

COUNCIL DIRECTIVE 92/34/EEC

of 28 April 1992

on the marketing of fruit plant propagating material and fruit plants intended for fruit production

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

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

Whereas fruit production occupies an important place in the agriculture of the Community;

Whereas satisfactory results in the cultivation of fruit depend to a large extent on the quality and plant health of the material used for their propagation and of the fruit plants intended for fruit production; whereas certain Member States have in consequence introduced rules intended to guarantee the quality and plant health of the fruit plant propagating material and fruit plants placed on the market;

Whereas the different treatment accorded to propagating material and fruit plants in different Member States is likely to create barriers to trade and thus hinder the free movement of these goods within the Community; whereas, with a view to achieving the internal market, these barriers should be removed, by adopting Community provisions to replace those laid down by the Member States;

Whereas the establishment of harmonized conditions at Community level will ensure that purchasers throughout the Community receive propagating material and fruit plants which are healthy and of good quality;

Whereas, so far as they relate to plant health, such harmonized conditions must be consistent with Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plant or plant products ⁽⁴⁾;

Whereas it is appropriate initially to establish Community rules for those genera and species of fruit plant which are

of major economic importance in the Community, with a Community procedure for adding further genera and species later;

Whereas, without prejudice to the plant health provisions of Directive 77/93/EEC, it is not appropriate to apply the Community rules on the marketing of propagating material and fruit plants when it is shown that such products are intended for export to third countries, as the rules applicable there may be different from those contained in this Directive;

Whereas the determination of plant health and quality standards for each genus and species of fruit plant requires lengthy and detailed technical and scientific consideration; whereas a procedure should accordingly be established for that end;

Whereas in the first instance it is the responsibility of the suppliers of propagating material and/or fruit plants to ensure that their products fulfil the conditions laid down in this Directive;

Whereas the competent authorities of the Member States must, when carrying out controls and inspections, ensure that suppliers fulfil those conditions with regard to propagating material or fruit plants belonging to the CAC (*Conformitas Agraria Communitatis*) category;

Whereas it is indispensable to provide for other categories of propagating material and fruit plants for which the said material and plants must be the subject of official certification;

Whereas Community control measures should be introduced to ensure uniform application in all the Member States of the standards laid down in this Directive;

Whereas it is consistent with current agricultural practice to require that certain propagating material and fruit plants are either officially examined, or are declared virus-free, meaning found free of all known viruses and virus-like pathogens, or again virus-tested, meaning found free of specific viruses and virus-like pathogens reducing the usefulness of the propagating material and fruit plants;

Whereas it is in the interests of the purchasers of propagating materials and fruit plants that the names of varieties be known and that their identity be safeguarded;

Whereas the objective stated above can best be achieved either through common knowledge of the variety or through

⁽¹⁾ OJ No C 52, 3. 3. 1990, p. 16 and
OJ No C 307, 27. 11. 1991, p. 15.

⁽²⁾ OJ No C 240, 16. 9. 1991, p. 197.

⁽³⁾ OJ No C 182, 23. 7. 1990, p. 21.

⁽⁴⁾ OJ No L 26, 31. 1. 1977, p. 20; Directive as last amended by
Directive 92/10/EEC (OJ No L 70, 17. 3. 1992, p. 27).

the availability of a description drawn up and kept by the supplier; whereas in the latter case, however, the propagating material or fruit plants may not obtain access to the categories which are the subject of official certification;

Whereas, in order to ensure the identity and orderly marketing of propagating material and fruit plants, Community rules must be laid down concerning the separation of lots and marking; whereas the labels should give the particulars needed both for official control and for the information of the user;

Whereas rules should be established permitting, in the case of temporary supply difficulties, the marketing of propagating material and fruit plants subject to requirements less stringent than those contained in this Directive;

Whereas, as a first step towards harmonized conditions, Member States should be prohibited in the case of the genera and species referred to in Annex II, for which schedules will be drawn up, from imposing new conditions or restrictions on the marketing, other than those provided for in this Directive;

Whereas provisions should be made for authorizing the marketing, within the Community, of propagating material and fruit plants produced in third countries, provided always that they afford the same guarantees as propagating material and fruit plants produced in the Community and complying with Community rules;

Whereas, in order to harmonize the technical methods of examination used in the Member States and to compare propagating material and fruit plants produced in the Community with those produced in third countries, comparative trials should be carried out to check compliance of such products with the requirements of this Directive;

Whereas, in order to facilitate the effective operation of this Directive, the Commission should be entrusted with the task of adopting measures for its implementation and for the amendment of its Annex; and to provide a procedure to that end involving close cooperation between the Commission and the Member States within a Standing Committee on Propagating Material and Plants of Fruit Genera and Species,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive applies to the marketing of fruit plant propagating material and fruit plants intended for fruit production within the Community.

2. Articles 2 to 20 and Article 24 shall apply to the genera and species listed in Annex II as well as to their hybrids.

Rootstocks and other parts of plants of other genera or species or their hybrids shall also be subject to the abovementioned Articles if material of one of the said genera or species or their hybrids is grafted or is to be grafted onto them.

3. Amendments to the list of genera and species in Annex II shall be adopted in accordance with the procedure laid down in Article 22.

Article 2

This Directive shall not apply to propagating material or fruit plants shown to be intended for export to third countries, if properly identified as such and kept sufficiently isolated, without prejudice to the health rules laid down by Directive 77/93/EEC.

Implementing measures for the first paragraph, with particular reference to identification and isolation, shall be adopted in accordance with the procedure laid down in Article 21.

Article 3

For the purposes of this Directive, the following definitions shall apply:

- (a) *propagating material*: seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants;
- (b) *fruit plants*: plants intended to be planted or replanted, after marketing;
- (c) *pre-basic material*: propagating material:
 - (i) which has been produced according to generally accepted methods with a view to maintaining the identity of the variety, including the relevant characteristics of its pomological value, which can be established according to the procedure laid down in Article 21, and to preventing diseases;
 - (ii) which is intended for the production of basic material;
 - (iii) which satisfies the conditions for pre-basic material laid down in the schedule for the species concerned, established pursuant to Article 4, and
 - (iv) which, following an official inspection, has been recognized as satisfying the abovementioned conditions;
- (d) *basic material*: propagating material:
 - (i) which has been produced either directly or in a known number of stages in a vegetative way from pre-basic material, according to generally accepted methods, with a view to maintaining the identity of the variety, including the relevant characteristics of its pomological value, which can be established in accordance with the procedure laid down in Article 21, and to preventing disease;

- (ii) which is intended for the production of certified material;
 - (iii) which satisfies the conditions for basic material laid down in the schedule for the species concerned, established pursuant to Article 4, and
 - (iv) which, following an official inspection, has been recognized as satisfying the abovementioned conditions;
- (e) *certified materials*: propagating material and fruit plants:
- (i) which have been produced either directly or in a known number of stages in a vegetative way from basic material;
 - (ii) which satisfy the conditions for certified material laid down in the schedule for the species concerned, established pursuant to Article 4.
 - (iii) which, following an official inspection, has been recognized as satisfying the abovementioned conditions.
- (f) *CAC (Conformitas Agraria Communitatis) material*: propagating material and fruit plants satisfying the minimum conditions laid down for that category relative to the species concerned in the schedule established pursuant to Article 4;
- (g) *virus-free (v.f.) material*: material which has been tested and found free from infection according to internationally recognized scientific methods, has been found free from symptoms of any virus or virus-like pathogen by growing-season inspection, has been maintained under conditions ensuring freedom from infection, and is considered to be free from all viruses and virus-like pathogens known in the species concerned occurring in the Community. Material descended vegetatively in direct line in a specific number of stages from such material, found free from symptoms of any virus or virus-like pathogen by growing-season inspection, and produced and maintained under conditions ensuring freedom from infection, shall also be considered to be virus-free. The specific number of stages shall be indicated in the schedule for the species concerned, established pursuant to Article 4;
- (h) *virus-tested (v.t.) material*: material which has been tested and found free from infection according to internationally recognized scientific methods, found free from symptoms of any virus or virus-like pathogen by growing-season inspection, has been maintained under conditions ensuring freedom from infection, and considered to be free from certain serious viruses and virus-like pathogens known in the species concerned occurring in the Community and capable of reducing the usefulness of the material. Material descended vegetatively in direct line in a specific number of stages from such material, found free from symptoms of any virus or virus-like pathogen by growing-season inspection, and produced and maintained under conditions ensuring freedom from infection, shall also be considered to be virus-tested. The specific number of stages shall be indicated in the schedule for the species concerned, established pursuant to Article 4;
- (i) *supplier*: any natural or legal person carrying out professionally at least one of the following activities with regard to propagating material or fruit plants: reproducing, producing, preserving and/or treating, and marketing;
 - (j) *marketing*: the holding available or in stock, displaying or offering for sale, selling and/or delivering to another person, in whatever form, of propagating material or fruit plants;
 - (k) *responsible official body*
 - (i) the sole and central authority, established or designated by the Member State under the supervision of the national government and responsible for questions concerning quality;
 - (ii) any State authority established:
 - either at national level,
 - or at regional level, under the supervision of the national authorities, within the limits set by the national legislation of the Member State concerned.
- The bodies referred to in (i) and (ii) may, in accordance with their national legislation, delegate the tasks provided for in this Directive to be accomplished under their authority and supervision to any legal person, whether governed by public or private law, which, under its officially approved statute, is charged exclusively with specific public functions, provided that such person, and its members, has no personal interest in the outcome of the measures it takes.
- The Member States shall ensure that there is close cooperation between the bodies referred to in (ii) and those referred to in (i).
- Moreover, in accordance with the procedure laid down in Article 21, any other legal person established on behalf of a body referred to in (i) and (ii) and acting under the supervision and the control of such body, may be approved, provided that such person has no personal interest in the outcome of the measures it takes.
- The Member States shall notify the Commission of their responsible official bodies. The Commission shall forward that information to the other Member States;
- (l) *official measures*: measures taken by the responsible official body;
 - (m) *official inspection*: inspection carried out by the responsible official body;
 - (n) *official statement*: statement issued by or under the responsibility of the responsible official body;
 - (o) *lot*: a number of units of a single commodity, identifiable by its homogeneity of composition and origin;

(p) *laboratory*: a body under public or private law carrying out analysis and proper diagnosis, enabling the producer to monitor production quality.

Article 4

1. In accordance with the procedure laid down in Article 22, a schedule shall be established in Annex I for each genus or species referred to in Annex II, with a reference to the plant health conditions laid down in Directive 77/93/EEC applying to the genus and/or species concerned and laying down:

- (i) the quality and plant health conditions with which CAC material must comply, in particular those relating to the propagation system applied, to the purity of the growing crop, and, except in the case of rootstocks, where the material does not belong to a variety, to varietal aspects.
- (ii) the conditions with which pre-basic, basic and certified material must comply, relating to quality, plant health, the testing methods and procedures applied, the propagation system(s) applied and, except in the case of rootstocks where the material does not belong to a variety, to varietal aspects;
- (iii) the conditions with which rootstocks and other parts of plants of other genera or species must comply if propagating material of the genus or species concerned is grafted onto them.

2. If in the schedule a reference is made to the qualification 'virus-free (v.f.)' or 'virus-tested (v.t.)', the viruses and virus-like pathogens concerned shall be mentioned in that schedule.

This provision shall apply *mutatis mutandis* where reference is made to a qualification concerning freedom from or testing to detect harmful organisms other than viruses or virus-like pathogens.

No reference shall be made to v.f. or v.t. in respect of the material referred to in subparagraph 1 (i).

In respect of the material referred to in subparagraph 1 (ii), a reference to the aforementioned qualifications shall be made where such reference is relevant for the genus or species concerned.

Article 5

1. Member States shall ensure that suppliers take all necessary measures to guarantee compliance with the standards laid down by this Directive at all stages of the production and marketing of propagating material and fruit plants.

2. For the purposes of paragraph 1, suppliers shall either carry out themselves, or have carried out by an accredited supplier or a responsible official body, checks based on the following principles:

- identification of critical points in their production process on the basis of the production methods used,
- establishment and implementation of methods for monitoring and checking the critical points referred to in the first indent,
- taking samples for analysis in a laboratory accredited by the responsible official body for the purpose of checking compliance with the standards established by this Directive,
- keeping a written record or a record registered in an indelible fashion, of the data referred to in the first, second and third indents, as well as records on production and marketing of propagating material and fruit plants, to be held at the disposal of the responsible official body. These documents shall be kept for a period of at least three years.

However, suppliers whose activity in this connection is confined merely to the distribution of propagating material and fruit plants produced and packaged on premises other than their own shall be required only to keep a written record or a record registered in an indelible fashion of the buying and selling and/or delivery of propagating material and fruit plants.

This paragraph shall not apply to suppliers whose activity in this connection is confined to the supply of small quantities of propagating material and fruit plants to non-professional final consumers.

3. If the result of their own checks or any information at the disposal of the suppliers referred to in paragraph 1 reveals the presence of one or more of the harmful organisms referred to in Directive 77/93/EEC or, in a quantity greater than that normally allowed for in order to meet the standards, of those specified in the relevant schedules established pursuant to Article 4, the suppliers shall immediately report this to the responsible official body and shall carry out the measures indicated by that body or any other measure necessary to reduce the risk of such harmful organisms from spreading. The supplier shall keep records of all outbreaks of harmful organisms on his premises and of all measures taken in relation to such occurrences.

4. Detailed rules for the application of the second subparagraph of paragraph 2 shall be adopted in accordance with the procedure laid down in Article 21.

Article 6

1. The responsible official body shall accredit suppliers once it has verified that their production methods and establishments meet the requirements of this Directive with regard to the nature of the activities they carry out. The accreditation must be renewed if a supplier decides to carry out activities other than those for which he has received accreditation.

2. The responsible official body shall accredit laboratories once it has verified that those laboratories, their methods, their establishments and their staff, meet the requirements of this Directive, to be specified according to the procedure laid down in Article 21, with regard to the testing activities they carry out. The accreditation must be renewed if a laboratory decides to carry out activities other than those for which it has received accreditation.

3. The responsible official body shall take the necessary measures if the requirements referred to in paragraphs 1 and 2 cease to be met. To this end, it shall take particular account of the conclusions of any check carried out in accordance with Article 7.

4. The supervision and monitoring of suppliers, establishments and laboratories shall be carried out regularly by or under the responsibility of the responsible official body, which shall at all times have free access to all parts of establishments, in order to ensure compliance with the requirements of this Directive. Implementing measures concerning supervision and monitoring shall be adopted, as necessary, in accordance with the procedure laid down in Article 21.

If such supervision and monitoring reveal that the requirements of this Directive are not being met, the responsible official body shall take appropriate action.

Article 7

1. Commission experts may, in cooperation with the responsible official bodies of the Member States, make on-the-spot checks in so far as this is necessary to ensure the uniform application of this Directive, and in particular to verify whether suppliers are in effect complying with the requirements of this Directive. A Member State in whose territory a check is being carried out shall give all necessary assistance to the experts in carrying out their duties. The Commission shall inform the Member States of the result of the investigations.

2. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure laid down in Article 21.

Article 8

1. Propagating material or fruit plants may be marketed only by accredited suppliers, and provided they meet the requirements laid down for CAC material in the schedule referred to in Article 4.

2. Pre-basic, basic and certified material may not be certified unless it belongs to a variety referred to in Article 9 (2) (i) and unless it meets the requirements for the category concerned laid down in the schedule referred to in Article 4. The category shall be indicated on the official document referred to in Article 11.

With regard to the varietal aspect, in the schedule to be drawn up in accordance with Article 4 provision may be made for an exemption for rootstocks where the material does not belong to a variety.

3. Without prejudice to the provisions of Directive 77/93/EEC, the previous paragraphs shall not apply to propagating material or fruit plants intended for:

- (a) trials or scientific purposes; or
- (b) selection work; or
- (c) measures for the conservation of genetic diversity.

Detailed rules for the application of points (a) and (b) shall be adopted, as necessary, in accordance with the procedure laid down in Article 21. Detailed rules for the application of point (c) shall be adopted preferably before 1 January 1993, in accordance with the same procedure.

Article 9

1. Propagating material and fruit plants shall be marketed with a reference to the variety to which they belong. Where, in the case of rootstocks, the material does not belong to a variety, reference shall be made to the species or interspecific hybrid concerned.

2. The varieties to which reference shall be made pursuant to paragraph 1 must be:

- (i) either commonly known, and protected in accordance with the provisions on the protection of new varieties of plants, or officially registered on a voluntary or other basis;
- (ii) or entered on lists kept by the suppliers, with their detailed descriptions and relevant denominations. These lists must be available, upon request, to the responsible official body of the Member State concerned.

Each variety shall be described and, as far as possible, bear the same denomination in all Member States, in accordance with accepted international guidelines.

3. Varieties may be officially registered if they have been found to satisfy certain officially approved conditions and have an official description. They may also be officially registered if their material has been marketed in the territory of the Member State concerned prior to 1 January 1993, provided that they have an official description. In the latter case the registration shall expire not later than 30 June 2000, unless by that date the varieties in question have been:

- either confirmed, in accordance with the procedure laid down in Article 21, with a detailed description if they have been officially registered in at least two Member States,
- or registered in accordance with the first sentence.

4. Except where the varietal aspect is explicitly mentioned in the schedules referred to in Article 4, paragraphs (1) and (2) shall not entail any extra responsibility for the responsible official body.

5. Requirements for the official registration referred to in paragraph 2 (i) shall be established in accordance with the procedure laid down in Article 21, taking into account current scientific and technical knowledge and covering:

- (a) the conditions of official acceptance, which may include, in particular, distinctness, stability and sufficient uniformity;
- (b) the characteristics which as a minimum the examinations of the various species must cover;
- (c) the minimum requirements for carrying out the examinations;
- (d) the maximum period of validity of the official acceptance of a variety.

6. In accordance with the procedure laid down in Article 21:

- a system for the notification of varieties or species or interspecific hybrids to the responsible official bodies of the Member States may be set up,
- additional implementing provisions for paragraph 2 (ii) may be adopted,
- it may be decided that a common catalogue of varieties may be established and published.

Article 10

1. While growing and during lifting or removal from the parent material, propagating material and fruit plants shall be kept in separate lots.

2. If propagating material and fruit plants of different origins are put together or mixed during packaging, storage, transport or at delivery, the supplier shall keep records including the following data: composition of the lot and origin of its individual components.

3. Member States shall ensure compliance with the requirements referred to in paragraphs 1 and 2 by carrying out official inspections.

Article 11

Without prejudice to Article 10 (2), propagating material and fruit plants shall be marketed only in sufficiently homogeneous lots and if they are:

- (i) qualified as CAC material and accompanied by a document made out by the supplier in accordance with the conditions laid down in the schedule established pursuant to Article 4. In an official declaration appears on this document, it shall be clearly separate from all other information in the document; or
- (ii) qualified as pre-basic, basic or certified material, and certified as such by the official responsible body in accordance with the conditions laid down in the schedule referred to in Article 4.

Requirements in respect of propagating material and/or fruit plants with regard to labelling and/or sealing and packaging shall be indicated in the schedule referred to in Article 4.

In the case of retail supply of propagating material or fruit plants to a non-professional final consumer, requirements regarding labelling may be confined to appropriate product information.

Article 12

Member States may exempt:

- from the application of Article 11, small producers all of whose production and sales of propagating material and fruit plants is intended for final use by persons on the local market who are not professionally involved in plant production ('local circulation'),
- from the checks and official inspections provided for in Article 18, the local circulation of propagating materials and fruit plants produced by such exempt persons.

In accordance with the procedure laid down in Article 21, implementing measures relating to other requirements concerning the exemptions referred to in the first and second indents, in particular as regards the concepts of 'small producers' and 'local market', and to the related procedures, shall be adopted.

Article 13

In the event of temporary difficulties in the supply of propagating material and fruit plants satisfying the requirements of this Directive, measures may be adopted, in accordance with the procedure laid down in Article 21, concerning the marketing of propagating material and fruit plants meeting less stringent requirements, without prejudice to the plant-health rules laid down in Directive 77/93/EEC.

Article 14

Propagating material and fruit plants which comply with the requirements and conditions of this Directive shall be subject to no marketing restrictions as regards supplier, plant health, growing medium and inspection arrangements, other than those laid down in this Directive.

Article 15

As regards the products referred to in Annex II Member States shall refrain from imposing more stringent conditions or marketing restrictions other than the conditions laid down in the schedules referred to in Article 4 or those obtaining on the date of adoption of this Directive, as the case may be.

Article 16

1. In accordance with the procedure laid down in Article 21, it shall be decided whether propagating material and fruit plants produced in a third country and affording the same guarantees as regards obligations on the supplier, identity, characteristics, plant health, growing medium, packaging, inspection arrangements, marking and sealing, are equivalent in all these respects to propagating material and fruit plants produced in the Community and complying with the requirements and conditions of this Directive.

2. Pending the decision referred to in paragraph 1, Member States may, until 1 January 1993, and without prejudice to the provisions of Directive 77/93/EEC, apply to the import of propagating material and fruit plants from third countries conditions at least equivalent to those indicated, on a temporary or permanent basis, in the schedules adopted pursuant to Article 4. If such conditions are not laid down in the schedules, the conditions for importation must be at least equivalent to those applicable to production in the Member State concerned.

In accordance with the procedure laid down in Article 21, the date referred to in the first subparagraph may, for the various third countries, be extended pending the decisions referred to in paragraph 1.

Propagating material and fruit plants imported by a Member State in accordance with a decision taken by that Member State pursuant to the first subparagraph shall be subject to no marketing restrictions in the other Member States as regards the matters referred to in paragraph 1.

Article 17

Member States shall ensure that propagating material and fruit plants are officially inspected during production and marketing, and by random checks in the case of CAC material, to verify compliance with the requirements and conditions set out in this Directive.

Article 18

Detailed rules for implementing the controls provided for in Article 5 and for the official inspection provided for in Articles 10 and 17, including sampling methods, shall be adopted in accordance with the procedure laid down in Article 21.

Article 19

1. If, during the supervision and monitoring provided for in Article 6 (4), the official inspection referred to in Article 17, or the trials referred to in Article 20, it is found that propagating material or fruit plants do not meet the requirements of this Directive, the responsible official body of the Member State shall take appropriate action to ensure

that they do comply with the provisions of this Directive or, if that is not possible, to ban the marketing of that propagating material or those fruit plants in the Community.

2. If it is found that propagating material or fruit plants marketed by a particular supplier do not comply with the requirements and conditions of this Directive, the Member State concerned shall ensure that appropriate measures are taken against that supplier. If the supplier is forbidden to market propagating material and fruit plants, the Member State shall accordingly inform the Commission and the competent national bodies in the Member States.

3. Any measures taken under paragraph 2 shall be withdrawn as soon as it has been established with sufficient certainty that the propagating material or fruit plants intended for marketing by the supplier will, in the future, comply with the requirements and conditions of this Directive.

Article 20

1. Trials, or, where appropriate, tests shall be carried out in the Member States on samples to check that propagating material or fruit plants comply with the requirements and conditions of this Directive, including those relating to plant health. The Commission may organize inspections of the trials by representatives of the Member States and of the Commission.

2. It may be decided in accordance with the procedure laid down in Article 21 that it is necessary to carry out Community trials or tests for the same purpose as mentioned in paragraph 1. The Commission may organize inspections of Community trials by representatives of the Member States and of the Commission.

3. The trials or tests referred to in paragraphs 1 and 2 shall be used to harmonize technical methods of examination of propagating material and fruit plants. Progress reports shall be made on the trials or tests and sent in confidence to the Member States and to the Commission.

4. The Commission shall ensure that, where necessary, arrangements for coordinating, carrying out and inspecting the trials referred to in paragraphs 1 and 2, and assessing their results, are adopted by the Committee set up by Article 21. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health. If necessary, specific arrangements shall be adopted. Propagating material and fruit plants produced in third countries shall be included in the trials.

Article 21

1. The Commission shall be assisted by a committee, referred to as the 'Standing Committee on Propagating Material and Plants of Fruit Genera and Species', chaired by a representative of the Commission.

2. The representative of the Commission shall submit to the standing committee a draft of the measures to be taken. The standing committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the standing committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt measures which shall apply immediately.

However, if these measures are not in accordance with the opinion of the standing committee, they shall be communicated by the Commission to the Council forthwith. In that event, the Commission may defer application of the measures which it has decided for a period of not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

Article 22

1. The Commission shall be assisted by the Standing Committee on Propagating Material and Plants of Fruit Genera and Species, chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

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

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

Article 23

Amendments to the schedules established pursuant to Article 4 and to the conditions and detailed rules adopted for the implementation of this Directive shall be adopted in accordance with the procedure laid down in Article 21.

Article 24

1. Member States shall ensure that propagating material and fruit plants produced in their territory and intended for marketing comply with the requirements of this Directive.

2. If it is found, during an official inspection, that propagating material or fruit plants cannot be marketed because they fail to comply with a condition relating to plant health, the Member State concerned shall take appropriate official measures to eliminate any consequent plant-health risk.

Article 25

Within five years from the date of adoption of this Directive, the Commission shall examine the results of its application and submit to the Council a report, accompanied by any necessary proposals for amendments.

Article 26

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive no later than 31 December 1992. They shall forthwith inform the Commission thereof.

When these measures are adopted by the Member States, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods for making such reference shall be adopted by the Member States.

2. As far as Articles 5 to 11, 14, 15, 17, 19 and 24 are concerned, the date of application for each genus or species referred to in Annex II shall be fixed in accordance with the procedure provided for in Article 21, when the schedule referred to in Article 4 is drawn up.

Article 27

This Directive is addressed to the Member States.

Done at Luxembourg, 28 April 1992.

For the Council

The President

Arlindo MARQUES CUNHA

ANNEX I

Schedules referred to in accordance with Article 4

ANNEX II

List of genera and species to which this Directive applies

— <i>Citrus sinensis</i> (L.) Osbeck	orange
— <i>Citrus limon</i> (L.) Burm. f.	lemon
— <i>Citrus reticulata</i> Blanco	mandarin
— <i>Citrus paradisi</i> Macf.	grapefruit
— <i>Citrus aurantifolia</i> (Christm.) Swing	lime
— <i>Corylus avellana</i> L.	hazel
— <i>Fragaria x ananassa</i> Duch.	strawberry
— <i>Juglans regia</i> L.	walnut
— <i>Malus</i> Mill.	apple
— <i>Prunus amygdalus</i> Batsch	almond
— <i>Prunus armeniaca</i> L.	apricot
— <i>Prunus avium</i> L.	sweet cherry
— <i>Prunus cerasus</i>	sour cherry
— <i>Prunus domestica</i> L.	plum
— <i>Prunus persica</i> (L.) Batsch	peach
— <i>Pyrus communis</i> L.	pear
— <i>Prunus Salicina</i>	Japanese plum
— <i>Cydonia</i> Mill.	quince
— <i>Ribes</i>	redcurrant
— <i>Rubus</i>	blackberry
— <i>Pistacia vera</i>	pistachio
— <i>Olea europaea</i>	olive
