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CORRIGENDUM: Modification of COM(2007)31 adopted 29.1.2007.  
Concerns EN page 15, FR page 16, recital 11, footnote 8.  
Concerns EN page 18, FR page 20, DE page 21, Recital 29 Annex II Part B instead of Annex III Part B.  
Concerns Financial Statement EN page 47.  
Concerns EN page 52, FR page 55 and 56, DE page 56, point 6.2.1.  
Concerns EN page 58, FR page 61, DE page 62, point 8.2.5.

Proposal for a

## **COUNCIL DIRECTIVE**

**on the marketing of fruit plant propagating material and fruit plants intended for fruit production**

(Recast version)

{SEC(2007)93}

{SEC(2007)94}

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

Community legislation on the marketing of fruit plant propagating material and fruit plants intended for fruit production was adopted in 1992 to establish harmonised conditions at Community level to ensure that purchasers throughout the Community receive propagating material and fruit plants which are healthy and of good quality. Since its adoption, it has proven to be a simple but effective tool enabling the harmonisation of the internal market.

In the meantime, the reform of the Common Agricultural Policy in June 2003 and April 2004 introduced major changes likely to have a significant impact on the economy in terms of agricultural product patterns, land management methods, employment and the wider social and economic conditions in rural areas.

To support the new policy appropriate measures have been adopted. In particular Regulation (EC) No 1698/2005 introduced the legal basis for the adoption of rules for the strategic approach to rural development and to define the Community's strategic guidelines.

Within the objectives defined in the Rural Development Regulation, the strategic guidelines focus on a more limited set of priorities in line with Community objectives, particularly as regards growth, jobs and sustainability.

In this context, it is appropriate to review the legislation on the marketing of seed and propagating material and in particular the legislation on the marketing of fruit plant propagating material.

Two objectives can be identified:

- (a) **To clarify and simplify the regulatory framework in which business operates**

In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him/her new opportunities and the chance to make use of the specific rights it grants.

This aim can be achieved only by a substantial revision of the existing legislation on the marketing of fruit plant propagating material with particular reference to definitions to which the Directive applies, requirements to be met, identification of material and exemptions e.g. a new definition of marketing covering all the actions concerning the commercial exploitation of propagating material and fruit plants.

**(b) To improve the legislation based on technical and scientific progress and to the new marketing environment in line with the new Common Agricultural Policy**

Based on technical and scientific progress, clear definitions of the subjects to which this Directive applies (category, type of material) and clear conditions to be satisfied, to respond to the new consumers' and industry's needs are introduced. That will permit the harmonisation of this Directive with the other Directives on the marketing of propagating material which have recently been amended in the framework of the new Common Agricultural Policy.

In addition, the existing conditions do not facilitate the adoption of clear and easily applicable rules for equivalence with third countries. At the moment, importation is subjected to temporary derogations which do not satisfy both Member States authorities and traders. In fact, some rules which refer to propagating material and the accreditation of suppliers create unnecessary obligations and do not give sufficient guarantees for the quality of material (e.g. identity of variety and health status).

- **General context**

In the past the legislation on the marketing of propagating material of vine, forest plants, fruit plants and ornamental plants was adopted<sup>1</sup> based on harmonised principles and current knowledge. In the meantime, the scientific and technical knowledge has been greatly improved upon. For that reason Directives on the marketing of ornamental plant propagating material, forest reproductive material and vine propagating material have recently been redrafted and harmonised<sup>2</sup>.

As regards the legislation on the marketing of fruit plants, numerous provisions that have been amended several times, often quite substantially are scattered, so that they must be sought partly in the original instrument and partly in later amended ones.

New breeding and vegetative propagation technologies which have been developed over recent years are not covered by existing legislation. These technologies permit a more precise and less expensive control of quality characteristics, e.g. identity of variety and plant health status. The absence of a definition of variety and the absence of a common catalogue permit the marketing of the same material under different variety names. Obsolete definitions and conditions for the lowest category of material (CAC material) allows the marketing of plants which neither perform as expected in terms of production of fruit or health status.

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<sup>1</sup> In the year 1966 for forest reproductive material –Dir 66/404/EEC, in 1968 for vine propagation material – Dir 68/193/EEC, in 1991 for ornamental plants – Dir 91/682/EEC and in 1992 for fruit plants propagating material – Dir 92/34/EEC.

<sup>2</sup> In the year 1999 for forest reproductive material –Dir 1999/105/EC, in 2002 for vine propagation material – Dir 2002/11/EC and new codification in the pipeline, in 1998 for ornamental plants – Dir 98/56/EC.

- **Existing provisions in the area of the proposal**

At present, one legal instrument governs the marketing of fruit plant propagating material:

Council Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production

- **Consistency with the other policies and objectives of the Union**

Particular attention has been given to avoid duplication with actions carried out under other Community instruments and policies, in particular in the framework of the Common Agricultural Policy.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

*Consultation methods, main sectors targeted and general profile of respondents*

In preparing this proposal, the Commission consulted the Member States and other stakeholders through a public consultation process. A discussion paper and a questionnaire were posted on the internet and a consultation meeting was convened.

*Summary of responses and how they have been taken into account*

The consultation process revealed widespread support for the overall policy objective to improve and up-date the existing instruments. The respondents expressed general agreement with the objectives identified in the consultation paper and supported the Commission's approach to build upon the existing instrument rather than to create new tools. Others expressed doubts as to the appropriateness of the proposed format i.e. a Directive instead of a Regulation.

Some respondents remarked on the need to improve the technical conditions to be fulfilled. Others focused on the need to respect the principles of subsidiarity and to maximise added value at EU level. Some Member States also emphasised the need to ensure coordination and complementarity between scientific and technical progress and the Community rules. All of these responses were taken into account.

An open consultation was conducted over the internet from 21/02/2006 to 21/04/2006. The results are available in Annex IV-III of the Draft Impact Assessment.

- **Collection and use of expertise**

There was no need for external expertise. The proposal benefited from experience gained in meetings with Member States (Standing Committee and Working Groups).

- **Impact assessment**

Four options have been considered in the preparation of this proposal.

Option A - Repealing of the existing legislation.

At the moment this option cannot be supported due to the risk of different approaches in the Member States which could create conflict in the internal market.

Option B - No Action keeping the existing legislation.

Based on our experience to date, this option is not acceptable for technical reasons as some definitions and conditions are obsolete, thus the weak points identified by experts and Member States will remain unresolved.

Option C - Alternative regulation

Theoretically this option could be acceptable. In practice, due to the particular organisation of the market (e.g. thousands of suppliers involved in and grouped in several professional organisations, a low number of firms with a large business specialising in fruit plant propagating material<sup>3</sup>, breeding or reproduction, the remaining firms are small and/or the fruit plant propagating material production is not their most important business), the proposal for alternative regulation/self regulation is not realistic.

Option D - Simplification of the existing legislation.

The recasting of Directive 92/34/EEC is a necessary requisite for a more efficient and transparent functioning of the internal market for fruit plant propagating material. A framework Directive was decided on as the legal solution since it can easily be transposed by the Member States, the relevant implementing measures can be adopted, where appropriate, and in some cases, other non-legislative measures can also be decided. The basic approach to attain the objectives is as follows:

- Adoption of a harmonised approach for propagating material certification (new definitions, new conditions to be met),

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<sup>3</sup> Propagating material means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants.

- Creation of a legal basis for increased guarantees of the material marketed in relation to variety identification, genetic resources and biodiversity,
- Transfer to the implementing measures all the detailed rules to increase their harmonisation and management (e.g. rapid up-dating of technical conditions).

### 3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

This proposal is a recasting of Council Directive 92/34/EEC, in line with the Inter-Institutional Agreement on the recasting technique for legal acts. It incorporates in a single text both the substantive amendments it makes to Council Directive 92/34/EEC, and the unchanged provisions thereof. The proposal would replace and repeal this Directive. This would help make Community legislation more accessible and transparent.

- **Legal basis**

According to Article 37 of the Treaty establishing the European Community, the activities of the Community are to include measures implementing the common agricultural policy.

This legal basis provides for consultation procedure, i.e., acting by a qualified majority on a proposal from the Commission and after consulting the European Parliament.

- **Subsidiarity principle**

The measures foreseen by this proposal are based on Article 37 of the Treaty, therefore the principle of the subsidiarity does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The proposal does not go beyond what is necessary to achieve the objectives. It addresses shortfalls that have been identified in past interventions and builds upon the successive mandates given by the European Council and the European Parliament.

The administrative burden falling upon the Community and national authorities is limited and does not go beyond what is required to allow the Community to ensure an effective internal market.

- **Choice of instruments**

Proposed instruments: Council Directive.

Other means would not be adequate for the following reason(s):

A recasting of Council Directive 92/34/EEC, can only be achieved through a Council Directive.

#### 4. **BUDGETARY IMPLICATION**

The proposal is a recast of an existing legislation. As far as the EU budget is concerned, the financial impact is limited. In addition, the proposal has not new implications for the Community budget.

#### 5. **ADDITIONAL INFORMATION**

- **Simplification**

The proposal provides for simplification of legislation.

The use of the recasting technique allows the Community to combine in a single text both the substantive amendments proposed to the Council Directive and the unchanged provisions thereof. Moreover, the original text of the Directive has been improved and clarified in the interests of better regulation. This has resulted in deletions and modifications, which do not affect the substance of the Directive.

- **Repeal of existing legislation**

The adoption of the proposal will lead to the repeal of existing legislation.

- **Recasting**

The proposal involves recasting.

- **Detailed explanation of the proposal**

The following is a summary of the main proposals.

## 1. **Definitions of marketing and supplier and conditions to be applied to them**

### (a) Present situation

The definition of marketing, adopted in 1992, lists a group of actions, which were considered appropriate for this kind of product. The actions listed were considered important and sufficient to indicate to which extent this definition applies. Due to the technical progress on trade, the initiatives now listed as marketing are strictly related to other new initiatives from which they cannot be easily separated e.g. “sale and holding with a view to sale”.

The definition of suppliers which covers the normal activity professionally carried out by a person involved in producing, reproducing, preserving and/or treating material and marketing does not mention importation. The action of importing is becoming more and more important and can be carried out either by a “supplier” (as defined by Directive 92/34/EEC) or by another person. In the first case there is no problem with the application of the legislation, however, in the second case, the person importing may or may not be considered as “supplier”, depending on the legislation of that particular Member State.

In 1992 it was considered appropriate to request that suppliers should be accredited by a harmonised procedure to increase rapidly the harmonisation of the internal market. The general application of quality standards by the enterprises producing fruit plant propagating material now makes the expensive obligation for this accreditation obsolete.

### (b) Proposals

A new definition of marketing covering all the initiatives concerning the commercial exploitation of propagating material and fruit plants will be adopted (article 2(10)).

The addition of the action of importing to the list of actions of a supplier will increase the harmonisation and transparency of the legislation (article (2.9)). The registration of suppliers will simplify administrative burdens and reduce costs both for Member State’s official bodies and stakeholders (suppliers and users) while keeping the same level of consumer’ confidence (articles 5 and 6).

The proposed amendments will harmonise this legislation with the other legislation on the marketing of forest, ornamental and vine propagating material recently amended.



## 2. Categories identification and conditions

### (a) Present situation

Some definitions and related conditions have become obsolete; the cost of their application is not compensated by the advantages (e.g. virus free and virus tested material categories). The absence of some definitions (considered as not necessary at the moment of the adoption of the Directive) is a source of conflict due to misunderstandings or “frauds”. This implies an increase in costs for both suppliers and consumers and a lack of confidence in the market.

Therefore the costs for preventing possible risks are increasing by asking legal protection, managing legal settlements, or buying “safer” propagating material at higher prices.

### (b) Proposals

All technical measures laid down by the existing basic legislation will be transferred to specific implementing measures. They will be adopted based on an appropriate evaluation of their effectiveness and in relation to technical and scientific progress (article 4). Better flexibility for the management of technical implementing measures is expected both by official bodies and suppliers.

New definitions of such categories should be in-line with the scientific and technical progress and in particular, with the international certification schemes (European Plant Protection Organisation – EPPO Standards) (articles 2(3) to 2(8)). A legal basis for establishing specific conditions for the material falling into each category should be introduced (article 4).

A transparent certification system and a clear identification of the variety (complete and transparent labelling), will improve the competitiveness and facilitate intra-Community trades and import based on equivalence and possible reciprocity (article 9). Breeders will be better protected. Farmers will be confident of the identity and uniformity of propagating material. This will permit improved planning of the activity saving resources currently spent on adapting the production process to an un-harmonised market.

### **3. Quality of the material (Distinctness, Uniformity, Stability –DUS- and pomological value) and variety definition and conditions**

#### **(a) Present situation**

The unclear and incomplete existing list of characteristics for Distinctness and Identity creates difficulties on identifying the varieties requested for planting by farmers. As requested by the Common market organisation for fruit, producers must indicate the name of the fruit variety when the fruit is put on the market. These characteristics become more and more important in relation to the very specialised request by both the market for fresh fruit and fruit for processing.

Under the existing situation, the costs supported by farmers will further increase for replacement material which is found not satisfying the expected characteristics only when the production of fruit starts (3-5 years after the planting season for the majority of species).

#### **(b) Proposals**

New international rules, in particular CPVO (Community Plant Variety Office) protocols and UPOV (Union pour la Protection des Obtentions Végétales) guidelines, permit an easy identification of a variety.

Conditions for listing and certifying varieties should be set out with reference to these international protocols (article 7). Therefore, the definition of the variety and clone should be added (Article 2(3) and 2(4), a legal basis for increased guarantees of the material marketed in relation to variety identification, genetic resources and biodiversity should be created (article 3), all technical detailed rules should be transferred to the implementing measures to increase their harmonisation and management (e.g. rapid up-dating of technical conditions) (article 4). These amendments should improve the transparency in the market and help to decrease costs for the identification of material.

In addition, a reference to pomological value (quality and performance of plants and their products–fruit) should be added e.g. biological value for direct consumption or processing to improve transparency for consumers.

#### **4. Plant health status definition and conditions**

##### **(a) Present situation**

It is very difficult and expensive for suppliers to fulfil some existing conditions which do not produce any benefit to the farmers and final consumers (e.g. propagating material which must be free from all viruses). The conditions for checking the health status of the lowest commercial category (which covers about 30% of the EU fruit plant production with a peak of 80% or more in several countries) are obsolete both for the testing procedures and for the list of harmful organisms to be controlled.

##### **(b) Proposals**

A clear link with category identification should be established for the listing of new varieties and for the certification of material reproduced by vegetative propagation to improve the management of the health status of the propagating material (article 4). Scientific and technical progress has permitted the publication of international certification schemes (EPPO Standards). Healthier propagating material is the first step towards permitting full exploitation of the new CAP approach in reducing the use of pesticides.

In the mid-term period more transparency is expected for the price of material based on a stricter link price/health quality of material.

#### **5. Other comments**

The following articles have been amended as a consequence of amendments in other provisions of Directive 92/34/EEC and do not contain substantive changes: articles 1(2), 1(3), 1(4), 2(11), 2(13), 8(3), 11, 13, 16(2), 17(2), 18, 21, 22 and 23.

#### **6. Unchanged provisions**

The following articles remain unchanged: articles 1(1), 2(1), 2(2), 2(12), 2(14), 8(1), 8(2), 10, 12, 14, 15, 16(1), 16(3), 16(4), 17(1), 19, 20 and 24.

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↓ 92/34/EEC (adapted)

2007/aaaa (CNS)

Proposal for a

**COUNCIL DIRECTIVE**

**on the marketing of fruit plant propagating material and fruit plants intended for fruit production**

(Recast version)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 ~~43~~ thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>4</sup>,

Whereas:

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↓ new

- (1) Council Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production<sup>5</sup> has been substantially amended several times<sup>6</sup>. Since further amendments are to be made, it should be recast in the interests of clarity.

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↓ 92/34/EEC Recital 1

- (2) Fruit production occupies an important place in the agriculture of the Community.

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<sup>4</sup> OJ C [...] 240, 16.9.1991, p. 197.

<sup>5</sup> OJ L 157, 10.6.1992, p. 10. Directive as last amended by Commission Decision 2005/54/EC (OJ L 22, 26.1.2005, p. 16).

<sup>6</sup> See Annex II, Part A.

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↓ 92/34/EEC Recital 2 (adapted)

- (3) Satisfactory results in the cultivation of fruit depend to a large extent on the quality and plant health of the material used for their propagation and of the fruit plants intended for fruit production. ~~Certain Member States have in consequence introduced rules intended to guarantee the quality and plant health of the fruit plant propagating material and fruit plants placed on the market.~~
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↓ 92/34/EEC Recital 3 (adapted)

- ~~(4) The different treatment accorded to propagating material and fruit 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 internal market, these barriers should be removed, by adopting Community provisions to replace those laid down by the Member States.~~
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↓ 92/34/EEC Recital 4 (adapted)

- (4) ~~Whereas the establishment of~~ Harmonized conditions at Community level ~~will~~ ensure that purchasers throughout the Community receive propagating material and fruit plants which are healthy and of good quality.
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↓ 92/34/EEC Recital 5 (adapted)

- (5) In so far as they relate to plant health, such harmonized conditions must be consistent with Council Directive ~~⊗~~ 2000/29/EC of 8 May 2000 ~~⊗~~ ~~77/93/EEC~~ of 21 December 1976 on protective measures against the introduction into the ~~⊗~~ Community ~~⊗~~ ~~Member States~~ of organisms harmful to plants or plant products ~~⊗~~ and against their spread within the Community ~~⊗~~<sup>7</sup>.
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↓ 92/34/EEC Recital 6 (adapted)  
⇒ new

- (6) It is appropriate ~~initially~~ to establish Community rules for those genera and species of fruit plant which are of major economic importance in the Community, with a Community procedure for adding further genera and species later ⇒ to the list of genera and species to which this Directive applies. The genera and species listed should be those which are widely grown in Member States and for whose propagating material there is a substantial market which covers more than one Member State. ⇐
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<sup>7</sup> OJ L 169, 10.7.2000, p. 1. ~~⊗~~ Directive as last amended by Commission Directive 2006/35/EC (OJ L 88, 25.3.2006, p. 9). ~~⊗~~ OJ No L 26, 31.1.1977, p. 20; Directive as last amended by Directive 92/40/EEC (OJ L 70, 17.3.1992, p. 27).

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↓ 92/34/EEC Recital 7 (adapted)

- (7) Without prejudice to the plant health provisions of Directive ~~2000/29/EC~~ ~~77/93/EEC~~, it is not appropriate to apply the Community rules on the marketing of propagating material and fruit plants when it is shown that such products are intended for export to third countries, as the rules applicable there may be different from those contained in this Directive.

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↓ 92/34/EEC Recital 8 (adapted)

- ~~(8) The determination of plant health and quality standards for each genus and species of fruit plant requires lengthy and detailed technical and scientific consideration. A procedure should accordingly be established for that purpose end.~~

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↓ new

- (8) In the interest of clarity the necessary definitions should be established. Those definitions should be based on the technical and scientific progress and cover the term concerned in a complete and clear manner, in order to facilitate the harmonisation of the internal market taking into account all new opportunities of the market and all new processes used for the production of propagating material. Those definitions should be harmonised with those adopted for the marketing of other propagating material covered by Community legislation.
- (9) It is desirable to establish plant health and quality standards for each genus and species of fruit plant based on international schemes. It is appropriate to provide, therefore, for a system of certification for the different categories of propagating material and fruit plants to be marketed by reference to those international schemes, where available.

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↓ 92/34/EEC Recital 13 (adapted)

⇒ new

- (10) It is consistent with current agricultural practice to require that ~~certain~~ propagating material and fruit plants are either officially examined or ~~are declared virus free, meaning found free of all known viruses and virus-like pathogens, or again virus-tested, meaning found free of specific viruses and virus-like pathogens reducing the usefulness of the propagating material and fruit plants~~ ⇒ examined under official supervision as foreseen for other species covered by Community legislation. ⇐

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↓ new

- (11) Genetically modified fruit plants should not be accepted for registration in the catalogue unless all the appropriate measures have been taken to avoid any risk to human health or the environment as referred to in Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release

into the environment of genetically modified organisms<sup>8</sup> and Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed<sup>9</sup>.

- (12) It is desirable to ensure that genetic diversity is preserved. Appropriate biodiversity conservation measures to guarantee the conservation of existing varieties should be taken in line with other relevant Community legislation. The Commission should take into account not only the concept of variety but also that of genotype and clone to better respond to the new marketing needs.
- (13) It is appropriate to establish conditions for the marketing of material intended for trials, scientific purposes or selection work if this material cannot fulfil the normal plant health and quality standards due to the particular use.

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↓ 92/34/EEC Recital 9  
⇒ new

- (14) In the first instance it is the responsibility of the suppliers of propagating material and/or fruit plants to ensure that their products fulfil the conditions laid down in this Directive. ⇒ It is appropriate to define the role of the suppliers and the conditions to which they are to refer. Suppliers should be officially registered in order to create a transparent and economically valid process of certification of propagating material and fruit plants. ⇐

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↓ new

- (15) Suppliers who only market fruit plants or propagating material to persons not professionally engaged in the production or sale of fruit plants or propagating material should be exempted from the obligation of registration.

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↓ 92/34/EEC Recital 14  
⇒ new

- (16) It is in the interests of the purchasers of propagating materials and fruit plants that the names of varieties be known and that their identity be safeguarded ⇒ to permit the traceability of the system and to increase the confidence on the market ⇐.

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↓ 92/34/EEC Recital 15 (adapted)  
⇒ new

- (17) ☒ That ☒ ~~The objective stated above~~ can best be achieved either through common knowledge of the variety ⇒ , in particular for old varieties, ⇐ or through the

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<sup>8</sup> OJ L 106, 17.4.2001, p. 1. Directive as last amended by Regulation (EC) No 1830/2003 of the European Parliament and of the Council (OJ L 268, 18.10.2003, p. 24).

<sup>9</sup> OJ L 268, 18.10.2003, p. 1.

availability of a description ~~drawn up and kept by the supplier. In the latter case, however, the propagating material or fruit plants may not obtain access to the categories which are the subject of official certification~~ ⇒ based on Community Plant Variety Office (CPVO) protocols or in their absence on other international or national rules ⇐.

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↓ 92/34/EEC Recital 16 (adapted)

- (18) In order to ensure the identity and orderly marketing of propagating material and fruit plants, Community rules ☒ should ☒ ~~must~~ be laid down concerning the separation of lots and marking. The labels should give the particulars needed both for official control and for the information of the user.
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↓ 92/34/EEC Recital 10 (adapted)  
⇒ new

- (19) The competent authorities of the Member States ☒ should ☒ ~~must~~, when carrying out controls and inspections, ensure that ~~suppliers fulfil those conditions with regard to propagating material or fruit plants belonging to the CAC (Conformitas Agraria Communitatis) category~~ ⇒ conditions with regard to propagating material or fruit plants and suppliers are fulfilled ⇐.
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↓ 92/34/EEC Recital 11 (adapted)

- (20) ~~It is indispensable to provide for other categories of propagating material and fruit plants for which the said material and plants must be the subject of official certification.~~
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↓ 92/34/EEC Recital 12 (adapted)

- (21) Community control measures should be ~~introduced~~ ☒ provided for ☒ to ensure uniform application in all the Member States of the standards laid down in this Directive.
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↓ 92/34/EEC Recital 17  
⇒ new

- (22) Rules should be established permitting, in the case of temporary supply difficulties ⇒ due to natural disasters, such as fire, gales and failure of the flower crop, or unforeseen circumstances ⇐, the marketing of propagating material and fruit plants subject to requirements less stringent than those contained in this Directive ⇒ for a limited period and subject to specific conditions ⇐.



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↓ new

- (23) In accordance with the principle of proportionality, provision should be made to allow Member States to exempt small producers all of whose production and sales of propagating material and fruit plants is intended for final use by persons on the local market who are not professionally involved in plant production ('local circulation') from the conditions on labelling and from the checks and official inspections.
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↓ 92/34/EEC Recital 18 (adapted)

- (24) ~~As a first step towards harmonized conditions,~~ Member States should be prohibited in the case of the genera and species referred to in Annex II, ~~for which schedules will be drawn up,~~ from imposing new conditions or restrictions to the market other than those provided for in this Directive.
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↓ 92/34/EEC Recital 19 (adapted)

- (25) Provisions should be made for authorising the marketing, within the Community, of propagating material and fruit plants produced in third countries, provided always that they afford the same guarantees as propagating material and fruit plants produced in the Community and complying with Community rules.
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↓ 92/34/EEC Recital 20

- (26) In order to harmonize the technical methods of examination used in the Member States and to compare propagating material and fruit plants produced in the Community with those produced in third countries, comparative trials should be carried out to check compliance of such products with the requirements of this Directive.
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↓ new

- (27) In order to avoid any disruption of trade, Member States should be allowed to authorise the marketing in their own territory of certified and CAC material taken from parent plants in existence at the date of entry into force of this Directive for a transitional period even if that material does not fulfil the new conditions.
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↓ 92/34/EEC Recital 21 (adapted)

- (28) ~~In order to facilitate the effective operation of this Directive, the Commission should be entrusted with the task of adopting measures for its implementation and for the amendment of its Annex; and to provide a procedure to that end involving close cooperation between the Commission and the Member States within a Standing Committee on Propagating Material and Plants of Fruit Genera and Species. >~~ The measures necessary for the implementation of this Directive should be adopted in

accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>10</sup>. ☒

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↓ new

(29) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex II, Part B,

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↓ 92/34/EEC (adapted)

HAS ADOPTED THIS DIRECTIVE:

**☒ CHAPTER 1 ☒**  
**☒ SCOPE AND DEFINITIONS ☒**

*Article 1*

**☒ Scope ☒**

1. This Directive ~~applies~~ ☒ shall apply ☒ to the marketing of fruit plant propagating material and fruit plants intended for fruit production within the Community.

~~2. Articles 2 to 20 and Article 234 shall apply to the genera and species listed in Annex II as well as to their hybrids.~~

~~Rootstocks and other parts of plants of other genera or species or their hybrids shall also be subject to the abovementioned Articles if material of one of the said genera or species or their hybrids is grafted or is to be grafted onto them.~~

~~3. Amendments to the list of genera and species in Annex II shall be adopted in accordance with the procedure laid down in Article 22.~~

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↓ new

2. This Directive shall apply to the genera and species listed in Annex I as well as to their hybrids. It shall also apply to rootstocks and other parts of plants of other genera or species than those listed in Annex I or their hybrids, if their material is grafted or is to be grafted onto one of the genera or species listed in Annex I or their hybrids.

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<sup>10</sup> OJ L 184, 17.7.1999, p. 23. Decision as amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

3. This Directive shall apply without prejudice to the plant health rules laid down by Directive 2000/29/EC.

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↓ 92/34/EEC (adapted)

~~Article 2~~

4. This Directive shall not apply to propagating material or fruit plants shown to be intended for export to third countries, ~~if properly~~ ☒ provided they are ☒ identified as such and kept sufficiently isolated, ~~without prejudice to the health rules laid down by Directive 77/93/EEC.~~

Implementing measures for the first ☒ sub ☒ paragraph, with particular reference to identification and isolation, shall be adopted in accordance with the procedure ☒ referred to ☒ ~~laid down~~ in Article ~~21~~ ☒ 19(2) ☒.

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↓ 92/34/EEC (adapted)

Article ~~23~~

☒ Definitions ☒

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

- ~~(a)~~ (1) “Propagating material” ☒ means ☒ seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants;
- ~~(b)~~ (2) “Fruit plants” ☒ means ☒ plants intended to be planted or replanted, after marketing;
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↓ new

- (3) “Variety” means a plant grouping within a single botanical taxon of the lowest known rank, which can be:
- (a) defined by the expression of the characters resulting from a given genotype or combination of genotypes,
  - (b) distinguished from any other plant grouping by the expression of at least one of the said characters, and
  - (c) considered as an entity in view of its ability to be propagated unchanged;
- (4) “Clone” means the vegetative progeny of a variety which is true to a fruit plant stock chosen on account of varietal identity, its phenotypic characters and its state of health;

~~(e)~~ (5) “Pre-basic material” ☒ means ☒ propagating material ☒ which ☒:

~~(a) (i) which~~ has been produced ⇒ under the responsibility of the supplier as far as the supplier is involved in the production or reproduction of that material ⇐ according to generally accepted methods ~~with a view to maintaining~~ ☒ for the maintenance of ☒ the identity of the variety ⇒ and, where applicable, of the clone, ⇐ including the relevant characteristics of its pomological value ~~which can be established according to the procedure laid down in Article 21~~ and to ~~preventing~~ ☒ for the prevention of ☒ diseases;

~~(b) (ii) which~~ is intended for the production of basic material ⇒ or certified material other than fruit plants ⇐;

~~(c) (iii) which~~ satisfies the ☒ specific requirements ☒ ~~conditions~~ for pre-basic material ~~laid down in the schedule for the species concerned~~, established pursuant to Article 4~~3~~; and

~~(d) (iv) which, following an official inspection, has been recognized as satisfying the abovementioned conditions~~ ☒ has been found by official inspection to satisfy the conditions in (a), (b) and (c) ☒;

~~(e)~~ (6) “basic material” ☒ means ☒ propagating material ☒ which ☒:

~~(a) (i) which~~ has been produced ⇒ under the responsibility of the supplier as far as the supplier is involved in the production or reproduction of that material ⇐ either directly or in a known number of stages in a vegetative way from pre-basic material, according to generally accepted methods, ~~with a view to maintaining~~ ☒ for the maintenance ☒ of the identity of the variety ⇒ and, where applicable, of the clone, ⇐ including the relevant characteristics of its pomological value, ~~which can be established according to the procedure laid down in Article 21~~ and to ~~preventing disease~~ ☒ for the prevention ☒ of diseases;

~~(b) (ii) which~~ is intended for the production of certified material;

~~(c) (iii) which~~ satisfies the ☒ specific requirements ☒ ~~conditions~~ for basic material ~~laid down in the schedule for the species concerned~~, established pursuant to Article 4~~3~~; and

~~(d) (iv) which following an official inspection, has been recognized as satisfying the abovementioned conditions~~ ☒ has been found by official inspection to satisfy the conditions in (a), (b) and (c) ☒;

~~(e)~~ (7) “certified materials” ☒ means ☒ propagating material and fruit plants ☒ which ☒ :

~~(a) (i) which~~ have been produced ⇒ under the responsibility of the supplier as far as the supplier is involved in the production or reproduction of that material ⇐

either directly or in a known number of stages in a vegetative way from basic material  $\Rightarrow$  or pre-basic material  $\Leftarrow$ ;

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$\Downarrow$  new

(b) are intended for:

- The production of propagating material,
- the production of fruit plants, and/or
- the production of fruits;

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$\Downarrow$  92/34/EEC (adapted)

(c) ~~(ii) which~~ satisfy the  $\boxtimes$  specific requirements  $\boxtimes$  ~~conditions~~ for certified material ~~laid down in the schedule for the species concerned~~, established pursuant to Article 4  $\boxtimes$  , and  $\boxtimes$

~~(d) (iii) which, following an official inspection, has been recognized as satisfying the abovementioned conditions~~  $\boxtimes$  has been found by official inspection to satisfy the conditions in (a), (b) and (c)  $\boxtimes$ ;

~~(8)~~ (8) “CAC (*Conformitas Agraria Communitatis*) material”  $\boxtimes$  means  $\boxtimes$  propagating material and fruit plants  $\boxtimes$  which  $\boxtimes$  : ~~satisfying the minimum conditions laid down for that category relative to the species concerned in the schedule established pursuant to Article 4;~~

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$\Downarrow$  new

(a) have been produced under the responsibility of the supplier as far as the supplier is involved in the production or reproduction of that material,

(b) have varietal identity and purity,

(c) are intended for:

- the production of propagating material,
- the production of fruit plants, and /or
- the production of fruits,

(d) satisfy the specific requirements for CAC material established pursuant to Article 4, and

(e) have been found by official inspection to satisfy the conditions in (a) to (d);

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↓ 92/34/EEC (adapted)  
⇒ new

~~(g) *virus free (v.f.) material*: material which has been tested and found free from infection according to internationally recognized scientific methods, has been found free from symptoms of any virus or virus-like pathogen by growing-season inspection, has been maintained under conditions ensuring freedom from infection, and is considered to be free from all viruses and virus-like pathogens known in the species concerned occurring in the Community. Material descended vegetatively in direct line in a specific number of stages from such material, found free from symptoms of any virus or virus-like pathogen by growing-season inspection, and produced and maintained under conditions ensuring freedom from infection, shall also be considered to be virus free. The specific number of stages shall be indicated in the schedule for the species concerned, established pursuant to Article 4;~~

~~(h) *virus tested (v.t.) material*: material which has been tested and found free from infection according to internationally recognized scientific methods, found free from symptoms of any virus or virus-like pathogen by growing-season inspection, has been maintained under conditions ensuring freedom from infection, and considered to be free from certain serious viruses and virus-like pathogens known in the species concerned occurring in the Community and capable of reducing the usefulness of the material. Material descended vegetatively in direct line in a specific number of stages from such material, found free from symptoms of any virus or virus-like pathogen by growing-season inspection, and produced and maintained under conditions ensuring freedom from infection, shall also be considered to be virus tested. The specific number of stages shall be indicated in the schedule for the species concerned, established pursuant to Article 4;~~

~~(9)~~ *“supplier”* ⊗ means ⊗ any natural or legal person carrying out professionally at least one of the following activities with regard to propagating material or fruit plants: reproducing, producing, preserving and/or treating, ⇒ importing ⇐ and marketing;

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↓ 92/34/EEC  
⇒ new

~~(10)~~ *“marketing”* the holding available or in stock, displaying or offering for sale, selling and/or delivering to another person, in whatever form, of propagating material or fruit plants ⇒ means the sale, holding with a view to sale, offer for sale, and any disposal, supply or transfer aimed at commercial exploitation of propagating material or fruit plants to third parties, whether or not for consideration ⇐ ;

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↓ 92/34/EEC (adapted)  
⇒ new

~~(11)~~ *“responsible official body”* ⊗ means ⊗

~~(a) (i) the sole and central~~ ⇒ an ⇐ authority, established or designated by the Member State under the supervision of the national government and responsible for questions concerning ☒ the ☒ quality ☒ of propagating material and fruit plants ☒ :

~~(b) (ii)~~ any State authority established:

- either at national level, ☒ or ☒
- ~~or~~ at regional level, under the supervision of the national authorities, within the limits set by the national legislation of the Member State concerned;

~~(h) (12)~~ “official measures” ☒ means ☒ measures taken by the responsible official body;

~~(m) (13)~~ “official inspection” ☒ means ☒ inspection carried out by the responsible official body ⇒ or under the responsibility of the responsible official ⇐;

~~(n) official statement: statement issued by or under the responsibility of the responsible official body;~~

~~(o) (14)~~ “lot” ☒ means ☒ a number of units of a single commodity, identifiable by its homogeneity of composition and origin.

~~(p) laboratory: a body under public or private law carrying out analysis and proper diagnosis, enabling the producer to monitor production quality.~~

↓ 92/34/EEC (adapted)

## ☒ CHAPTER 2 ☒ ☒ REQUIREMENTS FOR PROPAGATING MATERIAL AND FRUIT PLANTS ☒

### Article ~~38~~

#### ☒ General requirements for placing on the market ☒

~~1. Propagating material or fruit plants may be marketed only by accredited suppliers, and provided they meet the requirements laid down for CAC material in the schedule referred to in Article 4.~~

~~2. Pre-basic, basic and certified material may not be certified unless it belongs to a variety referred to in Article 9 (2) (i) and unless it meets the requirements for the category concerned laid down in the schedule referred to in Article 4. The category shall be indicated on the official document referred to in Article 11.~~

~~With regard to the varietal aspect, in the schedule to be drawn up in accordance with Article 4 provision may be made for an exemption for rootstocks where the material does not belong to a variety.~~

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↓ new

1. Propagating material and fruit plants may only be marketed if:
  - (a) the propagating material has been officially certified as “pre-basic material”, “basic material” or “certified material” or if it is found to be CAC material by official inspection;
  - (b) the fruit plants have been officially certified as certified material or are found to be CAC material by official inspection.
2. In the case of a variety which consists of a genetically modified organism within the meaning of points 1 and 2 of Article 2 of Directive 2001/18/EC the variety shall be accepted for registration in the catalogue only if has been authorised pursuant to that Directive or pursuant to Regulation (EC) No 1829/2003.
3. Where products derived from propagating material are intended to be used as or in food falling within the scope of Article 3 or as or in a feed falling within the scope of Article 15 of Regulation (EC) No 1829/2003, the fruit plant variety concerned shall be accepted for the registration in the catalogue only if it has been authorised pursuant to that Regulation.

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↓ 92/34/EEC

- ~~3. Without prejudice to the provisions of Directive 77/93/EEC, the previous paragraphs shall not apply to propagating material or fruit plants intended for:~~

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↓ new

4. Notwithstanding paragraph 1, Member States may authorise producers on their own territory to place on the market appropriate quantities of propagating material intended:

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↓ 92/34/EEC (adapted)

⇒ new

- (a) ☒ for ☒ trials or scientific purposes;
- (b) ☒ for ☒ selection work; or
- (c) ~~measures for the conservation of~~ ☒ to help preserve ☒ genetic diversity.

~~Detailed rules for the application of points (a) and (b) shall be adopted, as necessary, in accordance with the procedure laid down in Article 21. Detailed rules for the application of point (c) shall be adopted preferably before 1 January 1993, in accordance with the same procedure.~~ ⇨ The conditions under which Member States



may grant such authorisation shall be adopted in accordance with the procedure referred to in Article 19(2).↵

↓ 92/34/EEC (adapted)  
⇒ new

#### Article 4

##### ⊗ Specific requirements for genus and species ⊗

1. In accordance with the procedure ⊗ referred to ⊗ ~~laid down~~ in Article ~~19(3)22~~, a ~~schedule~~ ⊗ specific requirements ⊗ ~~shall be established in Annex I~~ for each genus or species referred to in Annex II ⊗ shall be established, ⊗ ~~with a reference to the plant health conditions laid down in Directive 77/93/EEC applying to the genus and/or species concerned and laying down~~ ⊗ specifying ⊗ :

(a ~~ii~~) ~~the quality and plant health~~ conditions with which CAC material must comply, in particular those relating to the propagation system applied, to the purity of the growing crop, ⇒ plant health ↵, and, except in the case of rootstocks, where the material does not belong to a variety, to varietal aspects;

(b ~~i~~) the conditions with which pre-basic, basic and certified material must comply, relating to quality ⇒(including, for pre-basic and basic material, methods for the maintenance of the identity of the variety and, where applicable, of the clone, including the relevant characteristics of its pomological value) ↵, plant health, the testing methods and procedures applied, the propagation system(s) applied and, except in the case of rootstocks where the material does not belong to a variety, to varietal aspects;

(c ~~iii~~) the conditions with which rootstocks and other parts of plants of other genera or species must comply if propagating material of the genus or species concerned is grafted onto them.

~~2. If in the schedule a reference is made to the qualification “virus free (v.f.)” or “virus tested (v.t.)”, the viruses and virus like pathogens concerned shall be mentioned in that schedule.~~

~~This provision shall apply *mutatis mutandis* where reference is made to a qualification concerning freedom from or testing to detect harmful organisms other than viruses or virus like pathogens.~~

~~No reference shall be made to v.f. or v.t. in respect of the material referred to in subparagraph (i).~~

~~In respect of the material referred to in subparagraph (i), a reference to the aforementioned qualifications shall be made where such reference is relevant for the genus or species concerned.~~

## ~~Article 5~~

~~1. Member States shall ensure that suppliers take all necessary measures to guarantee compliance with the standards laid down by this Directive at all stages of the production and marketing of propagating material and fruit plants.~~

~~2. For the purposes of paragraph 1, suppliers shall either carry out themselves, or have carried out by an accredited supplier or a responsible official body, checks based on the following principles:~~

~~— identification of critical points in their production process on the basis of the production methods used;~~

~~— establishment and implementation of methods for monitoring and checking the critical points referred to in the first indent;~~

~~— taking samples for analysis in a laboratory accredited by the responsible official body for the purpose of checking compliance with the standards established by this Directive;~~

~~— keeping a written record or a record registered in an indelible fashion, of the data referred to in the first, second and third indents, as well as records on production and marketing of propagating material and fruit plants, to be held at the disposal of the responsible official body. These documents shall be kept for a period of at least three years.~~

~~However, suppliers whose activity in this connection is confined merely to the distribution of propagating material and fruit plants produced and packaged on premises other than their own shall be required only to keep a written record or a record registered in an indelible fashion of the buying and selling and/or delivery of propagating material and fruit plants.~~

~~This paragraph shall not apply to suppliers whose activity in this connection is confined to the supply of small quantities of propagating material and fruit plants to non-professional final consumers.~~

~~3. If the result of their own checks or any information at the disposal of the suppliers referred to in paragraph 1 reveals the presence of one or more of the harmful organisms referred to in Directive 77/93/EEC or, in a quantity greater than that normally allowed for in order to meet the standards, of those specified in the relevant schedules established pursuant to Article 4, the suppliers shall immediately report this to the responsible official body and shall carry out the measures indicated by that body or any other measure necessary to reduce the risk of such harmful organisms from spreading. The supplier shall keep records of all outbreaks of harmful organisms on his premises and of all measures taken in relation to such occurrences.~~

~~4. Detailed rules for the application of the second subparagraph of paragraph 2 shall be adopted in accordance with the procedure laid down in Article 21.~~

## **Chapter 3**

### **REQUIREMENTS TO BE MET BY SUPPLIERS**

#### *Article 5*

#### *Registration*

1. Suppliers shall be officially registered in relation to the activities which they carry out under this Directive.
2. Paragraph 1 shall not apply to suppliers marketing only to persons not professionally engaged in the production, reproduction or sale of propagating material or fruit plants.
3. Detailed rules for the application of paragraphs 1 and 2 may be established in accordance with the procedure referred to in Article 19(2).

#### *Article 6*

#### *Specific requirements*

1. Suppliers engaged in the production or reproduction of propagating material and fruit plants shall:
  - identify and monitor critical points in their production process which influence the quality of the material,
  - keep information on the monitoring referred to in the first indent available for examination when requested by the responsible official body,
  - take samples where necessary for analysis in a laboratory, and
  - ensure that, during production, lots of propagating material remain separately identifiable.
2. In the case of the appearance, on the premises of a supplier, of a harmful organism listed in the Annexes to Directive 2000/29/EC or referred to in the specific requirements established pursuant to Article 4 of this Directive the supplier shall report it to the responsible official body and shall carry out any measures imposed by that body.
3. When propagating material or fruit plants are marketed, suppliers shall keep records of their sales or purchases for at least 12 months.

The first subparagraph shall not apply to suppliers who are exempted from registration in accordance with Article 5(2).

4. Detailed rules for the application of paragraph 1 may be established in accordance with the procedure referred to in Article 19(2).

↓ 92/34/EEC (adapted)  
⇒ new

#### ~~Article 6~~

~~1. The responsible official body shall accredit suppliers once it has verified that their production methods and establishments meet the requirements of this Directive with regard to the nature of the activities they carry out. The accreditation must be renewed if a supplier decides to carry out activities other than those for which he has received accreditation.~~

~~2. The responsible official body shall accredit laboratories once it has verified that those laboratories, their methods, their establishments and their staff, meet the requirements of this Directive, to be specified according to the procedure laid down in Article 21, with regard to the testing activities they carry out. The accreditation must be renewed if a laboratory decides to carry out activities other than those for which it has received accreditation.~~

~~3. The responsible official body shall take the necessary measures if the requirements referred to in paragraphs 1 and 2 cease to be met. To this end, it shall take particular account of the conclusions of any check carried out in accordance with Article 7.~~

~~4. The supervision and monitoring of suppliers, establishments and laboratories shall be carried out regularly by or under the responsibility of the responsible official body, which shall at all times have free access to all parts of establishments, in order to ensure compliance with the requirements of this Directive. Implementing measures concerning supervision and monitoring shall be adopted, as necessary, in accordance with the procedure laid down in Article 21.~~

~~If such supervision and monitoring reveal that the requirements of this Directive are not being met, the responsible official body shall take appropriate action.~~

### ⊠ CHAPTER 4 ⊠

## ⊠ VARIETY IDENTIFICATION AND LABELLING ⊠

#### *Article 7~~9~~*

#### *⊠ Variety identification ⊠*

1. Propagating material and fruit plants shall be marketed with a reference to the variety  $\Rightarrow$  and clone, where appropriate,  $\Leftarrow$  to which they belong. Where, in the case of rootstocks, the material does not belong to a variety, reference shall be made to the species or interspecific hybrid concerned.

↓ new

2. In the case of propagating material of a variety which has been genetically modified, any label and document, official or otherwise, which is affixed to or accompanies the material under this Directive shall clearly indicate that the variety has been genetically modified and shall name the genetically modified organisms.

↓ 92/34/EEC (adapted)

⇒ new

23. The varieties ⇒ and clones, where appropriate, ⇐ to which reference ☒ is to ☒ shall be made pursuant to paragraph 1 ☒ shall ☒ must be:
- (a*i*) ~~either commonly known, and~~ ☒ legally ☒ protected ☒ by a plant variety right ☒ in accordance with provisions on the protection of new varieties of plants; or
  - (b) officially registered ⇒ in a national catalogue ⇐ ~~on a voluntary or other basis;~~ ☒ or ☒
  - (c*ii*) ~~or entered on lists kept by the suppliers, with their detailed descriptions and relevant denominations. These lists must be available, upon request, to the responsible official body of the Member State concerned.~~ ⇒ commonly known, if, on the date on which application is duly made for acceptance for registration, it either is entered in the catalogue of another Member State or is the subject of an application for acceptance in another Member State or it has been already marketed as CAC material before [same date as in the second subparagraph of Article 20(1)] in the territory of the Member State concerned or another MS, provided that it has an official description. ⇐
4. ~~Each variety shall be described and,~~ As far as possible, ☒ each variety shall ☒ bear the same denomination in all ☒ the ☒ Member States, ⇒ in accordance with implementing measures which may be adopted in accordance with the procedure referred to in Article 19(2) or, in their absence, ⇐ in accordance with accepted international guidelines.
35. Varieties may be officially registered if they have been found to satisfy certain officially approved conditions and have an official description. They may also be officially registered if their material has been ⇒ already ⇐ marketed ⇒ as CAC material before [same date as in the second subparagraph of Article 20(1)] ⇐ in the territory of the Member State concerned prior to 1 January 1993, provided that they have an official description. ~~In the latter case the registration shall expire not later than 30 June 2000, unless by that date the varieties in question have been:~~
- ~~either confirmed, in accordance with the procedure referred to in Article 21, with a detailed description if they have been officially registered in at least two Member States,~~
  - ~~or registered in accordance with the first sentence.~~

~~4. Except where the varietal aspect is explicitly mentioned in the schedules referred to in Article 4, paragraphs (1) and (2) shall not entail any extra responsibility for the responsible official body.~~

~~56.~~ Requirements for the official registration referred to in paragraph 3 (b) ~~2 (i)~~ shall be established in accordance with the procedure  referred to  ~~laid down~~ in Article ~~19(2)21~~, taking into account current scientific and technical knowledge and covering:

- (a) the conditions of official acceptance  for registration , which may include, in particular, distinctness, stability and sufficient uniformity;
- (b) the characteristics which as a minimum the examinations of the various species must cover;
- (c) the minimum requirements for carrying out the examinations;
- (d) the maximum period of validity of the official acceptance of a variety.

~~67.~~ In accordance with the procedure  referred to  ~~laid down~~ in Article ~~19(2)21~~:

- a system for the notification of varieties or species or interspecific hybrids  and clones, where appropriate,  to the responsible official bodies of the Member States may be set up,
- ~~additional implementing provisions for paragraph 2 (ii) may be adopted,~~
- it may be decided that a common catalogue of varieties may be established and published.

↓ 92/34/EEC (adapted)  
⇒ new

#### *Article ~~810~~*

#### *Lot composition and identification*

1. While growing and during lifting or removal from the parent material, propagating material and fruit plants shall be kept in separate lots.
2. If propagating material and fruit plants of different origins are put together or mixed during packaging, storage, transport or at delivery, the supplier shall keep records including the following data: composition of the lot and origin of its individual components.
- ~~3. Member States shall ensure compliance with the requirements referred to in paragraphs 1 and 2 by carrying out official inspections.~~

*Article ~~911~~*  
*⊗ Labelling ⊗*

~~Without prejudice to Article 10 (2),~~ p Propagating material and fruit plants shall be marketed only in sufficiently homogeneous lots and if they are:

- (~~a~~) qualified as CAC material and accompanied by a document made out by the supplier in accordance with the ~~conditions~~ ⊗ specific requirements ⊗ ~~laid down in the schedule~~ established pursuant to Article 4. ~~It~~ ⊗ If ⊗ an official declaration appears on this document, it shall be clearly separate from all other information in the document; or
- (~~b~~) qualified as pre-basic, basic or certified material, and certified as such by the ~~official~~ responsible ⊗ official ⊗ body in accordance with the ~~conditions~~ ⊗ specific requirements ⊗ ~~laid down in the schedule referred~~ ⊗ established pursuant ⊗ to ~~in~~ Article 4.

Requirements in respect of propagating material and/or fruit plants with regard to labelling and/or sealing and packaging shall be indicated in ~~the schedule referred to in Article 4~~ ⇒ implementing measures adopted in accordance with the procedure referred to in Article 19(3)⇐.

In the case of retail supply of propagating material or fruit plants to a non-professional final consumer, requirements regarding labelling may be confined to appropriate product information.

**⊗ CHAPTER 5 ⊗**  
**⊗ EXEMPTIONS ⊗**

*Article ~~1012~~*  
*⊗ Suppliers ⊗*

1. Member States may exempt:

- (a) from the application of Article ~~911~~, small producers all of whose production and sales of propagating material and fruit plants is intended for final use by persons on the local market who are not professionally involved in plant production (“local circulation”);
- (b) from the checks and official inspections provided for in Article ~~1318~~, the local circulation of propagating materials and fruit plants produced by such exempt persons.

2. In accordance with the procedure ~~laid down~~ ☒ referred to ~~in~~ ☒ Article ~~19(2)21~~, implementing measures relating to other requirements concerning the exemptions referred to in paragraph 1 of this Article ~~the first and second indents~~, in particular as regards the concepts of “small producers” and “local market”, and to the related procedures, shall be adopted.

↓ 92/34/EEC (adapted)  
⇒ new

*Article ~~1143~~*

☒ *Propagating material and fruit plants* ☒

In the event of temporary difficulties in the supply of propagating material and fruit plants satisfying the requirements of this Directive ~~due to natural disasters or unforeseen circumstances~~ ☒, measures may be adopted, in accordance with the procedure ☒ referred to ~~in~~ ☒ ~~laid down~~ in Article ~~19(2)21~~, concerning the marketing of propagating material and fruit plants meeting less stringent requirements, ~~without prejudice to the plant health rules laid down in Directive 77/93/EEC.~~

↓ 92/34/EEC (adapted)  
→<sub>1</sub> 2005/54/EC Article 1  
⇒ new

☒ **CHAPTER 6** ☒

☒ **PROPAGATING MATERIAL AND FRUIT PLANTS PRODUCED IN THIRD COUNTRIES** ☒

*Article ~~1246~~*

1. In accordance with the procedure ☒ referred to ~~in~~ ☒ ~~laid down~~ in Article ~~19(2)21~~, it shall be decided whether propagating material and fruit plants produced in a third country and affording the same guarantees as regards obligations on the supplier, identity, characteristics, plant health, growing medium, packaging, inspection arrangements, marking and sealing, are equivalent in all these respects to propagating material and fruit plants produced in the Community and complying with the requirements and conditions of this Directive.
2. Pending the decision referred to in paragraph 1, Member States may, until →<sub>1</sub> 31 December 2007 ←, and without prejudice to the provisions of Directive ☒ 2000/29/EC ☒ ~~77/93/EEC~~, apply to the import of propagating material and fruit plants from third countries conditions at least equivalent to those indicated, on a temporary or permanent basis, in the ~~schedules~~ ☒ specific requirements ☒ adopted pursuant to Article 4. If such conditions are not laid down in the ~~schedules~~, ☒ specific requirements ☒ the conditions for importation must be at least equivalent to those applicable to production in the Member State concerned.



In accordance with the procedure ~~☒~~ referred to ~~☒ laid down~~ in Article ~~19(2) 21~~, the date referred to in the first subparagraph ~~☒~~ of this paragraph ~~☒~~ may, for the various third countries, be extended pending the decisions referred to in paragraph 1 ~~☒~~ of this Article ~~☒~~.

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

↓ 92/34/EEC (adapted)  
⇒ new

## ~~☒~~ CHAPTER 7 ~~☒~~ ~~☒~~ CONTROL MEASURES ~~☒~~

### *Article ~~13 17~~* ~~☒~~ Official inspection ~~☒~~

1. Member States shall ensure that propagating material and fruit plants are officially inspected during production and marketing, ~~and by random checks in the case of CAC material,~~ to verify compliance with the requirements and conditions set out in this Directive.

↓ 92/34/EEC Article 3(k)  
(adapted)

2. The bodies referred to in Article 2(11)(a) (i) and (b) (ii) may, in accordance with their national legislation, delegate the tasks provided for in this Directive to be accomplished under their authority and supervision to any legal person, whether governed by public or private law, which, under its officially approved statute, is charged exclusively with specific public functions, provided that such person, and its members, has no personal interest in the outcome of the measures it takes.

~~The Member States shall ensure that there is close cooperation between the bodies referred to in (ii) and those referred to in (i).~~

~~Moreover, i~~In accordance with the procedure ~~☒~~ referred to ~~☒ laid down~~ in Article ~~19(2) 21~~, any other legal persons established on behalf of a body referred to in Article 2(11)(a)(i) and (b)(ii) and acting under the authority and the supervision of such body, may be approved, provided that such person has no personal interest in the outcome of the measures it takes.

~~The~~ Member States shall notify the Commission of their responsible official bodies. The Commission shall forward that information to the other Member States.

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↓ 92/34/EEC (adapted)  
⇒ new

3. ~~Detailed rules for implementing the controls provided for in Article 5 and for the official inspection provided for in Articles 10 and 17, including sampling methods,~~  
⇒ the application of paragraph 1 ⇐ shall be adopted in accordance with the procedure ~~laid down~~ ⇔ referred to ⇔ in Article ~~19(2)~~21.
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↓ 2003/61/EC, Art. 1 pt. 5  
(adapted)  
⇒ new

*Article ~~14~~20*

⇔ *Community monitoring* ⇔

1. Trials, or, where appropriate, tests shall be carried out in the Member States on samples to check that propagating material or fruit plants comply with the requirements and conditions of this Directive, including those relating to plant health. The Commission may organise inspections of the trials by representatives of the Member States and of the Commission.
2. Community comparative tests and trials may be carried out within the Community for the post-control of samples of propagating material or fruit plants placed on the market under the provisions of this Directive whether mandatory or discretionary, including those relating to plant health. The comparative tests and trials may include the following:
  - propagating material or fruit plants produced in third countries,
  - propagating material or fruit plants suitable for organic farming,
  - propagating material or fruit plants marketed in relation to measures for the conservation of genetic diversity.
3. ~~These~~ comparative tests and trials ⇔ referred to in paragraph 2 ⇔ shall be used to harmonise the technical methods of examination of propagating material and fruit plants and to check satisfaction of the conditions with which the material must comply.
4. The Commission, acting in accordance with the procedure referred to in Article ~~19(2)~~21, shall make the necessary arrangements for the comparative tests and trials to be carried out. The Commission shall inform the Committee referred to in Article ~~19(2)~~21 about the technical arrangements for holding the tests and trials and the results thereof. When plant health problems occur, the Commission shall notify the Standing Committee on Plant Health.
5. The Community may make a financial contribution to the performance of the tests and trials foreseen in paragraphs 2 and 3.

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

6. The tests and trials which may benefit from a Community financial contribution, and detailed rules for the provision of the financial contribution, shall be established in accordance with the procedure  referred to  ~~laid down~~ in Article 19(2)~~21~~.
7. The tests and trials foreseen in paragraphs 2 and 3 may be performed only by State authorities or legal persons acting under the responsibility of the State.

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↓ 92/34/EEC (adapted) ⇒ new
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*Article 15~~7~~*

*Community checks in Member States*

1. Commission experts may, in cooperation with the responsible official bodies of the Member States, make on-the-spot checks in so far as this is necessary to ensure the uniform application of this Directive, and in particular to verify whether suppliers are in effect complying with the requirements of this Directive. A Member State in whose territory a check is being carried out shall give all necessary assistance to the experts in carrying out their duties. The Commission shall inform the Member States of the result of the investigations.
2. Detailed rules for the application of paragraph 1 shall be adopted in accordance with the procedure  referred to  ~~laid down~~ in Article 19(2)~~21~~.

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↓ 92/34/EEC (adapted) ⇒ new
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*Article 16~~24~~*

*Follow up actions by Member States*

1. Member States shall ensure that propagating material and fruit plants produced in their territory and intended for marketing comply with the requirements of this Directive.

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↓ 92/34/EEC (adapted)
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- ~~2. If it is found, during an official inspection, that propagating material or fruit plants cannot be marketed because they fail to comply with a condition relating to plant health, the Member State concerned shall take appropriate official measures to eliminate any consequent plant health risk.~~

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↓ 92/34/EEC (adapted)

~~Article 19~~

2. If, during ~~the supervision and monitoring provided for in Article 6 (4)~~, the official inspection referred to in Article ~~13~~<sup>17</sup>, or the trials referred to in Article ~~14~~<sup>20</sup>, it is found that propagating material or fruit plants do not meet the requirements of this Directive, the responsible official body of the Member State shall take appropriate action to ensure that they do comply with the provisions of this Directive or, if that is not possible, to ban the marketing of that propagating material or those fruit plants in the Community.

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↓ 92/34/EEC

3. If it is found that propagating material or fruit plants marketed by a particular supplier do not comply with the requirements and conditions of this Directive, the Member State concerned shall ensure that appropriate measures are taken against that supplier. If the supplier is forbidden to market propagating material and fruit plants, the Member State shall accordingly inform the Commission and the competent national bodies in the Member States.

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↓ 92/34/EEC

4. Any measures taken under paragraph ~~3~~<sup>2</sup> shall be withdrawn as soon as it has been established with sufficient certainty that the propagating material or fruit plants intended for marketing by the supplier will, in the future, comply with the requirements and conditions of this Directive.

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↓ 92/34/EEC (adapted)  
⇒ new

⊠ CHAPTER 8 ⊠

⊠ GENERAL AND FINAL PROVISIONS ⊠

Article ~~17~~<sup>14</sup>

⊠ National provisions ⊠

1. Propagating material and fruit plants which comply with the requirements and conditions of this Directive shall be subject to no marketing restrictions as regards supplier, plant health, growing medium and inspection arrangements, other than those laid down in this Directive.

---

↓ 92/34/EEC (adapted)  
⇒ new

Article 15

2. As regards the ~~products~~ ☒ propagating material and fruit plants of the genera and species ☒ referred to in Annex II Member States shall refrain from imposing more stringent conditions or marketing restrictions other than ~~the conditions laid down in the schedules referred to Article 4 or those obtaining on the date of adoption of this directive, as the case may be~~ ☒ those laid down in this Directive or in the specific requirements established pursuant to Article 4 ☒.

---

↓ 92/34/EEC Article 1.3  
(adapted)  
⇒ new

Article 18~~23~~

☒ *Amendments and adaptation of Annexes* ☒

- ~~3. Amendments to the list of genera and species in Annex II shall be adopted in accordance with the procedure laid down in Article 22.~~ ⇒ The Commission may, in accordance with the procedure referred to in Article 19(3), make any amendments to Annex I, taking into account current scientific and technical knowledge. ⇐

---

↓ 806/2003 Art. 2 and Annex II  
pt. 7 (adapted)

Article 19

☒ *Committee* ☒

1. The Commission shall be assisted by the Standing Committee on Propagating Material and Plants of Fruit Genera and Species ☒ , hereinafter referred to as “the Committee” ☒.
2. Where reference is made to this ☒ paragraph ☒ ~~Article~~, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

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↓ 806/2003 Art. 2 and Annex II,  
pt. 28 (adapted)

~~1. The Commission shall be assisted by the Standing Committee on Propagating Material and Plants of Fruit Genera and Species.~~

23. Where reference is made to this ~~Article~~ ☒ paragraph ☒, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

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↓ 806/2003 Art. 2 and Annex II  
pt. 7

43. The Committee shall adopt its Rules of Procedure.

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↓ 92/34/EEC (adapted)

~~Article 25~~

~~Within five years from the date of adoption of this Directive, the Commission shall examine the results of its application and submit to the Council a report, accompanied by any necessary proposals for amendments.~~

~~Article 2026~~

☒ ~~Transposition~~ ☒

~~1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive no later than 31 December 1992. They shall forthwith inform the Commission thereof.~~

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

~~2. As far as Articles 5 to 11, 14, 15, 17, 19 and 24 are concerned, the date of application for each genus or species referred to in Annex II shall be fixed in accordance with the procedure provided for in Article 21, when the schedule referred to in Article 4 is drawn up.~~



1. Member States shall adopt and publish, by [...] at the latest, the laws, regulations and administrative provisions necessary to comply with Articles [...]. 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 [...].

2. 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. They shall also include a statement that references in existing laws, regulations and administrative provisions to the directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.
3. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

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 new

*Article 21*  
*Transitional measures*

Member States may, as a transitional measure until 1 January XXX, allow the marketing in their own territory of certified and CAC material taken from parent plants in existence at the date of entry into force of this Directive.



*Article 22*  
*Repeal*

Directive 92/34/EEC, as amended by the acts listed in Annex II, Part A, is repealed with effect from [date set out in second subparagraph of Article 20], without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law and application of the Directives set out in Annex II, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex III.

*Article 23*  
*Entry into Force*

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

Articles [...] and Annex I shall apply from [...].

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↓ 92/34/EEC

*Article ~~2427~~*

This Directive is addressed to the Member States.

Done at Brussels,

*For the Council  
The President*



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↓ 92/34/EEC (adapted)

~~ANNEX I~~

~~Schedules referred to in accordance with Article 4~~

**ANNEX I**

**List of genera and species to which this Directive applies**

*Castanea sativa* Mill.

*Citrus* L.

*Corylus avellana* L.

*Cydonia oblonga* Mill.

*Ficus carica* L.

*Fortunella* Swingle

*Fragaria* L.

*Juglans regia* L.

*Malus* Mill.

*Olea europaea* L.

*Pistacia vera* L.

*Poncirus* Raf.

*Prunus amygdalus* Batsch

*Prunus armeniaca* L.

*Prunus avium* (L.) L.

*Prunus cerasus* L.

*Prunus domestica* L.

*Prunus persica* (L.) Batsch

*Prunus salicina* Lindley

*Pyrus* L.

*Ribes* L.

*Rubus* L.

*Vaccinium* L.

## ANNEX II

### Part A

#### **Repealed Directive with its successive amendments** (referred to in Article 22)

Council Directive 92/34/EEC (OJ L 157, 10.6.1992, p. 10)	
Commission Decision 93/401/EEC (OJ L 177, 21.7.1993, p. 28)	
Commission Decision 94/150/EC (OJ L 66, 10.3.1994, p. 31)	
Commission Decision 95/26/EC (OJ L 36, 16.2.1995, p. 36)	
Commission Decision 97/110/EC (OJ L 39, 8.2.1997, p. 22)	
Commission Decision 1999/30/EC (OJ L 8, 14.1.1999, p. 30)	
Commission Decision 2002/112/EC (OJ L 41, 13.2.2002, p. 44)	
Council Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1)	Only point 7 of Annex II and point 28 of Annex III
Council Directive 2003/61/EC (OJ L 165, 3.7.2003, p. 23)	Only Article 1(5)
Commission Directive 2003/111/EC (OJ L 311, 27.11.2003, p. 12)	
Commission Decision 2005/54/EC (OJ L 22, 26.1.2005, p. 16)	

## Part B

### List of time-limits for transposition into national law and application (referred to in Article 22)

Directive	Time-limit for transposition	Date of application
92/34/EEC	31 December 1992	31 December 1992 <sup>11</sup>
2003/61/EC	10 October 2003	
2003/111/EC	31 October 2004	

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<sup>11</sup> As far as Articles 5 to 11, 14, 15, 17, 19 and 24 are concerned, the date of application for each genus or species referred to in Annex II shall be fixed in accordance with the procedure provided for in Article 21, when the schedule referred to in Article 4 is drawn up (See Article 26(2) of Directive 92/34/EEC).

## ANNEX III

### CORRELATION TABLE

Directive 92/34/EEC	This Directive
Articles 1 (1)	Articles 1 (1)
Article 1 (2)	-
Article 1 (3)	Article 18 amended
-	Article 1 (2)(3)
Article 2	Article 1 (4)
Article 3 (a), (b)	Article 2 (1), (2)
-	Article 2 (3), (4)
Article 3 (c) - 3(f)	Article 2 (5) – 2 (8) amended
Article 3 (g) - 3(h)	-
Article 3 (i) - (j)	Article 2 (9) – (10) amended
Article 3 (k) (i and ii)	Article 2 (11)
Article 3 (k) partim	Article 13 (2) amended
Article 3 (l) (m)	Article 2 (12), (13)
Article 3 (n)	-
Article 3 (o)	Article 2 (14)
Article 3 (p)	-
Article 4(1)	Article 4 amended
Article 4(2)	-
Article 5	-
-	Article 5
Article 6	-
-	Article 6
Article 7	Article 15
Articles 8 (1) (2)	Article 3 (1) (a), (b) amended
-	Article 3 (2)
-	Article 3 (3)
Article 8 (3)	Article 3 (4) amended
Article 9 (1)	Article 7 (1)
-	Article 7 (2)
Article 9 (2) (i), (ii)	Article 7 (3) (a), (b) amended
Article 9 (2) final provision	Article 7 (4) amended
Article 9 (3)	Article 7(5)
Article 9 (4)	-
Article 9 (5)	Article 7(6)

Article 9 (6)	Article 7 (7)
Articles 10 (1) (2) Article 10 (3)	Articles 8 (1) (2) amended -
Article 11	Article 9 amended
Article 12	Article 10
Article 13	Article 11 amended
Article 14	Article 17 (1)
Article 15	Article 17 (2) amended
Article 16	Article 12
Article 17	Article 13 (1) amended
Article 18	Article 13 (3) amended
Article 19 (1) Article 19 (2) Article 19 (3)	Article 16 (2) Article 16 (3) Article 16 (4)
Article 20	Article 14
Article 21 (1) (2) Article 21 (3)	Article 19 (1) (2) Article 19 (4)
Article 22 (1) (2)	Article 19 (1) (3)
Article 23	-
Article 24 (1) Article 24 (2)	Article 16(1) -
Article 25	-
Article 26	Article 20
-	Article 21
-	Article 22
-	Article 23
Article 27	Article 24
Annex I	-
Annex II	Annex I
-	Annexes II and III

## LEGISLATIVE FINANCIAL STATEMENT

### 1. NAME OF THE PROPOSAL:

Proposal for a Council Directive on the marketing of fruit plan propagating material and fruit plants intended for fruit production

### 2. ABM / ABB FRAMEWORK

Policy Area(s) concerned: Food safety, animal health, animal welfare and plant health

Activity/Activities: seed and propagating material of plants.

### 3. BUDGET LINES

#### 3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-B..A lines)) including headings:

17.0404 Plant health measures

#### 3.2. Duration of the action and of the financial impact:

Open ended

#### 3.3. Budgetary characteristics (*add rows if necessary*):

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
17.0404.	Comp/ Non-comp	Diff <sup>12</sup> Non-diff <sup>13</sup>	NO	NO	NO	NO [2]

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<sup>12</sup> Differentiated appropriations.

<sup>13</sup> Non-differentiated appropriations hereafter referred to as NDA.

## 4. SUMMARY OF RESOURCES

### 4.1. Financial Resources

#### 4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
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#### Operational expenditure<sup>14</sup>

Commitment Appropriations (CA)	8.1	a	0.170	0.170	0.170	0.190	0.190	0.190	1.080
Payment Appropriations (PA)		b	0.170	0.170	0.170	0.190	0.190	0.190	1.080

#### Administrative expenditure within reference amount<sup>15</sup>

Technical & administrative assistance (NDA)	8.2.4	c	0	0	0	0	0	0	0
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#### TOTAL REFERENCE AMOUNT

<b>Commitment Appropriations</b>		<b>a+c</b>	0.170	0.170	0.170	0.190	0.190	0.190	1.080
<b>Payment Appropriations</b>		<b>b+c</b>	0.170	0.170	0.170	0.190	0.190	0.190	1.080

#### Administrative expenditure not included in reference amount<sup>16</sup>

Human resources and associated expenditure (NDA)	8.2.5	d	0.086	0.086	0.076	0.076	0.076	0.076	0.476
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e	0.130	0.130	0.130	0.130	0.130	0.130	0.780

#### Total indicative financial cost of intervention

<b>TOTAL CA including cost of Human Resources</b>		<b>a+c+d+e</b>	0.386	0.386	0.376	0.396	0.396	0.396	2.336
<b>TOTAL PA including cost of Human Resources</b>		<b>b+c+d+e</b>	0.386	0.386	0.376	0.396	0.396	0.396	2.336

<sup>14</sup> Expenditure that does not fall under Chapter 17 01 of the Title 17.

<sup>15</sup> Expenditure within article 17 01 04 of Title 17.

<sup>16</sup> Expenditure within Chapter 17 01 other than Article 17 01 04.



## Co-financing details

If the proposal involves co-financing by Member States, or other bodies (please specify which), an estimate of the level of this co-financing should be indicated in the table below (additional lines may be added if different bodies are foreseen for the provision of the co-financing):

*EUR million (to 3 decimal places)*

Co-financing body		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
MS's official bodies .....	f	0.037	0.037	0.037	0.042	0.042	0.042	0.237
TOTAL CA including co-financing	a+c +d+ e+f	0.423	0.423	0.413	0.438	0.438	0.438	2.573

### 4.1.2. Compatibility with Financial Programming

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Inter-institutional Agreement<sup>17</sup> (i.e. flexibility instrument or revision of the financial perspective).

### 4.1.3. Financial impact on Revenue

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

NB: All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

<sup>17</sup> See points 19 and 24 of the Interinstitutional agreement.

EUR million (to one decimal place)

		Prior to action [Year n-1]	Situation following action					
Budget line	Revenue		[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5] <sup>18</sup>
	a) Revenue in absolute terms							
	b) Change in revenue	Δ						

(Please specify each revenue budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)

**4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.**

Annual requirements	Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later
Total number of human resources	0.8	0.8	0.7	0.7	0.7	0.7

**5. CHARACTERISTICS AND OBJECTIVES**

Details of the context of the proposal are required in the Explanatory Memorandum. This section of the Legislative Financial Statement should include the following specific complementary information:

**5.1. Need to be met in the short or long term**

To clarify and simplify the regulatory framework in which business operates and

to improve the legislation based on technical and scientific progress and to adapt it to the new marketing environment in line with the new Common Agricultural Policy as described under point 1 of the explanatory memorandum.

<sup>18</sup> Additional columns should be added if necessary i.e. if the duration of the action exceeds 6 years.

## 5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

Community intervention is due to facilitate the functioning of internal market. There is evidence that it is very expensive to maintain different certification procedures and growing systems for the same material if it is marketed in different countries. Based on the principle of the internal market a harmonised approach could simplify these procedures and systems and therefore reduce the related costs both for the Member State's certification bodies and stakeholders (suppliers and users).

Moreover, the direct financial impact of this proposal is limited.

## 5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

- (1) Assure that the fruit plant propagating material does not lead to unacceptable costs for the user, the consumer or the environment and at the same time does not impose unnecessary burden to the industry by
- (2) Ensuring an appropriate functioning of the internal market for these plants.

## 5.4. Method of Implementation (indicative)

Show below the method(s)<sup>19</sup> chosen for the implementation of the action.

### X *Centralised Management*

- x Directly by the Commission
- ı Indirectly by delegation to:
  - ı Executive Agencies
  - ı Bodies set up by the Communities as referred to in art. 185 of the Financial Regulation
  - ı National public-sector bodies/bodies with public-service mission

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<sup>19</sup> If more than one method is indicated please provide additional details in the "Relevant comments" section of this point.

† ***Shared or decentralised management***

† With Member states

† With Third countries

† ***Joint management with international organisations (please specify)***

Relevant comments:

## **6. MONITORING AND EVALUATION**

### **6.1. Monitoring system**

The varieties authorised in Member States and listed in the Common catalogue, and the implementation of the legislation by Member States.

### **6.2 Evaluation**

#### *6.2.1. Ex-ante evaluation*

The proposed measure is a recast of an existing Directive. As far as the EU budget is concerned, the financial impact is limited.

Nevertheless, an intensive stakeholder consultation has taken place. A questionnaire for stakeholders' consultation was published on the official SANCO website [http://europa.eu.int/comm/food/consultations/index\\_en.htm](http://europa.eu.int/comm/food/consultations/index_en.htm) on 21 February 2006. Consultation with COPA-COGECA was considered the most appropriate way of consulting stakeholders directly involved in fruit plants propagating material production (suppliers) and growing (farmers). COPA-COGECA was consulted both by sending the above questionnaire directly to them on 28 February 2006 and by direct discussion in the framework of the meeting of the Advisory Group on Fruit and Vegetables held on 18 May 2006 in Brussels under point 3 of the agenda.

An initial discussion with Member States took place at the relevant Standing Committee (SC) meeting held on 15 June 2001. Based on the results of the meeting, the Commission services (SANCO E1) prepared, in close co-operation with MS's experts, a specific questionnaire addressed to the Member State's competent authorities on 21 December 2001. Based on the answers received, a detailed evaluation of the impact of this Directive on the internal market was started. Results and new inputs have been discussed at 5 meetings of the relevant Standing Committee and 5 meetings of experts from Member States in the years from 2002 to 2005. Information has been collected from stakeholders, scientific experts and Member States' experts at the meetings/seminars organised by EPPO, CIHAM, PHARE programme, COPA-COGECA and scientific organisations (e.g. Accademia dei Georgofili) in 2003 to 2005.

Main points which during the consultation were identified as deserving an in-depth discussion are covered by the impact assessment. Other points which bring consistency with other EU policies or optimise existing policies are included to improve the current system.

*6.2.2. Measures taken following an intermediate/ex-post evaluation (lessons learned from similar experiences in the past)*

No post evaluations have been carried out in this field.

*6.2.3. Terms and frequency of future evaluation*

In order to keep the evaluation proportionate to the resources allocated and in line with the impact of the programme and activity concerned, an evaluation should apply under the evaluation programme planned by DG SANCO.

**7. ANTI-FRAUD MEASURES**

Full application of internal control standards No 14, 15, 16, 18, 19, 20, 21.

Expenditure incurred is subject to the financial legislation as regards the call for projects procedures. As applied under the existing Directive, the proposals submitted by the MS's competent authorities for carrying out the tests and trials shall be examined by a Commission evaluation committee. The payments shall be authorised only after a specific evaluation of the final report based on a standard list of criteria.

## 8. DETAILS OF RESOURCES

### 8.1. Objectives of the proposal in terms of their financial cost

*Commitment appropriations in EUR million (to 3 decimal places)*

(Headings of Objectives, actions and outputs should be provided)	Type of output	Av. cost	Year n		Year n+1		Year n+2		Year n+3		Year n+4		Year n+5 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost
OPERATIONAL OBJECTIVE No1. 20....																
<b>Action 1</b> <b>Common catalogue</b>																
- Output 1	<b>Publication*</b>	0.01	1	0.010	1	0.010	1	0.010	1	0.010	1	0.010	1	0.010	6	0.060
- Output 2																
<b>Action 2 reports of the Community tests and trials</b>																
- Output 1	<b>Publication*</b>	0.01	1	0.010	1	0.010	1	0.010	1	0.010	1	0.010	1	0.010	6	0.060
Sub-total Objective 1				0.020		0.020		0.020		0.020		0.020		0.020		0.120
OPERATIONAL OBJECTIVE No.2 1.....																

<sup>20</sup>

As described under Section 5.3.

<b>Action 1</b> <b>Community comparative tests and trials</b>																
- Output 1	Carrying out**		4	0.150	4	0.150	4	0.150	4	0.170	4	0.170	4	0.170	24	0.960
Sub-total Objective 2				0.150		0.150		0.150		0.170		0.170		0.170		0.960
<b>TOTAL COST</b>				0.170		0.170		0.170		0.190		0.190		0.190		1.080

\* continuous updating based on the information provided by Member States

\*\* carrying out by giving subvention to the State authorities or legal persons acting under the responsibility of the State with a maximum of 80% of the total eligible costs

## 8.2 Administrative Expenditure

### 8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources ( <b>number of posts/FTEs</b> )					
		Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
Officials or temporary staff <sup>21</sup> (17. 01 01)	A*/AD	0.5	0.5	0.4	0.4	0.4	0.4
	B*, C*/AST	0.3	0.3	0.3	0.3	0.3	0.3
Staff financed <sup>22</sup> by art. XX 01 02							
Other staff <sup>23</sup> financed by art. XX 01 04/05							
<b>TOTAL</b>		0.8	0.8	0.7	0.7	0.7	0.7

### 8.2.2. Description of tasks deriving from the action

Examination of the post-control technical reports and other reports/proposals from Member States, and preparation of proposals for implementing measures, where appropriate;

Control of the implementation by Member States of the measures foreseen in the Directive;

Preparation of legislation to harmonise conditions for the marketing, criteria, control measures;

Examination of the post-control technical and financial reports on the carrying out of the Community comparative tests and trials prepared by Member States competent authorities, preparations of commitments and pass to payment.

<sup>21</sup> Cost of which is NOT covered by the reference amount.

<sup>22</sup> Cost of which is NOT covered by the reference amount.

<sup>23</sup> Cost of which is included within the reference amount.



### 8.2.3. Sources of human resources (statutory)

(When more than one source is stated, please indicate the number of posts originating from each of the sources)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

### 8.2.4. Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

**NOT APPLICABLE**

*EUR million (to 3 decimal places)*

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
<b>1. Technical and administrative assistance (including related staff costs)</b>							
Executive agencies <sup>24</sup>							
Other technical and administrative assistance							
– <i>intra muros</i>							
– <i>extra muros.</i>							
<b>Total Technical and administrative assistance</b>							

<sup>24</sup> Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

8.2.5. Financial cost of human resources and associated costs not included in the reference amount

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (XX 01 01)	0.086	0.086	0.076	0.076	0.076	0.076
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)						
<b>Total cost of Human Resources and associated costs (NOT in reference amount)</b>	<b>0.086</b>	<b>0.086</b>	<b>0.076</b>	<b>0.076</b>	<b>0.076</b>	<b>0.076</b>

Calculation– *Officials and Temporary agents*

Reference should be made to Point 8.2.1, if applicable

0.8 officials x 0.108 for the years n and n+1

0.7 officials x 0.108 for the years n+2 onwards

8.2.6 Other administrative expenditure not included in reference amount

EUR million (to 3 decimal places)

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions	0.020	0.020	0.020	0.020	0.020	0.020	0.120
XX 01 02 11 02 – Meetings & Conferences	0.060	0.060	0.060	0.060	0.060	0.060	0.360
XX 01 02 11 03 – Committees <sup>25</sup> Standing Committee on Propagating Material and Plants of Fruit Genera and Species	0.050	0.050	0.050	0.050	0.050	0.050	0.300
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
<b>2. Total Other Management Expenditure (XX 01 02 11)</b>							
<b>3. Other expenditure of an administrative nature</b> (specify including reference to budget line)							
<b>Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)</b>	0.130	0.130	0.130	0.130	0.130	0.130	0.780

<sup>25</sup> Specify the type of committee and the group to which it belongs.

Calculation - ***Other administrative expenditure not included in reference amount***

10 missions with a unit cost of 2000 € are foreseen, including in particular to follow the evaluations performed by the European Food Safety Authority and to assist in the coordination of Member State activities.

The organisation of meetings to prepare the necessary implementing measures including the meeting for the post-control exercise (Community comparative tests and trials).

2 Meetings of the Standing Committee (unit cost 25.000 €) are foreseen every year.

Calculation - ***Other administrative expenditure not included in reference amount***

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The needs for human and administrative resources shall be covered within the allocation granted to the managing DG in the framework of the annual allocation procedure.