

# Official Journal

## of the European Communities

English edition

## Legislation

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I Acts whose publication is obligatory

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

## I

(Acts whose publication is obligatory)

**COUNCIL DIRECTIVE 2002/53/EC**

**of 13 June 2002**

**on the common catalogue of varieties of agricultural plant species**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Having consulted the Economic and Social Committee,

Whereas:

- (1) Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plant species <sup>(2)</sup> has been frequently and substantially amended <sup>(3)</sup>. For reasons of clarity and rationality the said Directive should be codified.
- (2) The production of agricultural seed and young plants occupies an important place in the agriculture of the Community.
- (3) For this reason, the Council has adopted Directives concerning respectively the marketing of beet seed (2002/54/EC) <sup>(4)</sup>, fodder plant seed (66/401/EEC) <sup>(5)</sup>, cereal seed <sup>(6)</sup>, seed potatoes (2002/56/EC) <sup>(7)</sup> and seed of oil and fibre plants (2002/57/EC) <sup>(8)</sup>.
- (4) A common catalogue of varieties needs to be compiled. This catalogue can be compiled only on the basis of national catalogues.

(5) All Member States should therefore compile one or more national catalogues of the varieties accepted for certification and marketing in their territory.

(6) These catalogues must be drawn up in accordance with uniform rules so that the varieties accepted will be distinct, stable and sufficiently uniform and that they will be of satisfactory value for cultivation and use.

(7) It is appropriate to take into consideration internationally established rules for certain provisions relating to the acceptance of varieties at national level.

(8) In order to carry out the examinations for the acceptance of a variety, a large number of uniform criteria and minimum requirements must be laid down.

(9) Provisions relating to the length of time during which acceptance of a variety is to remain valid, to the grounds on which acceptance may be revoked and to practices for maintenance of the variety must be standardized and the Member States should inform one another of the acceptance and withdrawal of varieties.

(10) It is desirable to adopt rules in relation to the suitability of varietal denominations and the exchange of information between Member States.

(11) Seed covered by this Directive should be freely marketable within the Community once it has been published in the common catalogue.

(12) However, Member States should be given the right to express by means of a special procedure any objections which they may have to a variety.

(13) The Commission should publish in the *Official Journal of the European Communities*, C Series, the varieties which are being added to the common catalogue of varieties of agricultural plant species.

(14) Provision should be made for measures recognizing the equivalence of examinations and checks of varieties carried out in third countries.

<sup>(1)</sup> Opinion delivered on 9 April 2002 (not yet published in the Official Journal).

<sup>(2)</sup> OJ 225, 12.10.1970, p. 1. Directive as last amended by Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27).

<sup>(3)</sup> See Annex I, Part A.

<sup>(4)</sup> See page 12 of this Official Journal.

<sup>(5)</sup> OJ 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 2001/64/EC (OJ L 234, 1.9.2001, p. 60).

<sup>(6)</sup> OJ 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2001/64/EC.

<sup>(7)</sup> See page 60 of this Official Journal.

<sup>(8)</sup> See page 74 of this Official Journal.

- (15) Community rules should not apply to varieties the seed or propagating material of which is shown to be intended for export to third countries.
- (16) In the light of scientific and technical developments, it is now possible to breed varieties through genetic modification. Therefore, when determining whether to accept genetically modified varieties within the meaning of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms <sup>(1)</sup> Member States should have regard to any risk related to their deliberate release into the environment. Furthermore, conditions under which such genetically modified varieties are accepted should be established.
- (17) The marketing of novel foods and novel food ingredients is regulated at Community level by Regulation (EC) No 258/97 of the European Parliament and of the Council <sup>(2)</sup>. Therefore, it is appropriate for Member States also to have regard to any food health risks when determining whether to accept varieties. Furthermore, conditions under which these varieties are accepted should be established.
- (18) In the light of scientific and technical developments, rules under which chemically treated seed and propagating material may be marketed should be introduced.
- (19) It is essential to ensure that plant genetic resources are conserved. Conditions to that end should be introduced to permit, within the framework of legislation on the seed trade, the conservation, by use *in situ* of varieties threatened with genetic erosion.
- (20) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(3)</sup>.
- (21) This Directive should not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex I, Part B.

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

1. This Directive concerns the acceptance for inclusion in a common catalogue of varieties of agricultural plant species of those varieties of beet, fodder plant, cereal, potato and oil and

<sup>(1)</sup> OJ L 117, 8.5.1970, p. 15. Directive repealed by Directive 2001/18/EC of the European Parliament and of the Council (OJ L 106, 17.4.2001, p. 1).

<sup>(2)</sup> OJ L 43, 14.2.1997, p. 1.

<sup>(3)</sup> OJ L 184, 17.7.1999, p. 23.

fibre plant the seed of which may be marketed under provisions of the Directives concerning respectively the marketing of beet seed (2002/54/EC), fodder plant seed (66/401/EEC), cereal seed (66/402/EEC), seed potatoes (2002/56/EC) and seed of oil and fibre plants (2002/57/EC).

2. The common catalogue of varieties shall be compiled on the basis of the national catalogues of the Member States.

3. This Directive shall not apply to varieties, the seed or propagating material of which are shown to be, intended for export to third countries.

#### Article 2

For the purposes of this Directive 'official measures' means measures taken:

(a) by State authorities; or

(b) by any legal person whether governed by public or by private law, acting under the responsibility of the State; or

(c) in the case of ancillary activities which are also under State control, by any natural person duly sworn for that purpose;

provided that the persons mentioned under (b) and (c) derive no private gain from such measures.

#### Article 3

1. Each Member States shall establish one or more catalogues of the varieties officially accepted for certification and marketing in its territory. Any person may consult the catalogues.

2. In the case of varieties (inbred lines, hybrids) which are intended solely as components for final varieties, the provisions of paragraph 1 apply only to the extent that the seeds which belong to them are to be marketed under their names.

The conditions under which the provisions of paragraph 1 shall also apply to other component varieties may be determined in accordance with the procedure referred to in Article 23(2). In the meantime, in the case of cereals other than maize, Member States may themselves apply those provisions to other component varieties in respect of seed intended for certification in their territories.

Component varieties shall be indicated as such.

3. Member States may provide that the acceptance of a variety for inclusion in the common catalogue or in the catalogue of another Member State is equivalent to acceptance for inclusion in their own catalogues. If such provision is made, the Member State shall be released from the obligations provided in Article 7, Article 9(4) and Article 10(2) to (5).

#### Article 4

1. Member States shall ensure that a variety is accepted only if it is distinct, stable and sufficiently uniform. The variety must be of satisfactory value for cultivation and use.

2. Examination of the value for cultivation and use shall not be required:

- (a) for the acceptance of varieties of grasses if the breeder declares that the seed of his variety is not intended for the production of fodder plants;
- (b) for the acceptance of varieties whose seed is to be marketed in another Member State which has already accepted the varieties, having regard to their value for cultivation and use;
- (c) for the acceptance of varieties (inbred lines, hybrids) which are intended solely as components for hybrid varieties satisfying the requirements of paragraph 1.

3. In the case of varieties to which point (a) of paragraph 2 applies, it may be decided, in accordance with the procedure referred to in Article 23(2), and to the extent that this is justified in the interest of free circulation of seed within the Community, that the varieties have to be shown by appropriate examination to be suitable for the purpose for which they are declared to be intended. In such cases, the conditions for the examination shall be determined.

4. In the case of a genetically modified variety within the meaning of Article 2(1) and (2) of Directive 90/220/EEC the deliberate release into the environment of the variety shall be accepted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment.

5. However, where material derived from a plant variety is intended to be used as a food or food ingredient falling within the scope of Regulation (EC) No 258/97, these foods or food ingredients must not:

- present a danger for the consumer,
- mislead the consumer,
- differ from foods or food ingredients which they are intended to replace to such an extent that their normal consumption would be nutritionally disadvantageous for the consumer.

6. In the interest of conserving plant genetic resources as specified in Article 20(2), the Member States may depart from the acceptance criteria set out in the first sentence of paragraph 1 in so far as specific conditions are established in accordance with the procedure referred to in Article 23(2) considering the requirements of Article 20(3)(a) and (b).

#### Article 5

1. A variety shall be regarded as distinct if, whatever the origin, artificial or natural, of the initial variation from which it has resulted, it is clearly distinguishable on one or more important characteristics from any other variety known in the Community.

The characteristics of a variety must be capable of precise recognition and precise definition.

A variety known in the Community shall be any variety which, at the time when the application for the acceptance of the variety to be assessed is duly made, is:

- either listed in the common catalogue of varieties of agricultural plant species or the catalogue of varieties of vegetable species; or
- without being listed in one of those catalogues, has been accepted or submitted for acceptance in the Member State in question or in another Member State, either for certification and marketing, or for certification for other countries,

unless the conditions are no longer fulfilled in all the Member States concerned before the decision on the application for acceptance of the variety to be assessed is taken.

2. A variety shall be regarded as stable if, after successive propagation or multiplications or at the end of each cycle (where the breeder has defined a particular cycle of propagation or multiplications) it remains true to the description of its essential characteristics.

3. A variety shall be regarded as sufficiently uniform if, apart from a very few aberrations, the plants of which it is composed are, account being taken of the distinctive features of the reproductive systems of the plants, similar or genetically identical as regards the characteristics, taken as a whole, which are considered for this purpose.

4. The value of a variety for cultivation or use shall be regarded as satisfactory if, compared to other varieties accepted in the catalogue of the Member State in question, its qualities, taken as a whole, offer, at least as far as production in any given region is concerned, a clear improvement either for cultivation or as regards the uses which can be made of the crops or the products derived therefrom. Where other, superior characteristics are present, individual inferior characteristics may be disregarded.

*Article 6*

Member States shall ensure that varieties coming from other Member States are subject to the same requirements, in particular as regards the acceptance procedure, as those which apply to domestic varieties.

*Article 7*

1. Member States shall provide that the acceptance of varieties be based on the results of official examinations, particularly growing trials, covering a sufficient number of characteristics for the variety to be described. The methods used for determining characteristics must be exact and reliable. In order to establish distinctness, the growing trials shall include at least the available comparable varieties which are varieties known in the Community within the meaning of Article 5(1). For the purpose of applying Article 9, other available comparable varieties shall be included.

2. The following shall be fixed in accordance with the procedure referred to in Article 23(2), account being taken of current scientific and technical knowledge:

- (a) the characteristics to be covered as a minimum by the examinations of the various species;
- (b) the minimum requirements for carrying out the examination;
- (c) the necessary arrangements for the growing trials to be carried out with a view to assessing the value for cultivation or use; these arrangements may determine:
  - the procedures and conditions under which all or several Member States may agree to include in the growing trials, by way of administrative assistance, varieties for which a request for acceptance has been introduced in another Member State,
  - the terms of cooperation between the authorities of the participating Member States,
  - the impact of the results of the growing trials,
  - the standards relating to information on growing trials for assessment of the value for cultivation or use.

3. Where examination of the genealogical components is necessary in order to study hybrids and synthetic varieties, Member States shall ensure that the results of the examination and the description of the genealogical components are, if the breeder so requests, treated as confidential.

- 4. (a) In the case of a genetically modified variety referred to in Article 4(4), an environmental risk assessment equivalent to that laid down in Directive 90/220/EEC shall be carried out.

(b) The procedures ensuring that the environmental risk assessment and other relevant elements shall be equivalent to those laid down in Directive 90/220/EEC shall be introduced on a proposal from the Commission, in a council Regulation based on the appropriate legal basis in the Treaty. Until this Regulation enters into force genetically modified varieties shall only be accepted for inclusion in a national catalogue after having been accepted for marketing in accordance with Directive 90/220/EEC.

(c) Articles 11 to 18 of Directive 90/220/EEC shall no longer apply to genetically modified varieties once the Regulation referred to in point (b) above has entered into force.

(d) The technical and scientific details of the implementation of the environmental risk assessment shall be adopted in accordance with the procedure referred to in Article 23(2).

- 5. (a) The Member States shall ensure that a variety intended to be used for the purpose laid down in this paragraph is accepted only if:

— the food or the food ingredient has already been authorised pursuant to Regulation (EC) No 258/97, or

— the authorisation decisions referred to in Regulation (EC) No 258/97 are taken in accordance with the procedure referred to in Article 23(2).

(b) In the case laid down in the second indent of paragraph (a), the criteria set out in Article 4(5) and the assessment principles laid down in Regulation (EC) No 258/97 shall be taken into account.

(c) The technical and scientific details of the implementation of the measures laid down in point (b) shall be adopted in accordance with the procedure referred to in Article 23(2).

*Article 8*

Member States shall require that when lodging an application for the acceptance of a variety, the applicant indicate whether acceptance has already been applied for in another Member State, which Member State was concerned and whether the application was granted.

*Article 9*

1. Each Member State shall arrange for official publication of the catalogue of varieties accepted in its territory and of the name of the person or persons responsible for maintenance of the variety in its country. When several persons are responsible for the maintenance of a variety, the names need

not be published. If the names are not published, the catalogue shall indicate the authority holding the list of names of persons responsible for maintenance of the variety.

2. Member States shall, as far as possible, ensure at the time of acceptance that the variety is known by the same name in all Member States.

If it is known that seed or propagating material of a given variety are marketed in another country under a different name, that name shall also be indicated in the catalogue.

3. In taking into account the information available, Member States shall also ensure that a variety which is not clearly distinguishable:

- from a variety previously accepted in the Member State in question or in another Member State, or
- from another variety which has been assessed with regard to distinctness, stability and uniformity in accordance with rules corresponding to those of this Directive, without, however, being a variety known in the Community within the meaning of Article 5(1),

bears the name of that variety. This provision shall not apply if this name is likely to mislead or cause confusion concerning the variety in question, or if, pursuant to all the provisions of the Member State concerned governing the names of varieties, other facts prevent its utilisation, or if the rights of third parties impede the free use of that name in connection with the variety in question.

4. Member States shall compile a file on each variety accepted, containing a description of the variety and a clear summary of all the facts on which the acceptance was based. The description of the varieties shall relate to plants produced directly from seed and young plants of the category 'certified seed and propagating material'.

5. Member States shall ensure that genetically modified varieties which have been accepted are clearly indicated as such in the catalogue of varieties. They shall further ensure that any person marketing such a variety clearly indicates in his sales catalogue that the variety is genetically modified.

6. So far as the suitability of the denomination of a variety is concerned, Article 63 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights <sup>(1)</sup> shall apply.

Detailed implementing rules as to the suitability of denominations of varieties may be adopted in accordance with the procedure referred to in Article 23(2).

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1. Regulation as amended by Regulation (EC) No 2506/95 (OJ L 258, 28.10.1995, p. 3).

#### Article 10

1. Any application or withdrawal of an application for acceptance of a variety, any entry in a catalogue of varieties as well as any amendment thereto shall be notified forthwith to the other Member States and the Commission.

2. Member States shall, for each new variety accepted, send the other Member States and the Commission a brief description of its most important characteristics for use. This provision shall not apply in the case of varieties (inbred lines, hybrids) which are intended solely as components for final varieties. They shall, on request, also communicate the special qualities which enable the variety to be distinguished from other similar varieties.

3. Each Member State shall make available to the other Member States and the Commission the files referred to in Article 9(4) on the varieties which are accepted or which have ceased to be accepted. Information exchanged concerning these files shall be treated as confidential.

4. Member States shall ensure that the acceptance files are made available for the personal and exclusive use of any person able to show a legitimate interest. These provisions shall not apply where the information must, under Article 7(3), be treated as confidential.

5. Where acceptance of a variety is refused or revoked, the results of the examinations shall be made available to persons affected by such decision.

#### Article 11

1. Member States shall provide that the varieties accepted must be maintained according to accepted practices for the maintenance of the variety.

2. It must at all times be possible to check maintenance from the records kept by the person or persons responsible for the variety. These records shall also cover the production of all generations prior to basic seed or propagating material.

3. Samples may be requested from the person responsible for the variety. Such samples may if necessary be taken officially.

4. Where maintenance takes place in a Member State other than the one in which the variety was accepted, the Member States concerned shall assist each other administratively as regards verification.

#### Article 12

1. Acceptance shall be valid until the end of the tenth calendar year following acceptance.

Acceptance of the varieties by the authorities of the former German Democratic Republic prior to German unification shall be valid until the end of the tenth calendar year at the latest following their entry in the catalogue of varieties drawn up by the Federal Republic of Germany in accordance with Article 3(1).

2. Acceptance of a variety may be renewed at given intervals if it is still cultivated on such a scale as to justify this, or should be retained in the interest of conserving plant genetic resources, and providing that the requirements as to distinctness, uniformity and stability, or the criteria determined under Article 20(2) and (3), are still satisfied. Except in the case of plant genetic resources within the meaning of Article 20 applications for renewal shall be submitted not later than two years before expiry of acceptance.

3. The period of validity of acceptance shall be extended provisionally until a decision is taken on the application for renewal.

#### Article 13

1. Member States shall ensure that any doubts which arise after the acceptance of a variety concerning the appraisal of its distinctness or of its name at the time of acceptance are clarified.

2. Where, after acceptance of a variety, it is established that the condition concerning distinctness within the meaning of Article 5 was not fulfilled at the time of acceptance, acceptance shall be replaced by another decision or, where appropriate, a revocation, which conforms with this Directive.

By this other decision, the variety shall, with effect from the date of its initial acceptance, no longer be regarded as a variety known in the Community within the meaning of Article 5(1).

3. Where, after acceptance of a variety, it is established that its name within the meaning of Article 9 was not acceptable when the variety was accepted, the name shall be adapted in such a way that it conforms with this Directive. Member States may permit the previous name to be used temporarily as an additional name. The detailed arrangements in accordance with which the previous name may be used as an additional name may be laid down in accordance with the procedure referred to in Article 23(2).

4. In accordance with the procedure referred to in Article 23(2) rules may be established for the application of paragraphs 1 and 2.

#### Article 14

1. Member States shall ensure that acceptance of a variety is revoked:

(a) if it is proved, on examination, that the variety is no longer distinct, stable or sufficiently uniform;

(b) if the person or persons responsible for the variety so request, unless there is maintenance of the variety.

2. Member States may revoke the acceptance of a variety:

(a) if the laws, regulations and administrative provisions adopted in pursuance of this Directive are not complied with;

(b) if, at the time of the application for acceptance or during examination, false or fraudulent particulars were supplied concerning the factors on the basis of which acceptance was granted.

#### Article 15

1. Member States shall ensure that a variety is deleted from their catalogues if acceptance of the variety has been revoked or if the period of validity of the acceptance has expired.

2. Member States may, in respect of their own territory, allow a period for the certification and marketing of seed or propagating material up to 30 June of the third year at the most after expiry of the acceptance.

In the case of varieties that were listed pursuant to Article 16(1) in the common catalogue of varieties referred to in Article 17, the period which expires last among those granted by the various Member States of acceptance under the first subparagraph shall apply to marketing in all the Member States, provided that the seed or propagating material of the variety concerned has not been subject to any marketing restriction as regards the variety.

#### Article 16

1. Member States shall ensure that, with effect from the publication referred to in Article 17, seed of varieties accepted in accordance with this Directive or in accordance with principles corresponding to those of this Directive is not subject to any marketing restrictions relating to variety.

2. A Member State may, upon application which shall be dealt with under the procedure referred to in Article 23(2) or in Article 23(3) in the case of genetically modified varieties, be authorised to prohibit the use of the variety in all or in part of its territory or to lay down appropriate conditions for cultivating the variety in accordance, in cases provided for in subparagraph (c), with the conditions for using the products resulting from such cultivation:

(a) where it is established that the cultivation of the variety could be harmful from the point of view of plant health to the cultivation of other varieties or species; or

(b) where official growing trials carried out in the applicant Member States, Article 5(4) being applied correspondingly, show that the variety does not, in any part of its territory, produce results corresponding to those obtained from a comparable variety accepted in the territory of that Member State or, where it is well known that the variety is not suitable for cultivation in any part of its territory because of its type of maturity class. The application shall be lodged before the end of the third calendar year following that of acceptance;

(c) where it has valid reasons other than those already mentioned or which may have been mentioned during the procedure referred to in Article 10(2) for considering that the variety presents a risk for human health or the environment.

#### Article 17

The Commission shall, on the basis of the information supplied by the Member States and as this is received, publish in the C series of the *Official Journal of the European Communities* under the title 'Common Catalogue of Varieties of Agricultural Plant Species' a list of all varieties of which the seed and propagating material, under Article 16, are not subject to any marketing restrictions as regards variety, and also the information required under Article 9(1) concerning the person or persons responsible for maintenance of the variety. The published notice shall indicate the Member States which have received an authorisation under Article 16(2) or Article 18.

The published notice shall list those varieties for which a period has been applied in accordance with the second subparagraph of Article 15(2). This shall indicate the length of the period and, where appropriate, the Member States to which the period does not apply.

The published notice shall clearly indicate those varieties which have been genetically modified.

#### Article 18

If it is established that the cultivation of a variety included in the common catalogue of varieties could in any Member State be harmful from the point of view of plant health to the cultivation of other varieties or species, or present a risk for the environment or for human health, that Member State may upon application, be authorised in accordance with the procedure referred to in Article 23(2) or in Article 23(3) in the case of a genetically modified variety to prohibit the marketing of the seed or propagating material of that variety in all or part of its territory. Where there is imminent danger of the spread of harmful organisms or imminent danger for human health or for the environment, that prohibition may be imposed by the Member State concerned as soon as its application has been lodged until such time as a final decision has been taken. That decision shall be taken within a period of three months in accordance with the procedure laid down in Article 23(2) or in Article 23(3) in the case of a genetically modified variety.

#### Article 19

Where a variety ceases to be accepted in the Member State which initially accepted it, one or more other Member States may continue to accept that variety provided that the requirements for acceptance continue to be met in their territory and that maintenance remains assured.

#### Article 20

1. Specific conditions may be established in accordance with the procedure referred to in Article 23(2) to take account of developments in relation to the conditions under which chemically treated seed may be marketed.

2. Without prejudice to Council Regulation (EC) No 1467/94 of 20 June 1994 on the conservation, characterisation, collection and utilisation of genetic resources in agriculture <sup>(1)</sup>, specific conditions shall be established in accordance with the procedure referred to in Article 23(2) to take account of developments in relation to the conservation *in situ* and the sustainable use of plant genetic resources through growing and marketing of seed of landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion.

3. The specific conditions referred to in paragraph 2 above shall include in particular the following points:

(a) landraces and varieties shall be accepted in accordance with the provisions of this Directive. The procedure for official acceptance shall take into account specific quality characteristics and requirements. In particular the results of unofficial tests and knowledge gained from practical experience during cultivation, reproduction and use and the detailed descriptions of the varieties and their relevant denominations, as notified to the Member State concerned, shall be taken into account and, if sufficient, shall result in exemption from the requirement of official examination. Upon acceptance of such a landrace or variety, it shall be indicated as a 'conservation variety' in the common catalogue;

(b) appropriate quantitative restrictions.

#### Article 21

Specific conditions may be established in accordance with the procedure referred to in Article 23(2) to take account of developments in the area of the conservation of genetic resources.

<sup>(1)</sup> OJ L 159, 28.6.1994, p. 1.

*Article 22*

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether:

- (a) the official examinations of varieties carried out in the third country afford the same assurances as those provided for in Article 7 and carried out in the Member States;
- (b) the checks on practices for the maintenance of varieties carried out in the third country afford the same assurances as those carried out by the Member States.

2. Paragraph 1 shall also apply in respect of any new Member State from the date of its accession to the date on which it is to bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

*Article 23*

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry set up by Article 1 of Council Decision 66/399/EEC <sup>(1)</sup>.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 199/468/EC shall be set at one month.

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at one month.

4. The Committee shall adopt its rules of procedure.

*Article 24*

Save as otherwise provided in Articles 16 and 18, this Directive shall be without prejudice to the provisions of

national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial or commercial property.

*Article 25*

The Member States shall communicate to the Commission the text of the main provisions of domestic law they adopt in the field covered by this Directive.

The Commission shall inform the other Member States thereof.

*Article 26*

1. Directive 70/457/EEC as amended by the Directives listed in Annex I part A, is hereby repealed without prejudice to the obligations of the Member States concerning the deadlines for transposition of the said Directives set out in Annex I part B.

2. References to the Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

*Article 27*

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

*Article 28*

This Directive is addressed to the Member States.

Done at Luxembourg, 13 June 2002.

*For the Council*

*The President*

M. RAJOY BREY

<sup>(1)</sup> OJ 125, 11.7.1966, p. 2289/66.

## ANNEX I

## PART A

**REPEALED DIRECTIVE AND ITS SUCCESSIVE AMENDMENTS**

(referred to by Article 26)

Directive 70/457/EEC (OJ L 225, 12.10.1970, p. 1)	
Council Directive 72/274/EEC (OJ L 171, 29.7.1972, p. 37)	only concerning references made to the provisions of Directive 70/457/EEC in Articles 1 and 2
Council Directive 72/418/EEC (OJ L 287, 26.12.1972, p. 22)	only Article 7
Council Directive 73/438/EEC (OJ L 356, 27.12.1973, p. 79)	only Article 7
Council Directive 78/55/EEC (OJ L 16, 20.1.1978, p. 23)	only Article 6
Council Directive 79/692/EEC (OJ L 205, 13.8.1979, p. 1)	only Article 3
Council Directive 79/967/EEC (OJ L 293, 20.11.1979, p. 16)	only Article 2
Council Directive 80/1141/EEC (OJ L 341, 16.12.1980, p. 27)	only Article 1
Council Directive 86/155/EEC (OJ L 118, 7.5.1986, p. 23)	only Article 5
Council Directive 88/380/EEC (OJ L 187, 16.7.1988, p. 31)	only Article 6
Council Directive 90/654/EEC (OJ L 353, 17.12.1990, p. 48)	only concerning references made to the provisions of Directive 70/457/EEC in Article 2 and Annex II(I)(6)
Council Directive 98/95/EC (OJ L 25, 1.2.1999, p. 1)	only Article 6
Council Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27)	only Article 6

## PART B

## DEADLINES FOR TRANSPOSITION INTO NATIONAL LAW

(referred to by Article 26)

Directive	Deadline for transposition
70/457/EEC	1 July 1972 <sup>(1)</sup> <sup>(2)</sup>
70/274/EEC	1 July 1972 (Article 1) 1 January 1973 (Article 2)
72/418/EEC	1 July 1972 (Article 7)
73/438/EEC	1 July 1974 (Article 7)
78/55/EEC	1 July 1977 (Article 6)
79/692/EEC	1 July 1977 (Article 3 (9)) 1 July 1982 (other provisions)
79/967/EEC	1 July 1982 (Article 2)
80/1141/EEC	1 July 1980 (Article 1)
86/155/EEC	1 March 1986 (Article 5)
88/380/EEC	1 January 1986 (Article 6(5) and (6)) 1 July 1990 (other provisions)
90/654/EEC	
98/95/EC	1 February 2000 (Corrigendum OJ L 126, 20.5.1999, p. 23)
98/96/EC	1 February 2000

<sup>(1)</sup> For Denmark, Ireland and the United Kingdom, 1 July 1973; for Greece 1 January 1986; for Spain 1 March 1986; and for Portugal 1 January 1989 for specific species referred to in the Directive on the marketing of fodder plant seeds — *Lolium multiflorum* Lam, *Lolium perenne* L. and *Vicia sativa*, L. and the Directive on the marketing of cereal seed — *Hordeum vulgare* L., *Oryza sativa*, *Triticum aestivum* L. *emend. Fiori and Paol.* and *Trisicum durum* Desf. *Zea mays* L. — and for the other species referred to by this Directive 1 January 1991.

<sup>(2)</sup> 1 January 1995 for Austria, Finland and Sweden.

However:

- Finland and Sweden may postpone until 31 December 1995 at the latest, the application in their territories of this Directive with regard to the marketing in their territories of seeds of varieties listed in their respective national catalogues of varieties of agricultural plant species and varieties of vegetable plant species which have not been officially accepted in accordance with the provisions of this Directive. Seeds of such varieties shall not be allowed to be marketed in the territory of the other Member States during this period,
- varieties of agricultural and vegetable plant species which, at the date of accession or subsequently, are listed in both the respective national catalogues of Finland and Sweden and in the common catalogues, shall not be subject to any marketing restrictions as regards variety,
- throughout the period mentioned in the first indent, those varieties in the respective national catalogues of Finland and Sweden which have been officially accepted in accordance with the provisions of the abovementioned Directive shall be included in the common catalogue of varieties of agricultural or vegetable plant species, respectively.

## ANNEX II

## CORRELATION TABLE

Directive 70/457/EEC	This Directive
Article 1(1)	Article 1(1)
Article 1(2)	Article 1(2)
Article 22	Article 1(3)
Article 2	Article 2
Article 3(1)	Article 3(1)
Article 3(1a)	Article 3(2)
Article 3(2)	Article 3(3)
Article 3(3)	Article 3(4)
Article 3(4)	Article 3(5)
Article 4	Article 4
Article 5	Article 5
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 10	Article 10
Article 11	Article 11
Article 12	Article 12
Article 12a	Article 13
Article 13	Article 14
Article 14	Article 15
Article 15	Article 16
Article 16	—
Article 17	—
Article 18	Article 17
Article 19	Article 18
Article 20	Article 19
Article 20a	Article 20
Article 21(1)	Article 22(1)
Article 21(3)	Article 22(2)
Article 23	Article 23(1), (2) and (4)
Article 23a	Article 23(1), (3) and (4)
Article 24	Article 24
Article 24a	Article 21
—	Article 25 <sup>(1)</sup>
—	Article 26
—	Article 27
—	Article 28
—	ANNEX I
—	ANNEX II

<sup>(1)</sup> 98/95/EC Article 9(2) and 98/96/EC Article 8(2).

## COUNCIL DIRECTIVE 2002/54/EC

of 13 June 2002

### on the marketing of beet seed

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Having consulted the Economic and Social Committee,

Whereas:

(1) Council Directive 66/400/EEC of 14 June 1966 on the marketing of beet seed <sup>(2)</sup> has been frequently and substantially amended <sup>(3)</sup>. For reasons of clarity and rationality the said Directive should be codified.

(2) The production of sugar beet and fodder beet (hereinafter called 'beet') occupies an important place in the agriculture of the Community.

(3) Satisfactory results in beet cultivation depend to a large extent on the use of appropriate seed.

(4) Greater productivity will be achieved in Community beet cultivation if for the choice of varieties permitted to be marketed the Member States apply uniform rules which are as strict as possible. A common catalogue of varieties of agricultural plant species is therefore provided for in Council Directive 2002/53/EC <sup>(4)</sup>.

(5) It is desirable to establish a uniform certification scheme for the Community based on the experience gained in the application of schemes in the Member States and those of the Organisation for Economic Cooperation and Development. In the context of the consolidation of the internal market, the Community scheme should

offer no possibilities for Member States to derogate unilaterally from the scheme in a way that would hinder the free movement of seeds within the Community.

(6) As a general rule, beet seed should be allowed to be marketed only if it has been officially examined and certified, in accordance with the rules for certification, as basic seed or certified seed. The choice of the technical terms 'basic seed' and 'certified seed' is based on already existing international terminology. It should be possible under specified conditions to place on the market bred seed of generations prior to basic seed and seed as grown.

(7) Community rules should not apply to seed shown to be intended for export to third countries.

(8) In order to improve the quality of Community beet seed, certain requirements must be laid down as to, amongst others, polyploidy, monogermity, segmentation, analytical purity, germination and moisture content.

(9) In order to ensure identity of the seed, Community rules on packaging, sampling, sealing and marking must be established. To this end the labels should give the particulars needed both for official verification and for the information of the farmer and should clearly show the Community nature of the certification.

(10) Rules for the marketing of chemically treated seed, seeds suitable for organic growing as well as the conservation by use, *in situ*, of varieties threatened with genetic erosion should be introduced.

(11) Derogations should be permitted under certain conditions, without prejudice to the provisions of Article 14 of the Treaty. Member States making use of derogations should assist each other administratively as regards inspection.

(12) In order to ensure that both the requirements as to the quality of seed and the provisions for ensuring its identity are complied with during marketing, Member States should make provision for appropriate control arrangements.

<sup>(1)</sup> Opinion delivered on 9 April 2002 (not yet published in the Official Journal).

<sup>(2)</sup> OJ 125, 11.7.1966, p. 2290/66. Directive as last amended by Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27).

<sup>(3)</sup> See Annex V, part A.

<sup>(4)</sup> See page 1 of this Official Journal.

(13) Seed satisfying these requirements should, without prejudice to Article 30 of the Treaty, be subject to no marketing restrictions other than those provided for in Community rules.

It shall not apply to beet seed shown to be intended for export to third countries.

(14) Subject to certain conditions, seed multiplied in another country from basic seed certified in a Member State should be certified as seed multiplied in that Member State.

#### Article 2

1. For the purpose of this Directive:

(15) Provision should be made for authorising the marketing within the Community of beet seed harvested in third countries only if such seed affords the same assurances as seed officially certified within the Community and complying with Community rules.

(a) 'marketing': shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

(16) During periods in which there are difficulties in obtaining supplies of certified seed of the various categories, seeds of a category subject to less stringent requirements, as well as seeds of varieties not included in the Common Catalogue of Varieties or in the national Catalogue of Varieties, should temporarily be permitted to be marketed.

Trade in seed not aimed at commercial exploitation of the variety, such as the following operations, shall not be regarded as marketing:

— the supply of seed to official testing and inspection bodies,

— the supply of seed to providers of services for processing or packaging, provided the provider of services does not acquire title to seed thus supplied.

(17) In order to harmonise the technical methods of certification used in the Member States and to enable comparisons to be made between seed certified within the Community and that coming from third countries, Community comparative tests should be established in Member States to permit annual post-control of seed of the category 'certified seed'.

The supply of seed under certain conditions to providers of services for the production of certain agricultural raw materials, intended for industrial purposes, or seed propagation for that purpose, shall not be regarded as marketing, provided the provider of services does not acquire title to either the seed thus supplied or the product of the harvest. The supplier of seed shall provide the certification authority with a copy of the relevant parts of the contract made with the provider of services and this shall include the standards and conditions currently met by the seed provided.

(18) It is desirable to organise temporary experiments for the purpose of seeking improved alternatives to certain elements of the certification schemes adopted under this Directive.

The conditions for the application of this provision shall be determined in accordance with the procedure referred to in Article 28(2).

(19) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.

(20) This Directive should not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex V, part B,

(b) 'beet': means sugar and fodder beet of the species *Beta vulgaris* L.;

(c) 'basic seed': means seed

(i) which has been produced under the responsibility of the breeder according to well-defined practices for the maintenance of the variety;

(ii) which is intended for the production of seed of the category 'certified seed';

(iii) which, subject to the provisions of Article 5, satisfies the conditions laid down in Annex I for basic seed; and

(iv) which has been found by official examination to satisfy the abovementioned conditions;

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

This Directive shall apply to the production with a view to marketing, and to the marketing of beet seed within the Community.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

- (d) 'certified seed': means seed
- (i) which is of direct descent from basic seed;
  - (ii) which is intended for the production of beet;
  - (iii) which, subject to the provisions of point (b) of Article 5, satisfies the conditions laid down in Annex I for certified seed; and
  - (iv) — which has been found by official examination to satisfy the abovementioned conditions, or  
— in the case of the conditions laid down in Annex I(A), has been found to satisfy those conditions either by official examination or by examination carried out under official supervision.
- (e) 'monogerm seed': means genetically monogerm seed;
- (f) 'precision seed': means seed designed for use in precision drills which, as required under Annex I, part B(3)(b)(bb) and (cc), gives single seedlings;
- (g) 'official measures': means measures taken
- (i) by State authorities; or
  - (ii) by any legal person whether governed by public or by private law, acting under the responsibility of the State; or
  - (iii) in the case of ancillary activities which are also under State control, by any natural person duly sworn for that purpose;
- provided that the persons mentioned under (ii) and (iii) derive no private gain from such measures.
- (h) 'small EC packages': means packages containing the following certified seeds:
- (i) monogerm or precision seed: not exceeding 100 000 clusters or grains or a net weight of 2,5 kg excluding, where appropriate, granulated pesticides, pelleting substances or other solid additives;
  - (ii) seed other than monogerm or precision seed: not exceeding a net weight of 10 kg, excluding, where appropriate, granulated pesticides, pelleting substances or other solid additives.

2. The different types of varieties, including the components, eligible for certification under the provisions of this Directive, may be specified and defined in accordance with the procedure laid down in Article 28(2).

3. When the examination under official supervision referred to in the second indent of paragraph 1(d)(iv) above is carried out, the following requirements shall be complied with:

- (a) the inspectors, shall:
  - (i) have the necessary technical qualifications;
  - (ii) derive no private gain in connection with the carrying out of the inspections;
  - (iii) have been officially licensed by the seed certification authority of the Member State concerned and this licensing shall include either the swearing-in of inspectors or the signature by inspectors of a written statement of commitment to the rules governing official examinations;
  - (iv) carry out inspections under official supervision in accordance with the rules applicable to official inspections;
- (b) the seed crop to be inspected shall be grown from seed which has undergone official post-control, the results of which have been satisfactory;
- (c) a proportion of the seed crops shall be checked by official inspectors. That proportion shall be 10 % for self-pollinated crops and 20 % for cross-pollinated crops or, for those species for which Member States provided for official laboratory seed-testing using morphological, physiological or, where appropriate, biochemical procedures to identify the variety and establish purity, 5 % and 15 % respectively;
- (d) a proportion of samples from the seed lots harvested from the seed crops shall be drawn for official postcontrol and, where appropriate, for official laboratory seed testing in respect of varietal identity and purity.

The Member States shall determine the penalties applicable to infringements of the rules in the first subparagraph, governing examination under official supervision. The penalties they provide for must be effective, proportionate and dissuasive. Penalties may include the withdrawal of the recognition referred to in to first subparagraph, point (a)(iii), from officially licensed inspectors who are found guilty of deliberately or negligently contravening the rules governing official examinations. Any certification of the seed examined shall be annulled in the event of such contravention unless it can be shown that such seed still meets all relevant requirements.

4. Further measures applicable to the carrying out of examinations under official supervision may be adopted in accordance with the procedure referred to in Article 28(2).

Until such measures are adopted, the conditions set out in Article 2 of Commission Decision 89/540/EEC <sup>(1)</sup> shall be adhered to.

<sup>(1)</sup> OJ L 286, 4.10.1989, p. 24. Decision as last amended by Decision 96/336/EC (OJ L 128, 29.5.1996, p. 23).

*Article 3*

1. Member States shall provide that beet seed may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.
2. Member States shall ensure that the official examinations of seed are carried out in accordance with current international methods, in so far as such methods exist.

*Article 4*

Notwithstanding Article 3(1), Member States shall provide that

- bred seed of generations prior to basic seed, and
- seed as grown, marketed for processing, provided that the identity of the seed is ensured, may be placed on the market.

*Article 5*

Member States may, by way of derogation from the provisions of Article 3,

- (a) authorise the official certification and marketing of basic seed which does not satisfy the conditions laid down in Annex I in respect of germination; to this end all necessary measures shall be taken to ensure that the supplier guarantees a specific germination which he shall state for marketing purposes on a special label bearing his name and address and the reference number of the seed lot;
- (b) in order to make seed rapidly available, notwithstanding the fact that the official examination to check compliance with the conditions laid down in Annex I in respect of germination has not been concluded, authorise the official certification and the marketing as far as the first buyer by way of trade of seed of the categories 'basic seed' or 'certified seed'. Certification shall be granted only on presentation of a provisional analytical report on the seed and provided that the name and address of the first recipient are indicated; all necessary measures shall be taken to ensure that the supplier guarantees the germination ascertained at the provisional analysis; this germination shall be stated for marketing purposes on a special label bearing the name and address of the supplier and the reference number of the lot.

These provisions shall not apply to seed imported from third countries, save as otherwise provided in Article 22 in respect of multiplication outside the Community.

Member States making use of the derogation provided for in either subparagraph (a) or (b) shall assist each other administratively as regards control.

*Article 6*

1. Notwithstanding Article 3(1), Member States may authorise producers in their own territory to place on the market:
  - (a) small quantities of seed for scientific purposes or selection work;
  - (b) appropriate quantities of seed for other test or trial purposes, provided it belongs to varieties for which an application for entry in the catalogue has been submitted in the Member State in question.

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 2002/53/EC shall apply accordingly.

2. The purposes for which the authorisations referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation shall be determined in accordance with the procedure referred to in Article 28(2).

3. Authorisations granted before 14 December 1998 by Member States to producers in their own territory for the purposes set out in paragraph 1 shall remain in force pending determination of the provisions referred to in paragraph 2. Thereafter, all such authorisations shall respect the provisions established in accordance with paragraph 2.

*Article 7*

Member States may, as regards the conditions laid down in Annex I, impose additional or more stringent requirements for the certification of seed produced in their own territory.

*Article 8*

The Member States shall provide that the description of the genealogical components which may be required is, if the breeder so requests, treated as confidential.

*Article 9*

1. Member States shall require that, for the checking of varieties and for the examination of seed for certification, samples are drawn officially in accordance with appropriate methods.

2. For the examination of seed for certification, samples shall be drawn from homogeneous lots; the maximum weight of a lot and the minimum weight of a sample are given in Annex II.

*Article 10*

1. Member States require that basic seed and certified seed be marketed only in sufficiently homogeneous lots and in sealed packages bearing, as prescribed in Articles 11, 12 or 13, whichever is appropriate, a sealing system and markings.

2. Member States may, for the marketing of small quantities to the final consumer, provide for derogations from the provisions of paragraph 1 in respect of packaging, sealing and marking.

*Article 11*

1. Member States shall require that packages of basic seed and certified seed, except where seed of the latter category takes the form of small EC packages, be sealed officially or under official supervision in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on either the official label provided for in Article 12 or the package.

In order to ensure sealing, the sealing system shall comprise at least either the official label or the affixing of an official seal.

The measures provided for in the second subparagraph shall not be necessary where a non-reusable sealing system is used.

In accordance with the procedure referred to in Article 28(2), it may be established whether a particular sealing system fulfils the provisions of this paragraph.

2. Member States shall require that, except in the case of small EC packages, packages shall not be resealed on one or more occasions unless this is done officially or under official supervision. If packages are resealed, the fact of resealing, the date of resealing and the authority responsible therefore shall be stated on the label required under Article 12.

3. Member States shall require that small EC packages be sealed in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on the label or package. In accordance with the procedure referred to in Article 28(2), it may be established whether a particular sealing system complies with the provisions of this paragraph. Packages shall not be resealed on one or more occasions except under official supervision.

*Article 12*

Member States shall require that packages of basic seed and certified seed, except where seed of the latter category takes the form of small EC packages:

(a) be labelled on the outside with an official label which has not previously been used, which satisfies the conditions

laid down in Annex III, part A, and on which the information is given in one of the official languages of the Community. The colour of the label shall be white for basic seed and blue for certified seed. When a label with a string-hole is used, its attachment shall be ensured in all cases with an official seal. If, in cases under point (a) of Article 5, the basic seed does not satisfy the conditions laid down in Annex I in respect of germination, this fact shall be stated on the label. The use of official adhesive labels shall be authorised. In accordance with the procedure referred to in Article 28(2) the indelible printing under official supervision of the prescribed information on the package according to the label's model may be authorised;

(b) contain an official document, in the same colour as the label, giving at least the information required under Annex III, part A(I)(3), (5), (6), (11) and (12). This document shall be drawn up in such a manner that it cannot be confused with the official label referred to under (a). This document is not necessary if the information is printed indelibly on the package or if, in accordance with the provisions under (a), an adhesive label or a label of non-tear material is used.

*Article 13*

1. Member States shall require that small EC packages:

(a) bear on the outside, in accordance with Annex III, part B, a supplier's label, a printed notice or stamp in one of the official languages of the Community; in the case of transparent packages this label may be placed inside, provided it can be read through the package; the label shall be white in colour for basic seed and blue in colour for certified seed.

(b) bear on the outside or on the supplier's label provided for in point (a) an officially assigned serial number; should an official adhesive label be used, the label shall be white in colour for basic seed and blue in colour for certified seed; the methods of attaching the said serial number may be fixed in accordance with the procedure referred to in Article 28(2).

2. Member States may require that an official adhesive label containing all or part of the information laid down in Annex III, part B, be used for marking small EC packages packed in their territory; insofar as the information is given on such label, the marking provided for in point (a) of paragraph 1 shall not be required.

*Article 14*

Member States may provide that, on request, small EC packages of certified seed are sealed and marked officially or under official supervision pursuant to Article 11(1) and Article 12.

*Article 15*

Member States shall take all measures necessary to ensure that, in the case of small packages of seed, the identity of the seed can be checked in particular at the time when seed lots are divided up. To this end, they may require that small packages divided up in their territory be sealed officially or under official supervision.

*Article 16*

1. In accordance with the procedure referred to in Article 28(2), it may be provided that, in cases other than those already provided for in this Directive, packages of basic or certified seed of any kind shall bear a supplier's label (which may either be a label separate from the official label or take the form of suppliers' information printed on the package itself). The particulars to be provided on any such label shall also be established in accordance with the procedure referred to in Article 28(2).

2. The label referred to in paragraph 1 shall be drawn up in such a manner that it cannot be confused with the official label referred to in Article 12.

*Article 17*

In the case of seed of a variety which has been genetically modified, any label or document, official or otherwise, which is affixed to or accompanies the seed lot, under the provisions of this Directive, shall clearly indicate that the variety has been genetically modified.

*Article 18*

Member States shall require that any chemical treatment of basic seed or certified seed be noted either on the official label or on the supplier's label and on the package or inside it.

*Article 19*

For the purpose of seeking improved alternatives to certain provisions set out in this Directive, it may be decided to organise temporary experiments under specified conditions at Community level in accordance with the provisions referred to in Article 28(2).

In the framework of such experiments, Member States may be released from certain obligations laid down in this Directive. The extent of that release shall be defined with reference to the provisions to which it applies. The duration of an experiment shall not exceed seven years.

*Article 20*

Member States shall ensure that seed which is placed on the market under the provisions of this Directive, whether mandatory or discretionary, is not subject to any marketing

restrictions as regards its characteristics, examination requirements, marking and sealing other than those laid down in this or any other Directive.

*Article 21*

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 4 shall be as follows:

- (a) it must have been officially inspected by the competent certification authority in accordance with the provisions applicable to the certification of basic seed;
- (b) it must be packed in accordance with this Directive, and
- (c) the packages must bear an official label giving at least the following particulars:
  - certification authority and Member State or their distinguishing abbreviation,
  - lot reference number,
  - month and year of sealing, or
  - month and year of the last official sampling for the purposes of certification,
  - species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or under its common name, or both; indication whether sugar beet or fodder beet,
  - variety, indicated at least in roman characters,
  - the description 'pre-basic seed',
  - number of generations preceding seed of the category 'certified seed'.

The label shall be white with a diagonal violet line.

*Article 22*

1. Member States shall provide that beet seed
  - which has been produced directly from basic seed officially certified in one or more Member States or in a third country which has been granted equivalence under Article 23(1)(b), and
  - which has been harvested in another Member State,

shall, on request and without prejudice to the provisions of Directive 2002/53/EC, be officially certified as certified seed in any Member State if that seed has undergone field inspection satisfying the conditions laid down in Annex I, part A, for the

relevant category and if official examination has shown that the conditions laid down in Annex I, part B, for the same category are satisfied.

Where in such cases the seed has been produced directly from officially certified seed of generations prior to basic seed, Member States may also authorise official certification as basic seed, of the conditions laid down for that category are satisfied.

2. Beet seed which has been harvested in the Community and which is intended for certification in accordance with paragraph 1 shall:

- be packed and labelled with an official label satisfying the conditions laid down in Annex IV(A) and (B), in accordance with Article 11(1), and
- be accompanied by an official document satisfying the conditions laid down in Annex IV(C).

The provisions in the first subparagraph on packing and labelling may be waived if the authorities responsible for field inspection, those drawing up the documents for the certification of seeds which have not been definitively certified and those responsible for certification are the same, or if they agree on exemption.

3. Member States shall also provide that beet seed

- which has been produced directly from basic seed officially certified in one or more Member States or in a third country which has been granted equivalence under Article 23(1)(b), and
- which has been harvested in a third country,

shall, on request, be officially certified as certified seed in any of those Member States where the basic seed was either produced or officially certified, if the seed has undergone field inspection satisfying the conditions laid down in an equivalence decision made under Article 23(1)(a) for the relevant category, and if official examination has shown that the conditions laid down in Annex I, part B for the same category are satisfied. Other Member States may also authorise official certification of such seed.

#### Article 23

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether:

- (a) in the case provided for in Article 22, the field inspections in the third country satisfy the conditions laid down in Annex I, part A;
- (b) beet seed harvested in a third country and affording the same assurances as regards its characteristics and the arrangements for its examination, for ensuring its identity,

for marking and for control is equivalent in these respects to basic seed or certified seed harvested within the Community and complying with the provisions of this Directive.

2. Paragraph 1 shall also apply in respect of any new Member State from the date of its accession to the date on which it is to bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

#### Article 24

1. In order to remove any temporary difficulties in the general supply of basic or certified seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure referred to in Article 28(2) that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the 'Common Catalogue of Varieties of Agricultural Plant Species' or in the national catalogues of varieties of the Member States.

2. For a category of seed of any given variety, the official label shall be that provided for the corresponding category; for seed of varieties not included in the abovementioned catalogues the colour of the official label shall be brown. The label shall always state that the seed in question is of a category satisfying less stringent requirements.

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure referred to in Article 28(2).

#### Article 25

1. Member States shall ensure that official inspections are carried out in relation to the marketing of beet seed, at least by random checks, to verify compliance with the requirements and conditions of this Directive.

2. Without prejudice to the free movement of seed within the Community, Member States shall take all necessary measures to ensure that they are supplied with the following particulars during the marketing of quantities exceeding two kilograms of seed imported from third countries:

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

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure referred to in Article 28(2).

#### Article 26

1. Community comparative tests shall be carried out within the Community for the post-control of samples of certified beet seed taken during sampling. Satisfaction of the conditions with which the seed must comply may be checked during the post-control tests. The arrangements for holding the tests and their results shall be submitted to the committee referred to in Article 28(1).

2. These comparative tests shall be used to harmonise the technical methods of certification so as to obtain results which are equivalent. As soon as this aim is achieved, annual progress reports shall be made on the comparative tests and sent in confidence to the Member States and to the Commission. The Commission shall, in accordance with the procedure referred to in Article 28(2), set the date for the first report.

3. The Commission, acting in accordance with the procedure referred to in Article 28(2), shall make the necessary arrangements for the comparative tests to be carried out. Beet seed harvested in third countries may be included in the comparative tests.

#### Article 27

Amendments to be made to the content of the annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure referred to in Article 28(2).

#### Article 28

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry set up by Article 1 of Council Decision 66/399/EEC<sup>(1)</sup>.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The committee shall adopt its rules of procedure.

<sup>(1)</sup> OJ 125, 11.7.1966, p. 2289/66.

#### Article 29

This Directive shall be without prejudice to the provisions of national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial and commercial property.

#### Article 30

1. Specific conditions may be established in accordance with the procedure referred to in Article 28(2) to take account of developments in the areas of:

- (a) conditions under which chemically treated seed may be marketed;
- (b) conditions under which seed may be marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Directive 2002/53/EC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;
- (c) conditions under which seed suitable for organic production may be marketed.

2. The specific conditions referred to in paragraph 1, point (b) shall include in particular the following points:

- (a) the seed of these species shall be of a known provenance approved by the appropriate authority in each Member State for marketing the seed in defined areas;
- (b) appropriate quantitative restrictions.

#### Article 31

Member States shall submit to the Commission the text of the main provisions of domestic law they adopt in the field covered by this Directive.

The Commission shall inform the other Member States thereof.

#### Article 32

No later than 1 February 2004, the Commission shall submit a detailed evaluation of the simplification of the certification procedures introduced by Article 1 of Directive 98/96/EC. This evaluation shall focus in particular on the possible effects on the quantity of the seed.

#### Article 33

1. Directive 66/400/EEC as amended by Directives listed in Annex V, part A, is hereby repealed without prejudice to the obligations of the Member States concerning the deadlines for transposition, of the said Directives set out in Annex V, part B.

2. References to the Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VI.

*Article 35*

This Directive is addressed to the Member States.

*Article 34*

Done at Luxembourg, 13 June 2002.

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

*For the Council*

*The President*

M. RAJOY BREY

## ANNEX I

## CONDITIONS FOR CERTIFICATION

## A. Crop

1. The previous cropping of the field shall not have been incompatible with the production of seeds of *Beta vulgaris* of the variety of the crop, and the field shall be sufficiently free from such plants which are volunteers from previous cropping.
2. The crop shall have sufficient identity and purity of variety.
3. The seed producer shall submit all the multiplications of a given variety of seed for examination by the certification authority.
4. In the case of certified seed of all categories there shall be at least one field inspection, either official or under official supervision, and in the case of basic seed at least two official field inspections, one of stecklings and one of the seed-producing plants.
5. The cultural condition of the field and the stage of development of the crops shall be such as to permit identity and varietal purity to be adequately checked.
6. The minimum distances from neighbouring pollen sources shall be:

Crop	Minimum distance
1. For the production of basic seed:	
— from any pollen sources of the genus <i>Beta</i>	1 000 m
2. For the production of certified seed:	
(a) of sugar beet:	
— from any pollen sources of the genus <i>Beta</i> not included below	1 000 m
— the intended pollinator or one of the intended pollinators being diploid, from tetraploid sugar beet pollen sources	600 m
— the intended pollinator being exclusively tetraploid, from diploid sugar beet pollen sources	600 m
— from sugar beet pollen sources, the ploidy of which is unknown	600 m
— the intended pollinator or one of the intended pollinators being diploid, from diploid sugar beet pollen sources	300 m
— the intended pollinator being exclusively tetraploid, from tetraploid sugar beet pollen sources	300 m
— between two sugar beet seed production fields in which male sterility is not used	300 m
(b) of fodder beet:	
— from any pollen sources of the genus <i>Beta</i> not included below	1 000 m
— the intended pollinator or one of the pollinators being diploid, from tetraploid fodder beet pollen sources	600 m
— the intended pollinator being exclusively tetraploid, from diploid fodder beet pollen sources	600 m
— from fodder beet pollen sources, the ploidy of which is unknown	600 m
— the intended pollinator or one of the pollinators being diploid, from diploid fodder beet pollen sources	300 m
— the intended pollinator being exclusively tetraploid, from tetraploid fodder beet pollen sources	300 m
— between two fodder beet seed production fields in which male sterility is not used	300 m

The above distances can be disregarded if there is sufficient protection from any undesirable foreign pollinator. No isolation is necessary between seed crops using the same pollinator.

The ploidy of both seed-bearing and pollen-shedding components of seed-producing crops is to be established by reference to the common catalogue of varieties of agricultural plant species compiled under Directive 2002/53/EC, or the national catalogues of varieties established under that Directive. If this information is not included for any variety, the ploidy is to be regarded as unknown, and thus a minimum isolation distance of 600 metres is required.

### B. Seed

1. The seed shall have sufficient identity and purity of variety.
2. Diseases which reduce the usefulness of the seed shall be at the lowest possible level.
3. The seed shall also satisfy the following conditions:

(a)	Minimum analytical purity (% by weight) <sup>(1)</sup>	Minimum germination (% of clusters or pure seed)	Maximum moisture content (% by weight) <sup>(1)</sup>
(aa) sugar-beet			
— monogerm seed	97	80	15
— precision seed	97	75	15
— multigerm seed of varieties with more than 85 % diploids	97	73	15
— other seed	97	68	15
(bb) fodder-beet			
— multigerm seed of varieties with more than 85 % diploids, monogerm seed, precision seed	97	73	15
— other seeds	97	68	15

The percentage by weight of other seeds shall not exceed 0,3.

<sup>(1)</sup> Excluding, where appropriate, granulated pesticides, pelleting substances or other solid additives.

- (b) special conditions for monogerm seed and for precision seed:

- (aa) monogerm seed:

at least 90 % of the germinated clusters shall give single seedlings.

The percentage of clusters giving three or more seedlings shall not exceed five, calculated on the germinated clusters;

- (bb) precision seed of sugar beet:

At least 70 % of the germinated clusters shall give single seedlings. The percentage of clusters giving three or more seedlings shall not exceed 5 %, calculated on the germinated clusters;

- (cc) precision seed of fodder-beet:

In the case of varieties with a percentage of diploids exceeding 85, at least 58 % of the germinated clusters shall give single seedlings. In the case of all other seeds, at least 63 % of the germinated clusters shall give single seedlings. The percentage of clusters giving three or more seedlings shall not exceed 5 %, calculated on the germinated clusters;

- (dd) in the case of seed of the category 'basic seed', the percentage by weight of inert matter shall not exceed 1,0. In the case of seed of the category 'certified seed', the percentage by weight of inert matter shall not exceed 0,5. In the case of pelleted seed of both categories, the satisfaction of the relevant conditions shall

be examined on samples drawn, pursuant to Article 9(1), from processed seed which has undergone partial decortication (rubbing or grinding) but has not yet been pelleted, without prejudice to the official examination of the minimum analytical purity of the pelleted seed;

(c) other special conditions:

Member States shall ensure that beet seed may not be introduced into areas recognised as 'rhizomania-free zones' under appropriate Community procedures, unless the percentage by weight of inert matter does not exceed 0,5.

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*ANNEX II*

Maximum weight of a seed lot: 20 metric tons

Minimum weight of a sample: 500 grammes

The maximum lot weight shall not be exceeded by more than 5 %.

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## ANNEX III

**MARKING****A. Official label***I. Information required*

1. 'EC rules and standards'.
2. Certification authority and Member State or their initials.
3. Reference number of lot.
4. Month and year of sealing expressed thus: 'sealed ... (month and year)' or month and year of the last official sampling for the purposes of certification expressed thus: 'sampled ... (month and year)'.
5. Species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or under its common name, or both; indication whether sugar beet or fodder beet.
6. Variety indicated at least in roman characters.
7. Category.
8. Country of production.
9. Declared net or gross weight or declared number of clusters or pure seeds.
10. Where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of clusters or pure seeds and the total weight.
11. For monogerm seed: the word 'monogerm'.
12. For precision seed: the word 'precision'.
13. Where at least germination has been retested, the words 'retested ... (month and year)' and the service responsible for such retesting may be indicated. Such information may be given on an official sticker attached to the official label.

*II. Minimum dimensions*

110 × 67 mm.

**B. Supplier's label or information on the packing (small EC package)***Information required*

1. 'Small EC package'.
2. Name and address of the supplier responsible for marking or his identification mark.
3. Officially assigned serial number.
4. Service which assigned the serial number and name of Member State or their initials.
5. Reference number if the official serial number does not enable the lot to be identified.
6. Species, indicated at least in roman characters; indication whether sugar beet or fodder beet.
7. Variety indicated at least in roman characters.

8. 'Category'.
  9. Net or gross weight or number of clusters or pure seeds.
  10. Where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of clusters or pure seeds and the total weight.
  11. For monogerm seed: the word 'monogerm'.
  12. For precision seed: the word 'precision'.
-

## ANNEX IV

**LABEL AND DOCUMENT PROVIDED IN THE CASE OF SEED NOT FINALLY CERTIFIED, HARVESTED IN ANOTHER MEMBER STATE***A. Information required for the label*

- authority responsible for field inspection and Member State or their initials,
- species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or under its common name, or both; indication whether sugar beet or fodder beet,
- variety, indicated at least in roman characters,
- category,
- field or lot reference number,
- declared net or gross weight,
- the words 'seed not finally certified'.

*B. Colour of the label*

The label shall be grey.

*C. Information required for the document*

- authority issuing the document,
  - species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or under its common name, or both; indication whether sugar beet or fodder beet,
  - variety, indicated at least in roman characters,
  - category,
  - reference number of the seed used to sow the field and name of the country or countries which certified that seed,
  - field or lot reference number,
  - area cultivated for the production of the lot covered by the document,
  - quantity of seed harvested and number of packages,
  - attestation that the conditions to be satisfied by the crop from which the seed comes have been fulfilled,
  - where appropriate, results of a preliminary seed analysis.
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## ANNEX V

## PART A

**REPEALED DIRECTIVE AND ITS SUCCESSIVE AMENDMENTS**

(referred to by Article 33)

Directive 66/400/EEC (OJ 125, 11.7.1966, p. 2290/66)	
Council Directive 69/61/EEC (OJ L 48, 26.2.1969, p. 4)	
Council Directive 71/162/EEC (OJ L 87, 17.4.1971, p. 24)	only Article 1
Council Directive 72/274/EEC (OJ L 171, 29.7.1972, p. 37)	only concerning references made to the provisions of Directive 66/400/EEC in Articles 1 and 2
Council Directive 72/418/EEC (OJ L 287, 26.12.1972, p. 22)	only Article 1
Council Directive 73/438/EEC (OJ L 356, 27.12.1973, p. 79)	only Article 1
Council Directive 75/444/EEC (OJ L 196, 26.7.1975, p. 6)	only Article 1
Commission Directive 76/331/EEC (OJ L 83, 30.3.1976, p. 34)	
Council Directive 78/55/EEC (OJ L 16, 20.1.1978, p. 23)	only Article 1
Council Directive 78/692/EEC (OJ L 236, 26.8.1978, p. 13)	only Article 1
Commission Directive 87/120/EEC (OJ L 49, 18.2.1987, p. 39)	only Article 1
Commission Directive 88/95/EEC (OJ L 56, 2.3.1988, p. 42)	
Council Directive 88/332/EEC (OJ L 151, 17.6.1988, p. 82)	only Article 1
Council Directive 88/380/EEC (OJ L 187, 16.7.1988, p. 31)	only Article 1
Council Directive 90/654/EEC (OJ L 353, 17.12.1990, p. 48)	only concerning references made to the provisions of Directive 66/400/EEC in Article 2 and to Annex II(I)(1)(a)
Council Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10)	only Article 1(1)
Council Directive 98/95/EC (OJ L 25, 1.2.1999, p. 1)	only Article 1 and to Article 9(2)
Council Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27)	only Article 1, Article 8(2) and to Article 9

## PART B

**DEADLINES FOR TRANSPOSITION INTO NATIONAL LAW**

(referred to by Article 33)

Directive	Deadline for transposition
Directive 66/400/EEC	1 July 1968 (Article 14(1)) 1 July 1969 (other provisions) <sup>(1)</sup> <sup>(2)</sup>
Directive 69/61/EEC	1 July 1969 <sup>(3)</sup>
Directive 71/162/EEC	1 July 1970 (Article 1(3)) 1 July 1972 (Article 1(1)) 1 July 1971 (other provisions) <sup>(1)</sup>
Directive 72/274/EEC	1 July 1972 (Article 1) 1 January 1973 (Article 2)
Directive 72/418/EEC	1 July 1973
Directive 73/438/EEC	1 July 1973 (Article 1(1)) 1 January 1974 (Article 1(2))
Directive 75/444/EEC	1 July 1977
Directive 76/331/EEC	1 July 1978 (Article 1) 1 July 1979 (other provisions)
Directive 78/55/EEC	1 July 1979
Directive 78/692/EEC	1 July 1977 (Article 1) 1 July 1979 (other provisions)
Directive 87/120/EEC	1 July 1988
Directive 88/95/EEC	1 July 1988
Directive 88/332/EEC	
Directive 88/380/EEC	1 July 1992 (Article 1(8)) 1 July 1990 (other provisions)
Directive 90/654/EEC	
Directive 96/72/EC	1 July 1997 <sup>(3)</sup>
Directive 98/95/EC	1 February 2000 (Corrigendum, OJ L 126, 20.5.1999, p. 23)
Directive 98/96/EC	1 February 2000

<sup>(1)</sup> For Denmark, Ireland and the United Kingdom, 1 July 1973 for Article 14(1), 1 July 1974 for the other provisions concerning basic seed and 1 July 1976 for the other provisions.

<sup>(2)</sup> 1 January 1986 for Greece, 1 March 1986 for Spain, 1 January 1991 for Portugal, and 1 January 1995 for Austria, Finland and Sweden.

<sup>(3)</sup> The remaining stocks of labels bearing the abbreviation 'EEC' may continue to be used until 31 December 2001.

## ANNEX VI

## CORRELATION TABLE

Directive 66/400/EEC	This Directive
Article 1	Article 1, 1st subparagraph
Article 18	Article 1, 2nd subparagraph
Article 1a	Article 2(1)(a)
Article 2(1)(A)	Article 2(1)(b)
Article 2(1)(B)(a)	Article 2(1)(c)(i)
Article 2(1)(B)(b)	Article 2(1)(c)(ii)
Article 2(1)(B)(c)	Article 2(1)(c)(iii)
Article 2(1)(B)(d)	Article 2(1)(c)(iv)
Article 2(1)(C)(a)	Article 2(1)(d)(i)
Article 2(1)(C)(b)	Article 2(1)(d)(ii)
Article 2(1)(C)(c)	Article 2(1)(d)(iii)
Article 2(1)(C)(d)(i)	Article 2(1)(d)(iv), first indent
Article 2(1)(C)(d)(ii)	Article 2(1)(d)(iv), second indent
Article 2(1)(D)	Article 2(1)(e)
Article 2(1)(E)	Article 2(1)(f)
Article 2(1)(F)(a)	Article 2(1)(g)(i)
Article 2(1)(F)(b)	Article 2(1)(g)(ii)
Article 2(1)(F)(c)	Article 2(1)(g)(iii)
Article 2(1)(G), first indent	Article 2(1)(h)(i)
Article 2(1)(G), second indent	Article 2(1)(h)(ii)
Article 2(1a)	Article 2(2)
Article 2(2)	—
Article 2(3)(i)	Article 2(3), first subparagraph, (a)
Article 2(3)(i)(a)	Article 2(3), first subparagraph, (a)(i)
Article 2(3)(i)(b)	Article 2(3), first subparagraph, (a)(ii)
Article 2(3)(i)(c)	Article 2(3), first subparagraph, (a)(iii)
Article 2(3)(i)(d)	Article 2(3), first subparagraph, (a)(iv)
Article 2(3)(ii)	Article 2(3), first subparagraph, (b)
Article 2(3)(iii)	Article 2(3), first subparagraph, (c)
Article 2(3)(iv)	Article 2(3), first subparagraph, (d)
Article 2(3)(v)	Article 2(3), second subparagraph
Article 2(4)	Article 2(4)
Article 3	Article 3
Article 3a	Article 4
Article 4	Article 5
Article 4a	Article 6
Article 5	Article 7
Article 6	Article 8
Article 7	Article 9
Article 9	Article 10

Directive 66/400/EEC	This Directive
Article 10	Article 11
Article 11	Article 12
Article 11a	Article 13
Article 11b	Article 14
Article 11c	Article 15
Article 12	Article 16
Article 12a	Article 17
Article 13	Article 18
Article 13a	Article 19
Article 14(1)	Article 20
—	—
Article 14a	Article 21
Article 15	Article 22
Article 16(1)	Article 23(1)
Article 16(2)	—
Article 16(3)	Article 23(2)
Article 16(4)	—
Article 17	Article 24
Article 19	Article 25
Article 20	Article 26
Article 21a	Article 27
Article 21	Article 28
Article 22	Article 29
Article 22(1)	Article 30(1)
Article 22(2)(i)	Article 30(2)(a)
Article 22(2)(ii)	Article 30(2)(b)
—	Article 31 <sup>(1)</sup>
—	Article 32 <sup>(2)</sup>
—	Article 33
—	Article 34
—	Article 35
ANNEX I, part A, point (01)	ANNEX I, part A, point (1)
ANNEX I, part A, point (1)	ANNEX I, part A, point (2)
ANNEX I, part A, point (2)	ANNEX I, part A, point (3)
ANNEX I, part A, point (3)	ANNEX I, part A, point (4)
ANNEX I, part A, point (4)	ANNEX I, part A, point (5)
ANNEX I, part A, point (5)	ANNEX I, part A, point (6)
ANNEX I, part B, point (1)	ANNEX I, part B, point (1)
ANNEX I, part B, point (2)	ANNEX I, part B, point (2)
ANNEX I, part B, point (3)(a)	ANNEX I, part B, point (3)(a)
ANNEX I, part B, point (3)(b)(aa)	ANNEX I, part B, point (3)(b)(aa)
ANNEX I, part B, point (3)(b)(aa)(a)	ANNEX I, part B, point (3)(b)(bb)

Directive 66/400/EEC	This Directive
ANNEX I, part B, point (3)(b)(bb)	ANNEX I, part B, point (3)(b)(cc)
ANNEX I, part B, point (3)(b)(cc)	ANNEX I, part B, point (3)(b)(dd)
ANNEX I, part B, point (3)(c)	ANNEX I, part B, point (3)(c)
ANNEX II	ANNEX II
ANNEX III, part A, point (I)(1)	ANNEX III, part A, point (I)(1)
ANNEX III, part A, point (I)(2)	ANNEX III, part A, point (I)(2)
ANNEX III, part A, point (I)(3)	ANNEX III, part A, point (I)(3)
ANNEX III, part A, point (I)(3a)	ANNEX III, part A, point (I)(4)
ANNEX III, part A, point (I)(4)	ANNEX III, part A, point (I)(5)
ANNEX III, part A, point (I)(5)	ANNEX III, part A, point (I)(6)
ANNEX III, part A, point (I)(6)	ANNEX III, part A, point (I)(7)
ANNEX III, part A, point (I)(7)	ANNEX III, part A, point (I)(8)
ANNEX III, part A, point (I)(8)	ANNEX III, part A, point (I)(9)
ANNEX III, part A, point (I)(9)	ANNEX III, part A, point (I)(10)
ANNEX III, part A, point (I)(10)	ANNEX III, part A, point (I)(11)
ANNEX III, part A, point (I)(11)	ANNEX III, part A, point (I)(12)
ANNEX III, part A, point (I)(12)	ANNEX III, part A, point (I)(13)
ANNEX III, part A, point (II)	ANNEX III, part A, point (II)
ANNEX III, part B	ANNEX III, part B
ANNEX IV	ANNEX IV
—	ANNEX V
—	ANNEX VI

<sup>(1)</sup> 98/95/EC, Article 9(2) and 98/96/EC, Article 8(2).

<sup>(2)</sup> 98/96/EC, Article 9.

**COUNCIL DIRECTIVE 2002/55/EC****of 13 June 2002****on the marketing of vegetable seed**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Having consulted the Economic and Social Committee,

Whereas:

- (1) Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed <sup>(2)</sup> has been frequently and substantially amended <sup>(3)</sup>. For reasons of clarity and rationality the said Directive should be codified.
- (2) The production of vegetable seed occupies an important place in the agriculture of the Community.
- (3) Satisfactory results in vegetable cultivation depend to a large extent on the use of appropriate seed.
- (4) Greater productivity will be achieved in Community vegetable cultivation if for the choice of varieties accepted for marketing the Member States apply uniform rules which are as strict as possible.
- (5) A common catalogue of varieties of vegetable species should be compiled. This catalogue can be compiled only on the basis of national catalogues.
- (6) All Member States should therefore compile one or more national catalogues of the varieties accepted for certification, checking and marketing in their territory.
- (7) These catalogues must be drawn up in accordance with uniform rules so that the varieties accepted will be distinct, stable and sufficiently uniform.
- (8) Rules established at international level should be taken into account for certain provisions relating to the approval of varieties at national level.
- (9) In order to carry out the examinations for the acceptance of a variety, a large number of uniform criteria and minimum requirements must be laid down.
- (10) Provisions relating to the length of time during which acceptance of a variety is to remain valid, the grounds on which acceptance may be revoked and the practices for maintenance of the variety must be standardized. Member States should inform one another of the acceptance and withdrawal of varieties.
- (11) It is desirable to adopt rules in relation to the suitability of varietal denominations and for the exchange of information between the Member States.
- (12) Seed of varieties listed in the common catalogue of varieties should not be subject within the Community to any marketing restrictions relating to variety.
- (13) Furthermore, Member States should be given the right to raise objections to a variety.
- (14) The Commission should publish in the *Official Journal of the European Communities*, C Series the varieties accepted in the common catalogue.
- (15) Provision should be made for measures recognising the equivalence of examinations and controls of varieties carried out in third countries.
- (16) In the light of scientific and technical developments, it is now possible to breed varieties through genetic modification. Therefore, when determining whether to accept genetically modified varieties within the meaning of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms <sup>(4)</sup> Member States should have regard to any risk related to their deliberate release into the environment. Furthermore, conditions under which such genetically modified varieties are accepted should be introduced.

<sup>(1)</sup> Opinion delivered on 9 April 2002 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 225, 12.10.1970, p. 7. Directive as last amended by Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27).

<sup>(3)</sup> See Annex VI, part A.

<sup>(4)</sup> OJ L 117, 8.5.1990, p. 15. Directive repealed by Directive 2001/18/EC of the European Parliament and of the Council (OJ L 106, 17.4.2001, p. 1).

- (17) The marketing of novel foods and novel food ingredients is regulated at Community level by Regulation (EC) No 258/97 of the European Parliament and of the Council <sup>(1)</sup>. Therefore, it is appropriate for Member States also to have regard to any food health risks when determining whether to accept varieties. Furthermore, conditions under which these varieties are accepted should be introduced.
- (18) In the light of scientific and technical developments, rules in relation to the admission of chemically treated seed and propagating material should be introduced.
- (19) As a general rule, vegetable seed should be allowed to be marketed only if it has been officially examined and certified, in accordance with the rules for certification, as basic seed or certified seed. It should be possible under specified conditions to place on the market bred seed of generations prior to basic seed and seed as grown.
- (20) For certain species of vegetable, it is impossible to restrict marketing to certified seed. The marketing of checked standard seed which must also possess varietal identity and purity should therefore be allowed, these characteristics being subject, however, only to official post-control carried out in the field by sampling.
- (21) In order to improve the quality of Community vegetable seed, certain requirements must be laid down as to minimum analytical purity and germination.
- (22) In order to ensure the identity of the seed, Community rules on packaging, sampling, sealing and marking should be laid down. It is desirable that provision also be made for official pre-control of certified seed, and that the obligations should be laid down which are to be fulfilled by the person marketing standard seed and certified seed made up in small packages.
- (23) Rules for the marketing of chemically treated seed, seeds suitable for organic growing as well as the conservation by use, *in situ*, of varieties threatened with genetic erosion should be introduced.
- (24) Derogations should be permitted under certain conditions, without prejudice to the provisions of Article 14 of the Treaty. Member States making use of derogations should assist each other administratively as regards inspection.
- (25) In order to ensure that both the requirements as to the quality of the seed and the provisions for ensuring its identity are complied with during marketing, the Member States must take provision for appropriate control arrangements.
- (26) Seed satisfying these requirements should, without prejudice to Article 30 of the Treaty, be subject to no marketing restrictions other than those provided for in Community rules.
- (27) Subject to certain conditions, seed multiplied in another country from basic seed certified in a Member State should be certified as seed multiplied in that Member State.
- (28) Provision should be made for authorising the marketing within the Community of vegetable seed harvested in third countries only if such seed affords the same assurances as seed officially certified or marketed as standard seed within the Community and complying with Community rules.
- (29) During periods in which there are difficulties in obtaining supplies of certified seed of the various categories or of standard seed, seed of a category subject to less strict requirements should temporarily be permitted to be marketed, but also seeds of varieties not included in the common catalogue of varieties or in the national catalogue of varieties.
- (30) In order to harmonise the technical methods of certification and control used in the Member States and to enable comparisons to be made between seed certified within the Community and that coming from third countries, Community comparative tests should be established in Member States to permit annual post-control of seed of certain varieties of the category 'basic seed' and of seed of the categories 'certified seed' and 'standard seed'.
- (31) Community rules should not apply to seed shown to be intended for export to third countries.
- (32) This Directive should include certain species which may be fodder plants or oil plants as well as vegetables. If, however, certain species of seed are not normally reproduced or marketed in the territory of a Member State, provision should be made for release of that Member State from the obligation to apply this Directive in respect of the species in question.

<sup>(1)</sup> OJ L 43, 14.2.1997, p. 1.

- (33) It is desirable to organise temporary experiments for the purpose of seeking improved alternatives to certain provisions set out in this Directive.
- (34) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (35) This Directive must not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex VI, part B,

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

This Directive shall apply to the production with a view to marketing, and to the marketing, of vegetable seed within the Community.

It shall not apply to vegetable seed shown to be intended for export to third countries.

#### Article 2

1. For the purpose of this Directive:

- (a) 'marketing': shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

Trade in seed not aimed at commercial exploitation of the variety, such as the following operations, shall not be regarded as marketing:

- the supply of seed to official testing and inspection bodies,
- the supply of seed to providers of services for processing or packaging, provided the provider of services does not acquire title to seed thus supplied.

The supply of seed under certain conditions to providers of services for the production of certain agricultural raw materials, intended for industrial purposes, or seed propagation for that purpose, shall not be regarded as marketing, provided the provider of services does not acquire title to either the seed thus supplied or the product of the harvest. The supplier of seed shall provide the certification authority with a copy of the relevant parts of the contract made with the provider of services and this shall include the standards and conditions currently met by the seed provided.

The conditions for the application of this provision shall be determined in accordance with the procedure referred to in Article 46(2);

- (b) 'vegetables': means plants of following species intended for agricultural or horticultural production but not for ornamental uses:

<i>Allium cepa</i> L.	Onion
<i>Allium porrum</i> L.	Leek
<i>Anthriscus cerefolium</i> (L.) Hoffm.	Chervil
<i>Apium graveolens</i> L.	Celery
<i>Asparagus officinalis</i> L.	Asparagus
<i>Beta vulgaris</i> L. var. <i>vulgaris</i>	Spinach beet, chard
<i>Beta vulgaris</i> L. var. <i>conditiva</i> Alef.	Red beet or beetroot
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>sabellica</i> L.	Curly kale
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>botrytis</i> L.	Cauliflower
<i>Brassica oleracea</i> L. convar. <i>botrytis</i> (L.) Alef. var. <i>cymosa</i> Duch.	Sprouting broccoli or calabrese
<i>Brassica oleracea</i> L. convar. <i>oleracea</i> var. <i>gemmifera</i> DC.	Brussels sprouts
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>sabauda</i> L.	Savoy cabbage
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>alba</i> DC.	Cabbage
<i>Brassica oleracea</i> L. convar. <i>capitata</i> (L.) Alef. var. <i>rubra</i> DC.	Red cabbage
<i>Brassica oleracea</i> L. convar. <i>acephala</i> (DC.) Alef. var. <i>gongylodes</i> L.	Kohlrabi
<i>Brassica pekinensis</i> (Lour.) Rupr.	Chinese cabbage
<i>Brassica rapa</i> L. var. <i>rapa</i>	Turnip
<i>Capsicum annuum</i> L.	Chili Pepper Capsicum
<i>Cichorium endivia</i> L.	Endive
<i>Cichorium intybus</i> L. ( <i>partim</i> )	Witloof chicory, large-leaved chicory (Italian chicory), Industrial chicory
<i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai	Water melon
<i>Cucumis melo</i> L.	Melon
<i>Cucumis sativus</i> L.	Cucumber, gherkin
<i>Cucurbita maxima</i> Duchesne	Gourd
<i>Cucurbita pepo</i> L.	Marrow
<i>Cynara cardunculus</i> L.	Cardoon
<i>Daucus carota</i> L.	Carrot
<i>Foeniculum vulgare</i> Miller	Fennel
<i>Lactuca sativa</i> L.	Lettuce
<i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw.	Tomato
<i>Petroselinum crispum</i> (Miller) Nyman ex A. W. Hill	Parsley
<i>Phaseolus coccineus</i> L.	Runner bean
<i>Phaseolus vulgaris</i> L.	French bean
<i>Pisum sativum</i> L. ( <i>partim</i> )	Pea, excluding Fieldpea
<i>Raphanus sativus</i> L.	Radish
<i>Scorzonera hispanica</i> L.	Scorzonera or Black salsify
<i>Solanum melongena</i> L.	Aubergine or egg plant
<i>Spinacia oleracea</i> L.	Spinach
<i>Valerianella locusta</i> (L.) Laterr.	Corn salad or Lamb's lettuce
<i>Vicia faba</i> L. ( <i>partim</i> )	Broad bean

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

- (c) 'basic seed': means seed
- (i) which has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety;
  - (ii) which is intended for the production of seed of the category 'certified seed';
  - (iii) which, subject to the provisions of Article 22, satisfies the conditions laid down in Annexes I and II for basic seed; and
  - (iv) which has been found by official examination to satisfy the abovementioned conditions;
- (d) 'certified seed': means seed
- (i) which is produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;
  - (ii) which is intended mainly for the production of vegetables;
  - (iii) which, subject to the provisions of point (b) of Article 22, satisfies the conditions laid down in Annexes I and II for certified seed;
  - (iv) which has been found by official examination to satisfy the aforementioned conditions;
  - (v) which is subject to official post-control by check inspection to verify its varietal identity and varietal purity;
- (e) 'standard seed': means seed
- (i) which has sufficient varietal identity and varietal purity;
  - (ii) which is intended mainly for the production of vegetables;
  - (iii) which satisfies the conditions laid down in Annex II; and
  - (iv) which is subject to official post-control by check inspection to verify its varietal identity and varietal purity;
- (f) 'official measures': means measures taken
- (i) by State authorities; or
  - (ii) by any legal person whether governed by public or by private law, acting under the responsibility of the State; or
- (iii) in the case of ancillary activities which are also under State control, by any natural person duly sworn for that purpose;
- provided that the persons mentioned under (ii) and (iii) derive no private gain from such measures;
- (g) 'EC small packages': means packages containing seed up to a maximum net weight of
- (i) 5 kg for legumes;
  - (ii) 500 g for onions, chervil, asparagus, spinach beet or chard, red beet or beetroot, turnips, water melon, gourd, marrows, carrots, radishes, scorzonera or black salsify, spinach, corn-salad or lamb's lettuce;
  - (iii) 100 g for all other species of vegetable.
2. Amendments to be made to the list of species referred to in paragraph 1(b) shall be adopted in accordance with the procedures referred to in Article 46(2).
  3. The different types of varieties, including the components, may be specified and defined in accordance with the procedure laid down in Article 46(2).
- Article 3*
1. Member States shall provide that vegetable seed may not be certified, verified as standard seed and marketed unless the variety is officially accepted in one or more Member States.
  2. Each Member State shall establish one or more catalogues of the varieties officially accepted for certification, verification as standard seed and marketing in its territory. The catalogues shall be subdivided according to varieties:
    - (a) whose seed may be certified as either 'basic seed' or 'certified seed', or may be verified as 'standard seed', and
    - (b) whose seed may not be verified except as standard seed.

Any person may consult the catalogues.
  3. A common catalogue of varieties of vegetable species shall, in accordance with the provisions of Articles 16 and 17, be established on the basis of the national catalogues of the Member States.
  4. Member States may provide that the acceptance of a variety for inclusion in the common catalogue or in the catalogue of another Member State is equivalent to acceptance for inclusion in their own catalogues. Member States making such provision shall be released from the obligations provided for in Article 7, Article 9(4) and Article 10(2) to (5).

*Article 4*

1. Member States shall ensure that a variety is accepted only if it is distinct, stable and sufficiently uniform.

In the case of industrial chicory, the variety must be of satisfactory value for cultivation and use.

2. In the case of a genetically modified variety within the meaning of Article 2(1) and (2) of Council Directive 90/220/EEC the variety shall be accepted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment.

3. However, where material derived from a plant variety is intended to be used as a food or food ingredient falling within the scope of Regulation (EC) No 258/97, these foods or food ingredients must not:

- present a danger for the consumer,
- mislead the consumer,
- differ from foods or food ingredients which they are intended to replace to such an extent that their normal consumption would be nutritionally disadvantageous for the consumer.

4. In the interest of conserving plant genetic resources as specified in Article 44(2), the Member States may depart from the acceptance criteria set out in the first subparagraph of paragraph 1 in so far as specific conditions are established in accordance with the procedure referred to in Article 46 considering the requirements of Article 44(3).

*Article 5*

1. A variety shall be regarded as distinct if, whatever the origin, artificial or natural, of the initial variation from which it has resulted, it is clearly distinguishable in one or more important characteristics from any other variety known in the Community.

The characteristics must be capable of precise recognition and of precise definition.

A variety in the Community shall be any variety which, at the time when the application for the acceptance of the variety to be assessed is duly made, is:

- either listed in the common catalogue of varieties of vegetable species or in the common catalogue of agricultural plant species,
- or, without being listed in one of those catalogues, has been accepted or has been submitted for acceptance in the Member State in question or in another Member State, either for certification and marketing, or for certification for other countries, or for verification as standard seed,

unless the aforementioned conditions are no longer fulfilled in all the Member States concerned before the decision on the application for acceptance of the variety to be assessed is taken.

2. A variety shall be regarded as stable if, after successive propagation or multiplications or at the end of each cycle (where the breeder has defined a particular cycle of propagation or multiplications) it remains true to the description of its essential characteristics.

3. A variety shall be regarded as sufficiently uniform if, apart from a very few aberrations, the plants of which it is composed are, account being taken of the distinctive features of the reproductive systems of the plants, similar or genetically identical as regards the characteristics, taken as a whole, which are considered for this purpose.

*Article 6*

Member States shall ensure that varieties coming from other Member States are subject to the same requirements, in particular as regards the acceptance procedure, as those which apply to domestic varieties.

*Article 7*

1. Member States shall provide that acceptance of varieties be based on the results of official examinations, particularly growing trials, covering a sufficient number of characteristics for the variety to be described. The methods used for determining characteristics must be accurate and reliable. In order to establish distinctness, the growing trials shall include at least the available comparable varieties which are varieties known in the Community within the meaning of Article 5(1). For the purpose of applying Article 9, other available comparable varieties shall be included. In the case of varieties whose seed may not be verified except as standard seed, the results of unofficial examinations and knowledge gained from practical experience during cultivation may be taken into consideration in relation to the results of an official examination.

It may be prescribed, in accordance with the procedure referred to in Article 46(2) that, as from specified dates, varieties of certain vegetable species will no longer be accepted except on the basis of official tests.

2. The following shall be fixed in accordance with the procedure referred to in Article 46(2), account being taken of current scientific and technical knowledge:

- (a) the characteristics to be covered as a minimum by the examinations of the various species;
- (b) the minimum requirements for carrying out the examinations.

3. Where examination of the genealogical components is necessary in order to study hybrids and synthetic varieties, Member States shall ensure that the results of the examination and the description of the genealogical components are, if the breeder so requests, treated as confidential.

4. (a) In the case of a genetically modified variety referred to in Article 4(4) an environmental risk assessment equivalent to that laid down in Directive 90/220/EEC shall be carried out.
- (b) The procedures ensuring that the environmental risk assessment and other relevant elements shall be equivalent to those laid down in Directive 90/220/EEC shall be introduced on a proposal from the Commission, in a Council Regulation based on the appropriate legal basis in the Treaty. Until this Regulation enters into force genetically modified varieties shall only be accepted for inclusion in a national catalogue after having been accepted for marketing in accordance with Directive 90/220/EEC.
- (c) Articles 11 to 18 of Directive 90/220/EEC shall no longer apply to genetically modified varieties once the Regulation referred to in point (b) above has entered into force.
- (d) The technical and scientific details of the implementation of the environmental risk assessment shall be adopted in accordance with the procedure referred to in Article 46(2).
5. (a) Member States shall ensure that a variety intended to be used for the purpose laid down in this paragraph is accepted only if:
- the food or the food ingredient has already been authorised pursuant to Regulation (EC) No 258/97, or
  - the authorisation decisions referred to in Regulation (EC) No 258/97 are taken in accordance with the procedure referred to in Article 46(2).
- (b) In the case laid down in the second indent of paragraph (a), the criteria set out in Article 4(5) and the assessment principles laid down in Regulation (EC) No 258/97 shall be taken into account.
- (c) The technical and scientific details of the implementation of the measures laid down in paragraph (b) shall be adopted in accordance with the procedure referred to in Article 46(2).

#### Article 8

Member States shall require that when lodging an application for the acceptance of a variety, the applicant indicates whether acceptance has already been applied for in another Member State, which Member State was concerned, and whether the application was granted.

#### Article 9

1. Member States shall arrange for official publication of the catalogue of varieties accepted in their territory and, where maintenance breeding of the variety is required, the name of

the person or persons responsible for this in their countries. When several persons are responsible for the maintenance of a variety, the names need not be published. If the names are not published, the catalogue shall indicate the authority holding the list of names of persons responsible for maintenance of the variety.

2. Member States shall, as far as possible, ensure at the time of acceptance that the variety is known by the same name in all Member States.

If it is known that seed or propagating material of a given variety are marketed in another country under a different name, that name shall also be indicated in the catalogue.

In the case of varieties which are derived from varieties whose official acceptance has been determined pursuant to Article 12(3), second and third subparagraph, and which have been accepted in one or more Member States as a result of the official measures referred to in that provision, it may be decided, in accordance with the procedure referred to in Article 46(2), that all Member States of acceptance shall ensure that the varieties bear names determined under the same procedure and complying with the above principles.

3. In taking into account the information available, Member States shall also ensure that a variety which is not clearly distinguishable:

- from a variety previously accepted in the Member State in question or in another Member State, or
- from another variety which has been assessed with regard to distinctness, stability and uniformity in accordance with rules corresponding to those of this Directive, without, however, being a variety known in the Community within the meaning of Article 5(1),

bears the name of that variety. This provision shall not apply if this name is likely to mislead or cause confusion concerning the variety in question, or if, pursuant to all the provisions of the Member State concerned governing the names of varieties, other facts prevent its utilisation, or if the rights of third parties impede the free use of that name in connection with the variety in question.

4. Member States shall compile a special file on each variety accepted, containing a description of the variety and a clear summary of all the facts on which the acceptance was based. The description of the varieties shall relate to plants produced directly from seed of the category 'certified seed' or the category 'standard seed'.

5. Member States shall ensure that genetically modified varieties which have been accepted are clearly indicated as such in the catalogue of varieties. They shall further ensure

that any person marketing such a variety clearly indicates in his sales catalogue that the variety is genetically modified.

6. So far as the suitability of the denomination of a variety is concerned, Article 63 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights <sup>(1)</sup> shall apply.

Detailed implementing rules as to the suitability of denominations of varieties may be adopted in accordance with the procedure referred to in Article 46(2).

#### Article 10

1. Any application or withdrawal of an application for acceptance of a variety, any entry in a catalogue of varieties as well as any amendment thereto shall be notified forthwith to the other Member States and the Commission.

2. Member States shall, for each new variety accepted, send the other Member States and the Commission a brief description of its characteristics which have been noticed as a result of the acceptance procedure. They shall, on request, also communicate a description of the special characteristics which enable the variety to be distinguished from other similar varieties.

3. Each Member State shall make available to the other Member States and the Commission the files referred to in Article 9(4) on the varieties which are accepted or which have ceased to be accepted. Information exchanged concerning these files shall be treated as confidential.

4. Member States shall ensure that the acceptance files are made available for the personal and exclusive use of any person able to show a legitimate interest. These provisions shall not apply where the information must under Article 7(3) be treated as confidential.

5. Where acceptance of a variety is refused or revoked, the results of the examinations shall be made available to persons affected by such decision.

#### Article 11

1. Member States shall provide that the varieties accepted must be maintained according to accepted practices for the maintenance of the variety.

2. It must at all times be possible to check maintenance from the records kept by the person or persons responsible for the variety. These records shall also cover the production of all generations prior to basic seed.

3. Samples may be requested from the person responsible for the variety. Such samples may if necessary be taken officially.

<sup>(1)</sup> OJ L 227, 1.9.1994, p. 1. Regulation as amended by Regulation (EC) No 2506/95 (OJ L 258, 28.10.1995, p. 3).

4. Where maintenance takes place in a Member State other than that in which the variety was accepted, the Member States concerned shall assist each other administratively as regards checks.

#### Article 12

1. Acceptance shall be valid until the end of the tenth calendar year following acceptance.

Acceptance of the varieties by the authorities of the former German Democratic Republic prior to German unification shall be valid until the end of the tenth calendar year at the latest following their entry in the catalogue of varieties drawn up by the Federal Republic of Germany in accordance with Article 3(1).

2. Acceptance of a variety may be renewed at given intervals if it is still cultivated on such a scale as to justify this, or should be retained in the interest of conserving plant genetic resources, and providing that the requirements as to distinctness, uniformity and stability, or the criteria determined under Article 44(2) and (3), are still satisfied. Except in the case of plant genetic resources within the meaning of Article 44, applications for renewal shall be submitted not later than two years before expiry of acceptance.

3. The period of validity of acceptance shall be extended provisionally until a decision is taken on the application for renewal.

In the case of varieties for which acceptance has been granted before 1 July 1972 or, with regard to Denmark, Ireland and the United Kingdom, before 1 January 1973, the period mentioned in the first subparagraph of paragraph 1 may be extended, in accordance with the procedure referred to in Article 46(2), until 30 June 1990 at the latest for individual varieties, where official measures organised on a Community basis have been taken before 1 July 1982 in order to ensure that the conditions for the renewal of their acceptance or for the acceptance of varieties derived from them are met.

With regard to Greece, Spain and Portugal, the expiry of the acceptance period for certain varieties for which acceptance has been granted in those Member States before 1 January 1986 may, at the request of those Member States, also be fixed for 30 June 1990, in accordance with the procedure referred to in Article 46(2), and the varieties concerned may be included in the official measures referred to in the second subparagraph.

#### Article 13

1. Member States shall ensure that any doubts which arise after the acceptance of a variety concerning the appraisal of its distinctness or of its name at the time of acceptance are removed.

2. Where, after acceptance of a variety, it is established that the condition concerning distinctness within the meaning of Article 5 was not fulfilled at the time of acceptance, acceptance shall be replaced by another decision or, where appropriate, a revocation, which conforms with this Directive.

By this other decision, the variety shall, with effect from the date of its initial acceptance, no longer be regarded as a variety known in the Community within the meaning of Article 5(1).

3. Where, after acceptance of a variety, it is established that its name within the meaning of Article 9 was not acceptable when the variety was accepted, the name shall be adapted in such a way that it conforms with this Directive. Member States may permit the previous name to be used temporarily as an additional name. The detailed arrangements in accordance with which the previous name may be used as an additional name may be laid down in accordance with the procedure referred to in Article 46(2).

4. In accordance with the procedure referred to in Article 46(2) rules may be established for the application of paragraphs 1, 2 and 3.

#### Article 14

1. Member States shall ensure that acceptance of a variety is revoked:

- (a) if it is proved, on examination, that the variety is no longer distinct, stable or sufficiently uniform;
- (b) if the person or persons responsible for the variety so request, unless maintenance of the variety is assured.

2. Member States may revoke the acceptance of a variety:

- (a) if the laws, regulations and administrative provisions adopted in pursuance of this Directive are not complied with;
- (b) if, at the time of the application for acceptance or during examination, false or fraudulent particulars were supplied concerning the facts on the basis of which acceptance was granted.

#### Article 15

1. Member States shall ensure that a variety is deleted from their catalogues if acceptance of the variety has been revoked or if the period of validity of the acceptance has expired.

2. Member States may, in respect of their own territory, allow a period for the certification, verification as standard seed and marketing of seed up to 30 June of the third year at the most after expiry of the acceptance.

In the case of varieties that were listed pursuant to Article 17(1) in the common catalogue of varieties referred to in Article 18 the period which expires last among those granted

by the various Member States of acceptance under the first subparagraph shall apply to marketing in all the Member States, provided that the seed of the variety concerned has not been subject to any marketing restriction as regards the variety.

3. In the case of varieties the acceptance of which has been renewed pursuant to Article 12(3), Member States may allow the names used before such renewal to be used until 30 June 1994.

#### Article 16

1. Member States shall ensure that, with effect from 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.

2. Member States may, upon application which shall be dealt with as provided for in Article 46(2) or in Article 46(3) in the case of genetically modified varieties, be authorised to prohibit the use of the variety in all or in part of its territory or to lay down appropriate conditions for cultivating the variety in accordance, in cases provided for in paragraph (b), with the conditions for using the products resulting from such cultivation:

- (a) where it is established that the cultivation of the variety could be harmful from the point of view of plant health to the cultivation of other varieties or species; or
- (b) where it has valid reasons other than those already mentioned or which may have been mentioned during the procedure referred to in Article 10(2) for considering that the variety presents a risk for human health or the environment.

#### Article 17

The Commission shall, on the basis of the information supplied by the Member States and as this is received, publish in the C Series of the *Official Journal of the European Communities* under the title 'Common Catalogue of Varieties of Agricultural Plant Species' a list of all varieties whose seed is subject under Article 16 to no marketing restrictions as regards variety, and also the information required under Article 9(1) concerning the person or persons responsible for maintenance of the variety. The published notice shall indicate the Member States which have received an authorisation under Article 16(2) or Article 18.

The published notice shall list those varieties for which a period has been applied in accordance with the second subparagraph of Article 15(2). This list shall indicate the length of the period and, where appropriate, the Member States to which the period does not apply.

The published notice shall clearly indicate those varieties which have been genetically modified.

*Article 18*

If it is established that the cultivation of a variety included in the common catalogue of varieties could in any Member State be harmful from the point of view of plant health to the cultivation of other varieties or species, or present a risk for the environment or for human health, that Member State may upon application, be authorised in accordance with the procedure referred to in Article 46(2) or in Article 46(3) in the case of a genetically modified variety to prohibit the marketing of the seed or propagating material of that variety in all or part of its territory. Where there is imminent danger of the spread of harmful organisms or imminent danger for human health or for the environment, that prohibition may be imposed by the Member State concerned as soon as its application has been lodged until such time as a final decision has been taken. That decision shall be taken within a period of three months in accordance with the procedure laid down in Article 46(2) or in Article 46(3) in the case of genetically modified variety.

*Article 19*

Where a variety ceases to be accepted in the Member State which initially accepted it, one or more other Member States may continue to accept that variety provided that the requirements for acceptance continue to be met in their territory. If the variety in question is one whose maintenance is required, this must remain assured.

*Article 20*

1. Member States shall provide that seed of industrial chicory may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.

2. Member States shall provide that seed of other vegetable species may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed', or is standard seed.

3. It may, however, under the procedure referred to in Article 46(2) be provided that after specified dates seed of certain vegetable species may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.

4. Member States shall ensure that official examinations of seeds are carried out in accordance with current international methods, in so far as such methods exist.

*Article 21*

Notwithstanding Article 20(1) and (2), Member States shall provide that:

- bred seed of generations prior to basic seed, and
- seed as grown, marketed for processing, provided that the identity of the seed is ensured,

may be placed on the market.

*Article 22*

Member States may, however, by way of derogation from the provisions of Article 20:

(a) authorise the official certification and marketing of basic seed which does not satisfy the conditions laid down in Annex II in respect of germination. In this case, all necessary measures shall be taken to ensure that the supplier guarantees a specific germination which he shall state for marketing purposes on a particular label bearing his name and address and the reference number of the seed lot;

(b) in order to make seed rapidly available, notwithstanding the fact that the official examination to control compliance with the conditions laid down in Annex II in respect of germination has not been concluded, authorise the official certification and marketing as far as the first buyer by way of trade of seed of the categories 'basic seed' or 'certified seed'. Certification shall be granted only on presentation of a provisional analytical report on the seed and provided that the name and address of the first consignee are given; all necessary measures shall be taken to ensure that the supplier guarantees the germination ascertained at the provisional analysis; this germination shall be stated for marketing purposes on a special label bearing the name and address of the supplier and reference number of the lot.

These provisions shall not apply to seed imported from third countries, save as otherwise provided in Article 36 in respect of multiplication outside the Community.

Member States making use of the derogation provided for in either subparagraph (a) or (b) shall assist each other administratively as regards inspection.

*Article 23*

1. Notwithstanding Article 20(1) and (2), Member States may:

(a) authorise producers on their own territory to place on the market small quantities of seed for scientific or selection purposes;

(b) authorise breeders and their representatives established in their territory to market, for a limited period, seed belonging to a variety for which an application for inclusion in a national catalogue has been submitted in at

least one Member State and for which specific technical information has been submitted.

2. The conditions under which Member States may grant the authorisations referred to in paragraph (b) above shall be determined in accordance with the procedure referred to in Article 46(2), particularly as regards the acquisition of data, the type of data, the storage and name of the variety and the labelling of packages.

3. Authorisations granted before 14 December 1998 by Member States to producers in their own territory for the purposes set out in paragraph 1 shall remain in force pending determination of the provisions referred to in paragraph 2. Thereafter, all such authorisations shall respect the provisions established in accordance with paragraph 2.

#### Article 24

Member States may, as regards the conditions laid down in Annexes I and II, impose additional or more stringent requirements for the certification of seed produced in their own territory.

#### Article 25

1. Member States shall require that for the examination of seed for certification and for post-control tests, samples are drawn officially in accordance with appropriate methods.

These provisions shall also apply where samples of standard seed are drawn officially for post-control tests.

2. For the examination of seed for certification and for post-control tests, samples shall be drawn from homogeneous lots; the maximum weight of a lot and the minimum weight of a sample are given in Annex III.

#### Article 26

1. Member States shall require that basic seed, certified seed and standard seed be marketed only in sufficiently homogeneous lots and in sealed packages bearing, as prescribed in Articles 27 and 28, a sealing device and markings.

2. Member States may, for the marketing of small quantities to the final consumer, provide for derogations from the provisions of paragraph 1 in respect of packaging, sealing and marking.

3. Notwithstanding paragraph 1, Member States may authorise their own producers to place on the market small packages of mixtures of standard seed of different varieties of the same species. The species, where this provision applies, the rules for the maximum size of the small packages and the requirements for labelling shall be established in accordance with the procedure referred to in Article 46(2).

#### Article 27

1. Member States shall require that packages of basic and certified seed, not made up in the form of EC small packages, be sealed officially or under official supervision in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on either the official label provided for in Article 28(1) or the package.

In order to ensure sealing, the sealing system shall comprise at least either the official label or the affixing of an official seal.

The measures provided for in the second subparagraph shall not be necessary where a non-reusable sealing system is used.

In accordance with the procedure referred to in Article 46(2) it may be established whether a particular sealing system complies with the provisions of this paragraph.

2. Packages which have been officially sealed shall not be resealed, whether one or more times, except officially or under official supervision. If packages are resealed, the fact of resealing, the most recent date of resealing and the authority responsible therefor shall be stated on the label required under Article 28(1).

3. Member States shall require that packages of standard seed and small packages of seeds of the category certified seed be sealed in such a manner that they cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label provided for in Article 28(3) or the package. Except in the case of small packages, they shall also bear a lead or an equivalent sealing device attached by the person responsible for attaching labels. In accordance with the procedure referred to in Article 46(2), it may be established whether a particular sealing system complies with the provisions of this paragraph. In the case of small packages of the category certified seed, packages shall not be sealed on one or more occasions except under official supervision.

4. Member States may provide for exceptions to paragraphs 1 and 2 in the case of small packages of basic seed closed on their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 46(2).

#### Article 28

1. Member States shall require that packages of basic seed and certified seed, except where seed of the latter category takes the form of small packages:

- (a) be labelled on the outside with an official label which has not previously been used, which satisfies the conditions laid down in Annex IV(A) and on which the information is given in one of the official languages of the Community. The label may be placed inside transparent packages

provided it can be read. The colour of the label shall be white for basic seed and blue for certified seed. When a label with a string-hole is used, its attachment shall be ensured in all cases with an official seal. If in cases under Article 22, the basic seed does not satisfy the conditions laid down in Annex II in respect of germination, this fact shall be stated on the label. The use of official adhesive labels shall be authorised. In accordance with the procedure referred to in Article 46(2) the indelible printing under official control of the prescribed information on the package according to the label's model may be authorised;

(b) contain an official document, in the same colour as the label, giving at least the information required under Annex IV(A)(a)(4) to (7). This document shall be drawn up in such a manner that it cannot be confused with the official label referred to under (a). This document is most necessary if the information is printed indelibly on the package or if, in accordance with the provisions under (a), the label is inside a transparent package or an adhesive label or a label of non-tear material is used.

2. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 46(2).

3. Packages of standard seed and small packages of seed of the category 'certified seed' shall, as required under Annex IV(B), bear a supplier's label or a printed or stamped notice in one of the official languages of the Community. The colour of the label shall be blue for certified seed and dark yellow for standard seed.

Save in the case of small packages of standard seed, the information prescribed or authorised under this provision shall be kept clearly separate from any other information given on the label or the package, including that provided for in Article 30.

After 30 June 1992 it may be decided, in accordance with the procedure referred to in Article 46(2), that small packages of standard seed of all species or of some species should be subjected to this requirement or that the information prescribed or authorised be distinct in some other way from any other information if the distinctive feature is expressly declared as such on the label or package.

4. In the case of varieties which are widely known on 1 July 1970, reference may also be made on the label to any maintenance of the variety which has been or will be declared

in accordance with the provisions of Article 41(2). It shall be prohibited to refer to any special properties which might be connected with such maintenance.

The date shall be:

— 1 January 1973 with regard to Denmark, Ireland and the United Kingdom,

— 1 March 1986 with regard to Spain.

This reference shall follow the varietal name, from which it shall be clearly separated, preferably by means of a dash. It shall not be given greater prominence than the varietal name.

#### Article 29

Member States shall take all measures necessary to ensure that in the case of small packages of certified seed the identity of the seed can be verified, in particular at the time when seed lots are divided up. To this end, they may require that small packages made up in their territory be sealed officially or under official supervision.

#### Article 30

1. In accordance with the procedure referred to in Article 46(2), it may be provided that in cases other than those already provided for in this Directive, packages of basic seed, certified seed of any kind or standard seed shall bear a supplier's label (which may either be a label separate from the official label or take the form of supplier's information printed on the package itself).

The particulars to be provided on any such label shall also be established in accordance with the procedure referred to in Article 46(2).

2. In the case of basic and certified seed the label or the printing referred to under paragraph 1 shall be drawn up in such a manner that it cannot be confused with the official label referred to in Article 28(1).

#### Article 31

In the case of seed of a variety which has been genetically modified, any label or document, official or otherwise, which is affixed to or accompanies the seed lot, under the provisions of this Directive, shall clearly indicate that the variety has been genetically modified.

#### Article 32

Member States shall require that any chemical treatment of basic seed, certified seed or standard seed be noted either on the official label or on the supplier's label and on the package

or inside it. For small packages, this information may be printed directly on the package or inside it.

#### Article 33

For the purpose of seeking improved alternatives to certain provisions set out in this Directive, it may be decided to organise temporary experiments under specified conditions at Community level in accordance with the provisions referred to in Article 46(2).

In the framework of such experiments, Member States may be released from certain obligations laid down in this Directive. The extent of that release shall be defined with reference to the provisions to which it applies. The duration of an experiment shall not exceed seven years.

#### Article 34

1. Member States shall ensure that seed which is placed on the market under the provisions of this Directive, whether mandatory or discretionary, is not subject to any marketing restrictions as regards its characteristics, examination requirements, marking and sealing other than those laid down in this or any other Community Directive.

2. Until such time as a decision has been taken under Article 20(3) any Member State may upon application, which will be dealt with under the procedure referred to in Article 46(2), be authorised to provide that after specified dates seed of certain species of vegetable may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.

#### Article 35

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 21, shall be as follows:

- (a) it must have been officially inspected by the competent certification authority in accordance with the provisions applicable to the certification of basic seed;
- (b) it must be packed in accordance with this Directive; and
- (c) the packages must bear an official label giving at least the following particulars:
  - certification authority and Member State or their distinguishing abbreviation,
  - lot reference number,
  - month and year of sealing, or
  - month and year of the last official sampling for the purposes of certification,

- species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in Roman characters,
- variety, indicated at least in Roman characters,
- the description 'pre-basic seed',
- number of generations preceding seed of the category 'certified seed'.

The label shall be white with a diagonal violet line.

#### Article 36

1. Member States shall provide that vegetable seed:

- which has been produced directly from basic seed or certified seed officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 37(1)(d), or which has been produced directly from the crossing of basic seed officially certified in a Member State with basic seed officially certified in such a third country, and
- which has been harvested in another Member State,

shall, on request and without prejudice to other provisions of this Directive, be officially certified seed in any Member State if that seed has undergone field inspection satisfying the conditions laid down in Annex I for the relevant category and if official examination has shown that the conditions laid down in Annex II for the same category are satisfied.

Where in such cases the seed has been produced directly from officially certified seed of generations prior to basic seed, Member States may also authorise official certification as basic seed, if the conditions laid down for that category are satisfied.

2. Vegetable seed which has been harvested in the Community and which is intended for certification in accordance with paragraph 1 shall:

- be packed and labelled with an official label satisfying the conditions laid down in Annex V(A) and (B), in accordance with Article 27(1), and
- be accompanied by an official document satisfying the conditions laid down in Annex V(C).

The provisions in the first indent on packaging and labelling may be waived if the authorities responsible for field inspections, those drawing up the documents for the certification of seeds which have not been definitively certified and those responsible for certification are the same, or if they agree on exemption.

3. Member States shall also provide that vegetable seed

— which has been produced directly from basic seed or certified seed officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 37(1)(d) or which has been produced directly from the crossing of basic seed officially certified in a Member State with basic seed officially certified in such a third country, and

— which has been harvested in a third country,

shall, on request, be officially certified as certified seed in any of those Member States where the basic seed was either produced or officially certified, if the seed has undergone field inspection satisfying the conditions laid down in an equivalence decision made under Article 37(1)(a) for the relevant category, and if official examination has shown that the conditions laid down in Annex II for the same category are satisfied. Other Member States may also authorise official certification of such seed.

*Article 37*

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether:

- (a) the official examinations of varieties carried out in the third country afford the same assurances as those provided for in Article 7 and carried out in the Member States;
- (b) the checks on practices for the maintenance of the varieties carried out in the third country afford the same assurances as those carried out by the Member States;
- (c) in the cases referred to in Article 36, the field inspections in the third country satisfy the conditions laid down in Annex I;
- (d) vegetable seed harvested in a third country and affording the same assurances as regards its characteristics and the arrangements for its examination, for ensuring identity, for marking and for control, is equivalent in these respects to basic seed, certified seed or standard seed harvested within the Community and complying with the provisions of this Directive.

2. Paragraph 1 shall also apply in respect of any new Member State from the date of its accession to the date on which it is to bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

*Article 38*

1. In order to remove any temporary difficulties in the general supply of basic certified or standard seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure referred to in Article

46(2) that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the Common Catalogue of Varieties of Vegetable Species or in the national catalogues of varieties of the Member States.

2. For a category of seed of any given variety, the official label or suppliers' label shall be that provided for the corresponding category; for seed of varieties not included in the abovementioned catalogues the colour of the label shall be brown. The label shall always state that the seed in question is of a category satisfying less stringent requirements.

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure referred to in Article 46(2).

*Article 39*

1. Member States shall ensure that official inspections are carried out in relation to the marketing of vegetable seed, at least by random checks, to verify compliance with the requirements and conditions of this Directive.

2. Without prejudice to the free movement of seed within the Community, Member States shall take all necessary measures to ensure that they are supplied with the following particulars during the marketing of quantities exceeding two kilograms of seed imported from third countries:

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure referred to in Article 46(2).

*Article 40*

Member States shall ensure that seed of the categories 'certified seed' and 'standard seed' is subject to official post-control in the field by inspection to compare their varietal identity and varietal purity against standard controls.

*Article 41*

1. Member States shall ensure that the persons responsible for affixing the labels for standard seed intended for marketing:
- (a) inform them of the dates when their activities begin and end;
  - (b) keep records of all lots of standard seed and make them available to the Member States for not less than three years;
  - (c) make available to Member States for not less than two years a control sample of seed of varieties for which maintenance is not required;
  - (d) draw samples from each lot intended for marketing and make them available to Member States for not less than two years.

The operations referred to in points (b) and (d) shall be subject to official checks carried out on a random basis. The obligation laid down in point (c) shall apply only to producers.

2. Member States shall ensure that any person intending in accordance with Article 28(4) to make reference to a given maintenance of a variety state this intention in advance.

*Article 42*

1. If it is repeatedly found, during post-control tests carried out in the field, that seed of any one variety does not adequately satisfy the conditions laid down in respect of varietal identity or varietal purity, Member States shall ensure that the person marketing it is wholly or partially forbidden to market such seed (where appropriate, for a specified period).
2. Any measures taken under paragraph 1 shall be withdrawn as soon as it has been established with adequate certainty that the seed intended for marketing will in future satisfy the conditions as to varietal identity and varietal purity.

*Article 43*

1. Community comparative tests shall be carried out within the Community for the post-control examination of samples of basic seed, with the exception to that of hybrid and synthetic varieties, and of certified or standard vegetable seed, taken during sampling. Satisfaction of the conditions with which the seed must comply may be checked during the post-control tests. The arrangements for holding the tests and their results shall be submitted to the Committee referred to in Article 46(1).

2. These comparative tests shall be used to harmonise the technical methods of certification and post-control examination so as to obtain results which are equivalent. As

soon as this aim is achieved, progress reports shall be made on the comparative tests and sent in confidence to the Member States and to the Commission. The Commission shall, in accordance with the procedure referred to in Article 46(2), set the date for the first report.

3. The Commission, acting in accordance with the procedure referred to in Article 46(2), shall make the necessary arrangements for the comparative tests to be carried out. Vegetable seed harvested in third countries may be included in the comparative tests.

*Article 44*

1. Specific conditions may be established in accordance with the procedure referred to in Article 46(2) to take account of developments in relation to the conditions under which chemically treated seed may be marketed.

2. Specific conditions shall be established in accordance with the procedure referred to in Article 46(2) to take account of developments in relation to the conservation in situ and the sustainable use of plant genetic resources through growing and marketing of seed of:

- (a) landraces and varieties which have been traditionally grown in particular localities and regions and threatened by genetic erosion without prejudice to the provisions of Council Regulation (EC) No 1467/94 of 20 June 1994 on the conservation, characterisation, collection and utilisation of genetic resources in agriculture <sup>(1)</sup>;
- (b) varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions.

3. The specific conditions referred to in paragraph 2 shall include in particular the following points:

- (a) in the case of paragraph 2, point (a), the landraces and varieties shall be accepted in accordance with the provisions of this Directive. In particular the results of unofficial tests and knowledge gained from practical experience during cultivation, reproduction and use and the detailed descriptions of the varieties and their relevant denominations, as notified to the Member State concerned, shall be taken into account and, if sufficient, shall result in exemption from the requirement of official examination. Upon acceptance of such a landrace or variety, it shall be indicated as a 'conservation variety' in the common catalogue;
- (b) in the case of paragraph 2, points (a) and (b), appropriate quantitative restrictions.

<sup>(1)</sup> OJ L 159, 28.6.1994, p. 1.

*Article 45*

Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure referred to in Article 46(2).

*Article 46*

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry set up by Article 1 of Council Decision 66/399/EEC <sup>(1)</sup>.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

4. The Committee shall adopt its rules of procedure.

*Article 47*

Save as otherwise provided in Article 18 and in Annexes I and II, this Directive shall be without prejudice to the provisions of national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial or commercial property.

*Article 48*

1. Specific conditions may be established in accordance with the procedure referred to in Article 46(2) to take account of developments in the areas of:

- (a) conditions under which chemically treated seed may be marketed;
- (b) conditions under which seed may be marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 2002/53/EC <sup>(2)</sup>, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;
- (c) conditions under which seed suitable for organic production may be marketed.

2. The specific conditions referred to in paragraph 1(b) shall include in particular the following points:

- (a) the seed of these species shall be of a known provenance approved by the appropriate authority in each Member State for marketing the seed in defined areas;
- (b) appropriate quantitative restrictions.

*Article 49*

Upon application by a Member State, which will be dealt with under the procedure referred to in Article 46(2), that State may be wholly or partially released from the obligation to apply this Directive, to certain species which are not normally reproduced or marketed in its territory, save where this would run counter to Articles 16(1) and 34(1).

*Article 50*

The Member States shall communicate to the Commission the text of the main provisions of domestic law they adopt in the field covered by this Directive.

The Commission shall inform the other Member States thereof.

*Article 51*

1. Directive 70/458/EEC, as amended by the Directives listed in Annex VI part A, is hereby repealed without prejudice to the obligations of the Member States concerning the deadlines for transposition of the said Directives set out in Annex VI part B.

2. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VII.

*Article 52*

This Directive shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Communities*.

*Article 53*

This Directive is addressed to the Member States.

Done at Luxembourg, 13 June 2002.

For the Council  
The President  
M. RAJOY BREY

<sup>(1)</sup> OJ 125, 11.7.1966, p. 2289/66.

<sup>(2)</sup> See page 1 of this Official Journal.

## ANNEX I

## CONDITIONS FOR CROP CERTIFICATION

1. The crop shall have sufficient varietal identity and varietal purity.
2. In the case of basic seed, at least one official field inspection shall be carried out. In the case of certified seed, at least one field inspection shall be carried out, officially controlled by means of check inspection of at least 20 % of the crop of each species.
3. The cultural condition of the field and the stage of development of the crop shall be such as to permit varietal identity and varietal purity and health status to be adequately checked.
4. The minimum distances from neighbouring plants which might result in undesirable foreign pollination shall be:
  - A. *Beta vulgaris*
    1. from any pollen sources of the genus *Beta* not included below. 1 000 metres;
    2. from pollen sources of varieties of the same subspecies belonging to a different group of varieties:
      - (a) for basic seed 1 000 metres;
      - (b) for certified seed 600 metres;
    3. from pollen sources of varieties of the same subspecies belonging to the same group of varieties:
      - (a) for basic seed 600 metres;
      - (b) for certified seed 300 metres.

The groups of varieties referred to in 2 and 3 shall be determined in accordance with the procedure laid down in article 46(2).
  - B. *Brassica species*
    1. from sources of foreign pollen liable to cause serious deterioration of varieties of *Brassica* species:
      - (a) for basic seed 1 000 metres;
      - (b) for certified seed 600 metres;
    2. from other sources of foreign pollen liable to cross with varieties of *Brassica* species:
      - (a) for basic seed 500 metres;
      - (b) for certified seed 300 metres.
  - C. *Industrial chicory*
    1. from other species of the same genera or subspecies 1 000 metres;
    2. from another variety of industrial chicory:
      - (a) for basic seed 600 metres;
      - (b) for certified seed 300 metres.
  - D. *Other species*
    1. from sources of foreign pollen liable to cause serious deterioration of varieties of other species as a result of cross-fertilisation:
      - (a) for basic seed 500 metres;
      - (b) for certified seed 300 metres;
    2. from other sources of foreign pollen liable to cross with varieties of other species as a result of cross-fertilisation:
      - (a) for basic seed 300 metres;
      - (b) for certified seed 100 metres.

These distances can be disregarded if there is sufficient protection from any undesirable foreign pollination.
5. Diseases and harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

## ANNEX II

## CONDITIONS TO BE SATISFIED BY THE SEED

1. The seeds shall have sufficient varietal identity and vavietal purity.
2. Diseases and harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.
3. The seeds shall also satisfy the following conditions:
  - (a) Standards

Species	Minimum analytical purity (% by weight)	Maximum content of seeds of other plant species (% by weight)	Minimum germination (% clusters or pure seed)
<i>Allium cepa</i>	97	0,5	70
<i>Allium porrum</i>	97	0,5	65
<i>Anthriscus cerefolium</i>	96	1	70
<i>Apium graveolens</i>	97	1	70
<i>Asparagus officinalis</i>	96	0,5	70
<i>Beta vulgaris</i> (Cheltenham beet)	97	0,5	50 (clusters)
<i>Beta vulgaris</i> (other than Cheltenham beet)	97	0,5	70 (clusters)
<i>Brassica oleracea</i> (cauliflower)	97	1	70
<i>Brassica oleracea</i> (other subspecies)	97	1	75
<i>Brassica pekinensis</i>	97	1	75
<i>Brassica rapa</i>	97	1	80
<i>Capsicum annuum</i>	97	0,5	65
<i>Cichorium intybus</i> (partim) (Witloof chicory, largeleaved chicory (Italian chicory))	95	1,5	65
<i>Cichorium intybus</i> (partim) (industrial chicory)	97	1	80
<i>Cichorium endivia</i>	95	1	65
<i>Citrullus lanatus</i>	98	0,1	75
<i>Cucumis melo</i>	98	0,1	75
<i>Cucumis sativus</i>	98	0,1	80
<i>Cucurbita maxima</i>	98	0,1	80
<i>Cucurbita pepo</i>	98	0,1	75
<i>Cynara cardunculus</i>	96	0,5	65
<i>Daucus carota</i>	95	1	65
<i>Foeniculum vulgare</i>	96	1	70
<i>Lactuca sativa</i>	95	0,5	75
<i>Lycopersicon lycopersicum</i>	97	0,5	75

Species	Minimum analytical purity (% by weight)	Maximum content of seeds of other plant species (% by weight)	Minimum germination (% clusters or pure seed)
<i>Petroselinum crispum</i>	97	1	65
<i>Phaseolus coccineus</i>	98	0,1	80
<i>Phaseolus vulgaris</i>	98	0,1	75
<i>Pisum sativum</i>	98	0,1	80
<i>Raphanus sativus</i>	97	1	70
<i>Scorzonera hispanica</i>	95	1	70
<i>Solanum melongena</i>	96	0,5	65
<i>Spinacia oleracea</i>	97	1	75
<i>Valerianella locusta</i>	95	1	65
<i>Vicia faba</i>	98	0,1	80

## (b) Additional requirements

(i) legume seed shall not be contaminated by the following live insects:

*Acanthoscelides obtectus* Sag.*Bruchus affinis* Froel.*Bruchus atomarius* L.*Bruchus pisorum* L.*Bruchus rufimanus* Boh.(ii) seed shall not be contaminated by live *Acarina*.

## ANNEX III

## WEIGHT REFERRED TO BY ARTICLE 25(2)

## 1. Maximum weight of a seed lot:

(a) seeds of <i>Phaseolus vulgaris</i> , <i>Pisum sativum</i> and <i>Vicia faba</i>	25 tonnes
(b) seed of a size not less than a grain of wheat, other than <i>Phaseolus vulgaris</i> , <i>Pisum sativum</i> and <i>Vicia faba</i>	20 tonnes
(c) seeds of a size smaller than a grain of wheat	10 tonnes

The maximum lot weight shall not be exceeded by more than 5 %.

## 2. Minimum weight of a sample

Species	Weight (in g)
<i>Allium cepa</i>	25
<i>Allium porrum</i>	20
<i>Anthriscus cerefolium</i>	20
<i>Apium graveolens</i>	5
<i>Asparagus officinalis</i>	100
<i>Beta vulgaris</i>	100
<i>Brassica oleracea</i>	25
<i>Brassica pekinensis</i>	20
<i>Brassica rapa</i>	20
<i>Capsicum annum</i>	40
<i>Cichorium intybus (partim)</i> (Witloof chicory large-leaved chicory (Italian chicory))	15
<i>Cichorium intybus (partim)</i> (industrial chicory)	50
<i>Cichorium endivia</i>	15
<i>Citrullus lanatus</i>	250
<i>Cucumis melo</i>	100
<i>Cucumis sativus</i>	25
<i>Cucurbita maxima</i>	250
<i>Cucurbita pepo</i>	150
<i>Cynara cardunculus</i>	50
<i>Daucus carota</i>	10
<i>Foeniculum vulgare</i>	25
<i>Lactuca sativa</i>	10
<i>Lycopersicon lycopersicum</i>	20
<i>Petroselinum crispum</i>	10
<i>Phaseolus coccineus</i>	1 000
<i>Phaseolus vulgaris</i>	700
<i>Pisum sativum</i>	500
<i>Raphanus sativus</i>	50
<i>Scorzonera hispanica</i>	30
<i>Solanum melongena</i>	20
<i>Spinacia oleracea</i>	75
<i>Valerianella locusta</i>	20
<i>Vicia faba</i>	1 000

In the case of F-1 hybrid varieties of the above species, the minimum weight of the sample may be decreased to a quarter of the specified weight. However the sample must have a weight of at least 5 g and consist of at least 400 seeds.

## ANNEX IV

## LABEL

**A. Official label (basic seed and certified seed, excluding small packages)***I. Required information*

1. 'EC rules and standards'.
2. Certification authority and Member State or their initials.
3. Month and year of sealing expressed thus: 'sealed ... (month and year)', or  
month and year of the last official sampling for the purposes of certification expressed thus: 'sampled ... (month and year)'.
4. Reference number of lot.
5. Species indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or its common name, or both.
6. Variety, indicated at least in roman characters.
7. Category.
8. Country of production.
9. Declared net or gross weight or declared number of seeds.
10. Where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of clusters or pure seeds and total weight.
11. In the case of varieties which are hybrids or inbred lines:
  - for basic seed where the hybrid or inbred line to which the seed belongs has been officially accepted under this Directive:  
  
the name of this component, under which it has been officially accepted, with or without reference to the final variety, accompanied, in the case of hybrids or inbred lines which are intended solely as components for final varieties, by the word 'component',
  - for basic seed in other cases:  
  
the name of the component to which the basic seed belongs, which may be given in code form, accompanied by a reference to the final variety, with or without reference to its function (male or female), and accompanied by the word 'component',
  - for certified seed:  
  
the name of the variety to which the seed belongs, accompanied by the word 'hybrid'.
12. Where at least germination has been re-tested, the words 'retested ...': (month and year) may be indicated.

*II. Minimum dimensions*

110 × 67 mm

**B. Supplier's label or inscription on the packages (standard seed and small packages of the category 'certified seed')***I. Required information*

1. 'EC rules and standards'.
2. Name and address of the person responsible for affixing the labels or his identification mark.

3. Marketing year of the sealing or of the last examination of germination. The end of the marketing year may be indicated.
  4. Species, indicated at least in roman characters.
  5. Variety, indicated at least in roman characters.
  6. Category: in the case of small packages, certified seed may be marked with the letter 'C' or 'Z' and standard seed with the letters 'ST'.
  7. Reference number given by the person responsible for affixing the labels — in the case of standard seed.
  8. Reference number enabling the certified lot to be identified — in the case of certified seed.
  9. Declared net or gross weight or declared number of seeds, except for small packages of up to 500 grams.
  10. Where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of clusters of pure seeds and the total weight.
- II. *Minimum dimensions of the label (excluding small packages)*
- 110 × 67 mm.
-

## ANNEX V

**LABEL AND DOCUMENT PROVIDED IN THE CASE OF SEED NOT FINALLY CERTIFIED, HARVESTED IN ANOTHER MEMBER STATE****A. Information required for the label**

- authority responsible for field inspection and Member State or their initials,
- species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authorities' names, or under its common name, or both,
- variety, indicated at least in roman characters,
- category,
- field or lot reference number,
- declared net or gross weight,
- the words 'seed not finally certified'.

**B. Colour of the label**

The label shall be grey.

**C. Information required for the document**

- authority issuing the document,
  - species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authorities' names, or under its common name, or both,
  - variety, indicated at least in roman characters,
  - category,
  - reference number of the seed used to sow the field and name of the country or countries which certified that seed,
  - field lot or reference number,
  - area cultivated for the production of the lot covered by the document,
  - quantity of seed harvested and number of packages,
  - attestation that the conditions to be satisfied by the crop from which the seed comes have been fulfilled,
  - where appropriate, results of a preliminary seed analysis.
-

## ANNEX VI

## PART A

**REPEALED DIRECTIVE AND ITS SUCCESSIVE AMENDMENTS**

(referred to by Article 51)

Directive 70/458/EEC (OJ L 225, 12.10.1970, p. 7)	
Council Directive 71/162/EEC (OJ L 87, 17.4.1971, p. 24)	only Article 6
Council Directive 72/274/EEC (OJ L 171, 29.7.1972, p. 37)	only concerning references made to the provisions of Directive 70/458/EEC in Articles 1 and 2
Council Directive 72/418/EEC (OJ L 287, 26.12.1972, p. 22)	only Article 6
Council Directive 73/438/EEC (OJ L 356, 27.12.1973, p. 79)	only Article 6
Council Directive 76/307/EEC (OJ L 72, 18.3.1976, p. 16)	only Article 2
Council Directive 78/55/EEC (OJ L 16, 20.1.1978, p. 23)	only Article 7
Council Directive 78/692/EEC (OJ L 236, 26.8.1978, p. 13)	only Article 7
Commission Directive 79/641/EEC (OJ L 183, 19.7.1979, p. 13)	only Article 4
Council Directive 79/692/EEC (OJ L 205, 13.8.1979, p. 1)	only Article 4
Council Directive 79/967/EEC (OJ L 293, 20.11.1979, p. 16)	only Article 3
Council Directive 80/1141/EEC (OJ L 341, 16.12.1980, p. 27)	only Article 2
Council Directive 86/155/EEC (OJ L 118, 7.5.1986, p. 23)	only Article 6
Commission Directive 87/120/EEC (OJ L 49, 18.2.1987, p. 39)	only Article 5
Commission Directive 87/481/EEC (OJ L 273, 26.9.1987, p. 45)	
Council Directive 88/332/EEC (OJ L 151, 17.6.1988, p. 82)	only Article 8
Council Directive 88/380/EEC (OJ L 187, 16.7.1988, p. 31)	only Article 7
Council Directive 90/654/EEC (OJ L 353, 17.12.1990, p. 48)	only concerning references made to the provisions of Directive 70/458/EEC in Article 2 and Annex II (I)(7)
Commission Directive 96/18/EC (OJ L 76, 26.3.1996, p. 21)	only Article 3
Commission Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10)	only Article 1(6)
Council Directive 98/95/EC (OJ L 25, 1.2.1999, p. 1)	only Article 7
Council Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27)	only Article 7

## PART B

## DEADLINES FOR TRANSPOSITION INTO NATIONAL LAW

(referred to by Article 51)

Directive	Deadline for transposition
70/458/EEC	1 July 1972 <sup>(1)</sup> <sup>(2)</sup>
71/162/EEC	1 July 1972
72/274/EEC	1 July 1972 (Article 1) 1 January 1973 (Article 2)
72/418/EEC	1 January 1973 (Article 6(13) and 6(18)) 1 July 1972 (other provisions)
73/438/EEC	1 January 1974 (Article 6(4)) 1 July 1974 (other provisions)
76/307/EEC	1 July 1975
78/55/EEC	1 July 1977 (Article 7(5)) 1 July 1979 (other provisions)
78/692/EEC	1 July 1977 (Article 7) 1 July 1979 (other provisions)
79/641/EEC	1 July 1980
79/692/EEC	1 July 1977
79/967/EEC	1 July 1982
80/1141/EEC	1 July 1980
86/155/EEC	1 March 1986 (Article 6(3) and 6(8)) 1 July 1987 (other provisions)
87/120/EEC	1 July 1988
87/481/EEC	1 July 1989
88/332/EEC	
88/380/EEC	1 July 1982 (Article 7(9)) 1 January 1986 (Article 7(6) and 7(10)) 1 July 1992 (Article 7(18)) 1 July 1990 (other provisions)
90/654/EEC	
96/18/EC	1 July 1996
96/72/EC	1 July 1997 <sup>(3)</sup>
98/95/EC	1 February 2000 (Corrigendum OJ L 126, 20.5.1999, p. 23)
98/96/EC	1 February 2000

<sup>(1)</sup> For Denmark, Ireland and the United Kingdom, 1 July 1973; for Greece, 1 January 1986; for Spain, 1 March 1986; and for Portugal, 1 January 1991.

<sup>(2)</sup> 1 January 1995 for Austria, Finland and Sweden.  
However:

- Finland and Sweden may postpone until 31 December 1995 at the latest, the application in their territories of this Directive with regard to the marketing in their territories of seeds of varieties listed in their respective national catalogues of varieties of agricultural plant species and varieties of vegetable plant species which have not been officially accepted in accordance with the provisions of this Directive. Seeds of such varieties shall not be allowed to be marketed in the territory of the other Member States during this period,
- varieties of agricultural and vegetable plant species which, at the date of accession or subsequently, are listed in both the respective national catalogues of Finland and Sweden and in the common catalogues, shall not be subject to any marketing restrictions as regards variety,
- throughout the period mentioned in the first indent, those varieties in the respective national catalogues of Finland and Sweden which have been officially accepted in accordance with the provisions of the abovementioned Directive shall be included in the common catalogues of varieties of agricultural or vegetable plant species, respectively.

<sup>(3)</sup> Remaining stocks of labels bearing the abbreviation 'EEC' may continue to be used until 31 December 2001.

## ANNEX VII

## CORRELATION TABLE

Directive 70/458/EEC	This Directive
Article 1	Article 1, first subparagraph
Article 34	Article 1, second subparagraph
Article 1(a)	Article 2(1)(a)
Article 2(1)(a)	Article 2(1)(b)
Article 2(1)(B)(a)	Article 2(1)(c)(i)
Article 2(1)(B)(b)	Article 2(1)(c)(ii)
Article 2(1)(B)(c)	Article 2(1)(c)(iii)
Article 2(1)(B)(d)	Article 2(1)(c)(iv)
Article 2(1)(C)(a)	Article 2(1)(d)(i)
Article 2(1)(C)(b)	Article 2(1)(d)(ii)
Article 2(1)(C)(c)	Article 2(1)(d)(iii)
Article 2(1)(C)(d)	Article 2(1)(d)(iv)
Article 2(1)(C)(e)	Article 2(1)(d)(v)
Article 2(1)(D)(a)	Article 2(1)(e)(i)
Article 2(1)(D)(b)	Article 2(1)(e)(ii)
Article 2(1)(D)(c)	Article 2(1)(e)(iii)
Article 2(1)(D)(d)	Article 2(1)(e)(iv)
Article 2(1)(E)(a)	Article 2(1)(f)(i)
Article 2(1)(E)(b)	Article 2(1)(f)(ii)
Article 2(1)(E)(c)	Article 2(1)(f)(iii)
Article 2(1)(F)(a)	Article 2(1)(g)(i)
Article 2(1)(F)(b)	Article 2(1)(g)(ii)
Article 2(1)(F)(c)	Article 2(1)(g)(iii)
Article 2(1)a	Article 2(2)
Article 2(1)(b)	Article 2(3)
Article 3 to 8	Article 3 to 8
Article 9	—
Article 10	Article 9
Article 11	Article 10
Article 12	Article 11
Article 13	Article 12
Article 13a	Article 13
Article 14	Article 14
Article 15(1)	Article 15(1)
Article 15(2)	Article 15(2)
Article 15(3)	—
Article 16(1)	Article 16(1)
Article 16(2)	Article 16(2)
Article 16(3) to (5)	—
Article 17 to 19	Article 17 to 19
Article 20(1)	Article 20(1)
Article 20(1)(a)	Article 20(2)
Article 20(2)	Article 20(3)
Article 20(3)	Article 20(4)

Directive 70/458/EEC	This Directive
Article 20(5)	—
Article 20a	Article 21
Article 21	Article 22
Article 21a	Article 23
Article 22	Article 24
Article 23	Article 25
Article 24	Article 26
Article 25	Article 27
Article 26(1)	Article 28(1)
Article 26(1)(a)	Article 28(2)
Article 26(1)(b)	Article 28(3)
Article 26(2), subparagraph (1) to (3)	Article 28(4), subparagraph (1) to (3)
Article 26(2) to (4)	—
Article 27	Article 29
Article 28	Article 30
Article 28a	Article 31
Article 29	Article 32
Article 29a	Article 33
Article 30	Article 34
Article 30a	Article 35
Article 31	Article 36
Article 32(1)	Article 37(1)
Article 32(3)	Article 37(2)
Article 33	Article 38
Article 35	Article 39
Article 36	Article 40
Article 37	Article 41
Article 38	Article 42
Article 39	Article 43
Article 39a(1) and (2)	Article 44(1) and (2)
Article 39a(3)(i)	Article 44(3)(a)
Article 39a(3)(ii)	Article 44(3)(b)
Article 40b	Article 45
Article 40	Article 46(1), (2) and (4)
Article 40a	Article 46(1), (3) and (4)
Article 41	Article 47
Article 41a(1)	Article 48(1)
Article 41a(2)(i)	Article 48(2)(a)
Article 41a(2)(ii)	Article 48(2)(b)
Article 42	Article 49
—	Article 50 (1)
—	Article 51
—	Article 52
—	Article 53

Directive 70/458/EEC	This Directive
ANNEX I(1)	ANNEX I(1)
ANNEX I(2)	ANNEX I(2)
ANNEX I(3)	ANNEX I(3)
ANNEX I(4)(A)	ANNEX I(4)(A)
ANNEX I(4)(A)(a)	ANNEX I(4)(B)
ANNEX I(4)(A)(b)	ANNEX I(4)(C)
ANNEX I(4)(B)	ANNEX I(4)(D)
ANNEX I(5)	ANNEX I(5)
ANNEX II	ANNEX II
ANNEX III	ANNEX III
ANNEX IV(A)(a)(1)	ANNEX IV(A)(a)(1)
ANNEX IV(A)(a)(2)	ANNEX IV(A)(a)(2)
ANNEX IV(A)(a)(3)	ANNEX IV(A)(a)(3)
ANNEX IV(A)(a)(4)	ANNEX IV(A)(a)(4)
ANNEX IV(A)(a)(5)	ANNEX IV(A)(a)(5)
ANNEX IV(A)(a)(6)	ANNEX IV(A)(a)(6)
ANNEX IV(A)(a)(7)	ANNEX IV(A)(a)(7)
ANNEX IV(A)(a)(8)	ANNEX IV(A)(a)(8)
ANNEX IV(A)(a)(9)	ANNEX IV(A)(a)(9)
ANNEX IV(A)(a)(10)	ANNEX IV(A)(a)(10)
ANNEX IV(A)(a)(10)(a)	ANNEX IV(A)(a)(11)
ANNEX IV(A)(a)(11)	ANNEX IV(A)(a)(12)
ANNEX IV(A)(b)	ANNEX IV(A)(b)
ANNEX IV(B)	ANNEX IV(B)
ANNEX V	ANNEX V
—	ANNEX VI
—	ANNEX VII

<sup>(1)</sup> 98/95/EC, Article 9(2) and 98/96/EC, Article 8(2).

**COUNCIL DIRECTIVE 2002/56/EC****of 13 June 2002****on the marketing of seed potatoes**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Having consulted the Economic and Social Committee,

Whereas:

- (1) Council Directive 66/403/EEC of 14 June 1966 on the marketing of seed potatoes <sup>(2)</sup> has been frequently and substantially amended <sup>(3)</sup>. For reasons of clarity and rationality the said Directive should be codified.
- (2) Potato production occupies an important place in the agriculture of the Community.
- (3) Satisfactory results in potato cultivation depend to a large extent on the use of appropriate seed potatoes.
- (4) Greater productivity will be achieved in Community potato cultivation if for the choice of the varieties permitted to be marketed the Member States apply uniform rules which are as strict as possible, in particular as regards health status. A common catalogue of varieties of agricultural plant species is therefore provided for in Council Directive 2002/53/EC <sup>(4)</sup>.
- (5) It is desirable to establish a uniform certification scheme for the Community based on the experience gained in the application of schemes in the Member States and that of the Economic Commission for Europe. In the context of the consolidation of the Internal Market, the Community scheme should cover the production of seed with a view to marketing and to marketing within the Community, and should offer no possibilities for the Member States to derogate unilaterally in a way that would hinder the free movement of plants within the Community.
- (6) As a general rule, seed potatoes should be allowed to be marketed only if they have been officially examined and certified, in accordance with the rules for certification, as basic seed potatoes or certified seed potatoes. The choice of the technical terms 'basic seed potatoes' and 'certified seed potatoes' is based on already existing international terminology. It should be possible, under specified conditions, to place on the market bred seed potato of generations prior to basic seed potato and seed potato as grown.
- (7) Member States may subdivide the categories of seed potatoes into grades satisfying different requirements. It seems appropriate to provide that Community grades and their requirements may be established in an accelerated procedure. In this respect it should be left to Member States to decide the extent to which they apply these grades to their own production.
- (8) In the light of modern advances in propagation techniques, it is appropriate to lay down a Community procedure for the establishment of specific rules applicable to the marketing of seed potatoes produced by techniques involving micropropagation.
- (9) Community rules should not apply to seed potatoes shown to be intended for export to third countries.
- (10) In order to improve not only the genetic value and health status of Community seed potatoes but also their external characteristics, provision should be made for tolerances in respect of impurities, blemishes and diseases in seed potatoes.
- (11) Member States may be authorised, in respect of the marketing of seed potatoes in all or part of their territories, to take more stringent measures than provided for in Annex I against particular virus diseases which do not exist in those regions or which appear particularly harmful to crops in those regions. It has appeared that the scope of this provision should be extended to harmful organisms other than virus diseases.
- (12) In order to ensure the identity of the seed potatoes, Community rules on packaging, sealing and marking must be established. To this end the labels should give the particulars needed both for official verification and

<sup>(1)</sup> Opinion delivered on 9 April 2002 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 125, 11.7.1966, p. 2320/66; as last amended by Commission Decision 1999/742/EC (OJ L 297, 18.11.1999, p. 39).

<sup>(3)</sup> See Annex VI, part A.

<sup>(4)</sup> See page 1 of this Official Journal.

- for the information of the user and should clearly show the Community nature of the certification.
- (13) Rules should be introduced on the marketing of chemically treated seed potatoes, seed potatoes suitable for organic growing and on the conservation of genetic resources of plants in the interest of conservation by use *in situ* of varieties threatened with genetic erosion.
- (14) Derogations should be permitted under certain conditions, without prejudice to the provisions of Article 14 of the Treaty. Member States making use of the derogations should assist each other administratively as regards inspection.
- (15) In order to ensure that both the requirements as to the quality of the seed potatoes and the provisions for ensuring their identity are complied with during marketing, Member States must make provision for appropriate control arrangements.
- (16) Seed potatoes satisfying these requirements should, without prejudice to Article 30 of the Treaty, be subject to no marketing restrictions other than those provided for in Community rules, except in those cases where Community rules provide for tolerances in respect of diseases, harmful organisms or their vectors.
- (17) Provision should be made for authorising the marketing within the Community of seed potatoes harvested in third countries only if they afford the same assurances as seed potatoes officially certified within the Community and complying with Community rules.
- (18) During periods in which there are difficulties in obtaining supplies of certified seed potatoes of the various categories, seed potatoes satisfying less stringent requirements should temporarily be permitted to be marketed, as well as seed potatoes belonging to varieties not included in the Common Catalogue of varieties nor in the National Catalogue of Varieties.
- (19) In order to ensure that seed potatoes certified in the Member States satisfy the requirements laid down and to enable comparisons to be made in the future between such seed potatoes and those coming from third countries, Community comparative tests should be established in Member States to permit annual post-control of the various categories of certified seed potatoes. The Member States should be authorised to prohibit the marketing of all or certain varieties of seed potatoes coming from other Member States if the comparative tests have given unsatisfactory results over a period of several years.
- (20) It is desirable to organise temporary experiments for the purpose of seeking improved alternatives to certain provisions set out in this Directive.
- (21) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (22) This Directive should not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex IV, part B,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

This Directive shall apply to the production with a view to marketing, and to the marketing, of seed potatoes within the Community.

It shall not apply to seed potatoes shown to be intended for export to third countries.

*Article 2*

For the purposes of this Directive:

- (a) 'marketing': means the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed potatoes to third parties, whether or not for consideration.

Trade in seed potatoes not aimed at commercial exploitation of the variety, such as the following operations, shall not be regarded as marketing:

- the supply of seed potatoes to official testing and inspection bodies,
- the supply of seed potatoes to providers of services for processing or packaging,

provided the provider of services does not acquire title to seed potatoes thus supplied.

The supply of seed potatoes under certain conditions to providers of services for the production of certain agricultural raw materials intended for industrial purposes, or seed propagation for that purpose, shall not be regarded as marketing, provided the provider of services does not acquire title to either the seed thus supplied or the product of the harvest. The supplier of seed potatoes shall provide the certification authority with a copy of the relevant parts

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

of the contract made with the provider of services and this shall include the standards and conditions currently met by the seed potatoes provided.

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in article 25(2);

- (b) 'basic seed potatoes': means potato tubers
- (i) which have been produced according to accepted practices for the maintenance of the variety and of health;
  - (ii) which are intended mainly for the production of certified seed potatoes;
  - (iii) which satisfy the minimum conditions laid down in Annexes I and II for basic seed potatoes; and
  - (iv) which have been found by official examination to satisfy the minimum conditions laid down above;
- (c) 'certified seed potatoes': means potato tubers
- (i) which have been produced directly from basic seed or certified seed, or from seed of a generation prior to basic seed which have been found on official examination to satisfy the conditions laid down for basic seed;
  - (ii) which are intended mainly for the production of potatoes other than seed potatoes;
  - (iii) which satisfy the minimum conditions laid down in Annexes I and II for certified seed potatoes; and
  - (iv) which have been found by official examination to satisfy the abovementioned minimum conditions;
- (d) 'official measures': means measures taken
- (i) by State authorities; or
  - (ii) by any legal person whether governed by public or by private law, acting under the responsibility of the State; or
  - (iii) in the case of ancillary activities which are also subject to State control, by any natural person duly sworn for that purpose,
- provided that the persons mentioned under (ii) and (iii) derive no private gain from such measures.

#### Article 3

1. Member States shall provide that seed potatoes may not be placed on the market unless they have been officially certified as 'basic seed potatoes' or 'certified seed potatoes' and unless they satisfy the minimum conditions laid down in Annexes I and II. The Member States shall provide that seed

potatoes which do not, during marketing, satisfy the minimum conditions laid down in Annex II may be sorted. The tubers which are not rejected shall then undergo a further official examination.

2. Member States may subdivide the categories of seed potatoes provided for in Article 2 into grades satisfying different requirements.

3. For seed potatoes which have been officially certified, the following may be determined in accordance with the procedure referred to in Article 25(2):

- Community grades,
- the conditions applicable to such grades,
- designations applicable to such grades.

Member States may prescribe the extent to which they apply these Community grades in certifying their own production.

4. For seed potatoes produced by micropropagation techniques and not meeting the size requirements of this Directive, the following may be determined in accordance with the procedure referred to in Article 25(2):

- derogation from specific provisions of this Directive,
- the conditions applicable to such seed potatoes,
- the designations applicable to such seed potatoes.

#### Article 4

Notwithstanding Article 3(1), Member States shall provide that bred seed potatoes of generations prior to basic seed potatoes may be placed on the market.

#### Article 5

Member States may, as regards the minimum conditions laid down in Annexes I and II, impose additional or more stringent requirements for the certification of seed potatoes produced in their own territory.

#### Article 6

1. Notwithstanding Article 3(1), Member States may authorise producers in their own territory to place on the market:

- (a) small quantities of seed potatoes for scientific purposes or selection work;

(b) appropriate quantities of seed potatoes for other test or trial purposes, provided they belong to varieties for which an application for entry in the catalogue has been submitted in the Member State in question.

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 2002/53/EC shall apply accordingly.

2. The purposes for which the authorisations referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation shall be determined in accordance with the procedure referred to in Article 25(2).

3. Authorisation granted, before 14 December 1998, by Member States to producers in their own territory for the purposes set out in paragraph 1 shall remain in force pending determination of the provisions referred to in paragraph 2. Thereafter, all such authorisations shall respect the provisions established in accordance with paragraph 2.

#### Article 7

Member States shall require that, for the examination of seed potato tubers for certification, samples are taken officially in accordance with appropriate methods.

#### Article 8

1. Member States may require that seed potatoes produced in their own territory may be separated during production from other potatoes for plant health reasons.

2. The requirements provided for in paragraph 1 may include measures to:

- separate the production of seed and other potatoes,
- separate the grading, storage, transportation and handling of seed and other potatoes.

#### Article 9

Member States shall provide that seed potatoes may not be placed on the market if they have been treated with sprout inhibitors.

#### Article 10

1. Member States shall provide that seed potatoes may not be placed on the market unless they have a minimum size

such that they do not pass through a square mesh of 25 × 25 mm. 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.

The maximum variation in size between tubers in a lot shall be such that the difference between the dimensions of the two square meshes used does not exceed 25 mm. These sizing standards may be modified in accordance with the procedure referred to in Article 25(2).

2. A lot shall not contain more than 3 % by weight of tubers smaller than the minimum size indicated or more than 3 % by weight of tubers larger than the maximum size indicated.

3. Member States may, in respect of seed potatoes produced in their national territory, further reduce the permitted variation in size between tubers in a lot.

#### Article 11

1. Member States shall require that basic seed potatoes and certified seed potatoes be marketed only in sufficiently homogeneous lots and in closed packages or containers which must be sealed and bear, as prescribed in Articles 12 and 13, a sealing device and markings. The packages must be new; the containers must be clean.

2. Member States may, for the marketing of small quantities to the final consumer, provide for derogations from the provisions of paragraph 1 in respect of packaging, sealing and marking.

#### Article 12

1. Member States shall require that packages and containers of basic seed potatoes and certified potatoes be sealed officially or under official supervision in such a manner that they cannot be opened without damaging the system of sealing or leaving evidence of tampering on either the official label provided for in Article 13(1) or the package.

In order to ensure closure, the sealing system shall comprise at least either the official label or the affixing of an official seal.

The measures provided for in the second subparagraph above shall not be necessary where a non-reusable sealing system is used.

In accordance with the procedure referred to in Article 25(2) it may be established whether a particular sealing system complies with the provisions of this paragraph.

2. Packages and containers which have been officially sealed shall not be resealed, whether one or more times, except officially or under official supervision. If packages are resealed, the fact of resealing, the most recent date of resealing and the authority responsible therefor shall be stated on the label required under Article 13(1).

3. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 25(2).

#### Article 13

1. Member States shall require that packages and containers of basic seed potatoes and certified seed potatoes:

- (a) be labelled on the outside with an official label which has not previously been used, which fulfils the conditions laid down in Annex III and the particulars of which are provided in one of the official languages of the Community. The colour of the label shall be white for basic seed potatoes and blue for certified seed potatoes. When a label with a string-hole is used, its attachment shall be ensured in all cases with an official seal. The use of official adhesive labels shall be authorised. In accordance with the procedure referred to in Article 25(2), the indelible printing of the prescribed particulars on the package in accordance with the label model may be authorised under official supervision;
- (b) contain an official document, in the same colour as the label, providing at least the label particulars required under Annex III(A)(3), (4) and (6). This document shall be drawn up in such a manner that it cannot be confused with the official label referred to under (a).

This document shall not be necessary if the particulars are printed indelibly on the package or if, in accordance with the provisions under (a), an adhesive label or a label of tear resistant material is used.

2. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 25(2).

#### Article 14

In accordance with the procedure referred to in Article 25(2), it may be provided that, in cases other than those provided for in this Directive, packages or containers of basic seed potatoes or certified seed potatoes shall bear a supplier's label (which may either be a label separate from the official label or take the form of the suppliers' information printed on the package or container itself). The particulars to be provided on any such label shall also be established in accordance with the procedure referred to in Article 25(2).

#### Article 15

In the case of seed potatoes of a variety which has been genetically modified, any label or document, official or otherwise, which is affixed to or accompanies the seed lot, under the provisions of this Directive, shall clearly indicate that the variety has been genetically modified.

#### Article 16

Member States shall require that any chemical treatment of basic seed potatoes or certified seed potatoes be noted either on the official label or on the supplier's label and on the package or inside it or on the container.

#### Article 17

1. Member States shall ensure that seed potatoes which are placed on the market under the provisions of this Directive, whether mandatory or discretionary, are not subject to any marketing restrictions as regards their characteristics, examination requirements, marking and sealing other than those laid down in this or any other Directive.

2. The Commission, acting in accordance with the procedure referred to in Article 25(2), shall, in respect of the marketing of seed potatoes in all or part of the territory of one or more Member States, authorise more stringent measures than those provided for in Annexes I and II to be taken against harmful organisms which do not exist in those regions or which appear particularly harmful to crops in those regions. Where there is imminent danger of the introduction or spread of such harmful organisms, and until such time as the Commission has given a final ruling on the matter, such measures may be taken by the Member State concerned as soon as its request has been submitted.

#### Article 18

The conditions under which bred seed potatoes of generations prior to basic seed potatoes may be placed on the market under Article 4, shall be as follows:

- (a) they must have been produced in accordance with accepted practices for the maintenance of the variety and of health;
- (b) they must be intended mainly for the production of basic seed potatoes;
- (c) they must satisfy the minimum conditions to be established by the procedure referred to in Article 25(2) for pre-basic seed potatoes;
- (d) they must have been found by official examination to satisfy the minimum conditions referred to in (c);

- (e) they must be placed in packages or containers in accordance with this Directive; and
- (f) the packages or containers must bear an official label giving at least the following particulars:
- certification authority and Member State or their distinguishing abbreviation,
  - producer's identification number or lot reference number,
  - month and year of sealing,
  - species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or under its common name, or both,
  - variety, indicated at least in roman characters,
  - the description 'pre-basic seed potatoes'.

The label shall be white with a diagonal violet line.

#### Article 19

For the purpose of seeking improved alternatives to certain provisions set out in this Directive, other than those relating to plant health, it may be decided to organise temporary experiments under specified conditions at Community level in accordance with the provisions referred to in Article 25(2).

In the framework of such experiments, Member States may be released from certain obligations laid down in this Directive. The extent of that release shall be defined with reference to the provisions to which it applies. The duration of an experiment shall not exceed seven years.

#### Article 20

1. In accordance with the procedure referred to in Article 25(2), the Commission may prohibit, in whole or in part, the marketing of seed potatoes harvested in a particular area of the Community if the progeny of officially drawn samples of basic seed potatoes or certified seed potatoes harvested in that particular area and grown in one or more Community test fields has for three successive years fallen appreciably below the minimum conditions laid down in Annex I(1)(c), (2)(c), (3) and (4). Satisfaction of the other minimum conditions laid down in Annex I may also be checked during the comparative tests.

2. Any measures taken under paragraph 1 shall be withdrawn by the Commission as soon as it has been established with adequate certainty that the basic seed potatoes

and certified seed potatoes harvested in the particular area of the Community concerned will in future satisfy the minimum conditions referred to in paragraph 1.

3. The necessary arrangements shall be made, in accordance with the procedure referred to in Article 25(2), for the comparative tests to be carried out. Seed potatoes harvested in third countries may be included in the comparative tests.

#### Article 21

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether seed potatoes harvested in a third country and affording the same assurances as regards their characteristics and the arrangements for their inspection, for ensuring identity, for marking and for control are equivalent in these respects to basic seed potatoes or certified seed potatoes harvested within the Community and complying with the provisions of this Directive.

2. Until such time as the Council has taken a decision under paragraph 1, the Member States shall be free to take such decisions themselves. This right shall expire on 1 July 1975.

3. Member States are hereby authorised to extend until 31 March 2002 the validity of decisions taken in accordance with paragraph 2, it being understood that these decisions may be used only in accordance with Member States' obligations under the common rules on plant health laid down by Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread in the Community <sup>(1)</sup>.

The period in the first subparagraph may be extended for third countries, in accordance with the procedure laid down in Article 25(2), if the available information does not permit a determination according to paragraph 1 and for as long as such information does not permit such a determination.

4. Paragraphs 1 and 2 shall also apply in respect of any new Member State from the date of its accession to the date on which it is to bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

#### Article 22

1. In order to remove any temporary difficulties in the general supply of basic seed potatoes or certified seed potatoes that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure referred to in Article 25(2) that Member States shall permit, for a specified period, the marketing throughout the

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2002/28/EC (OJ L 77, 20.3.2002, p. 23).

Community in quantities necessary to resolve the supply difficulties 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 the national catalogues of varieties of the Member States.

2. For a category of seed potatoes of any given variety, the official label shall be that provided for the corresponding category; for seed potatoes of varieties not included in the abovementioned catalogues the colour of the official label shall be brown. The label shall always state that the seed potatoes in question are of a category satisfying less stringent requirements.

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure referred to in Article 25(2).

#### Article 23

1. Member States shall ensure that official inspections are carried out in relation to the marketing of seed potatoes, at least by random checks, to verify compliance with the requirements and conditions of this Directive.

2. Without prejudice to the free movement of seed potatoes within the Community, Member States shall take all necessary measures to ensure that they are supplied with the following particulars during the marketing of quantities exceeding two kilograms of seed potatoes imported from third countries:

- (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 25(2).

#### Article 24

Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure referred to in Article 25(2).

#### Article 25

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, set up by Article 1 of Council Decision 66/399/EEC <sup>(1)</sup>.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

#### Article 26

Save as otherwise provided in Annexes I and II in respect of tolerances for diseases, harmful organisms or their vectors, this Directive shall be without prejudice to the provisions of national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial and commercial property.

#### Article 27

1. Specific conditions may be established in accordance with the procedure referred to in Article 25(2) to take account of developments in the areas of:

- (a) conditions under which chemically treated seed may be marketed;
- (b) conditions under which seed may be marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources, which are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;
- (c) conditions under which seed suitable for organic production may be marketed.

2. The specific conditions referred to in paragraph 1(b) shall include in particular the following points:

- (a) the seed of these species shall be of a known provenance approved by the appropriate authority in each Member State for marketing the seed in defined areas;
- (b) appropriate quantitative restrictions.

<sup>(1)</sup> OJ 125, 11.7.1966, p. 2289/66.

*Article 28*

Member States shall communicate to the Commission the text of the main provisions of domestic law they adopt in the field covered by this Directive.

The Commission shall inform the other Member States thereof.

*Article 29*

Directive 66/403/EEC, as amended by the acts set out in Annex IV, part A, is repealed, without prejudice to the obligations of the Member States concerning the deadline for transposition of the said Acts set out in Annex IV, part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

*Article 30*

This Directive shall enter into force the twentieth day following that of its publication in the *Official Journal of the European Communities*.

*Article 31*

This Directive is addressed to the Member States.

Done at Luxembourg, 13 June 2002.

*For the Council*

*The President*

M. RAJOY BREY

## ANNEX I

**MINIMUM CONDITIONS TO BE SATISFIED BY SEED POTATOES**

1. Basic seed potatoes shall satisfy the following conditions:
  - (a) on official inspection of the growing plants the number affected by blackleg must not exceed 2 %;
  - (b) in the direct progeny the number of plants not breeding true to the variety must not exceed 0,25 % and the number of plants of a different variety must not exceed 0,1 %;
  - (c) in the direct progeny the number of plants showing symptoms of mild or severe virus infection must not exceed 4 %.
2. Certified seed potatoes shall satisfy the following conditions:
  - (a) on official inspection of the growing plants the number affected by blackleg must not exceed 4 %;
  - (b) in the direct progeny the number of plants not breeding true to the variety must not exceed 0,5 % and the number of plants of a different variety must not exceed 0,2 %;
  - (c) in the direct progeny the number of plants showing symptoms of severe virus infection must not exceed 10 %. Light mosaics merely causing discoloration and not leaf deformation shall be ignored.
3. In assessing the progeny of a variety affected by a chronic virus disease, slight symptoms caused by the virus in question shall not be taken into account.
4. The tolerances allowed under Items 1(c), 2(c) and 3 are applicable only where the virus diseases are caused by viruses that are prevalent in Europe.
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. et Kotth.) Skapt. and Burkh.

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## ANNEX II

**MINIMUM QUALITY CONDITIONS FOR LOTS OF SEED POTATOES**

- A. Tolerances for the following impurities, blemishes and diseases allowed for seed potatoes:
- |   |               |
|---|---------------|
| 1. presence of earth and extraneous matter;   | 2 % by weight |
| 2. dry and wet rot, except if caused by <i>Synchytrium endobioticum</i> , <i>Corynebacterium sepedonicum</i> or <i>Pseudomonas solanacearum</i> ; | 1 % by weight |
| 3. external blemishes e.g. misshapen or damaged tubers;   | 3 % by weight |
| 4. common scab: tubers affected over more than one-third of their surface.  | 5 % by weight |
| Total tolerance for items 2 to 4.   | 6 % by weight |
- B. The seed potatoes shall be free from *Heterodera rostochiensis*, *Synchytrium endobioticum*, *Corynebacterium sepedonicum* and *Pseudomonas solanacearum*.
- 

## ANNEX III

**LABEL**

- A. *Required information*
1. 'EC rules and standards'
  2. Certification authority and Member State or their initials
  3. Producer's identification number or reference number of lot
  4. Month and year of sealing
  5. Variety, indicated at least in roman characters
  6. Country of production
  7. Category and, if desirable, grade
  8. Size
  9. Declared net weight
- B. *Minimum dimensions*
- 110 mm × 67 mm
-

## ANNEX IV

## PART A

**REPEALED DIRECTIVE AND ITS SUCCESSIVE AMENDMENTS**

(referred to by Article 29)

Directive 66/403/EEC (OJ 125, 11.7.1966, p. 2320/66)	
Council Directive 69/62/EEC (OJ L 48, 26.2.1969, p. 7)	
Council Directive 71/162/EEC (OJ L 87, 17.4.1971, p. 24)	only Article 4
Council Directive 72/274/EEC (OJ L 171, 29.7.1972, p. 37)	only concerning references made to the provisions of Directive 66/403/EEC in Articles 1 and 2
Council Directive 72/418/EEC (OJ L 287, 26.12.1972, p. 22)	only Article 4
Council Directive 73/438/EEC (OJ L 356, 27.12.1973, p. 79)	only Article 4
Council Directive 75/444/EEC (OJ L 196, 26.7.1975, p. 6)	only Article 4
Council Directive 76/307/EEC (OJ L 72, 18.3.1976, p. 16)	only Article 1
Council Directive 77/648/EEC (OJ L 261, 14.10.1977, p. 21)	
Council Directive 78/692/EEC (OJ L 236, 26.8.1978, p. 13)	only Article 4
Council Directive 78/816/EEC (OJ L 281, 6.10.1978, p. 18)	
Council Directive 79/967/EEC (OJ L 293, 20.11.1979, p. 16)	only Article 1
Council Directive 80/52/EEC (OJ L 18, 24.1.1980, p. 29)	
Council Directive 81/561/EEC (OJ L 203, 23.7.1981, p. 52)	only Article 2
Council Directive 84/218/EEC (OJ L 104, 17.4.1985, p. 19)	
Council Directive 86/215/EEC (OJ L 152, 6.6.1986, p. 46)	
Council Directive 87/374/EEC (OJ L 197, 18.7.1987, p. 36)	
Council Directive 88/332/EEC (OJ L 151, 17.6.1988, p. 82)	only Article 4
Council Directive 88/359/EEC (OJ L 174, 6.7.1988, p. 51)	
Council Directive 88/380/EEC (OJ L 187, 16.7.1988, p. 31)	only Article 4
Council Directive 89/366/EEC (OJ L 159, 10.6.1989, p. 59)	
Council Directive 90/404/EEC (OJ L 208, 7.8.1990, p. 30)	
Council Directive 90/654/EEC (OJ L 353, 17.12.1990, p. 48)	only concerning references made to the provisions of Directive 66/403/EEC in Article 2 and Annex II(I)(4)
Commission Directive 91/127/EEC (OJ L 60, 7.3.1991, p. 18)	
Commission Directive 92/17/EEC (OJ L 82, 27.3.1992, p. 69)	
Commission Directive 93/3/EEC (OJ L 54, 5.3.1993, p. 21)	
Commission Directive 93/108/EEC (OJ L 319, 21.12.1993, p. 39)	
Commission Decision 96/16/EC (OJ L 6, 9.1.1996, p. 19)	
Council Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10)	only Article 1(4)
Commission Decision 97/90/EC (OJ L 27, 30.1.1997, p. 49)	
Commission Decision 98/111/EC (OJ L 28, 4.2.1998, p. 42)	
Council Directive 98/95/EC (OJ L 25, 1.2.1999, p. 1)	only Article 4
Council Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27)	only Article 4
Commission Decision 1999/49/EC (OJ L 16, 21.1.1999, p. 30)	
Commission Decision 1999/742/EC (OJ L 297, 18.11.1999, p. 39)	

## PART B

## DEADLINE FOR TRANSPOSITION INTO NATIONAL LAW

(referred to by Article 29)

Directive	Deadlines for transposition
66/403/EEC	1 July 1968 (Article 13(1)) 1 July 1969 (other provisions) <sup>(1)</sup> <sup>(2)</sup> <sup>(3)</sup>
69/62/EEC	1 July 1969 <sup>(1)</sup>
71/162/EEC	1 July 1970 (Article 4(3)) 1 July 1972 (Article 4(1)) <sup>(1)</sup> 1 July 1971 (other provisions)
72/274/EEC	1 July 1972 (Article 1) 1 January 1973 (Article 2)
72/418/EEC	1 July 1973
73/438/EEC	1 July 1973 (Article 4(1)) 1 January 1974 (Article 4(2))
75/444/EEC	1 July 1977
76/307/EEC	1 July 1975
77/648/EEC	1 January 1977
78/692/EEC	1 July 1977 (Article 4) 1 July 1979 (other provisions)
78/816/EEC	1 July 1978
79/967/EEC	1 January 1980
80/52/EEC	1 July 1979
81/561/EEC	
84/218/EEC	
86/215/EEC	
87/374/EEC	
88/332/EEC	
88/359/EEC	
88/380/EEC	1 July 1990
89/366/EEC	
90/404/EEC	
90/654/EEC	
91/127/EEC	
92/17/EEC	
93/3/EEC	28 February 1993
93/108/EC	1 December 1993
96/72/EC	1 July 1997 <sup>(4)</sup>
98/95/EC	1 February 2000 (Corrigendum OJ L 126, 20.5.1999, p. 23)
98/96/EC	1 February 2000

<sup>(1)</sup> For Denmark, Ireland and the united Kingdom, 1 July 1973 for Article 13(1), 1 July 1974 for the other provisions concerning basic seed potatoes and 1 July 1976 for the other provisions.

<sup>(2)</sup> 1 January 1986 for Greece, 1 March 1986 for Spain, and 1 January 1991 for Portugal.

<sup>(3)</sup> 1 January 1995 for Austria, Finland and Sweden.

However:

— Sweden shall be allowed to maintain a tolerance limit of 40 % by weight for tubers affected over more than one tenth of their surface with common scab, relating to the marketing in its territory of seed potatoes until 31 December 1996 at the latest. This tolerance limit shall apply solely to seed potatoes produced in areas of Sweden in which particular problems with common scab have been experienced. Such seed potatoes shall not be introduced into the territory of other Member States,

— Sweden shall adapt its legislation in this respect to comply with the relevant part of Annex II to the Directive by the date of expiry of the above period,

— Sweden shall apply from the date of accession those provisions of the Directive which ensure access for material complying with the Directive to marketing in its territory.

<sup>(4)</sup> The remaining stocks of labels bearing the abbreviation 'EEC' may continue to be used until 31 December 2001.

## ANNEX V

## CORRELATION TABLE

Directive 66/403/EEC	This Directive
Article 1	Article 1, first subparagraph
Article 17	Article 1, second subparagraph
Article 1(a)	Article 2(a)
Article 2(1)(A)(a)	Article 2(b)(i)
Article 2(1)(A)(b)	Article 2(b)(ii)
Article 2(1)(A)(c)	Article 2(b)(iii)
Article 2(1)(A)(d)	Article 2(b)(iv)
Article 2(1)(B)(a)	Article 2(c)(i)
Article 2(1)(B)(b)	Article 2(c)(ii)
Article 2(1)(B)(c)	Article 2(c)(iii)
Article 2(1)(B)(d)	Article 2(c)(iv)
Article 2(1)(C)(a)	Article 2(d)(i)
Article 2(1)(C)(b)	Article 2(d)(ii)
Article 2(1)(C)(c)	Article 2(d)(iii)
Article 2(2)	—
Article 3(1)	Article 3(1)
Article 3(2)(A)	Article 3(2)
Article 3(2)(B)	—
Article 3(3)	Article 3(3)
Article 3(4)	Article 3(4)
Article 3(a)	Article 4
Article 4	Article 5
Article 4(a)	Article 6
Article 5	Article 7
Article 5(a)	Article 8
Article 6	Article 9
Article 7(1)	Article 10(1)
Article 7(2)	Article 10(2)
Article 7(3)	Article 10(3)
Article 7(4)	—
Article 8	Article 11
Article 9	Article 12
Article 10	Article 13
Article 11	Article 14
Article 11(a)	Article 15
Article 12	Article 16
Article 13	Article 17
Article 13(a)	Article 18
Article 13(b)	Article 19
Article 14	Article 20
Article 15(1)	Article 21(1)
Article 15(2)	Article 21(2)
Article 15(2)(a)	Article 21(3)

Directive 66/403/EEC	This Directive
Article 15(3)	Article 21(4)
Article 16	Article 22
Article 18	Article 23
Article 19(a)	Article 24
Article 19	Article 25
Article 20	Article 26
Article 20(a)(1)	Article 27(1)
Article 20(a)(2)(i)	Article 27(2)(a)
Article 20(a)(2)(ii)	Article 27(2)(b)
Article 21	—
—	Article 28 <sup>(1)</sup>
—	Article 29
—	Article 30
—	Article 31
ANNEX I	ANNEX I
ANNEX II	ANNEX II
ANNEX III, Part A(1)	ANNEX III, Part A(1)
ANNEX III, Part A(2)	ANNEX III, Part A(2)
ANNEX III, Part A(3)	ANNEX III, Part A(3)
ANNEX III, Part A(3)(a)	ANNEX III, Part A(4)
ANNEX III, Part A(4)	ANNEX III, Part A(5)
ANNEX III, Part A(5)	ANNEX III, Part A(6)
ANNEX III, Part A(6)	ANNEX III, Part A(7)
ANNEX III, Part A(7)	ANNEX III, Part A(8)
ANNEX III, Part A(8)	ANNEX III, Part A(9)
ANNEX III, Part B	ANNEX III, Part B
—	ANNEX IV
—	ANNEX V

<sup>(1)</sup> 98/95/EC Article 9(2) and 98/96/EC Article 8(2).

**COUNCIL DIRECTIVE 2002/57/EC**  
**of 13 June 2002**  
**on the marketing of seed of oil and fibre plants**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament <sup>(1)</sup>,

Having consulted the Economic and Social Committee,

Whereas:

- (1) Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants <sup>(2)</sup> has been frequently and substantially amended <sup>(3)</sup>. For reasons of clarity and rationality the said Directive should be consolidated.
- (2) The production of oil and fibre plants occupies an important place in the agriculture of the Community.
- (3) Satisfactory results in the cultivation of oil and fibre plants depend to a large extent on the use of appropriate seed.
- (4) Greater productivity will be achieved in the cultivation of oil and fibre plants within the Community if for the choice of the varieties permitted to be marketed the Member States apply uniform rules which are as strict as possible. A common catalogue of varieties of agricultural plant species is therefore provided in the Council Directive 2002/53/EC <sup>(4)</sup>.
- (5) It is desirable to establish a uniform certification scheme for the Community based on the experience gained in the application of schemes in the Member States and those of the Organisation for Economic Cooperation and Development. In the context of the consolidation of the internal market, the Community scheme should cover the production of seed with a view to marketing

and to marketing within the Community, and should offer no possibilities for the Member States to derogate unilaterally from the scheme in a way that would hinder the free movement of seed within the Community.

- (6) As a general rule, seed of oil and fibre plants should be allowed to be marketed only if it has been officially examined and certified, in accordance with the rules for certification, as basic seed or certified seed. The choice of the technical terms 'basic seed' and 'certified seed' is based on already existing international terminology. It should be possible under specific conditions to place on the market bred seed of generations prior to basic seed and seed as grown.
- (7) Community rules should not apply to seed shown to be intended for export to third countries.
- (8) In order to improve not only the genetic quality of Community seed of oil and fibre plants but also its external characteristics, certain requirements should be laid down as to analytical purity and germination.
- (9) In order to ensure the identity of the seed, Community rules on packaging, sampling, sealing and marking must be established. To this end the labels should give the particulars needed both for official verification and for the information of the user and should clearly show the Community nature of the certification of the certified seed of the various categories.
- (10) Rules for the marketing of chemically treated seed, seeds suitable for organic growing as well as for the conservation by use *in situ* of varieties threatened with genetic erosion, should be introduced.
- (11) Derogations must be permitted under certain conditions, without prejudice to the provisions of Article 14 of the Treaty. Member States making use of the derogations must mutually assist each other as regards inspection.
- (12) In order to ensure that both the requirements as to the quality of the seed and the provisions for ensuring its identity are complied with during marketing, Member States must make provision for appropriate control arrangements.

<sup>(1)</sup> Opinion delivered on 9 April 2002 (not yet published in the Official Journal).

<sup>(2)</sup> OJ L 169, 10.7.1969, p. 3. Directive as last amended by Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27).

<sup>(3)</sup> See Annex VI, part A.

<sup>(4)</sup> See page 1 of this Official Journal.

(13) Seed, satisfying these requirements, should, without prejudice to Article 30 of the Treaty, be subject to no marketing restrictions other than those provided for in Community rules.

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

(14) Subject to certain conditions, seed multiplied in another country from basic seed certified in a Member State should be certified as seed multiplied in that Member State.

This Directive shall apply to the production with a view to marketing, and to the marketing within the Community, of seed of oil and fibre plants intended for agricultural production but not for ornamental purposes.

(15) Provision should be made for authorising the marketing within the Community of seed of oil and fibre plants, which has been harvested in third countries, only if such seed affords the same assurances as seed officially certified, or officially approved as commercial seed, within the Community and complying with Community rules.

It shall not apply to seed of oil and fibre plants which is shown to be intended for export to third countries.

*Article 2*

1. For the purpose of this Directive:

(16) During periods in which there are difficulties in obtaining supplies of certified seed of the various categories, seed of an inferior quality should temporarily be permitted to be marketed, and also seeds of varieties not included either in the common catalogue or in the national catalogue of varieties.

(a) 'marketing': means the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

Trade in seed not aimed at commercial exploitation of the variety, such as the following operations, shall not be regarded as marketing:

- the supply of seed to official testing and inspection bodies;
- the supply of seed to providers of services for processing or packaging, provided the provider of services does not acquire title to seed thus supplied.

(17) In order to harmonise the technical methods of certification used in the Member States and to enable comparisons to be made between seed certified within the Community and that coming from third countries, Community comparative tests should be established in Member States to permit annual post-control of seed of the various categories of 'certified seed'.

The supply of seed under certain conditions to providers of services for the production of certain agricultural raw materials, intended for industrial purposes, or seed propagation for that purpose, shall not be regarded as marketing, provided the provider of services does not acquire title to either the seed thus supplied or the product of the harvest. The supplier of seed shall provide the certification authority with a copy of the relevant parts of the contract made with the provider of services and this shall include the standards and conditions currently met by the seed provided.

(18) It is desirable to organise temporary experiments for the purpose of seeking improved alternatives to certain provisions set out in this Directive.

The conditions for the application of this provision shall be determined in accordance with the procedure referred to in Article 25(2);

(19) If certain species of seed are not normally reproduced or marketed in the territory of a Member State, provision should be made for release of that Member State, under the procedure of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, from the obligation to apply this Directive in respect of the species in question.

(b) 'oil and fibre plants': means plants of the following genera and species:

<i>Arachis hypogaea</i> L.	Groundnut (peanut)
<i>Brassica juncea</i> (L.) and Czernj and Cosson	Brown mustard
<i>Brassica napus</i> L. (partim)	Swede rape
<i>Brassica nigra</i> (L.) Koch	Black mustard

(20) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.

(21) This Directive must not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex VI, part B,

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

- |   |  |
|---|--|
| <p><i>Brassica rapa</i> L. var. <i>silvestris</i> (Lam.) Briggs Turnip rape</p> <p><i>Cannabis sativa</i> L. Hemp</p> <p><i>Carthamus tinctorius</i> L. Safflower</p> <p><i>Carum carvi</i> L. Caraway</p> <p><i>Glycine max</i> (L.) Merr. Soja bean</p> <p><i>Gossypium</i> spp. Cotton</p> <p><i>Helianthus annuus</i> L. Sunflower</p> <p><i>Linum usitatissimum</i> L. Flax, linseed</p> <p><i>Papaver somniferum</i> L. Opium poppy</p> <p><i>Sinapis alba</i> L. White mustard;</p>  | <p>(e) 'certified seed': (turnip rape, brown mustard, swede rape, dioecious hemp, safflower, black mustard, caraway, sunflower, opium poppy, white mustard) means seed</p>   |
| <p>(c) 'basic seed': (varieties other than hybrids of sunflower) means seed</p> <p>(i) which has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety;</p> <p>(ii) which is intended for the production of seed either of the category 'certified seed' or of the categories 'certified seed, first generation' or 'certified seed, second generation' or, where appropriate, 'certified seed, third generation';</p> <p>(iii) which, subject to the provisions of Article 5, satisfies the conditions laid down in Annexes I and II for basic seed; and</p> <p>(iv) which has been found by official examination to satisfy the abovementioned conditions.</p>         | <p>(i) which has been produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed and which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;</p> <p>(ii) which is intended for purposes other than the production of seed of oil or fibre plants;</p> <p>(iii) which, subject to the provisions of point (b) of Article 5, satisfies the conditions laid down in Annexes I and II for certified seed; and</p> <p>(iv) — which has been found by official examination to satisfy the abovementioned conditions, or</p> <p>— in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;</p>   |
| <p>(d) 'basic seed' (hybrids of sunflower):</p> <p>1. 'Basic seed of inbred lines' means seed</p> <p>(i) which, subject to the provisions of Article 5, satisfies the conditions laid down in Annexes I and II for basic seed; and</p> <p>(ii) which has been found by official examination to satisfy the abovementioned conditions;</p> <p>2. 'Basic seed of simple hybrids' means seed</p> <p>(i) which is intended for the production of three-way-cross hybrids or double-cross hybrids;</p> <p>(ii) which, subject to the provisions of Article 5, satisfies the conditions laid down in Annexes I and II for basic seed; and</p> <p>(iii) which has been found by official examination to satisfy the abovementioned conditions;</p> | <p>(f) 'certified seed, first generation': (groundnut, monoecious hemp, flax, linseed, soya, cotton) means seed</p> <p>(i) which has been produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;</p> <p>(ii) which is intended either for the production of seed of the category 'certified seed, second generation' or, where appropriate, of the category 'certified seed, third generation', or for purposes other than the production of seed of oil or fibre plants;</p> <p>(iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and</p> <p>(iv) — which has been found by official examination to satisfy the abovementioned conditions, or</p> <p>— in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;</p> <p>(g) 'certified seed, second generation': (groundnut, flax, linseed, soya, cotton) means seed</p> <p>(i) which has been produced directly from basic seed, from certified seed of the first generation or, if the breeder so requests, from seed of a generation prior to</p> |

- basic seed and which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;
- (ii) which is intended for purposes other than the production of seed of oil or fibre plants or, where appropriate, which is intended for the production of seed of the category 'certified seed, third generation';
- (iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and
- (iv) — which has been found by official examination to satisfy the abovementioned conditions, or
- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;
- (h) 'certified seed, second generation' (monoecious hemp): means seed
- (i) which has been produced directly from certified seed of the first generation which has been established and officially controlled with a special view to the production of certified seed of the second generation;
- (ii) which is intended for the production of hemp to be harvested in flower;
- (iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and
- (iv) — which has been found by official examination to satisfy the abovementioned conditions, or
- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;
- (i) 'certified seed, third generation': (flax, linseed) means seed
- (i) which is of direct descent from basic seed, from certified seed of the first or second generation or, if the breeder so requests, from seed of a generation prior to basic seed and which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;
- (ii) which is intended for purposes other than the production of seed of oil or fibre plants;
- (iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and
- (iv) — which has been found by official examination to satisfy the abovementioned conditions, or
- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;
- (j) 'commercial seed': means seed
- (i) which is identifiable as belonging to a species;
- (ii) which, subject to the provisions of Article 5(b), satisfies the conditions laid down in Annex II for commercial seed, and
- (iii) which has been found by official examination to satisfy the abovementioned conditions;
- (k) 'official measures': means measures taken
- (i) by State authorities; or
- (ii) by any legal person whether governed by public or private law, acting under the responsibility of the State; or
- (iii) in the case of ancillary activities which are also subject to State control, by any natural person duly sworn for that purpose,
- provided that the persons mentioned under (ii) and (iii) derive no private gain from such measures.
2. Amendments to be made to the list of species referred to in paragraph 1(b) shall be adopted in accordance with the procedure laid down in Article 25(2).
3. The different types of varieties, including the components, eligible for certification under the provisions of this Directive may be specified and defined in accordance with the procedure laid down in Article 25(2).
4. Member States may:
- (a) in the case of flax or linseed seed, include several generations in the basic seed category and subdivide this category by generation;
- (b) provide that official examination to check compliance with the condition laid down in Annex II(I)(4) for *Brassica napus* shall not be carried out on all lots during certification unless there is doubt whether that condition has been satisfied.
5. When the examination under official supervision referred to in paragraph 1(e)(iv) second indent, 1(f)(iv) second indent,

1(h)(iv) second indent and 1(i)(iv) second indent above is carried out, the following requirements shall be complied with:

(a) the inspectors shall:

- (i) have the necessary technical qualifications;
- (ii) derive no private gain in connection with the carrying out of the inspections;
- (iii) have been officially licensed by the seed certification authority of the Member State concerned and this licensing shall include either the swearing-in of inspectors or the signature by inspectors of a written statement of commitment to the rules governing official examinations;
- (iv) carry out inspections under official supervision in accordance with the rules applicable to official inspections;

(b) the seed crop to be inspected shall be grown from seed which has undergone official post-control, the results of which have been satisfactory;

(c) a proportion of the seed crops shall be checked by official inspectors. That proportion shall be 10 % for self-pollinated crops and 20 % for cross-pollinated crops or, for those species for which Member States provide for official laboratory seed-testing using morphological, physiological or, where appropriate, biochemical procedures to identify the variety and establish purity, 5 % and 15 % respectively;

(d) a proportion of samples from the seed lots harvested from the seed crops shall be drawn for official post-control and, where appropriate, for official laboratory seed testing in respect of varietal identity and purity.

Member States shall determine the penalties applicable to infringements of the rules set out in the first subparagraph governing examination under official supervision. The penalties they provide for must be effective, proportionate and dissuasive. Penalties may include the withdrawal of the recognition referred to in point (a)(iii) of the first subparagraph from officially licensed inspectors who are found guilty of deliberately or negligently contravening the rules governing official examinations. Any certification of the seed examined shall be annulled in the event of such contravention unless it can be shown that such seed still meets all relevant requirements.

6. Further measures applicable to the carrying out of examinations under official supervision may be adopted in accordance with the procedure referred to in Article 25(2).

Until such measures are adopted, the conditions set out in Article 2 of Commission Decision 89/540/EEC <sup>(1)</sup> shall be adhered to.

### Article 3

1. Member States shall provide that seed of:

*Brassica napus* L. (*partim*)

*Brassica rapa* L. var. *silvestris* (Lam.) Briggs

*Cannabis sativa* L.

*Carthamus tinctorius* L.

*Carum carvi* L.

*Gossypium* spp.

*Helianthus annuus* L.

*Linum usitatissimum* L. (*partim*) — flax, linseed

may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.

2. Member States shall provide that seed of oil and fibre plant species other than those listed in paragraph 1 may not be placed on the market unless the seed has been officially certified as 'basic seed' or 'certified seed', or is commercial seed.

3. It may be provided, under the procedure laid down in Article 25(2), that after specified dates seed of oil and fibre plant species other than those listed in paragraph 1 may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.

4. Member States shall ensure that official examinations are carried out in accordance with current international methods, in so far as such methods exist.

### Article 4

Notwithstanding Article 3(1) and (2), Member States shall provide that:

— bred seed of generations prior to basic seed, and

— seed as grown, marketed for processing, provided that the identity of the seed is ensured,

may be placed on the market.

<sup>(1)</sup> OJ L 286, 4.10.1989, p. 24. Decision as last amended by Decision 96/336/EC (OJ L 128, 29.5.1996, p. 23).

*Article 5*

Member States may, by way of derogation from the provisions of Article 3:

- (a) authorise the official certification and marketing of basic seed which does not satisfy the conditions laid down in Annex II in respect of germination; to this end all necessary measures shall be taken to ensure that the supplier guarantees a specific germination which he shall state for marketing purposes on a special label bearing his name and address and the reference number of the seed lot;
- (b) in order to make seed rapidly available, notwithstanding the fact that official examination to check compliance with the conditions laid down in Annex II in respect of germination has not been concluded, authorise the official certification or approval and marketing as far as the first buyer by way of trade of seed of the categories 'basic seed', 'certified seed' of all categories or 'commercial seed'. Certification or approval shall be granted only on presentation of a provisional analytical report on the seed and provided that the name and address of the first recipient are given; all necessary measures shall be taken to ensure that the supplier guarantees the germination ascertained at the provisional analysis; this germination shall be stated for marketing purposes on a special label bearing the name and address of the supplier and the reference number of the lot.

These provisions shall not apply to seed imported from third countries, save as otherwise provided in Article 18 in respect of multiplication outside the Community.

Member States making use of the derogation provided for in either point (a) or (b) shall assist each other administratively as regards inspection.

*Article 6*

1. Notwithstanding Article 3(1) and (2), Member States may authorise procedures in their own territory to place on the market:

- (a) small quantities of seed for scientific purposes or selection work;
- (b) appropriate quantities of seed for other test or trial purposes, provided it belongs to varieties for which an application for entry in the catalogue has been submitted in the Member State in question.

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 2002/53/EC shall apply accordingly.

2. The purposes for which the authorisations referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions

under which Member States may grant such authorisation, shall be determined in accordance with the procedure referred to in Article 25(2).

3. Authorisations granted before 14 December 1998 by Member States to producers in their own territory for the purposes set out in paragraph 1 shall remain in force pending determination of the provisions referred to in paragraph 2. Thereafter, all such authorisations shall respect the provisions established in accordance with paragraph 2.

*Article 7*

Member States may, as regards the conditions laid down in Annexes I and II, impose additional or more stringent requirements for the certification of seed and also for the examination of commercial seed which is produced in their own territory.

*Article 8*

Member States shall provide that the description of genealogical components which may be required is, if the breeder so requests, treated as confidential.

*Article 9*

1. Member States shall require that, for the checking of varieties, the examination of seed for certification and the examination of commercial seed, samples are drawn under official supervision in accordance with appropriate methods.

2. For the examination of seed for certification and the examination of commercial seed, samples shall be drawn from homogeneous lots; the maximum weight of a lot and the minimum weight of a sample are given in Annex III.

*Article 10*

1. Member States shall require that basic seed, certified seed of all categories and commercial seed be marketed only in sufficiently homogeneous consignments and in sealed packages bearing, as prescribed in Articles 11 and 12, a sealing system and markings.

2. Member States may, for the marketing of small quantities to the final consumer, provide for derogations from the provisions of paragraph 1 in respect of packaging, sealing and marking.

*Article 11*

1. Member States shall require that packages of basic seed, certified seed of all categories and commercial seed, be sealed officially or under official supervision in such a manner that they cannot be opened without damaging the sealing system

or leaving evidence of tampering on either the official label provided for in Article 12(1) or the package.

In order to ensure sealing, the sealing system shall comprise at least either the official label or the affixing of an official seal.

The measures provided for in the second subparagraph above shall not be necessary where a non-reusable sealing system is used.

In accordance with the procedure referred to in Article 25(2), it may be established whether a particular sealing system complies with the provisions of this paragraph.

2. Packages which have been officially sealed shall not be resealed, whether one or more times, except officially or under official supervision. If packages are resealed, the fact of resealing, the most recent date of resealing and the authority responsible therefor shall be stated on the label required under Article 12(1).

3. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 25(2).

#### Article 12

1. Member States shall require that packages of basic seed, certified seed of all categories and commercial seed:

(a) be labelled on the outside with an official label which has not previously been used, which satisfies the conditions laid down in Annex IV and on which the information is given in one of the official languages of the Community. The colour of the label shall be white for basic seed, blue for certified seed of the first generation after basic seed, red for certified seed of subsequent generations and brown for commercial seed. When a label with a string-hole is used, its attachment shall be ensured in all cases with an official seal. If, in cases under Article 5(a), the basic seed does not satisfy the conditions laid down in Annex II in respect of germination, this fact shall be stated on the label. The use of official adhesive labels shall be authorised. In accordance with the procedure referred to in Article 25(2) the indelible printing under official supervision of the information on the package according to the label's model may be authorised;

(b) contain an official document, in the same colour as the label, giving at least the information required under Annex IV(A)(a)(4), (5) and (6) and in the case of commercial seed, under (b) (2), (5) and (6). This document shall be drawn up in such a manner that it cannot be confused with the official label referred to under (a). This document is not

necessary if the information is printed indelibly on the package or if, in accordance with the provisions under (a), an adhesive label or a label of non-tear material is used.

2. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed on their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 25(2).

3. This Directive shall not affect the right of Member States to require that seed of oil and fibre plants which is shown to be intended for purposes other than agricultural production may not be placed on the market unless this fact is stated on the label.

#### Article 13

In accordance with the procedure laid down in Article 25(2), it may be provided that Member States may require that, in cases other than those provided for in this Directive, packages of basic seed, certified seed of all categories or commercial seed shall bear a supplier's label (which may either be a label separate from the official label or take the form of suppliers' information printed on the package itself). The particulars to be provided on any such label shall also be established in accordance with the procedure referred to in Article 25(2).

#### Article 14

In the case of seed of a variety which has been genetically modified, any label or document, official or otherwise, which is affixed to or accompanies the seed lot, under the provisions of this Directive, shall clearly indicate that the variety has been genetically modified.

#### Article 15

Member States shall require that any chemical treatment of basic seed, certified seed of all categories or commercial seed be noted either on the official label or on the supplier's label on the package or inside it.

#### Article 16

For the purpose of seeking improved alternatives to certain provisions set out in this Directive, it may be decided to organise temporary experiments under specified conditions at Community level in accordance with the provisions referred to in Article 25(2).

In the framework of such experiments, Member States may be released from certain obligations laid down in this Directive. The extent of that release shall be defined with reference to the provisions to which it applies. The duration of an experiment shall not exceed seven years.

*Article 17*

Member States shall ensure that seed which is placed on the market under the provisions of this Directive, whether mandatory or discretionary, is not subject to any marketing restrictions as regards its characteristics, examination requirements, marking and sealing other than those laid down in this or any other Directive.

*Article 18*

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 4, shall be as follows:

- (a) it must have been officially inspected by the competent certification authority in accordance with the provisions applicable to the certification of basic seed;
- (b) it must be packed in accordance with this Directive; and
- (c) the packages must bear an official label giving at least the following particulars:
  - certification authority and Member State or their distinguishing abbreviation,
  - lot reference number,
  - month and year of sealing, or
  - month and year of the last official sampling for the purposes of certification,
  - species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in roman characters,
  - variety, indicated at least in roman characters,
  - the description 'pre-basic seed',
  - number of generations preceding seed of the categories 'certified seed', or 'certified seed of the first generation'.

The label shall be white with a diagonal violet line.

*Article 19*

1. Member States shall provide that seed of oil and fibre plants

- which has been produced directly from basic seed or certified seed of the first generation officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 20(b), or

which has been produced directly from the crossing of basic seed officially certified in a Member State with basic seed officially certified in such a third country, and

- which has been harvested in another Member State,

shall, on request and without prejudice to the provisions of Directive 2002/53/EC, be officially certified as certified seed in any Member State if that seed has undergone field inspection satisfying the conditions laid down in Annex I for the relevant category and if official examination has shown that the conditions laid down in Annex II for the same category are satisfied.

Where in such cases the seed has been produced directly from officially certified seed of generations prior to basic seed, Member States may also authorise official certification as basic seed, if the conditions laid down for that category are satisfied.

2. Seed of oil and fibre plants which has been harvested in the Community and which is intended for certification in accordance with paragraph 1 shall:

- be packed and labelled with an official label satisfying the conditions laid down in Annex V(A) and (B), in accordance with Article 11(1); and
- be accompanied by an official document satisfying the conditions laid down in Annex V(C).

The provisions in the first subparagraph on packing and labelling may be waived if the authorities responsible for field inspection, those drawing up the documents for the certification of seeds which have not been definitively certified and those responsible for certification are the same, or if they agree on exemption.

3. Member States shall also provide that seed of oil and fibre plants

- which has been produced directly from basic seed or certified seed of the first generation officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 20(b), or which has been produced directly from the crossing of basic seed officially certified in a Member State with basic seed officially certified in such a third country, and

- which has been harvested in a third country,

shall, on request, be officially certified as certified seed in any of those Member States where the basic seed was either produced or officially certified, if the seed has undergone field inspection satisfying the conditions laid down in an equivalence decision made under Article 20(a) for the relevant

category and if official examination has shown that the conditions laid down in Annex II for the same category are satisfied. Other Member States may also authorise official certification of such seed.

#### Article 20

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether:

- (a) in the case provided for in Article 18, the field inspections in the third country satisfy the conditions laid down in Annex I;
- (b) seed of oil and fibre plants which has been harvested in a third country and affords the same assurances as regards its characteristics and the arrangements for its examination, for ensuring its identity, for marking and for control is equivalent in these respects to basic seed, certified seed, certified seed of the first, second or third generation or commercial seed harvested within the Community and complying with the provisions of this Directive.

2. Paragraph 1 shall also apply in respect of any new Member State from the date of its accession to the date on which it is to bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

#### Article 21

1. In order to remove any temporary difficulties in the general supply of basic or certified seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure laid down in Article 25(2) that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the Common Catalogue of Varieties of Agricultural Plant Species or in the national catalogue of varieties of the Member States.

2. For a category of seed of any given variety, the official label shall be that provided for the corresponding category; for seed of varieties not included in the abovementioned catalogues the official label shall be that provided for commercial seed. The label shall always state that the seed in question is of a category satisfying less stringent requirements.

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure referred to in Article 25(2).

#### Article 22

1. Member States shall ensure that official inspections are carried out in relation to the marketing of seed of oil and fibre

plants, at least by random checks, to verify compliance with the requirements of this Directive.

2. Without prejudice to the free movement of seed within the Community, Member States shall take all necessary measures to ensure that they are supplied with the following particulars during the marketing of quantities exceeding two kilograms of seed imported from third countries:

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure referred to in Article 25(2).

#### Article 23

1. Community comparative tests shall be carried out within the Community for the post-control of samples of basic seed, with the exception of that of hybrid or synthetic varieties, and of certified seed of all categories of oil and fibre plants, taken during sampling. Satisfaction of the conditions with which the seed must comply may be checked during the post-control tests. The arrangements for holding the tests and their results shall be submitted to the Committee referred to in Article 25(1).

2. These comparative tests shall be used to harmonise the technical methods of certification so as to obtain results which are equivalent. As soon as this aim is achieved, annual progress reports shall be made on these tests and sent in confidence to the Member States and to the Commission. The Commission shall, in accordance with the procedure referred to in Article 25(2), set the date for the first report.

3. The Commission, acting in accordance with the procedure laid down in Article 25(2), shall make the necessary arrangements for the comparative tests to be carried out. Seed of oil and fibre plants harvested in third countries may be included in the comparative tests.

#### Article 24

Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure referred to in Article 25(2).

## Article 25

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, set up by Article 1 of Council Decision 66/399/EEC <sup>(1)</sup>.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

## Article 26

Save as otherwise provided in Annex II in respect of the presence of diseases, harmful organisms and their vectors, this Directive shall be without prejudice to the provisions of national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial and commercial property.

## Article 27

1. Specific conditions may be established in accordance with the procedure referred to in Article 25(2) to take account of developments in the areas of:

- (a) conditions under which chemically treated seed may be marketed;
- (b) conditions under which seed may be marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Directive 2002/53/EC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;
- (c) conditions under which seed suitable for organic production may be marketed.

2. The specific conditions referred to in paragraph 1(b) shall include in particular the following points:

- (a) the seed of these species shall be of a known provenance approved by the appropriate Authority in each Member State for marketing the seed in defined areas;
- (b) appropriate quantitative restrictions.

## Article 28

Upon application by a Member State, which will be dealt with as referred to Article 25(2), that State may be wholly or partially released from the obligation to apply the provisions of this Directive, with the exception of Article 17:

- (a) in respect of the following species:
  - Safflower;
- (b) in respect of other species which are not normally reproduced or marketed in its territory.

## Article 29

The Member States shall communicate to the Commission the text of the main provisions of domestic law they adopt in the field covered by this Directive.

The Commission shall inform the other Member States thereof.

## Article 30

No later than 1 February 2004, the Commission shall submit a detailed evaluation of the simplifications of the certification procedures introduced by Article 5 of Directive 98/96/EC. This evaluation shall focus in particular on the possible effects on the quality of the seed.

## Article 31

1. Directive 69/208/EEC as amended by the Directives listed in Annex VI part A, is hereby repealed without prejudice to the obligations of the Member States concerning the deadlines for transposition of the said Directives set out in Annex VI part B.

2. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VII.

## Article 32

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Communities*.

## Article 33

This Directive is addressed to the Member States.

Done at Luxembourg, 13 June 2002.

For the Council  
The President  
M. RAJOY BREY

<sup>(1)</sup> OJ L 125, 11.7.1966, p. 2289/66.

## ANNEX I

## CONDITIONS TO BE SATISFIED BY THE CROP

1. The previous cropping of the field shall not have been incompatible with the production of seed of the species and variety of the crop, and the field shall be sufficiently free from such plants which are volunteers from previous cropping.
2. The crop shall conform to the following standards as regards distances from neighbouring sources of pollen which may result in undesirable foreign pollination:

(m)	
Crop	Minimum distance
1	2
<i>Brassica</i> spp. other than <i>Brassica napus</i> ; <i>Cannabis sativa</i> other than <i>monoecius</i> hemp; <i>Carthamus tinctorius</i> ; <i>Carum carvi</i> ; <i>Gossypium</i> spp.; <i>Sinapis alba</i> :	
— for the production of basic seed	400 m
— for the production of certified seed	200 m
<i>Brassica napus</i> :	
— for the production of basic seed	200 m
— for the production of certified seed	100 m
<i>Cannabis sativa</i> , <i>monoecius</i> hemp:	
— for the production of basic seed	5 000 m
— for the production of certified seed	1 000 m
<i>Helianthus annuus</i> :	
— for the production of basic seed of hybrids	1 500 m
— for the production of basic seed of varieties other than hybrids	750 m
— for the production of certified seed	500 m

These distances can be disregarded if there is sufficient protection from any undesirable foreign pollination.

3. The crop shall have sufficient varietal identity and varietal purity or, in the case of a crop of an inbred line of *Helianthus annuus*, sufficient identity and purity as regards its characteristics.

For the production of seed of hybrid varieties of *Helianthus annuus*, the abovementioned provisions shall also apply to the characteristics of the components, including male sterility or fertility restoration.

In particular, crops of *Brassica juncea*, *Brassica nigra*, *Cannabis sativa*, *Carthamus tinctorius*, *Carum carvi*, *Gossypium* spp. and hybrids of *Helianthus annuus* shall conform to the following standards or other conditions:

- A. *Brassica juncea*, *Brassica nigra*, *Cannabis sativa*, *Carthamus tinctorius*, *Carum carvi* and *Gossypium* spp.:

the number of plants of the crop species which are recognisable as obviously not being true to the variety shall not exceed:

- one per 30 m<sup>2</sup> for the production of basic seed,
- one per 10 m<sup>2</sup> for the production of certified seed.

B. Hybrids of *Helianthus annuus*:

- (a) the percentage by number of plants which are recognisable as obviously not being true to the inbred line or to the component shall not exceed:

## (aa) for the production of basic seed:

- |  |       |
|--|-------|
| (i) inbred lines   | 0,2 % |
| (ii) simple hybrids  |       |
| — male parent, plants which have shed pollen while 2 % or more of the female plants have receptive flowers | 0,2 % |
| — female parent  | 0,5 % |

## (bb) for the production of certified seed:

- |   |       |
|---|-------|
| — male component, plants which have shed pollen while 5 % or more of the female plants have receptive flowers | 0,5 % |
| — female component  | 1,0 % |

- (b) the following other standards or conditions shall be satisfied for the production of seed of hybrid varieties:

(aa) sufficient pollen shall be shed by the plants of the male component while the plants of the female component are in flower;

(bb) where the female component plants have receptive stigmas, the percentage by number of female component plants which have shed pollen or are shedding pollen shall not exceed 0,5 %;

(cc) for the production of basic seed the total percentage by number of plants of the female component which are recognisable as obviously not being true to the component and which have shed pollen or are shedding pollen shall not exceed 0,5 %;

(dd) where the condition laid down in Annex II(l)(2) cannot be satisfied, the following conditions shall be satisfied: a male-sterile component shall be used to produce certified seed by using a male component which contains a specific restorer line or lines so that at least one-third of the plants grown from the resulting hybrid will produce pollen which appears normal in all respects.

4. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level. In the case of *Glycine max.* this condition is applicable in particular to the organisms *Pseudomonas syringae* pv. *glycinea*, *Diaporthe phaseolorum* var. *caulivora* and var. *sojae*, *Phialophora gregata* and *Phytophthora megasperma* f.sp. *glycinea*.

5. The satisfaction of the abovementioned standards or other conditions shall, in the case of basic seed, be examined in official field inspections and, in the case of certified seed, be examined either in official field inspections or in inspections carried out under official supervision. These field inspections shall be carried out in accordance with the following conditions:

A. the condition and the stage of development of the crop shall permit an adequate examination,

B. in cases other than crops of hybrids of sunflower there shall be at least one field inspection. In the case of hybrids of sunflower there shall be at least two field inspections,

C. the size, the number and the distribution of the portions of the field to be inspected in order to examine the satisfaction of the provisions of this Annex shall be determined in accordance with appropriate methods.

## ANNEX II

## CONDITIONS TO BE SATISFIED BY THE SEED

## I. BASIC AND CERTIFIED SEED

1. The seed shall have sufficient varietal identity and varietal purity. In particular, seeds of the species listed below shall conform to the following standards or other conditions:

Species and category	Minimum varietal purity (%)
1	2
<i>Arachis hypogaea</i> :	
— basic seed	99,7
— certified seed	99,5
<i>Brassica napus</i> , other than varieties to be used solely for fodder purposes, <i>Brassica rapa</i> , other than varieties to be used solely for fodder purposes	
— basic seed	99,9
— certified seed	99,7
<i>Brassica napus</i> spp., varieties to be used solely for fodder purposes, <i>Brassica rapa</i> , varieties to be used solely for fodder purposes, <i>Helianthus annuus</i> , other than hybrid varieties including their components, <i>Sinapis alba</i> :	
— basic seed	99,7
— certified seed	99
<i>Linum usitatissimum</i> :	
— basic seed	99,7
— certified seed, 1st generation	98
— certified seed, 2nd and 3rd generations	97,5
<i>Papaver somniferum</i> :	
— basic seed	99
— certified seed	98
<i>Glycine max</i> :	
— basic seed	99,5
— certified seed	99

The minimum varietal purity shall be examined mainly in field inspections carried out in accordance with the conditions laid down in Annex I.

2. Where the condition laid down in Annex I(3)(B)(b)(dd) cannot be satisfied, the following condition shall be met: where for the production of certified seed of hybrids of sunflower a female male-sterile component and a male component which does not restore male fertility have been used, the seed produced by the male-sterile parent shall be blended with seed produced by the fully fertile seed parent. The ratio of male-sterile parent seed to male-fertile parent shall not exceed two to one.

3. The seed shall conform to the following standards or other conditions as regards germination, analytical purity and content of seeds of other plant species including *Orobancha* spp.:

A. Table:

Species and category	Minimum-germination (% of pure seed)	Analytical purity		Maximum content by number of seeds of other plant species in a sample of the weight specified in column 4 of Annex III (total per column)							Conditions as regards content of <i>Orobancha</i> seeds
		Minimum analytical purity (% by weight)	Maximum content seed of other plant species (% by weight)	Other plant species (a)	<i>Avena fatua</i> , <i>Avena ludoviciana</i> , <i>Avena sterilis</i>	<i>Cuscuta</i> spp.	<i>Raphanus raphanistrum</i>	<i>Rumex</i> spp. other than <i>Rumex acetosella</i>	<i>Alopecurus myosuroides</i>	<i>Lolium remotum</i>	
1	2	3	4	5	6	7	8	9	10	11	12
<i>Arachis hypogaea</i>	70	99	—	5	0	0 (c)					
<i>Brassica</i> spp.											
— basic seed	85	98	0,3	—	0	0 (c) (d)	10	2			
— certified seed	85	98	0,3	—	0	0 (c) (d)	10	5			
<i>Cannabis sativa</i>	75	98	—	30 (b)	0	0 (c)					(e)
<i>Carthamus tinctorius</i>	75	98	—	5	0	0 (c)					(e)
<i>Carum carvi</i>	70	97	—	25 (b)	0	0 (c) (d)	10		3		
<i>Gossypium</i> spp.	80	98	—	15	0	0 (c)					
<i>Helianthus annuus</i>	85	98	—	5	0	0 (c)					
<i>Linum usitatissimum</i> :											
— flax	92	99	—	15	0	0 (c) (d)			4	2	
— linseed	85	99	—	15	0	0 (c) (d)			4	2	
<i>Papaver somniferum</i>	80	98	—	25 (b)	0	0 (c) (d)					
<i>Sinapis alba</i> :											
— basic seed	85	98	0,3	—	0	0 (c) (d)	10	2			
— certified seed	85	98	0,3	—	0	0 (c) (d)	10	5			
<i>Glycine max.</i>	80	98	—	5	0	0 (c)					

B. Standards or other conditions applicable where reference is made to them in the table under Section I(3)(A) of this Annex:

- the maximum contents of seeds laid down in column 5 include also the seeds of the species in columns 6 to 11;
- the determination of total content of seeds of other plants species by number need not be carried out unless there is doubt whether the conditions laid down in column 5 have been satisfied;
- the determination of seeds of *Cuscuta* spp. by number need not be carried out unless there is doubt whether the conditions laid down in column 7 have been satisfied;
- the presence of one seed of *Cuscuta* spp. in a sample of the prescribed weight shall not be regarded as an impurity where a second sample of the same weight is free from any seeds of *Cuscuta* spp.;
- the seed shall be free from *Orobancha* spp.; however the presence of one seed of *Orobancha* spp. in a sample of 100 grams shall not be regarded as an impurity where a second sample of 200 grams is free from any seeds of *Orobancha* spp.

4. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level. In particular, the seed shall conform to the following standards or other conditions:

A. Table:

Species	Harmful organisms			
	Maximum percentage by number of seeds contaminated by harmful organisms (total per column)			<i>Sclerotinia sclerotiorum</i> (maximum number of sclerotia or fragments of sclerotia in a sample of the weight specified in column 4 of Annex III)
	<i>Botrytis</i> spp.	<i>Alternaria</i> spp., <i>Ascochyta linicola</i> (syn. <i>Phoma linicola</i> ), <i>Colletotrichum lini</i> , <i>Fusarium</i> spp.	<i>Platyedria gossypiella</i>	
1	2	3	4	5
<i>Brassica napus</i>				10 (b)
<i>Brassica rapa</i>				5 (b)
<i>Cannabis sativa</i>	5			
<i>Gossypium</i> spp.			1	
<i>Helianthus annuus</i>	5			10 (b)
<i>Linum usitatissimum</i>	5	5 (a)		
<i>Sinapis alba</i>				5 (b)

- B. Standards or other conditions applicable where reference is made to them in the table under Section I(4)(A) of this Annex:

- (a) in flax, the maximum percentage by number of seeds contaminated by *Ascochyta linicola* (syn. *Phoma linicola*) shall not exceed one;
- (b) the determination of sclerotia or fragments of sclerotia of *Sclerotinia sclerotiorum* by number need not be carried out unless there is doubt whether the conditions laid down in column 5 of this table have been satisfied.

- C. Particular standards or other conditions applicable to *Glycine max.*:

- (a) in respect of *Pseudomonas syringae* pv. *glycinea* the maximum number of sub-samples within a sample of 5 000 seeds minimum per lot subdivided into 5 subsamples which have been found to be contaminated by the said organism shall not exceed 4;

where suspect colonies are identified in all five subsamples, appropriate biochemical tests on the suspect colonies isolated on a preferential medium for each subsample may be used to confirm the above standards or conditions;

- (b) in respect of *Diaporthe phaseolorum* the maximum number of seeds contaminated shall not exceed 15 %;

- (c) the percentage by weight of inert matter, as defined in accordance with current international testing methods, shall not exceed 0,3.

In accordance with the procedure referred to in Article 25(2), Member States may be authorised not to carry out the examination in respect of the above particular standards or other conditions unless, on the basis of previous experience, there is doubt whether those standards or conditions have been satisfied.

## II. COMMERCIAL SEED

With the exception of Section I, the conditions referred to in Annex II(I) shall apply to commercial seed.

## ANNEX III

## LOT AND SAMPLE WEIGHTS

Species	Maximum weight of a lot (tonnes)	Minimum weight of a sample to be drawn from a lot (grams)	Weight of the sample for the determinations by number provided for in columns 5 to 11 of Annex II(I)(3)(A) and in column 5 of Annex II(I)(4)(A) (grams)
1	2	3	4
<i>Arachis hypogaea</i>	25	1 000	1 000
<i>Brassica rapa</i>	10	200	70
<i>Brassica juncea</i>	10	100	40
<i>Brassica napus</i>	10	200	100
<i>Brassica nigra</i>	10	100	40
<i>Cannabis sativa</i>	10	600	600
<i>Carthamus tinctorius</i>	25	900	900
<i>Carum carvi</i>	10	200	80
<i>Gossypium</i> spp.	25	1 000	1 000
<i>Helianthus annuus</i>	25	1 000	
<i>Linum usitatissimum</i>	10	300	150
<i>Papaver somniferum</i>	10	50	10
<i>Sinapis alba</i>	10	400	200
<i>Glycine max.</i>	25	1 000	1 000

The maximum lot weight shall not be exceeded by more than 5 %.

## ANNEX IV

## LABEL

**A. Required information***(a) For basic seed and certified seed*

1. 'EC rules and standards'.
2. Certification authority and Member State or their initials.
3. Month and year of sealing expressed thus: 'sealed ... (month and year)', or  
month and year of the last official sampling for the purposes of certification expressed thus: 'sampled ... (month and year)'.
4. Reference number of lot.
5. Species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in roman characters.
6. Variety, indicated at least in roman characters.
7. Category.
8. Country of production.
9. Declared net or gross weight.
10. Where weight is indicated and granulated pesticides, pelleting substances, or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds and the total weight.
11. In the case of varieties which are hybrids or inbred lines:
  - for basic seed where the hybrid or inbred line to which the seed belongs has been officially accepted under Directive 2002/53/EC:  
  
the name of this component, under which it has been officially accepted, with or without reference to the final variety, accompanied, in the case of hybrids or inbred lines which are intended solely as components for final varieties, by the word 'component',
  - for basic seed in other cases:  
  
the name of the component to which the basic seed belongs, which may be given in code form, accompanied by a reference to the final variety, with or without reference to its function (male or female), and accompanied by the word 'component',
  - for certified seed:  
  
the name of the variety to which the seed belongs, accompanied by the word 'hybrid'.
12. Where at least germination has been retested, the words 'retested ... (month and year)' and the service responsible for such retesting may be indicated. Such information may be given on an official sticker attached to the official label.

In accordance with the procedure laid down in Article 25(2), Member States may be released from the requirement to indicate the botanical name in respect of individual species and, where appropriate, for limited periods where it has been established that the disadvantages of its implementation outweigh the advantages expected for the marketing of seed.

*(b) For commercial seed*

1. 'EC rules and standards'.
2. 'Commercial seed (not certified as to variety)'.
3. Certification authority and Member State or their initials.

4. Month and year of sealing expressed thus: 'sealed ... (month and year)'.
5. Reference number of lot.
6. Species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in roman characters.
7. Region of production.
8. Declared net or gross weight.
9. Where weight is indicated and granulated pesticides, pelleting substances, or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds and the total weight.
10. Where at least germination has been retested, the words 'retested ... (month and year)' and the service responsible for such retesting may be indicated. Such information may be given on an official sticker attached to the official label.

In accordance with the procedure referred to in Article 25(2), Member States may be released from the requirement to indicate the botanical name in respect of individual species and, where appropriate, for limited periods where it has been established that the disadvantages of its implementation outweigh the advantages expected for the marketing of seed.

**B. Minimum dimensions**

110 mm × 67 mm.

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## ANNEX V

**LABEL AND DOCUMENT PROVIDED IN THE CASE OF SEED NOT FINALLY CERTIFIED, HARVESTED IN ANOTHER MEMBER STATE***A. Information required for the label*

- authority responsible for field inspection and Member State or their initials,
- species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in roman characters,
- variety, indicated at least in roman characters; in the case of varieties (inbred lines, hybrids), which are intended solely as components for hybrid varieties, the word 'component' shall be added,
- category,
- in the case of hybrid varieties, the word 'hybrid',
- field or lot reference number,
- declared net or gross weight,
- the words 'seed not finally certified'.

In accordance with the procedure referred to in Article 25(2), Member States may be released from the requirement to indicate the botanical name in respect of individual species and, where appropriate, for limited periods where it has been established that the disadvantages of its implementation outweigh the advantages expected for the marketing of seed.

*B. Colour of the label*

The label shall be grey.

*C. Information required for the document*

- authority issuing the document,
  - species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in roman characters,
  - variety, indicated at least in roman characters,
  - category,
  - reference number of the seed used to sow the field and name of the country or countries which certified that seed,
  - field lot or reference number,
  - area cultivated for the production of the lot covered by the document,
  - quantity of seed harvested and number of packages,
  - number of generations after basic seed, in the case of certified seed,
  - attestation that the conditions to be satisfied by the crop from which the seed comes have been fulfilled,
  - where appropriate, results of a preliminary seed analysis.
-

## ANNEX VI

## PART A

**REPEALED DIRECTIVE AND ITS SUCCESSIVE AMENDMENTS**

(referred to by Article 31)

Directive 69/208/EEC (OJ L 169, 10.7.1969, p. 3)	
Council Directive 71/162/EEC (OJ L 87, 17.4.1971, p. 24)	only Article 5
Council Directive 72/274/EEC (OJ L 171, 29.7.1972, p. 37)	only concerning references made to the provisions of Directive 69/208/EEC in Articles 1 and 2
Council Directive 72/418/EEC (OJ L 287, 26.12.1972, p. 22)	only Article 5
Council Directive 73/438/EEC (OJ L 356, 27.12.1973, p. 79)	only Article 5
Council Directive 75/444/EEC (OJ L 196, 26.7.1975, p. 6)	only Article 5
Council Directive 78/55/EEC (OJ L 16, 20.1.1978, p. 23)	only Article 5
Commission Directive 78/388/EEC (OJ L 113, 25.4.1978, p. 20)	
Council Directive 78/692/EEC (OJ L 236, 26.8.1978, p. 13)	only Article 6
Council Directive 78/1020/EEC (OJ L 350, 14.12.1978, p. 27)	only Article 3
Commission Directive 79/641/EEC (OJ L 183, 19.7.1979, p. 13)	only Article 3
Commission Directive 80/304/EEC (OJ L 68, 14.3.1980, p. 33)	
Commission Directive 81/126/EEC (OJ L 67, 12.3.1981, p. 36)	only Article 4
Commission Directive 82/287/EEC (OJ L 131, 13.5.1982, p. 24)	only Articles 3 and 4
Council Directive 82/727/EEC (OJ L 310, 6.11.1982, p. 21)	
Commission Directive 82/859/EEC (OJ L 357, 18.12.1982, p. 31)	
Council Directive 86/155/EEC (OJ L 118, 7.5.1986, p. 23)	only Article 4
Commission Directive 87/120/EEC (OJ L 49, 18.2.1987, p. 39)	only Article 4
Commission Directive 87/480/EEC (OJ L 273, 26.9.1987, p. 43)	only Article 2
Council Directive 88/332/EEC (OJ L 151, 17.6.1988, p. 82)	only Article 7
Council Directive 88/380/EEC (OJ L 187, 16.7.1988, p. 31)	only Article 5
Council Directive 90/654/EEC (OJ L 353, 17.12.1990, p. 48)	only concerning references made to the provisions of Directive 69/208/EEC in Article 2 and to Annex II(1)(5)
Commission Directive 92/9/EEC (OJ L 70, 17.3.1992, p. 25)	
Commission Directive 92/107/EEC (OJ L 16, 25.1.1993, p. 1)	
Commission Directive 96/18/EC (OJ L 76, 26.3.1996, p. 21)	only Article 2
Council Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10)	only Article 1(5)
Council Directive 98/95/EC (OJ L 25, 1.2.1999, p. 1)	only Article 5
Council Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27)	only Article 5

## PART B

## DEADLINES FOR TRANSPOSITION INTO NATIONAL LAW

(referred to by Article 31)

Directive	Deadline for transposition
69/208/EEC	1 July 1970 <sup>(1)</sup> <sup>(2)</sup>
71/162/EEC	1 July 1970 (Article 5(1), (2) and (7)) 1 July 1972 (Article 5(3)) 1 July 1971 (other provisions) <sup>(1)</sup>
72/274/EEC	1 July 1972 (Article 1) 1 January 1973 (Article 2)
72/418/EEC	1 July 1973
73/438/EEC	1 July 1973 (Article 5(3)) 1 January 1974 (Article 5(4)) 1 July 1974 (other provisions)
75/444/EEC	1 July 1975 (Article 5(2)) 1 July 1977 (other provisions)
78/55/EEC	1 July 1978 (Article 5(2)) 1 July 1979 (other provisions)
78/388/EEC	1 January 1981 (Article 1(1) <sup>(3)</sup> and (2) <sup>(4)</sup> ) 1 July 1980 (other provisions)
78/692/EEC	1 July 1977 (Article 6) 1 July 1979 (other provisions)
78/1020/EEC	1 July 1977
79/641/EEC	1 July 1980
80/304/EEC	1 July 1980
81/126/EEC	1 July 1982
82/287/EEC	1 January 1983
82/727/EEC	1 July 1982
82/859/EEC	1 July 1983
86/155/EEC	1 March 1986 (Articles 4(3), (4) and 5) 1 July 1987 (other provisions)
87/120/EEC	1 June 1988
87/480/EEC	1 July 1990
88/332/EEC	
88/380/EEC	1 July 1992 (Article 5(10), (19), (23) and (25) <sup>(5)</sup> and Article 5(12)) 1 July 1990 (other provisions)
90/654/EEC	
92/9/EEC	30 June 1992
92/107/EEC	1 July 1994
96/18/EC	1 July 1996
96/72/EC	1 July 1997 <sup>(4)</sup>
98/95/EC	1 February 2000 (Corrigendum OJ L 126, 20.5.1999, p. 23)
98/96/EC	1 February 2000

<sup>(1)</sup> For Denmark, Ireland and the United Kingdom, 1 July 1973 for Article 14(1); 1 July 1974 for the other provisions concerning basic seed and 1 July 1976 for the other provisions.

<sup>(2)</sup> 1 January 1986 for Greece, 1 March 1986 for Spain, and 1 January 1991 for Portugal.

<sup>(3)</sup> Concerning Annex I(3).

<sup>(4)</sup> Concerning Annex II(I)(1).

<sup>(5)</sup> In so far as these provisions require the botanical name of a species to be indicated on the label of seed.

<sup>(6)</sup> The remaining stocks of labels bearing the abbreviation 'EEC' may continue to be used until 31 December 2001.

## ANNEX VII

## TABLE OF CORRESPONDENCE

Directive 69/208/EEC	This Directive
Article 1	Article 1, first subparagraph
Article 17	Article 1, second subparagraph
Article 1(a)	Article 2(1)(a)
Article 2(1)(A)	Article 2(1)(b)
Article 2(1)(B)(a)	Article 2(1)(c)(i)
Article 2(1)(B)(b)	Article 2(1)(c)(ii)
Article 2(1)(B)(c)	Article 2(1)(c)(iii)
Article 2(1)(B)(d)	Article 2(1)(c)(iv)
Article 2(1)(Ba)(1)(a)	Article 2(1)(d)(1)(i)
Article 2(1)(Ba)(1)(b)	Article 2(1)(d)(1)(ii)
Article 2(1)(Ba)(2)(a)	Article 2(1)(d)(2)(i)
Article 2(1)(Ba)(2)(b)	Article 2(1)(d)(2)(ii)
Article 2(1)(Ba)(2)(c)	Article 2(1)(d)(2)(iii)
Article 2(1)(C)(a)	Article 2(1)(e)(i)
Article 2(1)(C)(b)	Article 2(1)(e)(ii)
Article 2(1)(C)(c)	Article 2(1)(e)(iii)
Article 2(1)(C)(d)	Article 2(1)(e)(iv)
Article 2(1)(D)(a)	Article 2(1)(f)(i)
Article 2(1)(D)(b)	Article 2(1)(f)(ii)
Article 2(1)(D)(c)	Article 2(1)(f)(iii)
Article 2(1)(D)(d)	Article 2(1)(f)(iv)
Article 2(1)(E)(a)	Article 2(1)(g)(i)
Article 2(1)(E)(b)	Article 2(1)(g)(ii)
Article 2(1)(E)(c)	Article 2(1)(g)(iii)
Article 2(1)(E)(d)	Article 2(1)(g)(iv)
Article 2(1)(Ea)(a)	Article 2(1)(h)(i)
Article 2(1)(Ea)(b)	Article 2(1)(h)(ii)
Article 2(1)(Ea)(c)	Article 2(1)(h)(iii)
Article 2(1)(Ea)(d)	Article 2(1)(h)(iv)
Article 2(1)(F)(a)	Article 2(1)(i)(i)
Article 2(1)(F)(b)	Article 2(1)(i)(ii)
Article 2(1)(F)(c)	Article 2(1)(i)(iii)
Article 2(1)(F)(d)	Article 2(1)(i)(iv)
Article 2(1)(G)(a)	Article 2(1)(j)(i)
Article 2(1)(G)(b)	Article 2(1)(j)(ii)
Article 2(1)(G)(c)	Article 2(1)(j)(iii)
Article 2(1)(H)(a)	Article 2(1)(k)(i)
Article 2(1)(H)(b)	Article 2(1)(k)(ii)
Article 2(1)(H)(c)	Article 2(1)(k)(iii)
Article 2(1a)	Article 2(2)
Article 2(1b)	Article 2(3)
Article 2(2)(a)	—

Directive 69/208/EEC	This Directive
Article 2(2)(b)	Article 2(4)(a)
Article 2(2)(c)	—
Article 2(2)(d)	Article 2(4)(b)
Article 2(3)(i)(a)	Article 2(5)(a)(i)
Article 2(3)(i)(b)	Article 2(5)(a)(ii)
Article 2(3)(i)(c)	Article 2(5)(a)(iii)
Article 2(3)(i)(d)	Article 2(5)(a)(iv)
Article 2(3)(ii)	Article 2(5)(b)
Article 2(3)(iii)	Article 2(5)(c)
Article 2(3)(iv)	Article 2(5)(d)
Article 2(3)(v)	Article 2(5), second subparagraph
Article 2(4)	Article 2(6)
Article 3	Article 3
Article 3(a)	Article 4
Article 4	Article 5
Article 4(a)	Article 6
Article 5	Article 7
Article 6	Article 8
Article 7	Article 9
Article 8	Article 10
Article 9	Article 11
Article 10	Article 12
Article 11	Article 13
Article 11(a)	Article 14
Article 12	Article 15
Article 12(a)	Article 16
Article 13	Article 17
Article 14	Article 19
Article 14(a)	Article 18
Article 15(1)(a)	Article 20(a)
Article 15(1)(b)	Article 20(b)
Article 16	Article 21
Article 18	Article 22
Article 19	Article 23
Article 20(a)	Article 24
Article 20	Article 25
Article 21	Article 26
Article 21(a)(1)	Article 27(1)
Article 21(a)(2)(i)	Article 27(2)(a)
Article 21(a)(2)(ii)	Article 27(2)(b)
Article 22	Article 28
—	Article 29 <sup>(1)</sup>
—	Article 30 <sup>(2)</sup>
—	Article 31
—	Article 32
—	Article 33

Directive 69/208/EEC	This Directive
ANNEX I	ANNEX I
ANNEX II part I point 1	ANNEX II part I point 1
ANNEX II part I point 1(a)	ANNEX II part I point 2
ANNEX II part I point 2	ANNEX II part I point 3
ANNEX II part I point 3	ANNEX II part I point 4
ANNEX II part II	ANNEX II part II
ANNEX III	ANNEX III
ANNEX IV part A point (a)(1)	ANNEX IV part A point (a)(1)
ANNEX IV part A point (a)(2)	ANNEX IV part A point (a)(2)
ANNEX IV part A point (a)(3)	ANNEX IV part A point (a)(3)
ANNEX IV part A point (a)(4)	ANNEX IV part A point (a)(4)
ANNEX IV part A point (a)(5)	ANNEX IV part A point (a)(5)
ANNEX IV part A point (a)(6)	ANNEX IV part A point (a)(6)
ANNEX IV part A point (a)(7)	ANNEX IV part A point (a)(7)
ANNEX IV part A point (a)(8)	ANNEX IV part A point (a)(8)
ANNEX IV part A point (a)(9)	ANNEX IV part A point (a)(9)
ANNEX IV part A point (a)(10)	ANNEX IV part A point (a)(10)
ANNEX IV part A point (a)(10)(a)	ANNEX IV part A point (a)(11)
ANNEX IV part A point (a)(11)	ANNEX IV part A point (a)(12)
ANNEX IV part A point (b)	ANNEX IV part A point (b)
ANNEX IV part B	ANNEX IV part B
ANNEX V	ANNEX V
—	ANNEX VI
—	ANNEX VII

<sup>(1)</sup> 98/95/EC Article 9(2) and 98/96/EC Article 8(2).

<sup>(2)</sup> 98/96/EC Article 9.