Draft Minutes

Meeting of the open session of the Fertilisers Working Group

13 November 2017, Brussels

1. Approval of the agenda and of the minutes of previous meeting

Regarding the point on the substitution effect of P-mineral fertilisers by new recycled products, an observer mentioned that this should not be done at the expenses of a direct return of organic matter to the soils. It is only in specific cases when the original materials are polluted that purification and production of pure mineral fertilisers from biomass have an obvious advantage. Direct application of organic fertiliser should be better encouraged in the upcoming fertiliser regulation.

With these remarks, the agenda and the minutes were adopted.

2. Nature of the meeting

The meeting was attended by Members and Observers of the Fertilisers Working Group listed in the Commission Registry of experts. The meeting was not web streamed and not public.

3. List of points discussed

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The main objective was to inform the group about the status of the development of the nutrient recovery rules for recovered phosphate salts, pyrolysis and ash-based materials (The STRUBIAS materials). In parallel to the development of those rules, JRC with the support of the STRUBIAS expert group will evaluate the environmental, human health and socio-economic impacts of the introduction of recovery rules for STRUBIAS materials in Annex II of the future regulation.

JRC recalled that as eligible input materials for STRUBIAS production include waste, the risks of disseminating harmful pathogens or pollutants should be carefully examined. The choice of the authorised input materials and the production process conditions will reduce the risks of the presence of contaminants in the output materials. The main
challenge of the whole project is therefore to strike a balance between reasonable agronomic efficacy, environmental and human health protection and compliance costs\(^1\).

Recovered phosphorus salts are materials recovered from a positive list of waste water streams after addition of pH regulators and counter ions to form recovered phosphate salts. Most of the existing processing techniques lead to phosphate salts containing less than 3% organic carbon and a limited amount of heavy metals as well as a heterogeneous group of emerging organic pollutants like PAHs, pesticide, pharmaceuticals and personal care products, etc. Therefore JRC has proposed that recovered phosphate salts should not contain more than 3% organic carbon which a very simple benchmark for the industry with reasonable compliance costs.

Ash-based materials include thermal oxidation materials. JRC explained that depending on the input materials, ash-based materials could be used directly on land or should be further processed to remove contaminants and/or improve the agronomic characteristics of the output material. Elements of concerns are persistent organic pollutants formed during incineration and further concentration of heavy metals in the final output. The approach followed by JRC to limit that risk was to exclude hazardous waste, municipal solid waste and animal by-products category 1 from the positive list of eligible input materials. A testing scheme is also proposed focusing on heavy metals and organic pollutants.

Pyrolysis materials are produced by combusting biomass in oxygen limited environment. Given their proximity with ash-based materials, the same regulatory approach has been proposed by JRC. Because of the heterogeneity of pyrolysis materials, labelling provisions will be added to inform end-users about the characteristics of the pyrolysis material present in the fertilising product.

JRC confirmed that elaboration of the final report\(^2\) is planned for the end of 2018. JRC is currently processing the comments received on the interim report and plans to consult the STRUBIAS expert group on follow-up reports in writing but also during a meeting in Seville.

An observer requested clarification on the exclusion of animal by-products category 1 (ABP Cat 1) from the list of eligible materials for ash-based materials. These materials are rich in nutrients K and P but contain only traces of heavy metals and organic contaminants. Moreover thousands of tons of ashes derived from ABP Cat 1 are already marketed as fertilisers in one or two Member States.

JRC replied that the evaluation of the risks of animal by-products falls under the responsibility of DG SANTE. Under the animal by-product regulation, the use of ashes from ABP Cat 1 is not permitted for the production of organic fertilisers and soil improvers as all prions may not be removed during the incineration process.

Another observer asked clarifications about the origin of the organic pollutants in ashes and whether process conditions could be finetuned to reduce the production of such contaminants during incineration. JRC replied that the processing requirements are taken from the Industrial Emissions Directive that ensure a complete combustion of the organic material and hence reduce the possibility to form organic pollutants.

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1 for example the testing of pharmaceutical and personal care products may lead to high compliance costs and complex conformity assessment schemes.

2 Recommendations for recovery rules on STUBIAS materials and an analysis of the impacts on the environment, human health and the economy of the inclusion of such rules in Annex II to the Fertilisers Regulation
A question was raised about the possible use of the left-overs after the production of struvite. Could this be used directly on farmland or would JRC recommend the incineration of the sludge residues?

JRC explained that the struvite production process lowers the nitrogen and phosphorous content of the sludge by precipitating these nutrients into an inorganic salt, but does not constitute a sludge decontamination process. Therefore, the residual sludge continues to be subject to existing EU and national legal provisions on possible recovery and/or disposal options, such as direct application on farmland, incineration or landfilling. Residual sludge could in principle also be used in the production of ash-based materials under the revised Fertiliser Regulation provided that the final material obtained after processing meets certain criteria (proposals for these criteria are currently being developed under the STRUBIAS work).

It was suggested during the discussion that, for pyrolysis materials, the exclusion of manure and sewage sludge from the list of authorised input materials should be justified. Water treatment plants are working to avoid heavy metals from industry going into the sludge. Biochar from manure seems to be economically viable and safe. If the content in heavy metals is below the maximum content set at PFCs level, there should be no reason to exclude those materials from biochar inputs.

JRC explained that sewage is excluded from the biochar inputs because of its content in heavy metals that would not be compatible with the limits proposed at PFCs level. In addition, there are concerns related to the possible presence of organic pollutants in sewage-based biochar as the removal of organic pollutants through pyrolysis has not always been demonstrated. Manure is not banned from the biochar inputs.

A Member requested information on the post-processing step for ash-based materials. JRC clarified that the interim report proposed to allow the use of ash derivative in fertiliser production. In particular post-treatment of sewage sludge incineration ashes is needed to enhance the agronomic value of the ash and reduce the content in heavy metals to an acceptable level. The techniques described in the report are based on existing and emerging techniques. The post treatment needs to be included at CMC level as according to the new rules, chemical treatment at PFC level will not be authorised.

A Member asked whether STRUBIAS materials would be sufficiently attractive to be subject to significant trade on the internal market as requested under Article 42 of the proposal for a revised Fertiliser Regulation. The COM replied that the intention of the legal criteria of Article 42 is to help the Commission to prioritize between different component materials that may be proposed for inclusion in Annex II. The STRUBIAS work could serve as a benchmark for future requests which justifies an analysis of the impacts of the draft recovery rules.

As a general comment, an observer clarified that the provisions relating to the ban on the mixing of waste under the Waste Framework Directive apply only to hazardous waste. JRC explained that the dilution of waste to reach contaminant limits is not good practice and should not be recommended, and that this especially holds true for hazardous waste. Many STRUBIAS production processes, however, involve a (partial) reduction in contaminants.

**Decadmiation: call for expression of interest under H 2020**

The COM informed that different EU funding possibilities in support of the development of decadmiation technologies have been explored. The new research programme 2018-2020 under H2020 includes a topic that could support the industrialisation of innovative manufacturing processes for sustainable fertilisers. An expert of the Executive Agency
for SMEs (EASME) was invited to present the application procedure for the relevant topic\(^3\).

EASME explained that a new call for proposal was opened at the end of October. The applications will be evaluated in two steps. By 27\(^{th}\) February, applicants shall have submitted a 10 pages document summarising their proposal which will be assessed by external experts. The applicants selected in the first step will have then to submit a full application by mid-September 2018. Some of those proposals will become project and will be funded.

The overall goal of the topic is mainly to ensure a sustainable supply of raw materials to the EU regardless of the source. Proposals should support the development of innovative pilots for the clean and sustainable production of raw materials. Part a) of topic CE-SC5-07-2018 mainly focuses on the reduction of the content of toxic elements or compounds in output materials. This topic meets the expectations of the mineral fertiliser industry in terms of financial assistance for the development of decadmiation technologies at industrial scale.

Proposals should also demonstrate the economic viability and allow the market uptake of the selected process by fertiliser producers. In general, proposals should also help gaining the trust of EU citizens in the raw material sector.

EASME clarified that the circular economy is an important factor and that the action will also cover the cleaning of secondary raw materials derived from any source of waste.

An observer welcomed the proposal and recalled that decadmiation of phosphoric acid is very challenging. Additional work is needed before reaching the level of industrial demonstration. The observer asked which amount of money will be available for the relevant topic and whether if Morocco, Tunisia or Togo will be eligible for funding.

EASME answered that contributions will range between 8 to 13 Mio €. The proposed budget for the four subtopics covered by SC5-07 is 20 Mio€ for 2018 which means that 2 to 3 projects will be funded. In innovative action, up to 75% of the eligible costs of industry entities will be reimbursed. H2020 calls are in principle opened to every company in the world but depending on their location, they may not be eligible for funding. The countries mentioned above will be eligible for funding.

The COM recalled that national contact points can support applicants in the preparation of their application dossier. A series of national information days will take place in the coming days.

**Continuously open call for the selection of observers of the expert group**

The COM explained that several requests for observer status in the Fertilisers Working Group have been received from different EU associations.

In accordance with the new horizontal rules on the creation and operation of Commission expert groups\(^4\), access to the meetings will be granted only to representatives of EU associations fulfilling relevant criteria in a call for applications.

The COM requested the views of the group on possible selection criteria and the way these criteria should be demonstrated. The group did no object to the COM proposal.

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\(^3\) CE-SC5-07-2018 – subtopic a). More details are available on:

\(^4\) Commission Decision C(2016)3300 of 30/05/2016
The COM also explained that access to the FWG meetings to two observers has been recently refused because their data in the transparency register\(^5\) was not up to date. The COM recalled the participants to regularly check their data as registration in the Transparency Register is a pre-condition to the participation to the COM expert groups meetings.

**Creation of a sub-group on plant biostimulants**

The COM presented its views on the possible creation of a technical sub-group on microbial plant biostimulants. The intention is to respond to co-legislators requests to expand the list of the COM proposal under CMC 7 and clarify the data requirement of Article 42 of the COM proposal. The sub-group would have to draft recommendations and opinions on requests for inclusion of new microbial plant biostimulants in CMC 7.

The sub-group will be opened to Member States experts, industry representatives, academia and NGOs. The call for applications will be addressed to industry, academia and NGOs experts who will have to demonstrate their expertise in the field of microbial plant biostimulants (identification, risk assessment,…) and fertilisers in general. The COM will select candidates based on their professional profiles, competence, gender and any other relevant criteria. The call will be published together on the COM register of expert group\(^6\) and the newsrooms of DG GROW website\(^7\).

Once the selection is made, the list of successful candidate will be published on the websites mentioned above and a kick-off meeting will be organised shortly after by the COM. Several meetings may be organised per year depending on the workload of the group. The COM will ensure the secretariat of the meetings.

An observer asked whether academia will be reimbursed for travel expenses. The COM will check this point.

An observer presented its criteria-based approach to assess microbial plant biostimulants which compared to the positive list approach adopted by the COM would according to this observer:

- allow the regulator to keep pace with rapid innovation in the sector and facilitate access to the market
- solve the question of intellectual property rights
- examine the risks of microbial plant biostimulants at strain level

The objective is to propose a methodology for the identification and assessment of the risks of microbial plant biostimulants. Practically, manufacturers would have to collect data on their microorganisms based on the criteria mentioned in Article 42 supported by the proposed criteria-based approach. The information collected would be assessed by a notified body which could then support or reject the application.

According to this industry association, the name, taxonomic classification and identification of microorganisms at strain level is not available in public literature but only at producer level. Access to this data is needed to identify and assess the hazards and risks of micro-organisms marketed as plant biostimulants.


\(^6\) Illustration is given from the STRUBIAS sub-group: [http://ec.europa.eu/transparency/regexpert/index.cfm?do=calls.calls_for_app](http://ec.europa.eu/transparency/regexpert/index.cfm?do=calls.calls_for_app)

As to the risk assessment for human health, it was proposed to only accept category 1 microorganisms at strain level in accordance with Directive 2000/54/EC of the European Parliament and of the Council on the protection of workers from risks related to exposure to biological agents at work. According to this Directive, biological agents are classified into four groups depending on their level of risks of infection. A group 1 biological agent is a microorganism that is unlikely to cause human disease. Micro-organisms belonging to category 2 could be accepted on a case by case basis if it can be established that they do not present any risk for human health.

On the evaluation of environmental risks, the approach would be mainly literature-based. If not enough information is available, tests shall be carried on relevant end-points (earthworms, bees, daphnia representing the soil, air and aquatic environments).

The COM recalled that the proposal on the table is not an authorisation system but a positive list approach. The COM is open to discuss possible solutions to further populate the CMC 7 exhaustive list. However, the COM will not agree with a system whereby the responsibility to assess the risks of microbial plant biostimulants is handed over to industry. Reference to industry standards or responsibilities of notified bodies to assess the risks of such products are not consistent with the COM approach on microbial plant biostimulants.

The observer confirmed its support to the COM positive list and repeated that safety aspects are often documented at strain level and are owned by companies. The positive list shall not only be fed by information from the public literature otherwise the possibility to market CE marked microbial plant biostimulants will remain extremely limited.

Lastly, the speaker suggested that microorganisms approved as active ingredient in other EU legislation\(^8\) could be presumed to be safe for incorporation into EU fertilising products. The COM and another observer did not support the approach according to which a microorganism that is used as plant protection product or biocide for example would qualify automatically as plant biostimulants.

Draft standardisation mandate

The COM explained the grounds of the request and went through the recitals, the articles and the Annexes of the draft implementing act on a future standardisation mandate for fertilisers. The standardisation is going to be the master piece of the implementing work. In order to be ready with a formal request to CEN when the new Regulation is published, the COM already started a consultation of the relevant partners to collect information on the existing analytical methods and identify possible gaps. The information gathered has been used to prepare the Annexes of the draft implementing act.

Under Article 10 of the standardisation regulation, the COM has the obligation to consult largely on a draft standardisation mandate. The COM proposed to run this consultation before the Fertiliser Regulation is published. Firstly, the draft act will only include reference to provisions laid down in the COM proposal. When an agreement between the Council and the EU Parliament on a final text is sufficiently robust, the COM intends to run a second consultation based on the provisions modified or included by the co-legislators. The COM estimated that the second consultation could be carried before the summer break next year and given that the internal procedure of the COM for adoption of such legal act- between 4 to 5 months - the implementing decision could be adopted and published in the COM website before the end of 2018. The COM recalled that deadlines in the legal act will have to be respected and will be legally binding.

\(^8\) such as plant protection products, biocide, food and feed additive
CEN and several CEN TCs expressed strong concerns about the proposed deadlines. Although several EN standards are already available for mineral fertilisers and liming materials, other sectors will need more time to develop reliable analytical methods. CEN added that ring tests of proposed EN standards is time consuming and that no more than 4 ring tests a year can be expected from a competent laboratory. The COM asked CEN to provide clear justification about realistic timelines.

An observer remarked that analytical methods for the STRUBIAS materials will need to be developed. The COM replied that the inclusion of the recovery rules for STRUBIAS materials may require the preparation of another standardisation mandate. The same observer remarked that the scope of the request 9.1 in Table 9 should be specified to avoid that standards are developed for products that were not intended to be covered.

A Member asked whether analytical methods for the determination of non-microbial plant biostimulants will be developed and how the problem of analytical interferences in blends made of different PFCs will be addressed. The COM clarified that the provisions on plant biostimulants are not associated to the determination of an active substance but rather to the verification of the claimed functionality of the product. As to the blends, the producer will just have to verify that the conformity of the PFCs used in the preparation of the blend has been assessed.

An observer indicated that NGOs will be involved in the standardisation mandate and explained that measurement standards need strong implications of accredited laboratories and authorities. More time is needed to develop such standards compared to product standards developed by industry.

**Implementation of the rules on sustainability claims in the upcoming fertilising products regulation**

The COM reported being in the process of exploring what sustainable or environmental claims could mean in the future and is sounding out how best it should be applied. As a general rule, Annex III of the COM proposal set out mandatory labelling information but optional labelling is possible as long as it is not misleading. An analysis of the optional claim will be made on a case by case basis in order to protect the CE marking.

The upcoming regulation will level the playing field for honest business people by giving them the opportunity to sell their 'green' products if they are able to demonstrate that the claims they make about environmental or sustainable attributes of their products are truthful. However, this can only happen if manufacturers’ claims are substantiated and non-deceptive.

Sustainable or environmental claims often raised a lot of issues regarding what these terms mean, whether the claims are verifiable and what they convey to the public.

To illustrate the issue, the COM invited two different fertiliser associations to present existing codes of practice in the area of sustainable fertiliser production.

The first speaker presented a responsible peatland management program that was initiated by the Dutch biodiversity policy program of 2008 which aimed to ease the access to raw materials not cultivated or mined in the Netherlands. As peat is very important constituent in growing media, the Dutch horticultural sector decided to benefit from the initiative to develop the Responsibly Produced Peat program (RPP).

Representatives of industry, NGOs, Academia and public authorities gathered to discuss the issue. They all agree that peat cannot be harvested in a sustainable way but only in a responsible manner. Specific criteria where thus developed to differentiate responsible production from less responsible peat production. The speaker detailed the most three
important elements of the RPP: the selection criterion, the production phase criterion and the restoration criterion.

The site selection criteria were based on the level of degradation of natural resources. The most degraded area should be used for peat extraction under the RPP. As of 1 January 2014, natural sites – pristine areas - are definitively closed for RPP certification. Other sites have to conduct stakeholder consultations on the management of the mine and its restoration and provide a detailed environmental impact assessment before being RPP certified. Currently EE and LT are working on an inventory of peat bogs to better understand how these areas could be accessible in the future and under which conditions.

The challenge during the production phase is to minimize the impacts of peat extraction. Several mitigation measures have been discussed by several RPP stakeholders and are now applied in certified sites at reasonable costs.

According to RPP principles, the intended after use should be prepared during the extraction phase. The environmental performance of peat bogs after mining should preferably be better than before with preference for restoration of peat growth. RPP allows other after uses after consultation with stakeholders.

Information about certified sites is available on the RPP portal. 31 sites locations are certified mainly in Germany. 20 requests for application are being examined. The objective is to certify at least 200 peat bogs among the 600 to 700 active peat extraction sites in the EU.

The COM asked how much time is needed to regenerate a peat bog and if growers are in demand and are ready to pay RPP products.

The speaker answered that successful rewetting and restoration of peat bogs can take several decades. However, experiences in Canada show than this can be achieved more rapidly. Growers are involved from the beginning and appreciate the initiative. Peat is an essential element of growing media products. A certain percentage of peat can be replaced by compost but a minimum amount of peat will be always necessary to meet the requirements of the horticultural sector.

A second example of sustainable claims enforced in France was presented by a French association of fertilisers producers. The quality scheme was developed in France:

- in response of a strong societal demand for the recycling of agricultural products into effective fertilising products. The chart requires that at least 60% of the nutrients NPK present in the final products derive from renewable resources
- to allow farmers to easily identify the products that comply with the French fertiliser law

An easily understandable marking was developed to help end-users to rapidly identify which products meet the above requirements. Around 1.5 Mio tons of products were placed on the French market under the trademark 'fertilisant durable' last year.

A Member and an observer asked why the quality scheme has not been opened to mineral fertiliser made of recovered phosphorus from ashes or struvite.

The speaker answered that mineral recovered fertiliser are not authorized under the French fertiliser law and therefore such products are not covered by the scope of the scheme.

An observer was very critical towards the approach. Similar logos exist already on the market and the objectives are generally difficult to understand. It gives a level of power on the market to products that they not always deserved. The choice of sustainability is not in the product but in the use which is not covered by the revised Fertiliser Regulation.
The COM recalled that the implementation of the new Regulation will require a lot of work and the COM will have to prioritize its work. If a product claims to be different from comparable product, it would necessary to demonstrate that it does more than complying with existing legislation.

4. Conclusions/recommendations/opinions

CEN should come back with a prioritisation of the tasks described in the draft standardisation mandate by 15 January 2018 and should justify any deviation from the proposed timelines.

The group did no express any formal opinion.

5. Next steps

The COM should publish the call for application for the selection of members of the sub-group on micro-organisms plant biostimulants.

The participants of the FWG should list existing national quality schemes supporting sustainable and environmental claims and send this information to the COM before the end of the year. A reference to the relevant national law should be added.

6. Next meeting

The next meeting of the FWG is scheduled for 20 March 2018.

7. List of participants

Representatives of competent authorities for the fertilisers Regulation from AT, BE, BG, CZ, DE, EE, ES, FI, HU, IE, IT, LT, LV, NL, PL, PT, RO, SK, UK (Members), EASME

Representatives of other public entity: NO, CH

Representatives of the following EU organisations: CEN, COCERAL, EBA, EBIC, ECN, ECOFI, EFBA, EFPRRA, EUROFEMA, EUROSLAG, FEAD, Fertilizers Europe, Growing Media Europe, IMA Europe,

Private expert: EEB, Novozymes, RHP

Chair: European Commission, DG GROW, Unit D2, Chemicals Industry
ANNEX

MEETING OF THE FERTILISER WORKING GROUP
ON 13-14 NOVEMBER 2017

ALBERT BORSCHETTE CONFERENCE CENTRE
36 RUE FROISSART, BRUSSELS
ROOM AB-1B

DRAFT AGENDA

Open session of the FWG 13 November 2017
10:00 - 13:00

(1) Adoption of the draft agenda
(2) Adoption of the draft minutes of the Fertilisers Working Group meeting of
13 February 2017
(3) STRUBIAS study: state of the art
   (a) Summary of the interim report by JRC
   (b) Discussion
(4) Decadmiation: call for expression of interest under H2020
(5) Continuously open call for the selection of Members of the expert group
(6) Creation of a sub-group on plant biostimulants

14:00 - 17:00

(7) Draft standardisation mandate: discussion
(8) Implementation of the rules on sustainability claims in the upcoming
    Fertilising Products Regulation
(9) AOB