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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION
of 16 December 2002**on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries****(Text with EEA relevance)**

(2003/17/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community.

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed⁽¹⁾, and in particular Article 16(1) thereof,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed⁽²⁾, and in particular Article 16(1) thereof,

Having regard to Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed⁽³⁾, and in particular Article 23(1) thereof,

Having regard to Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants⁽⁴⁾, and in particular Article 20(1) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) The rules on official seed control in Argentina, Australia, Bulgaria, Canada, Chile, the Czech Republic, Estonia, Croatia, Hungary, Israel, Latvia, Morocco, New Zealand, Poland, Romania, Slovenia, Slovakia, Turkey, the United States of America, Uruguay, Yugoslavia and South Africa provide for an official field inspection to be carried out during the period of seed production.
- (2) Those rules provide in principle that seed may be officially certified and seed packages officially closed in accordance with the OECD Schemes for the Varietal

Certification of Seed moving in International Trade. The rules also provide for seed sampling and testing in accordance with the methods of the International Seed Testing Association (ISTA), or where appropriate, in accordance with the rules of the Association of Official Seed Analysts (AOSA).

- (3) An examination of those rules and the manner in which they are applied in the aforementioned third countries has shown that the field inspection of seed-producing crops satisfies the conditions laid down in Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC. The national provisions governing seed harvested and controlled in those countries afford the same assurances as regards the seed's characteristics and the arrangements for its examination, for ensuring seed identification, for marking and for control as the provisions applicable to seed harvested and controlled within the Community, provided that further conditions for seed-producing crops and seed produced, in particular in respect of packages marking, are satisfied.
- (4) Council Decision 95/514/EC of 29 November 1995 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries⁽⁵⁾ provides that for a limited period field inspections carried out in certain third countries on seed-producing crops of certain species are considered as equivalent to field inspections carried out in accordance with Community legislation and that seed of certain species produced in those countries is considered as equivalent to seed produced in accordance with Community legislation.

⁽¹⁾ OJ 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 2001/64/EC (OJ 234, 1.9.2001, p. 60).

⁽²⁾ OJ 125, 11.7.1966, p. 1309/66. Directive as last amended by Directive 2001/64/EC.

⁽³⁾ OJ L 193, 20.7.2002, p. 12.

⁽⁴⁾ OJ L 193, 20.7.2002, p. 74. Directive as amended by Directive 2002/68/EC (OJ L 195, 24.7.2002, p. 32).

⁽⁵⁾ OJ L 296, 9.12.1995, p. 34. Decision as last amended by Commission Decision 2002/276/EC (OJ L 96, 13.4.2002, p. 28).

- (5) As Decision 95/514/EC will expire on 31 December 2002, a new decision should be adopted and its scope extended in particular by including Estonia, Latvia and Yugoslavia.
- (6) It appears desirable to limit the period for which equivalence is recognised under this Decision to five years.
- (7) It is appropriate to include in this Decision specific rules concerning relabelling and refastening in the Community incorporating rules similar to those provided by Decision 86/110/EEC ⁽¹⁾, which is no longer applicable.
- (8) The existing legislation already provides for an obligation for seed, including not finally certified seed, marketed in the Community to indicate whether the seed is chemically treated or the variety has been genetically modified. It is appropriate to provide for detailed rules on the exact indications to be given on the label of certified seed imported under this Decision. It is appropriate for these rules to mirror the ones provided by Decision 95/514/EC. It will be appropriate in future to update the annexes of the present Decision in order to ensure that imported seed is subject to requirements equivalent to any new rules which may be introduced, especially for not finally certified seed.
- (9) Certain amendments to the Annexes to this Decision should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedure for the exercise of implementing powers conferred on the Commission ⁽²⁾,

prior to basic seed, shall be considered equivalent to seed complying with Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC, if it satisfies the conditions laid down in point B of Annex II.

Article 3

1. Where equivalent seed is 'relabelled and refastened' in the Community, within the meaning of OECD Schemes for the Varietal Certification of Seed moving in International Trade, the provisions of Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC concerning the reclosing of packages produced in the Community shall apply by analogy.

The first subparagraph shall be without prejudice to the OECD rules applicable to such operations.

2. Where relabelling and refastening in the Community of equivalent seed is necessary, EC labels shall be used only:

- (a) if seeds produced in Member States and seeds of the same variety and category produced in third countries are blended in order to improve the germination capacity, provided that:
- the blend is homogeneous, and
 - the label mentions each country of production; or
- (b) for small EC packages within the meaning of Directives 66/401/EEC or 2002/54/EC.

Article 4

HAS ADOPTED THIS DECISION:

Amendments to the Annexes, with the exception of those concerning column 1 of the table in Annex I, shall be adopted in accordance with the procedure laid down in Article 5.

Article 1

Field inspections concerning the seed-producing crops of the species specified in Annex I carried out in the third countries listed in that Annex, excluding seed of generations prior to basic seed, shall be considered equivalent to field inspections carried out in accordance with Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC provided that they:

- (a) are carried out officially by the authorities listed in Annex I, or under the official supervision of those authorities;
- (b) satisfy the conditions laid down in point A of Annex II.

Article 2

Seed of the species specified in Annex I, produced in the third countries listed in that Annex and officially certified by the authorities listed in that Annex, excluding seed of generations

Article 5

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

Article 6

This Decision shall apply from 1 January 2003 to 31 December 2007.

⁽¹⁾ OJ L 93, 8.4.1986, p. 23.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

Article 7

This Decision is addressed to the Member States.

Done at Brussels, 16 December 2002.

For the Council
The President
M. FISCHER BOEL

ANNEX I

Countries, authorities and species

Country	Authority	Species referred to in the following Directives
1	2	3
Argentina	Secretaría de Agricultura, Ganadería, Pesca y Alimentación, Buenos Aires	66/401/EEC 66/402/EEC 2002/57/EC
Australia	AFFA Grains Section, Canberra	66/401/EEC 66/402/EEC 2002/57/EC
Bulgaria	Executive Agency for variety testing, field inspection and seed control, Sofia	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Canada	Canadian Food Inspection Agency, Ottawa	66/401/EEC 66/402/EEC 2002/57/EC
Chile	Servicio Agrícola y Ganadero, Santiago	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Czech Republic	Central Institute for Supervising and Testing in Agriculture, Prague	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Estonia	Estonian Plant Production Inspectorate, Saku, Harjumaa,	66/401/EEC 66/402/EEC, other than <i>Zea mays</i> and <i>Sorghum</i> spp. 2002/57/EC
Croatia	State Institute for Seed and Seedlings, Osijek	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Hungary	National Institute for Agricultural Quality Control, Budapest	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Israel	Ministry of Agriculture, Bet-Dagan	66/401/EEC 66/402/EEC 2002/57/EC
Latvia	Ministry of Agriculture, Riga	66/401/EEC 66/402/EEC
Morocco	Service de Controle des Semences et des Plants, Rabat	66/401/EEC 66/402/EEC 2002/57/EC
New Zealand	Ministry of Agriculture and Fisheries, Wellington	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Poland	Seed Inspection Service General Inspectorate, Warsaw	2002/54/EC 66/401/EEC 66/402/EEC — other than <i>Zea mays</i> 2002/57/EC

Country	Authority	Species referred to in the following Directives
1	2	3
Romania	Ministry of Agriculture, Food and Fisheries, Bucharest	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Slovenia	Ministry of Agriculture, Forestry and Food, Ljubljana	66/401/EEC 66/402/EEC 2002/57/EC
Slovakia	Central Control and Testing Institute in Agriculture, Bratislava	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Turkey	Ministry of Agriculture and Rural Affairs, Ankara	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
United States of America	USDA, Beltsville, Maryland	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
Uruguay	Ministerio de Ganadería Agricultura y Pesca, Montevideo	66/401/EEC 66/402/EEC 2002/57/EC
Yugoslavia	Federal Ministry of Economic and Internal Trade, Belgrade	2002/54/EC 66/401/EEC 66/402/EEC 2002/57/EC
South Africa	National Department of Agriculture, Pretoria	66/401/EEC 66/402/EEC — only in respect of <i>Zea mays</i> and <i>Sorghum</i> spp. 2002/57/EC

ANNEX II

A. Conditions relating to field inspections carried out in third countries on seed-producing crops

1. Field inspections shall be carried out in accordance with national rules for the application of the OECD Schemes for the Varietal Certification of Seed moving in International Trade as follows:
 - sugar beet and fodder beet seed, in the case of *Beta vulgaris* referred to in Directive 2002/54/EC,
 - grass and legume seed, in the case of the species referred to in Directive 66/401/EEC,
 - crucifer seed and other oil and fibre species seed, in the case of the species referred to in Directives 66/401/EEC and 2002/57/EC,
 - cereal seed, in the case of the species referred to in Directive 66/402/EEC, other than *Zea mays* and *Sorghum* spp.,
 - maize and sorghum seed, in the case of *Zea mays* and *Sorghum* spp. referred to in Directive 66/402/EEC.
2. Seed not finally certified shall be packed in officially closed packages which bear a special label provided for this purpose by the OECD.
3. Seed not finally certified shall be accompanied, without prejudice to the certificate provided by the OECD schemes, by an official certificate giving the following information:
 - reference number of the seed used to sow the field, and name of the Member State or third country which certified that seed,
 - area cultivated,
 - quantity of seed,
 - the attestation that the conditions that have to be satisfied by the crops from which the seed comes have been fulfilled.

B. Conditions relating to seed produced in third countries

1. Seed shall be officially certified and its packages officially closed and marked in accordance with national rules for the application of the OECD Schemes for the Varietal Certification of Seed moving in International Trade as follows; the seed lots shall be accompanied by the certificates required under those OECD schemes:
 - sugar beet and fodder beet seed, in the case of *Beta vulgaris* referred to in Directive 2002/54/EC,
 - grass and legume seed, in the case of the species referred to in Directive 66/401/EEC,
 - crucifer seed and other oil or fibre species seed, in the case of the species referred to in Directives 66/401/EEC and 2002/57/EC,
 - cereal seed, in the case of the species referred to in Directive 66/402/EEC, other than *Zea mays* and *Sorghum* spp.,
 - maize and sorghum seed, in the case of *Zea mays* and *Sorghum* spp. referred to in Directive 66/402/EEC.

Moreover, seed shall satisfy the conditions of Community rules other than those relating to varietal identity and varietal purity.

2. Seed shall satisfy the following conditions.
 - 2.1. The conditions which seed shall satisfy in accordance with the second subparagraph of paragraph 1 are laid down in the following Directives:
 - Directive 66/401/EEC, Annex II,
 - Directive 66/402/EEC, Annex II,
 - Directive 2002/54/EC, Annex I(B),
 - Directive 2002/57/EC, Annex II.
 - 2.2. For the purpose of the examination to check whether the abovementioned conditions have been satisfied, samples shall be taken officially in accordance with the ISTA rules, and their weights shall conform to the weight stipulated under such methods, taking into account those specified in the following Directives:
 - Directive 66/401/EEC, Annex III, columns 3 and 4,
 - Directive 66/402/EEC, Annex III, columns 3 and 4,

- Directive 2002/54/EC, Annex II, second line,
 - Directive 2002/57/EC, Annex III, columns 3 and 4,
- 2.3. The examination shall be carried out officially in accordance with the rules established under the ISTA rules.
- 2.4. By way of derogation from points 2.2 and 2.3, seed sampling and seed testing may be carried out in accordance with the 'Derogatory experiment on seed sampling and seed analysis' set out in Annex V(A) to the Decision adopted by the OECD Council on 28 September 2000 on the OECD Schemes for the Varietal Certification of Seed moving in International Trade.
3. Seed shall satisfy the following additional conditions in respect of package marking.
- 3.1. The following official information shall be given:
- a statement that the seed satisfies the conditions of Community rules other than those relating to varietal identity and varietal purity: 'EC rules and standards',
 - a statement that the seed has been sampled and tested in accordance with current international methods: 'Sampled and analysed according to ISTA rules for orange or green certificates by ..., (name or initials of the ISTA seed testing station)',
 - date of official closing,
 - where seed lots have been 'relabelled and refastened' within the meaning of the OECD schemes, also a statement that this operation took place, the most recent date of reclosing and the Authorities responsible therefore,
 - country of production,
 - declared net or gross weight or declared number of pure seeds or, in the case of beet seed, clusters, and
 - where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the additive and also the approximate ratio between the weight of pure seed and the total weight.

This information may be given either on the OECD label or on an additional official label which shall give the name of the service and the country. Any suppliers' labels shall be drawn up in such a manner that they cannot be confused with the additional official label.

- 3.2. In the case of seed of a variety which has been genetically modified, any label or document, official or otherwise, which is affixed to, or accompanies, the seed lot shall clearly indicate that the variety has been genetically modified and provide for any other information as may be determined in the authorisation procedure required under Community law.
- 3.3. An official notice placed inside the package shall give at least the reference number of the lot, the species and the variety; in addition, in the case of beet seed, it shall be stated, where appropriate, whether the seed is mono-germ or precision seed.

This notice is not necessary if the minimum information is printed indelibly on the package or if an adhesive label or a label of non-tear material is used.

- 3.4. Any chemical treatment of the seed and the active substance shall be noted either on the official label or on a special label as well as on the container or inside it.
- 3.5. All information required for official labels, for official notices and for packages shall be given in at least one of the official languages of the Community.
4. The seed lots shall be accompanied by an orange or green ISTA certificate giving the information relating to the conditions in paragraph 2.
5. In the case of basic seed of varieties which are exclusively maintained within the Community, the seed of the preceding generations shall have been produced within the Community.

In the case of basic seed of other varieties, the seed of the preceding generations shall have been produced under the responsibility of the persons responsible for the maintenance breeding, referred to in the common catalogue of varieties of agricultural plant species either within the Community or in a third country which has been granted, under Decision 97/788/EC⁽¹⁾, the equivalence of checks on practices for the maintenance of varieties carried out in third countries.

⁽¹⁾ OJ L 322, 25.11.1997, p. 39. Decision as last amended by Decision 2002/580/EC (OJ L 184, 13.7.2002, p. 26).

6. For certified seed of all generations, seed of the previous generations shall have been produced and officially controlled and certified:
 - either within the Community, or
 - in a third country which has been granted equivalence under this Decision for the production of basic seed of the species concerned, provided that it has been produced from seed produced in accordance with paragraph 5.
 7. In the case of Canada and the United States of America, by way of derogation from:
 - points 2.2 and 2.3,
 - point 3.1, second indent, and
 - point 4,sampling, testing and issue of seed analysis certificates may be carried out by officially recognised seed testing laboratories according to the rules of the AOSA. In this case:
 - the following statement shall be given under paragraph 3.1: 'Sampled and analysed according to AOSA rules by ...' (name or initials of the officially recognised seed testing laboratory), and
 - the certificates required under paragraph 4 shall be issued by the officially recognised seed testing laboratory under the responsibility of the Authorities listed in Annex I.
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