



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 25.07.1997
COM(97) 403 final

97/0217 (CNS)

Proposal for a

COUNCIL DIRECTIVE

amending Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/457/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and vegetable seed and on the common catalogue of varieties of agricultural plant species

(presented by the Commission)

EXPLANATORY NOTE

Directives 66/400/EEC¹⁵, 66/401/EEC¹⁶, 66/402/EEC¹⁷, 66/403/EEC¹⁸, 69/208/EEC¹⁹, 70/457/EEC²⁰ and 70/458/EEC²¹ lay down the conditions under which seed of beet, fodder plant, cereal, potatoes, oil and fibre plants and vegetable may be marketed within the Community and the conditions for inclusion in the common catalogue of varieties of agricultural plant species.

Directives 66/400/EEC, 66/401/EEC, 66/402/EEC and 69/208/EEC provide for temporary experiments to be organized at Community level with the aim of seeking improved alternatives to certain elements of the certification schemes provided for by the directives.

In 1989 the Commission organized such a temporary experiment with the aim of assessing whether "unofficial" field inspections could ensure simplification of the procedures for official seed certification of "certified seed" of all categories.

The results of the experiment showed that, for certain purposes, there could be a simplification of the procedures for official seed certification if inspections were carried out by inspectors other than those charged with official examination by the seed certification authority.

The present proposal therefore amends the said directives by providing for inspections to be carried out either officially or under official supervision.

It also extends the scope of the provision for the organisation of temporary experiments by providing that such experiments may be carried out for the purpose of seeking improved alternatives to the provisions set out in the said directives; provides a legal base for such experiments in Directive 66/403/EEC and facilitates the addition of new species to the lists of species in the directives.

15 OJ No 125, 11.07.1966, p. 2290/66
16 OJ No 125, 11.07.1966, p. 2290/66
17 OJ No 125, 11.07.1966, p. 2309/66
18 OJ No 125, 11.07.1966, p. 2320/66
19 OJ No L 169, 10.07.1969, p. 3
20 OJ No L 225, 12.10.1970, p. 1
21 OJ No L 225, 12.10.1970, p. 7

Furthermore, it provides for rules in Directives 70/457/EEC and 70/458/EEC in relation to the suitability of varietal denominations.

Action at the Community level is justified given that the proposal mainly relates to harmonized technical checks in Member States.

Proposal for a
COUNCIL DIRECTIVE

of

amending Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC,
69/208/EEC, 70/457/EEC and 70/458/EEC on the marketing of beet seed, fodder
plant seed, cereal seed, seed potatoes, seed of oil and fibre plants and
vegetable seed and 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 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, for the reasons given below, the following Directives on the
marketing of seed and propagating material should be amended:

- Council Directive 66/400/EEC of 14 June 1966 on the marketing of beet
seed⁴, as last amended by Directive 96/72/EEC⁵,
- Council Directive 66/401/EEC of 14 June 1966 on the marketing of
fodder plant seed⁶, as last amended by Directive 96/72/EEC⁵,
- Council Directive 66/402/EEC of 14 June 1966 on the marketing of
cereal seed⁷, as last amended by Directive 96/72/EC⁵,
- Council Directive 66/403/EEC of 14 June 1966 on the marketing of seed
potatoes⁸, as last amended by Council Directive 96/72/EEC⁵

1 OJ No C
2 OJ No C
3 OJ No C
4 OJ No 125, 11.07.1966, p. 2290/66
5 OJ No L 304, 27.11.1996, p. 10
6 OJ No 125, 11.07.1966, p. 2298/66
7 OJ No 125, 11.07.1966, p. 2309/66
8 OJ No 125, 11.07.1966, p. 2320/66.

- Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants⁹, as last amended by Directive 96/72/EEC⁵;
- Council Directive 70/457/EEC of 29 September 1970 on the Common Catalogue of Varieties of agricultural plant species¹⁰, as last amended by Directive 90/654/EEC¹¹, and
- Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed¹², as last amended by Directive 96/72/EC⁵

Whereas Commission Decision 89/540/EEC of 22 September 1989 on the organization of a temporary experiment on the marketing of seeds and propagating material¹³, as last amended by Commission Decision 96/336/EC¹⁴, organized a temporary experiment under specified conditions, with the aim of assessing whether unofficial field inspections could ensure simplification of the procedures for official seed certification required under Directives 66/400/EEC, 66/401/EEC, 66/402/EEC and 69/208/EEC without a significant decrease in the quality of the seed;

Whereas the results of the experiment have shown that, for certain purposes, there could be a simplification of the procedures for official seed certification of "certified seed" of all categories, if inspections were allowed to be carried out by inspectors other than those charged with official examination by the seed certification authority;

Whereas administrative developments have taken place in the Member States;

Whereas it is therefore desirable to amend Directives 66/400/EEC, 66/401/EEC, 66/402/EEC and 69/208/EEC accordingly;

Whereas Directives 66/401/EEC, 66/402/EEC, 69/208/EEC and 70/458/EEC provide for amendments to be made to the lists of species referred to therein in the light of the development of scientific or technical knowledge concerning the names and hybrids resulting from the crossing of species covered by those Directives, in accordance with the Standing Committee procedure;

9 OJ No L 169, 10.07.1969, p. 3.
 10 OJ No L 225, 12.10.1970, p. 1
 11 OJ No L 353, 17.12.1990, p. 48
 12 OJ No L 225, 12.10.1970, p. 7
 13 OJ No L 286, 04.10.1989, p. 24
 14 OJ No L 128, 29.05.1996, p. 23

Whereas it is desirable to facilitate the addition of new species to the list of species in the said directives;

Whereas those directives should be amended accordingly;

Whereas in Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 69/208/EEC and 70/458/EEC there is provision for the organisation of temporary experiments for the purpose of seeking improved alternatives to certain elements of the certification schemes adopted thereunder;

Whereas, in the light of experience, it is desirable to extend the scope of the organization of such experiments for the purpose of seeking improved alternatives to certain provisions set out in the said directives;

Whereas it is desirable to provide a legal base in Directive 66/403/EEC for the organization of temporary experiments for the purpose of seeking improved alternatives to certain provisions set out in that directive;

Whereas it is desirable to provide in Directives 70/457/EEC and 70/458/EEC for rules in relation to the suitability of varietal denominations;

HAS ADOPTED THE PRESENT DIRECTIVE:

Article 1

Directive 66/400/EEC is hereby amended as follows:

1. Article 2(1)(C)(d) is replaced by the following:

- "(d)(i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) 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 by inspectors other than those charged with official examination by the seed certification authority."

2. The following paragraphs are added after Article 2(2):

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

(i) the inspectors, shall

(a) have the necessary technical qualifications:

(b) derive no private gain in connection with the carrying out of the inspections;

(c) have been officially licenced by the seed certification authority of the Member State concerned;

(d) carry out inspections under official supervision in accordance with the rules applicable to official inspections;

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

(iii) a proportion of the seed crop shall be checked by official inspectors;

(iv) 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.

4. Further measures applicable to the carrying out of examinations under official supervision may be adopted in accordance with the procedure laid down in Article 21.

Until such measures are adopted, the conditions set out in Article 2 of Commission Decision 89/540/EEC shall be adhered to."

3. The first paragraph of Article 13a is replaced by the following:

"For the purpose of seeking improved alternatives to certain provisions set out in this directive, it may be decided to organize temporary experiments under specified conditions at Community level in accordance with the provisions laid down in Article 21."

4. Point 3 of Annex I(A) is replaced by the following:
- "3. 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."

Article 2

Directive 66/401/EEC is hereby amended as follows:

1. Article 2(1)(C)(d) is replaced by the following:
- "(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) 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 by inspectors other than those charged with official examination by the seed certification authority".
2. Article 2(1a) is replaced by the following:
- "1a. Amendments to be made to the list of species referred to in paragraph 1(A) shall be adopted in accordance with the procedure laid down in Article 21."
3. The following paragraphs are added after Article 2(2):
- "3. When the examination under official supervision referred to in paragraph 1(C)(d)(ii) above is carried out, the following requirements shall be complied with:
- (i) the inspectors shall
- (a) have the necessary technical qualifications;
- (b) derive no private gain in connection with the carrying out of the inspections;
- (c) have been officially licenced by the seed certification authority of the Member State concerned;
- (d) carry out inspections under official supervision in accordance with the rules applicable to official inspections;

- (ii) the seed crop to be inspected shall be grown from seed which has undergone official post-control, the results of which have been satisfactory;
- (iii) a proportion of the seed crop shall be checked by official inspectors;
- (iv) 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.

4. Further measures applicable to the carrying out of examinations under official supervision may be adopted in accordance with the procedure laid down in Article 21.

Until such measures are adopted, the conditions set out in Article 2 of Commission Decision 89/540/EEC shall be adhered to."

4. The first paragraph of Article 13a is replaced by the following:
"For the purpose of seeking improved alternatives to certain provisions set out in this directive, it may be decided to organize temporary experiments under specified conditions at Community level in accordance with the provisions laid down in Article 21."
5. The first sentence of point 6 of Annex I is replaced by the following:
"6. The satisfaction of the above-mentioned 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."

Article 3

Directive 66/402/EEC is hereby amended as follows:

1. Article 2(1)(E)(d) is replaced by the following:

- "(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) 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 by inspectors other than those charged with official examination by the seed certification authority."

2. Article 2(1)(F)(d) is replaced by the following:

- "(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) 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 by inspectors other than those charged with official examinations by the seed certification authority".

3. Article 2(1)(G)(d) is replaced by the following:

- "(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) 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 by inspectors other than those charged with official examination by the seed certification authority."

4. Article 2(1a) is replaced by the following:

- "1a. Amendments to be made to the list of species referred to in paragraph 1(A) shall be adopted in accordance with the procedure laid down in Article 21."

5. The following paragraphs are added after Article 2(2):
- "3. When the examination under official supervision referred to in paragraphs 1(E) (d) (ii), 1(F) (d) (ii) and 1(G) (d) (ii) above is carried out, the following requirements shall be complied with:
- (i) the inspectors shall
 - (a) have the necessary technical qualifications;
 - (b) derive no private gain in connection with the carrying out of the inspections;
 - (c) have been officially licenced by the seed certification authority of the Member State concerned;
 - (d) carry out inspections under official supervision in accordance with the rules applicable to official inspections;
 - (ii) the seed crop to be inspected shall be grown from seed which has undergone official post-control, the results of which have been satisfactory;
 - (iii) a proportion of the seed crop shall be checked by official inspectors;
 - (iv) 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.
4. Further measures applicable to the carrying out of examinations under official supervision may be adopted in accordance with the procedure laid down in Article 21.

Until such measures are adopted, the conditions set out in Article 2 of Commission Decision 89/540/EEC shall be adhered to."

6. The first paragraph of Article 13a is replaced by the following:
- "For the purpose of seeking improved alternatives to certain provisions set out in this directive, it may be decided to organize temporary experiments under specified conditions at Community level in accordance with the provisions laid down in Article 21."

7. The first sentence of point 5 of Annex I is replaced by the following:

"5. The satisfaction of the above-mentioned 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."

Article 4

Directive 66/403/EEC is hereby amended as follows:

The following article is added after Article 13:

"Article 13a

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 organize temporary experiments under specified conditions at Community level in accordance with the provisions laid down in Article 19.

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 5

Directive 69/208/EEC is hereby amended as follows:

1. Article 2(1)(C)(d) is replaced by the following:

"(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
(ii) 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 by inspectors other than those charged with official examination by the seed certification authority."

2. Article 2(1)(D)(d) is replaced by the following:

"(d) (i) which has been found by official examination to satisfy the above mentioned conditions or

- (ii) 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 by inspectors other than those charged with official examination by the seed certification authority".
3. Article 2.1(E) (d) is replaced by the following:
- "(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) 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 by inspectors other than those charged with official examination by the seed certification authority."
4. Article 2.1(Ea) (d) is replaced by the following:
- "(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) in the case of the conditions laid down in Annex IA, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision by inspectors other than those charged with official examination by the seed certification authority".
5. Article 2(1) (F) (d) is replaced by the following:
- "(d) (i) which has been found by official examination to satisfy the above mentioned conditions or
- (ii) 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 by inspectors other than those charged with official examination by the seed certification authority."
6. Article 2(1a) is replaced by the following:
- "1a. Amendments to be made to the list of species referred to in paragraph 1(A) shall be adopted in accordance with the procedure laid down in Article 21."

7. The following paragraphs are added after Article 2(2):

"3. When the examination under official supervision referred to in paragraphs 1(C) (d) (ii), 1(D) (d) (ii), 1(E) (d) (ii), 1(Ea) (d) (ii) and 1(F) (d) (ii) above is carried out, the following requirements shall be complied with:

- (i) the inspectors shall
 - (a) have the necessary technical qualifications;
 - (b) derive no private gain in connection with the carrying out of the inspections;
 - (c) have been officially licenced by the seed certification authority of the Member State concerned;
 - (d) carry out inspections under official supervision in accordance with the rules applicable to official inspections;
- (ii) the seed crop to be inspected shall be grown from seed which has undergone official post-control, the results of which have been satisfactory;
- (iii) a proportion of the seed crop shall be checked by official inspectors;
- (iv) 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.

4. Further measures applicable to the carrying out of examinations under official supervision may be adopted in accordance with the procedure laid down in Article 21.

Until such measures are adopted, the conditions set out in Article 2 of Commission Decision 89/540/EEC shall be adhered to."

8. The first paragraph of Article 12a is replaced by the following:
"For the purpose of seeking improved alternatives to certain provisions set out in this directive, it may be decided to organize temporary experiments under specified conditions at Community level in accordance with the provisions laid down in Article 21."
9. The first sentence of point 5 of Annex I is replaced by the following:
"5. The satisfaction of the above-mentioned 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."

Article 6

Directive 70/457/EEC is hereby amended as follows:

The following paragraph is inserted after paragraph 4 in Article 9:

- "5. So far as the suitability of the denomination of a variety is concerned, Article 63 of Council Regulation (EC) No 2100/94 on Community Plant Variety Rights shall apply.

Detailed implementing rules as to the suitability of denominations of varieties may be adopted in accordance with the procedure provided for in Article 23."

Article 7

Directive 70/458/EEC is hereby amended as follows:

1. Article 2(1a) is replaced by the following:
"1a. Amendments to be made to the lists of species referred to in paragraph 1(A) shall be adopted in accordance with the procedure laid down in Article 40."
2. The first paragraph of Article 29a is replaced by the following:
"For the purpose of seeking improved alternatives to certain provisions set out in this directive, it may be decided to organize temporary experiments under specified conditions at Community level in accordance with the provisions laid down in Article 40."

3. The following paragraph is added after paragraph 4 in Article 10:

"5. So far as the suitability of the denomination of a variety is concerned, Article 63 of Council Regulation (EC) No 2100/94 on Community Plant Variety Rights shall apply.

Detailed implementing rules as to the suitability of denominations of varieties may be adopted in accordance with the procedure provided for in Article 40."

Article 8

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive on 1 January 1998. They shall forthwith inform the Commission thereof.
2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The procedure for 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 9

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

Article 10

This Directive is addressed to the Member States.

Done at Brussels,

For the Council,

ISSN 0254-1475

COM(97) 403 final

DOCUMENTS

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03 10 15

Catalogue number : CB-CO-97-404-EN-C

ISBN 92-78-23502-4

Office for Official Publications of the European Communities

L-2985 Luxembourg

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