12.10.70 Official Journal of the European Communities No L 225/1

COUNCIL DIRECTIVE

of 29 September 1970

on the common catalogue of varieties of agricultural plant species

(70/457/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 agricultural seed and young plants occupies an important place in the agriculture of the European Economic Community;

Whereas, for this reason, the Council has already adopted Directives on the marketing of beet seed [2], fodder plant seed [3], cereal seed [4], seed potatoes [5] and seed of oil and fibre plants [6];

Whereas those Directives allow Member States provisionally to restrict the marketing of the seed and propagating material of the varieties of plant concerned to the seed and propagating material of those varieties which are included in a national list and are of value for cultivation and use in their own territory; whereas, however, those Directives also provide that such restriction may be imposed only until such time as a common catalogue of varieties of agricultural plant species has been compiled;

Whereas a common catalogue of varieties can for the moment be compiled only on the basis of national catalogues;

Whereas all Member States should therefore compile one or more national catalogues of the varieties accepted for certification 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 and that they will be of satisfactory value for cultivation and use;

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, furthermore, provisions relating to the length of time during which acceptance of a variety is to remain valid, to the grounds on which acceptance may be revoked and to practices for maintenance of the variety must be standardized and whereas the Member States should inform one another of the acceptance and withdrawal of varieties;

Whereas all seed or propagating material of varieties which have been accepted in accordance with the principles of the Directive since 1 July 1967 in one or more Member States should, after a certain time, be subject within the Community to no restrictions relating to variety; whereas all such seeds or propagating material should be added to the common catalogue of varieties;

Whereas, however, Member States should be given the right to express by means of a special procedure any objections which they may have to a variety and to its inclusion in the common catalogue of varieties as well as any objections on plant health grounds to a variety already entered in that catalogue;

Whereas special rules should be adopted to cover varieties which were accepted in a Member State before 1 July 1967 in accordance with the principles of this Directive; whereas it seems justifiable to make their inclusion in this catalogue conditional upon their being of importance for seed production;

Whereas the Commission should publish in the *Official Journal of the European Communities* the varieties which are being added to the common catalogue of varieties of agricultural plant species;

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[1] OJ No C 108, 19.10.1968, p. 30.
[2] OJ No 125, 11.7.1966, p. 2290/66.
[3] OJ No 125, 11.7.1966, p. 2298/66.
[4] OJ No 125, 11.7.1966, p. 2309/66.
[5] OJ No 125, 11.7.1966, p.2320/66.
[6] OJ No L 169, 10.7.1969, p. 3.

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

Whereas, however, Community rules should not apply to varieties the seed or propagating material of which are 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 cooperation 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

1. This Directive concerns the acceptance for inclusion in a common catalogue of varieties of agricultural plant species of those varieties of beet, fodder plant, cereal, potato and oil and fibre plant the seed of which may be marketed under the provisions of the Council Directives of 14 June 1966 on the marketing of beet seed, fodder plant seed, cereal seed and seed potatoes and the Council Directive of 30 June 1969 on the marketing of seed of oil and fibre plants.

2. The common catalogue of varieties shall be compiled on the basis of the national catalogues of Member States.

Article 2

For the purposes of this Directive 'official measures' means 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.

Article 3

1. Each Member State shall establish one or more catalogues of the varieties officially accepted for certification and marketing in its territory. Any person may consult the catalogues.

2. 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. If such provision is made, the Member State shall be released from the obligations provided in Article 7, 9(3) and 10(2) to (5).

3. The Member States shall take all measures necessary to ensure that official acceptances of varieties granted before 1 July 1970 in accordance with principles other than those of this Directive expire not later than 30 June 1980 if by that date the varieties in question have not been accepted in accordance with the principles of this Directive.

Article 4

1. The Member States shall ensure that a variety is accepted only if it is distinct, stable and sufficiently uniform. The variety must be of satisfactory value for cultivation and use.

2. Examination of the value for cultivation and use shall not be required:

(a) for the acceptance of varieties of grasses if the breeder declares that the seed of his variety is not intended for the production of fodder plants;

(b) for the acceptance of varieties whose seed is to be marketed in another Member State which has already accepted the varieties, having regard to their value for cultivation and use.

Article 5

1. A variety shall be regarded as distinct if, when acceptance is applied for, it is clearly distinguishable, in one or more important morphological or physiological characters, from all other varieties accepted or submitted for acceptance in the Member State in question or listed in the common catalogue of varieties.

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 characters, taken as a whole, which are considered for this purpose.

4. The value of a variety for cultivation or use shall be regarded as satisfactory if, compared to other varieties accepted in the catalogue of the Member State in question, its qualities, taken as a whole, offer, at least as far as production in any given region is concerned, a clear improvement either for cultivation or as regards the uses which can be made of the crops or the products derived therefrom. Where other, superior characteristics are present, individual inferior characteristics may be disregarded.

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