

Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed

COUNCIL DIRECTIVE 2002/55/EC

of 13 June 2002

on the marketing of vegetable seed

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<sup>(1)</sup>,

Having consulted the Economic and Social Committee,

Whereas:

- (1) Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed<sup>(2)</sup> has been frequently and substantially amended<sup>(3)</sup>. For reasons of clarity and rationality the said Directive should be codified.
- (2) The production of vegetable seed occupies an important place in the agriculture of the Community.
- (3) Satisfactory results in vegetable cultivation depend to a large extent on the use of appropriate seed.
- (4) Greater productivity will be achieved in Community vegetable cultivation if for the choice of varieties accepted for marketing the Member States apply uniform rules which are as strict as possible.
- (5) A common catalogue of varieties of vegetable species should be compiled. This catalogue can be compiled only on the basis of national catalogues.
- (6) All Member States should therefore compile one or more national catalogues of the varieties accepted for certification, checking and marketing in their territory.
- (7) These catalogues must be drawn up in accordance with uniform rules so that the varieties accepted will be distinct, stable and sufficiently uniform.
- (8) Rules established at international level should be taken into account for certain provisions relating to the approval of varieties at national level.
- (9) In order to carry out the examinations for the acceptance of a variety, a large number of uniform criteria and minimum requirements must be laid down.
- (10) Provisions relating to the length of time during which acceptance of a variety is to remain valid, the grounds on which acceptance may be revoked and the practices for

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maintenance of the variety must be standardized. Member States should inform one another of the acceptance and withdrawal of varieties.

- (11) It is desirable to adopt rules in relation to the suitability of varietal denominations and for the exchange of information between the Member States.
- (12) Seed of varieties listed in the common catalogue of varieties should not be subject within the Community to any marketing restrictions relating to variety.
- (13) Furthermore, Member States should be given the right to raise objections to a variety.
- (14) The Commission should publish in the *Official Journal of the European Communities*, C Series the varieties accepted in the common catalogue.
- (15) Provision should be made for measures recognising the equivalence of examinations and controls of varieties carried out in third countries.
- (16) In the light of scientific and technical developments, it is now possible to breed varieties through genetic modification. Therefore, when determining whether to accept genetically modified varieties within the meaning of Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms<sup>(4)</sup> Member States should have regard to any risk related to their deliberate release into the environment. Furthermore, conditions under which such genetically modified varieties are accepted should be introduced.
- (17) The marketing of novel foods and novel food ingredients is regulated at Community level by Regulation (EC) No 258/97 of the European Parliament and of the Council<sup>(5)</sup>. Therefore, it is appropriate for Member States also to have regard to any food health risks when determining whether to accept varieties. Furthermore, conditions under which these varieties are accepted should be introduced.
- (18) In the light of scientific and technical developments, rules in relation to the admission of chemically treated seed and propagating material should be introduced.
- (19) As a general rule, vegetable seed 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. It should be possible under specified conditions to place on the market bred seed of generations prior to basic seed and seed as grown.
- (20) For certain species of vegetable, it is impossible to restrict marketing to certified seed. The marketing of checked standard seed which must also possess varietal identity and purity should therefore be allowed, these characteristics being subject, however, only to official post-control carried out in the field by sampling.
- (21) In order to improve the quality of Community vegetable seed, certain requirements must be laid down as to minimum analytical purity and germination.
- (22) In order to ensure the identity of the seed, Community rules on packaging, sampling, sealing and marking should be laid down. It is desirable that provision also be made for official pre-control of certified seed, and that the obligations should be laid down which are to be fulfilled by the person marketing standard seed and certified seed made up in small packages.

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- (23) Rules for the marketing of chemically treated seed, seeds suitable for organic growing as well as the conservation by use, *in situ*, of varieties threatened with genetic erosion should be introduced.
- (24) Derogations should be permitted under certain conditions, without prejudice to the provisions of Article 14 of the Treaty. Member States making use of derogations should assist each other administratively as regards inspection.
- (25) In order to ensure that both the requirements as to the quality of the seed and the provisions for ensuring its identity are complied with during marketing, the Member States must take provision for appropriate control arrangements.
- (26) 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.
- (27) 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.
- (28) Provision should be made for authorising the marketing within the Community of vegetable seed harvested in third countries only if such seed affords the same assurances as seed officially certified or marketed as standard seed within the Community and complying with Community rules.
- (29) During periods in which there are difficulties in obtaining supplies of certified seed of the various categories or of standard seed, seed of a category subject to less strict requirements should temporarily be permitted to be marketed, but also seeds of varieties not included in the common catalogue of varieties or in the national catalogue of varieties.
- (30) In order to harmonise the technical methods of certification and control 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 certain varieties of the category 'basic seed' and of seed of the categories 'certified seed' and 'standard seed'.
- (31) Community rules should not apply to seed shown to be intended for export to third countries.
- (32) This Directive should include certain species which may be fodder plants or oil plants as well as vegetables. If, however, 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 from the obligation to apply this Directive in respect of the species in question.
- (33) It is desirable to organise temporary experiments for the purpose of seeking improved alternatives to certain provisions set out in this Directive.

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- (34) 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<sup>(6)</sup>.
- (35) 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, of vegetable seed within the Community.

It shall not apply to vegetable seed shown to be intended for export to third countries.

*Article 2*

1 For the purpose of this Directive:

- (a) ‘marketing’ : shall mean the sale, holding with a view to sale, offer for sale and any disposal, supply or transfer aimed at commercial exploitation of seed to third parties, whether or not for consideration.

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

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

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

The conditions for the application of this provision shall be determined in accordance with the procedure referred to in Article 46(2);

- (b) ‘vegetables’ : means plants of following species intended for agricultural or horticultural production but not for ornamental uses:

<i>f<sup>1</sup> Allium cepa L.</i>	
— <i>Cepa</i> Group	Onion Echalion
— <i>Aggregatum</i> Group	Shallot
<i>Allium fistulosum</i> L.	Japanese bunching onion or Welsh onion

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<i>Allium porrum</i> L.	Leek
<i>Allium sativum</i> L.	Garlic
<i>Allium schoenoprasum</i> L.	Chives
<i>Anthriscus cerefolium</i> (L.) Hoffm.	Chervil
<i>Apium graveolens</i> L.	Celery Celeriac
<i>Asparagus officinalis</i> L.	Asparagus
<i>Beta vulgaris</i> L.	Beetroot including Cheltenham beet Spinach beet or Chard
<i>Brassica oleracea</i> L.	Curly kale Cauliflower Sprouting broccoli or Calabrese Brussels sprouts Savoy cabbage White cabbage Red cabbage Kohlrabi
<i>Brassica rapa</i> L.	Chinese cabbage Turnip
<i>Capsicum annuum</i> L.	Chilli or Pepper
<i>Cichorium endivia</i> L.	Curled-leaved endive Plain-leaved endive
<i>Cichorium intybus</i> L.	Witloof chicory Large-leaved chicory or Italian chicory Industrial chicory
<i>Citrullus lanatus</i> (Thunb.) Matsum. et Nakai	Watermelon
<i>Cucumis melo</i> L.	Melon
<i>Cucumis sativus</i> L.	Cucumber Gherkin
<i>Cucurbita maxima</i> Duchesne	Gourd
<i>Cucurbita pepo</i> L.	Marrow or Courgette
<i>Cynara cardunculus</i> L.	Globe artichoke Cardoon
<i>Daucus carota</i> L.	Carrot Fodder carrot
<i>Foeniculum vulgare</i> Mill.	Fennel
<i>Lactuca sativa</i> L.	Lettuce

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<i>Lycopersicon esculentum</i> Mill.	Tomato
<i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill	Parsley
<i>Phaseolus coccineus</i> L.	Runner bean
<i>Phaseolus vulgaris</i> L.	Dwarf French bean Climbing French bean
<i>Pisum sativum</i> L. (partim)	Wrinkled pea Round pea Sugar pea
<i>Raphanus sativus</i> L.	Radish Black radish
<i>Rheum rhabarbarum</i> L.	Rhubarb
<i>Scorzonera hispanica</i> L.	Scorzonera or Black salsify
<i>Solanum melongena</i> L.	Aubergine or Egg plant
<i>Spinacia oleracea</i> L.	Spinach
<i>Valerianella locusta</i> (L.) Laterr.	Corn salad or Lamb's lettuce
<i>Vicia faba</i> L. (partim)	Broad bean
<i>Zea mays</i> L. (partim)	Sweet corn Popcorn]

(c) 'basic seed' : 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 of the category 'certified seed';
- (iii) which, subject to the provisions of Article 22, satisfies the conditions laid down in Annexes I and II for basic seed; and
- (iv) [F<sup>2</sup>which has been found by official examination or, in the case of the conditions laid down in Annex II, either by official examination or examination carried out under official supervision to satisfy the conditions set out in (i), (ii) and (iii);]

(d) 'certified seed' : means seed

- (i) which is 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 mainly for the production of vegetables;
- (iii) which, subject to the provisions of point (b) of Article 22, satisfies the conditions laid down in Annexes I and II for certified seed;

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- (iv) [<sup>F2</sup>which has been found by official examination or by examination carried out under official supervision to satisfy the conditions set out in (i), (ii) and (iii);]
- (v) which is subject to official post-control by check inspection to verify its varietal identity and varietal purity;
- (e) 'standard seed' : means seed
  - (i) which has sufficient varietal identity and varietal purity;
  - (ii) which is intended mainly for the production of vegetables;
  - (iii) which satisfies the conditions laid down in Annex II; and
  - (iv) which is subject to official post-control by check inspection to verify its varietal identity and varietal purity;
- (f) '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 under 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;
- (g) 'EC small packages' : means packages containing seed up to a maximum net weight of
  - (i) 5 kg for legumes;
  - (ii) 500 g for onions, chervil, asparagus, spinach beet or chard, red beet or beetroot, turnips, water melon, gourd, marrows, carrots, radishes, scorzonera or black salsify, spinach, corn-salad or lamb's lettuce;
  - (iii) 100 g for all other species of vegetable.

2 Amendments to be made to the list of species referred to in paragraph 1(b) shall be adopted in accordance with the procedures referred to in Article 46(2).

3 The different types of varieties, including the components, may be specified and defined in accordance with the procedure laid down in Article 46(2).

[<sup>F34</sup> When the examinations under official supervision referred to in paragraph (1)(c)(iv) and (1)(d)(iv) are carried out, the following requirements shall be complied with:

A. Field inspection

- (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

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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 at least 5 %.
- (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.
- (e) The Member States shall lay down the rules on penalties applicable to infringements of the national provisions governing examination under official supervision, adopted pursuant to this Directive. The penalties provided for must be effective, proportionate and dissuasive. Penalties may include the withdrawal of the licence provided for in (a)(iii), from officially licensed inspectors who are found guilty of deliberately or negligently contravening the rules governing official examinations. The Member States shall ensure that any certification of the seed examined is annulled in the event of such contravention unless it can be shown that such seed still meets all relevant requirements.

#### B. Seed testing

- (a) Seed testing shall be carried out by seed-testing laboratories which have been authorised for that purpose by the seed certification authority of the Member State concerned under the conditions set out in (b) to (d).
- (b) The seed-testing laboratory shall have a seed analyst-in-charge who has direct responsibility for the technical operations of the laboratory and has the necessary qualifications for technical management of a seed-testing laboratory.

Its seed analysts shall have the necessary technical qualifications obtained in training courses organised under conditions applicable to official seed analysts and confirmed by official examinations.

The laboratory shall be maintained in premises and with equipment officially considered by the competent seed certification authority to be satisfactory for the purpose of seed testing, within the scope of the authorisation.

It shall carry out seed testing in accordance with current international methods.

- (c) The seed-testing laboratory shall be:
  - (i) an independent laboratory;
  - or
  - (ii) a laboratory belonging to a seed company.



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In the case referred to in (ii), the laboratory may carry out seed testing only on seed lots produced on behalf of the seed company to which it belongs, unless it has been otherwise agreed between that company, the applicant for certification and the seed certification authority.

- (d) The seed-testing laboratory's performance of seed testing shall be subject to appropriate supervision by the seed certification authority.
- (e) For the purposes of the supervision referred to in (d) a proportion of the seed lots entered for the official certification shall be check-tested by official seed testing. That proportion shall in principle be as evenly spread as possible over natural and legal persons entering seed for certification and the species entered but may also be oriented to eliminate specific doubts. That proportion shall be at least 5 %.
- (f) The Member States shall lay down the rules on penalties applicable to infringements of the national provisions governing examination under official supervision, adopted pursuant to this Directive. The penalties provided for must be effective, proportionate and dissuasive. Penalties may include the withdrawal of the authorisation provided for in (a), from officially authorised seed-testing laboratories who are found guilty of deliberately or negligently contravening the rules governing official examinations. The Member States shall ensure that any certification of the seed examined is annulled in the event of such contravention unless it can be shown that such seed still meets all relevant requirements.]

#### **Textual Amendments**

- F1** Substituted by [Commission Directive 2006/124/EC of 5 December 2006 amending Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material other than seed and Council Directive 2002/55/EC on the marketing of vegetable seed \(Text with EEA relevance\).](#)
- F2** Substituted by [Council Directive 2004/117/EC of 22 December 2004 amending Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards examinations carried out under official supervision and equivalence of seed produced in third countries.](#)
- F3** Inserted by [Council Directive 2004/117/EC of 22 December 2004 amending Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards examinations carried out under official supervision and equivalence of seed produced in third countries.](#)

#### *Article 3*

1 Member States shall provide that vegetable seed may not be certified, verified as standard seed and marketed unless the variety is officially accepted in one or more Member States.

2 Each Member State shall establish one or more catalogues of the varieties officially accepted for certification, verification as standard seed and marketing in its territory. The catalogues shall be subdivided according to varieties:

- a whose seed may be certified as either 'basic seed' or 'certified seed', or may be verified as 'standard seed', and
- b whose seed may not be verified except as standard seed.

Any person may consult the catalogues.

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3 A common catalogue of varieties of vegetable species shall, in accordance with the provisions of Articles 16 and 17, be established on the basis of the national catalogues of the Member States.

4 Member States may provide that the acceptance of a variety for inclusion in the common catalogue or in the catalogue of another Member State is equivalent to acceptance for inclusion in their own catalogues. Member States making such provision shall be released from the obligations provided for in Article 7, Article 9(4) and Article 10(2) to (5).

#### *Article 4*

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

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

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

[<sup>F43</sup> Further, when material derived from a plant variety is intended to be used in food falling within the scope of Article 3, or in feed falling within the scope of Article 15 of Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed<sup>(7)</sup>, the variety shall be accepted only if it has been approved in accordance with that Regulation.]

4 In the interest of conserving plant genetic resources as specified in Article 44(2), the Member States may depart from the acceptance criteria set out in the first subparagraph of paragraph 1 in so far as specific conditions are established in accordance with the procedure referred to in Article 46 considering the requirements of Article 44(3).

#### **Textual Amendments**

**F4** Substituted by [Regulation \(EC\) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed \(Text with EEA relevance\)](#).

#### *Article 5*

1 A variety shall be regarded as distinct if, whatever the origin, artificial or natural, of the initial variation from which it has resulted, it is clearly distinguishable in one or more important characteristics from any other variety known in the Community.

The characteristics must be capable of precise recognition and of precise definition.

A variety in the Community shall be any variety which, at the time when the application for the acceptance of the variety to be assessed is duly made, is:

- either listed in the common catalogue of varieties of vegetable species or in the common catalogue of agricultural plant species,
- or, without being listed in one of those catalogues, has been accepted or has been submitted for acceptance in the Member State in question or in another Member State, either for certification and marketing, or for certification for other countries, or for verification as standard seed,

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unless the aforementioned conditions are no longer fulfilled in all the Member States concerned before the decision on the application for acceptance of the variety to be assessed is taken.

2 A variety shall be regarded as stable if, after successive propagation or multiplications or at the end of each cycle (where the breeder has defined a particular cycle of propagation or multiplications) it remains true to the description of its essential characteristics.

3 A variety shall be regarded as sufficiently uniform if, apart from a very few aberrations, the plants of which it is composed are, account being taken of the distinctive features of the reproductive systems of the plants, similar or genetically identical as regards the characteristics, taken as a whole, which are considered for this purpose.

#### *Article 6*

Member States shall ensure that varieties coming from other Member States are subject to the same requirements, in particular as regards the acceptance procedure, as those which apply to domestic varieties.

#### *Article 7*

1 Member States shall provide that acceptance of varieties be based on the results of official examinations, particularly growing trials, covering a sufficient number of characteristics for the variety to be described. The methods used for determining characteristics must be accurate and reliable. In order to establish distinctness, the growing trials shall include at least the available comparable varieties which are varieties known in the Community within the meaning of Article 5(1). For the purpose of applying Article 9, other available comparable varieties shall be included. In the case of varieties whose seed may not be verified except as standard seed, the results of unofficial examinations and knowledge gained from practical experience during cultivation may be taken into consideration in relation to the results of an official examination.

It may be prescribed, in accordance with the procedure referred to in Article 46(2) that, as from specified dates, varieties of certain vegetable species will no longer be accepted except on the basis of official tests.

2 The following shall be fixed in accordance with the procedure referred to in Article 46(2), account being taken of current scientific and technical knowledge:

- a the characteristics to be covered as a minimum by the examinations of the various species;
- b the minimum requirements for carrying out the examinations.

3 Where examination of the genealogical components is necessary in order to study hybrids and synthetic varieties, Member States shall ensure that the results of the examination and the description of the genealogical components are, if the breeder so requests, treated as confidential.

4

- a In the case of a genetically modified variety referred to in Article 4(4) an environmental risk assessment equivalent to that laid down in Directive 90/220/EEC shall be carried out.
- b The procedures ensuring that the environmental risk assessment and other relevant elements shall be equivalent to those laid down in Directive 90/220/EEC shall be introduced on a proposal from the Commission, in a Council Regulation based on the appropriate legal basis in the Treaty. Until this Regulation enters into force genetically

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- modified varieties shall only be accepted for inclusion in a national catalogue after having been accepted for marketing in accordance with Directive 90/220/EEC.
- c Articles 11 to 18 of Directive 90/220/EEC shall no longer apply to genetically modified varieties once the Regulation referred to in point (b) above has entered into force.
  - d The technical and scientific details of the implementation of the environmental risk assessment shall be adopted in accordance with the procedure referred to in Article 46(2).

[<sup>F45</sup> Member States shall ensure that a variety intended to be used in food or feed as defined in Articles 2 and 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority, and laying down procedures in matters of food safety<sup>(8)</sup> is accepted only if it has been authorised under the relevant legislation.]

#### Textual Amendments

- F4** Substituted by [Regulation \(EC\) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed \(Text with EEA relevance\)](#).

#### Article 8

Member States shall require that when lodging an application for the acceptance of a variety, the applicant indicates whether acceptance has already been applied for in another Member State, which Member State was concerned, and whether the application was granted.

#### Article 9

1 Member States shall arrange for official publication of the catalogue of varieties accepted in their territory and, where maintenance breeding of the variety is required, the name of the person or persons responsible for this in their countries. When several persons are responsible for the maintenance of a variety, the names need not be published. If the names are not published, the catalogue shall indicate the authority holding the list of names of persons responsible for maintenance of the variety.

2 Member States shall, as far as possible, ensure at the time of acceptance that the variety is known by the same name in all Member States.

If it is known that seed or propagating material of a given variety are marketed in another country under a different name, that name shall also be indicated in the catalogue.

In the case of varieties which are derived from varieties whose official acceptance has been determined pursuant to Article 12(3), second and third subparagraph, and which have been accepted in one or more Member States as a result of the official measures referred to in that provision, it may be decided, in accordance with the procedure referred to in Article 46(2), that all Member States of acceptance shall ensure that the varieties bear names determined under the same procedure and complying with the above principles.

3 In taking into account the information available, Member States shall also ensure that a variety which is not clearly distinguishable:

- from a variety previously accepted in the Member State in question or in another Member State, or

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— from another variety which has been assessed with regard to distinctness, stability and uniformity in accordance with rules corresponding to those of this Directive, without, however, being a variety known in the Community within the meaning of Article 5(1), bears the name of that variety. This provision shall not apply if this name is likely to mislead or cause confusion concerning the variety in question, or if, pursuant to all the provisions of the Member State concerned governing the names of varieties, other facts prevent its utilisation, or if the rights of third parties impede the free use of that name in connection with the variety in question.

4 Member States shall compile a special file on each variety accepted, containing a description of the variety and a clear summary of all the facts on which the acceptance was based. The description of the varieties shall relate to plants produced directly from seed of the category 'certified seed' or the category 'standard seed'.

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

6 So far as the suitability of the denomination of a variety is concerned, Article 63 of Council Regulation (EC) No 2100/94 of 27 July 1994 on Community plant variety rights<sup>(9)</sup> shall apply.

Detailed implementing rules as to the suitability of denominations of varieties may be adopted in accordance with the procedure referred to in Article 46(2).

#### *Article 10*

1 Any application or withdrawal of an application for acceptance of a variety, any entry in a catalogue of varieties as well as any amendment thereto shall be notified forthwith to the other Member States and the Commission.

2 Member States shall, for each new variety accepted, send the other Member States and the Commission a brief description of its characteristics which have been noticed as a result of the acceptance procedure. They shall, on request, also communicate a description of the special characteristics which enable the variety to be distinguished from other similar varieties.

3 Each Member State shall make available to the other Member States and the Commission the files referred to in Article 9(4) on the varieties which are accepted or which have ceased to be accepted. Information exchanged concerning these files shall be treated as confidential.

4 Member States shall ensure that the acceptance files are made available for the personal and exclusive use of any person able to show a legitimate interest. These provisions shall not apply where the information must under Article 7(3) be treated as confidential.

5 Where acceptance of a variety is refused or revoked, the results of the examinations shall be made available to persons affected by such decision.

#### *Article 11*

1 Member States shall provide that the varieties accepted must be maintained according to accepted practices for the maintenance of the variety.

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2 It must at all times be possible to check maintenance from the records kept by the person or persons responsible for the variety. These records shall also cover the production of all generations prior to basic seed.

3 Samples may be requested from the person responsible for the variety. Such samples may if necessary be taken officially.

4 Where maintenance takes place in a Member State other than that in which the variety was accepted, the Member States concerned shall assist each other administratively as regards checks.

#### *Article 12*

1 Acceptance shall be valid until the end of the tenth calendar year following acceptance.

Acceptance of the varieties by the authorities of the former German Democratic Republic prior to German unification shall be valid until the end of the tenth calendar year at the latest following their entry in the catalogue of varieties drawn up by the Federal Republic of Germany in accordance with Article 3(1).

2 Acceptance of a variety may be renewed at given intervals if it is still cultivated on such a scale as to justify this, or should be retained in the interest of conserving plant genetic resources, and providing that the requirements as to distinctness, uniformity and stability, or the criteria determined under Article 44(2) and (3), are still satisfied. Except in the case of plant genetic resources within the meaning of Article 44, applications for renewal shall be submitted not later than two years before expiry of acceptance.

3 The period of validity of acceptance shall be extended provisionally until a decision is taken on the application for renewal.

In the case of varieties for which acceptance has been granted before 1 July 1972 or, with regard to Denmark, Ireland and the United Kingdom, before 1 January 1973, the period mentioned in the first subparagraph of paragraph 1 may be extended, in accordance with the procedure referred to in Article 46(2), until 30 June 1990 at the latest for individual varieties, where official measures organised on a Community basis have been taken before 1 July 1982 in order to ensure that the conditions for the renewal of their acceptance or for the acceptance of varieties derived from them are met.

With regard to Greece, Spain and Portugal, the expiry of the acceptance period for certain varieties for which acceptance has been granted in those Member States before 1 January 1986 may, at the request of those Member States, also be fixed for 30 June 1990, in accordance with the procedure referred to in Article 46(2), and the varieties concerned may be included in the official measures referred to in the second subparagraph.

#### *Article 13*

1 Member States shall ensure that any doubts which arise after the acceptance of a variety concerning the appraisal of its distinctness or of its name at the time of acceptance are removed.

2 Where, after acceptance of a variety, it is established that the condition concerning distinctness within the meaning of Article 5 was not fulfilled at the time of acceptance, acceptance shall be replaced by another decision or, where appropriate, a revocation, which conforms with this Directive.

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By this other decision, the variety shall, with effect from the date of its initial acceptance, no longer be regarded as a variety known in the Community within the meaning of Article 5(1).

3 Where, after acceptance of a variety, it is established that its name within the meaning of Article 9 was not acceptable when the variety was accepted, the name shall be adapted in such a way that it conforms with this Directive. Member States may permit the previous name to be used temporarily as an additional name. The detailed arrangements in accordance with which the previous name may be used as an additional name may be laid down in accordance with the procedure referred to in Article 46(2).

4 In accordance with the procedure referred to in Article 46(2) rules may be established for the application of paragraphs 1, 2 and 3.

#### *Article 14*

- 1 Member States shall ensure that acceptance of a variety is revoked:
  - a if it is proved, on examination, that the variety is no longer distinct, stable or sufficiently uniform;
  - b if the person or persons responsible for the variety so request, unless maintenance of the variety is assured.
- 2 Member States may revoke the acceptance of a variety:
  - a if the laws, regulations and administrative provisions adopted in pursuance of this Directive are not complied with;
  - b if, at the time of the application for acceptance or during examination, false or fraudulent particulars were supplied concerning the facts on the basis of which acceptance was granted.

#### *Article 15*

- 1 Member States shall ensure that a variety is deleted from their catalogues if acceptance of the variety has been revoked or if the period of validity of the acceptance has expired.
- 2 Member States may, in respect of their own territory, allow a period for the certification, verification as standard seed and marketing of seed up to 30 June of the third year at the most after expiry of the acceptance.

In the case of varieties that were listed pursuant to Article 17(1) in the common catalogue of varieties referred to in Article 18 the period which expires last among those granted by the various Member States of acceptance under the first subparagraph shall apply to marketing in all the Member States, provided that the seed of the variety concerned has not been subject to any marketing restriction as regards the variety.

3 In the case of varieties the acceptance of which has been renewed pursuant to Article 12(3), Member States may allow the names used before such renewal to be used until 30 June 1994.

#### *Article 16*

1 Member States shall ensure that, with effect from the publication referred to in Article 17, seed of varieties accepted in accordance with the provisions of this Directive or in accordance with principles corresponding to those of this Directive are subject to no marketing restrictions relating to variety.

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2 Member States may, upon application which shall be dealt with as provided for in Article 46(2) or in Article 46(3) in the case of genetically modified varieties, be authorised to prohibit the use of the variety in all or in part of its territory or to lay down appropriate conditions for cultivating the variety in accordance, in cases provided for in paragraph (b), with the conditions for using the products resulting from such cultivation:

- a where it is established that the cultivation of the variety could be harmful from the point of view of plant health to the cultivation of other varieties or species; or
- b where it has valid reasons other than those already mentioned or which may have been mentioned during the procedure referred to in Article 10(2) for considering that the variety presents a risk for human health or the environment.

#### *Article 17*

The Commission shall, on the basis of the information supplied by the Member States and as this is received, publish in the C Series of the *Official Journal of the European Communities* under the title ‘Common Catalogue of Varieties of Agricultural Plant Species’ a list of all varieties whose seed is subject under Article 16 to no marketing restrictions as regards variety, and also the information required under Article 9(1) concerning the person or persons responsible for maintenance of the variety. The published notice shall indicate the Member States which have received an authorisation under Article 16(2) or Article 18.

The published notice shall list those varieties for which a period has been applied in accordance with the second subparagraph of Article 15(2). This list shall indicate the length of the period and, where appropriate, the Member States to which the period does not apply.

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

#### *Article 18*

If it is established that the cultivation of a variety included in the common catalogue of varieties could in any Member State be harmful from the point of view of plant health to the cultivation of other varieties or species, or present a risk for the environment or for human health, that Member State may upon application, be authorised in accordance with the procedure referred to in Article 46(2) or in Article 46(3) in the case of a genetically modified variety to prohibit the marketing of the seed or propagating material of that variety in all or part of its territory. Where there is imminent danger of the spread of harmful organisms or imminent danger for human health or for the environment, that prohibition may be imposed by the Member State concerned as soon as its application has been lodged until such time as a final decision has been taken. That decision shall be taken within a period of three months in accordance with the procedure laid down in Article 46(2) or in Article 46(3) in the case of genetically modified variety.

#### *Article 19*

Where a variety ceases to be accepted in the Member State which initially accepted it, one or more other Member States may continue to accept that variety provided that the requirements for acceptance continue to be met in their territory. If the variety in question is one whose maintenance is required, this must remain assured.

#### *Article 20*

1 Member States shall provide that seed of industrial chicory may not be placed on the market unless it has been officially certified as ‘basic seed’ or ‘certified seed’.



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2 Member States shall provided that seed of other vegetable species may not be placed on the market unless it has been officially certified as ‘basic seed’ or ‘certified seed’, or is standard seed.

3 It may, however, under the procedure referred to in Article 46(2) be provided that after specified dates seed of certain vegetable species 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 of seeds are carried out in accordance with current international methods, in so far as such methods exist.

#### *Article 21*

Notwithstanding Article 20(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 22*

Member States may, however, by way of derogation from the provisions of Article 20:

- (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. In this case, all necessary measures shall be taken to ensure that the supplier guarantees a specific germination which he shall state for marketing purposes on a particular 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 the official examination to control compliance with the conditions laid down in Annex II in respect of germination has not been concluded, authorise the official certification and marketing as far as the first buyer by way of trade of seed of the categories ‘basic seed’ or ‘certified seed’. Certification shall be granted only on presentation of a provisional analytical report on the seed and provided that the name and address of the first consignee 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 reference number of the lot.

These provisions shall not apply to seed imported from third countries, save as otherwise provided in Article 36 in respect of multiplication outside the Community.

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

#### *Article 23*

- 1 Notwithstanding Article 20(1) and (2), Member States may:
- a authorise producers on their own territory to place on the market small quantities of seed for scientific or selection purposes;
  - b authorise breeders and their representatives established in their territory to market, for a limited period, seed belonging to a variety for which an application for inclusion in a national catalogue has been submitted in at least one Member State and for which specific technical information has been submitted.

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2 The conditions under which Member States may grant the authorisations referred to in paragraph (b) above shall be determined in accordance with the procedure referred to in Article 46(2), particularly as regards the acquisition of data, the type of data, the storage and name of the variety and the labelling of packages.

3 Authorisations granted before 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 24*

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 produced in their own territory.

#### *Article 25*

[<sup>F2</sup>1 Member States shall require that, for the examination of seed for certification, samples are drawn officially or under official supervision in accordance with appropriate methods. However seed sampling with a view to controls pursuant to Article 39 shall be carried out officially.

These provisions shall also apply where samples of standard seed are drawn for post-control tests.]

[<sup>F3</sup>1a When the seed sampling under official supervision provided for in paragraph 1 is carried out, the following requirements shall be complied with:

- a seed sampling shall be carried out by seed samplers who have been authorised for that purpose by the seed certification authority of the Member State concerned under the conditions set out in (b), (c), and (d);
- b seed samplers shall have the necessary technical qualifications obtained in training courses organised under conditions applicable to official seed samplers and confirmed by official examinations.

They shall carry out seed sampling in accordance with current international methods;

- c seed samplers shall be:
  - (i) independent natural persons;
  - (ii) persons employed by natural or legal persons whose activities do not involve seed production, seed growing, seed processing or seed trade;

or

  - (iii) persons employed by natural or legal persons whose activities involve seed production, seed growing, seed processing or seed trade.

In the case referred to in (iii), a seed sampler may carry out seed sampling only on seed lots produced on behalf of his employer, unless it has been otherwise agreed between his employer, the applicant for certification and the competent seed certification authority;

- d the performance of the seed samplers shall be subject to proper supervision by the competent seed certification authority. When automatic sampling is in operation appropriate procedures must be adhered to and officially supervised;
- e for the purposes of the supervision referred to in (d) a proportion of the seed lots entered for official certification shall be check-sampled by official seed samplers. That

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proportion shall in principle be as evenly spread as possible over natural and legal persons entering seed for certification but may also be oriented to eliminate specific doubts. That proportion shall be at least 5 %. This check sampling does not apply to automatic sampling.

The Member States shall compare the seed samples drawn officially with those of the same seed lot drawn under official supervision;

- f the Member States shall lay down the rules on penalties applicable to infringements of the national provisions governing examination under official supervision, adopted pursuant to this Directive. The penalties provided for must be effective, proportionate and dissuasive. Penalties may include the withdrawal of the authorisation provided for in (a), from officially authorised seed samplers who are found guilty of deliberately or negligently contravening the rules governing official examinations. The Member States shall ensure that any certification of the seed sampled is annulled in the event of such contravention unless it can be shown that such seed still meets all relevant requirements.
- 1b Further measures applicable to the carrying out of seed sampling under official supervision may be adopted in accordance with the procedure laid down in Article 46(2).]
- 2 For the examination of seed for certification and for post-control tests, 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.

#### **Textual Amendments**

- F2** Substituted by [Council Directive 2004/117/EC of 22 December 2004 amending Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards examinations carried out under official supervision and equivalence of seed produced in third countries.](#)
- F3** Inserted by [Council Directive 2004/117/EC of 22 December 2004 amending Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC as regards examinations carried out under official supervision and equivalence of seed produced in third countries.](#)

#### *Article 26*

- 1 Member States shall require that basic seed, certified seed and standard seed be marketed only in sufficiently homogeneous lots and in sealed packages bearing, as prescribed in Articles 27 and 28, a sealing device and markings.
- 2 Member States may, for the marketing of small quantities to the final consumer, provide for derogations from the provisions of paragraph 1 in respect of packaging, sealing and marking.
- 3 Notwithstanding paragraph 1, Member States may authorise their own producers to place on the market small packages of mixtures of standard seed of different varieties of the same species. The species, where this provision applies, the rules for the maximum size of the small packages and the requirements for labelling shall be established in accordance with the procedure referred to in Article 46(2).

#### *Article 27*

- 1 Member States shall require that packages of basic and certified seed, not made up in the form of EC small packages, 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 28(1) or the package.

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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 shall not be necessary where a non-reusable sealing system is used.

In accordance with the procedure referred to in Article 46(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 28(1).

3 Member States shall require that packages of standard seed and small packages of seeds of the category certified seed be sealed in such a manner that they cannot be opened without damaging the sealing system or without leaving evidence of tampering on the label provided for in Article 28(3) or the package. Except in the case of small packages, they shall also bear a lead or an equivalent sealing device attached by the person responsible for attaching labels. In accordance with the procedure referred to in Article 46(2), it may be established whether a particular sealing system complies with the provisions of this paragraph. In the case of small packages of the category certified seed, packages shall not be sealed on one or more occasions except under official supervision.

4 Member States may provide for exceptions to paragraphs 1 and 2 in the case of small packages of basic seed closed on their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 46(2).

#### *Article 28*

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 22, 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 46(2) the indelible printing under official control of the prescribed 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) to (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 most 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.

2 Member States may provide for exceptions to paragraph 1 in the case of small packages sealed in their own territory. Conditions relating to these exceptions may be determined in accordance with the procedure referred to in Article 46(2).

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3 Packages of standard seed and small packages of seed of the category ‘certified seed’ shall, as required under Annex IV(B), bear a supplier’s label or a printed or stamped notice in one of the official languages of the Community. The colour of the label shall be blue for certified seed and dark yellow for standard seed.

Save in the case of small packages of standard seed, the information prescribed or authorised under this provision shall be kept clearly separate from any other information given on the label or the package, including that provided for in Article 30.

After 30 June 1992 it may be decided, in accordance with the procedure referred to in Article 46(2), that small packages of standard seed of all species or of some species should be subjected to this requirement or that the information prescribed or authorised be distinct in some other way from any other information if the distinctive feature is expressly declared as such on the label or package.

4 In the case of varieties which are widely known on 1 July 1970, reference may also be made on the label to any maintenance of the variety which has been or will be declared in accordance with the provisions of Article 41(2). It shall be prohibited to refer to any special properties which might be connected with such maintenance.

The date shall be:

- 1 January 1973 with regard to Denmark, Ireland and the United Kingdom,
- 1 March 1986 with regard to Spain.

This reference shall follow the varietal name, from which it shall be clearly separated, preferably by means of a dash. It shall not be given greater prominence than the varietal name.

#### *Article 29*

Member States shall take all measures necessary to ensure that in the case of small packages of certified seed the identity of the seed can be verified, in particular at the time when seed lots are divided up. To this end, they may require that small packages made up in their territory be sealed officially or under official supervision.

#### *Article 30*

1 In accordance with the procedure referred to in Article 46(2), it may be provided that in cases other than those already provided for in this Directive, packages of basic seed, certified seed of any kind or standard seed shall bear a supplier’s label (which may either be a label separate from the official label or take the form of supplier’s information printed on the package itself).

The particulars to be provided on any such label shall also be established in accordance with the procedure referred to in Article 46(2).

2 In the case of basic and certified seed the label or the printing referred to under paragraph 1 shall be drawn up in such a manner that it cannot be confused with the official label referred to in Article 28(1).

#### *Article 31*

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.

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#### Article 32

Member States shall require that any chemical treatment of basic seed, certified seed or standard seed be noted either on the official label or on the supplier's label and on the package or inside it. For small packages, this information may be printed directly on the package or inside it.

#### Article 33

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 46(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 34

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

2 Until such time as a decision has been taken under Article 20(3) any Member State may upon application, which will be dealt with under the procedure referred to in Article 46(2), be authorised to provide that after specified dates seed of certain species of vegetable may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.

#### Article 35

The conditions under which bred seed of generations prior to basic seed may be placed on the market under the first indent of Article 21, shall be as follows:

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

The label shall be white with a diagonal violet line.

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### Article 36

- 1 Member States shall provide that vegetable seed:
- which has been produced directly from basic seed or certified seed officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 37(1)(d), 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 other provisions of this Directive, be officially 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 Vegetable seed which has been harvested in the Community and which is intended for certification in accordance with paragraph 1 shall:
- be packed and labelled with an official label satisfying the conditions laid down in Annex V(A) and (B), in accordance with Article 27(1), and
  - be accompanied by an official document satisfying the conditions laid down in Annex V(C).

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

- 3 Member States shall also provide that vegetable seed
- which has been produced directly from basic seed or certified seed officially certified either in one or more Member States or in a third country which has been granted equivalence under Article 37(1)(d) 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 37(1)(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 37

- 1 The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether:
- a the official examinations of varieties carried out in the third country afford the same assurances as those provided for in Article 7 and carried out in the Member States;
  - b the checks on practices for the maintenance of the varieties carried out in the third country afford the same assurances as those carried out by the Member States;

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- c in the cases referred to in Article 36, the field inspections in the third country satisfy the conditions laid down in Annex I;
- d vegetable seed harvested in a third country and affording the same assurances as regards its characteristics and the arrangements for its examination, for ensuring identity, for marking and for control, is equivalent in these respects to basic seed, certified seed or standard 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 38*

1 In order to remove any temporary difficulties in the general supply of basic certified or standard seed that occur in the Community and cannot be otherwise overcome, it may be decided in accordance with the procedure referred to in Article 46(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 Vegetable Species or in the national catalogues of varieties of the Member States.

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

3 Rules for the application of paragraph 1 may be adopted in accordance with the procedure referred to in Article 46(2).

#### *Article 39*

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

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 46(2).



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#### Article 40

Member States shall ensure that seed of the categories ‘certified seed’ and ‘standard seed’ is subject to official post-control in the field by inspection to compare their varietal identity and varietal purity against standard controls.

#### Article 41

1 Member States shall ensure that the persons responsible for affixing the labels for standard seed intended for marketing:

- a inform them of the dates when their activities begin and end;
- b keep records of all lots of standard seed and make them available to the Member States for not less than three years;
- c make available to Member States for not less than two years a control sample of seed of varieties for which maintenance is not required;
- d draw samples from each lot intended for marketing and make them available to Member States for not less than two years.

The operations referred to in points (b) and (d) shall be subject to official checks carried out on a random basis. The obligation laid down in point (c) shall apply only to producers.

2 Member States shall ensure that any person intending in accordance with Article 28(4) to make reference to a given maintenance of a variety state this intention in advance.

#### Article 42

1 If it is repeatedly found, during post-control tests carried out in the field, that seed of any one variety does not adequately satisfy the conditions laid down in respect of varietal identity or varietal purity, Member States shall ensure that the person marketing it is wholly or partially forbidden to market such seed (where appropriate, for a specified period).

2 Any measures taken under paragraph 1 shall be withdrawn as soon as it has been established with adequate certainty that the seed intended for marketing will in future satisfy the conditions as to varietal identity and varietal purity.

#### <sup>[F5]</sup> Article 43

1 Community comparative tests and trials shall be carried out within the Community for the post-control examination of samples of vegetable seed placed on the market under the provisions of this Directive, whether mandatory or discretionary, and taken during sampling. The comparative tests and trials may include the following:

- seed harvested in third countries,
- seed suitable for organic farming,
- seed marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

2 These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3 The Commission, acting in accordance with the procedure referred to in Article 46(2), shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 46(1) about the technical arrangements for holding the tests and trials and the results thereof.

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4 The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5 The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 46(2).

6 The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.]

#### **Textual Amendments**

**F5** Substituted by [Council Directive 2003/61/EC of 18 June 2003 amending Directives 66/401/EEC on the marketing of fodder plant seed, 66/402/EEC on the marketing of cereal seed, 68/193/EEC on the marketing of material for the vegetative propagation of the vine, 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed, 92/34/EEC on the marketing of propagating and planting material of fruit plants, 98/56/EC on the marketing of propagating material of ornamental plants, 2002/54/EC on the marketing of beet seed, 2002/55/EC on the marketing of vegetable seed, 2002/56/EC on the marketing of seed potatoes and 2002/57/EC on the marketing of seed of oil and fibre plants as regards Community comparative tests and trials.](#)

#### *Article 44*

1 Specific conditions may be established in accordance with the procedure referred to in Article 46(2) to take account of developments in relation to the conditions under which chemically treated seed may be marketed.

2 Specific conditions shall be established in accordance with the procedure referred to in Article 46(2) to take account of developments in relation to the conservation in situ and the sustainable use of plant genetic resources through growing and marketing of seed of:

- a landraces and varieties which have been traditionally grown in particular localities and regions and threatened by genetic erosion without prejudice to the provisions of Council Regulation (EC) No 1467/94 of 20 June 1994 on the conservation, characterisation, collection and utilisation of genetic resources in agriculture<sup>(10)</sup>;
- b varieties with no intrinsic value for commercial crop production but developed for growing under particular conditions.

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

- a in the case of paragraph 2, point (a), the landraces and varieties shall be accepted in accordance with the provisions of this Directive. In particular the results of unofficial tests and knowledge gained from practical experience during cultivation, reproduction and use and the detailed descriptions of the varieties and their relevant denominations, as notified to the Member State concerned, shall be taken into account and, if sufficient, shall result in exemption from the requirement of official examination. Upon acceptance of such a landrace or variety, it shall be indicated as a ‘conservation variety’ in the common catalogue;
- b in the case of paragraph 2, points (a) and (b), appropriate quantitative restrictions.

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#### Article 45

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 46(2).

#### Article 46

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<sup>(11)</sup>.

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

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

3 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

4 The Committee shall adopt its rules of procedure.

#### Article 47

Save as otherwise provided in Article 18 and in Annexes I and II, 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 or commercial property.

#### Article 48

1 Specific conditions may be established in accordance with the procedure referred to in Article 46(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 Council Directive 2002/53/EC<sup>(12)</sup>, 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 49

Upon application by a Member State, which will be dealt with under the procedure referred to in Article 46(2), that State may be wholly or partially released from the obligation to apply this Directive, to certain species which are not normally reproduced

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or marketed in its territory, save where this would run counter to Articles 16(1) and 34(1).

*Article 50*

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 51*

1 Directive 70/458/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 52*

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

*Article 53*

This Directive is addressed to the Member States.

## ANNEX I

## CONDITIONS FOR CROP CERTIFICATION

1. The crop shall have sufficient varietal identity and varietal purity.
2. In the case of basic seed, at least one official field inspection shall be carried out. In the case of certified seed, at least one field inspection shall be carried out, officially controlled by means of check inspection of at least 20 % of the crop of each species.
3. The cultural condition of the field and the stage of development of the crop shall be such as to permit varietal identity and varietal purity and health status to be adequately checked.
4. The minimum distances from neighbouring plants which might result in undesirable foreign pollination shall be:

A. *Beta vulgaris*

1.	from any pollen sources of the genus <i>Beta</i> not included below.	1 000 metres;
2.	from pollen sources of varieties of the same subspecies belonging to a different group of varieties:	
	(a) for basic seed	1 000 metres;
	(b) for certified seed	600 metres;
3.	from pollen sources of varieties of the same subspecies belonging to the same group of varieties:	
	(a) for basic seed	600 metres;
	(b) for certified seed	300 metres.

The groups of varieties referred to in 2 and 3 shall be determined in accordance with the procedure laid down in article 46(2).

B. *Brassica species*

1.	from sources of foreign pollen liable to cause serious deterioration of varieties of <i>Brassica</i> species:	
	(a) for basic seed	1 000 metres;
	(b) for certified seed	600 metres;

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2.	from other sources of foreign pollen liable to cross with varieties of <i>Brassica</i> species:	
	(a) for basic seed	500 metres;
	(b) for certified seed	300 metres.

C. *Industrial chicory*

1.	from other species of the same genera or subspecies	1 000 metres;
2.	from another variety of industrial chicory:	
	(a) for basic seed	600 metres;
	(b) for certified seed	300 metres.

D. *Other species*

1.	from sources of foreign pollen liable to cause serious deterioration of varieties of other species as a result of cross-fertilisation:	
	(a) for basic seed	500 metres;
	(b) for certified seed	300 metres;
2.	from other sources of foreign pollen liable to cross with varieties of other species as a result of cross-fertilisation:	
	(a) for basic seed	300 metres;
	(b) for certified seed	100 metres.

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

5. Diseases and harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

## ANNEX II

### CONDITIONS TO BE SATISFIED BY THE SEED

1. The seeds shall have sufficient varietal identity and vavietal purity.

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2. Diseases and harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.
3. The seeds shall also satisfy the following conditions:
  - (a) Standards

Species	Minimum analytical purity (% by weight)	Maximum content of seeds of other plant species (% by weight)	Minimum germination (% clusters or pure seed)
<i>Allium cepa</i>	97	0,5	70
[ <sup>F6</sup> <i>Allium fistulosum</i>	97	0,5	65]
<i>Allium porrum</i>	97	0,5	65
[ <sup>F6</sup> <i>Allium sativum</i>	97	0,5	65
<i>Allium schoenoprasum</i>	97	0,5	65]
<i>Anthriscus cerefolium</i>	96	1	70
<i>Apium graveolens</i>	97	1	70
<i>Asparagus officinalis</i>	96	0,5	70
<i>Beta vulgaris</i> (Cheltenham beet)	97	0,5	50 (clusters)
<i>Beta vulgaris</i> (other than Cheltenham beet)	97	0,5	70 (clusters)
<i>Brassica oleracea</i> (cauliflower)	97	1	70
[ <sup>F1</sup> <i>Brassica oleracea</i> (other than cauliflower)]	97	1	75
[ <sup>F1</sup> <i>Brassica rapa</i> (Chinese cabbage)]	97	1	75
[ <sup>F1</sup> <i>Brassica rapa</i> (turnip)]	97	1	80
<i>Capsicum annuum</i>	97	0,5	65
<i>Cichorium intybus</i> (partim) (Witloof chicory,	95	1,5	65

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largeleaved chicory (Italian chicory)			
<i>Cichorium intybus</i> (partim) (industrial chicory)	97	1	80
<i>Cichorium endivia</i>	95	1	65
<i>Citrullus lanatus</i>	98	0,1	75
<i>Cucumis melo</i>	98	0,1	75
<i>Cucumis sativus</i>	98	0,1	80
<i>Cucurbita maxima</i>	98	0,1	80
<i>Cucurbita pepo</i>	98	0,1	75
<i>Cynara</i> <i>cardunculus</i>	96	0,5	65
<i>Daucus carota</i>	95	1	65
<i>Foeniculum</i> <i>vulgare</i>	96	1	70
<i>Lactuca sativa</i>	95	0,5	75
[ <sup>F1</sup> <i>Lycopersicon</i> <i>esculentum</i> ]	97	0,5	75
<i>Petroselinum</i> <i>crispum</i>	97	1	65
<i>Phaseolus</i> <i>coccineus</i>	98	0,1	80
<i>Phaseolus vulgaris</i>	98	0,1	75
<i>Pisum sativum</i>	98	0,1	80
<i>Raphanus sativus</i>	97	1	70
[ <sup>F6</sup> <i>Rheum</i> <i>rhabarbarum</i>	97	0,5	70]
<i>Scorzonera</i> <i>hispanica</i>	95	1	70
<i>Solanum</i> <i>melongena</i>	96	0,5	65
<i>Spinacia oleracea</i>	97	1	75
<i>Valerianella</i> <i>locusta</i>	95	1	65
<i>Vicia faba</i>	98	0,1	80
[ <sup>F6</sup> <i>Zea mays</i>	98	0,1	85]

(b) Additional requirements



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- (i) legume seed shall not be contaminated by the following live insects:
- Acanthoscelides obtectus* Sag.  
*Bruchus affinis* Froel.  
*Bruchus atomarius* L.  
*Bruchus pisorum* L.  
*Bruchus rufimanus* Boh.
- (ii) seed shall not be contaminated by live *Acarina*.
- (c) <sup>F7</sup>Other standards or conditions applicable where reference is made to them in the table under point (a):

In the case of varieties of *Zea mays* (Sweet corn – super-sweet types) the required minimum germination capacity is reduced to 80 % of pure seed. The official label or the supplier’s label, where appropriate, shall include the words ‘Minimum germination capacity 80 %’.]

#### Textual Amendments

- F6** Inserted by [Commission Directive 2006/124/EC of 5 December 2006 amending Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material other than seed and Council Directive 2002/55/EC on the marketing of vegetable seed \(Text with EEA relevance\).](#)
- F7** Inserted by [Commission Directive 2009/74/EC of 26 June 2009 amending Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC and 2002/57/EC as regards the botanical names of plants, the scientific names of other organisms and certain Annexes to Directives 66/401/EEC, 66/402/EEC and 2002/57/EC in the light of developments of scientific and technical knowledge \(Text with EEA relevance\).](#)

### ANNEX III

#### WEIGHT REFERRED TO BY ARTICLE 25(2)

##### 1. Maximum weight of a seed lot:

<sup>F8</sup> (a) seeds of <i>Phaseolus coccineus</i> , <i>Phaseolus vulgaris</i> , <i>Pisum sativum</i> and <i>Vicia faba</i>	30 tonnes
(b) seeds of a size not less than a grain of wheat, other than <i>Phaseolus coccineus</i> , <i>Phaseolus vulgaris</i> , <i>Pisum sativum</i> and <i>Vicia faba</i>	20 tonnes]
(c) seeds of a size smaller than a grain of wheat	10 tonnes

#### Textual Amendments

- F8** Substituted by [Commission Directive 2009/74/EC of 26 June 2009 amending Council Directives 66/401/EEC, 66/402/EEC, 2002/55/EC and 2002/57/EC as regards the botanical names of plants, the scientific](#)

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names of other organisms and certain Annexes to Directives 66/401/EEC, 66/402/EEC and 2002/57/EC in the light of developments of scientific and technical knowledge (Text with EEA relevance).

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

## 2. Minimum weight of a sample

Species	Weight (in g)
<i>Allium cepa</i>	25
[ <sup>F6</sup> <i>Allium fistulosum</i>	15]
<i>Allium porrum</i>	20
[ <sup>F6</sup> <i>Allium sativum</i>	20
<i>Allium schoenoprasum</i>	15]
<i>Anthriscus cerefolium</i>	20
<i>Apium graveolens</i>	5
<i>Asparagus officinalis</i>	100
<i>Beta vulgaris</i>	100
<i>Brassica oleracea</i>	25
[ <sup>F9</sup> ]	
<i>Brassica rapa</i>	20
<i>Capsicum annuum</i>	40
<i>Cichorium intybus (partim)</i> (Witloof chicory large-leaved chicory (Italian chicory))	15
<i>Cichorium intybus (partim)</i> (industrial chicory)	50
<i>Cichorium endivia</i>	15
<i>Citrullus lanatus</i>	250
<i>Cucumis melo</i>	100
<i>Cucumis sativus</i>	25
<i>Cucurbita maxima</i>	250
<i>Cucurbita pepo</i>	150
<i>Cynara cardunculus</i>	50
<i>Daucus carota</i>	10
<i>Foeniculum vulgare</i>	25
<i>Lactuca sativa</i>	10
[ <sup>F1</sup> <i>Lycopersicon esculentum</i> ]	20
<i>Petroselinum crispum</i>	10

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<i>Phaseolus coccineus</i>	1 000
<i>Phaseolus vulgaris</i>	700
<i>Pisum sativum</i>	500
<i>Raphanus sativus</i>	50
<i>[<sup>F6</sup>Rheum rhabarbarum</i>	135]
<i>Scorzonera hispanica</i>	30
<i>Solanum melongena</i>	20
<i>Spinacia oleracea</i>	75
<i>Valerianella locusta</i>	20
<i>Vicia faba</i>	1 000
<i>[<sup>F6</sup>Zea mays</i>	1 000]

#### Textual Amendments

- F9** Deleted by [Commission Directive 2006/124/EC of 5 December 2006 amending Council Directive 92/33/EEC on the marketing of vegetable propagating and planting material other than seed and Council Directive 2002/55/EC on the marketing of vegetable seed \(Text with EEA relevance\)](#).

In the case of F-1 hybrid varieties of the above species, the minimum weight of the sample may be decreased to a quarter of the specified weight. However the sample must have a weight of at least 5 g and consist of at least 400 seeds.

## ANNEX IV

### LABEL

#### A. Official label (basic seed and certified seed, excluding small packages)

- I. Required information
  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 in roman characters, under its botanical name, which may be given in abridged form and without the authors' names, or its common name, or both.
  6. Variety, indicated at least in roman characters.
  7. Category.

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8. Country of production.
  9. Declared net or gross weight or declared number of seeds.
  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 clusters or pure seeds and 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 this Directive:
      - 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 re-tested, the words ‘retested ...’; (month and year) may be indicated.
- II. Minimum dimensions
- 110 × 67 mm
- B. Supplier's label or inscription on the packages (standard seed and small packages of the category ‘certified seed’)
    - I. Required information
      1. ‘EC rules and standards’.
      2. Name and address of the person responsible for affixing the labels or his identification mark.
      3. Marketing year of the sealing or of the last examination of germination. The end of the marketing year may be indicated.
      4. Species, indicated at least in roman characters.
      5. Variety, indicated at least in roman characters.
      6. Category: in the case of small packages, certified seed may be marked with the letter ‘C’ or ‘Z’ and standard seed with the letters ‘ST’.
      7. Reference number given by the person responsible for affixing the labels — in the case of standard seed.
      8. Reference number enabling the certified lot to be identified — in the case of certified seed.

9. Declared net or gross weight or declared number of seeds, except for small packages of up to 500 grams.
  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 clusters of pure seeds and the total weight.
- II. Minimum dimensions of the label (excluding small packages)
- 110 × 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 in roman characters, under its botanical name, which may be given in abridged form and without the authorities' names, or under its common name, or both,
- variety, indicated at least in roman characters,
- category,
- field or lot reference number,
- declared net or gross weight,
- the words 'seed not finally certified'.

#### B. Colour of the label

The label shall be grey.

#### C. Information required for the document

- authority issuing the document,
- species, indicated at least in roman characters, under its botanical name, which may be given in abridged form and without the authorities' names, or under its common name, or both,
- 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,
- 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.

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## ANNEX VI

## PART A

**REPEALED DIRECTIVE AND ITS SUCCESSIVE AMENDMENTS****(referred to by Article 51)**

Directive 70/458/EEC (OJ L 225, 12.10.1970, p. 7)	
Council Directive 71/162/EEC (OJ L 87, 17.4.1971, p. 24)	only Article 6
Council Directive 72/274/EEC (OJ L 171, 29.7.1972, p. 37)	only concerning references made to the provisions of Directive 70/458/EEC in Articles 1 and 2
Council Directive 72/418/EEC (OJ L 287, 26.12.1972, p. 22)	only Article 6
Council Directive 73/438/EEC (OJ L 356, 27.12.1973, p. 79)	only Article 6
Council Directive 76/307/EEC (OJ L 72, 18.3.1976, p. 16)	only Article 2
Council Directive 78/55/EEC (OJ L 16, 20.1.1978, p. 23)	only Article 7
Council Directive 78/692/EEC (OJ L 236, 26.8.1978, p. 13)	only Article 7
Commission Directive 79/641/EEC (OJ L 183, 19.7.1979, p. 13)	only Article 4
Council Directive 79/692/EEC (OJ L 205, 13.8.1979, p. 1)	only Article 4
Council Directive 79/967/EEC (OJ L 293, 20.11.1979, p. 16)	only Article 3
Council Directive 80/1141/EEC (OJ L 341, 16.12.1980, p. 27)	only Article 2
Council Directive 86/155/EEC (OJ L 118, 7.5.1986, p. 23)	only Article 6
Commission Directive 87/120/EEC (OJ L 49, 18.2.1987, p. 39)	only Article 5
Commission Directive 87/481/EEC (OJ L 273, 26.9.1987, p. 45)	
Council Directive 88/332/EEC (OJ L 151, 17.6.1988, p. 82)	only Article 8
Council Directive 88/380/EEC (OJ L 187, 16.7.1988, p. 31)	only Article 7

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Council Directive 90/654/EEC (OJ L 353, 17.12.1990, p. 48)	only concerning references made to the provisions of Directive 70/458/EEC in Article 2 and Annex II (I)(7)
Commission Directive 96/18/EC (OJ L 76, 26.3.1996, p. 21)	only Article 3
Commission Directive 96/72/EC (OJ L 304, 27.11.1996, p. 10)	only Article 1(6)
Council Directive 98/95/EC (OJ L 25, 1.2.1999, p. 1)	only Article 7
Council Directive 98/96/EC (OJ L 25, 1.2.1999, p. 27)	only Article 7

## PART B

## DEADLINES FOR TRANSPOSITION INTO NATIONAL LAW

(referred to by Article 51)

Directive	Deadline for transposition
70/458/EEC	1 July 1972 <sup>ab</sup>
71/162/EEC	1 July 1972
72/274/EEC	1 July 1972 (Article 1) 1 January 1973 (Article 2)
72/418/EEC	1 January 1973 (Article 6(13) and 6(18)) 1 July 1972 (other provisions)
73/438/EEC	1 January 1974 (Article 6(4)) 1 July 1974 (other provisions)
76/307/EEC	1 July 1975
78/55/EEC	1 July 1977 (Article 7(5)) 1 July 1979 (other provisions)
78/692/EEC	1 July 1977 (Article 7) 1 July 1979 (other provisions)
79/641/EEC	1 July 1980
79/692/EEC	1 July 1977
79/967/EEC	1 July 1982
80/1141/EEC	1 July 1980
86/155/EEC	1 March 1986 (Article 6(3) and 6(8)) 1 July 1987 (other provisions)

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87/120/EEC	1 July 1988
87/481/EEC	1 July 1989
88/332/EEC	
88/380/EEC	1 July 1982 (Article 7(9))
	1 January 1986 (Article 7(6) and 7(10))
	1 July 1992 (Article 7(18))
	1 July 1990 (other provisions)
90/654/EEC	
96/18/EC	1 July 1996
96/72/EC	1 July 1997 <sup>c</sup>
98/95/EC	1 February 2000 (Corrigendum OJ L 126, 20.5.1999, p. 23)
98/96/EC	1 February 2000
<b>a</b>	For Denmark, Ireland and the United Kingdom, 1 July 1973; for Greece, 1 January 1986; for Spain, 1 March 1986; and for Portugal, 1 January 1991.
<b>b</b>	1 January 1995 for Austria, Finland and Sweden. However: <ul style="list-style-type: none"> <li>— Finland and Sweden may postpone until 31 December 1995 at the latest, the application in their territories of this Directive with regard to the marketing in their territories of seeds of varieties listed in their respective national catalogues of varieties of agricultural plant species and varieties of vegetable plant species which have not been officially accepted in accordance with the provisions of this Directive. Seeds of such varieties shall not be allowed to be marketed in the territory of the other Member States during this period,</li> <li>— varieties of agricultural and vegetable plant species which, at the date of accession or subsequently, are listed in both the respective national catalogues of Finland and Sweden and in the common catalogues, shall not be subject to any marketing restrictions as regards variety,</li> <li>— throughout the period mentioned in the first indent, those varieties in the respective national catalogues of Finland and Sweden which have been officially accepted in accordance with the provisions of the abovementioned Directive shall be included in the common catalogues of varieties of agricultural or vegetable plant species, respectively.</li> </ul>
<b>c</b>	Remaining stocks of labels bearing the abbreviation 'EEC' may continue to be used until 31 December 2001.

## ANNEX VII

## CORRELATION TABLE

<b>Directive 70/458/EEC</b>	<b>This Directive</b>
Article 1	Article 1, first subparagraph
Article 34	Article 1, second subparagraph
Article 1(a)	Article 2(1)(a)
Article 2(1)(a)	Article 2(1)(b)
Article 2(1)(B)(a)	Article 2(1)(c)(i)
Article 2(1)(B)(b)	Article 2(1)(c)(ii)
<b>a</b>	98/95/EC, Article 9(2) and 98/96/EC, Article 8(2).



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Article 2(1)(B)(c)	Article 2(1)(c)(iii)
Article 2(1)(B)(d)	Article 2(1)(c)(iv)
Article 2(1)(C)(a)	Article 2(1)(d)(i)
Article 2(1)(C)(b)	Article 2(1)(d)(ii)
Article 2(1)(C)(c)	Article 2(1)(d)(iii)
Article 2(1)(C)(d)	Article 2(1)(d)(iv)
Article 2(1)(C)(e)	Article 2(1)(d)(v)
Article 2(1)(D)(a)	Article 2(1)(e)(i)
Article 2(1)(D)(b)	Article 2(1)(e)(ii)
Article 2(1)(D)(c)	Article 2(1)(e)(iii)
Article 2(1)(D)(d)	Article 2(1)(e)(iv)
Article 2(1)(E)(a)	Article 2(1)(f)(i)
Article 2(1)(E)(b)	Article 2(1)(f)(ii)
Article 2(1)(E)(c)	Article 2(1)(f)(iii)
Article 2(1)(F)(a)	Article 2(1)(g)(i)
Article 2(1)(F)(b)	Article 2(1)(g)(ii)
Article 2(1)(F)(c)	Article 2(1)(g)(iii)
Article 2(1)a	Article 2(2)
Article 2(1)(b)	Article 2(3)
Article 3 to 8	Article 3 to 8
Article 9	—
Article 10	Article 9
Article 11	Article 10
Article 12	Article 11
Article 13	Article 12
Article 13a	Article 13
Article 14	Article 14
Article 15(1)	Article 15(1)
Article 15(2)	Article 15(2)
Article 15(3)	—
Article 16(1)	Article 16(1)
Article 16(2)	Article 16(2)
Article 16(3) to (5)	—

**a** 98/95/EC, Article 9(2) and 98/96/EC, Article 8(2).

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Article 17 to 19	Article 17 to 19
Article 20(1)	Article 20(1)
Article 20(1)(a)	Article 20(2)
Article 20(2)	Article 20(3)
Article 20(3)	Article 20(4)
Article 20(5)	—
Article 20a	Article 21
Article 21	Article 22
Article 21a	Article 23
Article 22	Article 24
Article 23	Article 25
Article 24	Article 26
Article 25	Article 27
Article 26(1)	Article 28(1)
Article 26(1)(a)	Article 28(2)
Article 26(1)(b)	Article 28(3)
Article 26(2), subparagraph (1) to (3)	Article 28(4), subparagraph (1) to (3)
Article 26(2) to (4)	—
Article 27	Article 29
Article 28	Article 30
Article 28a	Article 31
Article 29	Article 32
Article 29a	Article 33
Article 30	Article 34
Article 30a	Article 35
Article 31	Article 36
Article 32(1)	Article 37(1)
Article 32(3)	Article 37(2)
Article 33	Article 38
Article 35	Article 39
Article 36	Article 40
Article 37	Article 41
Article 38	Article 42

**a** 98/95/EC, Article 9(2) and 98/96/EC, Article 8(2).

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Article 39	Article 43
Article 39a(1) and (2)	Article 44(1) and (2)
Article 39a(3)(i)	Article 44(3)(a)
Article 39a(3)(ii)	Article 44(3)(b)
Article 40b	Article 45
Article 40	Article 46(1), (2) and (4)
Article 40a	Article 46(1), (3) and (4)
Article 41	Article 47
Article 41a(1)	Article 48(1)
Article 41a(2)(i)	Article 48(2)(a)
Article 41a(2)(ii)	Article 48(2)(b)
Article 42	Article 49
—	Article 50 <sup>a</sup>
—	Article 51
—	Article 52
—	Article 53
ANNEX I(1)	ANNEX I(1)
ANNEX I(2)	ANNEX I(2)
ANNEX I(3)	ANNEX I(3)
ANNEX I(4)(A)	ANNEX I(4)(A)
ANNEX I(4)(A)(a)	ANNEX I(4)(B)
ANNEX I(4)(A)(b)	ANNEX I(4)(C)
ANNEX I(4)(B)	ANNEX I(4)(D)
ANNEX I(5)	ANNEX I(5)
ANNEX II	ANNEX II
ANNEX III	ANNEX III
ANNEX IV(A)(a)(1)	ANNEX IV(A)(a)(1)
ANNEX IV(A)(a)(2)	ANNEX IV(A)(a)(2)
ANNEX IV(A)(a)(3)	ANNEX IV(A)(a)(3)
ANNEX IV(A)(a)(4)	ANNEX IV(A)(a)(4)
ANNEX IV(A)(a)(5)	ANNEX IV(A)(a)(5)
ANNEX IV(A)(a)(6)	ANNEX IV(A)(a)(6)
ANNEX IV(A)(a)(7)	ANNEX IV(A)(a)(7)

<sup>a</sup> 98/95/EC, Article 9(2) and 98/96/EC, Article 8(2).

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ANNEX IV(A)(a)(8)	ANNEX IV(A)(a)(8)
ANNEX IV(A)(a)(9)	ANNEX IV(A)(a)(9)
ANNEX IV(A)(a)(10)	ANNEX IV(A)(a)(10)
ANNEX IV(A)(a)(10)(a)	ANNEX IV(A)(a)(11)
ANNEX IV(A)(a)(11)	ANNEX IV(A)(a)(12)
ANNEX IV(A)(b)	ANNEX IV(A)(b)
ANNEX IV(B)	ANNEX IV(B)
ANNEX V	ANNEX V
—	ANNEX VI
—	ANNEX VII
<b>a</b>	98/95/EC, Article 9(2) and 98/96/EC, Article 8(2).

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- (1) Opinion delivered on 9 April 2002 (not yet published in the Official Journal).
- (2) [OJ L 225, 12.10.1970, p. 7](#). Directive as last amended by Directive 98/96/EC ([OJ L 25, 1.2. 1999, p. 27](#)).
- (3) See Annex VI, part A.
- (4) [OJ L 117, 8.5.1990, p. 15](#). Directive repealed by Directive 2001/18/EC of the European Parliament and of the Council ([OJ L 106, 17.4.2001, p. 1](#)).
- (5) [OJ L 43, 14.2.1997, p. 1](#).
- (6) [OJ L 184, 17.7.1999, p. 23](#).
- (7) [<sup>F4</sup>[OJ L 268, 18.10.2003, p. 1](#).]
- (8) [<sup>F4</sup>[OJ L 31, 1.2.2002, p. 1](#).]
- (9) [OJ L 227, 1.9.1994, p. 1](#). Regulation as amended by Regulation (EC) No 2506/95 ([OJ L 258, 28.10.1995, p. 3](#)).
- (10) [OJ L 159, 28.6.1994, p. 1](#).
- (11) [OJ 125, 11.7.1966, p. 2289/66](#).
- (12) See page 1 of this Official Journal.

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#### **Textual Amendments**

- F4** Substituted by [Regulation \(EC\) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed](#) (Text with EEA relevance).