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COUNCIL DIRECTIVE of 14 June 1966 on the marketing of fodder plant seed (66/401/EEC)

THE COUNCIL OF THE EUROPEAN ECONOMIC COMMUNITY,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament 1;

Having regard to the Opinion of the Economic and Social Committee;

Whereas fodder plant production occupies an important place in the agriculture of the European Economic Community;

Whereas satisfactory results in fodder plant cultivation depend to a large extent on the use of appropriate seed ; whereas to this end certain Member States have for some time restricted the marketing of fodder plant seed to high-quality seed ; whereas they have been able to take advantage of the systematic plant selection work carried out over several decades which has resulted in the development of sufficiently stable and uniform fodder plant varieties which, by reason of their characters, promise to be of great value for the purposes in view;

Whereas greater productivity will be achieved in Community fodder plant cultivation if for the choice of the varieties permitted to be marketed the Member States apply uniform rules which are as strict as possible;

Whereas it is, however, justifiable to restrict marketing to certain varieties only if the user can be sure of actually obtaining seed of those varieties;

Whereas certain Member States have for this purpose been applying certification schemes which are intended by official control to ensure identity and varietal purity;

Whereas such a scheme already exists at international level ; whereas the Organisation for Economic Co-operation and Development has established a scheme for the varietal certification of herbage seed moving in international trade;

Whereas it is desirable to establish a uniform certification scheme for the Community based on the experience gained in the application of that scheme and of national schemes for this product;

Whereas the scheme should apply to marketing both in other Member States and on domestic markets;

Whereas, as a general rule, fodder plant seed, for whatever use it is intended as grown, should be allowed to be marketed only if it has been officially examined and certified, in accordance with the rules for certification, as basic seed or certified seed or if, in the case of certain genera and species, it has been officially examined and approved as commercial seed ; whereas the choice of the technical terms "basic seed" and "certified seed" is based on already existing international terminology;

Whereas there should be approval for commercial seed in order to take into account the fact that not all genera and species of fodder plant of importance for cropping have as yet produced either the desired varieties or sufficient quantities of seed of the existing varieties to meet all the needs of the Community ; whereas it is therefore necessary, in the case of certain genera and species, to approve fodder plant seed which is not of a named variety, but which satisfies the regulations in all other respects;

Whereas fodder plant seed which is not placed on the market should not, in view of its minor economic 1 OJ No 109, 9.7.1964, p. 1751/64. importance, be subject to Community rules ; whereas Member States must retain the right to make such seed subject to special provisions;

Whereas Community rules should not apply to seed shown to be intended for export to third countries;

Whereas, in order to improve not only the genetic quality of Community fodder plant seed but also its external characters, certain requirements should be laid down as to analytical purity and germination;

Whereas, in order to ensure the identity of the seed, Community rules on packaging, sampling, sealing and marking must be established ; whereas to this end the labels should give the particulars needed both for official control and for the information of the user and should clearly show the Community nature of the certification of the certified seed of the various categories;

Whereas certain Member States need blends of fodder plant seed of several genera and species for special uses ; whereas, in order to take these needs into account, Member States should be authorised to approve such blends subject to certain conditions;

Whereas, in order to ensure that both the requirements as to the quality of the seed and the provisions for ensuring its identity are complied with during marketing, the Member States must make provision for appropriate control arrangements;

Whereas seed satisfying these requirements should, without prejudice to Article 36 of the Treaty, be subject to no marketing restrictions other than those provided for in Community rules;

Whereas, during a first stage, until a common catalogue of varieties has been established, the restrictions allowed should include in particular the right of Member States to restrict the marketing of certified seed to those varieties which are of value for cropping and use in their own territory;

Whereas, subject to certain conditions, seed multiplied in another country from basic seed certified in a Member State should be recognised as equivalent to seed multiplied in that Member State;

Whereas, on the other hand, provision should be made for authorising the marketing within the Community of fodder plant seed harvested in third countries only if such seed affords the same assurances as seed officially certified, or officially approved as commercial seed, within the Community and complying with Community rules;

Whereas, during periods in which there are difficulties in obtaining supplies of certified seed of the various categories or of commercial seed, seed satisfying less stringent requirements should temporarily be permitted to be marketed;

Whereas, in order to harmonise the technical methods of certification used in the various Member States and to enable comparisons to be made in the future between seed certified within the Community and that coming from third countries, Community test fields should be established in Member States to permit annual post-control of seed of the various categories of "certified seed";

Whereas the Commission should be entrusted with the task of adopting certain measures for the application of this Directive ; whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close co-operation between Member States and the Commission within a Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry;

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to fodder plant seed marketed within the Community, irrespective of the use for which the seed as grown is intended.

Article 2

For the purposes of this Directive, the following definitions shall apply: A. Fodder plants : plants of the following genera and species: >PIC FILE= "T0019160">

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B. Basic Seed: 1. Seed of bred varieties : seed (a) which has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety;

(b) which is intended for the production of seed of the category "certified seed";

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

(d) which has been found by official examination to satisfy the above-mentioned conditions.

2. Seed of local varieties : seed (a) which has been produced under official control from material officially accepted as being of the local variety on one or more holdings situated within a clearly demarcated region of origin;

(b) which is intended for the production of seed of the category "certified seed";

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

(d) which has been found by official examination to satisfy the above-mentioned conditions.

C. Certified seed : seed (a) which is of direct descent from basic seed or certified seed of a given variety;

(b) which is intended for the production of seed of the category "certified seed" or of plants;

(c) which, subject to the provisions 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 above-mentioned conditions.

D. Commercial seed : seed (a) Which is identifiable as belonging to a species;

(b) which, subject to the provisions of Article 4 (b), satisfies the conditions laid down in Annex II for commercial seed ; and

(c) which has been found by official examination to satisfy the above-mentioned conditions.

E. Official measures : measures taken (a) by State authorities, or

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

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

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

Article 3

1. The Member States shall provide that seed of

Dactylis glomerata L.

Festuca arundinacea Schreb.

Festuca pratenses Huds.

Festuca rubra L.

Lolium spec.

Phleum pratense L.

Medicago sativa L.

Medicago varia Martyn

Pisum arvense L. and

Trifolium repens L.

may not be placed on the market unless it has been officially certified as "basic seed" or "certified seed" and unless it satisfies the conditions laid down in Annex II.

2. The Member States shall provide that fodder plant seed of genera and species other than those listed in paragraph 1 may not be placed on the market unless the seed has been officially certified as "basic seed" or "certified seed", or is commercial seed, and unless the seed also satisfies the conditions laid down in Annex II.

3. The Commission may, in accordance with the procedure laid down in Article 21, provide that after specified dates seed of genera and species of fodder plant other than those listed in paragraph 1 may not be placed on the market unless it has been officially certified as "basic seed" or "certified seed".

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

5. Member States may provide for derogations from the provisions of paragraphs 1 and 2: (a) for bred seed of generations prior to basic seed;

(b) for tests or for scientific purposes;

(c) for selection work;

(d) for seed as grown, marketed for processing, provided that the identity of the seed is ensured.

Article 4

Member States may, however, by way of derogation from the provisions of Article 3: (a) authorise the official certification and marketing of basic seed which does not satisfy the conditions laid down in Annex II in respect of germination ; a similar derogation may also be granted in respect of certified seed of Trifolium pratense where such seed is intended for the further production of certified seed.

In the cases given above, all necessary measures shall be taken to ensure that the supplier guarantees a specific germination which he shall state for marketing purposes on a special label bearing his name and address and the reference number of the seed lot;

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

These provisions shall not apply to seed imported from third countries, save as otherwise provided in Article 15 in respect of multiplication outside the Community.

Article 5

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

Article 6

1. Each Member State shall establish a list of the varieties of fodder plant officially accepted for certification in its territory ; the list shall give the main morphological or physiological characters by which varieties of plants directly derived from seed of the category "certified seed" can be distinguished one from another, and the officially established maximum number of generations accepted for certification produced from the basic seed of each variety. In the case of local varieties the list shall indicate the region of origin.

2. In the case of hybrids and synthetic varieties, the authorities responsible for acceptance and certification shall be informed of the genealogical components. The Member States shall ensure that the results of the examination and the description of the genealogical components are, if the breeder so requests, treated as confidential.

3. A variety shall be accepted for certification only if it has been established by official or officially controlled examinations, particularly growing trials, that the variety is sufficiently uniform and stable.

4. The varieties accepted shall be officially checked at regular intervals. If any of the conditions for acceptance for certification is no longer satisfied, acceptance shall be revoked and the variety deleted from the list.

5. These lists and any alterations made to them shall be sent forthwith to the Commission, which shall communicate them to the other Member States.

Article 7

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

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

Article 8

1. The Member States shall require that basic seed, certified seed and commercial seed be marketed only in sufficiently homogeneous consignments and in sealed containers bearing, as prescribed in Articles 9 and 10, a sealing device and markings.

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

Article 9

1. The Member States shall require that packages of basic seed, certified seed and commercial seed be officially sealed in such a manner that when the container is opened the seal is damaged and cannot be reattached.

2. Packages shall not be resealed except officially. If packages are resealed, the fact of resealing, the date of resealing and the authority responsible therefor shall be stated on the label required under Article 10 (1).

Article 10

1. The Member States shall require that packages of basic seed, certified seed and commercial seed (a) be labelled on the outside with an official label in one of the official languages of the Community conforming to the specification in Annex IV ; it shall be attached with the official seal ; the colour of the label shall be white for basic seed, blue for certified seed of the first generation after basic seed, red for certified seed of subsequent generations after basic seed and dark yellow for commercial seed ; for marketing in other Member States the label shall bear the date on which the official seal was attached ; if, as envisaged in Article 4 (a), the basic seed or certified seed does not satisfy the conditions laid down in Annex II in respect of germination, this fact shall be stated on the label;

(b) contain an official document, in the same colour as the label, giving the same information as that required under Annex IV for the label ; this document is not necessary if the information is printed indelibly on the container.

2. Member States may: (a) require that in all cases the date on which the official seal was attached be stated on the label;

(b) provide in the case of small packets for derogations from the provisions of paragraph 1.

Article 11

This Directive shall not affect the right of Member States to require that, in cases other than those provided for in Article 4, containers of basic seed, certified seed or commercial seed, whether the seed has been produced in their own territory or imported, must, if the seed is to be marketed within their territory, bear a supplier's label.

Article 12

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

Article 13

1. Member States may authorise the marketing of fodder plant seed in the form of blends composed of various genera and species of fodder plant seed or of blends containing seed of plants which are not fodder plants within the meaning of this Directive, provided that the various components of the blend complied, before blending, with the marketing regulations applicable to them.

2. The provisions of Articles 8, 9 and 11 shall apply, as shall also those of Article 10, except that for blended seed the label used shall be green.

Article 14

1. The Member States shall ensure that basic seed and certified seed which have been officially certified and whose containers have been officially marked and sealed as prescribed in this Directive, and commercial seed whose containers have been officially marked and sealed as prescribed in this Directive, are subject to no marketing restrictions as regards their characters, examination arrangements, marking and sealing other than those laid down in this Directive.

2. Member States may: (a) where no measures have been taken by the Commission under Article 3 (3) and entered into force, provide that after specified dates seed of genera and species of fodder plant other than those listed in Article 3 (1) may not be placed on the market unless it has been officially certified as "basic seed" or "certified seed";

(b) adopt provisions concerning the maximum moisture content accepted for marketing;

(c) restrict the marketing of certified fodder plant seed to that of the first generation after basic seed;

(d) until such time, which should not be later than 1 January 1970, as a common catalogue of varieties can be introduced, restrict the marketing of fodder plant seed to those varieties which are entered in a national list based on value for cropping and use in their territory ; the conditions for inclusion in this list shall be the same for varieties coming from other Member States as for domestic varieties.

Article 15

The Member States shall provide that fodder plant seed produced directly from basic seed certified in one Member State and harvested in another Member State or in a third country is to be regarded as equivalent to certified seed of the first generation produced from basic seed harvested in the State which produced the basic seed if that seed has undergone field inspection satisfying the conditions laid down in Annex I and if official examination has shown that the conditions laid down in Annex II for certified seed are satisfied.

Article 16

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether: (a) in the case provided for in Article 15, the field inspections in the third country satisfy the conditions laid down in Annex I;

(b) fodder plant seed havested in a third country and affording the same assurances as regards its characters and the arrangements for its examination, for ensuring identity, for marking and for control is equivalent in these respects to basic seed, certified seed or commercial seed harvested within the Community and complying with the provisions of this Directive.

2. Until such time as the Council has taken a decision under paragraph 1, the Member States shall be free to take such decisions themselves. This right shall expire on 1 July 1969.

Article 17

1. In order to remove any temporary difficulties in the general supply of basic seed, certified seed or commercial seed that occur in one or more Member States and cannot be overcome within the Community, the Commission,

acting in accordance with the procedure laid down in Article 21, shall authorise one or more of the Member States to accept for marketing, for a period to be set by the Commission, seed of a category satisfying less stringent requirements.

2. For a category of seed of any given variety, the official label shall be that provided for the corresponding category ; in all other cases it 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.

Article 18

This Directive shall not apply to fodder plant seed shown to be intended for export to third countries.

Article 19

The Member States shall make suitable arrangements for fodder plant seed to be officially controlled during marketing, at least by check sampling, as regards its compliance with the requirements of this Directive.

Article 20

1. Community test fields shall be established within the Community for the annual post-control of seed samples taken during check sampling ; these fields shall be subject to inspection by the Committee referred to in Article 21.

2. These comparative tests shall, during a first stage, be used to harmonise the technical methods of certification so as to obtain results which are equivalent. As soon as this aim is achieved, annual progress reports shall be made on the comparative tests and sent in confidence to the Member States and to the Commission. The Commission shall, in accordance with the procedure laid down in Article 12, set the date for the first report.

3. The Commission, acting in accordance with the procedure laid down in Article 21, shall make the necessary arrangements for the comparative tests to be carried out. Fodder plant harvested in third countries may be included in the comparative tests.

Article 21

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") set up by the Council Decision of 14 June 1966 1.

2. Within the Committtee, the votes of the Member States shall be weighted as provided in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The representative of the Commission shall submit a draft of the measures to be adopted. The Committee shall deliver its Opinion on such measures within a time limit set by the Chairman according to the urgency of the matter. Opinions shall be delivered by a majority of twelve votes.

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

The Council, acting by a qualified majority, may take a different decision within one month.

Article 22

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

1 OJ No 125, 11.7.1966, p. 2289/66.

Article 23

The Member States shall, not later than 1 July 1968, bring into force the laws, regulations or administrative provisions necessary to comply with the provisions of Article 14 (1) and, not later than 1 July 1969, those necessary to comply with the other provisions of this Directive and its Annexes. They shall forthwith inform the Commission thereof.

Article 24

This Directive is addressed to the Member States.

Done at Brussels, 14 June 1966.

For the Council

The President

P. WERNER

ANNEX I Conditions for crop certification

1. The crop shall have sufficient identity and varietal purity.

2. There shall be at least one official field inspection before each seed harvest.

3. The field shall be so cultivated and the crop at such a stage of development as to permit identity and varietal purity to be adequately checked.

4. The field shall not have had previous cropping of a kind imcompatible with the production of seed of the species and variety of the crop.

5. For cross-fertilised species the minimum distances from neighbouring crops of other varieties of the same species, from crops of the same variety showing marked degeneration and from crops of related species which may result in undesirable foreign pollination shall be: >PIC FILE= "T0019162">

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

ANNEX II Conditions to be satisfied by the seed

I. CERTIFIED SEED

1. The seed shall have sufficient identity and varietal purity.

2. Diseases which reduce the usefulness of the seed shall be at the lowest possible level.

3. The seed shall also conform to the following: A. Standards: >PIC FILE= "T0019163">

B. Notes: (a) Up to the maximum quantity indicated, hard seeds present shall be regarded as seeds capable of germination.

(b) All fresh and healthy seeds which do not germinate after pretreatment shall be regarded as seeds which have germinated.

(c) The seed shall be free from Avena fatua and Cuscuta ; however, one seed of Avena fatua or Cuscuta in a 100-gramme sample shall not be regarded as an impurity if a second sample of 200 grammes is free from Avena fatua and Cuscuta.

(d) The percentage by weight of Alopercurus myosuroides seeds shall not exceed 0 73.

(e) The percentage by weight of seeds of other cultivated plants shall not exceed 1 ; in the case of a Poa species, 1 % seeds of other Poa species shall not be regarded as an impurity.

C. Special conditions for Lupinus spec.: (a) The percentage by number of seeds of another colour shall not exceed 1.

(b) The percentage by number of bitter seeds in varieties of sweet lupin shall not exceed:

3 for certified seed of the first generation after basic seed;

3 for certified seed of subsequent generations after basic seed.

II. BASIC SEED

Subject to the supplementary provisions below, the conditions laid down in Section I of this Annex shall apply to basic seed: 1. The percentage by weight of seeds of other plants shall not exceed 0 72, of which neither the percentage of seeds of other cultivated plants nor the percentage of weed seeds shall exceed 0 71.

2. The number of Alopecurus myosuroides seeds shall not exceed 5 in a sample of 25 grammes.

3. Lupinus spec. : the percentage by number of bitter seeds in varieties of sweet lupin shall not exceed 1.

III. COMMERCIAL SEED

Subject to the supplementary provisions below, the conditions laid down in paragraphs 2 and 3 of Section I of this Annex shall apply to commercial seed: 1. The percentage by weight of seeds of other cultivated plants shall not exceed 3.

2. In the case of a Poa species, 3 % of seeds of other Poa species shall not be regarded as an impurity.

3. In the case of a Vicia species, a total of 6 % of seeds of Vicia pannonica, Vicia villosa and related cultivated species shall not be regarded as an impurity.

4. Lupinus spec. (a) The number of seeds of another colour shall not exceed 2 %;

(b) The number of bitter seeds in sweet lupin shall not exceed 5 %.

ANNEX III

>PIC FILE= "T0019164">

ANNEX IV Label

A. Required information (a) For basic seed and certified seed: 1. "Seed certified in accordance with European Economic Community rules"

2. Certification authority and Member State

3. Reference number of lot

4. Species

5. Variety

6. Category

7. Country of production

8. Declared net or gross weight

9. For certified seed of the second generation and subsequent generations after basic seed : number of generations after basic seed

(b) For commercial seed: 1. "Commercial seed (not certified as to variety)"

2. Examining authority and Member State

3. Reference number of lot

4. Species 1

5. Region of production

6. Declared net or gross weight

(c) For seed blends: 1. "Seed blends for ... (intended use)"

2. Authority responsible for sealing and Member State

3. Reference number of lot

4. Species, category, variety, country of production or, in the case of commercial seed, region of production and proportion by weight of each of the components

5. Declared net or gross weight

B. Minimum dimensions

110 mm × 67 mm

1 In the case of lupins, it must be stated whether the lupin in question is bitter or sweet.

C.J.C.E. Piatra Neamț