

COMMISSION IMPLEMENTING DECISION

of 22 February 2012

providing for the temporary marketing of seed of the species *Triticum durum* Desf. belonging to the variety Marialva not satisfying the requirements of Council Directive 66/402/EEC as regards the maximum content of seeds of wheat (*Triticum aestivum* L.)

(notified under document C(2012) 1114)

(2012/116/EU)

THE EUROPEAN COMMISSION,

HAS ADOPTED THIS DECISION:

Having regard to the Treaty on the Functioning of the European Union,

Article 1

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed⁽¹⁾, and in particular Article 17(1) thereof,

1. The marketing in the Union of seed of durum wheat (*Triticum durum* Desf.) of the category 'certified seed', second generation, belonging to the variety Marialva which does not satisfy the requirements set out in point (2)(A) of Annex II to Directive 66/402/EEC in respect of the maximum content of seeds of wheat (*Triticum aestivum* L.) shall be permitted.

Whereas:

However, the maximum content of seeds of wheat (*Triticum aestivum* L.) allowed in the seed of durum wheat (*Triticum durum* Desf.) specified in the first subparagraph shall be 45 seeds in a sample of the weight specified in column 4 of Annex III to Directive 66/402/EEC.

(1) In Portugal the quantity of available seed of durum wheat (*Triticum durum* Desf.) of the category 'certified seed', second generation, of the variety Marialva, which is suitable for the national environmental conditions and which satisfies the requirements of Directive 66/402/EEC in respect of the maximum content of seeds of wheat (*Triticum aestivum* L.) is insufficient and is therefore not adequate to meet the needs of that Member State.

This permission shall be granted for a total quantity of up to 130 tonnes and for a period ending on 29 February 2012.

(2) The demand for such seed cannot be satisfied by seed from other Member States or from third countries fulfilling all the requirements laid down in Directive 66/402/EEC.

2. In addition to fulfilling the labelling requirements of Directive 66/402/EEC, the official label shall state that the seed does not satisfy the requirements of point (2)(A) of Annex II to that Directive in respect of maximum content of seeds of wheat (*Triticum aestivum* L.).

(3) Consequently, Portugal should be authorised to permit the marketing of seed of that variety, subject to less stringent requirements than apply to certified seed, second generation, for a period expiring on 29 February 2012 and up to a maximum quantity of 130 tonnes.

Article 2

1. Any supplier wishing to place on the market seed, as referred to in Article 1, shall apply for authorisation to the Member State in which it is established or importing. The application shall specify the quantity of seed that the supplier wishes to place on the market.

(4) In addition, other Member States which are in a position to supply Portugal with seed of this variety, irrespective of whether it was harvested in a Member State or in a third country, should be authorised to permit the marketing of such seed.

2. The Member State concerned shall authorise the supplier to place seed, as referred to in Article 1, on the market, unless:

(5) It is appropriate that Portugal act as a coordinator in order to ensure that the total amount of seed authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.

(a) there is sufficient evidence to doubt whether the supplier is able to place on the market the amount of the seed for which he has applied for authorisation;

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

(b) having regard to the information provided by the coordinating Member State, as referred to in the third subparagraph of Article 3, granting the authorisation would result in the total maximum quantity of seed referred to in Article 1(1) being exceeded.

As regards point (b), in case the total maximum quantity would only allow for authorisation of part of the quantity specified in the application, the Member State concerned may authorise the supplier to place that lesser quantity on the market.

⁽¹⁾ OJ L25, 11.7.1966, p. 2309/66.

Article 3

Member States shall assist each other administratively in the application of this Decision.

Portugal shall act as coordinating Member State in order to ensure that the quantity of seed authorised for marketing in the Union by the Member States pursuant to this Decision does not exceed the total maximum quantity of seed referred to in Article 1(1).

Any Member State receiving an application under Article 2 shall immediately notify the coordinating Member State of the amount covered by the application. The coordinating Member State shall immediately inform that Member State as to whether authorisation would result in the maximum quantity being exceeded.

Article 4

Member States shall immediately notify to the Commission and the other Member States the quantities in respect of which they have granted marketing authorisation pursuant to this Decision.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 22 February 2012.

For the Commission
John DALLI
Member of the Commission