

**COUNCIL DIRECTIVE 2003/61/EC**  
of 18 June 2003

**amending Directives 66/401/EEC on the marketing of fodder plant seed, 66/402/EEC on the marketing of cereal seed, 68/193/EEC on the marketing of material for the vegetative propagation of the vine, 92/33/EEC on the marketing of vegetable propagating and planting material, other than seed, 92/34/EEC on the marketing of propagating and planting material of fruit plants, 98/56/EC on the marketing of propagating material of ornamental plants, 2002/54/EC on the marketing of beet seed, 2002/55/EC on the marketing of vegetable seed, 2002/56/EC on the marketing of seed potatoes and 2002/57/EC on the marketing of seed of oil and fibre plants as regards Community comparative tests and trials**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Economic and Social Committee <sup>(3)</sup>,

Whereas:

(1) The Commission is required to ensure that, in appropriate cases, arrangements for coordinating, carrying out and inspecting the Community comparative tests and trials are made in accordance with the procedures laid down in the following provisions:

Directive 66/401/EEC <sup>(4)</sup>, and in particular Article 20(3) thereof,

Directive 66/402/EEC <sup>(5)</sup>, and in particular Article 20(3) thereof,

Directive 68/193/EEC <sup>(6)</sup>, and in particular Article 16(3) thereof,

Directive 92/33/EEC <sup>(7)</sup>, and in particular Article 20(4) thereof,

Directive 92/34/EEC <sup>(8)</sup>, and in particular Article 20(4) thereof,

Directive 98/56/EC <sup>(9)</sup>, and in particular Article 14(4) thereof, and

Directive 2002/54/EC <sup>(10)</sup>, and in particular Article 26(3) thereof,

Directive 2002/55/EC <sup>(11)</sup>, and in particular Article 43(3) thereof,

Directive 2002/56/EC <sup>(12)</sup>, and in particular Article 20(3) thereof, and

Directive 2002/57/EC <sup>(13)</sup>, and in particular Article 23(3) thereof.

(2) These necessary arrangements implied in the past years that a Community contribution for the execution of the above Community comparative tests and trials had been decided.

(3) Tests and trials should be organised for species and under conditions listed by the above Directives irrespective whether the provisions are mandatory or discretionary.

(4) Tests and trials should cover in particular seed and propagating material harvested in third countries, seed and propagating material suitable for organic farming and seed and propagating material marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

(5) It is moreover appropriate to harmonise the drafting of the relevant articles of the above Directives.

(6) In the interest of transparency a clear legal basis for the Community financial contribution is needed. Provisions for Community financial measures for carrying out the Community comparative tests and trials which involve compulsory Community budget expenditure should therefore be made,

<sup>(1)</sup> OJ C 20 E, 28.1.2003, p. 208.

<sup>(2)</sup> Opinion of 10 April 2003 (not yet published in the Official Journal).

<sup>(3)</sup> OJ C 85, 8.4.2003, p. 43.

<sup>(4)</sup> OJ L 125, 11.7.1966, p. 2298/66. Directive as last amended by Directive 2001/64/EC (OJ L 234, 1.9.2001, p. 60).

<sup>(5)</sup> OJ L 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2001/64/EC.

<sup>(6)</sup> OJ L 93, 17.4.1968, p. 15. Directive as last amended by Directive 2002/11/EC (OJ L 53, 23.2.2002, p. 20).

<sup>(7)</sup> OJ L 157, 10.6.1992, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

<sup>(8)</sup> OJ L 157, 10.6.1992, p. 10. Directive as last amended by Regulation (EC) No 806/2003.

<sup>(9)</sup> OJ L 226, 13.8.1998, p. 16. Directive as amended by Regulation (EC) No 806/2003.

<sup>(10)</sup> OJ L 193, 20.7.2002, p. 12.

<sup>(11)</sup> OJ L 193, 20.7.2002, p. 33.

<sup>(12)</sup> OJ L 193, 20.7.2002, p. 60. Directive as amended by Commission Decision 2003/66/EC (OJ L 25, 30.1.2003, p. 42).

<sup>(13)</sup> OJ L 193, 20.7.2002, p. 74. Directive as amended by Directive 2002/68/EC (OJ L 195, 24.7.2002, p. 32).

HAS ADOPTED THIS DIRECTIVE:

#### Article 1

1. Article 20 of Directive 66/401/EEC shall be replaced by the following:

##### 'Article 20

1. Community comparative tests and trials shall be carried out within the Community for the post-control of samples of fodder plant seed placed on the market under the provisions of this Directive, whether mandatory or discretionary, and taken during sampling. The comparative tests and trials may include the following:

- seed harvested in third countries,
- seed suitable for organic farming,
- seed marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

2. These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3. The Commission, acting in accordance with the procedure referred to in Article 21, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 21 about the technical arrangements for holding the tests and trials and the results thereof.

4. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2. The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 21.

6. The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

2. Article 20 of Directive 66/402/EEC shall be replaced by the following:

##### 'Article 20

1. Community comparative tests and trials shall be carried out within the Community for the post-control of samples of cereal seed placed on the market under the provisions of this Directive, whether mandatory or discretionary, and taken during sampling. The comparative tests and trials may include the following:

- seed harvested in third countries,
- seed suitable for organic farming,

— seed marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

2. These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3. The Commission, acting in accordance with the procedure referred to in Article 21, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 21 about the technical arrangements for holding the tests and trials and the results thereof.

4. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 21.

6. The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

3. Article 16 of Directive 68/193/EEC shall be replaced by the following:

##### 'Article 16

1. Community comparative tests and trials shall be carried out within the Community for the post-control of samples of vine propagation material placed on the market under the provisions of this Directive, whether mandatory or discretionary, including those relating to plant health and taken during sampling. The comparative tests and trials may include the following:

- propagation material produced in third countries,
- propagation material suitable for organic farming,
- propagation material marketed in relation to measures intended to help preserve genetic diversity.

2. These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the propagation material must comply.

3. The Commission, acting in accordance with the procedure referred to in Article 17, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 17 about the technical arrangements for holding the tests and trials and the results thereof. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health.

4. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 17.

6. The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

4. Article 20 of Directive 92/33/EEC shall be replaced by the following:

*'Article 20*

1. Trials, or, where appropriate, tests shall be carried out in the Member States on samples to check that vegetable propagating and planting material complies with the requirements and conditions of this Directive, including those relating to plant health. The Commission may organise inspections of the trials by representatives of the Member States and of the Commission.

2. Community comparative tests and trials may be carried out within the Community for the post-control of samples of vegetable propagating and planting material placed on the market under the provisions of this Directive whether mandatory or discretionary, including those relating to plant health. The comparative tests and trials may include the following:

- vegetable propagating and planting material produced in third countries,
- vegetable propagating and planting material suitable for organic farming,
- vegetable propagating and planting material marketed in relation to measures aimed at preserving genetic diversity.

3. These comparative tests and trials shall be used to harmonise the technical methods of examination of vegetable propagating and planting material and to check satisfaction of the conditions with which the material must comply.

4. The Commission, acting in accordance with the procedure referred to in Article 21, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 21 about the technical arrangements for holding the tests and trials and the results thereof. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health.

5. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 2 and 3.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

6. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 21.

7. The tests and trials foreseen in paragraphs 2 and 3 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

5. Article 20 of Directive 92/34/EEC shall be replaced by the following:

*'Article 20*

1. Trials, or, where appropriate, tests shall be carried out in the Member States on samples to check that propagating material or fruit plants comply with the requirements and conditions of this Directive, including those relating to plant health. The Commission may organise inspections of the trials by representatives of the Member States and of the Commission.

2. Community comparative tests and trials may be carried out within the Community for the post-control of samples of propagating material or fruit plants placed on the market under the provisions of this Directive whether mandatory or discretionary, including those relating to plant health. The comparative tests and trials may include the following:

- propagating material or fruit plants produced in third countries,
- propagating material or fruit plants suitable for organic farming,
- propagating material or fruit plants marketed in relation to measures for the conservation of genetic diversity.

3. These comparative tests and trials shall be used to harmonise the technical methods of examination of propagating material and fruit plants and to check satisfaction of the conditions with which the material must comply.

4. The Commission, acting in accordance with the procedure referred to in Article 21, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 21 about the technical arrangements for holding the tests and trials and the results thereof. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health.

5. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 2 and 3.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

6. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 21.

7. The tests and trials foreseen in paragraphs 2 and 3 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

6. Article 14 of Directive 98/56/EC shall be replaced by the following:

*'Article 14*

1. Where appropriate, trials or tests shall be carried out in the Member States on samples to check that propagating material complies with the requirements and conditions of this Directive. The Commission may organise inspections of trials by representatives of the Member States and of the Commission.

2. Community comparative tests and trials may be carried out within the Community for the post-control of samples of propagating material or ornamental plants placed on the market under the provisions of this Directive, whether mandatory or discretionary, including those relating to plant health. The comparative tests and trials may include the following:

- propagating material produced in third countries,
- propagating material suitable for organic farming,
- propagating material marketed in relation to measures for the conservation of genetic diversity.

3. These comparative tests and trials shall be used to harmonise the technical methods of examination of propagating material of ornamental plants and to check satisfaction of the conditions with which the material must comply.

4. The Commission, acting in accordance with the procedure referred to in Article 17, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 17 about the technical arrangements for holding the tests and trials and the results thereof. When problems occur in relation to organisms covered by Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction in the Community of organisms harmful to plants or plant products and against their spread within the Community (\*), the Commission shall notify the Standing Committee on Plant Health, which shall also be consulted on protocols for Community trials where these concern organisms covered by Directive 2000/29/EC.

5. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 2 and 3.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

6. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 17.

7. The tests and trials foreseen in paragraphs 2 and 3 may be performed only by State authorities or legal persons acting under the responsibility of the State.

(\*) OJ L 169, 10.7.2000, p. 1. Directive as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).'

7. Article 26 of Directive 2002/54/EC shall be replaced by the following:

*'Article 26*

1. Community comparative tests and trials shall be carried out within the Community for the post-control of samples of beet seed placed on the market under the provisions of this Directive, whether mandatory or discretionary, and taken during sampling. The comparative tests and trials may include the following:

- seed harvested in third countries,
- seed suitable for organic farming,
- seed marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

2. These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3. The Commission, acting in accordance with the procedure referred to in Article 28(2), shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 28(1) about the technical arrangements for holding the tests and trials and the results thereof.

4. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 28(2).

6. The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

8. Article 43 of Directive 2002/55/EC shall be replaced by the following:

'Article 43

1. Community comparative tests and trials shall be carried out within the Community for the post-control examination of samples of vegetable seed placed on the market under the provisions of this Directive, whether mandatory or discretionary, and taken during sampling. The comparative tests and trials may include the following:

- seed harvested in third countries,
- seed suitable for organic farming,
- seed marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

2. These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3. The Commission, acting in accordance with the procedure referred to in Article 46(2), shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 46(1) about the technical arrangements for holding the tests and trials and the results thereof.

4. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 46(2).

6. The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

9. Article 20 of Directive 2002/56/EC shall be replaced by the following:

'Article 20

1. Community comparative tests and trials shall be carried out within the Community for the post-control of samples of seed potatoes placed on the market under the provisions of this Directive, whether mandatory or discretionary, including those relating to plant health and taken during sampling. The comparative tests and trials may include the following:

- seed potatoes harvested in third countries,
- seed potatoes suitable for organic farming,
- seed potatoes marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

2. These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3. The Commission, acting in accordance with the procedure referred to in Article 25(2), shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 25(1) about the technical arrangements for holding the tests and trials and the results thereof. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health.

4. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 25(2).

6. The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.

7. In accordance with the procedure referred to in Article 25(2), the Commission may prohibit, in whole or in part, the marketing of seed potatoes harvested in a particular area of the Community if the progeny of officially drawn samples of basic seed potatoes or certified seed potatoes harvested in that particular area and grown in one or more Community tests and trials has for three successive years fallen appreciably below the minimum conditions laid down in Annex I(1)(c), (2)(c), (3) and (4).

8. Any measures taken under paragraph 7 shall be withdrawn by the Commission as soon as it has been established with adequate certainty that the basic seed potatoes and certified seed potatoes harvested in the particular area of the Community concerned will in future satisfy the minimum conditions referred to in paragraph 7.'

10. Article 23 of Directive 2002/57/EC shall be replaced by the following:

'Article 23

1. Community comparative tests and trials shall be carried out within the Community for the post-control of samples of seed of oil and fibre plants placed on the market under the provisions of this Directive, whether mandatory or discretionary, and taken during sampling. The comparative tests and trials may include the following:

- seed harvested in third countries,
- seed suitable for organic farming,
- seed marketed in relation to the conservation *in situ* and the sustainable use of plant genetic resources.

2. These comparative tests and trials shall be used to harmonise the technical methods of certification and to check satisfaction of the conditions with which the seed must comply.

3. The Commission, acting in accordance with the procedure referred to in Article 25(2), shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article 25(1) about the technical arrangements for holding the tests and trials and the results thereof.

4. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 1 and 2.

The financial contribution shall not exceed the annual appropriations decided by the budgetary authority.

5. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure laid down in Article 25(2).

6. The tests and trials foreseen in paragraphs 1 and 2 may be performed only by State authorities or legal persons acting under the responsibility of the State.'

#### Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 10 October 2003 at the latest. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

#### Article 3

This Directive shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

#### Article 4

This Directive is addressed to the Member States.

Done at Luxembourg, 18 June 2003.

*For the Council*

*The President*

G. DRYS

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