

**Draft working paper of the Commission services Nr 9,  
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for consultation of experts of Working Party on legislation on Seeds and  
Plant Propagating Material only**

**Review of legislation on marketing seed and plant propagating material,  
11 April 2011**

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**Issue: General requirements and requirements for non-listed species**

**1. Article 3:** Departing from the logic of the current legislation, the new draft Regulation should establish requirements for all types of plant reproductive material, including for varieties/other material belonging to species not currently regulated. For this reason it is considered appropriate to split the Regulation in two distinct parts:

- detailed requirements (e.g. registration of varieties, marketing conditions, etc) for all plant species regulated by the current legislation (to be listed in Annex I of the new draft Regulation);
- basic more general requirements for all other plant species (identification, fitness for purpose, labelling, traceability).

It should be discussed whether such a distinction is appropriate, useful and/or necessary. As a general rule, reproductive material used for ornamental purposes, even if this material belongs to listed species, could be only covered by the general requirements for all other (non-listed) species. However, the general approach for ornamentals is subject to the results of the impact assessment.

**2. Chapter X:** Apart from Article 3, this chapter will include some further general requirements for all reproductive material, e.g. obligations for Member States (Article 4) or free marketing clause (Article 5). However, no draft provisions are available yet. Member States are welcome to suggest further general requirements applicable for all reproductive material.

**3. Article 6:** Those basic requirements are inspired by the requirements of Council Directive 98/56/EC (Article 5) for ornamental plants, where no listing of species and hence no registration of variety can be found either. Their purpose is to ensure quality, health and fitness for purpose of all plant reproductive material in the EU.

**4. Article 8:** Provisions on marketing with reference to varieties are based on Art. 9 of Directive. 98/56/EC. It should be discussed whether those requirements would be appropriate for all varieties/other material of non-listed species.

## **Annex Chapters of the draft Regulation on plant reproductive material**

### **CHAPTER X GENERAL REQUIREMENTS**

#### Article 3

##### **Reproductive material of listed and non-listed species**

Reproductive material shall be produced with a view to be placed on the market, and placed on the market:

(a) in accordance with the provisions of Articles x... [marketing provisions] if it belongs to any variety of the plant species listed in Annex I ['EU regulated plant species'];

(b) in accordance with the provisions of Articles 5 to 7 if it belongs to species not listed in Annex I.

Annex I shall be amended taking into account the following information in accordance with the procedure referred to in Article x [comitology]. :

- (i) cultivated and traded in at least two Member States;
- (ii) area of production is significant in relation to the relevant sector;
- (iii) market value is significant in relation to the relevant sector;
- (iv) significant number of enterprises involved and
- (v) significant role/use of the crop.

### **CHAPTER X MATERIAL BELONGING TO NON-LISTED SPECIES**

#### Article 6

##### **Basic requirements**

1. Reproductive material not belonging to the plant species listed in Annex I shall be placed on the market only in accordance with the following requirements:

- a) it shall at least on visual inspection be substantially free from any harmful organisms impairing quality, or any signs or symptoms thereof, which reduce its usefulness;
- b) it shall be substantially free from any defects likely to impair its quality as reproductive material;
- c) it shall have satisfactory vigour and dimensions in respect of its usefulness as reproductive material, including satisfactory germination capacity in the case of seeds;
- d) if placed on the market with reference to a variety, it shall have satisfactory varietal identity and purity.

Any reproductive material shall be removed from the market if, after its placing on the market, it has been found not in compliance with the above requirements. In the case of point (a) it may alternatively be properly treated.

2. Reproductive material referred to in paragraph 5(1) shall be placed on the market only in sufficiently homogenous lots. Reproductive material of different lots may be marketed in a

single consignment, provided that the supplier keeps records of the composition and origin of the different lots.

3. Specific rules may be adopted in accordance with the procedure referred to in Article x [comitology] concerning the quality requirements with which particular genera or species must comply when placed on the market.

## Article 7

### **Labelling and traceability**

1. Reproductive material referred to in Article 5(1), when placed on the market, shall be accompanied by a label, including the following information:

- a) the species;
- b) the denomination of the variety, if applicable;
- c) the name and address of the supplier;
- d) the reference number of the lot given by the supplier;
- e) the declared net or gross weight, or declared number of seeds, rootstocks or other units of reproductive material.

2. The suppliers shall be able to identify any person from whom they have been directly supplied with reproductive material. They shall have in place systems and procedures to identify the other suppliers to which their material has been supplied. This information shall be made available to the competent authorities on demand<sup>1</sup>.

## Article 8

### **Marketing with reference to varieties**

1. Reproductive material referred to in Article 5(1) may be marketed with reference to a variety, only if the variety concerned is:

- a) legally protected by a plant variety right in accordance with provisions on the protection of new varieties;
- b) officially registered in any Member State; or
- c) commonly known: a variety is considered commonly known if:
  - (i) it is the subject of an application for official registration in any Member State, or of an application for a plant variety right referred to in point (a); or
  - (ii) it has an officially recognised description.

2. As far as possible, each variety shall bear the same denomination in all the Member States in accordance with EU rules (Article x).

3. Where reproductive material is placed on the market with a reference to a group of plants rather than a variety referred to in paragraph 1, the supplier shall indicate the group of plants in such a way as to avoid confusion with any varietal denomination.

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<sup>1</sup> Based on Art. 18 of Reg 178/2002