

Council Directive 2002/57/EC

of 13 June 2002

on the marketing of seed of oil and fibre plants

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament(1),

Having consulted the Economic and Social Committee,

Whereas:

(1) Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants(2) has been frequently and substantially amended(3). For reasons of clarity and rationality the said Directive should be consolidated.

(2) The production of oil and fibre plants occupies an important place in the agriculture of the Community.

(3) Satisfactory results in the cultivation of oil and fibre plants depend to a large extent on the use of appropriate seed.

(4) Greater productivity will be achieved in the cultivation of oil and fibre plants within the Community if for the choice of the varieties permitted to be marketed the Member States apply uniform rules which are as strict as possible. A common catalogue of varieties of agricultural plant species is therefore provided in the Council Directive 2002/53/EC (4).

(5) It is desirable to establish a uniform certification scheme for the Community based on the experience gained in the application of schemes in the Member States and those of the Organisation for Economic Cooperation and Development. In the context of the consolidation of the internal market, the Community scheme should cover the production of seed with a view to marketing and to marketing within the Community, and should offer no possibilities for the Member States to derogate unilaterally from the scheme in a way that would hinder the free movement of seed within the Community.

(6) As a general rule, seed of oil and fibre plants 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. The choice of the technical terms "basic seed" and "certified seed" is based on already existing international terminology. It should be possible under specific conditions to place on the market bred seed of generations prior to basic seed and seed as grown.

(7) Community rules should not apply to seed shown to be intended for export to third countries.

(8) In order to improve not only the genetic quality of Community seed of oil and fibre plants but also its external characteristics, certain requirements should be laid down as to analytical purity and germination.

(9) In order to ensure the identity of the seed, Community rules on packaging, sampling, sealing and marking must be established. To this end the labels should give the particulars needed both for official verification 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.

(10) Rules for the marketing of chemically treated seed, seeds suitable for organic growing as well as for the conservation by use in situ of varieties threatened with genetic erosion, should be introduced.

(11) Derogations must be permitted under certain conditions, without prejudice to the provisions of Article 14 of the Treaty. Member States making use of the derogations must mutually assist each other as regards inspection.

(12) 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, Member States must make provision for appropriate control arrangements.

(13) Seed, satisfying these requirements, should, without prejudice to Article 30 of the Treaty, be subject to no marketing restrictions other than those provided for in Community rules.

(14) Subject to certain conditions, seed multiplied in another country from basic seed certified in a Member State should be certified as seed multiplied in that Member State.

(15) Provision should be made for authorising the marketing within the Community of seed of oil and fibre plants, which has been 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.

(16) During periods in which there are difficulties in obtaining supplies of certified seed of the various categories, seed of an inferior quality should temporarily be permitted to be marketed, and also seeds of varieties not included either in the common catalogue or in the national catalogue of varieties.

(17) In order to harmonise the technical methods of certification used in the Member States and to enable comparisons to be made between seed certified within the Community and that coming from third countries, Community comparative tests should be established in Member States to permit annual post-control of seed of the various categories of "certified seed".

(18) It is desirable to organise temporary experiments for the purpose of seeking improved alternatives to certain provisions set out in this Directive.

(19) If certain species of seed are not normally reproduced or marketed in the territory of a Member State, provision should be made for release of that Member State, under the procedure of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, from the obligation to apply this Directive in respect of the species in question.

(20) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽⁵⁾.

(21) This Directive must not affect the obligations of the Member States concerning the deadlines for transposition of the Directives set out in Annex VI, part B,

HAS ADOPTED THIS DIRECTIVE:

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.

It shall not apply to seed of oil and fibre plants which is shown to be intended for export to third countries.

Article 2

1. For the purpose of this Directive:

(a) "marketing": means 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 referred to in Article 25(2);

(b) "oil and fibre plants": means plants of the following genera and species:

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(c) "basic seed": (varieties other than hybrids of sunflower) means seed

(i) which has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety;

(ii) which is intended for the production of seed either of the category "certified seed" or of the categories "certified seed, first generation" or "certified seed, second generation" or, where appropriate, "certified seed, third generation";

(iii) which, subject to the provisions of Article 5, satisfies the conditions laid down in Annexes I and II for basic seed; and

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

(d) "basic seed" (hybrids of sunflower): 1. "Basic seed of inbred lines" means seed

(i) which, subject to the provisions of Article 5, satisfies the conditions laid down in Annexes I and II for basic seed; and

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

2. "Basic seed of simple hybrids" means seed

(i) which is intended for the production of three-way-cross hybrids or double-cross hybrids;

(ii) which, subject to the provisions of Article 5, satisfies the conditions laid down in Annexes I and II for basic seed; and

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

(e) "certified seed": (turnip rape, brown mustard, swede rape, dioecious hemp, safflower, black mustard, caraway, sunflower, opium poppy, white mustard) means seed

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

(ii) which is intended for purposes other than the production of seed of oil or fibre plants;

(iii) which, subject to the provisions of point (b) of Article 5, satisfies the conditions laid down in Annexes I and II for certified seed; and

(iv) - which has been found by official examination to satisfy the abovementioned conditions, or

- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;

(f) "certified seed, first generation": (groundnut, monoecious hemp, flax, linseed, soya, cotton) means seed

(i) 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;

(ii) which is intended either for the production of seed of the category "certified seed, second generation" or, where appropriate, of the category "certified seed, third generation", or for purposes other than the production of seed of oil or fibre plants;

(iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and

(iv) - which has been found by official examination to satisfy the abovementioned conditions, or

- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;

(g) "certified seed, second generation": (groundnut, flax, linseed, soya, cotton) means seed

(i) 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 and which can satisfy and has been found by official examination to satisfy the conditions laid down in Annexes I and II for basic seed;

(ii) which is intended for purposes other than the production of seed of oil or fibre plants or, where appropriate, which is intended for the production of seed of the category "certified seed, third generation";

(iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and

(iv) - which has been found by official examination to satisfy the abovementioned conditions, or

- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;

(h) "certified seed, second generation" (monoecious hemp): means seed

(i) which has been produced directly from certified seed of the first generation which has been established and officially controlled with a special view to the production of certified seed of the second generation;

(ii) which is intended for the production of hemp to be harvested in flower;

(iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and

(iv) - which has been found by official examination to satisfy the abovementioned conditions, or

- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;

(i) "certified seed, third generation": (flax, linseed) means seed

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

(ii) which is intended for purposes other than the production of seed of oil or fibre plants;

(iii) which satisfies the conditions laid down in Annexes I and II for certified seed; and

(iv) - which has been found by official examination to satisfy the abovementioned conditions, or

- in the case of the conditions laid down in Annex I, has been found to satisfy those conditions either by official examination or by examination carried out under official supervision;

(j) "commercial seed": means seed

(i) which is identifiable as belonging to a species;

(ii) which, subject to the provisions of Article 5(b), satisfies the conditions laid down in Annex II for commercial seed, and

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

(k) "official measures": means measures taken

(i) by State authorities; or

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

(iii) 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 (ii) and (iii) derive no private gain from such measures.

2. Amendments to be made to the list of species referred to in paragraph 1(b) shall be adopted in accordance with the procedure laid down in Article 25(2).

3. The different types of varieties, including the components, eligible for certification under the provisions of this Directive may be specified and defined in accordance with the procedure laid down in Article 25(2).

4. Member States may:

(a) in the case of flax or linseed seed, include several generations in the basic seed category and subdivide this category by generation;

(b) provide that official examination to check compliance with the condition laid down in Annex II(1)(4) for *Brassica napus* shall not be carried out on all lots during certification unless there is doubt whether that condition has been satisfied.

5. When the examination under official supervision referred to in paragraph 1(e)(iv) second indent, 1(f)(iv) second indent, 1(h)(iv) second indent and 1(i)(iv) second indent above is carried out, the following requirements shall be complied with:

(a) the inspectors shall:

(i) have the necessary technical qualifications;

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

(iii) have been officially licensed by the seed certification authority of the Member State concerned and this licensing shall include either the swearing-in of inspectors or the signature by inspectors of a written statement of commitment to the rules governing official examinations;

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

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

(c) a proportion of the seed crops shall be checked by official inspectors. That proportion shall be 10 % for self-pollinated crops and 20 % for cross-pollinated crops or, for those species for which Member States provide for official laboratory seed-testing using morphological, physiological or, where appropriate, biochemical procedures to identify the variety and establish purity, 5 % and 15 % respectively;

(d) a proportion of samples from the seed lots harvested from the seed crops shall be drawn for official post-control and, where appropriate, for official laboratory seed testing in respect of varietal identity and purity.

Member States shall determine the penalties applicable to infringements of the rules set out in the first subparagraph governing examination under official supervision. The penalties they provide for must be effective, proportionate and

dissuasive. Penalties may include the withdrawal of the recognition referred to in point (a)(iii) of the first subparagraph from officially licensed inspectors who are found guilty of deliberately or negligently contravening the rules governing official examinations. Any certification of the seed examined shall be annulled in the event of such contravention unless it can be shown that such seed still meets all relevant requirements.

6. Further measures applicable to the carrying out of examinations under official supervision may be adopted in accordance with the procedure referred to in Article 25(2).

Until such measures are adopted, the conditions set out in Article 2 of Commission Decision 89/540/EEC(6) shall be adhered to.

Article 3

1. Member States shall provide that seed of:

Brassica napus L. (partim)

Brassica rapa L. var. *silvestris* (Lam.) Briggs

Cannabis sativa L.

Carthamus tinctorius L.

Carum carvi L.

Gossypium spp.

Helianthus annuus L.

Linum usitatissimum L. (partim) - flax, linseed

may not be placed on the market unless it has been officially certified as "basic seed" or "certified seed".

2. Member States shall provide that seed of oil and fibre plant 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.

3. It may be provided, under the procedure laid down in Article 25(2), that after specified dates seed of oil and fibre plant species 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. Member States shall ensure that official examinations are carried out in accordance with current international methods, in so far as such methods exist.

Article 4

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.

Article 5

Member States may, 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; to this end 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" of all categories 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 18 in respect of multiplication outside the Community.

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

Article 6

1. Notwithstanding Article 3(1) and (2), Member States may authorise procedures 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 2002/53/EC 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 referred to in Article 25(2).

3. Authorisations granted before 14 December 1998 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.

Article 7

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

Article 8

Member States shall provide that the description of genealogical components which may be required is, if the breeder so requests, treated as confidential.

Article 9

1. 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 under official supervision 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 10

1. Member States shall require that basic seed, certified seed of all categories and commercial seed be marketed only in sufficiently homogeneous consignments and in sealed packages bearing, as prescribed in Articles 11 and 12, a sealing system 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 11

1. Member States shall require that packages of basic seed, certified seed of all categories and commercial seed, be sealed officially or under official supervision in such a manner that they cannot be opened without damaging the sealing system or leaving evidence of tampering on either the official label provided for in Article 12(1) or the package.

In order to ensure sealing, the sealing system shall comprise at least either the official label or the affixing of an official seal.

The measures provided for in the second subparagraph above shall not be necessary where a non-reusable sealing system is used.

In accordance with the procedure referred to in Article 25(2), it may be established whether a particular sealing system complies with the provisions of this paragraph.

2. Packages which have been officially sealed shall not be resealed, whether one or more times, except officially or under official supervision. If packages are resealed, the fact of resealing, the most recent date of resealing and the authority responsible therefor shall be stated on the label required under Article 12(1).

3. 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 referred to in Article 25(2).

Article 12

1. Member States shall require that packages of basic seed, certified seed of all categories and commercial seed:

(a) be labelled on the outside with an official label which has not previously been used, which satisfies the conditions laid down in Annex IV and on which the information is given in one of the official languages of the Community. 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 and brown for commercial seed. When a label with a string-hole is used, its attachment shall be ensured in all cases with an official seal. If, in cases under Article 5(a), the basic seed does not satisfy the conditions laid down in Annex II in respect of germination, this fact shall be stated on the label. The use of official adhesive labels shall be authorised. In accordance with the procedure referred to in Article 25(2) the indelible printing under official supervision of the information on the package according to the label's model may be authorised;

(b) contain an official document, in the same colour as the label, giving at least the information required under Annex IV(A)(a)(4), (5) and (6) and in the case of commercial seed, under (b) (2), (5) and (6). This document shall be drawn up in such a manner that it cannot be confused with the official label referred to under (a). This document is not necessary if the information is printed indelibly on the package or if, in accordance with the provisions under (a), an adhesive label or a label of non-tear material is used.

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 referred to in Article 25(2).

3. This Directive shall not affect the right of Member States to require that seed of oil and fibre plants which is shown to be intended for purposes other than agricultural production may not be placed on the market unless this fact is stated on the label.

Article 13

In accordance with the procedure laid down in Article 25(2), 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 referred to in Article 25(2).

Article 14

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.

Article 15

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

Article 16

For the purpose of seeking improved alternatives to certain provisions set out in this Directive, it may be decided to organise temporary experiments under specified conditions at Community level in accordance with the provisions referred to in Article 25(2).

In the framework of such experiments, Member States may be released from certain obligations laid down in this Directive. The extent of that release shall be defined with reference to the provisions to which it applies. The duration of an experiment shall not exceed seven years.

Article 17

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.

Article 18

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 4, 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.

Article 19

1. Member States shall provide that seed of oil and fibre plants

- which has been produced directly from basic seed or certified seed of the first generation officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 20(b), or which has been produced directly from the crossing of basic seed officially certified in a Member State with basic seed officially certified in such a third country, and

- which has been harvested in another Member State,

shall, on request and without prejudice to the provisions of Directive 2002/53/EC, be officially certified as certified seed in any Member State if that seed has undergone field inspection satisfying the conditions laid down in Annex I for the relevant category and if official examination has shown that the conditions laid down in Annex II for the same category are satisfied.

Where in such cases the seed has been produced directly from officially certified seed of generations prior to basic seed, Member States may also authorise official certification as basic seed, if the conditions laid down for that category are satisfied.

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 11(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.

3. Member States shall also provide that seed of oil and fibre plants

- which has been produced directly from basic seed or certified seed of the first generation officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 20(b), or which has been produced directly from the crossing of basic seed officially certified in a Member State with basic seed officially certified in such a third country, and

- which has been harvested in a third country,

shall, on request, be officially certified as certified seed in any of those Member States where the basic seed was either produced or officially certified, if the seed has undergone field inspection satisfying the conditions laid down in an equivalence decision made under Article 20(a) for the relevant category and if official examination has shown that the conditions laid down in Annex II for the same category are satisfied. Other Member States may also authorise official certification of such seed.

Article 20

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 18, the field inspections in the third country satisfy the conditions laid down in Annex I;

(b) seed of oil and fibre plants which has been harvested in a third country and affords the same assurances as regards its characteristics and the arrangements for its examination, for ensuring its identity, for marking and for control is equivalent in these respects to basic seed, certified seed, certified seed of the first, second or third generation or commercial seed harvested within the Community and complying with the provisions of this Directive.

2. Paragraph 1 shall also apply in respect of any new Member State from the date of its accession to the date on which it is to bring into force the laws, regulations or administrative provisions necessary to comply with this Directive.

Article 21

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 25(2) 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 catalogue 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 referred to in Article 25(2).

Article 22

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.

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 referred to in Article 25(2).

Article 23

1. Community comparative tests shall be carried out within the Community for the post-control of samples of basic seed, with the exception of that of hybrid or synthetic varieties, and of certified seed of all categories of oil and fibre plants, taken during sampling. Satisfaction of the conditions with which the seed must comply may be checked during the post-control tests. The arrangements for holding the tests and their results shall be submitted to the Committee referred to in Article 25(1).

2. These comparative tests shall 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 these tests and sent in confidence to the Member States and to the Commission. The Commission shall, in accordance with the procedure referred to in Article 25(2), set the date for the first report.

3. The Commission, acting in accordance with the procedure laid down in Article 25(2), shall make the necessary arrangements for the comparative tests to be carried out. Seed of oil and fibre plants harvested in third countries may be included in the comparative tests.

Article 24

Amendments to be made to the content of the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure referred to in Article 25(2).

Article 25

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, set up by Article 1 of Council Decision 66/399/EEC(7).

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its rules of procedure.

Article 26

Save as otherwise provided in Annex II in respect of the presence of diseases, harmful organisms and their vectors, 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.

Article 27

1. Specific conditions may be established in accordance with the procedure referred to in Article 25(2) 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 Directive 2002/53/EC, 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(b) shall include in particular the following points:

(a) 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;

(b) appropriate quantitative restrictions.

Article 28

Upon application by a Member State, which will be dealt with as referred to in Article 25(2), that State may be wholly or partially released from the obligation to apply the provisions of this Directive, with the exception of Article 17:

(a) in respect of the following species:

- Safflower;

(b) in respect of other species which are not normally reproduced or marketed in its territory.

Article 29

The Member States shall communicate to the Commission the text of the main provisions of domestic law they adopt in the field covered by this Directive.

The Commission shall inform the other Member States thereof.

Article 30

No later than 1 February 2004, the Commission shall submit a detailed evaluation of the simplifications of the certification procedures introduced by Article 5 of Directive 98/96/EC. This evaluation shall focus in particular on the possible effects on the quality of the seed.

Article 31

1. Directive 69/208/EEC as amended by the Directives listed in Annex VI part A, is hereby repealed without prejudice to the obligations of the Member States concerning the deadlines for transposition of the said Directives set out in Annex VI part B.

2. References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex VII.

Article 32

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

Article 33

This Directive is addressed to the Member States.

Done at Luxembourg, 13 June 2002.

For the Council

The President

M. Rajoy Brey

(1) Opinion delivered on 9 April 2002 (not yet published in the Official Journal).

(2) OJ L 169, 10.7.1969, p. 3. Directive as last amended by Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27).

(3) See Annex VI, part A.

(4) See page 1 of this Official Journal.

(5) OJ L 184, 17.7.1999, p. 23.

(6) OJ L 286, 4.10.1989, p. 24. Decision as last amended by Decision 96/336/EC (OJ L 128, 29.5.1996, p. 23).

(7) OJ L 125, 11.7.1966, p. 2289/66.

ANNEX I

CONDITIONS TO BE SATISFIED BY THE CROP

1. The previous cropping of the field shall not have been incompatible with the production of seed of the species and variety of the crop, and the field shall be sufficiently free from such plants which are volunteers from previous cropping.

2. The crop shall conform to the following standards as regards distances from neighbouring sources of pollen which may result in undesirable foreign pollination:

>TABLE>

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

3. The crop shall have sufficient varietal identity and varietal purity or, in the case of a crop of an inbred line of *Helianthus annuus*, sufficient identity and purity as regards its characteristics.

For the production of seed of hybrid varieties of *Helianthus annuus*, the abovementioned provisions shall also apply to the characteristics of the components, including male sterility or fertility restoration.

In particular, crops of *Brassica juncea*, *Brassica nigra*, *Cannabis sativa*, *Carthamus tinctorius*, *Carum carvi*, *Gossypium* spp. and hybrids of *Helianthus annuus* shall conform to the following standards or other conditions:

A. *Brassica juncea*, *Brassica nigra*, *Cannabis sativa*, *Carthamus tinctorius*, *Carum carvi* and *Gossypium* spp.:

the number of plants of the crop species which are recognisable as obviously not being true to the variety shall not exceed:

- one per 30 m² for the production of basic seed,
- one per 10 m² for the production of certified seed.

B. Hybrids of *Helianthus annuus*:

(a) the percentage by number of plants which are recognisable as obviously not being true to the inbred line or to the component shall not exceed:

(aa) for the production of basic seed:

>TABLE>

(bb) for the production of certified seed:

>TABLE>

(b) the following other standards or conditions shall be satisfied for the production of seed of hybrid varieties:

(aa) sufficient pollen shall be shed by the plants of the male component while the plants of the female component are in flower;

(bb) where the female component plants have receptive stigmas, the percentage by number of female component plants which have shed pollen or are shedding pollen shall not exceed 0,5 %;

(cc) for the production of basic seed the total percentage by number of plants of the female component which are recognisable as obviously not being true to the component and which have shed pollen or are shedding pollen shall not exceed 0,5 %;

(dd) where the condition laid down in Annex II(I)(2) cannot be satisfied, the following conditions shall be satisfied: a male-sterile component shall be used to produce certified seed by using a male component which contains a specific restorer line or lines so that at least one-third of the plants grown from the resulting hybrid will produce pollen which appears normal in all respects.

4. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level. In the case of *Glycine max.* this condition is applicable in particular to the organisms *Pseudomonas syringae* pv. *glycinea*, *Diaporthe phaseolorum* var. *caulivora* and var. *sojae*, *Phialophora gregata* and *Phytophthora megasperma* f.sp. *glycinea*.

5. The satisfaction of the abovementioned standards or other conditions shall, in the case of basic seed, be examined in official field inspections and, in the case of certified seed, be examined either in official field inspections or in inspections carried out under official supervision. These field inspections shall be carried out in accordance with the following conditions:

A. the condition and the stage of development of the crop shall permit an adequate examination,

B. in cases other than crops of hybrids of sunflower there shall be at least one field inspection. In the case of hybrids of sunflower there shall be at least two field inspections,

C. the size, the number and the distribution of the portions of the field to be inspected in order to examine the satisfaction of the provisions of this Annex shall be determined in accordance with appropriate methods.

ANNEX II

CONDITIONS TO BE SATISFIED BY THE SEED

I. BASIC AND CERTIFIED SEED

1. The seed shall have sufficient varietal identity and varietal purity. In particular, seeds of the species listed below shall conform to the following standards or other conditions:

>TABLE>

The minimum varietal purity shall be examined mainly in field inspections carried out in accordance with the conditions laid down in Annex I.

2. Where the condition laid down in Annex I(3)(B)(b)(dd) cannot be satisfied, the following condition shall be met: where for the production of certified seed of hybrids of sunflower a female male-sterile component and a male component which does not restore male fertility have been used, the seed produced by the male-sterile parent shall be blended with seed produced by the fully fertile seed parent. The ratio of male-sterile parent seed to male-fertile parent shall not exceed two to one.

3. The seed shall conform to the following standards or other conditions as regards germination, analytical purity and content of seeds of other plant species including *Orobanche* spp.:

A.

Table:

>TABLE>

B. Standards or other conditions applicable where reference is made to them in the table under Section I(3)(A) of this Annex:

(a) the maximum contents of seeds laid down in column 5 include also the seeds of the species in columns 6 to 11;

(b) the determination of total content of seeds of other plants species by number need not be carried out unless there is doubt whether the conditions laid down in column 5 have been satisfied;

(c) the determination of seeds of *Cuscuta* spp. by number need not be carried out unless there is doubt whether the conditions laid down in column 7 have been satisfied;

(d) the presence of one seed of *Cuscuta* spp. in a sample of the prescribed weight shall not be regarded as an impurity where a second sample of the same weight is free from any seeds of *Cuscuta* spp.;

(e) the seed shall be free from *Orobanche* spp.; however the presence of one seed of *Orobanche* spp. in a sample of 100 grams shall not be regarded as an impurity where a second sample of 200 grams is free from any seeds of *Orobanche* spp.

4. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level. In particular, the seed shall conform to the following standards or other conditions:

A.

Table:

>TABLE>

B. Standards or other conditions applicable where reference is made to them in the table under Section I(4)(A) of this Annex:

(a) in flax, the maximum percentage by number of seeds contaminated by *Ascochyta linicola* (syn. *Phoma linicola*) shall not exceed one;

(b) the determination of sclerotia or fragments of sclerotia of *Sclerotinia sclerotiorum* by number need not be carried out unless there is doubt whether the conditions laid down in column 5 of this table have been satisfied.

C. Particular standards or other conditions applicable to *Glycine max.*:

(a) in respect of *Pseudomonas syringae* pv. *glycinea* the maximum number of sub-samples within a sample of 5000 seeds minimum per lot subdivided into 5 subsamples which have been found to be contaminated by the said organism shall not exceed 4;

where suspect colonies are identified in all five subsamples, appropriate biochemical tests on the suspect colonies isolated on a preferential medium for each subsample may be used to confirm the above standards or conditions;

(b) in respect of *Diaporthe phaseolorum* the maximum number of seeds contaminated shall not exceed 15 %;

(c) the percentage by weight of inert matter, as defined in accordance with current international testing methods, shall not exceed 0,3.

In accordance with the procedure referred to in Article 25(2), Member States may be authorised not to carry out the examination in respect of the above particular standards or other conditions unless, on the basis of previous experience, there is doubt whether those standards or conditions have been satisfied.

II. COMMERCIAL SEED

With the exception of Section I, the conditions referred to in Annex II(I) shall apply to commercial seed.

ANNEX III

LOT AND SAMPLE WEIGHTS

>TABLE>

The maximum lot weight shall not be exceeded by more than 5 %.

ANNEX IV

LABEL

A. Required information

(a) For basic seed and certified seed

1. "EC rules and standards".

2. Certification authority and Member State or their initials.

3. Month and year of sealing expressed thus: "sealed ... (month and year)", or

month and year of the last official sampling for the purposes of certification expressed thus: "sampled ... (month and year)".

4. Reference number of lot.

5. Species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in roman characters.

6. Variety, indicated at least in roman characters.

7. Category.

8. Country of production.

9. Declared net or gross weight.

10. Where weight is indicated and granulated pesticides, pelleting substances, or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds and the total weight.

11. In the case of varieties which are hybrids or inbred lines:

- for basic seed where the hybrid or inbred line to which the seed belongs has been officially accepted under Directive 2002/53/EC:

the name of this component, under which it has been officially accepted, with or without reference to the final variety, accompanied, in the case of hybrids or inbred lines which are intended solely as components for final varieties, by the word "component",

- for basic seed in other cases:

the name of the component to which the basic seed belongs, which may be given in code form, accompanied by a reference to the final variety, with or without reference to its function (male or female), and accompanied by the word "component",

- for certified seed:

the name of the variety to which the seed belongs, accompanied by the word "hybrid".

12. Where at least germination has been retested, the words "retested ... (month and year)" and the service responsible for such retesting may be indicated. Such information may be given on an official sticker attached to the official label.

In accordance with the procedure laid down in Article 25(2), Member States may be released from the requirement to indicate the botanical name in respect of individual species and, where appropriate, for limited periods where it has been established that the disadvantages of its implementation outweigh the advantages expected for the marketing of seed.

(b) For commercial seed

1. "EC rules and standards".

2. "Commercial seed (not certified as to variety)".

3. Certification authority and Member State or their initials.

4. Month and year of sealing expressed thus: "sealed ... (month and year)".

5. Reference number of lot.

6. Species, indicated at least under its botanical name, which may be given in abridged form and without the authors' names, in roman characters.

7. Region of production.

8. Declared net or gross weight.

9. Where weight is indicated and granulated pesticides, pelleting substances, or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seeds and the total weight.

10. Where at least germination has been retested, the words "retested ... (month and year)" and the service responsible for such retesting may be indicated. Such information may be given on an official sticker attached to the official label.

In accordance with the procedure referred to in Article 25(2), Member States may be released from the requirement to indicate the botanical name in respect of individual species and, where appropriate, for limited periods where it has been established that the disadvantages of its implementation outweigh the advantages expected for the marketing of seed.

B. Minimum dimensions

110 mm × 67 mm.

ANNEX V

LABEL AND DOCUMENT PROVIDED IN THE CASE OF SEED NOT FINALLY CERTIFIED, HARVESTED IN ANOTHER MEMBER STATE

A. Information required for the label

- authority responsible for field inspection and Member State or their initials,
- 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; in the case of varieties (inbred lines, hybrids), which are intended solely as components for hybrid varieties, the word "component" shall be added,
- category,
- in the case of hybrid varieties, the word "hybrid",
- field or lot reference number,
- declared net or gross weight,
- the words "seed not finally certified".

In accordance with the procedure referred to in Article 25(2), Member States may be released from the requirement to indicate the botanical name in respect of individual species and, where appropriate, for limited periods where it has been established that the disadvantages of its implementation outweigh the advantages expected for the marketing of seed.

B. Colour of the label

The label shall be grey.

C. Information required for the document

- authority issuing the document,
- 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,
- category,
- reference number of the seed used to sow the field and name of the country or countries which certified that seed,
- field lot or reference number,
- area cultivated for the production of the lot covered by the document,
- quantity of seed harvested and number of packages,

- number of generations after basic seed, in the case of certified seed,
- attestation that the conditions to be satisfied by the crop from which the seed comes have been fulfilled,
- where appropriate, results of a preliminary seed analysis.

ANNEX VI

PART A

REPEALED DIRECTIVE AND ITS SUCCESSIVE AMENDMENTS

(referred to by Article 31)

>TABLE>

PART B

DEADLINES FOR TRANSPOSITION INTO NATIONAL LAW

(referred to by Article 31)

>TABLE>

ANNEX VII

TABLE OF CORRESPONDENCE

>TABLE>