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To: SG INPUT ROADMAPS FEEDBACK

Subject: Roadmap: Feedback received for REFIT Evaluation of the EU legislation on plant protection products and pesticides residues (Regulation (EC) No 1107/2009 and Regulation (EC) No 396/2005) - DG:SANTE - Register ID :9832909575-41

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Your Voice In Europe: ROADMAP feedback for REFIT Evaluation of the EU legislation on plant protection products and pesticides residues (Regulation (EC) No 1107/2009 and Regulation (EC) No 396/2005)

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Related document: REFIT Evaluation of the EU legislation on plant protection products and pesticides residues (Regulation (EC) No 1107/2009 and Regulation (EC) No 396/2005)

Feedback:

Overall comment:

If the evaluation is carried out at this point it will inevitably show that the health and environmental protection objectives of Regulation (EC) 1107/2009 have not been achieved. This is because the Regulation has not been fully implemented – for reasons that are external to the legislation itself.

The Commission has failed to present draft criteria for endocrine-disrupting pesticides within the prescribed deadline of 14 December 2013. Moreover, methods to determine whether certain derogations should be applied, such as “negligible” exposure (points 3.6.3. to 3.6.5 and 3.8.2 of Annex II) or “serious danger to plant health” (Article 4.7), have not been finalised. As a result, not a single active substance has been banned on the basis of its (known or presumed) carcinogenic, mutagenic, reprotoxic or endocrine disrupting properties. Hazardous substances, such as

flumioxazine, linuron or glufosinate, can still be used in the EU.

It is alarming that Europeans are still exposed to these dangerous pesticides for the simple reason that decision makers, including the European Commission, fail to meet their obligations under EU legislation. Rather than cater to the interests of the chemical industry, the European Union must now act to protect the public and the environment.

Detailed comments:

(A.1) Purpose – Greenpeace concurs with the proposal to evaluate the legislation against its stated objectives, including the affirmation of the application of the precautionary principle, and to work out which factors hinder the achievement of these objectives.

(B.2) Original objectives of the intervention – This section of the proposed roadmap misrepresents the objectives of the policy area and the two Regulations.

Article 1 of Regulation (EC) 1107/2009 states that the purpose of the Regulation is “to ensure a high level of protection of both human and animal health and the environment and to improve the functioning of the internal market through the harmonisation of the rules on the placing on the market of plant protection products, while improving agricultural production”. The text indicates that the aim of improving agriculture production does not have the same status as the other objectives. This is confirmed by Recital (24), which states that the protection objectives “should take priority over the objective of improving plant production”.

Neither Regulation has a specific objective “to safeguard the competitiveness of the European agriculture”. Mere reference to this language in the recitals of Regulation (EC) 1107/2009 does not warrant attention to it during the evaluation.

In fact, the explicit absence of this text in Article 1 of Regulation (EC) 1107/2009 confirms that the legislator had no intention of including it in the Regulation’s objectives. We therefore request that this text is deleted from the list of “general objectives of the policy area”.

Equally, the proposed roadmap lists a number of “general objectives of the pieces of legislation” that are unrelated to health and environmental protection and the EU internal market, such as a shortening the procedures for new products. These are not “general objectives” of the Regulations and should be scrapped.

(C.1) Topics covered – During the proposed period to be examined (June 2011 till June 2016), Regulation 1107/2009 had not been fully implemented (s. general comment above).

In line with the stated purpose of the evaluation, the topics should go beyond the areas listed for review under Articles 62(5), 67(1) and 82 of Regulation 1107/2009, and Article 47 of Regulation 396/2005. Among the additional areas of concern, the roadmap should also list:

- the time limit for EU approvals, which is frequently exceeded even for substances that do not fulfil the health-based approval criteria; and
- the (over-)use of the confirmatory data procedure.

Both areas are directly related to the Regulation's protection objectives. For the reasons outlined above, the attainment of the "goal of competitiveness of European agriculture and improvement of agricultural production" should not be listed as a specific area to be covered.

(C.2) Issues to be examined – The question whether the objectives of the Regulations are "pertinent to the evolving needs, problems and issues" goes beyond the purpose of the evaluation as stated in (A.1).

(D.2) Previous evaluations and other reports – The evaluation should take into account the up-coming Commission report on the implementation of Directive 2009/128/EC on the sustainable use of pesticides. The Directive's provisions on how pesticides should be used (i.e. as a last resort when all other means have failed) add important context to the Regulation's objective of "improving agricultural production". Since pesticides should only have a limited role in agricultural production, the criteria and process for their approval are of little relevance to this objective.

The evaluation should also consider studies not carried out for the European Commission, such as the study by ANSES on the exposure of users and agricultural workers to pesticides, and the recent study by Public Health France on the exposure of pregnant women. Greenpeace has published a review of known and suspected health impacts of pesticides. Its EU blacklist of pesticides shows that over 100 pesticides approved for use in the EU should be banned based on their human health effects, and another 60 pesticides should be banned due to unacceptable environmental effects. In addition, the evaluation should consider reports by PAN Europe on the implementation of the pesticides legislation (e.g. "Missed & dismissed").

(D.3) Evidence from assessing the implementation and application of legislation – The evaluation should use relevant Ombudsman conclusions (e.g. case 12/2013/MDC) and Court rulings (e.g. in cases C-673/13 P and C-442/14) on transparency).

Thank you for considering our comments.

Feedback file:

[GreenpeacecommentonpesticidesREFIT_15122016.pdf](#)