

COUNCIL DIRECTIVE

of 19 December 1977

amending Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 68/193/EEC, 69/208/EEC, 70/458/EEC and 70/457/EEC on the marketing of beet seed, fodder plant seed, cereal seed, material for the vegetative propagation of the vine, seed of oil and fibre plants, vegetable seed and on the common catalogue of varieties of agricultural plant species

(78/55/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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⁽²⁾,

Whereas, for the reasons given below, certain Directives on the marketing of seeds and propagating material should be amended;

Whereas the present provisions of those Directives relating to the marking of seeds and propagating material do not take into account technical progress in respect of methods of labelling; whereas they should therefore be amended;

Whereas in the case of certain Directives an accelerated procedure should be provided for amending the list of species with regard to descriptions and hybrids resulting from the crossing of species;

Whereas, in principle, seed which is intended for certification as 'certified seed' must have been produced from basic seed; whereas, however, by way of derogation, the said Directives permit, in the case of seed of certain species, certification as 'certified seed' where the seed has been produced from pre-basic seed which has been subject to official examination; whereas this latter facility is not sufficient for some species, particularly as regards the species for which certification as 'certified seed of the second generation' is permitted; whereas, therefore, this facility should be extended provided that sufficient guarantees are laid down;

Whereas experience with regard to supplies of fibre flax seed shows that it is necessary to retain the cate-

gory of 'certified seeds of the third generation' for a further four years; whereas this extension should also allow Member States to take all necessary steps to ensure in the near future adequate supplies of fibre flax seed of the categories 'certified seed of the first generation' and 'certified seed of the second generation';

Whereas Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plant species⁽³⁾, as last amended by Directive 73/438/EEC⁽⁴⁾, and Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed⁽⁵⁾, as last amended by Directive 76/307/EEC⁽⁶⁾, provide that from 1 July 1977 the equivalence of the official examination of varieties and the checks on practices for the maintenance of varieties carried out in third countries can no longer be established nationally by Member States; whereas Directive 70/458/EEC provides that from 1 July 1977 the equivalence of seeds harvested in third countries can no longer be established nationally by Member States;

Whereas, however, it is likely that examinations concerning the granting of these equivalences on a Community basis will not be completed within the abovementioned periods in all those cases where national equivalences have been granted; whereas it should therefore be possible to decide by an accelerated procedure on a possible extension of these periods in certain cases in order to avoid disturbing traditional trade patterns,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Council Directive 66/400/EEC of 14 June 1966 on the marketing of beet seed⁽⁷⁾, as last amended by Directive 76/331/EEC⁽⁸⁾, shall be amended as follows:

⁽¹⁾ OJ No L 183, 1. 8. 1977, p. 64.

⁽²⁾ OJ No C 180, 28. 7. 1977, p. 29.

⁽³⁾ OJ No L 225, 12. 10. 1970, p. 1.

⁽⁴⁾ OJ No L 356, 27. 12. 1973, p. 79.

⁽⁵⁾ OJ No L 225, 12. 10. 1970, p. 7.

⁽⁶⁾ OJ No L 72, 18. 3. 1976, p. 16.

⁽⁷⁾ OJ No 125, 11. 7. 1966, p. 2290/66.

⁽⁸⁾ OJ No L 83, 30. 3. 1976, p. 34.

1. The following shall be substituted for Article 11 :

'Article 11

1. Member States shall require that packages of basic seed and certified seed, except where seed of the latter category takes the form of small EEC packages :

- (a) be labelled on the outside with an official label which has not previously been used, which satisfies the conditions laid down in Annex III (A) 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 and blue for certified 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 4 (a), the basic seed does not satisfy the conditions laid down in Annex I in respect of germination, this fact shall be stated on the label. The use of official adhesive labels shall be authorized. In accordance with the procedure laid down in Article 21 the indelible printing under official supervision of the prescribed information on the package according to the label's model may be authorized ;
- (b) contain an official document, in the same colour as the label, giving at least the information required under Annex III, (A) (I) (3), (4), (5), (10) and (11). 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 of basic seed where they are marked : "passed for marketing in ... (Member State concerned) only".

2. In Article 11b, the following shall be substituted for 'officially sealed and marked' : 'closed and marked officially or under official supervision'.

3. In the first indent of Article 14 (1), the following shall be substituted for 'officially marked and sealed' : 'marked and closed officially or under official supervision'.

4. In Annex III (A) (I), the following shall be added :

'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.'

Article 2

Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed⁽¹⁾, as last amended by Directive 75/444/EEC⁽²⁾, shall be amended as follows :

1. In Article 2, the following paragraphs shall be added :

'1a. Amendments to be made to the list of species referred to in paragraph 1 (A) in the light of the development of scientific or technical knowledge concerning the descriptions and hybrids resulting from the crossing of species covered by this Directive shall be adopted in accordance with the procedure laid down in Article 21.

1b. Member States may be authorized in accordance with the procedure laid down in Article 21 to permit, by way of derogation from paragraph 1 (C) (a), to be certified as certified seed seeds of self-pollinating or apomictic species which have been entered for certification as basic seed and which have been produced directly from a generation prior to basic seed but which has not been officially examined. This provision shall not apply to hybrid seeds. Certification as certified seed may only occur if this is requested by the applicant for certification with the agreement of the breeder and if an official post-control test based on samples taken officially and carried out at the latest during the growing season of the entered seeds shows that the seeds from the previous generation have met the requirements for basic seed in respect of varietal identity and purity. In this case the breeder shall, when the samples are taken, state the total area which has been under production of seed of the previous generation. These conditions may be amended in the light of development of scientific or technical knowledge in accordance with the procedure laid down in Article 21.

Member States shall require that the official labels for seeds marketed in accordance with the authorization referred to in the first subparagraph be marked : "passed for marketing in ... (Member State concerned) only" ; in addition Member States may require in this case that the official labels also be marked : "intended for further multiplication only".

⁽¹⁾ OJ No 125, 11. 7. 1966, p. 2298/66.

⁽²⁾ OJ No L 196, 26. 7. 1975, p. 6.

2. The following shall be substituted for Article 10 :

Article 10

1. Member States shall require that packages of basic seed, certified seed and commercial seed, except where seed of the last two categories takes the form of small EEC B packages :

(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 (A) 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 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. The use of official adhesive labels shall be authorized. In accordance with the procedure laid down in Article 21, the indelible printing under official supervision of the prescribed information on the package according to the label's model may be authorized ;

(b) contain an official document, in the same colour as the label, giving at least the information required under Annex IV (A) (I) (a) (3), (4) and (5) and, in the case of commercial seed, under (b) (2), (4) and (5). 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 of basic seed where they are marked : "passed for marketing in : ... (Member State concerned) only".

3. In Article 10b, the following shall be substituted for 'officially sealed and marked' : 'closed and marked officially or under official supervision'.

4. In the first and second indents of Article 14 (1), the following shall be substituted for 'officially marked and sealed' : 'marked and closed officially or under official supervision'.

5. In Annex IV (A) (I), the following shall be added under (a) :

'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.'

6. In Annex IV (A) (I), the following shall be added under (b) :

'9. 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.'

7. In Annex IV (A) (I), the following is added under (c) :

'7. Where at least germination of all the components of the mixture 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.'

Article 3

Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed⁽¹⁾, as last amended by Directive 75/444/EEC, shall be amended as follows :

1. In Article 2, the following paragraphs shall be added :

'1a. Amendments to be made to the list of species referred to in paragraph 1 (A) in the light of the development of scientific or technical knowledge concerning the descriptions and hybrids resulting from the crossing of species covered by this Directive shall be adopted in accordance with the procedure laid down in Article 21.

1b. Member States may be authorized in accordance with the procedure laid down in Article 21 to permit, by way of derogation from paragraph 1 under F (a) or G (a), to be certified as certified seed of the first generation or certified seed of the second generation seeds of self-pollinating species which have been entered for certification as basic seed and which have been produced from a generation prior to basic seed but which has not been officially examined. This provision shall not apply to hybrid seeds. Certification as certified seed may only occur if this is requested by the applicant for certification with the agreement of the breeder and if an official post-control test based on samples

⁽¹⁾ OJ No 125, 11. 7. 1966, p. 2309/66.

taken officially and carried out at the latest during the growing season of the entered seed shows that the seeds from the previous generation have met the requirements for basic seed in respect of varietal identity and purity. In this case the breeder shall, when the samples are taken, state the total area which has been under production of seeds of the previous generation. These conditions may be amended in the light of development of scientific or technical knowledge in accordance with the procedure laid down in Article 21.

Member States shall require that the official labels for seeds marketed in accordance with the authorization referred to in the first subparagraph be marked: "passed for marketing in ... (Member State concerned) only"; in addition Member States may require in this case that the official labels also be marked "intended for further multiplication only".

2. The following shall be substituted for Article 10:

Article 10

1. Member States shall require that packages of basic seed and certified seed of all kinds:

(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 and for certified seed of the first generation and red for certified seed of the second generation. 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 4 (1) (a) and (2), the basic seed or maize 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 authorized. In accordance with the procedure laid down in Article 21, the indelible printing under official supervision of the prescribed information on the package according to the label's model may be authorized;

(b) contain an official document, in the same colour as the label, giving at least the information required under Annex IV (A) (a) (3), (4) and (5). 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 where they are marked: "passed for marketing in ... (Member State concerned) only".

3. In accordance with the procedure laid down in Article 21, Member States may be authorized to retain until 30 June 1980 provisions allowing the marketing of cereal seeds the packaging of which includes the prescribed information but in a different layout from that provided for in the sixth sentence of paragraph 1 (a).

3. In Article 14 (1), the following shall be substituted for 'officially marked and sealed': 'marked and closed officially or under official supervision'.

4. In Annex IV (A), the following shall be added under (a):

'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.'

5. In Annex IV (A), the following shall be added under (b):

'7. Where at least germination of all the components of the mixture 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.'

Article 4

The following paragraph 1a shall be added to Article 10 of Council Directive 68/193/EEC of 9 April 1968 on the marketing of material for the vegetative propagation of the vine⁽¹⁾, as last amended by Directive 74/648/EEC⁽²⁾:

'1a. Nevertheless Member States may permit that 10 packages or bundles of rooted grafts of the same characteristics, or five packages or bundles of rooted cuttings of the same characteristics are marked with only one label conforming to the specifications in Annex IV. In this case, the packages or bundles shall be tied together in such a way that, when they are separated, the tie is damaged and cannot be re-used. The label shall be attached with this tie. Reclosing shall not be authorized.'

⁽¹⁾ OJ No L 93, 17. 4. 1968, p. 15.

⁽²⁾ OJ No L 352, 28. 12. 1974, p. 43.

Article 5

Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants⁽¹⁾, as last amended by Directive 75/444/EEC, shall be amended as follows:

1. In Article 2, the following paragraphs shall be added:

'1a. Amendments to be made to the list of species referred to in paragraph 1 (A) in the light of the development of scientific or technical knowledge concerning the descriptions and hybrids resulting from the crossing of species covered by this Directive shall be adopted in accordance with the procedure laid down in Article 20.

1b. Member States may be authorized in accordance with the procedure laid down in Article 20 to permit, by way of derogation from paragraph 1 D (a) or E (a), to be certified as certified seed of the first generation or certified seed of the second generation seeds of self-pollinating species which have been entered for certification as basic seed and which have been produced from a generation prior to basic seed but which has not been officially examined. This provision shall not apply to hybrid seeds. Certification as certified seed may only occur if this is requested by the applicant for certification with the agreement of the breeder and if an official post-control test based on samples taken officially and carried out at the latest during the growing season of the entered seed shows that the seeds from the previous generation have met the requirements for basic seed in respect of varietal identity and purity. In this case the breeder shall, when the samples are taken, state the total area which has been under production of seed of the previous generation. These conditions may be amended in the light of the development of scientific or technical knowledge in accordance with the procedure laid down in Article 20.

Member States shall require that the official labels for seeds marketed in accordance with the authorization referred to in the first subparagraph be marked: "passed for marketing in ... (Member State concerned) only"; in addition, Member States may require in this case that the official labels also be marked "intended for further multiplication only".

⁽¹⁾ OJ No L 169, 10. 7. 1969, p. 3.

2. In Article 2 (2) (c) '30 June 1982' shall be substituted for '30 June 1978'.

3. In Article 10 the following shall be substituted for paragraphs 1 and 2:

'1. Member States shall require that packages of basic seed, certified seed of all kinds 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 4 (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 authorized. In accordance with the procedure laid down in Article 20 the indelible printing under official supervision of the information on the package according to the label's model may be authorized;
- (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 where they are marked: "passed for marketing in ... (Member State concerned) only".

4. In Article 13 (1), the following shall be substituted for 'officially marked and sealed': 'marked and closed officially or under official supervision'.

5. In Annex IV (A), the following is added under (a):

'11. 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.'

6. In Annex IV (A), the following is added under (b):

'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.'

Article 6

The following sentence shall be added to Article 21 (2) of Directive 70/457/EEC:

'In accordance with the procedure laid down in Article 23, this period may be extended for third countries if the available information does not permit a determination according to paragraph 1 and for as long as it does not permit such a determination.'

Article 7

Council Directive 70/458/EEC shall be amended as follows:

1. In Article 2, the following paragraphs shall be added:

'1a. Amendments to be made to the list of species referred to in paragraph A in the light of the development of scientific or technical knowledge concerning the descriptions and hybrids resulting from the crossing of species covered by this Directive shall be adopted in accordance with the procedure laid down in Article 40.

1b. Member States may be authorized in accordance with the procedure laid down in Article 40 to permit, by way of derogation from paragraph 1 (C) (a), to be certified as certificated seed seeds of self-pollinating species which have been entered for certification as basic seed and which have been produced from a generation prior to basic seed but which has not been officially examined. This provision shall not apply to hybrid seeds. Certification as certified seed may only occur if this is requested by the applicant for certification with the agreement of the breeder and if an official post-control test based on samples taken officially and carried out at the latest during the growing season of the entered seed shows that the seeds from the previous generation have met the requirements for basic seed in respect of varietal identity and purity. In this case the breeder shall, when the samples are taken, state the total area which has been under production of seed of the previous generation. These conditions may be amended in the light of development of scientific or technical knowledge in accordance with the procedure laid down in Article 40.

Member States shall require that the official labels for seeds marketed in accordance with the authorization referred to in the first subparagraph be marked: "passed for marketing in ... (Member State concerned) only"; in addition Member States may require in this case that the official labels also be marked: "intended for further multiplication only".'

2. The following shall be substituted for Article 26 (1):

'1. Member States shall require that packages of basic seed and certified seed, except where seed of the latter category takes the form of small packages:

(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 (A) and on which the information is given in one of the official languages of the Community. The label may be placed inside transparent packages provided it can be read. The colour of the label shall be white for basic seed and blue for certified 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 21, 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 authorized. In accordance with the procedure laid down in Article 40 the indelible printing under official control of the prescribed information on the package according to the label's model may be authorized;

(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), (6) and (7). 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), the label is inside a transparent package or an adhesive label or a label of non-tear material is used.'

3. In Article 26, the following paragraph shall be added:

'1a. Member States may provide for exceptions to paragraph 1 in the case of small packages of basic seed where they are marked: "passed for marketing in ... (Member State concerned) only.'

4. In Article 30 (1), the following shall be substituted for 'officially marked and sealed': 'marked and closed officially or under official supervision'.

5. The following sentence shall be added to Article 32 (2):

'In accordance with the procedure laid down in Article 40 this period may be extended for third countries if the available information does not permit a determination according to paragraph 1 and for as long as it does not permit such a determination.'

Article 8

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply:

— with Article 6 and Article 7 (5) on 1 July 1977,

— with Article 5 (2) on 1 July 1978,

— with the other provisions of this Directive not later than 1 July 1979.

Article 9

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1977.

For the Council

The President

H. SIMONET