10.7.69 Official Journal of the European Communities No L 169/3

COUNCIL DIRECTIVE

of 30 June 1969

on the marketing of seed of oil and fibre plants

(69/208/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 oil and fibre plants occupies an important place in the agriculture of the European Economic Community;

Whereas satisfactory results in the cultivation of oil and fibre plants depend to a large extent on the use of appropriate seed; whereas to this end certain Member States have restricted the marketing of seed of some species of these plants to high-quality seed; whereas they have been able to take advantage of the systematic plant selection work carried out for some time which has resulted in the development of sufficiently stable and 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 the cultivation of oil and fibre plants within the Community if for the choice of the varieties permitted to be marketed the Member States apply uniform rules which are as strict as possible;

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

Whereas certain Member States have for this purpose been applying certification schemes which are intended by official control to ensure identity and varietal purity;

Whereas it is desirable to establish a uniform certification scheme for the Community based on the experience gained in the application of those schemes;

Whereas, as a general rule, seed of oil and fibre plants 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; whereas the choice of the technical terms 'basic seed' and 'certified seed' is based on already existing international terminology;

Whereas there should be approval for commercial seed in order to take into account the fact that not all genera and species of oil and fibre plants of importance for cropping have as yet produced either the desired varieties or sufficient quantities of seed of the existing varieties to meet all the needs of the Community; whereas it is therefore necessary, in the case of certain genera and species, to approve seed of oil and fibre plants which is not of a named variety, but which satisfies the regulations in all other respects;

Whereas seed of oil and fibre plants 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 Community rules should not apply to seed shown to be intended for export to third countries;

Whereas, in order to improve not only the genetic quality of Community seed of oil and fibre plants but also its external characters, certain requirements should be laid down as to analytical purity and germination;

[1] OJ No C 108, 10.10.1968, p. 30.

Whereas, if 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, under the procedure of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, from the obligation to apply this Directive in respect of the species in question;

Whereas, in order to ensure the indentity of the seed, Community rules on packaging, sampling, sealing and marking must be established; whereas to this end the labels should give the particulars needed both for official control and for the information of the user and should clearly show the Community nature of the certification of the certified seed of the various categories;

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, during a first stage, until a common catalogue of varieties has been established, the restrictions allowed should include in particular the right of Member States to restrict the marketing of certified seed to those varieties which are of value for cropping and use in their own territory;

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 seed of oil and fibre plants which has been harvested in third countries only if such seed affords the same assurances as seed officially certified, or officially approved as commercial 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 of oil and fibre plants or of commercial seed, seed satisfying less stringent requirements should temporarily be permitted to be marketed;

Whereas, in order to harmonise the technical methods of certification 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 the various categories of 'certified seed';

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;

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive shall apply to seed of oil and fibre plants marketed within the Community and intended for agricultural production but excluding use for ornamental purposes.

Article 2

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

A. Oil and fibre plants: plants of the following genera and species:

Arachis hypogaea L.	Groundnut (peanut)
Brassica campestris L. ssp. *oleifera* (Metzg.) Sinsk.	Turnip rape
Brassica juncea L.	Brown mustard
Brassica napus L. ssp. *oleifera* (Metzg.) Sinsk.	Swede rape
Brassica nigra (L.) W. Koch	Black mustard
Cannabis sativa L.	Hemp
Carum carvi L.	Caráway
Gossypium sp.	Cotton
Helianthus annuus L.	Sunflower
Linus usitatissimum L.	Flax, linseed
Papaver somniferum L.	Opium poppy
Ricinus communis L.	Castor bean
Sesamum orientale L.	Sesame
Sinapis alba L.	White mustard
Soia hispida L.	Soya bean

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 either of the category 'certified seed' or of the categories 'certified seed, first generation' or 'certified seed, second generation';

(c) which, subject to the provisions of Article 4, 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 (turnip rape, brown mustard, swede rape, hemp, black mustard, caraway, cotton, sunflower, opium poppy, white mustard): 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 and 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 for purposes other than the production of seed of oil or fibre plants;

(c) which, subject to the provisions of Article 4 (b), satisfies the conditions laid down in Annexes I and II for certified seed; and

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

D. Certified seed, first generation (groundnut, flax, linseed, sesame, soya): 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 either for the production of seed of the category 'certified seed, second generation' or for purposes other than the production of seed of oil or fibre plants;

(c) which satisfies the conditions laid down in Annexes I and II for certified seed; and

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

E. Certified seed, second generation (groundnut, flax, linseed, sesame, soya): seed

(a) which is of direct descent from basic seed, from certified seed of the first reproduction or, if the breeder so requests, from seed of a generation prior to basic seed and 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 for purposes other than the production of seed of oil or fibre plants;

(c) which satisfies the conditions laid down in Annexes I and II for certified seed; and

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

F. Certified seed, third generation (flax, linseed): seed

(a) which is of direct descent from basic seed, from certified seed of the first or second generation or, if the breeder so requests, from seed of a generation prior to basic seed and 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 for purposes other than the production of seed of oil or fibre plants;

(c) which satisfies the conditions laid down in Annexes I and II for certified seed; and

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

G. Commercial seed: seed

(a) which is identifiable as belonging to a species;

(b) which, subject to the provisions of Article 4 (b), satisfies the conditions laid down in Annex II for commercial seed; and

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

H. 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 subject to 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.

2. Member States may

(a) during a transitional period of not more than three years after the entry into force of the laws, regulations or administrative provisions necessary to comply with this Directive, and by way of derogation from paragraph 1 (C), (D), (E) and (F), certify as certified seed, seed which is of direct descent from seed officially controlled in a Member State in accordance with 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; this provision shall apply correspondingly to the certified

seed of the first or, where appropriate, second generation referred to in paragraph 1 (E) and (F);

(b) in the case of flax seed, include several generations in the basic seed category and subdivide this category by generation;

(c) during a transitional period which shall not extend beyond 30 June 1974, authorise, in the case of flax seed, the marketing of certified seed of the third generation. In order to remove any difficulties in obtaining supplies of flax seed that occur in a Member State, the Council, acting on a proposal from the Commission, may extend that period;

(d) provide that official examinations to check compliance with the condition laid down in Annex II (I) (3) (d) for *Brassica napus oleifera* not be carried out on all lots during certification unless there is doubt whether that condition has been satisfied.

Article 3

1. The Member States shall provide that seed of

Brassica campestris L. ssp. *oleifera* (Metzg.) Sinsk.

Brassica napus L. ssp. *oleifera* (Metzg.) Sinsk.

Cannabis sativa L.

Carum carvi L.

Gossypium spec.

Helianthus annuus L.

Linum usitatissimum L. partim-flax

may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed' and unless it satisfies the conditions laid down in Annex II.

2. The Member States shall provide that seed of oil and fibre plant species other than those listed in paragraph 1 may not be placed on the market unless the seed has been officially certified as 'basic seed' or 'certified seed', or is commercial seed, and unless the seed also satisfies the conditions laid down in Annex II.

3. It may be provided, under the procedure laid down in Article 20, that after specified dates seed of oil and fibre plant species other than those listed in paragraph 1 may not be placed on the market unless it has been officially certified as 'basic seed' or 'certified seed'.

4. The Member States shall ensure that official examinations are carried out in accordance with current international methods, in so far as such methods exist.

5. Member States may provide for derogations from the provisions of paragraphs 1 and 2:

(a) for bred seed of generations prior to basic seed;

(b) for tests or for scientific purposes;

(c) for selection work;

(d) for seed as grown, marketed for processing, provided that the identity of the seed is ensured.

Article 4

Member States may, however, by way of derogation from the provisions of Article 3:

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

These provisions shall not apply to seed imported from third countries, save as otherwise provided in Article 14 in respect of multiplication outside the Community.

Article 5

Member States may, as regards the conditions laid down in Annexes I and II, impose additional or more stringent requirements for the certification and examination of commercial seed produced in their own territory.

Article 6

1. Each Member State shall establish a list of the varieties of oil and fibre plants officially accepted for certification in its territory; the list shall give the main morphological or physiological characters by which varieties of plants directly derived from seed of the category 'certified seed' can be distinguished one from another.

2. In the case of hybrids and synthetic varieties, the authorities responsible for acceptance and certification shall be informed of the genealogical components. The 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.

3. A variety shall be accepted for certification only if it has been established by official or officially controlled examinations, particularly growing trials, that the variety is sufficiently uniform and stable.

4. The varieties accepted shall be officially checked at regular intervals. If any of the conditions for acceptance for certification is no longer satisfied, acceptance shall be revoked and the variety deleted from the list.

5. 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 7

1. The Member States shall require that, for the checking of varieties, the examination of seed for certification and the examination of commercial seed, samples are drawn under official supervision in accordance with appropriate methods.

2. For the examination of seed for certification and the examination of commercial seed, 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.

Article 8

1. The Member States shall require that basic seed, certified seed of all kinds and commercial seed be marketed only in sufficiently homogeneous consignments and in sealed containers bearing, as prescribed in Articles 9 and 10, 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.

Article 9

1. The Member States shall require that packages of basic seed, certified seed of all kinds and commercial seed be officially sealed in such a manner that when the container is opened the seal is damaged and cannot be re-attached.

2. Packages which have been officially sealed shall not be resealed, whether one or more times, except officially. 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 10 (1).

Article 10

1. The Member States shall require that packages of basic seed, certified seed of all kinds and commercial seed

(a) be labelled on the outside with an official label in one of the official languages of the Community conforming to the specification in Annex IV; it shall be attached with the official seal; the colour of the label shall be white for basic seed, blue for certified seed of the first generation after basic seed, red for certified seed of subsequent generations after basic seed and brown for commercial seed; if, as envisaged in Article 4 (a), 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;

(b) contain an official document, in the same colour as the label, giving the same information as that required under Annex IV (A) (a) (4), (5) and (6) for the label and, in the case of commercial seed, the information required under (b) (2), (5) and 6; this document is not necessary if the information is printed indelibly on the container.

2. Member States may in the case of small packets provide for derogations from the provisions of paragraph 1.

3. This Directive shall not affect the right of Member States to require that seed of oil and fibre plants which is shown to be intended for purposes other than agricultural production may not be placed on the market unless this fact is stated on the label.

Article 11

This Directive shall not affect the right of Member States to require that, in cases other than those provided for in Article 4, containers of basic seed, certified seed of all kinds or commercial seed, whether the seed has been produced in their own territory or imported, must, if the seed is to be marketed within their territory, bear a supplier's label.