

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(89) 650 final

Brussels, 6 February 1990

Proposal for a  
COUNCIL REGULATION (EEC)  
on the marketing of ornamental plant propagating material  
and ornamental plants

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(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The production of ornamental plants occupies an important place in Community agriculture. There are, however, at present no quality standards laid down at Community level for ornamental plant propagating material or ornamental plants and, although Council Directive 77/93/EEC on protective measures against the introduction of organisms harmful to plants or plant products (1) lays down certain plant health standards for these two types of material, they apply only to trade between Member States, not to Member States' domestic production.
2. In order to ensure satisfactory results in the cultivation of ornamental plants, certain Member States have, in the absence of Community standards, introduced national rules intended to guarantee the quality and health of ornamental plant propagating material and ornamental plants placed on the market. Propagating material and ornamental plants are thus accorded different treatment in different Member States and there is a likelihood that barriers to trade may arise which hinder the free movement of these goods within the Community.
3. With this in mind, the Commission, in its White Paper 'Completing the Internal Market' (2), identified the establishment of Community rules for the marketing of ornamental plant propagating material and ornamental plants as one of the legislative measures needed for completion of the internal market (see Annex to the White Paper, p. 11 - 'Proposal for a system of certification of reproductive materials for decorative plants').
4. The present proposal is intended to fulfil that need. It would harmonize at Community level the quality and plant health standards which must be met by propagating material (including seeds) and ornamental plants marketed in the Member States, and would ensure that material meeting these standards can move freely throughout the Community. It is framed as a Regulation so that these standards become directly and simultaneously effective in all Member States.

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(1) OJ No L 26, 31.1.1973, p. 20.

(2) COM(85) 310 final.

5. As a first step towards harmonization, Member States will be prohibited, with immediate effect, from imposing any new conditions or marketing restrictions on propagating material or ornamental plants of any ornamental genus or species (Article 14(1)). Thereafter the new Community standards will be introduced progressively, for each genus and species, beginning with the genera and species of major economic importance in the Community (listed in Article 1(2)). The extension of the standards to further genera and species is provided for in Article 1(3)). The standards will be applicable to material marketed both in intra-Community trade and in the domestic trade of Member States.
6. Compliance with the Community standards will be attested by official certification following official examination of the material concerned. Except for 'classified plants' (see below), only certified material may be marketed (Article 6). Material must be certified in one of three categories, 'nuclear stock' (basic propagating material produced under the responsibility of the plant breeder), 'propagating stock' and 'certified plants'.
7. Community standards, both quality and plant health, will be laid down for each genus and species and, within each genus and species, for each category. They will be set out in Schedules established in accordance with a Community procedure (Article 4). They will come into force for each species at a date fixed at the time the relevant Schedule is established. This date may not be later than 1 January 1993 (Article 24(2)).
8. It is, however, considered impracticable at present to restrict marketing to certified material, as there is unlikely to be sufficient to satisfy Community demand. Article 7 therefore permits, for transitional periods only, the marketing of 'classified plants' which meet less rigorous requirements. These requirements will be set out in the Article 4 Schedule established for the relevant genus or species.

9. In addition to establishing quality and plant health standards, the Regulation
  - (1) imposes certain obligations on suppliers, with a view to proper production and storage of propagating material and ornamental plants and adequate monitoring by Member States (Article 5);
  - (2) requires that, as far as possible, propagating material and ornamental plants placed on the market must belong to a variety officially accepted in one or more Member States, so as to ensure that the varieties available are good varieties produced by systematic plant selection work (Article 9);
  - (3) lays down Community rules concerning separation and homogeneity of lots, packing, sealing and marking. By virtue of these, orderly marketing of propagating material and ornamental plants will be guaranteed, their identity ensured and necessary information concerning their characteristics and their compliance with Community standards will be conveyed to purchasers and to the authorities responsible for control (Articles 11 and 12).
10. Material which complies with the requirements and conditions of the Regulation may move freely throughout the Community (Article 14(2)).
11. There is provision for the adoption of rules permitting, in the case of temporary supply difficulties, the marketing of propagating material and ornamental plants subject to less stringent requirements (Article 13); for establishing a Community regime for importation from third countries (Article 16); and for carrying out comparative tests in order to harmonize technical methods of examination and to compare material produced in the Community with third country material (Article 19).
12. The proposal provides for a management committee procedure for the adoption of the more important measures needed to implement and manage the Scheme. The measures concerned are those which will have direct implications for plant health in Member States, for example, the establishment of the Article 4 Schedules of Community standards and

decisions on the equivalence of third country material. The decision to propose this procedure is without prejudice to future Commission proposals relating to decision-making procedures. Moreover, the proposal provides for a consultative committee procedure for measures of a technical nature, for example, the establishment of rules for carrying out official inspections and the adoption of arrangements for comparative tests.

13. As both quality and plant health aspects are concerned the Committee concerned in each case is a 'Joint Standing Committee' constituted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry and the Standing Committee on Plant Health, sitting together.
  
14. This proposal forms part of a wider strategy, which will be completed by other proposals to be submitted to the Council at about the same time, and will include substantial amendments to the Plant Health Directive (77/93/EEC). Together, the proposals will define the Community plant health regime after 1992. It is recognized that amendments may in future need to be made to this proposal in order to maintain coherence with the other proposals.

Proposal for a  
COUNCIL REGULATION (EEC)

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and  
in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas the production of ornamental plants occupies an important place in the  
agriculture of the Community,

Whereas satisfactory results in the cultivation of ornamental plants depend to  
a large extent on the quality and health of the material used for their  
propagation and of the plants themselves; whereas certain Member States have  
in consequence introduced rules intended to guarantee the quality and health  
of propagating material and ornamental plants placed on the market;

Whereas the different treatment accorded to propagating material and  
ornamental plants in different Member States is likely to create barriers to  
trade and thus hinder the free movement of these goods within the Community;  
whereas with a view to achieving the Single Market, these barriers should be  
removed, by setting up Community provisions to replace those laid down by the  
Member States;

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(1) OJ No C ...  
(2) OJ No C ...  
(3) OJ No C ...

Whereas the establishment of harmonised conditions at Community level will ensure that purchasers throughout the Community receive propagating material and ornamental plants which are healthy and of good quality;

Whereas, so far as they relate to plant health, such harmonised conditions must be coherent with the provisions of Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products (4), as last amended by Directive 89/439/EEC (5);

Whereas, for seed of certain genera and species of ornamental plant, harmonised conditions have already been established by Council Directive 66/404/EEC of 14 June 1966 on the marketing of forest reproductive material (6), as last amended by Directive 88/332/EEC (7); whereas, to the extent that such seed is covered by that Directive, it should not be subject to the Community rules contained herein;

Whereas it is appropriate initially to establish Community rules for those genera and species of ornamental plant which are of major economic importance in the Community, with a Community procedure for adding further genera and species later;

Whereas it is not appropriate to apply the Community rules to propagating material and ornamental plants shown to be intended for export to third countries, as the rules applicable there may be different from those contained in this Regulation;

Whereas the determination of plant health and quality standards for each genus and species of ornamental plant requires lengthy and detailed technical and scientific consideration; whereas a procedure should accordingly be established for the determination of these;

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(4) OJ No L 26, 31.1.1977, p. 20.

(5) OJ No L 212, 22.7.1989, p. 106.

(6) OJ No 125, 11.7.1966, p. 2326/66.

(7) OJ No L 151, 17.6.1988, p. 82.

Whereas requirements should be imposed on suppliers with a view to proper production and conservation, and adequate monitoring by Member States, of propagating material and ornamental plants;

Whereas, in principle, propagating material and ornamental plants should be marketed only if they have been found by official examination to meet stringent plant health and quality standards;

Whereas, although it would be desirable to restrict marketing of propagating material and ornamental plants to those meeting the abovementioned standards, this is at present impossible as Community demand could not then be satisfied; whereas, therefore, for transitional periods only, the marketing of examined classified material having sufficient varietal identity and varietal purity and meeting less stringent plant health standards should be allowed;

Whereas, so that Community producers can take advantage of good varieties produced by systematic plant selection work, Member States should, as far as practicable, compile national catalogues of the varieties of ornamental plant officially accepted for certification, examination as classified plants and marketing in their territory; whereas there should be provision for harmonising conditions of official acceptance and for the possible establishment of a common catalogue of varieties of ornamental plant species;

Whereas, in order to ensure the identity and orderly marketing of propagating material and ornamental plants, Community rules must be laid down concerning separation of lots, packing, sealing and marking; whereas the labels should give the particulars needed both for official control and for the information of the grower;

Whereas rules should be established permitting, in the case of temporary supply difficulties, the marketing of propagating material and ornamental plants subject to requirements less stringent than those contained in this Regulation;

Whereas as a first step towards harmonised conditions, Member States should be prohibited from imposing new conditions or marketing restrictions on propagating material or ornamental plants, other than those provided for in this Regulation;

Whereas provision should be made for authorising the marketing within the Community of propagating material and ornamental plants produced in third countries, provided always that they afford the same assurances as propagating material and ornamental plants produced in the Community and complying with Community rules;

Whereas, in order to harmonise technical methods of examination used in the Member States, and to compare propagating material and ornamental plants produced in the Community with those produced in third countries, comparative trials should be carried out to check compliance of propagating material and ornamental plants with the requirements of this Regulation;

Whereas, in order to facilitate the effective operation of this Regulation, the Commission should be entrusted with the task of adopting measures for its implementation and for the amendment of its Annexes; whereas such measures should be adopted by a procedure involving close cooperation between the Commission and the Member States within the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, established by Council Decision 66/399/EEC (8) and the Standing Committee on Plant Health, established by Council Decision 76/894/EEC (9);

HAS ADOPTED THIS REGULATION:

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(8) OJ No 125, 11.7.1966, p. 2289/66 .

(9) OJ No L 340, 9.12.1976, p. 25 .

Article 1

1. This Regulation applies to ornamental plant propagating material and ornamental plants intended for ornamental purposes, marketed within the Community. Seeds of genera or species listed both in Article 1(2) of this Regulation and in Article 2(1) of Directive 66/404/EEC shall be subject to the provisions of this Regulation only to the extent that Member States have provided for derogations pursuant to Article 4(2)(c) of Directive 66/404/EEC.
  
2. The following genera and species shall be subject to the rules laid down in Articles 3 to 13, 14(2), 15 to 19 and 23:
  - *Acer pseudoplatanus* L. (sycamore)
  - *Begonia x hiemalis* Fotsch (Elatior begonia)
  - *Chrysanthemum* L. (chrysanthemum)
  - *Dianthus* L. (carnation)
  - *Fraxinus excelsior* L. (ash)
  - *Lilium* L. (lily)
  - *Pelargonium peltatum* hort. non (L.) L'Hérit. ex Ait, and hybrids
  - *Pelargonium zonale* hort. non (L.) L'Hérit. ex Ait, and hybrids
  - *Pinus nigra* Arnold
  - *Populus* L. (poplar)
  - *Thuja occidentalis* L. (white cedar)

Rootstocks of other genera or species shall also be subject to the abovementioned rules if material of one of the above genera or species is grafted onto them.

3. Amendments to the list of genera and species in paragraph 2 shall be adopted in accordance with the procedure laid down in Article 20.

Article 2

This Regulation shall not apply to ornamental plant propagating material or ornamental plants shown to be intended for export to third countries.

Article 3

For the purposes of this Regulation, the following definitions shall apply :

- (a) Propagating material : seeds of ornamental plants and any ornamental plant material, other than ornamental plants, which reproduces the plants vegetatively.
  
- (b) Ornamental plants : plants which, or, in the case of grafted plants, the elements of which, were raised directly from seeds or from vegetative reproduction material, and which are intended to be planted or replanted after marketing, for ornamental purposes.
  
- (c) Nuclear stock : propagating material .
  - (i) which has been produced under the responsibility of the breeder according to accepted practices for the maintenance of the variety and of health,
  - (ii) which is intended for the production of propagating stock,
  - (iii) which satisfies the conditions for nuclear stock, laid down in the Schedule for the genus or species concerned, established pursuant to Article 4, and
  - (iv) which has been found by official examination to satisfy the above mentioned conditions.
  
- (d) Propagating stock : propagating material
  - (i) which has been obtained directly from nuclear stock or is descended vegetatively in a known number of stages from nuclear stock,
  - (ii) which is intended for the production of propagating stock or ornamental plants,

- (iii) which satisfies the conditions for propagating stock, laid down in the Schedule for the genus or species concerned established pursuant to Article 4, and
  - (iv) which has been found by official examination to satisfy the above-mentioned conditions.
- (e) Certified plants : ornamental plants
- (i) which have been obtained directly from propagating stock,
  - (ii) which satisfy the conditions for certified plants laid down in the Schedule for the genus or species concerned, established pursuant to Article 4, and
  - (iii) which have been found by official examination to satisfy the above-mentioned conditions;
- (f) Supplier : any natural or legal person who transfers ownership of propagating material or ornamental plants, including producers and traders;
- (g) Measures are "official" if taken
- (i) by State authorities, or
  - (ii) by any legal person whether governed by public or by private law, acting under the responsibility of the State, or
  - (iii) in the case of ancillary activities which are also subject to State control, by any natural person duly authorised for that purpose, provided that the persons mentioned under points (ii) and (iii) have no personal interest in the outcome of such measures.

#### Article 4

1. In accordance with the procedure laid down in Article 20, a Schedule shall be established for each genus or species referred to in Article 1(2), containing the conditions with which nuclear stock, propagating stock, certified plants and, for as long as their marketing is permitted pursuant to Article 7, classified plants must comply, in particular those relating to harmful organisms, to the growing crop and to varietal identity and varietal purity.

The Schedule may contain conditions with which rootstocks of other genera or species must comply if material of the genus or species concerned is grafted onto them.

2. Rules for carrying out the official examinations referred to in Article 3(c)(iv), 3(d)(iv), 3(e)(iii) and 7(1)(c), including sampling methods may be established in accordance with the procedure laid down in Article 21.

#### Article 5

1. Suppliers of propagating material and ornamental plants shall comply with the requirements laid down in Annex I.
2. Member States shall ensure compliance with the requirements referred to in paragraph 1 by carrying out official check inspections.

#### Article 6

1. Propagating material shall not be placed on the market
  - unless it satisfies the relevant conditions laid down in the Schedule for the genus or species concerned established pursuant to Article 4.
  - unless it has been officially certified as "nuclear stock" or "propagating stock", and
2. Subject to Article 7, ornamental plants shall not be placed on the market
  - unless they satisfy the relevant conditions laid down in the Schedule for the genus or species concerned established pursuant to Article 4 and
  - unless they have been officially certified as "certified plants".
3. Paragraphs 1 and 2 shall not apply to
  - (a) propagating material of an earlier stage of multiplication than nuclear stock,
  - (b) propagating material or ornamental plants intended for tests or for scientific purposes,
  - (c) propagating material or ornamental plants intended for selection work.

Article 7

1. Notwithstanding Article 6 and for transitional periods expiring on dates to be established in accordance with the procedure laid down in Article 20, ornamental plants may be placed on the market as "classified plants". Such plants shall
  - (a) have sufficient varietal identity and varietal purity,
  - (b) be free from the harmful organisms listed for classified plants in the Schedule to be established for the genus or species concerned pursuant to Article 4 and satisfy any other conditions laid down for classified plants therein, and
  - (c) have been found by official examination, including, where appropriate, inspection during the growing season, to satisfy the abovementioned conditions.
  
2. The dates referred to in paragraph 1 shall be no longer than ten years after the dates decided for the relevant genus or species pursuant to Article 24(2).

Article 8

Member States may

- (a) dispense with official certification of propagating material or ornamental plants and with official examination of classified plants of any genus or species not normally grown in their territory;
  
- (b) during a transitional period of not more than five years after the date of application for a particular genus or species of Articles 5 to 9, 11, 12, 14(2), 15, 17, 18 and 23, treat propagating material of that genus or species which has been used, before that date, for establishing propagating nurseries, as equivalent to propagating material certified in accordance with the provisions of this Regulation if, before being used, it afforded the same assurances as propagating material certified in accordance with those provisions.

Article 9

1. Propagating material and ornamental plants shall not be certified in any of the categories referred to in Article 6(1) or 6(2), examined as classified plants, or marketed unless their variety is officially accepted in one or more Member States. Member States shall notify the other Member States and the Commission of the conditions of acceptance and the acceptance procedures.
2. Each Member State shall establish one or more catalogues of the varieties officially accepted for certification, examination as classified plants and marketing in its territory. Any person may consult the catalogues.
3. Member States shall ensure that varieties coming from other Member States are subject to the same requirements as regards official acceptance as domestic varieties.
4. When lodging an application for official acceptance of a variety, applicants shall indicate whether acceptance has already been applied for in another Member State, which Member State was concerned, and whether the application was granted.
5. Member States shall arrange for official publication of the catalogue of varieties accepted in their territory. They shall also compile a file on each variety accepted, containing a description of the variety and a clear summary of all the facts on which acceptance was based.
6. Any application or withdrawal of an application for acceptance of a variety, any entry in a catalogue of varieties and any amendment to an entry shall be notified forthwith to the other Member States and the Commission.
7. The following may be established in accordance with the procedure laid down in Article 21, account being taken of current scientific and technical knowledge :

- (a) the conditions of official acceptance, which may include, in particular, distinctness, stability and sufficient uniformity,
  - (b) the characteristics to be covered as a minimum by the examination of the various species,
  - (c) the minimum requirements for carrying out the examinations,
  - (d) the maximum period of validity of the official acceptance of a variety.
8. A common catalogue of varieties of ornamental species may be established on the basis of the national catalogues of the Member States. Provisions regarding the compilation and publication of the common catalogue may be adopted in accordance with the procedure laid down in Article 21.

#### Article 10

Derogations for certain genera or species from some or all of the provisions of Article 9, paragraphs 1-6, may be decided in accordance with the procedure of Article 21, at the time of adoption of the corresponding Schedule pursuant to Article 4.

#### Article 11

1. While growing and during lifting or removal from the parent material, packaging, storage and transportation, propagating material and ornamental plants shall be kept in separate lots.
2. Member States shall ensure compliance with the requirements referred to in paragraph 1 by carrying out official check inspections.

#### Article 12

1. Propagating material and ornamental plants shall be marketed only in sufficiently homogeneous lots and in packages or bundles sealed and marked as prescribed in paragraphs 2 and 3. Ornamental plants shall be marked individually.

2. Packages and bundles of propagating material and ornamental plants shall be sealed officially or under official supervision so that where the package or bundle is opened the seal is damaged and cannot be re-attached.
3. The person responsible for sealing shall affix on the outside of the package or bundle of propagating material or on individual ornamental plants a label attesting compliance with the condition laid down in Article 3(c)(iv), 3(d)(iv), 3(e)(iii) or 7(1)(c), as the case may be. The label shall be in one of the official languages of the Community and shall satisfy the conditions laid down in Annex II. The label shall be attached at the same time as the seal. The colour of the label shall be white for nuclear stock, blue for propagating stock, orange for certified plants and brown for classified plants.
4. Member States shall ensure compliance with the requirements referred to in paragraphs 2 and 3 by carrying out official check inspections before the propagating material or ornamental plants are placed on the market.
5. Small quantities of propagating material or ornamental plants delivered to a final grower in the same local administrative area as the supplier or in an adjoining local administrative area shall be exempt from the provisions of paragraphs 1, 2 and 3.

#### Article 13

Rules may be adopted in accordance with the procedure laid down in Article 20 concerning the marketing of propagating material and ornamental plants subject to requirements less stringent than those of this Regulation, in case of temporary difficulties in the supply of propagating material or ornamental plants satisfying the said requirements.

Article 14

1. Subject to Article 15 Member States shall not impose on propagating material or ornamental plants of any genus or species any conditions or marketing restrictions additional to or more stringent than those existing on the day of entry into force of this Regulation other than those provided for herein.
  
2. Propagating material and ornamental plants which comply with the requirements and conditions of this Regulation and the rules adopted for its implementation shall be subject to no marketing restrictions as regards suppliers' obligations, variety, characteristics, plant health, growing medium, packaging, examination arrangements, marking or sealing other than those laid down in this Regulation or in the said rules.

Article 15

Member States may impose :

- requirements additional to, or more stringent than, those laid down in Annex I on suppliers established in their own territory, and
- conditions additional to, or more stringent than, those laid down in the Schedules established pursuant to Article 4 on propagating material and ornamental plants produced in their own territory.

Article 16

1. In accordance with the procedure laid down in Article 20 it shall be determined whether propagating material and ornamental plants produced in a third country, and affording the same assurance as regards supplier's obligations, variety, characteristics, plant health, growing medium, packaging, examination arrangements, marking and sealing, are equivalent in these respects to propagating material and ornamental plants produced in the Community and complying with the requirements and conditions of this Regulation.

2. Until a decision has been taken under paragraph 1, Member States may take such decisions themselves, subject always to the provisions of Directive /77/93/EEC. This right shall expire on 1 January 1993.

In accordance with the procedure laid down in Article 20, this period may be extended for third countries if and for as long as the available information does not permit a determination under paragraph 1.

Propagating material and ornamental plants imported by a Member State in accordance with a decision taken by that Member State pursuant to the first sub-paragraph shall be subject to no marketing restrictions as regards the matters referred to in paragraph 1 in other Member States.

#### Article 17

Member States shall ensure that propagating material and ornamental plants are officially controlled during marketing, at least by check sampling, to verify compliance with the requirements and conditions of this Regulation. Official controls shall not be carried out at borders between Member States.

#### Article 18

1. If, during the official examinations referred to in Article 3 or Article 7(1)(c), the official control referred to in Article 17 or the trials referred to in Article 19, it is repeatedly found that propagating material or ornamental plants marketed by a particular supplier do not comply with the requirements and conditions of this Regulation, the Member State concerned shall ensure that for a specified period the supplier is forbidden to market propagating material or ornamental plants.
2. Any measures taken under paragraph 1 shall be withdrawn as soon as it has been established with adequate certainty that the propagating material or ornamental plants intended for marketing by the supplier will, in future, comply with the said requirements and conditions.

Article 19

1. Trials, including tests, where appropriate, shall be carried out in the Member States on samples to check the compliance of propagating material and ornamental plants with the requirements and conditions of this Regulation, including those relating to plant health. The Commission may organize inspections of the trials by representatives of the Member States and of the Commission.
2. Community trials, including tests, may also be carried out for the same purpose. The Commission may organize inspections of Community trials by representatives of the Member States and of the Commission.
3. The trials referred to in paragraphs 1 and 2 shall, during a first stage, be used to harmonize technical methods of examination of propagating material and ornamental plants. As soon as this aim is achieved annual progress reports shall be made on the trials and sent in confidence to the Member States and to the Commission.
4. The Commission shall ensure that, in appropriate cases, arrangements for coordinating, carrying out and inspecting the trials referred to in paragraphs 1 and 2, and assessing their results, are made within the Joint Standing Committee referred to in Article 20. If necessary, specific arrangements shall be adopted in accordance with the procedure laid down in Article 21. Propagating material and ornamental plants produced in third countries may be included in the trials.

Article 20

Where the procedure laid down in this Article is to be followed, the Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry, and the Standing Committee on Plant Health, both hereafter called "the Joint Standing Committee", chaired by a representative of the Commission.

The representative of the Commission shall submit to the Joint Standing Committee a draft of the measures to be taken. The Joint Standing Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Joint Standing Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

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

The Council, acting by a qualified majority, may take a different decision within the time limit referred to in the previous paragraph.

#### Article 21

Where the procedure laid down in this Article is to be followed, the Commission shall be assisted by the Joint Standing Committee referred to in Article 20, acting as committee of an advisory nature and chaired by a representative of the Commission.

The representative of the Commission shall submit to the Joint Standing Committee a draft of the measures to be taken. The Joint Standing Committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

The opinion shall be recorded in the minutes; in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the Joint Standing Committee. It shall inform the Joint Standing Committee of the manner in which its opinion has been taken into account.

#### Article 22

1. Amendments to the Schedules established pursuant to Article 4 shall be adopted in accordance with the procedure laid down in Article 20 :

1. Amendments to the Annexes and detailed rules for the application of the provisions of this Regulation shall be adopted in accordance with the procedure laid down in Article 21.

#### Article 23

1. Member States shall ensure, subject to Article 8(a), that propagating material and ornamental plants produced in their territory and intended to be placed on the market are officially certified, or passed as classified plants, if they comply with the relevant requirements of this Regulation.

2. If it is found upon official examination that propagating material or ornamental plants cannot, by reason of non-compliance with a condition relating to plant health, be officially certified or passed as classified plants, the Member States concerned shall take appropriate official measures to eliminate any consequent plant health risk.

#### Article 24

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

In respect of Articles 5 to 9, 11, 12, 14(2), 15, 17, 18 and 23 the date of application for each genus or species referred to in Article 1(2) shall be decided in accordance with the procedure laid down in Article 20 at the time of adoption of the corresponding Schedule pursuant to Article 4. These dates shall not be later than 1 January 1993.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

A N N E X I

REQUIREMENTS TO BE COMPLIED WITH BY SUPPLIERS

1. Suppliers shall notify Member States of the date their activities will begin and of the date they end.
2. Conditions on suppliers' premises shall be conducive to the proper production and conservation of propagating material and ornamental plants.
3. Suppliers shall permit the examinations referred to in Articles 3 and 7, including the taking of samples, and the inspections referred to in Articles 5(2), 11(2) and 12(4).
4. Suppliers shall keep records of propagating material and ornamental plants showing :
  - for any acquisitions, the date, the amount, the reference numbers of the lots and the name of the supplier;
  - for propagating material, the species and/or variety, in the case of seed, and in other cases the species or variety of the rootstock and/or scion, and/or cutting, where appropriate;
  - for ornamental plants, the genus and/or species and/or variety, and the species and/or variety of any rootstock, where appropriate;
  - for sales (except sales of small quantities delivered to a final grower in the same local administrative area as the supplier or in an adjoining local administrative area) the date, the amount, the reference number of the lots and the name of the purchaser.
5. Suppliers shall keep a detailed plan of the premises on which propagating material or ornamental plants are grown, showing the location of each genus and species, and of each variety of a species, where appropriate.

6. Suppliers shall keep records of :

- specific treatments and methods of cultivation of propagating material and ornamental plants;
- all occurrences of the harmful organisms referred to in Schedules for the genera or species established pursuant to Article 4, and all measures taken in consequence.

7. The records referred to in point 5 shall always be available for inspection by Member States, those referred to in points 4 and 6 for at least two years.

A N N E X I I

LABEL

A. Required information

(a) Seeds

1. "EEC rules and standards"
2. Certifying authority (Official body and Member State or their initials)
3. Month and year of sealing
4. Label number
5. Reference number of lot
6. Species, indicated at least in Roman letters
7. Variety, indicated at least in Roman letters, where appropriate
8. Category
9. Declared net or gross weight or declared number of pure seeds
10. 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 seeds and total weight

(b) Propagating material, other than seeds, and ornamental plants, other than classified plants

1. "EEC rules and standards"
2. Certifying authority (Official body and Member State or their initials)
3. Year of certification, indicated by a letter of the alphabet
4. Label number
5. Reference number of the lot
6. In the case of rootstocks, scions and cuttings : species and/or variety as appropriate, indicated at least in Roman letters
7. In the case of ornamental plants, genus and/or species and/or variety as appropriate, and the species and/or variety, as appropriate, of any rootstock, indicated at least in Roman letters
8. Category
9. Number of plants or parts of plants

(c) Classified plants

1. "EEC rules and standards"
2. Examining authority (Official body and Member State or their initials)
3. Year of examination, indicated by a letter of the alphabet
4. Label number
5. Reference number of the lot
6. Genus and/or species and/or variety, as appropriate, and the species and/or variety, as appropriate, of any rootstock, indicated at least in Roman letters
7. "Classified plant"
8. Number of plants

B. Minimum dimensions of label

30 mm x 170 mm



COMPETITIVENESS AND EMPLOYMENT IMPACT STATEMENT

I What is the main reason for introducing the measure?

To contribute towards completion of the internal market by removing barriers to trade in ornamental plant propagating material and ornamental plants marketed in the Community, and to ensure the quality and health of the material marketed.

II Features of the businesses in question. In particular:

a) Are there many SMEs?

In certain Member States, yes

b) Are they concentrated in regions which are:

i) eligible for regional aid in the Member States?

Not so far as the Commission services are aware

ii) eligible under the ERDF?

Not so far as the Commission services are aware

III What direct obligations does this measure impose on businesses?

Administrative requirements, and requirements relating to the state of their premises and the quality and health of their material and to its packaging, labelling and mode of sale; duty to cooperate with checks carried out by Member States. It is, however, considered likely that many businesses already do, as a matter of good practice or pursuant to national law, much of what would be required by the proposal, particularly in Member States which already operate certification schemes for this material.

IV What indirect obligations are local authorities likely to impose on businesses?

The Commission services can foresee none

V Are there any special measures in respect of SMEs? Please specify.

No specific measures. But businesses who market small quantities within a restricted local area are exempt from the requirements relating to packaging, labelling and mode of sale

VI What is the likely effect on:

a) the competitiveness of businesses?

This is difficult to assess: there may be an adverse affect on businesses not technically or administratively equipped to comply with the requirements referred to at point III

b) employment?

Expected to be neutral

VII Have both sides of industry been consulted? Please indicate their opinions.

No consultation



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