

COMMISSION DIRECTIVE 2009/97/EC

of 3 August 2009

amending Directives 2003/90/EC and 2003/91/EC setting out implementing measures for the purposes of Article 7 of Council Directives 2002/53/EC and 2002/55/EC respectively, as regards the characteristics to be covered as a minimum by the examination and the minimum conditions for examining certain varieties of agricultural plant species and vegetable species

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species ⁽¹⁾, and in particular Article 7(2)(a) and (b) thereof,

Having regard to Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed ⁽²⁾, and in particular Article 7(2)(a) and (b) thereof,

Whereas:

- (1) Commission Directives 2003/90/EC ⁽³⁾ and 2003/91/EC ⁽⁴⁾ were adopted to ensure that the varieties the Member States include in their national catalogues comply with the guidelines established by the Community Plant Variety Office (CPVO) as regards the characteristics to be covered as a minimum by the examination of the various species and the minimum conditions for examining the varieties, as far as such guidelines had been established. For other varieties those Directives provide that guidelines of the International Union for Protection of new Varieties of Plants (UPOV) are to apply.
- (2) The CPVO has since established further guidelines for a number of other species, and has updated existing ones.
- (3) As regards Directive 2003/90/EC, guidelines have to be added for new species which have recently been included in the lists of species covered by Directives 66/401/EEC ⁽⁵⁾ and 66/402/EEC ⁽⁶⁾.

(4) Directives 2003/90/EC and 2003/91/EC should therefore be amended accordingly.

(5) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I and II to Directive 2003/90/EC are replaced by the text in part A of the Annex to this Directive.

Article 2

The Annexes to Directive 2003/91/EC are replaced by the text in part B of the Annex to this Directive.

Article 3

For examinations started before 1 January 2010 Member States may apply Directives 2003/90/EC and 2003/91/EC in the version applying before their amendment by this Directive.

Article 4

Member States shall adopt and publish, by 31 December 2009 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 January 2010.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

⁽¹⁾ OJ L 193, 20.7.2002, p. 1.

⁽²⁾ OJ L 193, 20.7.2002, p. 33.

⁽³⁾ OJ L 254, 8.10.2003, p. 7.

⁽⁴⁾ OJ L 254, 8.10.2003, p. 11.

⁽⁵⁾ OJ 125, 11.7.1966, p. 2298/66.

⁽⁶⁾ OJ 125, 11.7.1966, p. 2309/66.

Article 5

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

Article 6

This Directive is addressed to the Member States.

Done at Brussels, 3 August 2009.

For the Commission
Androulla VASSILIOU
Member of the Commission

ANNEX

PARTE A

'ANNEX I

List of species referred to in Article 1(2)(a) which are to comply with CPVO test protocols

| Scientific name | Common name | CPVO protocol |
|---|--|-----------------------------|
| <i>Pisum sativum</i> L. | Field pea | TP 7/1 of 6.11.2003 |
| <i>Vicia faba</i> L. | Field bean | TP Broadbean/1 of 25.3.2004 |
| <i>Brassica napus</i> L. | Swede rape | TP 36/1 of 25.3.2004 |
| <i>Helianthus annuus</i> L. | Sunflower | TP 81/1 of 31.10.2002 |
| <i>Linum usitatissimum</i> L. | Flax/Linseed | TP 57/1 of 21.3.2007 |
| <i>Avena nuda</i> L. | Small naked oat, Hulless oat | TP 20/1 of 6.11.2003 |
| <i>Avena sativa</i> L. (includes <i>A. byzantina</i> K. Koch) | Oats and Red oat | TP 20/1 of 6.11.2003 |
| <i>Hordeum vulgare</i> L. | Barley | TP 19/2 of 6.11.2003 |
| <i>Oryza sativa</i> L. | Rice | TP 16/1 of 18.11.2004 |
| <i>Secale cereale</i> L. | Rye | TP 58/1 of 31.10.2002 |
| <i>xTriticosecale</i> Wittm. ex A. Camus | Hybrids resulting from the crossing of a species of the genus <i>Triticum</i> and a species of the genus <i>Secale</i> | TP 121/2 of 22.1.2007 |
| <i>Triticum aestivum</i> L. | Wheat | TP 3/4 of 23.6.2008 |
| <i>Triticum durum</i> Desf. | Durum wheat | TP 120/2 of 6.11.2003 |
| <i>Zea mays</i> L. | Maize | TP 2/2 of 15.11.2001 |
| <i>Solanum tuberosum</i> L. | Potato | TP 23/2 of 1.12.2005 |

The text of these protocols can be found on the CPVO web site (www.cpvo.europa.eu).

ANNEX II

List of species referred to in Article 1(2)(b) which are to comply with UPOV test guidelines

| Scientific name | Common name | UPOV guideline |
|--------------------------------|--------------------|-----------------------|
| <i>Beta vulgaris</i> L. | Fodder beet | TG/150/3 of 4.11.1994 |
| <i>Agrostis canina</i> L. | Velvet bent | TG/30/6 of 12.10.1990 |
| <i>Agrostis gigantea</i> Roth. | Red top | TG/30/6 of 12.10.1990 |
| <i>Agrostis stolonifera</i> L. | Creeping bent | TG/30/6 of 12.10.1990 |
| <i>Agrostis capillaris</i> L. | Brown top | TG/30/6 of 12.10.1990 |
| <i>Bromus catharticus</i> Vahl | Rescue grass | TG/180/3 of 4.4.2001 |
| <i>Bromus sitchensis</i> Trin. | Alaska brome grass | TG/180/3 of 4.4.2001 |
| <i>Dactylis glomerata</i> L. | Cocksfoot | TG/31/8 of 17.4.2002 |

| Scientific name | Common name | UPOV guideline |
|--|-----------------------------|------------------------|
| <i>Festuca arundinacea</i> Schreber | Tall fescue | TG/39/8 of 17.4.2002 |
| <i>Festuca filiformis</i> Pourr. | Fine-leaved sheep's fescue | TG/67/5 of 5.4.2006 |
| <i>Festuca ovina</i> L. | Sheep's fescue | TG/67/5 of 5.4.2006 |
| <i>Festuca pratensis</i> Huds. | Meadow fescue | TG/39/8 of 17.4.2002 |
| <i>Festuca rubra</i> L. | Red fescue | TG/67/5 of 5.4.2006 |
| <i>Festuca trachyphylla</i> (Hack.) Krajina | Hard fescue | TG/67/5 of 5.4.2006 |
| <i>Lolium multiflorum</i> Lam. | Italian ryegrass | TG/4/8 of 5.4.2006 |
| <i>Lolium perenne</i> L. | Perennial ryegrass | TG/4/8 of 5.4.2006 |
| <i>Lolium x boucheanum</i> Kunth | Hybrid ryegrass | TG/4/8 of 5.4.2006 |
| <i>Phleum nodosum</i> L. | Small timothy | TG/34/6 of 7.11.1984 |
| <i>Phleum pratense</i> L. | Timothy | TG/34/6 of 7.11.1984 |
| <i>Poa pratensis</i> L. | Smooth-stalked meadow grass | TG/33/6 of 12.10.1990 |
| <i>Lupinus albus</i> L. | White lupin | TG/66/4 of 31.3.2004 |
| <i>Lupinus angustifolius</i> L. | Narrow-leaved lupin | TG/66/4 of 31.3.2004 |
| <i>Lupinus luteus</i> L. | Yellow lupin | TG/66/4 of 31.3.2004 |
| <i>Medicago sativa</i> L. | Lucerne | TG/6/5 of 6.4.2005 |
| <i>Medicago x varia</i> T. Martyn | Sand lucerne | TG/6/5 of 6.4.2005 |
| <i>Trifolium pratense</i> L. | Red clover | TG/5/7 of 4.4.2001 |
| <i>Trifolium repens</i> L. | White clover | TG/38/7 of 9.4.2003 |
| <i>Vicia sativa</i> L. | Common vetch | TG/32/6 of 21.10.1988 |
| <i>Brassica napus</i> L. var. <i>napobrassica</i> (L.) Rchb. | Swede | TG/89/6 of 4.4.2001 |
| <i>Raphanus sativus</i> L. var. <i>oleiformis</i> Pers. | Fodder radish | TG/178/3 of 4.4.2001 |
| <i>Arachis hypogea</i> L. | Groundnut/Peanut | TG/93/3 of 13.11.1985 |
| <i>Brassica rapa</i> L. var. <i>silvestris</i> (Lam.) Briggs | Turnip rape | TG/185/3 of 17.4.2002 |
| <i>Carthamus tinctorius</i> L. | Safflower | TG/134/3 of 12.10.1990 |
| <i>Gossypium</i> spp. | Cotton | TG/88/6 of 4.4.2001 |
| <i>Papaver somniferum</i> L. | Poppy | TG/166/3 of 24.3.1999 |
| <i>Sinapis alba</i> L. | White mustard | TG/179/3 of 4.4.2001 |
| <i>Glycine max</i> (L.) Merrill | Soya bean | TG/80/6 of 1.4.1998 |
| <i>Sorghum bicolor</i> (L.) Moench | Sorghum | TG/122/3 of 6.10.1989 |

The text of these guidelines can be found on the UPOV web site (www.upov.int).

PARTE B

'ANNEX I

List of species referred to in Article 1(2)(a) which are to comply with CPVO test protocols

| Scientific name | Common name | CPVO protocol |
|---|--|-----------------------|
| <i>Allium cepa</i> L. (Cepa group) | Onion and Echalion | TP 46/2 of 1.4.2009 |
| <i>Allium cepa</i> L. (Aggregatum group) | Shallot | TP 46/2 of 1.4.2009 |
| <i>Allium porrum</i> L. | Leek | TP 85/2 of 1.4.2009 |
| <i>Allium sativum</i> L. | Garlic | TP 162/1 of 25.3.2004 |
| <i>Allium schoenoprasum</i> L. | Chives | TP 198/1 of 1.4.2009 |
| <i>Apium graveolens</i> L. | Celery | TP 82/1 of 13.3.2008 |
| <i>Apium graveolens</i> L. | Celeriac | TP 74/1 of 13.3.2008 |
| <i>Asparagus officinalis</i> L. | Asparagus | TP 130/1 of 27.3.2002 |
| <i>Beta vulgaris</i> L. | Beetroot including Cheltenham beet | TP 60/1 of 1.4.2009 |
| <i>Brassica oleracea</i> L. | Cauliflower | TP 45/1 of 15.11.2001 |
| <i>Brassica oleracea</i> L. | Sprouting broccoli or Calabrese | TP 151/2 of 21.3.2007 |
| <i>Brassica oleracea</i> L. | Brussels sprouts | TP 54/2 of 1.12.2005 |
| <i>Brassica oleracea</i> L. | Kohlrabi | TP 65/1 of 25.3.2004 |
| <i>Brassica oleracea</i> L. | Savoy cabbage, White cabbage and Red cabbage | TP 48/2 of 1.12.2005 |
| <i>Brassica rapa</i> L. | Chinese cabbage | TP 105/1 of 13.3.2008 |
| <i>Capsicum annuum</i> L. | Chilli or Pepper | TP 76/2 of 21.3.2007 |
| <i>Cichorium endivia</i> L. | Curled-leaved endive and Plain-leaved endive | TP 118/2 of 1.12.2005 |
| <i>Cichorium intybus</i> L. | Industrial chicory | TP 172/2 of 1.12.2005 |
| <i>Cichorium intybus</i> L. | Witloof chicory | TP 173/1 of 25.3.2004 |
| <i>Citrullus lanatus</i> (Thumb.) Matsum. et Nakai | Watermelon | TP 142/1 of 21.3.2007 |
| <i>Cucumis melo</i> L. | Melon | TP 104/2 of 21.3.2007 |
| <i>Cucumis sativus</i> L. | Cucumber and Gherkin | TP 61/2 of 13.3.2008 |
| <i>Cucurbita pepo</i> L. | Marrow or Courgette | TP 119/1 of 25.3.2004 |
| <i>Cynara cardunculus</i> L. | Globe artichoke and Cardoon | TP 184/1 of 25.3.2004 |
| <i>Daucus carota</i> L. | Carrot and Fodder carrot | TP 49/3 of 13.3.2008 |
| <i>Foeniculum vulgare</i> Mill. | Fennel | TP 183/1 of 25.3.2004 |
| <i>Lactuca sativa</i> L. | Lettuce | TP 13/4 of 1.4.2009 |
| <i>Lycopersicon esculentum</i> Mill. | Tomato | TP 44/3 of 21.3.2007 |
| <i>Petroselinum crispum</i> (Mill.) Nyman ex A. W. Hill | Parsley | TP 136/1 of 21.3.2007 |

| Scientific name | Common name | CPVO protocol |
|--|--|-----------------------------|
| <i>Phaseolus coccineus</i> L. | Runner bean | TP 9/1 of 21.3.2007 |
| <i>Phaseolus vulgaris</i> L. | Dwarf French bean and Climbing French bean | TP 12/3 of 1.4.2009 |
| <i>Pisum sativum</i> L. (partim) | Wrinkled pea, Round pea and Sugar pea | TP 7/1 of 6.11.2003 |
| <i>Raphanus sativus</i> L. | Radish | TP 64/1 of 27.3.2002 |
| <i>Solanum melongena</i> L. | Aubergine or Egg plant | TP 117/1 of 13.3.2008 |
| <i>Spinacia oleracea</i> L. | Spinach | TP 55/2 of 13.3.2008 |
| <i>Valerianella locusta</i> (L.) Laterr. | Corn salad or Lamb's lettuce | TP 75/2 of 21.3.2007 |
| <i>Vicia faba</i> L. (partim) | Broad bean | TP Broadbean/1 of 25.3.2004 |
| <i>Zea mays</i> L. (partim) | Sweet corn and Pop corn | TP 2/2 of 15.11.2001 |

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ANNEX II

List of species referred to in Article 1(2)(b) which are to comply with UPOV test guidelines

| Scientific name | Common name | UPOV guideline |
|----------------------------------|---|------------------------|
| <i>Allium fistulosum</i> L. | Japanese bunching onion or Welsh onion | TG/161/3 of 1.4.1998 |
| <i>Beta vulgaris</i> L. | Spinach beet or Chard | TG/106/4 of 31.3.2004 |
| <i>Brassica oleracea</i> L. | Curly kale | TG/90/6 of 31.3.2004 |
| <i>Brassica rapa</i> L. | Turnip | TG/37/10 of 4.4.2001 |
| <i>Cichorium intybus</i> L. | Large-leaved chicory or Italian chicory | TG/154/3 of 18.10.1996 |
| <i>Cucurbita maxima</i> Duchesne | Gourd | TG/155/4 of 28.3.2007 |
| <i>Raphanus sativus</i> L. | Black radish | TG/63/6 of 24.3.1999 |
| <i>Rheum rhabarbarum</i> L. | Rhubarb | TG/62/6 of 24.3.1999 |
| <i>Scorzonera hispanica</i> L. | Scorzonera or Black salsify | TG/116/3 of 21.10.1988 |

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