



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.12.1997
COM(97) 708 final

97/0367 (CNS)

Proposal for a

COUNCIL DIRECTIVE

on the marketing of propagating material of ornamental plants

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. Council Directive 91/682/EEC on the marketing of ornamental plant propagating material and ornamental plants¹ formed part of the White Paper on the Completion of the Internal Market. It is a harmonizing measure designed to ensure the free marketing of ornamental plant propagating material and ornamental plants and sets out minimum quality conditions to be met by such material. It provides for a system of accredited suppliers.
2. Due to its hurried adoption at the end of 1991, there are various drafting inconsistencies in the text which have given rise to problems of interpretation for Member States when transposing and implementing the legislation.

In an attempt to overcome these problems, the Commission issued an Interpretative Note to Member States in 1994, but problems have still persisted which have resulted in the Commission not being able to develop further implementing measures required by the basic Directive.

3. In May 1996 the Commission launched the "SLIM" initiative (Simpler Legislation for the Internal Market). Its aim was to identify ways in which Internal Market legislation could be simplified and formed part of the Commission's Confidence Pact for Employment. In small SLIM teams, four or five experts from Member State administrations worked together with the same number of user representatives of the legislation. 4 areas were chosen for a pilot project, of which the ornamental plants sector was one, given the difficulties which had been experienced in transposing and implementing the legislation.
4. The results of the SLIM team recommendations are contained in the Communication from the Commission to the Council and European Parliament on the SLIM Initiative². In that Communication, the Commission undertook to come forward with a proposal to simplify the ornamental plant directive.
5. The present proposal takes into account the recommendations of the Ornamental Plants SLIM team and representations made by Member States and the professional bodies on the SLIM team Report. It is intended to remove any remaining difficulties for Member States.

¹ OJ No L 376, 31.12.1991, p. 21

² COM(96)559 final

6. In the interest of clarity, the proposal takes the form of a recasting in a single text rather than numerous modifications to Directive 91/682/EEC. However, the Commission is of the opinion that discussions on the document should be restricted to the new parts of the text and that the debate on remaining parts of Directive 91/682/EEC should not be re-opened. To this end the Commission has underlined the new parts in the text.
7. As a result of this proposal, certain consequential amendments will be made at a later date to Commission Directive 93/49/EEC, setting out the schedule indicating the conditions to be met by ornamental plant propagating material and ornamental plants pursuant to Council Directive 91/682/EEC³, Commission Directive 93/63/EEC setting out the implementing measures concerning the supervision and monitoring of suppliers and establishments pursuant to Council Directive 91/682/EEC⁴ and Commission Directive 93/78/EEC setting out additional implementing provisions for lists of varieties of ornamental plant propagating material and ornamental plants as kept by suppliers under Council Directive 91/682/EEC⁵.
8. There are no subsidiarity implications given that the proposal is based on Article 43 of the Treaty establishing the European Community and thus falls within the exclusive competence of the Community.
9. There are no financial implications for the EC budget.

³ **Of No L 250, 07.10.1993, p. 9**

⁴ **Of No L 250, 07.10.1993, p. 31**

⁵ **Of No L 256, 14.10.1993, p. 19**

COUNCIL DIRECTIVE

on the marketing of propagating material of ornamental plants

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the Opinion of the European Parliament²,

Having regard to the Opinion of the Economic and Social Committee³,

Whereas the production of ornamental plants occupies an important place in the agriculture of the Community;

Whereas satisfactory results in the cultivation of ornamental plants depend to a large extent on the quality and health of the material used for their propagation;

Whereas the establishment of harmonized conditions at Community level will ensure that purchasers throughout the Community receive propagating material which is healthy and of good quality;

Whereas, so far as they relate to plant health, such harmonized conditions must be consistent with Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction in to the Member States of organisms harmful to plants or plant products⁴, as last amended by Directive .../.../EC⁵;

1 OJ No C

2 OJ No C

3 OJ No C

4 OJ No L 26, 31.01.1977, p. 20

5 OJ No

Whereas it is appropriate to establish Community rules for all genera and species of ornamental plants in the Community, with the exception of those covered by Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein⁶;

Whereas, without prejudice to the plant health provisions of Directive 77/93/EEC, it is not appropriate to apply the Community rules on the marketing of propagating material when it is shown that such material and plants are intended for export to third countries, as the rules applicable there may be different from those contained in this Directive;

Whereas the determination of plant health and quality standards for particular genus and species of ornamental plant requires lengthy and detailed technical and scientific consideration; whereas a procedure should accordingly be established for the determination of these standards;

Whereas in the first instance it is the responsibility of the suppliers of propagating material to ensure that their products fulfil the conditions laid down in this Directive;

Whereas the competent authorities of the Member States must, when carrying out controls and inspections, ensure that suppliers fulfil those conditions;

Whereas Community control measures should be introduced to ensure uniform application in all the Member States of the standards laid down in this Directive;

Whereas it is in the interests of the purchasers of propagating material that the names of varieties or of groups of plants be known and that their identity be safeguarded;

Whereas the characteristics specific to the industry operating in the ornamental plant sector are a complicating factor; whereas, accordingly, the objective stated above can best be achieved either through common knowledge of the variety or, in the case of varieties or groups of plants, through the availability of a description drawn up and kept by the suppliers;

⁶ OJ L 61, 09.03.1997, p. 1

Whereas, in order to ensure the identity and orderly marketing of propagating material, Community rules must be laid down concerning the separation of lots and marketing; whereas the labels should give the particulars needed both for official control and for the information of the grower;

Whereas rules should be established permitting, in the case of temporary supply difficulties, the marketing of propagating material subject to requirements less stringent than those contained in this Directive;

Whereas provisions should be made for authorizing the marketing, within the Community, of propagating material produced in third countries, provided always it affords the same assurance as propagating material produced in the Community and complying with Community rules;

Whereas, in order to harmonize technical methods of examination used in the Member States and to compare propagating material produced in the Community with those produced in third countries, comparative trials should be carried out to check compliance of propagating material with the requirements of this Directive;

Whereas, in order to facilitate the effective operation of this Directive, the Commission should be entrusted with the task of adopting measures for its implementation; whereas such measures should be adopted by a procedure involving close cooperation between the Commission and the Member States within a Standing Committee for Propagating Material of Ornamental Plants;

Whereas Council Directive 91/682/EEC on the marketing of ornamental plant propagating material and ornamental plants⁷ established harmonised conditions at Community level to ensure that purchasers throughout the Community receive propagating material and ornamental plants which are healthy and of good quality;

Whereas Member States have expressed difficulties in the interpretation and transposition of the said Directive;

⁷ OJ No L 376, 31.12.1991, p. 21

Whereas the said Directive was considered to be suitable for inclusion in the SLIM initiative (Simpler Legislation for the Internal Market) which was launched by the Commission in May 1996;

Whereas the Ornamental Plants SLIM team made various recommendations aimed at simplifying the said Directive; whereas those recommendations are contained in the Communication from the Commission to the Council and the European Parliament on the SLIM Initiative⁸

Whereas those recommendations related to the persons to be controlled by the Directive, the species to be covered by the Directive, varietal authenticity, the interrelationship with Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community and third country equivalence;

Whereas, after consideration of those recommendations it is desirable to amend certain provisions of the said directive; whereas given the number of such amendments, the Directive should be recast in the interest of clarity;

HAS ADOPTED THIS DIRECTIVE:

Title I

FIELD OF APPLICATION

Article 1

This Directive shall apply to the marketing of propagating material of ornamental plants within the Community. It shall apply to all genera and species of ornamental plants, except those covered by Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein⁹.

Article 2

1. This Directive shall not apply to propagating 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 by Directive 77/93/EEC.
2. Implementing measures for the first paragraph, with particular reference to identification and isolation, may be adopted in accordance with the procedure laid down in Article 22.

⁸ COM(96) 559 final

⁹ OJ No L 61, 03.03.1997, p. 1

3. This Directive shall not apply to propagating material of plant species which is intended for non-ornamental purposes and which is covered by other Community legislation.

Title II

DEFINITIONS

Article 3

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

1. Propagating material: seeds, parts of plants and all plant material intended for the propagation and production of ornamental plants.....
2. Supplier: any natural or legal person carrying out professionally at least one of the following activities with regard to propagating material of ornamental plants: reproducing, producing, preserving, treating, processing, importing from third countries, marketing.
3. Marketing: the holding available or in stock, display with a view to sale, offering for sale, sale or delivery to another person;
4. Responsible official body:

.....

any State authority established:

- either at national level or
- at regional level, under the supervision of national authorities, within the limits set by the constitution of the Member State concerned.

The bodies referred to above 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 by private law, which, under its officially approved constitution, 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.

.....

Moreover, in accordance with the procedure laid down in Article 22, other legal persons established on behalf of the body referred to in subparagraph 1 above 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.

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

5. Official measures: measures taken by the responsible official body;

6. Official inspection: examination, including field and laboratory tests and trials carried out by the responsible official body;
7. Official statement: statement issued by, or under the responsibility of the responsible official body;
8. Lot: a number of units of a single commodity, identifiable by its homogeneity of composition and origin;
9. Laboratory: a public or private law entity carrying out analysis and proper diagnosis, enabling the supplier to monitor production quality;

Title III

REQUIREMENTS TO BE MET BY PROPAGATING MATERIAL

Article 4

1. Suppliers may market propagating material only if it meets the requirements laid down in this Directive.
2. Without prejudice to Directive 77/93/EEC, paragraph 1 shall not apply to propagating material intended for:
 - 1) trials or scientific purposes;
 - 2) selection work or
 - 3) the conservation of genetic diversity.
3. Detailed rules for the application of paragraph 2 may be adopted in accordance with the procedure laid down in Article 22.
4. In accordance with the procedure laid down in Article 22, a list of species may be established, the seed of which shall not be subject to the requirements of this Directive if intended for production of further propagating material and where there is no significant connection between the quality of such seed and that of other propagating material deriving from it.

Article 5

Propagating material shall, where applicable, comply with the relevant plant health conditions laid down in Council Directive 77/93/EEC.

Article 6

1. Without prejudice to the provisions of Article 5, propagating material shall be of good merchantable quality, shall have satisfactory varietal identity and shall, at least on visual inspection, be substantially free from any harmful organisms and diseases impairing quality, or any signs or symptoms thereof, which reduce the usefulness of the propagating material.

2. Any propagating material of citrus species showing visible signs or symptoms of any harmful organisms or diseases at the stage of the growing crop shall be properly treated immediately upon appearance or, where appropriate, shall be removed.
3. In the case of citrus material the following requirements shall also be met:
 - 1) it shall be derived from initial material which has been checked and found to show no symptoms of any viruses, virus-like organisms or diseases;
 - 2) it shall have been checked and found to be substantially free of such viruses, virus-like organisms or diseases since the beginning of the last cycle of vegetation; and
 - 3) in the case of grafting, it shall have been grafted onto rootstocks other than those susceptible to viroids.
4. In the case of flower bulbs the following requirement shall also be met:
 - the propagating material shall be derived directly from material which, at the stage of the growing crop, has been checked and found to be substantially free from any harmful organisms and diseases, signs or symptoms thereof.
5. In accordance with the procedure laid down in Article 22, a schedule may be established for a particular genus or species, with a reference to the plant health conditions laid down in Directive 77/93/EEC applying to the genus or species concerned, and laying down any particular conditions concerning the quality with which propagating material must comply.

Title IV

REQUIREMENTS TO BE MET BY SUPPLIERS OF PROPAGATING MATERIAL

Article 7

Member States shall ensure that suppliers take all the necessary measures to guarantee compliance with the requirements set out in this Directive at all stages of production and marketing of ___ propagating material.

Article 8

1. Suppliers who engage in the activities of reproduction, wholesale or import of propagating material must be officially accredited. The responsible official body may accredit such suppliers once it has 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.
2. Suppliers who are already registered as producers under Directive 77/93/EEC shall be deemed to be accredited for the purposes of this Directive. Such suppliers shall nonetheless comply with the requirements of this Directive.

3. 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 according to the procedure laid down in Article 22, with regard to the testing activities they carry out _____.
4. The responsible official body shall take the necessary measures if the requirements referred to in paragraphs 1 and 3 cease to be met. To this end, it shall take particular account of the conclusions of any check carried out in accordance with Article 9.
5. The supervision and monitoring of suppliers, laboratories and their establishments shall be carried out regularly by or under the responsibility of the responsible official body, which shall at all reasonable 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 may be adopted, in accordance with the procedure laid down in Article 22.

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 9

1. Accredited suppliers shall either carry out themselves, or have carried out by another accredited supplier or the responsible official body, checks relating to the following, where appropriate:
 - the identification of critical points in their production process on the basis of the production methods used,
 - the establishment and implementation of methods for monitoring and checking the critical points referred to in the first indent,
 - the taking of samples for analysis in an accredited laboratory,
 - the keeping of a ___ record, ___ of the data referred to in the first, second and third indents, as well as records on production, reproduction, buying, selling or delivery of propagating material. These documents and records shall be kept for a period of at least one year.
2. If the results of the checks ___ referred to in paragraph 1 reveal the presence of one or more of the relevant harmful organisms contained in Directive 77/93/EEC or listed in any measures established pursuant to Article 6(5), it shall be reported to the responsible official body. The accredited supplier shall carry out the measures indicated by that body. The accredited supplier shall keep records of all occurrences of harmful organisms on his premises and of all measures taken in relation to such occurrences.
3. Other suppliers shall be required only to keep a record of the receipt, buying, selling or delivery of propagating material.

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

4. Rules for the application of ___ paragraph 2 above may be established in accordance with the procedure laid down in Article 22.

Article 10

1. While growing and during lifting or removal from the parent material, propagating material shall be kept in separate lots.
2. If thereafter propagating material of different lots are mixed during packaging, storage or transport, the supplier shall keep records including data relating to the compositions and origins of the individual lots.
3. Member States shall ensure compliance with the requirements referred to in paragraphs 1 and 2 by carrying out official inspections.

Title V

MARKETING AND LABELLING OF PROPAGATING MATERIAL

Article 11

1. ___ Propagating material shall ___ be marketed only in ___ lots. However, in the case of propagating material intended for purposes other than further propagation, such material may be mixed, providing the conditions laid down in Article 10(2) are complied with.
2. Propagating material ___ shall at all stages be accompanied by a label or other document made out by the accredited supplier. If an official statement appears on this label or other document, it shall be clearly separated from all other contents of the label or document.
3. In accordance with the procedure laid down in Article 22, requirements as to the label or document, referred to in paragraph 2 and the sealing or packaging of propagating material may be established.
4. In the case of retail supply of propagating material ___ to a non-professional final consumer, requirements on labelling may be confined to appropriate product information.

Article 12

1. Propagating material ___ may be marketed with a reference ___ to a variety only if the variety concerned is:
 - a variety legally protected by a plant variety right in accordance with provisions on the protection of new varieties, or
 - a variety officially registered on a compulsory or voluntary basis, or
 - a variety which is commonly known, or
 - a variety entered on a list kept by a supplier with its detailed description and denomination. Such lists shall be available, on request, to the responsible official body of the Member State concerned.

2. Each variety shall be described and, as far as possible, shall bear the same denomination in all the Member States, in accordance with implementing measures which may be adopted in accordance with the provisions of Article 22 or, in their absence, in accordance with accepted international guidelines.
3. Where propagating material is marketed with a reference to a group of plants other than a variety referred to in paragraph 1, the supplier shall indicate the group of plants in such a way as to avoid confusion with any varietal denomination.
4. Except where the varietal aspect is explicitly mentioned in any implementing measures made under Article 6(5), paragraphs 1, 2 and 3 shall not mean any extra responsibility for the responsible official body.
5. In accordance with the procedure laid down in Article 22:
 - a system for the notification of varieties or species or interspecific hybrids to the responsible official bodies of the Member States may be set up,
 - additional implementing provisions for the third and fourth indent of paragraph 1 may be adopted and
 - it may be decided that a common catalogue of varieties may be established and published.

Title VI

PROPAGATING MATERIAL MEETING LESS STRINGENT REQUIREMENTS

Article 13

Without prejudice to the plant health rules laid down in Directive 77/93/EEC, in the event of temporary difficulties in the supply of propagating material satisfying the requirements of this Directive which cannot be overcome within the Community, rules may be adopted, in accordance with the procedure laid down in Article 22, concerning the marketing of propagating material meeting less stringent requirements.

Title VII

PROPAGATING MATERIAL PRODUCED IN THIRD COUNTRIES

Article 14

1. In accordance with the procedure laid down in Article 22, it shall be decided whether propagating material produced in a third country affords the same guarantees as propagating material produced in the Community and complying with the requirements and conditions of this Directive.
2. Pending the decision referred to in paragraph 1 above, propagating material may be imported from third countries by a supplier accredited as an importer.

3. The accredited importer shall ensure that the supplier of propagating material from the third country provides propagating material which affords the same guarantees as propagating material produced in the Community and complying with the requirements and conditions of this Directive.
4. The accredited importer shall notify the responsible official bodies of material imported under paragraph 3. The Member States shall make this information available on request to other Member States and the Commission.
5. The accredited importer shall keep documentary evidence of his contract with the supplier in the third country. Detailed implementing measures relating to the procedure to be followed and further requirements to be met by accredited importers may be established in accordance with the procedure laid down in Article 22.

Title VIII

CONTROL MEASURES AND GENERAL PROVISIONS

Article 15

1. Member States shall ensure that propagating material __ is officially inspected during production and marketing, at least by random checks, to verify compliance with the requirements and conditions of this Directive.
2. Where it is necessary to carry out laboratory tests to detect any harmful organisms and diseases, those tests shall be carried out in an accredited laboratory.

Article 16

In accordance with the procedure laid down in Article 22 detailed implementing procedures for the official inspection referred to in Articles 8, 9, 10 and 15, including sampling methods, may be established.

Article 17

1. If, during the supervision and monitoring referred to in Article 8(5), the official inspection referred to in Article 15, or the trials referred to in Article 18, it is found that propagating 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 propagating material ___ in the Community.
2. If it is found that propagating 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 propagating material __, the Member State shall notify the Commission and the responsible official bodies in the other Member States.

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

Article 18

1. Trials, or where appropriate tests, shall be carried out in the Member States on samples to check that propagating material __ comply 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. It may be decided in accordance with the procedure laid down in Article 22 that it is necessary to carry out Community trials or tests for the same purpose as mentioned in paragraph 1. The Commission may organise inspections of Community trials by representatives of the Member States and of the Commission.
3. The trials or tests referred to in paragraphs 1 and 2 shall be used to harmonise technical methods of examination of propagating material. Progress reports shall be made on the trials or tests and sent in confidence to the Member States and to the Commission.
4. The Commission shall ensure that, in appropriate cases, arrangements for co-ordinating, carrying out and inspecting the trials referred to in paragraphs 1 and 2, and assessing their results, are made within the Committee set up by Article 22. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health. If necessary, specific arrangements shall be adopted. Propagating material produced in third countries shall be included in the trials.

Article 19

1. Member States shall ensure that propagating material __ produced in their territory and intended for marketing complies with the requirements of this Directive.
2. If it is found, at an official inspection, that propagating material __ cannot, by reason of non-compliance with a condition relating to plant health, be placed on the market, the Member State concerned shall take appropriate official measures to eliminate any consequent plant health risk.

Article 20

The marketing of propagating material __ which complies with the requirements and conditions of this Directive shall be subject to no restrictions as regards supplier, quality, plant health, labelling and packaging, other than those laid down in this Directive.

Article 21

Upon application by a Member State, which will be dealt with in accordance with the provisions laid down in Article 22, that State may be wholly or partially released from the obligation to apply the provisions of this Directive, save where this would run counter to the provisions laid down in Article 20.

Title IX

COMITOLOGY

Article 22

- 1) Where reference is made to the procedure laid down in this Article, the Commission shall be assisted by a Committee, referred to as the Standing Committee for Propagating Material of Ornamental Plants, chaired by a representative of the Commission.
- 2) The representative of the Commission shall submit to the Standing Committee a draft of the measures to be taken. The Standing Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the EEC Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time referred to in the second subparagraph.

- 3) The Committee, at the request of the Chairman or one of the Member States, may examine any questions relevant to the subject matter of this Directive.

Article 23

Amendments to the schedules established pursuant to Article 6(5) and to the conditions and detailed rules adopted for the implementation of this Directive shall be adopted in accordance with the procedure laid down in Article 22.

Title X

FINAL PROVISIONS

Article 24

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive not later than 31 December 19... They shall forthwith inform the Commission thereof.
2. When these measures are adopted by the Member States, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods for making such reference shall be adopted by the Member States.
3. 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.

Article 25

1. Directive 91/682/EEC¹⁰ is hereby repealed without prejudice to Member States' obligations in relation to period of transposition and implementation referred to in Part A of the Annex hereto.
2. References to the repealed Directive shall be understood as references to this Directive and shall be read in accordance with the correlation table in Part B of the Annex hereto.

Article 26

This Directive is addressed to the Member States.

Done at Brussels,

For the Council,

ANNEX

PART A

Time-limits for transposition into national law and implementation

Directive	Time limit for transposition	Time limit for implementation
91/682/EEC (OJ No L 376, 31.12.1991, p. 21)	31 December 1992	Articles 5-11, 14, 15, 17, 19 and 24 (for all genera and species) 31 December 1993

PART B

Correlation Table

This Directive	Directive 91/682/EEC
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4	Article 8
Article 5	-
Article 6	Article 4 (in part)
Article 7	Article 5
Article 8	Article 6
Article 9	Article 5
-	Article 7
Article 10	Article 10
Article 11	Article 11
Article 12	Article 9
Article 13	Article 13
Article 14	Article 16
Article 15	Article 17
Article 16	Article 18
Article 17	Article 19
Article 18	Article 20
Article 19	Article 24
Article 20	Article 14
Article 21	-
Article 22	Article 21
Article 23	Article 23
Article 24	-
Article 25	-
Article 26	-

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS

with special reference to small and medium-sized enterprises

Title of proposal: Proposal for a Council Directive on the marketing of Propagating Material of Ornamental Plants

Reference number (Répertoire):= 97/009

The proposal

- (1) The proposal is a major revision of Directive 91/682/EEC following the "SLIM" (Simpler Legislation for the Internal Market) exercise. The results of the SLIM Team recommendations are contained in the Communication from the Commission to the Council and European Parliament on the SLIM initiative¹. The full Report of the SLIM Team is annexed hereto. The aim of the proposal is to simplify the legislation and enhance the competitiveness and employment-creating potential of business. For transparency's sake, the proposal takes the form of a recasting of the directive. Legislation is necessary in this area in order to ensure free movement and to establish minimum quality standards for ornamental propagating material throughout the EU. Although the Directive will now apply to all species, the provisions relating to the accreditation of suppliers are restricted to those suppliers who most influence the quality of the material, whereas before all suppliers were to be accredited.

The proposal also simplifies the old Directive by:

- i) clarifying the ambiguous wording in the provision relating to varietal authenticity and creates 4 clear categories by reference to which a variety may be marketed;
- ii) providing a less cumbersome procedure for the import of material from third countries, without necessarily involving a decision at Community level and
- iii) eliminating the possible duplication of accreditation under Directive 91/682/EEC and registration under Directive 77/93/EEC (plant health), by deeming all producers registered under the latter to also be accredited as suppliers of propagating material.

¹ COM(96)559 final

The impact on business

- (2) Professional suppliers of ornamental plant propagating material will be affected by the proposal. They exist in all Member States and are largely concentrated in small and medium-sized firms. Compared with the old Directive which was much criticised, the new proposal does not require all suppliers to be accredited and non-accredited suppliers will be subject to a lighter form of control.
- (3) To comply with the proposal businesses which engage in the activities of reproduction, wholesale or import of propagating material must be accredited by the responsible official bodies. They have to comply with particular requirements on production, labelling and control. The propagating material itself will have to comply with general requirements as to quality. For some species, further particular requirements will have to be complied with. Non-accredited suppliers will be subject to less stringent control.
- (4) Insofar as the proposal seeks to improve and simplify the old Directive, the economic effects will be favourable.
- (5) The proposal differentiates between accredited and non-accredited suppliers, in that the latter are subject to reduced requirements. (Under the old Directive all suppliers were subject largely to the same requirements.) These concern such matters as checks on the production process, the taking of samples and the keeping of records.

Consultation

- (6) In addition to the SLIM Team members and Member States, the following organisations have been consulted or given their views on desirable amendments to Directive 91/682/EEC:
 - (a) COPA/COGECA
 - (b) NFU (National Farmer's Union, England and Wales)
 - (c) Zentralverband Gartenbau e.V. (Germany)
 - (d) CIOPORA (Communauté Internationale des Obtenteurs de Plantes ornementales de Reproduction Asexuée) (Italy).

Most of the trade organisations favoured some legislative regulation but in a much more restricted and simplified form with the possibility of allowing producers to opt in or out of the directive's application. It was generally considered that only professional producers should be controlled and that only important species which had been shown to present trading or phytosanitary problems should be covered. With regard to varietal authenticity, the unanimous view was that the present legislation was far too detailed. All organisations were in favour of as much coherence with Directive 77/93/EEC as possible and in ensuring that material coming from third countries should be subject to the same requirements as that produced in the Community.

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