans and on progress in the implementation of Directive 2009/128/EC on the sustainable use of pesticides.
- The [second report](#) from the Commission to the European Parliament and the Council on the experience gained by Member States on the implementation of national targets established in their National Action Plans and on progress in the implementation of Directive 2009/128/EC on the sustainable use of pesticides.
- The [European Court of Auditors' report](#) on sustainable use of plant protection products.
- [The impact assessment which accompanied the European Commission's "A Thematic Strategy on the Sustainable Use of Pesticides" in 2006.](#)
- [The European Commission's Strategy for Agricultural Statistics 2020 and beyond and subsequent potential scenarios.](#)
- [Available statistics on pesticides including data collected under Regulation \(EC\) No 1185/2009.](#)
- [National Action Plans submitted to the Commission by EU Member States.](#)

The above list is not exhaustive and additional sources will be sought during the course of the analysis. Data and modelling results on the impact of reducing pesticide use from the Commission's Joint Research Centre and Directorate General for Agriculture and Rural Development will be used as well as the possible quantification of the health co-benefits and their economic impacts.

The methodology used in the evaluation/impact assessment will follow the guidance provided in the [Better Regulation Guidelines](#) and [Toolbox](#). For example, a mapping and classification of costs and benefits linked to the SUD will be carried out. The identified costs and benefits, as well as the impact on administrative burden, will be quantified to the extent possible, based on data and information collected through desk research and consultation activities with the interested stakeholders. The most significant environmental, social and economic impacts of the options under consideration to revise the SUD will be assessed and compared.

All concerned Commission services working on agriculture, environment, research, industry, workers' safety etc. will be involved in the Inter-Service Steering Group to support the entire evaluation and impact assessment process.

### **Consultation strategy**

The Commission will engage all relevant stakeholders through public and targeted consultations to gather data and seek their opinions. Relevant stakeholders that will be consulted include, but are not restricted to, farmers, health and environmental NGOs, professional associations representing industry and economic actors in relevant sectors (e.g. beekeepers, chemical, pesticide application equipment and seed industries etc.), consumer associations, EU citizens, national competent authorities and scientific experts. Stakeholders will be consulted on the achievements of the SUD, implementation and application problems and their underlying causes and on possible ways forward and their impacts.

An extensive consultation process will be undertaken including the following actions:

- A 12-week questionnaire-based, online consultation will be published on the Commission's ['Have your say' page](#), expected during the fourth quarter of 2020. It will be available in all official EU languages and give any interested party the possibility to contribute.
- A set of targeted consultation activities, including surveys, interviews and case studies, will be conducted with stakeholders in the context of an external study performed by a consultant.
- Events with stakeholders (e.g. conference/ workshop/ seminar) may also be organised during the evaluation and impact assessment to complement the process and ensure that all relevant interested parties are included.

A synopsis report, summarising the results of all consultation activities will be published on the consultation page once all consultation activities are closed.

### **Will an Implementation plan be established?**

The development of an implementation plan, or not, will depend on the final policy options chosen.