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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a REGULATION ON THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the sustainable use of plant protection products and amending Regulation (EU) 2021/2115 - comments on "sensitive areas" from Denmark

Delegations will find in annex additional comments from Denmark on the above subject.

Comments from Denmark

Proposal for a Regulation on the Sustainable Use of plant protection products and amending regulation (EU) 2021/2115 (hereafter SUR)

There was a parliamentary election in Denmark on November 1 and a new government remains to be formed. Therefore, all interventions from Denmark are subject to a parliamentary scrutiny reservation and might possibly be adjusted upon the formation of a new Danish government.

The Presidency has requested that all member states provide their positions on sensitive areas in its Microsoft Excel spreadsheet table by November 10, 2022. We will provide a filled out template from the Danish delegation, but this will only be possible for us once a new government is in place.

For now, we would like to pose some questions for consideration in relation to the sensitive areas and the Presidency's spreadsheet table:

DK Q1: Regarding the option to **allow biocontrol** (column D in the spreadsheet table), we wonder whether the lack of clarity in the definition of the concept poses a problem for its use in relation to sensitive areas?

Some biological substances, particularly certain plant extracts, can be harmful to the environment and health, e.g. Azadirachrin, Pyrethroids and orange oil. Other examples of potentially harmful PPPs of biological origin are Spinosad, Luldioxid, Eugenol, Garaniol and Thymol. PPPs based on extracts from Quassia and some paraffin oils have not been approved because they pose a risk to the environment and health. We want to raise concerns about copper (insofar as minerals fall under the definition of biological controls in 3.23) as well, due to its status as a candidate for substitution.

In general, the natural or biological origin of a substance is not a substitute for a risk assessment. Overall, we wonder whether the distinction between low-risk and other substances should be central instead of the distinction between chemical and biological substances?
We first raised this concern at the September WP when discussing the definition of biocontrol.

DK Q2: Regarding the option to **allow PPPs authorised for organic farming** specifically (column F in the spreadsheet table), we wonder whether this is an appropriate approach when authorizing substances for use in sensitive areas?

According to Regulation 2018/848 art. 24.3.b, the substances approved for use in organic farming should be of plant, algal, animal, microbial or mineral origin if in contact with the edible parts of the crop. While this group of substances is more accurately defined than the biological substances, the problem remains the same: the natural or biological origin of a substance is not a substitute for a risk assessment. We cannot be sure that substances approved for use in organic farming by definition pose a smaller risk to the environment or health than chemical PPPs. For this reason, we wonder whether the distinction between low-risk and other substances should be central instead of the distinction between chemical and PPPs authorised for organic farming?

Would it be useful to make a new category where only substances that fulfill both of the two criteria: 1) authorised for organic farming and 2) approved as a low-risk substance? This would make it possible to conduct organic farming on the sensitive areas, but only with the use of active substances that are both authorised for organic farming and approved as low risk substance.

DK Q3: Regarding the option to **ban use of emergency authorisations** specifically (column H in the spreadsheet table), we wonder whether this is an appropriate approach when authorizing substances for use in sensitive areas?

We wish to point out that authorizations under article 53 under 1107/2009 simply apply to PPPs not authorized in a specific member state. This does not by definition entail that the PPP in question poses a higher risk to the environment or health. For example, PPPs lose their authorization simply because the approval owner chooses not to apply for an approval simply because it is no longer profitable.

DK Q4: We wonder whether a **ban on the use of emergency authorisations** could possibly conflict with the derogations for use of chemical PPPs in sensitive area? Imagine a scenario where an invasive pest becomes prevalent in the sensitive areas of a member state. Under the SUR proposal, this will allow the affected users to apply for a derogation to fight the invasive pest in question. However, it is likely there will be no approved PPP to fight the invasive pest in question because it has not been an issue in the member state in previous years. Therefore, it is probable that users will at times need an emergency authorisation in addition to the derogation to use chemical PPPs in a sensitive area.

Finally, we wish to highlight the previous Danish comments regarding sensitive areas available on Delegates Portal, dated October 18. 2022 and October 26, 2022.