Commission expert group on Fertilising Products [previously called Fertilisers Working Group]

Terms of reference

1. Preliminary remarks

The Fertilisers Working Group is an informal group of experts assisting the Commission’s Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs (‘DG GROW’).

Over the years, this group has provided for advice and expertise in relation to the implementation of Regulation (EC) No 2003/2003 of the European Parliament and of the Council of 13 October 2003 relating to fertilisers\(^1\), and ensures coordination and cooperation between the Commission and Member States in that regard.

It has also provided expertise and policy orientation in particular for the preparation of a proposal for a revised Regulation in the field of fertilisers.

On 5 June 2019, the European Parliament and the Council adopted Regulation (EU) 2019/1009 laying down rules on the making available on the market of EU fertilising products\(^2\). The new Regulation brings important changes in the field and attributes new tasks to the Commission, such as different empowerments to adopt delegated acts. It also repeals Regulation 2003/2003 with effect from 16 July 2022.

Following the adoption of Regulation (EU) 2019/1009, the mandate of the Fertilisers Working Group needs to be extended so as to ensure that the Commission will have access to the expertise needed for the implementation and future developments of the new Regulation. There is no need to set up a new group of experts. It is preferable to extend the mandate of the existing group, as it already gathers very useful and diverse expertise in the field. In addition, setting up of a new group would imply its functioning in parallel with the existing one for as long as products placed on the market based on Regulation 2003/2003 before 16 July 2022 are still made available on the market, which will be a long transitory period given that fertilisers may have a long shelf life. It is therefore more efficient that only one group deals, during this transitory period, with issues concerning both Regulations 2003/2003 and 2019/1009.

As a result of the new tasks of the group, its name needs to be changed in order to better reflect its scope. Therefore, the Fertilisers Working Group will be referred to as the Commission expert group on Fertilising Products (hereafter “the group”).

For ease of reference, the current document includes a revised and consolidated version of the mandate of the group, building on the version which was brought to the attention of the Fertilisers Working Group in December 2014 (FWG 2014.12.15 Doc.3 – Annex II) and

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introducing all changes needed as a result of the adoption of the Commission decision of 30.05.2016 establishing horizontal rules on the creation and operation of Commission expert groups (hereafter “the horizontal rules”)\(^3\) and of Regulation 2019/1009.

2. **Tasks**

The group’s tasks shall be:

(a) to assist DG GROW in the preparation of legislative proposals and policy initiatives in the field of fertilising products;

(b) to assist DG GROW in the preparation of delegated acts;

(c) to establish cooperation and coordination between DG GROW and Member States or stakeholders on questions relating to the implementation of Union legislation, programmes and policies in the field of fertilising products, in particular concerning Regulations (EC) No 2003/2003 and (EU) 2019/1009 and the implementing and delegated Regulations adopted based on the latter;

(d) to assist DG GROW in the early preparation of implementing acts, before submission to the committee in accordance with Regulation (EU) No182/2011;

(e) to bring about an exchange of experience and good practice in the field of fertilising products.

3. **Membership**

Members of the group shall be competent Member States’ authorities. They shall nominate their representative in the group and shall be responsible for ensuring that their representatives provide a high level of expertise.

4. **Chair**

The group shall be chaired by a representative of DG GROW.

5. **Operation**

1) The group shall act at the request of its chairman with the agreement of DG GROW, in compliance with the horizontal rules.

2) In principle, the group shall meet 2 times per year on Commission premises.

3) DG GROW shall provide secretarial support. Commission officials from other departments with an interest in the proceedings may attend meetings of the group and its sub-groups.

4) In agreement with DG GROW, the group may, by simple majority of its members, decide that deliberations shall be public.

5) Minutes on the discussion on each point on the agenda and on the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the Chair.

\(^3\) C(2016) 3301.
6) Discussions will take the form of an informal exchange of opinions, and it is not expected that a consolidated opinion or recommendation by the group will often be sought. Should that nevertheless occur, consensus will be sought as far as possible when the group will adopt its opinions, recommendations or reports. In the event of a vote, the outcome of the vote shall be decided by simple majority of the members. The members that have voted against or abstained shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

6. Sub-groups
DG GROW may set up sub-groups for the purpose of examining specific questions on the basis of specific terms of reference. Sub-groups shall operate in compliance with the horizontal rules and shall report to the group. They shall be dissolved as soon as their mandate is fulfilled.

7. Observers
1) DG GROW may grant observer status in the group to:
   (a) European trade and business associations, non-governmental organisations and trade unions (hereafter referred to as ‘organisations’) as a result of a call for applications;
   (b) public entities other than Member States’ authorities, such as third countries’ authorities, including candidate countries’ authorities, Union bodies, offices or agencies and international organisations, by direct invitation.

2) In addition to the organisations and other public entities mentioned above DG GROW may grant observer status in the sub-groups, as a result of a call for applications, to:
   (a) individuals appointed in their personal capacity who are to act independently and in the public interest;
   (b) individuals appointed to represent a common interest shared by stakeholders, who do not represent an individual stakeholder, but a policy orientation common to different stakeholder organisations;
   (c) other organisations in the broad sense of the word, such as companies, universities, research institutes, law firms and consultancies.

3) All observers except public entities and individuals appointed in a personal capacity are strongly recommended to register in the Transparency Register operated by the European Parliament and the Commission (hereinafter the 'Transparency Register'). DG GROW will take such registration into account as a positive factor, when selecting observers.

4) Organisations and public entities appointed as observers shall nominate their representatives in the group or sub-group. DG GROW may refuse the nomination of a representative by an organisation if it considers this nomination inappropriate in light of the requirements specified in chapter 4 of the call for applications used to select observers. In such case, the organisation concerned shall be asked to appoint another representative.
5) Individual observers and observers’ representatives may be permitted by the Chair to take part in the discussions and provide expertise. However, they shall not have voting rights and shall not participate in the formulation of recommendations or advice of the group or sub-group.

8. Invited experts

DG GROW may invite experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group or sub-groups on an ad hoc basis.

9. Selection process

1) Except the above-mentioned public entities, the selection of the group’s and sub-groups’ observers shall be carried out via an open call for applications published on the Register of Commission expert groups and other similar entities (‘the Register of expert groups’). The call for applications shall outline the selection criteria, including the required expertise and, where appropriate, the interests to be represented in relation to the work to be performed.

2) All organisations listed in the Register of expert groups as observers in the Fertilisers Working Group on 15 August 2019 will maintain their observer status in the group without any additional formalities until 31 December 2020. As of 1 January 2021, the term of office for all observers shall end every two years starting from that date.

3) As a rule, the term of office shall be renewed automatically. DG GROW may decide that there is a need to reassess the observer status for all organisations in the group in order to ensure a high level of expertise, as well as a balanced representation of relevant know how and areas of interest. In such a case, at least six months in advance to the end of a term, DG GROW shall inform organisations with observer status that their status will not be automatically renewed and request all interested organisations to submit new applications based on the continuously open call for applications within a deadline of three months. DG GROW will reassess all the applications received and will decide which organisations will receive observer status for a period of two years starting after the end of that term.

4) Observers who are no longer capable of contributing effectively to the group’s work, who, in the opinion of DG GROW, do not comply with the conditions set out in Article 339 of the Treaty on the Functioning of the European Union or who resign, shall no longer be invited to participate in any meetings of the group and may be replaced for the remainder of their term of office.

5) Any spontaneous applications for observer status based on the continuously open call for applications shall be assessed and, if accepted, observer status shall be granted until the end of the term for existing observers. The provisions in the previous paragraphs shall apply accordingly.

10. Rules of procedure

On a proposal by and in agreement with DG GROW, the group shall adopt its rules of procedure by simple majority of its members, on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules.
11. **Professional secrecy and handling of classified information**

The members and their representatives, as well as invited experts and observers, are subject to the obligation of professional secrecy, which by virtue of Article 339 of the Treaty on the Functionning of the European Union and the rules implementing it applies to all members of the institutions and their staff, as well as to the Commission's rules on security regarding the protection of Union classified information, laid down in Commission Decisions (EU, Euratom) 2015/443\(^4\) and 2015/444\(^5\). Should they fail to respect these obligations, the Commission may take all appropriate measures.

12. **Transparency**

1) The group and its sub-groups shall be registered in the Register of expert groups.

2) As concerns the composition of the group and sub-groups, DG GROW shall publish on the Register of expert groups the name of public entities other than Member States’ authorities, the name of observers and the interest they represent, as well as the name of individuals appointed in a personal capacity and the name of individuals appointed to represent a common interest and the interest they represent.

3) All relevant documents, including the agendas, the minutes and the participants’ submissions, shall be made available either on the Register of expert groups or via a link from the Register to dedicated web-site, where this information is publicly available. Access to the dedicated web-site shall not be submitted to user registration or any other restriction. In particular, the agenda and other relevant background documents shall be published in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be foreseen where it is deemed that disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents\(^6\).

13. **Meeting expenses**

1) Participants in the activities of the group and its sub-groups shall not be remunerated for the services they offer.

2) Travel expenses incurred by participants in the activities of the group and sub-groups may be reimbursed by the Commission. Reimbursement shall be made in accordance with the provisions in force within the Commission and within the limits of the available appropriations allocated to the Commission departments under the annual procedure for the allocation of resources.

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