SECOND COUNCIL DIRECTIVE

of 26 June 1975

amending Directive No 66/404/EEC on the marketing of forest reproductive material

(75/445/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 thereof;

Having regard to the proposal from the Commission;

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

Having regard to the Opinion of the Economic and Social Committee (2);

Whereas for reasons given below certain provisions of Council Directive No 66/404/EEC (3) of 14 June 1966 on the marketing of forest reproductive material, as amended by Directive No 69/64/EEC (4), should be amended;

Whereas forest reproductive material marketable in the Community should be divided into two categories: 'selective reproductive material' and 'tested reproductive material'; whereas material satisfying the requirements of Directive No 66/404/EEC should constitute the first category; whereas the second category may include only such material as is shown by comparative tests to be genetically superior;

Whereas poplar cultivation has increased to such an extent that the marketing of poplar reproductive material should be confined to the category 'tested reproductive material';

Whereas approval of basic material for the production of tested reproductive material must be given in the Member States in accordance with identical rules which are as strict as possible, and whereas the setting up and management of comparative tests and the assessment of the results thereof are an essential element of these common rules;

Whereas comparative tests take a long time to yield definitive results; whereas it should be possible for Member States in certain circumstances to approve basic material for the production of tested reproductive material if the provisional results of the tests in progress warrant this;

Whereas comparative tests using methods which differ from those provided for in this Directive are at present being carried out in a number of Member States; whereas those Member States should be authorized, on a temporary basis and subject to certain conditions, to make use of the results of such tests;

Whereas, in order to facilitate intra-Community trade, a common catalogue of basic material approved for the production of forest reproductive material should be published in the *Official Journal of the European Communities;*

Whereas each Member State should be able to obtain precise information on forest reproductive material coming from other Member States or from third countries;

Whereas difficulties have been encountered in the various Member States during the import of reproductive material, because each State requires the importer to give different information; whereas such information should therefore also be harmonized;

Whereas any restrictions which Member States consider imposing on the marketing of forest reproductive material should be subject to a Community procedure which ensures close cooperation between the Commission and the Member States;

Whereas an accelerated procedure should be used in order to facilitate essentially technical amendments to the Annexes;

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(1) OJ No C 108, 10. 12. 1973, p. 26.
(2) OJ No C 8, 31. 1. 1974, p. 19.
(3) OJ No 125, 11. 7. 1966, p. 2326/66.
(4) OJ No L 48, 26. 2. 1969, p. 12.

Whereas certain improvements and clarifications should be made to Directive No 66/404/EEC,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Council Directive No 66/404/EEC is hereby amended in accordance with the following Articles.

Article 2

Article 2 is amended as follows:

1. In paragraph 1 (a) the words 'produced by sexual means and' are inserted after the words 'reproductive material'.

2. The text of paragraph 1 (b) is replaced by the following:

   '(b) vegetative reproductive material derived from Populus sp.'

3. The text of paragraph 2 is replaced by the following:

   '2. Under the procedure laid down in Article 17, vegetative reproductive material of the species listed in paragraph 1 (a), Populus sp. reproductive material produced by sexual means and also reproductive material of species other than those listed in paragraph 1, may be made subject wholly or in part to this Directive.'

4. The following paragraph is added after paragraph 2:

   '3. In so far as measures have not yet been taken pursuant to paragraph 2 for the Community, Member States may take such measures for their own territory. For the species concerned, Member States may impose less stringent requirements.'

Article 3

Article 3 is amended as follows:

1. The text of section A (b) is replaced by the following:

   '(b) parts of plants: cuttings, layers, roots and scions intended for the production of plants, but not sets;'

2. The text of section A (c) is replaced by the following:

   '(c) young plants: plants raised by means of seeds or parts of plants; also includes sets and natural regeneration.'

3. The text of section B is replaced by the following:

   'B. Basic material:

   (a) stands and seed orchards, in the case of reproductive material produced by sexual means;

   (b) clones and mixtures of clones in specified proportions, in the case of reproductive material produced by vegetative means.'

4. After section B the following sections are inserted:

   'B (a) selected reproductive material: material derived from basic material officially approved in accordance with Article 5;

   B (b) tested reproductive material: material derived from basic material officially approved in accordance with Article 5b, 5d or 5e.'

5. The text of section C is replaced by the following:

   'C. Seed orchard:

   A plantation of selected clones or progenies which is isolated or laid out to avoid or reduce pollination from outside sources, and managed to produce frequent, abundant and easily harvested crops of seed.'

6. After section C the following section is inserted:

   'C (a) Improved value for use:

   The genetic characters, taken as a whole, showing a distinct improvement for forestry purposes as compared with standards selected in accordance with Annex II, at least for cultivation in the region in which those standards are generally used.'

7. The text of section F is replaced by the following:

   'F. Region of provenance:

   For a given species, subspecies or variety, the area or group of areas subject to practically uniform ecological conditions on which are found stands showing similar phenotypic or genetic characters.

   The region of provenance of reproductive material produced in a seed orchard is that of the basic material used for the establishment of the orchard.'

8. After section F the following section is inserted:

'F (a) Marketing: display with a view to sale, offering for sale, sale or delivery to another person.'

Article 4

Article 4 is amended as follows:

1. The text of paragraph 1 is replaced by the following:

'1. The Member States shall provide that reproductive material:

— of the species listed in Article 2 (1) (a), may not be marketed unless it is of the "selected reproductive material" or "tested reproductive material" category;

— of the species listed in Article 2 (1) (b), may not be marketed unless it is of the "tested reproductive material" category.'

2. The following subparagraph is added to paragraph 2:

'(c) for small quantities of seeds which are clearly shown not to be intended for forestry purposes.'

3. Paragraph 3 is deleted.

Article 5

The text of Article 5 is replaced by the following:

'Article 5

The Member States shall provide that only basic material whose qualities are such as to make it suitable for reproductive purposes and from which no undesirable characters for forestry are to be expected, may be approved for the production of selected reproductive material. Approval shall be given in conformity with the requirements set out in Annex I.'

Article 6

The following Articles are added after Article 5:

'Article 5a

In the case of basic materials intended for the production of selected reproductive material, the Member States shall delimit regions of provenance defined by means of administrative or geographical boundaries and, where applicable, by altitudinal boundaries.

Article 5b

1. The Member States shall provide that only basic material, of which the derived reproductive material gives improved value for use, may be approved for the production of tested reproductive material. Improved value for use shall be assessed by means of comparative testing. The comparative tests shall satisfy the requirements set out in Annex II.

2. Examination of the various species shall include certain characters at least, which shall be fixed in accordance with the procedure laid down in Article 17.

Article 5c

1. The Member States shall draw up descriptions of the sites in which they carried out comparative tests where such trials have led to the approval of basic material. Descriptions shall give all relevant information for each site, in particular, full details about the ecological conditions prevailing in the region in which it is situated.

2. The form in which these descriptions and the relevant information referred to in paragraph 1 shall be drawn up may be fixed in accordance with the procedure laid down in Article 17.

3. These descriptions and any alterations made to them shall be notified forthwith to the Commission which shall communicate them to the other Member States.

Article 5d

Member States may approve, for a maximum period of 10 years, in all or part of their territory, basic material for the production of tested reproductive material where, from the provisional results of comparative tests, it can be assumed that the basic material will, when tests have been completed, satisfy the requirements for the approval referred to in Article 5 b.

Article 5e

For a transitional period not exceeding 10 years from 1 July 1977, Member States may use, for the purpose of approving basic material for the production of tested reproductive material, the results of comparative tests which do not satisfy the requirements laid down in Annex II where such tests were begun before 1 July 1977 and prove that the reproductive material derived from the basic material possesses improved value for use. Member States may, under the procedure laid down in Article 17, be authorized to use

the results of comparative tests after expiry of the abovementioned transitional period.'

Article 7

The text of Article 6 is replaced by the following:

'*Article 6*

1. Each Member State shall draw up lists of the basic material of the various species approved on its territory. Basic material for the production of selected reproductive material and basic material for the production of tested reproductive material shall be entered separately in these lists.

2. The form in which such lists shall be drawn up may be determined in accordance with the procedure laid down in Article 17.

3. These lists and any alterations made to them shall be sent forthwith to the Commission which shall communicate them to the other Member States.'

Article 8

Article 7 is deleted.

Article 9

Article 8 is amended as follows:

1. The text of paragraph 1 (a), (b), (c), (d) and (e) replaced by the following:

'(a) species and, where applicable, subspecies, variety, clone;

(b) category;

(c) region of provenance — for selected reproductive material;

(d) basic material — for tested reproductive material;

(e) indigenous or non-indigenous material;'.

2. Paragraph 2 is deleted.

Article 10

The text of Article 9 is replaced by the following:

'*Article 9*

1. Member States shall provide that reproductive material may be marketed only in consignments which comply with Article 8 and are accompanied by a label or other document from the supplier giving the requirements referred to in Article 8 and the following information:

(a) botanical name of the reproductive material;

(b) name of supplier responsible for the batch;

(c) quantity;

(d) in the case of seeds from seed orchards and of young plants raised from such seeds, the words "reproductive material from seed orchards";

(e) in the case of tested reproductive material whose basic material was approved under Article 5d, the words "provisionally approved".

The colour of the label or document shall be green in the case of selected reproductive material and blue in the case of tested reproductive material.

2. In accordance with the procedure laid down in Article 17, Member States may also require that, in the case of tested reproductive material, supplementary information concerning the basic material be given on the abovementioned label or document.'

Article 11

Article 11 (2) is deleted.

Article 12

The text of Article 12 is replaced by the following:

'*Article 12*

Member States may provide that no reproductive material be introduced into their territory unless it is accompanied by an official certificate of another Member State conforming to the model in Annex III, or by an equivalent certificate of a third country.'

Article 13

The text of Article 13 is replaced by the following:

'*Article 13*

1. Member States shall ensure that after 31 December of the second year following approval, reproductive material derived from basic material approved in accordance with Article 5, 5b or 5e is subject to no marketing restrictions as to its genetic characters.

This period shall not apply in the case of reproductive material derived from basic material approved before 1 July 1975.

2. Upon application by a Member State, such Member State may be authorized, pursuant to the procedure provided for in Article 17, to prohibit, after the date set in the first subparagraph of paragraph 1, the marketing in all or part of its territory of reproductive material derived from specific basic material or — as far as selected material is concerned — a specific region of provenance.

Such authorization shall be granted only where there is reason to believe that use of the said reproductive material would, on account of its genetic character, have an adverse effect on forestry in that Member State.

3. If, in respect of a basic material or for a region of provenance, a Member State does not intend to lodge an application under the procedure laid down in paragraph 2, it shall notify the Commission or make a statement to this effect within the Committee referred to in Article 17.

4. If all the Member States give the notification or make the statement referred to in paragraph 3, the period specified in the first subparagraph of paragraph 1 shall no longer apply and Article 13a shall apply.'

Article 14

The following Articles are added after Article 13:

'*Article 13a*

On the basis of the information supplied by the Member States and as this is received, the Commission shall publish in the *Official Journal of the European Communities* under the title "Common catalogue of basic material for forest reproductive material" a list of the basic material of which the derived reproductive material is subject to no marketing restrictions under Article 13. The published notice shall mention any Member States which have received authorizations under Article 13 (2).

Article 13b

1. Member States shall ensure that, as regards the measures taken to guarantee its identity, reproductive material is subject to no marketing restrictions other than those laid down in this Directive.

2. The Member States may take all measures necessary to ensure that when reproductive material coming from another Member State or from a third country is marketed, the following information is given to their competent authority:

(a) nature of product;

(b) species and, where applicable, subspecies, variety, clone;

(c) category;

(d) country of production and official inspection authority;

(e) region of provenance — for selected reproductive material; basic material — for tested reproductive material;

(f) country of dispatch;

(g) importer;

(h) quantity of reproductive material;

(i) year of ripening of seed;

(j) indigenous or non-indigenous material.

This information may be modified, and detailed rules for the supply of such information adopted, by the procedure laid down in Article 17.'

Article 15

The following Articles are added after Article 16:

'*Article 16a*

Any amendments to be made to the Annexes in the light of the development of scientific or technical knowledge shall be adopted according to the procedure laid down in Article 17.

Article 16b

This Directive shall not apply to young plants and parts of plants which are shown to be intended mainly for purposes other than those of forestry.'

Article 16

The following Article is added after Article 17:

'*Article 17a*

This Directive shall be without prejudice to the provisions of national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial and commercial property.'