

Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed

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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.

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:

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.

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 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.

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 from 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.

3. Where examination of the genealogical components is necessary in order to study hybrids and synthetic varieties, 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.

Article 8

The Member States shall require that when lodging an application for the acceptance of a variety the applicant indicate whether acceptance has already been applied for in another Member State, which Member State was concerned, and whether the application was granted.

Article 9

1. Member States may accept varieties which have been officially accepted in their territory before 1 July 1970 without having to carry out further examinations based on the principles of this Directive if it is apparent from previous examinations that the varieties are distinct, stable and sufficiently uniform, Examination of the characters fixed in accordance with Article 7 (2) must be completed by 30 June 1975 at the latest.

2. 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 10

1. The Member States shall arrange for official publication of the catalogue of varieties accepted in their territory and, where maintenance breeding of the variety is required, the name of the person or persons responsible for this in their countries. Where several persons are responsible for the maintenance of a variety, the names need not be published. If the names are not published, the catalogue shall indicate the authority holding the list of names of persons responsible for maintenance of the variety.

2. The Member States shall, as far as possible, ensure at the time of acceptance that the variety is known by the same name in all Member States.

If it is known that seed or young plants of a given variety are marketed in another country under a different name, that name shall also be indicated in the catalogue.

3. The Member States shall compile a special file on each variety accepted, containing a description of the variety and a clear summary of all the facts on which the acceptance was based. The description of the varieties shall relate to plants produced directly from seed of the category " certified seed" or the category " standard seed" .

Article 11

1. The catalogue of varieties and any alterations made to it shall be sent forthwith to the Member States and the Commission.

2. The Member States shall, for each new variety accepted, send the other Member States and the Commission a brief description of its characteristics in respect of use of which they have notice as a result of the acceptance procedure.

3. Each Member State shall make available to the other Member States and the Commission the files referred to in Article 10 (3) on the varieties accepted or which have ceased to be accepted. Information exchanged concerning these files shall be treated as confidential.

4. The Member States shall ensure that the acceptance files are made available for the personal and exclusive use of any person able to show a legitimate interest. These provisions shall not apply where the information must under Article 7 (3) be treated as confidential.

5. Where acceptance of a variety is refused or revoked, the results of the examinations shall be made available to persons affected by such decision.

Article 12

1. The Member States shall provide that the varieties accepted must be maintained according to accepted practices for the maintenance of the variety. This rule shall not apply to varieties whose seed may not be checked except as standard seed but which are widely known on 1 July 1970.

2. It must at all times be possible to check maintenance from the records kept by the person or persons responsible for the variety. These records shall also cover the production of all generations prior to basic seed.

3. Samples may be requested from the person responsible for the variety. Such samples may if necessary be taken officially.

4. Where maintenance takes place in a Member State other than that in which the variety was

accepted, the Member States concerned shall assist each other administratively as regards control.

Article 13

1. Acceptance shall be valid until the end of the tenth calendar year following acceptance.
2. Acceptance of a variety may be renewed at given intervals if it is still cultivated on such a scale as to justify this and provided that the requirements as to distinctness, uniformity and stability are still satisfied. Applications for renewal shall be submitted not later than two years before expiry of acceptance.
3. The period of validity of acceptance shall be extended provisionally until a decision is taken on the application for renewal.

Article 14

1. The Member States shall ensure that acceptance of a variety is revoked: (a) if it is proved, on examination, that the variety is no longer distinct, stable or sufficiently uniform; (b) if the person or persons responsible for the variety so request, except where there is maintenance of the variety.

2. Member States may revoke the acceptance of a variety: (a) if the laws, regulations and administrative provisions adopted in pursuance of this Directive are not complied with; (b) if, at the time of the application for acceptance or during examination, false or fraudulent particulars were supplied concerning the facts on the basis of which acceptance was granted.

Article 15

1. The Member States shall ensure that a variety is deleted from their catalogues if acceptance of the variety has been revoked or if the period of validity of the acceptance has expired.
2. Member States may, in respect of their own territory, allow a period of not more than three years after expiry of the acceptance for the disposal of seed.

Article 16

1. The Member States shall ensure that, after expiry of a period of two months following the publication referred to in Article 17, seed of varieties accepted in accordance with the provisions of this Directive are subject to no marketing restrictions relating to variety.
2. By way of derogation from paragraph 1, a Member State may, upon application which will be dealt with as provided in Article 40, be authorised to prohibit the marketing in all or part of its territory of seed of the variety in question if the variety is not distinct, stable or sufficiently uniform. The application shall be lodged before the end of the third calendar year following that of acceptance.
3. The period provided for in paragraph 2 may be extended before expiry, in accordance with the procedure laid down in Article 40, where there is good reason.
4. In the case of varieties accepted before 1 July 1972 the period provided for in the second sentence of paragraph 2 shall run from 1 July 1972.

Article 17

The Commission shall, on the basis of the information supplied by the Member States and as this is received, publish in the Official Journal of the European Communities under the title "Common Catalogue of Varieties of Vegetable Species" a list of all varieties whose seed is subject under Article 16 to no marketing restrictions as regards variety, and also the information

required under Article 10 (1) concerning the person or persons responsible for maintenance of the variety. The published notice shall indicate the Member States which have received an authorisation under Article 16 (2) or Article 18.

Article 18

If it is established that the cultivation of a variety included in the common catalogue of varieties of vegetable species may be harmful from the point of view of plant health to the cultivation of other varieties or species growing in a Member State, that Member State may upon application, which will be dealt with as provided in Article 40, be authorised to prohibit the marketing of seed of that variety in all or part of its territory. Where there is imminent danger of the spread of harmful organisms, and until such time as a final decision has been taken in accordance with the procedure laid down in Article 40, this prohibition may be imposed by the Member State concerned as soon as its application has been lodged.

Article 19

Where a variety ceases to be accepted in the Member State which initially accepted it, one or more other Member States may continue to accept that variety provided that the requirements for acceptance continue to be met in their territory. If the variety in question is one whose maintenance is required, this must remain assured.

Article 20

1. The Member States shall provide that vegetable seed may not be placed on the market unless it has been officially certified as " basic seed" or " certified seed" , or is standard seed, and unless it satisfies the conditions laid down in Annex II.
2. From 1 July 1977 it may, under the procedure laid down in Article 40, be provided that after specified dates seed of certain vegetable species may not be placed on the market unless it has been officially certified as " basic seed" or " certified seed" .
3. The Member States shall ensure that official examinations of seeds are carried out in accordance with current international methods, in so far as such methods exist.
4. Member States may provide for derogations from the provisions of paragraph 1: (a) for seed of generations prior to basic seed;
(b) for tests or for scientific purposes;
(c) for selection work;
(d) for seed " as grown" and sold to be prepared for marketing, provided that the identity of the seed is ensured.

Article 21

Member States may, however, by way of derogation from the provisions of Article 20: (a) authorise the official certification and marketing of basic seed which does not satisfy the conditions laid down in Annex I in respect of germination. In this case, 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 the 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 and marketing as far as the first buyer by way of trade of seed of the categories " basic seed" or " certified seed" . Certification 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 reference number of the lot.

These provisions shall not apply to seed imported from third countries, save as otherwise provided in Article 31 in respect of multiplication outside the Community.

Article 22

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

Article 23

1. The Member States shall require that for the examination of seed for certification and for post-control tests, samples are drawn officially in accordance with appropriate methods.

These provisions shall also apply where samples of standard seed are drawn officially for post-control tests.

2. For the examination of seed for certification and for post-control tests, 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 24

1. The Member States shall require that basic seed, certified seed and standard seed be marketed only in sufficiently homogeneous lots and in sealed containers bearing, as prescribed in Articles 25 and 26, 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 25

1. The Member States shall require that packages of basic seed and certified seed not made up in the form of small packets be officially sealed in such a manner that when the container is opened the seal is damaged and cannot be reattached.

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 26 (1) .

3. Packages of standard seed and small packets of seeds of the category " certified seed" shall be sealed in such a manner that when the container is opened, the seal is damaged and cannot be reattached. Except in the case of small packets, they shall also bear a lead or equivalent seal attached by the person responsible for attaching the labels.

Article 26

1. Member States shall require that packages of basic seed and certified seed not made up in the form of small packets: (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 (A) ; it shall be attached with the official seal ; the colour of the label shall be white for basic seed and blue for certified seed ; the use of adhesive labels shall be authorised ; these may be used as official seals ; if, as envisaged in Article 21, the basic seed does not satisfy the conditions laid down in Annex II in 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) ; this document is not necessary if the information is printed indelibly on the container.

The label shall not be required for transparent containers if the official document inside gives the information required under subparagraph (a) and can be read through the container.

2. In the case of varieties which are widely known on 1 July 1970, reference may also be made on the label to any particular method for maintenance of the variety. It shall be prohibited to refer to any special properties which might be connected with such method.

3. Packages of standard seed and small packets of seed of the category " certified seed" shall, as required under Annex IV (b) , bear a supplier' s label or a printed or stamped notice in one of the official languages of the Community. The colour of the label shall be blue for certified seed and dark yellow for standard seed.

Article 27

The Member States shall take all measures necessary to ensure that in the case of small packets of certified seed the identity of the seed can be checked, in particular at the time when seed lots are divided up. To this end, they may require that small packets made up in their territory be sealed officially or under official supervision.

Article 28

The Member States shall retain the right to require that in cases other than those provided for in Articles 21 and 26, containers of basic seed, certified seed or standard 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 additional information from the supplier, either printed on a label or stamped directly on the container.

Article 29

The Member States shall require that any chemical treatment of basic seed, certified seed or standard seed be noted either on the official label or on the supplier' s label and on the container or inside it. For small packets, this information may be printed directly on the container or inside it.

Article 30

1. The Member States shall ensure that basic seed and certified seed which have been officially certified and whose containers have been officially marked and sealed as prescribed in this Directive, and also certified seed made up in small packets and standard seed whose containers have been marked and sealed as prescribed in this Directive, are subject to no marketing restrictions as regard their characters, examination arrangements, marking and sealing other than those laid down in this Directive.

2. From 1 July 1977 and until such time as a decision has been taken under Article 20 (2) any Member State may upon application, which will be dealt with under Article 40, be authorised to provide that after specified dates seed of certain species of vegetable may not be placed on the market unless it has been officially certified as " basic seed" or " certified seed" .

Article 31

1. The Member States shall provide that vegetable seed produced directly from basic seed certified in one Member State and harvested in another Member State or in a third country may be certified in the State which produced the basic seed if that seed has undergone field inspection satisfying the conditions laid down in Annex I, and if official examination has shown that the conditions laid down in Annex II for certified seed are satisfied.

2. Paragraph 1 shall apply in like manner to the certification of certified seed produced directly from seed of a generation prior to basic seed which can satisfy and is shown by official

examination to satisfy the conditions laid down in Annexes I and II for basic seed.

Article 32

1. The Council, acting by a qualified majority on a proposal from the Commission, shall determine whether: (a) the official examinations of varieties carried out in the third country afford the same assurances as those provided for in Article 7 and carried out in the Member States;

(b) the checks on practices for the maintenance of the varieties carried out in the third country afford the same assurances as those carried out by the Member States;

(c) in the cases referred to in Article 31, the field inspections in the third country satisfy the conditions laid down in Annex I;

(d) vegetable seed harvested in a third country and affording the same assurances as regards its characters and the arrangements for its examination, for ensuring identity, for marking and for control, is equivalent in these respects to basic seed, certified seed or standard seed harvested within the Community and complying with the provisions of this Directive.

2. Until such time as the Council has taken a decision under paragraph 1, the Member States shall be free to take such decisions themselves. This right shall expire on 30 June 1975.

Article 33

1. In order to remove any temporary difficulties in the general supply of basic seed, certified seed or standard seed that occur in one or more States and which cannot be overcome within the Community, one or more Member States may be authorised, in accordance with the procedure laid down in Article 40, to accept for marketing, for a specified period, seed of a category satisfying less stringent requirements.

2. For a category of seeds of any given variety, the official label or the supplier's label shall be that provided for the corresponding category; in all other cases, it shall be brown. The label shall always state that the seed in question is of a category satisfying less stringent requirements.

Article 34

This Directive shall not apply to vegetable seed shown to be intended for export to third countries.

Article 35

The Member States shall make suitable arrangements for vegetable seed to be officially controlled, at least by check sampling, as regards its compliance with the requirements of this Directive.

Article 36

The Member States shall ensure that seed of the categories "certified seed" and "standard seed" is subject to official post-control in the field by check inspection to compare their varietal identity and purity with standard controls.

Article 37

1. The Member States shall ensure that the persons responsible for affixing the labels for standard seed intended for marketing: (a) inform them of the dates when their activities begin and end;

(b) keep records of all lots of standard seed and make them available to the Member States for not less than three years;

(c) make available to the Member States for not less than two years a control sample of seed of

varieties for which maintenance is not required;

(d) draw samples from each lot intended for marketing and make them available to the Member States for not less than two years.

The operations referred to in sections (b) and (d) shall be subject to official checks carried out on a random basis.

2. Member States shall ensure that any person intending in accordance with Article 26 (2) to make reference to methods for the maintenance of a variety state this intention in advance.

Article 38

1. If it is repeatedly found, during post-control tests carried out in the field, that seed of any one variety does not adequately satisfy the conditions laid down in respect of varietal identity purity, the Member States shall ensure that the person marketing it is wholly or partially forbidden to market such seed (where appropriate, for a specified period) .

2. Any measures taken under paragraph 1 shall be withdrawn as soon as it has been established with adequate certainty that the seed intended for marketing will in future satisfy the conditions as to varietal identity and purity.

Article 39

1. Community comparative tests shall be carried out within the Community for the post-control of samples of basic seed (excluding basic seed of hybrid and synthetic varieties) , certified seed and standard seed of vegetables, taken during check sampling ; these tests shall be subject to inspection by the Committee referred to in Article 40. Satisfaction of the conditions with which the seed must comply may be checked during the post-control tests.

2. These comparative tests shall, during a first stage, be used to harmonise the technical methods of certification and post-control so as to obtain results which are equivalent. As soon as this aim is achieved, progress reports shall be made on the comparative tests and sent in confidence to the Member States and to the Commission. The date for the first report shall be set in accordance with the procedure laid down in Article 40.

3. Arrangements for carrying out the comparative tests shall be adopted in accordance with the procedure laid down in Article 40. Vegetable seed harvested in third countries may be included in the comparative tests.

Article 40

1. Where the procedure laid down in this Article is to be followed, matters shall be referred by the Chairman, either on his own initiative or at the request of the representative of a Member State, to the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry (hereinafter called the " Committee") .

2. Within the Committee, the votes of the Member States shall be weighted as provided in Article 148 (2) of the Treaty. The Chairman shall not vote.

3. The representative of the Commission shall submit a draft of measures to be adopted. The Committee shall deliver its opinion on such measures within a time limit set by the Chairman according to the urgency of the matter. Opinions shall be adopted by a majority of twelve votes.

4. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 41

Save as otherwise provided in Article 18 and in Annexes I and II, this Directive shall be without prejudice to the provisions of national laws justified on grounds of the protection of health and life of humans, animals or plants or the protection of industrial or commercial property.

Article 42

Upon application by a Member State, which will be dealt with as provided in Article 40, that State may be wholly or partially released from the obligation to apply this Directive in respect of certain species if seed of those species is not normally reproduced or marketed in its territory.

Article 43

The Member States shall, not later than 1 July 1972, bring into force the laws, regulations or administrative provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

Article 44

This Directive is addressed to the Member States.

Done at Brussels, 29 September 1970.

For the Council

The President

J. ERTL

ANNEX I

CONDITIONS FOR CROP CERTIFICATION

1. The crop shall have sufficient varietal identity and purity.
2. In the case of basic seed, at least one official field inspection shall be carried out. In the case of certified seed, at least one field inspection shall be carried out, officially controlled by means of check inspection of at least 20 % of the crop of each species.
3. The cultural condition of the field and the stage of development of the crop shall be such as to permit varietal identity and purity and health status to be adequately checked.
4. The minimum distances from neighbouring crops which might result in undesirable foreign pollination shall be:
 - A. Beta and Brassica species 1. From sources of foreign pollen liable to cause serious deterioration of varieties of Beta and Brassica species:
 2. From other sources of foreign pollen liable to cross with varieties of Beta and Brassica species:

B. Other species 1. From sources of foreign pollen liable to cause serious deterioration of varieties of other species as a result of cross-fertilisation:

2. From other sources of foreign pollen liable to cross with varieties of other species as a result of cross-fertilisation:

These distances can be disregarded if there is sufficient protection from any undesirable foreign pollination.

5. Diseases and harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

ANNEX II

CONDITIONS TO BE SATISFIED BY THE SEED

1. The seeds shall have sufficient varietal identity and purity.
2. Diseases and harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.
3. The seeds shall also satisfy the following conditions: (a) Standards

(b) Additional requirements (i) legume seed shall not be contaminated by the following live insects:

Acanthoscelides obtectus sag.

Bruchus affinis Froel.

Bruchus atomarius L.

Bruchus pisorum L.

Bruchus rufimanus Boh.

(ii) seed shall not be contaminated by live Acarina.

ANNEX III

1. Maximum weight of a seed lot

2. Minimum weight of a sample

In the case of F 1 hybrid varieties of the above species, the minimum weight of the sample may be reduced to a quarter of the weight specified for the variety. The number of seeds per sample must be not less than 200.

ANNEX IV

Label

A. Official label (basic seed and certified seed, excluding small packets) (a) Required information 1. " EEC rules and standards"

2. Certification authority and Member State or their initials

3. Month and year of official sealing

4. Reference number of lot

5. Species

6. Variety

7. Category

8. Country of production

9. Declared net or gross weight

(b) Minimum dimensions

110 × 67 mm

B. Supplier's label or inscription on the container (standard seed and small packages of the category " certified seed") (a) Required information 1. " EEC rules and standards"

2. Name and address of the supplier responsible for affixing the labels or his identification mark

3. Month and year of sealing, except in the case of small packets
4. Species
5. Variety
6. Category
7. Reference number given by the supplier responsible for affixing the labels - in the case of standard seed
8. Reference number enabling the certified lot to be identified - in the case of small packets of seed of the category " certified seed"
9. Country of production, except in the case of small packets of up to 100 g
10. Declared net or gross weight, except in the case of small packets of up to 100 g

(b) Minimum dimensions of the label (excluding small packets)
110 × 67 mm