COMMISSION REGULATION (EC) No 1602/2002

of 9 September 2002

laying down detailed rules for the application of Council Directive 1999/105/EC as regards the authorisation of a Member State to prohibit the marketing of specified forest reproductive material to the end-user

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material [1], and in particular Article 17(3) thereof,

Whereas:

(1) In accordance with Article 17(1) of Directive 1999/105/EC, Member States are to ensure that forest reproductive material which is placed on the market in accordance with the provisions of that Directive is not subject to any marketing restrictions as regards its characteristics, examination and inspection requirements, labelling and sealing other than those laid down in that Directive.

(2) Member States may in certain circumstances be authorised to prohibit the marketing to the end-user, with a view to seeding or planting in their territory, of specified forest reproductive material which is unsuitable for use in their territory.

(3) Such authorisations should be granted only where there is reason to believe that the use of the forest reproductive material would, on account of its phenotypic or genetic characteristics, have an adverse effect on forestry, environment, genetic resources or biodiversity in the territory of that Member State.

(4) In order to allow the Commission to decide in full knowledge of the facts, the application for authorisation should be accompanied by relevant evidence and information concerning, *inter alia*, the region of provenance or the origin of the forest reproductive material and the results of trials, scientific research and forestry practice. The information required should be specified.

(5) In order to assist a Member State to prepare its application, other Member States should provide, on request, all relevant information on the region of provenance or the origin and national lists of basic material for the production of forest reproductive material.

(6) A copy of the application should be sent at the same time to the Member State in which the region of provenance or the origin is located, in order to allow that Member State to inform the Commission of its position.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS REGULATION:

Article 1

1. A Member State seeking authorisation to prohibit the marketing of specified forest reproductive material to the end-user, under Article 17(2) of Directive 1999/105/EC, shall submit an application to the Commission stating why it considers that the criteria set out in Article 17(2) are satisfied. The application shall be accompanied by all available supporting information and documentation as set out in paragraphs 2 to 5.

2. Maps and details of the region of provenance or the origin of the material shall be supplied, together with documentation showing the differences in their respective climatic and ecological data, as specified in the Annex, must be provided.

3. The results of trials or scientific research or results obtained from forestry practice, showing why the material is unsuitable for use in all or part of its territory where prohibition is proposed shall be supplied. Details of the trials such as layout, procedure of assessment, and data analysis must be provided; the trials must have been carried out on relevant site types and in accordance with the requirements set out in point 1 of Annex V to Directive 1999/105/EC. Details shall also be provided of persons who carried out the trials, and whether the results have been peer reviewed or published.

4. In respect of results of scientific research, details of the research such as layout, sources of data, procedure of assessment, and data results must be provided.

5. In respect of results obtained from forestry practice, information and documentation concerning survival and development of forest reproductive material including growth, must be provided.

Article 2

As regards applications to prohibit the marketing of forest reproductive material in the categories 'source-identified' or 'selected' from approved basic material in the form of seed source or stand, the Member State seeking to prohibit the material must provide an assessment of its unsuitability made by reference to the region of provenance.

[1] OJ L 11, 15.1.2000, p. 17.