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COUNCIL DIRECTIVE

of 29 September 1970

on the marketing of vegetable seed

(70/458/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;

Whereas the production of vegetable seed occupies an important place in the agriculture of the European Economic Community;

Whereas satisfactory results in vegetable cultivation depend to a large extent on the use of appropriate seed; whereas, to this end, certain Member States have for some time restricted the marketing of seed of certain species of vegetable to controlled seed of specified varieties; whereas other States have introduced optional controls in respect of the quality of this seed;

Whereas, in so far as they undertake these seed controls, Member States have been able to take advantage of the systematic plant selection work carried out over several decades which has resulted in the development of distinct, stable and sufficiently uniform varieties which, by reason of their characters, promise to be of great value for the purposes in view;

Whereas greater productivity will be achieved in Community vegetable cultivation if for the choice of varieties accepted for certification, checking and marketing the Member States apply uniform rules which are as strict as possible;

Whereas, as a starting point, it is necessary to establish a common catalogue of varieties of vegetable species; whereas such a catalogue can for the moment be compiled only on the basis of national catalogues;

Whereas all the Member States should therefore compile one or more national catalogues of the varieties accepted for certification, checking and marketing in their territory;

Whereas these catalogues must be drawn up in accordance with uniform rules so that the varieties accepted will be distinct, stable and sufficiently uniform;

Whereas, 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;

Whereas, on the other hand, 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 maintenance of the variety must be standardised; whereas the Member States should inform one another of the acceptance and withdrawal of varieties;

Whereas seed of varieties listed in the common catalogue of varieties should not be subject within the Community to any marketing restrictions relating to variety;

Whereas the Commission should publish in the *Official Journal of the European Communities* the varieties accepted in the common catalogue;

Whereas, furthermore, Member States should be given the right to raise objections to a variety where such objections are on plant health grounds;

[1] OJ No C 108, 19.10.1968, p. 30.

Whereas provision should be made for measures recognising the equivalence of examinations and controls of varieties carried out in third countries;

Whereas it is, however, justifiable to restrict marketing to certain varieties only if the farmer can be sure of actually obtaining seed of those varieties;

Whereas a scheme should be established applicable to marketing both in other Member States and on domestic markets;

Whereas, 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 basis seed or certified seed;

Whereas, for certain species of vegetable, it would be desirable to restrict marketing to certified seed; whereas, however, it is at present impossible to attain this objective since Community requirements could not then be completely covered; whereas the marketing of checked standard seed which must also possess varietal identity and purity should therefore be allowed provisionally, these characters being subject, however, only to official post-control carried out in the field by check inspection;

Whereas vegetable seed which is not placed on the market should not, in view of its minor economic importance, be subject to Community rules; whereas Member States must retain the right to make such seed subject to special provisions;

Whereas, in order to improve the quality of Community vegetable seed, certain requirements must be laid down as to minimum analytical purity and germination;

Whereas the Directive should cover as full a catalogue of species as possible, including certain species which may be fodder plants or oil plants as well as vegetables; whereas, 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;

Whereas, in order to ensure the identity of the seed, Community rules on packaging, sampling, sealing and marking must be laid down; whereas it is desirable that provision also be made for official pre-control of certified seed, and that the obligations should be laid down which must be fulfilled by the person marketing standard seed and certified seed made up in small packets;

Whereas, 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 make provision for appropriate control arrangements;

Whereas seed satisfying these requirements should, without prejudice to Article 36 of the Treaty, be subject to no marketing restrictions other than those provided for in Community rules;

Whereas, subject to certain conditions, seed multiplied in another country from basic seed certified in a Member State should be recognised as equivalent to seed multiplied in that Member State;

Whereas, on the other hand, 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;

Whereas, during periods in which there are difficulties in obtaining supplies of certified seed of the various categories or of standard seed, seed satisfying less stringent requirements should temporarily be permitted to be marketed;

Whereas, in order to harmonise the technical methods of certification and checking used in the various Member States and to enable comparisons to be made in the future between seed certified within the Community and that coming from third countries, Community test fields 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';

Whereas Community rules should not apply to seed shown to be intended for export to third countries;

Whereas the Commission should be entrusted with the task of adopting certain measures for the application of this Directive; whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close co-operation between Member States and the Commission within the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry set up by the Council Decision of 14 June 1966[1];

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to vegetable seed marketed within the Community.

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[1] OJ No 125, 11.7.1966, p. 2289/66.

Article 2

1. For the purposes of this Directive the following definitions shall apply:

A. Vegetables: plants of following species intended for agricultural or horticultural production but not for ornamental uses:

Allium cepa L.	Onion
Allium porrum L.	Leek
Anthriscus cerefolium (L.) Hoffm.	Chervil
Apium graveolens L.	Celery
Asparagus officinalis L.	Asparagus
Beta vulgaris L. var. cycla (L.) Ulrich	Spinach beet, chard
Beta vulgaris L. var. esculenta L.	Red beet or beetroot
Brassica oleracea L. var. acephala DC. subvar. laciniata L.	Curly kale
Brassica oleracea L. convar. botrytis (L.) Alef. var. botrytis	Cauliflower
Brassica oleracea L. convar. botrytis (L.) Alef. var. italica Plenck	Sprouting broccoli or Calabrese
Brassica oleracea L. var. bullata subvar. gemmifera DC.	Brussels sprouts
Brassica oleracea L. var. bullata DC. et var. sabanda L.	Savoy cabbage
Brassica oleracea L. var. capitata L.f. alba DC.	Cabbage
Brassica oleracea L. var. capitata L.f. rubra (L.) Thell	Red cabbage
Brassica oleracea L. var. gongylodes L.	Kohlrabi
Brassica rapa L. var. rapa (L.) Thell	Turnip
Capsicum annuum L.	Chili Pepper Capsicum
Cichorium endivia L.	Endive
Cichorium intybus L. var. foliosum Bisch.	Chicory
Citrullus vulgaris L.	Water melon
Cucumis melo L.	Melon
Cucumis sativus L.	Cucumber, gherkin
Cucurbita pepo L.	Marrow
Daucus carota L. ssp. sativus (Hoffm.) Hayek	Carrot
Foeniculum vulgare P. Mill.	Fennel
Lactuca sativa L.	Lettuce
Petroselinum hortense Hoffm.	Parsley
Phaseolus coccineus L.	Runner bean
Phaseolus vulgaris L.	French bean
Pisum sativum L. (excl. P. arvense L.)	Pea
Raphanus sativus L.	Radish
Scorzonera hispanica L.	Scorzonera or Black salsify
Solanum lycopersicum L. (Lycopersicum esculentum Mill.)	Tomato
Solanum melongena L.	Aubergine or egg plant
Spinacia oleracea L.	Spinach
Valerianella locusta (L.) Betcke (V. olitoria Polt.)	Corn-salad or lamb's lettuce
Vicia faba major L.	Broad bean
Zea mays convar. microsperma (Koern.)	Popcorn
Zea mays convar. saccharata (Koern.)	Sweet corn;

B. Basic seed: seed

(a) which has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety;

(b) which is intended for the production of seed of the category 'certified seed';

(c) which, subject to the provisions of Article 21, satisfies the conditions laid down in Annexes I and II for basic seed; and

(d) which has been found by official examination to satisfy the above-mentioned conditions;

C. Certified seed: seed

(a) which is of direct descent 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;

(b) which is intended mainly for the production of vegetables;

(c) which, subject to the provisions of Article 21 (b), satisfies the conditions laid down in Annexes I and II for certified seed;

(d) which has been found by official examination to satisfy the aforementioned conditions;

(e) which is subject to official post-control by check inspection to verify its varietal identity and purity;

D. Standard seed: seed

(a) which has sufficient varietal identity and purity;

(b) which is intended mainly for the production of vegetables;

(c) which satisfies the conditions laid down in Annex II; and

(d) which is subject to official post-control by check inspection to verify its varietal identity and purity.

E. Official measures: measures taken

(a) by State authorities, or

(b) by any legal person whether governed by public or by private law, acting under the responsibility of the State, or

(c) 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 (b) and (c) derive no private gain from such measures.

F. Small packets: packets containing seed up to a maximum net weight of

(a) 5 kg for legumes, sweet corn and popcorn;

(b) 500 g for onions, chervil, asparagus, spinach beet or chard, red beet or beetroot, turnips, water melon, marrows, carrots, radishes, scorzonera or black salsify, spinach, corn-salad or lamb's lettuce;

(c) 100 g for all other species of vegetable.

2. Member States may, during a transitional period of not more than three years after the entry into force of the laws, regulations and administrative provisions necessary to comply with this Directive, and by way of derogation from paragraph 1 (C), certify as certified seed seed which is of direct descent from seed officially controlled in a Member State under the scheme in operation at that time and which affords the same assurances as basic seed certified in accordance with the principles of this Directive.

Article 3

1. The Member States shall provide that vegetable seed may not be certified, checked 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, checking 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 checked as 'standard seed' and,

(b) whose seed may not be checked except as standard seed.

Any person may consult the catalogues.

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 Articles 7, 10 (3) and II (2) to (5).

Article 4

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

Article 5

1. A variety shall be regarded as distinct if, when acceptance is applied for it differs markedly, in one or more important morphological or physiological characters, from any other variety accepted or submitted for acceptance in the Member State in question or appearing in the common catalogue of varieties of vegetable species.

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 characters.

3. A variety shall be regarded as sufficiently uniform if, apart form 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 characters, taken as a whole, which are considered for this purpose.

Article 6

The 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. The Member States shall provide that acceptance of varieties be based on the results of official examinations, particularly growing trials, covering a sufficient number of characters for the variety to be described.

The methods used for determining characters must be exact and reliable. In the case of varieties whose seed may not be checked except as standard seed, the results of unofficial examinations and knowledge gained form practical experience during cultivation may be taken into consideration.

2. The following shall be fixed in accordance with the procedure laid down in Article 40, account being taken of current scientific and technical knowledge:

(a) the characters to be covered as a minimum by the examinations of the various species;

(b) the minimum requirements for carrying out the examinations.