Opinion on the proposal for a Council Regulation (EEC) on the marketing of young plants and propagating material other than seeds, of vegetables [1]

(90/C 182/06)

On 26 February 1990 the Council decided to consult the Economic and Social Committee, under Article 198 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 15 May 1990. The rapporteur was Mr Strauss.

At its 277th plenary session (meeting of 30 May 1990) the Economic and Social Committee adopted the following opinion unanimously.

1. Introduction

1.1. The many changing national rules controlling the quality and health standards of young plants and plant propagating material could in effect constitute barriers to trade between Member States.

1.2. With the objective of harmonizing regulations as required for the completion of the internal market, the Commission has found it necessary to extend the existing Directive (70/458) relating to the marketing of seeds to cover young plants and propagating material and has published three proposals for regulations covering vegetable, ornamental, and fruit material.

1.3. Because of time constraints the Commission has had little time for prior consultation with Member State authorities. The Commission may, thus, not be fully aware of the range of differences in national legislation, and has therefore only drawn up a framework in which Member States may operate, many of the details having still to be determined.

2. General observations

2.1. This proposal forms part of a wider strategy on plant health and must be considered in the context of other proposals, notably COM(88) 170 final, COM(89) 646 final and COM(89) 647 final amending the plant health Directive 77/93/EEC. These harmonization measures provide the framework within which COM(89) 649 final must be operative. These other measures must be adopted before the marketing regulation is introduced. This would ensure that there is no breakdown in control of plant health standards and that adequate safeguard facilities are provided for whereby unilateral action may be taken.

2.2. The Committee agrees that it is necessary to introduce Community legislation in order to harmonize quality and plant health standards as required for the completion of the internal market.

2.3. However, the Committee is concerned that the legislation may limit the flexibility and initiative which exists in the sector and is desired by consumers who have differing requirements with regard to quality standards and who are currently satisfied in an already self-regulating balance between supply and demand. Further, it is essential that sufficient Community resources are applied in order to ensure that adequate inspection is carried out to enforce the regulation fairly throughout the Community.

2.4. In respect of certain points the Proposal will need considerable clarification before its adoption. In the proposal much of the detailed administration of the proposed measures is left to the Joint Standing Committee and will not be referred to Council. It is difficult to give a precise and constructive opinion on a proposal which leave so much of the final form of the Regulation to officials who will not have to refer the matter back to Council of Ministers and other Community institutions.

3. Specific observations

3.1. *Material to which regulation applies*

3.1.1. The regulation should also apply to propagating material intended for export. The derogation provided in Article 2 could lead to the situation whereby material is circulated in the Community which is of lower quality and health standards and which could transfer disease to other plants or themselves enter the internal market.

3.1.2. The list provided in Article 3 (a)(i) is not exhaustive. For example, onions and Chinese cabbage are

[1] OJ No C 46, 27. 2. 1990, p 4.

not included. All vegetable species should be covered except those identified by a 'negative' list.

3.2. *Supplier requirements*

3.2.1. The requirements imposed under Article 4 and Annex I will impose extra cost on small and medium-scale enterprises, in particular, many of whom do not already have the necessary record-keeping facilities. The Committee would like the Commission to examine whether recognized Producer and Trade Organizations should play a role in reducing growers' administrative costs.

3.2.2. The derogation referred to in Annex I 4 (third indent) must be clarified. The Committee does not believe that a derogation should be based on area as this would be impracticable. It is however agreed that a derogation should apply to very small sales, provided this does not invalidate the aim of the legislation.

3.3. *Inspectorate resources*

3.3.1. The inspection required to enforce the regulation will impose an extra burden on already limited inspectorate resources. To ensure that suppliers are meeting the requirements laid out in Annex I, extra EC resources will be required especially if the Regulation is to be applied uniformly throughout the Community.

3.3.2. Similarly inspectorate resources will have to be greatly enhanced in order to meet the conditions referred to in Annex II (A) and (B).

3.4. *Marketing arrangements*

3.4.1. Considering the definition of 'lot' [Article 3(c)(i)] to imply material grown from the same bag of seed, sown at the same time into the same growing medium and grown under the same conditions, the requirement for homogeneity (Article 7) is as it stands too stringent. For example some indication should be given of the percentage tolerances acceptable.

3.4.2. The requirement for homogeneity will reduce the flexibility which exists in the sector. Customers have very different requirements for size and vigour for plants grown as one lot. The present demand-led nature of the sector meets best the requirements of individual growers. This should not be compromised by excessive legislation. Therefore, homogeneity should apply only to purity of variety and not to other quality criteria.

3.4.3. The requirement for a plant health statement (Article 8) duplicates the requirement for a plant passport [COM(89) 646 final]. This documentation should be harmonized so that only one is required.

3.4.4. The issue of the relevant documentation will require considerable additional manpower and, if the Commission wishes to delegate issuing of 'official' documents to qualified agents, then resources must be made available to train such people and to pay for their activities.

3.5. *Temporary difficulties*

3.5.1. Article 14 provides for less stringent measures to be adopted should 'temporary difficulties' in supply arise. This provision should not be invoked by a Member State wishing to abrogate its responsibilities under the proposed Regulation.

3.5.2. The marketing restrictions imposed under Article 11 may in themselves constitute a temporary difficulty in supply and therefore invoke Article 14. Clarification of this terminology is required. The statement 'without derogations' should be added to Article 11(2).

3.6. *More stringent requirements*

3.6.1. Under Article 12 a Member State could insist on higher quality and health standards and provide the necessary inspectorate. The Committee is not opposed to the unilateral raising of standards, but can only agree to this if the Commission ensures that this is not associated with state aids.

Done at Brussels, 30 May 1990.

The Chairman

of the Economic and Social Committee

Alberto MASPRONE