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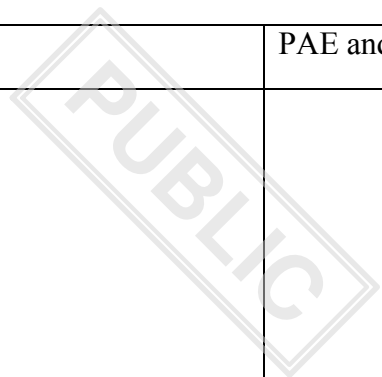
WORKING DOCUMENT

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 - Follow up to the Working Party on Plants and Plant Health Questions (Pesticides/Plant Protection Products) on 28 March 2023 – comments from Germany

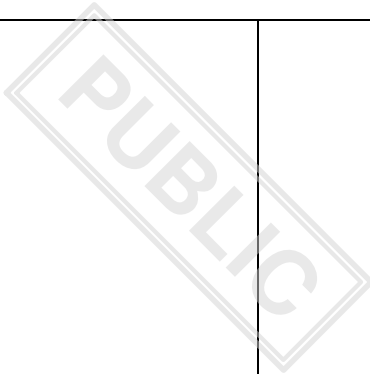
Delegations will find in the Annex comments from Germany on articles 33, 37 - 45 (except 43) of the SUR proposal discussed at the informal videoconference of the members of the Working Party on Plants and Plant Health Questions (Pesticides/Plant Protection Products) on 28 March 2023.

Member State:	Germany
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Commission proposal (SUR)	Drafting Suggestions	Comments
CHAPTER VIII APPLICATION EQUIPMENT		
<i>Article 33</i> Electronic register of application equipment in professional use		<u>General Remarks:</u> As already stated with regard to Art. 29, we reject an electronic register for PAE (Pesticide application equipment) due to the effort involved and the lack of a link between the regulation and the central objectives of the SUR. The establishment, maintenance and permanent updating of a central electronic register would involve a disproportionately high effort for the competent authorities of the Länder as well as for the workshops involved in the control of the



		PAE and for the owners of the PAE.
<p>1. Each competent authority designated by a Member State pursuant to Article 30 shall establish and maintain a central electronic register to record:</p> <p>(a) information entered by third parties pursuant to Article 20(2), point (b)(i), and Article 29;</p> <p>(b) records of inspections and certificates as set out in Article 31(6) and (7)(b);</p> <p>(c) other information as set out in paragraph 2 on application equipment in professional use in its Member State that has not been exempted from inspection under Article 32(3).</p>		
<p>2. The competent authorities referred to in Article 30 shall, at the time of inspection, record the following information:</p> <p>(a) the name of the body carrying out the inspections;</p> <p>(b) the unique ID of the application equipment, if available;</p>		

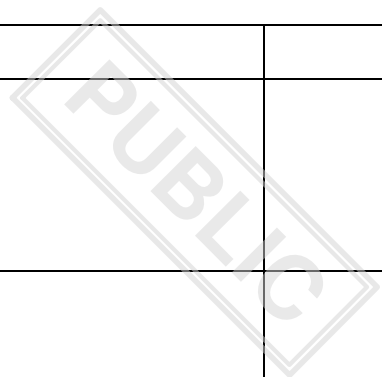


- (c) the date of manufacture, if available;
- (d) the name and address of the current owner;
- (e) where there has been a transfer of ownership, the date of each transfer and the name and address of previous owners within the last five years;
- (f) the tank size;
- (g) the width of the horizontal spray boom, if applicable;
- (h) the nozzle type(s) present on the application equipment at the time of inspection;
- (i) in the case of boom sprayers, whether section and/or nozzle control through geospatial localisation technology is present or absent on the application equipment;
- (j) for equipment older than three years, the date of each inspection carried out in accordance with Article 31;
- (k) whether the application equipment passed or failed each inspection carried out under Article 31;

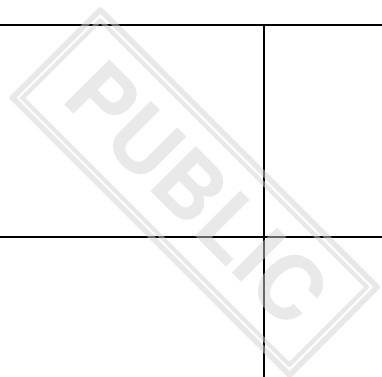
(l) the reasons for any failed inspection.		
3. Where application equipment does not bear a unique ID as referred to in paragraph 2, point (b), the competent authorities referred to in Article 30 shall supply a unique ID.		
CHAPTER X ADMINISTRATIVE AND FINANCIAL PROVISIONS		
<i>Article 37</i> Information on designated competent authorities		<u>General Remarks:</u> We have no objections to the content of the article.
By ... <i>[OP: please insert the date = the first day of the month following six months after the date of entry into force of this Regulation]</i> , each Member State shall inform the Commission of the competent authorities designated in accordance with this Regulation.		
<i>Article 38</i>		<u>General Remarks:</u>

Penalties	Controls, enforcement and penalties	<p>The provisions on sanctions largely correspond to the wording of Article 17 of the existing Directive (SUD). There are no objections to the article from our side.</p> <p>With regard to the addition: The title could be adapted accordingly as follows: „Controls, enforcement and penalties“</p>
<p>Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall without delay notify the Commission of those rules and of those measures and shall notify it, without delay, of any subsequent amendment affecting them.</p>	<p>Member States shall ensure an appropriate level of controls. For that purpose, specific resources have to be allocated to build an independent system of controls. By ... [6 months after the date of entry into force of this Regulation] Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. Member States shall without delay notify the Commission of those rules and of those measures and shall notify it, without delay, of</p>	<p>We assume that the Control Regulation (Regulation (EU) 2017/625; Official Controls Regulation, OCR), including Article 139 (sanctions), applies in the context of the provisions.</p> <p>Otherwise, it should certainly be considered to integrate an additional reference to official controls in this article. Emphasis should be placed on an appropriate level of controls and the need to provide sufficient resources to carry out the controls.</p> <p>We suggest the adjoining addition at the beginning of the article.</p>

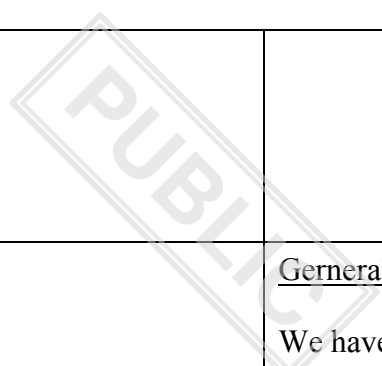
	any subsequent amendment affecting them.	
<p><i>Article 39</i></p> <p>Fees and charges</p>		<p><u>General Remarks:</u></p> <p>We have no fundamental objections to the content of the Article, but would be grateful for a clarification on the omission of the second paragraph from Article 19 of the existing Directive 2009/128/EC:</p> <p><i>(2) Member States shall ensure that the fee or charge referred to in paragraph 1 is established in a transparent manner and corresponds to the actual cost of the work involved.</i></p> <p>For this article, we would also appreciate clarification on the relationship of these requirements to the OCR (Regulation (EU) 2017/625).</p> <p>Relevant articles of the OCR are, inter alia, Articles 79 to 82 of the OCR.</p>
Member States may recover the costs related to carrying out their obligations under this		



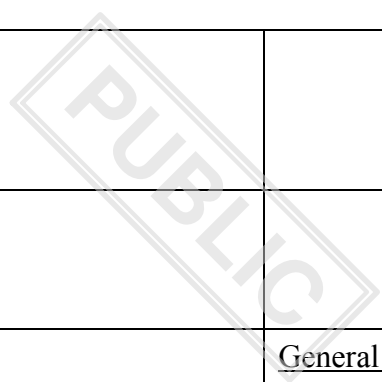
Regulation by means of fees or charges.		
CHAPTER XI DELEGATED POWERS AND COMMITTEE PROCEDURE		
<i>Article 40</i> Exercise of the delegation		
1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.		
2. The power to adopt delegated acts referred to in Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) shall be conferred on the Commission for an indeterminate period.		
3. The delegation of power referred to in Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the		



decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.		
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.		
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.		
6. A delegated act adopted pursuant to Articles 10(6), 13(9), 21(3), 25(10), 29(5), 31(10) and 35(4) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the		



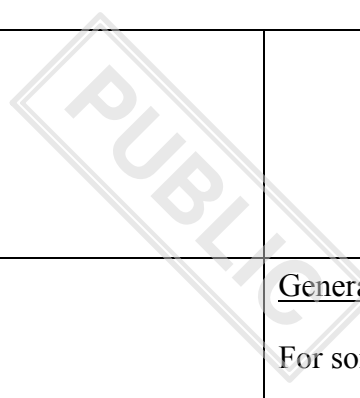
Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.		
<i>Article 41</i> Committee procedure		<u>Gerneral Remarks:</u> We have no fundamental objections to the content of the article.
1. The Commission shall be assisted by the Standing Committee on Plants, Animals, Food and Feed established by Article 58(1) of Regulation (EC) No 178/2002 of the European Parliament and of the Council. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.		
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.		
3. Where the committee delivers no opinion, the Commission shall not adopt the draft		



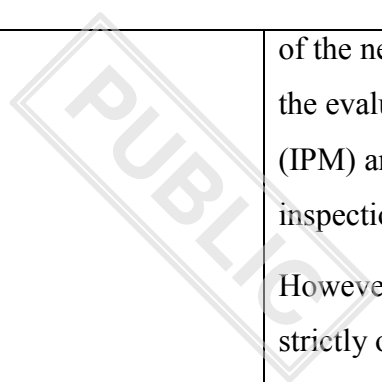
implementing act and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.		
CHAPTER XII TRANSITIONAL AND FINAL PROVISIONS		
<i>Article 42</i> Commission evaluation		<u>General Remarks:</u> We have no fundamental objections to the content of the article. In paragraph 2, in our view, a specific deadline should be set for the submission of the Commission's report on the main findings of the evaluation.
1. By ... <i>[OP: please insert the date = four years after the date of application of this Regulation]</i> , the Commission shall carry out an evaluation of this Regulation based on the following: (a) the trends in progress and other quantitative data provided in annual progress and implementation reports in accordance with Article 10(2);		

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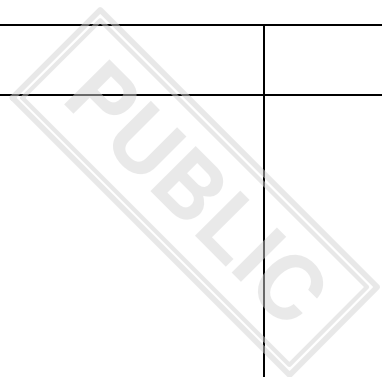
<p>(b) the analysis of the annual trends and data published by the Commission every two years in accordance with Article 11;</p> <p>(c) the report on annual progress and implementation reports previously submitted by the Commission to the European Parliament and Council in accordance with Article 11(7) ;</p> <p>(d) any other information necessary for the preparation of the evaluation.</p> <p>Member States shall provide the Commission with the information necessary for the preparation of that evaluation.</p>		
<p>2. The Commission shall present a report on the main findings to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions.</p>		
<p><i>Article 44</i></p> <p>Repeal of Directive 2009/128/EC</p>		<p><u>General Remarks:</u></p> <p>We have no fundamental objections to the content of the article.</p>
<p>1. Directive 2009/128/EC is repealed.</p>		



2. References to Directive 2009/128/EC shall be construed as references to this Regulation and read in accordance with the correlation table set out in Annex VII.		
<i>Article 45</i> Entry into force		<u>General Remarks:</u> For some new requirements of the Regulation, Member States requested a differentiated transitional period. We could think about integrating a more comprehensive design of transitional periods for individual topics of the regulation in this article, based on the SAIO (Regulation (EU) 2022/2379 on statistics on agricultural inputs and agricultural production). For example, with reference to the entry into force of the Regulation, an adapted transitional period would be possible for the new elements which, due to their complexity, cause significant additional administrative burden. This would address, for example, the introduction



		<p>of the new and extensive electronic systems for the evaluation of Integrated Pest Management (IPM) and for the recording of PAE and its inspection.</p> <p>However, the transitional period chosen must be strictly oriented towards the time actually needed so as not to unnecessarily delay the creation of new data bases.</p>
<p>This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.</p> <p>It shall apply from ... <i>[OP: please insert the date = the first day of the month following ... months after the date of entry into force of this Regulation]</i>.</p> <p>However, Article 21 shall apply from <i>[OP: please insert the date = 3 years after the date of entry into force of this Regulation]</i>.</p>		
Article 3		



Definitions		
<i>Relevant definitions</i> <i>Please comment on definitions linked to Article 20-28</i> <i>- Please insert rows below for the relevant definitions you want to comment on, and indicate clearly in this column which definition you are commenting on</i>		