

COUNCIL DIRECTIVE 98/95/EC of 14 December 1998 amending, in respect of the consolidation of the internal market, genetically modified plant varieties and plant genetic resources, 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 Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

(1) 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 seed (4),
- Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed (5),
- Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed (6),
- Council Directive 66/403/EEC of 14 June 1966 on the marketing of seed potatoes (7),
- Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants (8),
- Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plant species (9),
- Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed (10);

(2) Whereas, in the context of the consolidation of the internal market, it is necessary to amend or repeal certain provisions of the said Directives in order to remove any actual or potential barriers to trade which may hinder the free movement of seeds within the Community; whereas, to this end, any possibilities for Member States to derogate unilaterally from the provisions of the said Directives should be removed;

(3) Whereas, for the same reasons, the scope of the said Directives should be enlarged to cover also the production of seed, with a view to marketing;

(4) Whereas it should be possible under specified conditions to place on the market bred seed of generations prior to basic seed and seed as grown;

(5) Whereas Member States making use of derogations still permitted under the said Directives should assist each other administratively as regards inspection; whereas the use of such derogations is without prejudice to Article 7a of the Treaty;

(6) Whereas the conditions under which Member States may authorise small quantities of seed for tests, scientific purposes or selection work to be placed on the market should be determined by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry;

(7) Whereas, in certain cases, the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry should determine whether packages of basic or certified seed should bear a supplier's label;

(8) Whereas, in the case of certain species of seed covered by Directive 66/401/EEC, it should be permitted to certify seed of the first and second generations;

(9) Whereas, in the case of certain species of seed covered by Directive 66/402/EEC, Member States should be permitted to restrict the certification of seed to that of the first generation;

(10) Whereas the minimum size of seed potatoes which may be placed on the market under Directive 66/403/EEC should be changed and a legal basis established to enable the minimum size of the square mesh used to measure the size of seed potatoes to be altered in the future; whereas a provision in respect of separation of seed potatoes from other potatoes for plant health reasons should be introduced;

(11) Whereas seed covered by Directive 70/457/EEC should be freely marketable within the Community two months after publication in the common catalogue;

(12) Whereas the conditions under which mixtures of certain species covered by Directive 70/458/EEC may be placed on the market should be determined in accordance with the procedure of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry; whereas in respect of the same Directive the provisions on the renewal of the official acceptance of certain varieties should be adapted in order to avoid disturbing current practice in marking packages;

(13) Whereas, in the light of experience, it is useful to clarify and update certain provisions of the abovementioned Directives;

(14) Whereas, in the light of scientific and technical developments, it is now possible to breed varieties through genetic modification; whereas, therefore, when determining whether to accept genetically modified varieties within the meaning of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (11) under Directives 70/457/EEC and 70/458/EEC, Member States should have regard to any risk related to their deliberate release into the environment; whereas, furthermore, a legal basis to establish the conditions under which such genetically modified varieties may be marketed should be introduced;

(15) Whereas the marketing of novel foods and novel food ingredients is regulated at Community level by Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 (12); whereas, therefore, it is appropriate for Member States also to have regard to any food health risks when determining whether to accept varieties under Directives 70/457/EEC and 70/458/EEC; whereas, furthermore, a legal basis should be established to take account of these developments;

(16) Whereas, in the light of scientific and technical developments, a legal basis to establish the conditions under which chemically treated seed may be marketed should be introduced;

(17) Whereas it is essential to ensure that plant genetic resources are conserved; whereas a legal basis to that end should be introduced to permit, within the framework of legislation on the seed trade, the conservation, by use in situ, of varieties threatened with genetic erosion;

(18) Whereas a legal basis to establish conditions under which seed suitable for organic growing may be marketed should be introduced;

(19) Whereas, in order to facilitate the introduction of the measures envisaged in this Directive, certain transitional measures should be introduced,

HAS ADOPTED THIS DIRECTIVE:

Article 1

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

1. Article 1 shall be replaced by the following:

'Article 1

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

2. the following Article shall be added after Article 1:

'Article 1a

For the purposes of this Directive "marketing" shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

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

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

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

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in Article 21.;

3. Article 3(1) shall be replaced by the following:

'Member States shall provide that beet seed may not be placed on the market unless it has been officially certified as "basic seed" or "certified seed".;

4. Article 3(3) shall be repealed;

5. the following Article shall be inserted after Article 3:

'Article 3a

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

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

6. the following subparagraph shall be added at the end of Article 4:

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

7. the following Article shall be inserted after Article 4:

'Article 4a

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

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

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 70/457/EEC shall apply accordingly.

2. The purposes for which the authorisations referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation shall be determined in accordance with the procedure laid down in Article 21.

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

8. Article 10(4) shall be repealed;

9. Article 11(2) shall be repealed;

10. in Article 11a(1)(a) and (b), the words 'the label shall be blue in colour` shall be replaced by the words 'the label shall be white in colour for basic seed and blue in colour for certified seed`;

11. in Article 11b, the word 'certified` shall be deleted;

12. in Article 11c, the word 'certified` shall be deleted;

13. Article 12(1) shall be replaced by the following:

'1. In accordance with the procedure laid down in Article 21, it may be provided that, in cases other than those already provided for in this Directive, packages of basic or certified seed of any kind shall bear a supplier's label (which may either be a label separate from the official label or take the form of suppliers' information printed on the package itself). The particulars to be provided on any such label shall also be established in accordance with the procedure laid down in Article 21.;

14. the following Article shall be added after Article 12:

'Article 12a

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

15. Article 14(1) shall be replaced by the following:

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

16. Article 14(2)(b) shall be repealed;
17. Article 14(2)(c) shall be repealed;
18. Article 14(3) shall be repealed;
19. the following Article shall be inserted after Article 14:

'Article 14a

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 3a shall be as follows:

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

The label shall be white with a diagonal violet line.`;

20. Article 15(2) shall be replaced by the following:

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

- be packed and labelled with an official label satisfying the conditions laid down in Annex IV(A) and (B), in accordance with Article 10(1), and

- be accompanied by an official document satisfying the conditions laid down in Annex IV(C).

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

21. Article 17 shall be replaced by the following:

'Article 17

1. In order to remove any temporary difficulties in the general supply of basic or certified seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure laid down in Article 21 that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the "Common Catalogue of Varieties of Agricultural Plant Species" or in the national catalogues of varieties of the Member States.

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

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure laid down in Article 21.`;

22. Article 19(1) shall be replaced by the following:

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

23. Article 19(2) shall be replaced by the following:

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

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

(f) importer;

(g) quantity of seed.

The manner in which these particulars are to be presented may be determined in accordance with the procedure laid down in Article 21.`;

24. the following Article shall be inserted after Article 22:

'Article 22a

1. Specific conditions may be established in accordance with the procedure laid down in Article 21 to take account of developments in the areas of:

(a) conditions under which chemically treated seed may be marketed;

(b) conditions under which seed may be marketed in relation to the conservation in situ and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 70/457/EEC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;

(c) conditions under which seed suitable for organic production may be marketed.

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

(i) in the case of (b), the seed of these species shall be of a known provenance approved by the appropriate Authority in each Member State for marketing the seed in defined areas;

(ii) in the case of (b), appropriate quantitative restrictions.`;

25. in Annex III(B)(8), the words 'certified seed` shall be replaced by the word 'category`.

Article 2

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

1. Article 1 shall be replaced by the following:

'Article 1

This Directive shall apply to the production with a view to marketing, and to the marketing, of fodder plant seed within the Community.`;

2. the following Article shall be inserted after Article 1:

'Article 1a

For the purposes of this Directive "marketing" shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

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

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

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

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in Article 21.;

3. Article 2(1)(C) shall be replaced by the following:

'C. Certified seed: seed of all the species listed under A other than *Lupinus* spp., *Pisum sativum*, *Vicia* spp. and *Medicago sativa*:

(a) which has been produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed which has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;

(b) which is intended for purposes other than the production of seed;

(c) which, subject to of Article 4(b), satisfies the conditions laid down in Annexes I and II for certified seed; and

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

4. the following points shall be inserted after Article 2(1)(C):

'Ca. Certified seed, first generation (*Lupinus* spp., *Pisum sativum*, *Vicia* spp. and *Medicago sativa*) seed:

(a) which has been produced directly from basic seed or, if the breeder so requests, from seed of a generation prior to basic seed which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;

(b) which is intended either for the production of seed of the category "certified seed, second generation" or for purposes other than the production of seed of fodder plants;

(c) which, subject to Article 4(b), satisfies the conditions laid down in Annexes I and II for certified seed; and

(d) which has been found by official examination to satisfy the abovementioned conditions.

Cb. Certified seed, second generation (Lupinus spp., Pisum sativum, Vicia spp. and Medicago sativa) seed:

(a) which has been produced directly from basic seed, from certified seed of the first generation or, if the breeder so requests, from seed of a generation prior to basic seed which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;

(b) which is intended for purposes other than the production of seed of fodder plants;

(c) which, subject to Article 4(b), satisfies the conditions laid down in Annexes I and II, for certified seed; and

(d) which has been found by official examination to satisfy the abovementioned conditions.`;

5. in Article 2(1)(G), the words 'basic seed,` shall be inserted before the words 'certified seed`;

6. Article 2(1)(c) shall be repealed;

7. in Article 3(1), the words 'and unless it satisfies the conditions laid down in Annex II` shall be deleted;

8. in Article 3(2) the words 'and unless it satisfies the conditions laid down in Annex II` shall be deleted;

9. Article 3(5) shall be repealed;

10. the following Article shall be inserted after Article 3:

'Article 3a

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

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

11. the following subparagraph shall be added at the end of Article 4:

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

12. the following Article shall be inserted after Article 4:

'Article 4a

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

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

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

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environment risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 70/457/EEC shall apply accordingly.

2. The purposes for which the authorisations referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation shall be determined in accordance with the procedure laid down in Article 21.

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

13. the following Article shall be inserted after Article 5:

'Article 5a

Member States may restrict the certification of seed of *Lupinus* spp., *Pisum sativum*, *Vicia* spp. and *Medicago sativa* to certified seed of the first generation.;

14. Article 9(4) shall be repealed;

15. Article 10(2) shall be repealed;

16. Article 10b shall be replaced by the following:

'Article 10b

Member States may provide that, on request, small EC B packages of seed shall be sealed and marked officially or under official supervision in accordance with Article 9(1) and Article 10.;

17. Article 11 shall be replaced by the following:

'Article 11

1. In accordance with the procedure laid down in Article 21 it may be provided that Member States may require that, in cases other than those provided for in this Directive, packages of basic seed, certified seed or commercial seed shall bear a supplier's label (which may either be a label separate from the official label or take the form of suppliers' information printed on the package itself) or that seed lots complying with the special conditions concerning the presence of *Avena fatua*, laid down in accordance with the procedure provided for in Article 21, should be accompanied by an official certificate attesting compliance with those conditions.

2. The particulars to be provided on any such label shall also be established in accordance with the procedure laid down in Article 21.;

18. the following Article shall be inserted after Article 11:

'Article 11a

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

19. Article 13(1) shall be deleted and paragraph 2 replaced by the following:

'1. Member States shall specify that seed in mixtures of various genera, species or varieties may be placed on the market:

- if it is not intended for use as fodder plants, in which case the mixtures may contain seeds of fodder plants and seeds of plants which are not fodder plants within the meaning of this Directive;

- if it is intended for use as fodder plants, in which case the mixture may contain seeds of plant species listed in Directives 66/401/EEC, 66/402/EEC, 69/208/EEC or 70/458/EEC, with the exception of the varieties mentioned in Article 4(2)(a) of Directive 70/457/EEC;

- if it is intended for use in the preservation of the natural environment in the context of the conservation of genetic resources referred to in Article 22a(b), in which case the mixtures may contain seeds of fodder plants and seeds of plants which are not fodder plants within the meaning of the Directive.

In the cases provided for in the first and second indents, the various components of the mixtures must, in so far as they belong to one of the plant species listed in Directives 66/401/EEC, 66/402/EEC, 69/208/EEC and 70/458/EEC, comply, before mixing, with the marketing regulations applicable to them.

Other conditions, including labelling the technical approval of firms producing seed mixtures, the inspection of the production of mixtures, and the sampling of primary ingredient lots and of finished mixtures, shall be determined in accordance with the procedure laid down in Article 21.

In the case of the third indent, the conditions under which such mixtures may be marketed shall be determined in accordance with the procedure laid down in Article 21.;

20. the last subparagraph of Article 13(3) shall be deleted;

21. Article 14(1) shall be replaced by the following:

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

22. Article 14(2) shall be repealed;

23. Article 14(3) shall be repealed;

24. the following Article shall be inserted after Article 14:

'Article 14a

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 3a shall be as follows:

(a) it must have been officially inspected by the competent certification authority in accordance with the provisions applicable to the certification of basic seed;

(b) it must be packed in accordance with this Directive; and

(c) the packages must bear an official label giving at least the following particulars:

- certification authority and Member State or their distinguishing abbreviation,

- lot reference number,

- month and year of sealing, or

- month and year of the last official sampling for the purposes of certification,

- species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in Roman characters,

- variety, indicated at least in Roman characters,

- the description "pre-basic seed",

- number of generations preceding seed of the category "certified seed", or "certified seed of the first generation".

The label shall be white with a diagonal violet line.';

25. Article 15(2) shall be replaced by the following:

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

- be packed and labelled with an official label satisfying the conditions laid down in Annex V(A) and (B), in accordance with Article 9(1); and
- be accompanied by an official document satisfying the conditions laid down in Annex V(C).

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

clearly indicate that the variety has been genetically modified.>`;

26. Article 17 shall be replaced by the following:

'Article 17

1. In order to remove any temporary difficulties in the general supply of basic, certified or commercial seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure laid down in Article 21 that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the Common Catalogue of Varieties of Agricultural Plant Species or in the national catalogues of varieties of the Member States.

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

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure laid down in Article 21.>`;

27. Article 19(1) shall be replaced by the following:

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

28. Article 19(2) shall be replaced by the following:

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

(a) species;

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure laid down in Article 21.;

29. the following Article shall be inserted after Article 22:

'Article 22a

1. Specific conditions may be established in accordance with the procedure laid down in Article 21 to take account of developments in the areas of:

- (a) conditions under which chemically treated seed may be marketed;
- (b) conditions under which seed may be marketed in relation to the conservation in situ and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 70/457/EEC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;
- (c) conditions under which seed suitable for organic production may be marketed.

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

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

30. in the first indent of Annex II(I)(1), the words ", Brassica napus var. napobrassica and Brassica oleracea convar. acephala" shall be added after the words 'Annex I';

31. in the second indent of Annex II(I)(1), the words "Brassica napus var. napobrassica Brassica oleracea convar. acephala" shall be deleted;

32. in Annex IV(B)(a)(8), the words "certified seed" shall be replaced by the word "category".

Article 3

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

1. Article 1 shall be replaced by the following:

'Article 1

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

2. the following Article shall be added after Article 1:

'Article 1a

For the purposes of this Directive "marketing" shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

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

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

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

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in Article 21.`;

3. Article 2(1d) shall be repealed;

4. Article 3(1) shall be replaced by the following:

'1. Member States shall provide that cereal seed may not be placed on the market unless it has been officially certified as "basic seed", "certified seed", "certified seed, first generation" or "certified seed, second generation"`.`;

5. in Article 3(2), the words 'and marketing` shall be deleted;

6. Article 3(4) shall be repealed;

7. the following Article shall be inserted after Article 3:

'Article 3a

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

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

8. Article 4(2) shall be repealed;

9. Article 4(3) shall be repealed;

10. the following paragraph shall be added to Article 4:

'4. Member States making use of the derogation provided for in either subparagraph 1(a) or 1(b) shall assist each other administratively as regards inspection.`;

11. the following Article shall be inserted after Article 4:

'Article 4a

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

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

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

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 70/457/EEC shall apply accordingly.

2. The purposes for which the authorities referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation shall be determined in accordance with the procedure laid down in Article 21.

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

12. the following Article shall be inserted after Article 5:

'Article 5a

Member States may restrict the certification of seed of oats, barley, rice and wheat to that of certified seed of the first generation.`;

13. in Article 9(3) the words 'sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 21` shall be added after the words 'small packages`;

14. Article 10(2) shall be replaced by the following:

'2. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 21.`;

15. Article 11 shall be replaced by the following:

'Article 11

In accordance with the procedure laid down in Article 21, it may be provided that, in cases other than those already provided for in this Directive, packages of basic or certified seed of any kind shall bear a supplier's label (which may either be a label separate from the official label or take the form of suppliers' information printed on the package itself). The particulars to be provided on any such label shall also be established in accordance with the procedure laid down in Article 21.`;

16. the following paragraph shall be added to Article 11:

'3. This Directive shall not affect the right of Member States to require that seed lots complying with the special conditions concerning the presence of *Avena fatua* laid down in accordance with the procedure provided for in Article 21 shall be accompanied by an official certificate attesting compliance with those conditions.`;

17. the following Article shall be inserted after Article 11:

'Article 11a

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

18. in Article 13(1), the word 'may` shall be replaced by the word 'shall`;

19. in Article 13(2), the word 'may` shall be replaced by the word 'shall`;

20. the following paragraph shall be added after Article 13(2):

'2a. The specific conditions under which such mixtures may be marketed shall be determined in accordance with the procedure laid down in Article 21.`;

21. Article 14(1) shall be replaced by the following:

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

22. Article 14(2) shall be repealed;

23. Article 14(3) shall be repealed;

24. the following Article shall be inserted after Article 14:

'Article 14a

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 3a, shall be as follows:

(a) it must have been officially inspected by the competent certification authority in accordance with the provisions applicable to the certification of basic seed;

(b) it must be packed in accordance with the provisions of this Directive; and

(c) the packages must bear an official label giving at least the following particulars:

- certification authority and Member State or their distinguishing abbreviation,

- lot reference number,

- month and year of sealing, or

- month and year of the last official sampling for the purposes of certification,

- species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in Roman characters,

- variety, indicated at least in Roman characters,

- the description "pre-basic seed",

- number of generations preceding seed of the categories "certified seed" or "certified seed of the first generation".

The label shall be white with a diagonal violet line. `;

25. Article 15(2) shall be replaced by the following:

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

- be packed and labelled with an official label satisfying the conditions laid down in Annex V(A) and (B), in accordance with Article 9(1), and
- be accompanied by an official document satisfying the conditions laid down in Annex V(C).

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

26. Article 17 shall be replaced by the following:

'Article 17

1. In order to remove any temporary difficulties in the general supply of basic or certified seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure laid down in Article 21 that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the Common Catalogue of Varieties of Agricultural Plant Species or in the national catalogues of varieties of the Member States.

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

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure laid down in Article 21.`;

27. Article 19(1) shall be replaced by the following:

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

28. Article 19(2) shall be replaced by the following:

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

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

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure laid down in Article 21.`;

29. the following Article shall be inserted after Article 22:

'Article 22a

1. Specific conditions may be established in accordance with the procedure laid down in Article 21 to take account of developments in the areas of:

- (a) conditions under which chemically treated seed may be marketed;
- (b) conditions under which seed may be marketed in relation to the conservation in situ and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 70/457/EEC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;
- (c) conditions under which seed suitable for organic production may be marketed.

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

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

Article 4

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

1. Article 1 shall be replaced by the following:

'Article 1

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

2. the following Article shall be inserted after Article 1:

'Article 1a

For the purposes of this Directive "marketing" shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed potatoes to third parties, whether or not for consideration.

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

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

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

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

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in Article 19.;

3. Article 3(2)(B) shall be repealed;

4. the following Article shall be inserted after Article 3:

'Article 3a

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

5. the following Article shall be inserted after Article 4:

'Article 4a

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

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

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 70/457/EEC shall apply accordingly.

2. The purposes for which the authorities referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation shall be determined in accordance with the procedure laid down in Article 19.

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

6. the following Article shall be inserted after Article 5:

'Article 5a

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

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

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

7. Article 7(1) shall be replaced by the following:

'1. Member States shall provide that seed potatoes may not be placed on the market unless they have a minimum size such that they do not pass through a square mesh of 25 × 25 mm. In the case of tubers which are too large to pass through a square mesh of 35 × 35 mm, the upper and lower size limits shall be expressed in multiples of 5.

The maximum variation in size between tubers in a lot shall be such that the difference between the dimensions of the two square meshes used does not exceed 25 mm. These sizing standards may be modified in accordance with the procedure laid down in Article 19.`;

8. Article 7(4) shall be repealed;

9. in Article 9(3), the words 'sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 19` shall be added after the words 'small packages`;

10. Article 10(2) shall be replaced by the following:

'2. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 19.`;

11. Article 11 shall be replaced by the following:

'Article 11

In accordance with the procedure laid down in Article 19, it may be provided that, in cases other than those provided for in this Directive, packages or containers of basic seed potatoes or certified seed potatoes shall bear a supplier's label (which may either be a label separate from the official label or take the form of the suppliers' information printed on the package or container itself). The particulars to be provided on any such label shall also be established in accordance with the procedure laid down in Article 19.;

12. the following Article shall be inserted after Article 11:

'Article 11a

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

13. Article 13(1) shall be replaced by the following:

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

14. Article 13(4) shall be repealed;

15. the following Article shall be inserted after Article 13:

'Article 13a

The conditions under which bred seed potatoes of generations prior to basic seed potatoes may be placed on the market under Article 3a, shall be as follows:

(a) they must have been produced in accordance with accepted practices for the maintenance of the variety and of health;

(b) they must be intended mainly for the production of basic seed potatoes;

(c) they must satisfy the minimum conditions to be established by the procedure laid down in Article 19 for pre-basic seed potatoes;

(d) they must have been found by official examination to satisfy the minimum conditions referred to in (c);

(e) they must be placed in packages or containers in accordance with this Directive; and

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

- certification authority and Member State or their distinguishing abbreviation,

- producer's identification number or lot reference number,
- month and year of sealing,
- species, indicated at least in Roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or under its common name, or both,
- variety, indicated at least in Roman characters,
- the description "pre-basic seed potatoes".

The label shall be white with a diagonal violet line.;

16. Article 14(1) shall be replaced by the following:

'1. In accordance with the procedure laid down in Article 19, the Commission may prohibit, in whole or in part, the marketing of seed potatoes harvested in a particular area of the Community if the progeny of officially drawn samples of basic seed potatoes or certified seed potatoes harvested in that particular area and grown in one or more Community test fields has for three successive years fallen appreciably below the minimum conditions laid down in Annex I(1c), (2c), (3) and (4). Satisfaction of the other minimum conditions laid down in Annex I may also be checked during the comparative tests.;

17. Article 14(2) shall be replaced by the following:

'2. Any measures taken under paragraph 1 shall be withdrawn by the Commission as soon as it has been established with adequate certainty that the basic seed potatoes and certified seed potatoes harvested in the particular area of the Community concerned will in future satisfy the minimum conditions referred to in paragraph 1.;

18. Article 14(3) shall be repealed;

19. Article 16 shall be replaced by the following:

'Article 16

1. In order to remove any temporary difficulties in the general supply of basic seed potatoes or certified seed potatoes that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure laid down in Article 19 that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed potatoes of a category subject to less stringent requirements, or of seed potatoes of varieties not included in the Common Catalogue of Varieties of Agricultural Plant Species or in the national catalogues of varieties of the Member States.

2. For a category of seed potatoes of any given variety, the official label shall be that provided for the corresponding category; for seed potatoes of varieties not included in the abovementioned catalogues the colour of the official label shall be brown. The label shall

always state that the seed potatoes in question are of a category satisfying less stringent requirements.

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure laid down in Article 19.;

20. Article 18(1) shall be replaced by the following:

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

21. Article 18(2) shall be replaced by the following:

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

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure laid down in Article 19.;

22. the following Article shall be inserted after Article 20:

'Article 20a

1. Specific conditions may be established in accordance with the procedure laid down in Article 19 to take account of developments in the areas of:

- (a) conditions under which chemically treated seed may be marketed;
- (b) conditions under which seed may be marketed in relation to the conservation in situ and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 70/457/EEC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;

(c) conditions under which seed suitable for organic production may be marketed.

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

(i) in the case of (b), the seed of these species shall be of a known provenance approved by the appropriate authority in each Member State for marketing the seed in defined areas;

(ii) in the case of (b), appropriate quantitative restrictions.`

Article 5

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

1. Article 1 shall be replaced by the following:

'Article 1

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

2. the following Article shall be inserted after Article 1:

'Article 1a

For the purposes of this Directive, "marketing" shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

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

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

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

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in Article 20.`;

3. Article 2(1c) shall be repealed;
4. in Article 3(1), the words 'and unless it satisfies the conditions laid down in Annex II' shall be deleted;
5. in Article 3(2), the words 'and unless the seed also satisfies the conditions laid down in Annex II' shall be deleted;
6. Article 3(5) shall be repealed;
7. the following Article shall be inserted after Article 3:

'Article 3a

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

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

8. the following subparagraph shall be added at the end of Article 4:

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

9. the following Article shall be inserted after Article 4:

'Article 4a

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

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

In the case of genetically modified material, such authorisation may be granted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment. For the environmental risk assessment to be carried out in this respect, the provisions of Article 7(4) of Directive 70/457/EEC shall apply accordingly.

2. The purposes for which the authorisations referred to in paragraph 1(b) may be given, the provisions relating to the marking of packages, and the quantities and the conditions under which Member States may grant such authorisation, shall be determined in accordance with the procedure laid down in Article 20.

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

10. the following words shall be added at the end of Article 9(3): 'sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 20.`;

11. Article 10(2) shall be replaced by the following:

'2. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed on their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 20.`;

12. Article 11 shall be replaced by the following:

'Article 11

In accordance with the procedure laid down in Article 20, it may be provided that Member States may require that, in cases other than those provided for in this Directive, packages of basic seed, certified seed of all categories or commercial seed shall bear a supplier's label (which may either be a label separate from the official label or take the form of suppliers' information printed on the package itself). The particulars to be provided on any such label shall also be established in accordance with the procedure laid down in Article 20.`;

13. the following Article shall be inserted after Article 11:

'Article 11a

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

14. Article 13(1) shall be replaced by the following:

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

15. Article 13(2) shall be repealed;

16. Article 13(3) shall be repealed;

17. the following Article shall be inserted after Article 14:

'Article 14a

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 3a, shall be as follows:

(a) it must have been officially inspected by the competent certification authority in accordance with the provisions applicable to the certification of basic seed;

(b) it must be packed in accordance with this Directive; and

(c) the packages must bear an official label giving at least the following particulars:

- certification authority and Member State or their distinguishing abbreviation,
- lot reference number,
- month and year of sealing, or
- month and year of the last official sampling for the purposes of certification,
- species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in Roman characters,
- variety, indicated at least in Roman characters,
- the description "pre-basic seed",
- number of generations preceding seed of the categories "certified seed", or "certified seed of the first generation".

The label shall be white with a diagonal violet line.;

18. Article 14(2) shall be replaced by the following:

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

- be packed and labelled with an official label satisfying the conditions laid down in Annex V(A) and (B), in accordance with Article 9(1); and
- be accompanied by an official document satisfying the conditions laid down in Annex V(C).

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

19. Article 16 shall be replaced by the following:

'Article 16

1. In order to remove any temporary difficulties in the general supply of basic or certified seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure laid down in Article 20 that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the Common Catalogue of Varieties of Agricultural Plant Species or in the national catalogues of varieties of the Member States.

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

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure laid down in Article 20.`;

20. Article 18(1) shall be replaced by the following:

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

21. Article 18(2) shall be replaced by the following:

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

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure laid down in Article 20.`;

22. the following Article shall be inserted after Article 21:

'Article 21a

1. Specific conditions may be established in accordance with the procedure laid down in Article 20 to take account of developments in the areas of:

(a) conditions under which chemically treated seed may be marketed;

(b) conditions under which seed may be marketed in relation to the conservation in situ and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 70/457/EEC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;

(c) conditions under which seed suitable for organic production may be marketed.

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

(i) in the case of (b), the seed of these species shall be of a known provenance approved by the appropriate Authority in each Member State for marketing the seed in defined areas;

(ii) in the case of (b), appropriate quantitative restrictions.

Article 6

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

1. the following paragraphs shall be added after Article 4(3):

'4. In the case of a genetically modified variety within the meaning of Article 2(1) and (2) of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (*), the variety shall be accepted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment.

5. However, where material derived from a plant variety is intended to be used as a food or food ingredient falling within the scope of Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients (**), these foods or food ingredients must not:

- present a danger for the consumer,

- mislead the consumer,

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

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

procedure laid down in Article 23 considering the requirements of Article 20(a)(4)(i), (4)(ii) and (4)(iii).

(*) OJ L 117, 8.5.1990, p. 15. Directive as last amended by Directive 97/35/EC (OJ L 169, 27.6.1997, p. 72).

(**) OJ L 43, 14.2.1997, p. 1.;

2. the following subparagraph shall be added to Article 7(2):

'(c) the necessary arrangements for the growing trials to be carried out with a view to assessing the value for cultivation or use; these arrangements may determine:

- the procedures and conditions under which all or several Member States may agree to include in the growing trials, by way of administrative assistance, varieties for which a request for acceptance has been introduced in another Member State;
- the terms of cooperation between the authorities of the participating Member States;
- the impact of the results of the growing trials;
- the standards relating to information on growing trials for assessment of the value for cultivation or use.;

3. the following paragraph shall be added after Article 7(3):

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

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

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

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

4. the following paragraph shall be added after Article 7(4):

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

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

- the authorisation decisions referred to in Regulation (EC) No 258/97 are taken in accordance with the procedure provided for in Article 23 of this Directive.

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

(c) The technical and scientific details of the implementation of the measures laid down in paragraph (b) shall be adopted in accordance with the procedure laid down in Article 23 of this Directive.;

5. the following paragraph shall be added after Article 9(4):

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

6. the following paragraph shall be added after Article 12(a)(3):

'4. In accordance with the procedure laid down in Article 23 rules may be established for the application of paragraphs 1 and 2.;

7. Article 12(2) shall be replaced by the following:

'2. Acceptance of a variety may be renewed at given intervals if it is still cultivated on such a scale as to justify this, or should be retained in the interest of conserving plant genetic resources, and providing that the requirements as to distinctness, uniformity and stability, or the criteria determined under Article 20(a)3 and 4, are still satisfied. Except in the case of plant genetic resources within the meaning of Article 20(a) applications for renewal shall be submitted not later than two years before expiry of acceptance.;

8. Article 15(1) shall be replaced by the following:

'1. Member States shall ensure that, with effect from the publication referred to in Article 18, seed of varieties accepted in accordance with this Directive or in accordance with principles corresponding to those of this Directive is not subject to any marketing restrictions relating to variety.;

9. Article 15(2) shall be replaced by the following:

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

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

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

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

10. Article 15(3) shall be repealed;

11. Article 15(4) shall be repealed;

12. Article 15(5) shall be repealed;

13. Article 15(6) shall be repealed;

14. Article 15(7) shall be repealed;

15. the following subparagraph shall be added after the second subparagraph of Article 18:

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

16. Article 19 shall be replaced by the following:

'Article 19

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

17. the following Article shall be added after Article 20:

'Article 20a

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

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

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

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

(ii) appropriate quantitative restrictions.

(*) OJ L 159, 28.6.1994, p. 1.;

18. the following Article shall be added after Article 23:

'Article 23a

1. Where the procedure laid down in this Article is to be followed, matters shall be referred by the Chairman, either on his own initiative or at the request of the representative of a Member State, to the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry (hereinafter called the "Committee").

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The 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 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 the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If on the expiry of a period of three months from referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.`;

19. the following Article shall be added after Article 24:

'Article 24a

Specific conditions may be established in accordance with the procedure laid down in Article 23 to take account of developments in the area of the conservation of genetic resources.`

Article 7

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

1. Article 1 shall be replaced by the following:

'Article 1

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

2. the following Article shall be added after Article 1:

'Article 1a

For the purposes of this Directive, "marketing" shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

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

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

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

The conditions for the application of this provision shall be determined in accordance with the procedure laid down in Article 40.>`;

3. Article 2(1b) shall be repealed;

4. Article 4 shall be replaced by the following:

'Article 4

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

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

2. In the case of a genetically modified variety within the meaning of Article 2(1) and (2) of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (*), the variety shall be accepted only if all appropriate measures have been taken to avoid adverse effects on human health and the environment.

3. However, where material derived from a plant variety is intended to be used as a food or food ingredient falling within the scope of Regulation (EC) No 258/97 of the European Parliament and of the Council of 27 January 1997 concerning novel foods and novel food ingredients (**), these foods or food ingredients must not:

- present a danger for the consumer,

- mislead the consumer,

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

4. In the interest of conserving plant genetic resources as specified in Article 39(a)(2)(a) and (2)(b), the Member States may depart from the acceptance criteria set out in paragraph 1 in so far as specific conditions are established in accordance with the procedure laid down in Article 40 considering the requirements of Article 39(a)(3)(i) and 3(ii).

(*) OJ L 117, 8.5.1990, p. 15. Directive as last amended by Directive 97/35/EC (OJ L 169, 27.6.1997, p. 72).

(**) OJ L 43, 14.2.1997, p. 1.>`;

5. in Article 7(1), first subparagraph, the following shall be added to the last sentence: 'in relation to the results of an official examination.>`;

6. the following paragraph shall be added after Article 7(3):

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

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

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

(d) The technical and scientific details of the implementation of the environmental risk assessment shall be adopted in accordance with the procedure laid down in Article 40.;

7. the following paragraphs shall be added after Article 7(4):

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

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

- the authorisation decisions referred to in Regulation (EC) No 258/97 are taken in accordance with the procedure provided for in Article 40 of this Directive.

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

(c) The technical and scientific details of the implementation of the measures laid down in paragraph (b) shall be adopted in accordance with the procedure laid down in Article 40 of this Directive.;

8. the following paragraph shall be added after Article 10(4):

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

9. Article 13(2) shall be replaced by the following:

'2. Acceptance of a variety may be renewed at given intervals if it is still cultivated on such a scale as to justify this, or should be retained in the interest of conserving plant genetic resources, and providing that the requirements as to distinctness, uniformity and stability, or the criteria determined under Article 39(a)(3) and (4), are still satisfied. Except in the case of plant genetic resources within the meaning of Article 39(a), applications for renewal shall be submitted not later than two years before expiry of acceptance.;

10. the following paragraph shall be added after Article 15(2):

'3. In the case of varieties the acceptance of which has been renewed pursuant to Article 13(3), Member States may allow the names used before such renewal to be used until 30 June 1994.';

11. the following paragraph shall be added after Article 13(a)(3):

'4. In accordance with the procedure laid down in Article 40 rules may be established for the application of paragraphs 1, 2 and 3.';

12. in the second and third subparagraphs of Article 16(1), the words 'after expiry of a period of two months following' shall be replaced by the words 'with effect from';

13. in Article 17, the words 'after expiry of a period of two months' shall be deleted;

14. Article 16(2) shall be replaced by the following:

'2. A Member State may, upon application which shall be dealt with as provided for in Article 40 or in Article 40(a) in the case of genetically modified varieties, be authorised to prohibit the use of the variety in all or in part of its territory or to lay down appropriate conditions for cultivating the variety in accordance, in cases provided for in paragraph (b), with the conditions for using the products resulting from such cultivation:

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

(b) where it has valid reasons other than those already mentioned or which may have been mentioned during the procedure referred to in Article 11(2) for considering that the variety presents a risk for human health or the environment.';

15. Article 16(3) shall be repealed;

16. Article 16(4) shall be repealed;

17. the following paragraph shall be added after the second paragraph of Article 17:

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

18. Article 18 shall be replaced by the following:

'Article 18

If it is established that the cultivation of a variety included in the common catalogue of varieties could in any Member State be harmful from the point of view of plant health to the cultivation of other varieties or species, or present a risk for the environment or for human health, that Member State may upon application, be authorised in accordance with the procedure laid down in Article 40 or in Article 40(a) in the case of a genetically modified variety to prohibit the marketing of the seed or propagating material of that variety in all or part of its territory. Where there is imminent danger of the spread of harmful organisms or

imminent danger for human health or for the environment, that prohibition may be imposed by the Member State concerned as soon as its application has been lodged until such time as a final decision has been taken. That decision shall be taken within a period of three months in accordance with the procedure laid down in Article 40 or in Article 40(a) in the case of genetically modified variety.`;

19. in Article 20(1), the words 'and unless it satisfies the conditions laid down in Annex II` shall be deleted;

20. in Article 20(1)(a), the words 'and unless it satisfies the conditions laid down in Annex II` shall be deleted;

21. Article 20(4) shall be repealed;

22. the following Article shall be inserted after Article 20:

'Article 20a

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

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

23. the following subparagraph shall be added at the end of Article 21:

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

24. the following Article shall be inserted after Article 21:

'Article 21a

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

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

(b) authorise breeders and their representatives established in their territory to market, for a limited period, seed belonging to a variety for which an application for inclusion in a national catalogue has been submitted in at least one Member State and for which specific technical information has been submitted.

2. The conditions under which Member States may grant the authorisations referred to in paragraph (b) above shall be determined in accordance with the procedure laid down in Article 40, particularly as regards the acquisition of data, the type of data, the storage and name of the variety and the labelling of packages.

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

25. Article 24(3) shall be replaced by the following:

'3. Notwithstanding paragraph 1, Member States may authorise their own producers to place on the market small packages of mixtures of standard seed of different varieties of the same species. The species, where this provision applies, the rules for the maximum size of the small packages and the requirements for labelling shall be established in accordance with the procedure laid down in Article 40.`;

26. the following words shall be added at the end of Article 25(4):

'... closed on their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 40.`;

27. Article 26(1a) shall be replaced by the following:

'1a. Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure laid down in Article 40.`;

28. Article 28(1) shall be replaced by the following:

'1. In accordance with the procedure laid down in Article 40, it may be provided that in cases other than those already provided for in this Directive, packages of basic seed, certified seed of any kind or standard seed shall bear a supplier's label (which may either be a label separate from the official label or take the form of supplier's information printed on the package itself).

The particulars to be provided on any such label shall also be established in accordance with the procedure laid down in Article 40.`;

29. the following Article shall be inserted after Article 28:

'Article 28a

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

30. Article 30(1) shall be replaced by the following:

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

31. Article 30(3) shall be repealed;

32. the following Article shall be inserted after Article 30:

'Article 30a

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 20a, shall be as follows:

(a) it must have been officially inspected by the competent certification authority in accordance with the provisions applicable to the certification of basic seed;

(b) it must be packed in accordance with this Directive; and

(c) the packages must bear an official label giving at least the following particulars:

- certification authority and Member State or their distinguishing abbreviation,
- lot reference number,
- month and year of sealing, or
- month and year of the last official sampling for the purposes of certification,
- species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in Roman characters,
- variety, indicated at least in Roman characters,
- the description 'pre-basic seed',
- number of generations preceding seed of the category 'certified seed'.

The label shall be white with a diagonal violet line.`;

33. Article 31(2) shall be replaced by the following:

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

- be packed and labelled with an official label satisfying the conditions laid down in Annex V(A) and (B), in accordance with Article 25(1), and
- be accompanied by an official document satisfying the conditions laid down in Annex V(C).

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

34. Article 33 shall be replaced by the following:

'Article 33

1. In order to remove any temporary difficulties in the general supply of basic certified or standard seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure laid down in Article 40 that Member States shall permit, for a specified period, the marketing throughout the Community in quantities necessary to resolve the supply difficulties of seed of a category subject to less stringent requirements, or of seed of a variety not included in the Common Catalogue of Varieties of Vegetable Species or in the national catalogues of varieties of the Member States.

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

3. Rules for the application of paragraph 1 may be adopted in accordance with the procedure laid down in Article 40.;

35. Article 35(1) shall be replaced by the following:

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

36. Article 35(2) shall be replaced by the following:

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

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

The manner in which these particulars are to be presented may be determined in accordance with the procedure laid down in Article 40.;

37. the following Article shall be added after Article 39:

'Article 39a

1. Specific conditions may be established in accordance with the procedure laid down in Article 40 to take account of developments in relation to the conditions under which chemically treated seed may be marketed.

2. Specific conditions shall be established in accordance with the procedure laid down in Article 40 to take account of developments in relation to the conservation in situ and the sustainable use of plant genetic resources through growing and marketing of seed of:

(a) landraces and varieties which have been traditionally grown in particular localities and regions and threatened by genetic erosion without prejudice to the provisions of Regulation (EC) No 1467/94;

(b) varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions.

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

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

(ii) in the case of (a) and (b) appropriate quantitative restrictions.`;

38. the following Article shall be added after Article 40:

'Article 40a

1. Where the procedure laid down in this Article is to be followed, matters shall be referred by the Chairman, either on his own initiative or at the request of the representative of a Member State, to the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry (hereinafter called the 'Committee`).

2. The representative of the Commission shall submit to the Committee a draft of the measures to be taken. The 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 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 the measures envisaged if they are in accordance with the opinion of the Committee.

If the measures envisaged are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If on the expiry of a period of three months from referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.`;

39. the following Article shall be inserted after Article 41:

'Article 41a

1. Specific conditions may be established in accordance with the procedure laid down in Article 40 to take account of developments in the areas of:

(a) conditions under which chemically treated seed may be marketed;

(b) conditions under which seed may be marketed in relation to the conservation in situ and the sustainable use of plant genetic resources, including seed mixtures of species which also include species listed in Article 1 of Council Directive 70/457/EEC, and are associated with specific natural and semi-natural habitats and are threatened by genetic erosion;

(c) conditions under which seed suitable for organic production may be marketed.

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

(i) in the case of (b), the seed of these species shall be of a known provenance approved by the appropriate Authority in each Member State for marketing the seed in defined areas;

(ii) in the case of (b), appropriate quantitative restrictions.`;

40. Article 42 shall be replaced by the following:

'Article 42

Upon application by a Member State, which will be dealt with as provided for in Article 40, that State may be wholly or partially released from the obligation to apply this Directive, to certain species which are not normally reproduced or marketed in its territory, save where this would run counter to Articles 16(1) and 30(1).`

Article 8

1. Member States may, during a transitional period of not more than four years after the entry into force of the laws, regulations or administrative provisions necessary for them to comply with this Directive and by way of derogation from Article 2(1)(C)(a) and (b) of Directive 66/401/EEC, permit the marketing of seed of a generation previously permitted.

2. Member States may also, during a transitional period of not more than four years after the entry into force of the laws, regulations or administrative provisions necessary for them to comply with this Directive and by way of derogation from Article 3(22) of this Directive, which repeals Article 14(2)(a) of Directive 66/402/EEC, continue to restrict the marketing of certified seed of oats, barley, rice, triticale, wheat or spelt to that of the first generation.

3. Member States which currently operate restrictions on the marketing of fodder plant seeds in mixtures in accordance with Article 13 of Directive 66/401/EEC may also, during a transitional period of not more than four years after the entry into force of the laws, regulations and administrative provisions necessary for them to comply with this Directive and by way of derogation from Article 2(19) of this Directive, continue to prohibit the marketing of mixtures of fodder plant seeds.

Article 9

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive not later than twelve months after the date of notification of this Directive.

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 methods of making such reference shall be laid down by Member States.

2. Member States shall immediately communicate to the Commission the provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

Article 10

This Directive is addressed to the Member States.

Done at Brussels, 14 December 1998.

For the Council

The President

W. MOLTERER

(1) OJ C 29, 31.1.1994, p. 1, and OJ C 53, 20.2.1995, p. 8.

(2) OJ C 286, 22.9.1997, p. 36.

(3) OJ C 195, 18.7.1994, p. 36.

- (4) OJ 125, 11.7.1966, p. 2290/66. Directive as last amended by Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10).
- (5) OJ 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 96/72/EC.
- (6) OJ 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 96/72/EC.
- (7) OJ 125, 11.7.1966, p. 2320/66. Directive as last amended by Commission Decision 98/111/EC (OJ L 28, 4.2.1998, p. 42).
- (8) OJ L 169, 10.7.1969, p. 3. Directive as last amended by Directive 96/72/EC.
- (9) OJ L 225, 12.10.1970, p. 1. Directive as last amended by the 1994 Act of Accession.
- (10) OJ L 225, 12.10.1970, p. 7. Directive as last amended by Directive 96/72/EC.
- (11) OJ L 117, 8.5.1990, p. 15. Directive as last amended by Directive 97/35/EC (OJ L 169, 27.6.1997, p. 72).
- (12) OJ L 43, 14.2.1997, p. 1.