



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 21.12.2007  
COM(2007) 852 final

2007/0296 (CNS)

Proposal for a

**COUNCIL DIRECTIVE**

**on the marketing of vegetable propagating and planting material, other than seed**

**(Codified version)**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided<sup>1</sup> to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.

3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this<sup>2</sup>, stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Directive 92/33/EEC of 28 April 1992 on the marketing of vegetable propagating and planting material, other than seed<sup>3</sup>. The new Directive will supersede the various acts incorporated in it<sup>4</sup>; this proposal fully preserves the content of the acts being codified and hence does no more than bringing them together with only such formal amendments as are required by the codification exercise itself.

---

<sup>1</sup> COM(87) 868 PV.

<sup>2</sup> See Annex 3 to Part A of the Conclusions.

<sup>3</sup> Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

<sup>4</sup> Annex III, Part A of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 92/33/EEC and the instruments amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex IV to the codified Directive.

---

↓ 92/33/EEC (adapted)

2007/0296 (CNS)

Proposal for a

**COUNCIL DIRECTIVE**

**on the marketing of vegetable propagating and planting material, other than seed**

**(Text with EEA relevance)**

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>5</sup>,

Whereas:

---

↓

- (1) Council Directive 92/33/EEC of 28 April 1992 on the marketing of vegetable propagating and planting material, other than seed<sup>6</sup> has been substantially amended several times<sup>7</sup>. In the interests of clarity and rationality the said Directive should be codified.

---

↓ 92/33/EEC Recital 1

- (2) The production of vegetables occupies an important place in agriculture in the Community.

---

↓ 92/33/EEC Recital 2 (adapted)

- (3) Satisfactory results in the cultivation of vegetables depend to a large extent on the quality and plant health not only of the seed, which is already covered by Council

---

<sup>5</sup> OJ [...], [...], p. [...].

<sup>6</sup> OJ L 157, 10.6.1992, p. 1. Directive as last amended by Commission Decision 2007/699/EC (OJ L 339, 284, 30.10.2007, p. 33).

<sup>7</sup> See Annex III, Part A.

Directive  2002/55/EC of 13 June 2002  on the marketing of vegetable seed<sup>8</sup>, but also of the vegetable planting material used for their propagation.

---

↓ 92/33/EEC recital 3 (adapted)

- (4) The different treatment accorded to vegetable propagating and planting material in different Member States is likely to create barriers to trade and thus hinder the free movement of these products within the Community.

---

↓ 92/33/EEC Recital 4 (adapted)

- (5) Harmonised conditions at Community level should ensure that purchasers throughout the Community receive vegetable propagating and planting material which is healthy and of good quality.

---

↓ 92/33/EEC Recital 5 (adapted)

- (6) In so far as they relate to plant health, such harmonised conditions must be consistent with 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 within the Community .

---

↓ 92/33/EEC Recital 6

- (7) Without prejudice to the plant-health provisions of Directive 2000/29/EC, it is not appropriate to apply the Community rules on the marketing of vegetable propagating and planting material when it is shown that such products are intended for export to third countries, as the rules applicable there may be different from those contained in this Directive.

---

↓ 92/33/EEC Recital 7

- (8) The determination of plant-health and quality standards for each genus and species of vegetable plant requires lengthy and detailed technical and scientific consideration. A procedure should accordingly be established for that purpose.

---

<sup>8</sup> OJ L 193, 20.7.2002, p. 33. Directive as last amended by Commission Directive 2006/124/EC (OJ L 339, 6.12.2006, p. 12).

<sup>9</sup> OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2007/41/EC (OJ L 169, 29.6.2007, p. 51).

---

↓ 92/33/EEC Recital 8

- (9) In the first instance it is the responsibility of the suppliers of vegetable propagating and planting material to ensure that their products fulfil the conditions laid down in this Directive.

---

↓ 92/33/EEC Recital 9

- (10) The competent authorities of the Member States should, when carrying out controls and inspections, ensure that suppliers fulfil those conditions.

---

↓ 92/33/EEC Recital 10 (adapted)

- (11) Community control measures should be ☒ provided for ☐ to ensure the uniform application in all the Member States of the standards laid down in this Directive.

---

↓ 92/33/EEC Recital 11

- (12) It is in the interests of the purchasers of vegetable propagating and planting materials that the name of varieties be known and their identity safeguarded.

---

↓ 92/33/EEC Recital 12

- (13) To that end, provision should be made as far as possible for the application of the rules on the varietal aspect as established with respect to the marketing of vegetable seed.

---

↓ 92/33/EEC Recital 13

- (14) In order to ensure the identity and orderly marketing of vegetable propagating and planting material, Community rules should be laid down concerning the separation of lots, and marking. The labels used should give the particulars needed both for official controls and for the information of the user.

---

↓ 92/33/EEC Recital 14

- (15) Rules should be established permitting, in cases of temporary supply difficulties, the marketing of vegetable propagating and planting material subject to requirements less stringent than those contained in this Directive.

---

↓ 92/33/EEC Recital 15 (adapted)

- (16) Member States should be prohibited in the case of the genera and species referred to in Annex II, for which ☒ schedules ☒ will be drawn up, from imposing new conditions or restrictions on the marketing, other than those provided for in this Directive.

---

↓ 92/33/EEC Recital 16

- (17) Provisions should be made for authorising the marketing within the Community of vegetable propagating and planting material produced in third countries, provided always that it affords the same assurances as vegetable propagating and planting material produced in the Community and complying with Community rules.

---

↓ 92/33/EEC Recital 17

- (18) In order to harmonise technical methods of examination used in the Member States and to compare propagating and planting material and vegetable plants produced in the Community with that produced in third countries, comparative trials should be carried out to check compliance of such products with the requirements of this Directive.

---

↓ 92/33/EEC Recital 18 (adapted)

- (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>10</sup>. ☒

---

↓

- (20) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex III, Part B,

---

<sup>10</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

---

↓ 92/33/EEC

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. This Directive shall apply to the marketing of vegetable propagating and planting materials, other than seeds, within the Community.
2. Articles 2 to 20 and Article 23 shall apply to the genera and species, and their hybrids, listed in Annex II.

---

↓ 92/33/EEC (adapted)

Rootstocks and other parts of plants of other genera or species or their hybrids shall also be subject to ☒ those ☒ Articles if material of one of those genera or species, or of their hybrids, is, or has to be, grafted on to them.

3. Amendments to the list of genera and species in Annex II shall be adopted in accordance with the procedure ☒ referred to ☒ in Article 21(3).

---

↓ 92/33/EEC

*Article 2*

This Directive shall not apply to propagating or planting material shown to be intended for export to third countries, if properly identified as such and kept sufficiently isolated, without prejudice to the health rules laid down in Directive 2000/29/EC.

---

↓ 92/33/EEC (adapted)

Implementing measures for the first paragraph, with particular reference to identification and isolation, shall be adopted in accordance with the procedure ☒ referred to ☒ in Article 21(2).

---

↓ 92/33/EEC

*Article 3*

For the purposes of this Directive, the following definitions shall apply:

- (a) 'propagating material' means parts of plants and all plant material, including rootstocks intended for the propagation and production of vegetables;

- (b) 'planting material' means entire plants and parts of plants including, for grafted plants, the grafted components, intended for planting for the production of vegetables;
- (c) 'supplier' means any natural or legal person carrying out professionally at least one of the following activities with regard to vegetable propagating and planting material: reproducing, producing, preserving and/or treating and marketing;
- (d) 'marketing' means the holding available or in stock, displaying or offering for sale, selling and/or delivering to another person, in whatever form, of propagating or planting material;
- (e) 'responsible official body' means
- (i) the sole and central authority, established or designated by the Member State under the supervision of the national government and responsible for questions concerning quality;
  - (ii) any State authority established:
    - either at national level,
    - or at regional level, under the supervision of the national authorities within the limits set by the national legislation of the Member State concerned.

---

↓ 92/33/EEC (adapted)

The bodies referred to in (i) and (ii) may, in accordance with their national legislation, delegate the tasks provided for in this Directive to be accomplished under their authority and supervision to any legal person, whether governed by public or private law, which, under its officially approved ☒ statute ☒, is charged exclusively with specific public functions, provided that such person, and its members, ☒ has ☒ no personal interest in the outcome of the measures ☒ it takes ☒.

---

↓ 92/33/EEC

The Member States shall ensure that there is close cooperation between the bodies referred to in (i) and those referred to in (ii).

---

↓ 92/33/EEC (adapted)

Moreover, in accordance with the procedure ☒ referred to ☒ in Article 21(2), another legal person established on behalf of any body referred to in (i) and (ii) and acting under the authority and supervision of such body may be approved, provided that such person has no personal interest in the outcome of the measures it takes.

---

↓ 92/33/EEC

The Member States shall notify the Commission of their responsible official bodies. The Commission shall forward that information to the other Member States;

- (f) 'official measures' means measures taken by the responsible official body;
- (g) 'official inspection' means an inspection carried out by the responsible official body;
- (h) 'official statement' means a statement issued by, or under the responsibility of, the responsible official body;
- (i) 'lot' means a number of units of a single commodity, identifiable by its homogeneity of composition and origin;
- (j) 'laboratory' means a public or private law entity carrying out analysis and proper diagnosis, enabling the producer to monitor production quality.

#### *Article 4*

---

↓ 92/33/EEC (adapted)

In accordance with the procedure ☒ referred to ☒ in Article 21(3), a schedule shall be established in Annex I for each genus and species referred to in Annex II and for rootstocks of other genera and species if material of the genus or species is, or has to be, grafted on to them, with a reference to the plant-health conditions laid down in Directive 2000/29/EC applying to the genus and/or species concerned, and laying down:

- (a) the conditions with which vegetable planting material must comply, in particular those relating to the quality and purity of the crop and, where appropriate varietal characteristics. These ☒ conditions ☒ shall be added to Annex I, Part A;
- (b) the conditions with which propagating material must comply, in particular those relating to the propagation system applied, the purity of the growing crop and, where appropriate, the varietal characteristics. These conditions ☒ shall ☒ be set out in Annex I, Part B.

---

↓ 92/33/EEC

#### *Article 5*

1. Member States shall ensure that suppliers take all the necessary measures to guarantee compliance with the standards set by this Directive at all stages of the production and marketing of vegetable propagating and planting material.

2. For the purposes of paragraph 1, the said suppliers shall either carry out themselves, or have carried out by an accredited supplier or a responsible official body, checks based on the following principles:

- identification of critical points in their production process on the basis of the production methods used,
- establishment and implementation of methods for monitoring and checking the critical points referred to in the first indent,
- taking samples for analysis in a laboratory accredited by the responsible official body for the purpose of checking compliance with the standards established by this Directive,
- keeping a written record or a record registered in an indelible fashion of the data referred to in the first, second and third indents, as well as records on production and marketing of propagating and planting material, to be held at the disposal of the responsible official body. These documents and records shall be kept for a period of at least one year.

However, suppliers whose activity in this connection is confined merely to the distribution of vegetable propagating and planting material produced and packaged on premises other than their own shall be required only to keep a written record or a record registered in an indelible fashion of the buying and selling and/or delivery of such products.

This paragraph shall not apply to suppliers whose activity in this connection is confined to the supply of small quantities of vegetable propagating and planting material to non-professional final consumers.

---

|                       |
|-----------------------|
| ↓ 92/33/EEC (adapted) |
|-----------------------|

3. If the result of their own checks or any information at the disposal of the suppliers referred to in paragraph 1 reveals the presence of one or more of the harmful organisms referred to in Directive 2000/29/EC or, in quantities greater than those normally allowed for in order to meet the standards, of those specified in the relevant schedules established pursuant to Article 4 of this Directive, the suppliers shall immediately report this to the responsible official body and shall take the measures indicated by that body or any other measure necessary to reduce the risk of such harmful organisms from spreading. The supplier shall keep records of all occurrences of harmful organisms on his premises and of all measures taken in relation to such occurrences.

4. Detailed rules for the application of the second subparagraph of paragraph 2 shall be established in accordance with the procedure ☒ referred to ☒ in Article 21(2).

---

↓ 92/33/EEC

*Article 6*

1. The responsible official body shall accredit suppliers once it has verified that their production methods and establishments meet the requirements of this Directive with regard to the nature of the activities they carry out. Accreditation must be renewed if a supplier decides to carry out activities other than those for which he has received accreditation.

---

↓ 92/33/EEC (adapted)

2. The responsible official body shall accredit laboratories once it has verified that these laboratories, their methods and their establishments meet the requirements of this Directive to be specified in accordance with the procedure ☒ referred to ☒ in Article 21(2), with regard to the testing activities they carry out. Accreditation must be renewed if a laboratory decides to carry out activities other than those for which it has received accreditation.

---

↓ 92/33/EEC

3. The responsible official body shall take the necessary measures if the requirements referred to in paragraphs 1 and 2 cease to be met. To this end, it shall take particular account of the conclusions of any check carried out in accordance with Article 7.

---

↓ 92/33/EEC (adapted)

4. The supervision and monitoring of suppliers, establishments and laboratories shall be carried out regularly by or under the responsibility of the responsible official body, which shall at all times have free access to all parts of establishments, in order to ensure compliance with the requirements of this Directive. Implementing measures concerning supervision and monitoring shall be adopted, as necessary, in accordance with the procedure ☒ referred to ☒ in Article 21(2).

---

↓ 92/33/EEC

If such supervision and monitoring reveal that the requirements of this Directive are not being met, the responsible official body shall take appropriate action.

*Article 7*

1. Commission experts may, in cooperation with the responsible official bodies of the Member States, make on-the-spot checks in so far as this is necessary to ensure uniform application of this Directive, and in particular to verify whether suppliers are in effect complying with the requirements of this Directive. A Member State in whose territory a check

is being carried out shall give all necessary assistance to the experts in carrying out their duties. The Commission shall inform the Member States of the result of the investigations.

---

↓ 92/33/EEC (adapted)

2. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure ☒ referred to ☒ in Article 21(2).

---

↓ 92/33/EEC

#### *Article 8*

1. Vegetable propagating and planting material may be marketed only by accredited suppliers and provided that they meet the requirements laid down in the schedule referred to in Article 4.

2. Without prejudice to the provisions of Directive 2000/29/EC, paragraph 1 shall not apply to vegetable propagating and planting material intended for:

- (a) trials or scientific purposes; or
  - (b) selection work; or
  - (c) measures aimed at preserving genetic diversity.
- 

↓ 92/33/EEC (adapted)

3. Detailed rules for the application of points (a), (b) ☒ and (c) of paragraph 2 ☒ shall be adopted as necessary in accordance with the procedure ☒ referred to ☒ in Article 21(2).

---

↓ 92/33/EEC

#### *Article 9*

1. Without prejudice to Article 2, vegetable propagating and planting material which belongs to genera or species listed in Annex II and is also covered by Directive 2002/55/EC shall not be marketed within the Community unless it belongs to a variety accepted in accordance with that Directive .

---

↓ 92/33/EEC (adapted)

2. Without prejudice to Article 2 and paragraph 3 of this Article, vegetable propagating and planting material which belongs to genera or species listed in Annex II but which is not

covered by Directive 2002/55/EC shall not be marketed within the Community unless it belongs to a variety officially accepted in at least one Member State.

---

↓ 92/33/EEC

The provisions laid down in Articles 4 and 5 and Article 9(3) of Directive 2002/55/EC shall apply to the conditions for acceptance.

Article 3(2) and (4), Articles 6, 7, 8, 9(1), (2) and (4) and Articles 10 to 15 of that Directive shall apply *mutatis mutandis* to the procedures and formalities for acceptance and maintenance production.

The results of unofficial tests and practical information gathered in the course of growing may be taken into consideration in each instance.

---

↓ 92/33/EEC (adapted)

3. Varieties officially accepted in accordance with paragraph 2 shall be entered in the Common Catalogue of Varieties of Vegetable Species referred to in Article 17 of Directive 2002/55/EC. Articles 16(2), 17, 18 and 19 ☒ of that Directive ☒ shall apply *mutatis mutandis*.

---

↓ 92/33/EEC

#### *Article 10*

1. While growing and during lifting or removal from the parent material, vegetable propagating and planting material shall be kept in separate lots.
2. If vegetable propagating and planting material of different origins is put together or mixed during packaging, storage, transport or at delivery, the supplier shall keep records including the following data: composition of the lot and origin of the individual components.
3. Member States shall ensure compliance with the requirements of paragraphs 1 and 2 by carrying out official inspections.

#### *Article 11*

1. Without prejudice to Article 10(2), vegetable propagating and planting material shall be marketed only in sufficiently homogeneous lots and if they are recognised as complying with this Directive and are accompanied by a document made out by the supplier in accordance with the conditions laid down in the schedule established pursuant to Article 4. If an official statement appears on this document, it shall be clearly separated from all other contents of the document.

Requirements on vegetable propagating and planting material for labelling and/or sealing and packaging shall be set out in the schedule referred to in Article 4.

2. In the case of supply by the retailer of vegetable propagating and planting material to a non-professional final consumer, requirements on labelling may be confined to appropriate product information.

#### *Article 12*

1. Member States may exempt:

- (a) from the application of Article 11, small producers all of whose production and sales of vegetable propagating and planting material is intended for final use by persons on the local market who are not professionally involved in plant production (“local circulation”);
- (b) from the controls and official inspection provided for in Article 18, the local circulation of vegetable propagating and planting materials produced by such exempt persons.

---

|                       |
|-----------------------|
| ↓ 92/33/EEC (adapted) |
|-----------------------|

2. Implementing measures relating to other requirements concerning the exemptions referred to in ☒ paragraph 1 ☒, in particular as regards the concepts of “small producers” and “local market”, and to the relevant procedures, shall be adopted ☒ in accordance with the procedure referred to in Article 21(2) ☒.

#### *Article 13*

In the event of temporary difficulties in the supply of vegetable propagating and planting material satisfying the requirements of this Directive, measures may be adopted, in accordance with the procedure ☒ referred to ☒ in Article 21(2), concerning the marketing of vegetable propagating and planting material meeting less stringent requirements, without prejudice to the plant-health rules laid down in Directive 2000/29/EC.

---

|             |
|-------------|
| ↓ 92/33/EEC |
|-------------|

#### *Article 14*

1. The marketing of vegetable propagating and planting material which complies with the requirements and conditions of this Directive shall be subject to no restrictions as regards supplier, plant health, growing medium and inspection arrangements other than those laid down in this Directive.

2. The marketing of vegetable propagating and planting material whose variety is entered in the Common Catalogue of Varieties of Vegetable Species shall not be subject to any restriction as regards variety other than those laid down or referred to in this Directive.

## Article 15

---

↓ 92/33/EEC (adapted)

As regards the products referred to in Annex II, Member States shall refrain from imposing more stringent conditions or marketing restrictions other than the conditions laid down in the schedules referred to in Article 4 or, failing that, those existing on ☒ 28 April 1992 ☒.

## Article 16

1. In accordance with the procedure ☒ referred to ☒ in Article 21(2), it shall be decided whether vegetable propagating and planting material produced in a third country and affording the same guarantees as regards obligations on the supplier, identity, characteristics, plant health, growing medium, packaging, inspection arrangements, marking and sealing, is equivalent in all these respects to vegetable propagating and planting material produced in the Community and complying with the requirements and conditions of this Directive.

---

↓ 92/33/EC  
→<sub>1</sub> 2007/699/EC Art. 1

2. Pending the decision referred to in paragraph 1, Member States may, until →<sub>1</sub> 31 December 2012 ←, and without prejudice to the provisions of Directive 2000/29/EC, apply to the import of vegetable propagating and planting material from third countries conditions at least equivalent to those laid down temporarily or permanently in the schedules referred to in Article 4 of this Directive. Where no such conditions are laid down in those schedules, the import conditions must be at least equivalent to those applicable to production in the Member State concerned.

---

↓ 92/33/EEC (adapted)

In accordance with the procedure ☒ referred to ☒ in Article 21(2), the date referred to in the first subparagraph of this paragraph may, for the various third countries, be deferred pending the decision referred to in paragraph 1 of this Article.

---

↓ 92/33/EEC

Vegetable propagating and planting material imported by a Member State in accordance with a decision taken by that Member State pursuant to the first subparagraph shall be subject to no marketing restrictions in the other Member States as regards the matters referred to in paragraph 1.

### *Article 17*

Member States shall ensure that official inspection by sampling checks on propagating and planting material is carried out during production and marketing, with the aim of verifying compliance with the requirements and conditions of this Directive.

### *Article 18*

---

|                       |
|-----------------------|
| ↓ 92/33/EEC (adapted) |
|-----------------------|

Detailed implementing procedures for the controls provided for in Article 5 and for the official inspection provided for in Articles 10 and 17, including sampling methods, shall be adopted, as necessary, in accordance with the procedure ☒ referred to ☒ in Article 21(2).

---

|             |
|-------------|
| ↓ 92/33/EEC |
|-------------|

### *Article 19*

1. If, during the supervision and monitoring provided for in Article 6(4), the official inspection provided for in Article 17, or the trials provided for in Article 20, it is found that vegetable propagating and planting material does not meet the requirements of this Directive, the responsible official body of the Member State shall take appropriate action to ensure that it does comply with the provisions of this Directive or, if that is not possible, to ban the marketing of that vegetable propagating and planting material in the Community.

2. If it is found that vegetable propagating and planting material marketed by a particular supplier does not comply with the requirements and conditions of this Directive, the Member State concerned shall ensure that appropriate measures are taken against that supplier. If the supplier is forbidden to market vegetable propagating and planting material, the Member State shall notify the Commission and the competent national authorities in the Member States.

3. Any measures taken under paragraph 2 shall be withdrawn as soon as it has been established with adequate certainty that the vegetable propagating and planting material intended for marketing by the supplier will, in future, comply with the requirements and conditions of this Directive.

---

|                        |
|------------------------|
| ↓ 2003/61/EC Art. 1(4) |
|------------------------|

### *Article 20*

1. Trials, or, where appropriate, tests shall be carried out in the Member States on samples to check that vegetable propagating and planting material complies with the requirements and conditions of this Directive, including those relating to plant health. The Commission may

organise inspections of the trials by representatives of the Member States and of the Commission.

2. Community comparative tests and trials may be carried out within the Community for the post-control of samples of vegetable propagating and planting material placed on the market under the provisions of this Directive whether mandatory or discretionary, including those relating to plant health. The comparative tests and trials may include the following:

- vegetable propagating and planting material produced in third countries,
- vegetable propagating and planting material suitable for organic farming,
- vegetable propagating and planting material marketed in relation to measures aimed at preserving genetic diversity.

3. Those comparative tests and trials shall be used to harmonise the technical methods of examination of vegetable propagating and planting material and to check satisfaction of the conditions with which the material must comply.

---

↓ 2003/61/EC Art. 1(4) (adapted)

4. In accordance with the procedure referred to in Article 21(2), the necessary arrangements ☒ shall be made ☒ for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 21(1) about the technical arrangements for holding those tests and trials and the results thereof. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health.

5. The Community may make a financial contribution to the performance of the ☒ comparative ☒ tests and trials ☒ provided for ☒ in paragraphs 2 and 3.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

6. The ☒ comparative ☒ tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure ☒ referred to ☒ in Article 21(2).

7. The ☒ comparative ☒ tests and trials ☒ provided for ☒ in paragraphs 2 and 3 may be performed only by State authorities or legal persons acting under the responsibility of the State.

---

|                                                        |
|--------------------------------------------------------|
| ↓ 806/2003, Article 2 and<br>Annex II, pt. 6 (adapted) |
|--------------------------------------------------------|

#### *Article 21*

1. The Commission shall be assisted by the ‘Standing Committee on ☒ Seeds and Propagating Materials for Agriculture, Horticulture and Forestry ☒’, hereinafter referred to as ‘the Committee’.

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.

---

|                                                          |
|----------------------------------------------------------|
| ↓ 806/2003, Article 3 and<br>Annex III, pt. 27 (adapted) |
|----------------------------------------------------------|

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.

---

|                                              |
|----------------------------------------------|
| ↓ 806/2003, Article 2 and<br>Annex II, pt. 6 |
|----------------------------------------------|

4. The Committee shall adopt its Rules of Procedure.

---

|                       |
|-----------------------|
| ↓ 92/33/EEC (adapted) |
|-----------------------|

#### *Article 22*

Amendments to the schedules referred to in Article 4 and to the conditions and detailed rules adopted for the implementation of this Directive shall be adopted in accordance with the procedure ☒ referred to ☒ in Article 21(2).

---

|             |
|-------------|
| ↓ 92/33/EEC |
|-------------|

#### *Article 23*

1. Member States shall ensure that vegetable propagating and planting material produced in their territory and intended for marketing complies with the requirements of this Directive.

2. If it is found, during an official inspection, that vegetable propagating and planting material cannot, by reason of non-compliance with a condition relating to plant health, be marketed, the Member State concerned shall take appropriate official measures to eliminate any consequent plant-health risk.

---

↓ 92/33/EEC (adapted)

#### *Article 24*

As far as Articles 5 to 11, 14, 15, 17, 19 and 23 are concerned, the date of application for each of the genera or species referred to in Annex II shall be fixed in accordance with the procedure ☒ referred to ☒ in Article 21(2), when the schedule referred to in Article 4 is drawn up.

---

↓

#### *Article 25*

Directive 92/33/EEC, as amended by the acts listed in Annex III, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex III, 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 IV.

#### *Article 26*

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

---

↓ 92/33/EEC

#### *Article 27*

This Directive is addressed to the Member States.

Done at Brussels, [...]

*For the Council*  
*The President*  
[...]

## **ANNEX I**

### **Conditions to be laid down in accordance with Article 4**

#### *Part A*

Conditions with which planting material must comply.

#### *Part B*

Schedules for genera and species not listed in Directive 2002/55/EC containing conditions with which propagating material must comply.

---

---

↓ 92/33/EEC

## **ANNEX II**

### **List of the genera and species referred to in Article 1(2)**

---

↓ 2006/124/EC Annex

*Allium cepa* L.

– *Cepa* Group

Onion

Echalion

– *Aggregatum* Group

Shallot

*Allium fistulosum* L.

Japanese bunching onion or Welsh onion

*Allium porrum* L.

Leek

*Allium sativum* L.

Garlic

*Allium schoenoprasum* L.

Chives

*Anthriscus cerefolium* (L.) Hoffm.

Chervil

*Apium graveolens* L.

Celery

Celeriac

*Asparagus officinalis* L.

Asparagus

*Beta vulgaris* L.

Beetroot including Cheltenham beet

Spinach beet or Chard

*Brassica oleracea* L.

Curly kale

Cauliflower

Sprouting broccoli or Calabrese

Brussels sprouts

Savoy cabbage

White cabbage

Red cabbage

Kohlrabi

*Brassica rapa* L.

Chinese cabbage

Turnip

*Capsicum annuum* L.

Chilli or Pepper

*Chicorium endivia* L.

Curled-leaved endive

Plain-leaved endive

*Chicorium intybus* L.

Witloof chicory

Large-leaved chicory or Italian chicory

Industrial chicory

*Citrullus lanatus* (Thunb.) Matsum. et Nakai

Watermelon

*Cucumis melo* L.

Melon

*Cucumis sativus* L.

Cucumber

Gherkin

*Cucurbita maxima* Duchesne

Gourd

*Cucurbita pepo* L.

Marrow or Courgette

*Cynara cardunculus* L.

Globe artichoke

Cardoon

*Daucus carota* L.

Carrot

Fodder carrot

*Foeniculum vulgare* Mill.

Fennel

|                                                         |                              |
|---------------------------------------------------------|------------------------------|
| <i>Lactuca sativa</i> L.                                | Lettuce                      |
| <i>Lycopersicon esculentum</i> Mill.                    | Tomato                       |
| <i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill | Parsley                      |
| <i>Phaseolus coccineus</i> L.                           | Runner bean                  |
| <i>Phaseolus vulgaris</i> L.                            | Dwarf French bean            |
|                                                         | Climbing French bean         |
| <i>Pisum sativum</i> L. (partim)                        | Wrinkled pea                 |
|                                                         | Round pea                    |
|                                                         | Sugar pea                    |
| <i>Raphanus sativus</i> L.                              | Radish                       |
|                                                         | Black radish                 |
| <i>Rheum rhabarbarum</i> L.                             | Rhubarb                      |
| <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. (partim)                           | Broad bean                   |
| <i>Zea mays</i> L. (partim)                             | Sweet corn                   |
|                                                         | Popcorn                      |

---



## **ANNEX III**

### **Part A**

#### **Repealed Directive with list of its successive amendments (referred to in Article 25)**

Council Directive 92/33/EEC  
(OJ L 157, 10.6.1992, p. 1)

Commission Decision 93/400/EEC  
(OJ L 177, 21.7.1993, p. 27)

Commission Decision 94/152/EC  
(OJ L 66, 10.3.1994, p. 33)

Commission Decision 95/25/EC  
(OJ L 36, 16.2.1995, p. 34)

Commission Decision 97/109/EC  
(OJ L 39, 8.2.1997, p. 21)

Commission Decision 1999/29/EC  
(OJ L 8, 14.1.1999, p. 29)

Commission Decision 2002/111/EC  
(OJ L 41, 13.2.2002, p. 43)

Council Regulation (EC) No 806/2003  
(OJ L 122, 16.5.2003, p. 1)

Council Directive 2003/61/EC  
(OJ L 165, 3.7.2003, p. 23)

Commission Decision 2005/55/EC  
(OJ L 22, 26.1.2005, p. 17)

Commission Directive 2006/124/EC  
(OJ L 339, 6.12.2006, p. 12)

Commission Decision 2007/699/EC  
(OJ L 284, 30.10.2007, p. 33)

Only Annex II, point 6 and  
Annex III, point 27

Only Article 1, point 4

Only Article 1 and Annex

## Part B

### List of time-limits for transposition into national law and application (referred to in Article 25)

| Directive   | Time-limit for transposition | Date of application       |
|-------------|------------------------------|---------------------------|
| 92/33/EEC   | 31 December 1992             | -                         |
| 2003/61/EC  | 10 October 2003              | -                         |
| 2006/124/EC | 30 June 2007                 | 1 July 2007 <sup>11</sup> |

---

<sup>11</sup> In accordance with the second subparagraph of Article 3(1) of Directive 2006/124/EC: “They shall apply the provisions from 1 July 2007. However, they may postpone until 31 December 2009 the application of the provisions in respect of the official acceptance of varieties belonging to *Allium cepa* L. (aggregatum group), *Allium fistulosum* L., *Allium sativum* L., *Allium schoenoprasum* L., *Rheum rhabarbarum* L. and *Zea mays* L.”.

## ANNEX IV

### CORRELATION TABLE

| Directive 92/33/EEC                                   | This Directive                    |
|-------------------------------------------------------|-----------------------------------|
| Articles 1, 2 and 3                                   | Articles 1, 2 and 3               |
| Article 4, introductory phrase                        | Article 4, introductory phrase    |
| Article 4, points (i) and (ii)                        | Article 4, points (a) and (b)     |
| Articles 5, 6 and 7                                   | Articles 5, 6 and 7               |
| Article 8(1)                                          | Article 8(1)                      |
| Article 8(2), first subparagraph                      | Article 8(2)                      |
| Article 8(2), second subparagraph                     | Article 8(3)                      |
| Article 9(1) and (2)                                  | Article 9(1) and (2)              |
| Article 9(3)                                          | -                                 |
| Article 9(4), first subparagraph                      | Article 9(3)                      |
| Article 9(4), second subparagraph                     | -                                 |
| Articles 10 and 11                                    | Articles 10 and 11                |
| Article 12, first paragraph, introductory phrase      | Article 12(1) introductory phrase |
| Article 12, first paragraph, first and second indents | Article 12(1)(a) and (b)          |
| Article 12, second paragraph                          | Article 12(2)                     |
| Articles 13 to 20                                     | Articles 13 to 20                 |
| Article 21(1) and (2)                                 | Article 21(1) and (2)             |
| Article 21(3)                                         | Article 21(4)                     |
| Article 22(1)                                         | -                                 |
| Article 22(2)                                         | Article 21(3)                     |
| Article 23                                            | Article 22                        |
| Article 24                                            | Article 23                        |

Article 25(1)

Article 25(2)

-

-

Article 26

Annexes I and II

-

-

Article 24

Article 25

Article 26

Article 27

Annexes I and II

Annexes III and IV