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COUNCIL DIRECTIVE

of 6 December 1972

amending the Directives of 14 June 1966 on the marketing of beet seed, of fodder-crop seed, of cereal seed, of seed potatoes, the Directive of 30 June 1969 on the marketing of oleaginous and fibrous plant seed, and the Directives of 29 September 1970 on the marketing of vegetable seed and on the Common Catalogue of Varieties of Agricultural Plant Species

(72/418/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and particularly Articles 43 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas, for the reasons set out hereunder, certain provisions of the Directives referred to below and last amended by the Directive of 20 July 1972¹ should be amended: Council Directives of 14 June 1966 on the marketing of, respectively, beet seed,² fodder-crop seed,³ cereal seed,⁴ seed potatoes⁵; Council Directive of 30 June 1969 on the marketing of oleaginous and fibrous plant seed⁶; Council Directives of 29 September 1970 on the marketing of vegetable seed⁷ and on the Common Catalogue of Varieties of Agricultural Plant Species⁸;

Whereas it is necessary to provide that, in certain circumstances, bred seed of generations prior to basic seed and plants, admitted for marketing in the different Member States and

in accordance with the aforesaid Directives, should no longer be subject to marketing restrictions between the Member States;

Whereas the application of the procedure provided for in the aforesaid Directives in order to remove temporary difficulties in the supply of basic seeds and plants or of certified seeds and plants has shown that these difficulties could be more easily overcome by admitting not only seeds and plants of an inferior quality, but also seeds and plants of varieties not included in the Common Catalogue of Varieties or in the national Catalogue of Varieties;

Whereas the application of the aforesaid Directives has given rise to difficulties during the importation of seeds and plants in the various Member States, because in each of them the descriptions required from the importer differ, whereas these descriptions should therefore be harmonised;

Whereas the particulars, in particular of quantities, which must appear on the label of certain seed species listed in the aforesaid Directives should be amended, and instead of a document inside the container, the use of an adhesive label for all species should be adopted;

Whereas seed intended for the production of plants for ornamental use should be excluded from the application of the Directive on the marketing of cereal seed, as in the case of the other similar Directives;

Whereas in the Directive on the marketing of seed potatoes the provisions on packing and grading require certain adjustments; whereas the prescribed examinations should be extended to certain harmful and dangerous organisms;

¹ OJ No L 171, 29.7.1972, p. 37.

² OJ No 125, 11.7.1966, p. 2290/66.

³ OJ No 125, 11.7.1966, p. 2298/66.

⁴ OJ No 125, 11.7.1966, p. 2309/66.

⁵ OJ No 125, 11.7.1966, p. 2320/66.

⁶ OJ No L 169, 10.7.1969, p. 3.

⁷ OJ No L 225, 12.10.1970, p. 7.

⁸ OJ No L 225, 12.10.1970, p. 1.

Whereas it has become necessary to allow at national level during a transitional period to expire in 1975, standard vegetable seed varieties which are not officially accepted either nationally or in the Community; whereas, moreover, it should be possible from 1977 to make all acceptance of varieties subject to the findings of official examinations;

Whereas seed of certain species subject to the provisions of the Directive on the marketing of vegetable seed have no significance for certain Member States, although they are produced or at least marketed in them in insignificant quantities; whereas therefore certain species should be excluded from the application of the Directive and the Member States should be released from the obligation to apply the Directive to seed of other species;

Whereas it is necessary, for all the varieties accepted before 1 July 1972 according to principles other than those laid down in the Directive on the Common Catalogue of Varieties of Agricultural Plant Species, to allow a period sufficiently long to enable seed and plants of these varieties to be marketed;

HAS ADOPTED THIS DIRECTIVE:

Article 1

The Directive of 14 June 1966 on the marketing of beet seed shall be amended as follows:

1. The following shall be substituted for the second part of the sentence in Article 11 (1) (b):

'This document is not necessary if the information is printed indelibly on the container or if an adhesive label is used in accordance with the provisions laid down under (a).'
2. The following paragraph shall be added to Article 14:

'3. Those Member States which have provided for exemptions in accordance with the provisions of Article 3 (3) (a) shall ensure that bred seed of generations prior to basic seed are subject to no marketing restrictions on account of their characteristics, examination arrangements, marking and sealing,

 - (a) if it has been officially checked by the competent certification authority in accordance with the provisions applicable for the certification of basic seed,
 - (b) if it is packed in accordance with the provisions of this Directive, and
 - (c) if the containers bear an official label giving at least the following particulars:
 - certification authority and Member State or their distinguishing abbreviation
 - consignment reference number
 - species
 - variety
 - the description "pre-basic seed"
 - number of prior generations of seed of the category "certified seed".

The label shall be white with a diagonal purple line.'
3. The following shall be substituted for the text of Article 17 (1):

'1. In order to remove any temporary difficulties in the general supply of basic seed or certified seed that occur in one or more Member States and cannot be overcome within the Community, one or more Member States may be authorised, in accordance with the procedure laid down in Article 21, to permit, for a specified period, the marketing of seed of a category subject to less stringent requirements, or of seed varieties not included in the "Common Catalogue of Varieties of Agricultural Plant Species" or their national Catalogues of Varieties.'
4. Article 19 shall be renumbered Article 19 (1).
5. The following paragraph shall be added to Article 19:

'2. The Member States shall take all necessary measures to ensure that the following particulars are presented during the marketing of quantities exceeding 2 kg of seed coming from another Member State or from a third country:

 - (a) species
 - (b) variety
 - (c) category
 - (d) country of production and official control authority

- (e) country of dispatch
- (f) importer
- (g) quantity of seed.

The manner in which these particulars must be presented may be determined in accordance with the procedure laid down in Article 21.'

6. The following shall be substituted for the text of Annex III Section A point 8:

'8. Declared net or gross weight or declared number of grains.'

Article 2

The Directive of 14 June 1966 on the marketing of fodder-crop seed shall be amended as follows:

1. Article 2 (3) shall be deleted.
2. The following shall be substituted for the second part of the sentence in Article 10 (1) (b):

'This document is not necessary if the information is printed indelibly on the container or if an adhesive label is used in accordance with the provisions laid down under (a).'

3. The following paragraph shall be added to Article 14:

'3. Those Member States which have provided for exemptions in accordance with the provisions of Article 3 (5) (a) shall ensure that bred seed of generations prior to basic seed are subject to no marketing restrictions on account of their characters, examination arrangements, marking and sealing,

- (a) if it has been officially checked by the competent certification authority, in accordance with the provisions applicable for the certification of basic seed,
- (b) if it is packed in accordance with the provisions of this directive, and
- (c) if its containers bear an official label giving at least the following particulars:
 - certification authority and Member State or their distinguishing abbreviation

- consignment reference number
- species
- variety
- the description "pre-basic seed"
- number of generations of seed of the category "certified seed" prior to the first reproduction.

The label shall be white with a diagonal purple line.'

4. The following shall be substituted for the text of Article 17 (1):

'1. In order to remove any temporary difficulties in the general supply of basic seed, certified seed or commercial seed that occur in one or more Member States and cannot be overcome within the Community, one or more Member States may be authorised, according to the procedure laid down in Article 21, to permit, for a specified period, the marketing of seed of a category subject to less stringent requirements, or of seed of varieties not included in the "Common Catalogue of Varieties of Agricultural Plant Species" or in their national Catalogues of Varieties.'

5. Article 19 shall be renumbered Article 19 (1).
6. The following paragraph shall be added to Article 19:

'2. The Member States shall take all necessary measures to ensure that the following particulars are presented during the marketing of quantities exceeding 2 kg of seed coming from another Member State or from a third country:

- (a) species
- (b) variety
- (c) category
- (d) country of production and official control authority
- (e) country of dispatch
- (f) importer
- (g) quantity of seed.

The manner in which these particulars must be presented may be determined in accordance with the procedure laid down in Article 21.'

Article 3

The Directive of 14 June 1966 on the marketing of cereal seed shall be amended as follows:

1. The following shall be substituted for the introductory text of Article 2 (1) A:

‘A. Cereals: plants of the following species intended for agricultural or horticultural production other than production for ornamental purposes:’

2. The following shall be substituted for the second part of the sentence in Article 10 (1) (b):

‘This document is not necessary if the information is printed indelibly on the container or if an adhesive label is used in accordance with the provisions laid down under (a).’

3. The following paragraph shall be added to Article 14:

‘3. Those Member States which have provided for exemptions in accordance with the provisions of Article 3 (4) (a) shall ensure that bred seed of generations prior to basic seed are subject to no marketing restrictions on account of their characters, examination arrangements, marking and sealing,

- (a) if it has been officially checked by the competent certification authority in accordance with the provisions applicable for the certification of basic seed,
- (b) if it is packed in accordance with the provisions of this Directive, and
- (c) if its containers bear an official label giving at least the following particulars:
- certification authority and Member State or their distinguishing abbreviation
 - consignment reference number
 - species
 - variety
 - the description “pre-basic seed”
 - number of prior generations of seed of the categories “certified seed” or “certified seed of the first reproduction”.

The label shall be white with a diagonal purple line.’

4. The following shall be substituted for the text of Article 17 (1):

‘1. In order to remove any temporary difficulties in the general supply of basic seed or certified seed of any kind that occur in one or more Member States and cannot be overcome within the Community, one or more Member States may be authorised, in accordance with the procedure laid down in Article 21, to permit, for a specified period, the marketing of seed of a category subject to less stringent requirements, or of seed varieties not included in the “Common Catalogue of Varieties of Agricultural Plant Species” or in their national Catalogues of Varieties.’

5. Article 19 shall be renumbered Article 19 (1).

6. The following paragraph shall be added to Article 19:

‘2. The Member States shall take all necessary measures to ensure that the following particulars are presented during the marketing of quantities exceeding 2 kg of seed coming from another Member State or from a third country:

- (a) species
- (b) variety
- (c) category
- (d) country of production and official control authority
- (e) country of dispatch
- (f) importer
- (g) quantity of seed.

The manner in which these particulars must be presented may be determined in accordance with the procedure laid down in Article 21.’

7. The following shall be substituted for the text of Annex IV Section A (a) point 8:

‘8. Declared net or gross weight or declared number of grains’.

8. The following shall be substituted for the text of Annex IV Section A (b) point 5:

‘5. Declared net or gross weight or declared number of grains’.

Article 4

The Directive of 14 June 1966 on the marketing of seed potatoes shall be amended as follows:

1. The following shall be substituted for the second sentence of Article 7 (1):

'In the case of tubers which are too large to pass through a square mesh of 35 × 35 mm, the upper and lower size-limits shall be expressed in multiples of five.'

2. The following paragraph shall be added to Article 7:

'4. The Member States may

(a) apply the provisions of the second part of the first sentence of paragraph 1 to varieties other than those referred to therein;

(b) increase the maximum permitted variation in size between tubers in a consignment.'

3. The following shall be substituted for the text of Article 8 (1):

'1. The Member States shall require that basic seed potatoes and certified seed potatoes be marketed only in sufficiently homogeneous consignments and in closed packages or containers which must be sealed and bear, as prescribed in Articles 9 and 10, a sealing device and markings. The packages must be new; the containers must be clean.'

4. In Article 9 (1) the words 'and containers' shall be added after the word 'packages' and the words 'package or' before the word 'container'.

5. In Article 10 (1) the words 'and containers' shall be inserted after the word 'packages' and in Article 11 the words 'packages or' shall be inserted before the word 'containers'.

6. In Article 12 the words 'on the package or inside it or on the container' shall be substituted for the words 'on the container or inside it'.

7. In Article 13 (1) the words 'package or' shall be inserted before the word 'containers'.

8. The following paragraph shall be added to Article 13:

'4. Those Member States which have provided for exemptions in accordance with the provisions of Article 3 (2) B (a) shall ensure that bred seed potatoes of stages prior to basic seed potatoes are subject to no marketing restrictions on account of their characters, examination arrangements, marking and sealing,

(a) if they have been officially checked by the competent certification authority, in accordance with the provisions applicable for the certification of basic seed potatoes,

(b) if they are placed in packages or containers in accordance with the provisions of this Directive, and

(c) if the packages or containers bear an official label giving at least the following particulars:

— certification authority and Member State or their distinguishing abbreviation

— producer's identification number or consignment reference number

— species

— variety

— the description "pre-basic seed potatoes".

The label shall be white with a diagonal purple line.'

9. The following shall be substituted for the text of Article 16 (1):

'1. In order to remove any temporary difficulties in the general supply of basic seed potatoes or certified seed potatoes that occur in one or more Member States and cannot be overcome within the Community, one or more Member States may be authorised, in accordance with the procedure laid down in Article 19, to permit, for a specified period, the marketing of seed potatoes of a category subject to less stringent requirements or of seed potatoes of varieties not included in the "Common Catalogue of Varieties of Agricultural Plant Species" or in their national Catalogues of Varieties.'

10. Article 18 shall be renumbered Article (1). 18

11. The following paragraph shall be added to Article 18:

'2. The Member States shall take all necessary measures to ensure that the following particulars are presented during the marketing of seed potatoes coming from another Member State or from a third country:

- (a) species
- (b) variety
- (c) category
- (d) country of production and control authority
- (e) country of dispatch
- (f) importer
- (g) quantity of seed potatoes.

The manner in which these particulars must be presented may be determined in accordance with the procedure laid down in Article 19.'

12. The following points shall be added to Annex I:

'5. The production ground must not be infected by *Heterodera rostochiensis* Woll.

6. The crop must be free from

- (a) *Synchytrium endobioticum* (Schilb.) Perc.
- (b) *Corynebacterium sepedonicum* (Spieck. and Kotth.) Skapt. and Burkh.'

13. In Annex II the letter 'A' shall be inserted before the word 'Tolerances'.

14. Annex II shall be supplemented as follows:

'B. The seed potatoes shall be free from *Heterodera rostochiensis*, *Synchytrium endobioticum*, *Corynebacterium sepedonicum* and *Pseudomonas solanacearum*.'

Article 5

The Directive of 30 June 1969 on the marketing of oleaginous and fibrous plant seed shall be amended as follows:

1. The following shall be substituted for the second part of the sentence in Article 10 (1) (b):

'This document is not necessary if the information is printed indelibly on the container or if an adhesive label is used in accordance with the provisions laid down under (a).'

2. The following paragraph shall be added to Article 13:

'3. Member States which have provided for exemptions in accordance with the provisions of Article 3 (5) (a) shall ensure that bred seed of generations prior to basic seed are subject to no marketing restrictions on account of their characters, examination arrangements, marking and sealing,

(a) if it has been officially checked by the competent certification authority, in accordance with the provisions applicable for the certification of basic seed,

(b) if it is packed in accordance with the provisions of this Directive, and

(c) if its containers bear an official label giving at least the following particulars:

- certification authority and Member State or their distinguishing abbreviation
- consignment reference number
- species
- variety
- the description "pre-basic seed"
- the number of generations of seed of the categories "certified seed" or "certified seed prior to the first generation".

The label shall be white with a diagonal purple line.'

3. The following shall be substituted for the text of Article 16 (1):

'1. In order to remove any temporary difficulties in the general supply of basic seed or certified seed of any kind or commercial seed that occur in one or more Member States and cannot be overcome within the Community, one or more Member States may be authorised, according to the procedure laid down in Article 20, to permit, for a specified period, the marketing of seed of a category subject to less stringent requirements, or of seed of varieties not included in the "Common Catalogue of Varieties of Agricultural Plant Species" or in their national Catalogues of Varieties.'

4. Article 18 shall be renumbered Article 18 (1).

5. The following paragraph shall be added to Article 18:

'2. The Member States shall take all necessary measures to ensure that the following particulars are presented during the marketing of quantities exceeding 2 kg of seed coming from another Member State or from a third country:

- (a) species
- (b) variety
- (c) category
- (d) country of production and official control authority
- (e) country of dispatch
- (f) importer
- (g) quantity of seed.

The manner in which these particulars must be presented may be determined in accordance with the procedure laid down in Article 20.'

Article 6

The Directive of 29 September 1970 on the marketing of vegetable seed shall be amended as follows:

1. In Article 2 (1) Section A reference to the following species shall be deleted:

'Zea mays convar. microsperma (Koern.) Popcorn'

'Zea mays convar. saccharata (Koern.) Sweet corn'.

2. In Article 2 (1) Section F (a) the words 'sweet corn and popcorn' shall be deleted.

3. Article 7 (1) shall be supplemented as follows:

'As from 1 July 1977 it may be prescribed, in accordance with the procedure laid down in Article 40 that, as from specified dates, varieties of certain vegetable species will no longer be accepted except on the basis of official examinations.'

4. The following shall be substituted for the text of Article 9:

'Article 9

1. The Member States may accept varieties which have been officially accepted in their territory before 1 July 1972, without having to carry out further examinations based on the principles of this Directive, if it is apparent from previous examinations that the varieties are distinct, stable and sufficiently uniform. Examination of the characters fixed in accordance with Article 7 (2) must be completed by 30 June 1975 at the latest.

2. The Member States shall take all measures necessary to ensure that official acceptances of varieties granted before 1 July 1972 in accordance with principles other than those of this Directive expire not later than 30 June 1980 if by that date the varieties in question have not been accepted in accordance with the principles of this Directive.

3. The provisions of Article 3 (1) notwithstanding, the Member States may permit until 30 June 1975 the marketing in their territory of standard varieties of seed not officially accepted, if seed of these varieties had been marketed there before 1 July 1972'.

5. Article 11 (2) shall be supplemented as follows:

'They shall, on request, also communicate a description of the special characters which enable the variety to be distinguished from other similar varieties.'

6. Article 13 (1) shall be supplemented as follows:

'Acceptance granted to varieties in a Member State before 1 July 1972 shall be valid until 30 June 1982 at the latest.'

7. The following shall be substituted for the text of Article 16 (1):

'1. The Member States shall ensure that, after expiry of a period of two months following the publication referred to in Article 17, seed of varieties accepted in accordance with the provisions of this Directive or in accordance with principles corresponding to those of this Directive are subject to no marketing restrictions relating to variety.'

8. In the first sentence of Article 17, after the word 'seed' the words 'after expiry of a period of two months' shall be inserted within commas.
9. The following shall be substituted for the second part of the sentence in Article 26 (1) (b):
'This document is not necessary if the information is printed indelibly on the container or if an adhesive label is used in accordance with the provisions laid down under (a).'
10. The following paragraph shall be added to Article 30:
'3. Those Member States which have provided for exemptions in accordance with the provisions of Article 20 (4) (a) shall ensure that bred seed of generations prior to basic seed are subject to no marketing restrictions on account of their characters, examination arrangements, marking and sealing,
(a) if it has been officially checked by the competent certification authority in accordance with the provisions applicable to basic seed,
(b) if it is packed in accordance with the provisions of this Directive, and
(c) if its containers bear an official label giving at least the following particulars:
— certification authority and Member State or their distinguishing abbreviation
— consignment reference number
— species
— variety
— the description "pre-basic seed"
— number of prior generations of seed of the category "certified seed".
The label shall be white with a purple diagonal line.'
11. The following shall be substituted for the text of Article 33 (1):
'1. In order to remove any temporary difficulties in the general supply of basic seed, certified seed or standard seed that occur in one or more Member States and cannot be overcome within the Community, one or more Member States may be authorised, in accordance with the procedure laid down in Article 40, to permit, for a specified period, the marketing of seed of a category subject to less stringent requirements, or of seed of varieties not included in the "Common Catalogue of Varieties of Vegetable Species" or in their national Catalogues of Varieties.'
12. Article 35 shall be renumbered Article 35 (1).
13. The following paragraph shall be added to Article 35:
'2. The Member States shall take all necessary measures to ensure that the following particulars are presented during the marketing of quantities exceeding 2 kg of seed coming from another Member State or from a third country:
(a) species
(b) variety
(c) category
(d) country of production and official control authority
(e) country of dispatch
(f) importer
(g) quantity of seed.
The manner in which these particulars must be presented may be determined in accordance with the procedure laid down in Article 40.'
14. Article 37 (1) shall be supplemented as follows:
'The obligation laid down under (c) shall apply only to producers.'
15. The following shall be substituted for the text of Article 42:
'Article 42
Upon application by a Member State, which will be dealt with as provided in Article 40, that State may be wholly or partially released from the obligation to apply the provisions of this Directive, save where this would run counter to the provisions laid down in Article 16 (1) and in Article 30 (1):
(a) to the following species:
Chervil
Asparagus

Spinach beet, chard
 Curly kale
 Cauliflower
 Sprouting broccoli or calabrese
 Chicory
 Water melon
 Fennel
 Scorzonera or black salsify;

- (b) to other species which are not normally reproduced or marketed in its territory.'
16. In Annexes II and III all references to the species *Zea mays* convar. *microsperma* and convar. *saccharata* shall be deleted.
17. The following shall be substituted for the text of Annex IV Section A (a) point 9:
 '9. Declared net or gross weight or declared number of grains.'
18. The text of Annex IV Section B (a) point 3 shall be reworded as follows:
 'Month and year of sealing; for small packets the year of sealing'.
19. In Annex IV Section B (a) point 9, the words 'of up to 100 g' shall be deleted.
20. The following shall be substituted for the text of Annex IV Section B (a) point 10:
 '10. Declared net or gross weight or declared number of grains, except for small packets of up to 500 g.'

Article 7

The Directive of 29 September 1970 on the Common Catalogue of Varieties of Agricultural Plant Species shall be amended as follows:

1. In Article 3 (3) '1 July 1972' shall be substituted for '1 July 1970'.
2. Article 10 (2) shall be supplemented as follows:
 'They shall, on request, also communicate the special qualities which enable the variety to be distinguished from other similar varieties.'
3. Article 12 (1) shall be supplemented as follows:
 'Acceptance granted to varieties in a Member State before 1 July 1972 shall be valid until 30 June 1982 at the latest.'

Article 8

The Member States shall bring into force the laws, regulations or administrative provisions necessary to comply:

- (a) by 1 July 1972 at the latest, with the provisions of Article 6, excepting points 13 and 18, and with those of Article 7;
- (b) by 1 July 1973 at the latest, with the other provisions of this Directive.

Article 9

This Directive is addressed to the Member States.

Done at Brussels, 6 December 1972.

For the Council
The President
 N. SCHMELZER