

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.6.2008
COM(2008) 343 final

Proposal for a

COUNCIL DECISION

on the equivalence of Forest Reproductive Material produced in third countries

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material provides for the Council to determine whether forest reproductive material produced in a third country affords the same assurances as regards the approval of its basic material and the measures taken for its production with a view to marketing as does forest reproductive material produced within the Community and complying with the provisions of this Directive.

In addition, the Council determines the species, type of basic material and categories of forest reproductive material, together with its region of provenance, which may be permitted to be marketed under Article 19.1 within the Community.

The OECD Council adopted in July 2007 a Scheme for the Certification of Forest Reproductive Material Moving in International Trade (OECD Forest Seed and Plant Scheme).

An examination of those rules has shown that the conditions for approval of basic material satisfy the requirements laid down in Directive 1999/105/EC. Furthermore, to the exception of conditions regarding seed quality, species purity and planting stock quality, the rules of these third countries afford the same assurances as regards the conditions applicable to seed and planting stock of the categories "source identified" and "selected" as those set out in Directive 1999/105/EC. It follows that, the rules for certification of forestry material of the categories "source identified" and "selected" in Canada, Norway, Switzerland, Turkey and United States of America should be considered as equivalent to those set out by Directive 1999/105/EC, provided that additional conditions as regards seed and planting stocks are satisfied.

The present proposal permits to establish an equivalence regime for importation of forest reproductive material under clear rules and to replace a temporary regime authorising Member States to take individual decisions for importation of such material.

Proposal for a

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on the equivalence of Forest Reproductive Material produced in third countries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material[1], and in particular Article 19(1) and 19(2) thereof,

Having regard to the proposal from the Commission[2],

Whereas:

(1) The rules for the certification of forest reproductive material in Canada, Norway, Switzerland, Turkey and United States of America provide for an official field inspection to be carried out during the collection and processing of seed and the production of planting stock.

(2) According to those rules, the systems for the approval and registration of basic material and the subsequent production of reproductive material from this basic material shall follow the OECD Scheme for the Certification of Forest Reproductive Material Moving in International Trade (OECD Forest Seed and Plant Scheme). In addition, those rules require seed and planting stock of the categories "source identified" and "selected" to be officially certified and the seed packages officially closed in accordance with the OECD Forest Seed and Plant Scheme.

(3) An examination of those rules has shown that the conditions for approval of basic material satisfy the requirements laid down in Directive 1999/105/EC. Furthermore, to the exception of conditions regarding seed quality, species purity and planting stock quality, the rules of these third countries afford the same assurances as regards the conditions applicable to seed and planting stock of the categories "source identified" and "selected" as those set out in Directive 1999/105/EC. It follows that, the rules for certification of forestry material of the categories "source identified" and "selected" in Canada, Norway, Switzerland, Turkey and United States of America should be considered as equivalent to those set out by Directive 1999/105/EC, provided that additional conditions as regards seed and planting stocks are satisfied.

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[1] OJ L 11, 15.1.2000, p. 17. Directive as last amended by Commission Decision 2007/527/EC (OJ L 194, 26.7.2007, p. 9).

[2] OJ C 199, 14.7.1999, p. 1.

(4) The rules of these aforementioned third countries can however not be considered as equivalent for the categories "qualified" and "tested" to which the OECD Forest Seed and Plant Scheme do not apply. It is therefore appropriate to limit the scope of this Decision of equivalence to reproductive material falling into the categories "source identified" and "selected".

(5) The definitions set out in Directive 1999/105/EC should be used in this Decision in view of ensuring consistency between the two acts.

(6) Forestry material complying with the conditions of this Decision should satisfy the plant health conditions laid down Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community[3].

(7) It is appropriate for the additional conditions for seed and planting stocks in respect of quality and species purity set out by this Decision to mirror the ones provided by Directive 1999/105/EC.

(8) In order to guarantee the same level of traceability than the one foreseen in Directive 1999/105/EC, it is appropriate to include in this Decision rules concerning the issuing of a Master Certificate for seed and planting stock upon entry to the Community. This Master Certificate should be based on the official OECD Certificate of Provenance and should indicate that the material is imported based on an equivalence regime.

(9) It will be appropriate in future to update certain parts of the annexes of the present Decision in order to ensure that imported seed is subject to requirements equivalent to any new rules which may be introduced. These amendments 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.[4]

HAS ADOPTED THIS DECISION:

Article 1
Scope and definitions

1. This Decision determines the conditions under which forestry reproductive material of the categories "source identified" and "selected" produced in a third country listed in Annex I to this Decision shall be imported in the Community.

   It applies provided that the conditions set out by Directive 2000/29/EC are met.

2. The definitions set out in Directive 1999/105/EC shall apply to this Decision.

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3 OJ L 169, 10.7.2000, p. 1. Directive as last amended by Directive 2007/41/EC (OJ L 169, 29.6.2007, p. 51).

4 OJ L 184, 17.7.1999, p. 23. Decision as last amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

Article 2
Equivalence

1. The systems for the approval and registration of basic material and the subsequent production of reproductive material from this basic material under the control of the authorities referred to in Annex I to this Decision or under the official supervision of these authorities, applied in third countries listed in that Annex, shall be considered equivalent to those carried out by the Member States in accordance with Directive 1999/105/EC.

2. Seed and planting stock of the categories "source identified" and "selected" of species listed in Annex I to Directive 1999/105/EC, produced in third countries listed in Annex I to this Decision and officially certified by the authorities listed in that Annex shall be considered equivalent to seed and planting stock complying with Directive 1999/105/EC provided that it satisfies the conditions laid down in Annex II.

Article 3
Master Certificate

When seed and planting stock enters into the Community, the supplier importing this material shall inform the Official Body of that Member State of the import. The Official Body shall issue a Master Certificate based on the official OECD Certificate of Provenance before the material is placed on the market.

The Master Certificate shall indicate that the material has been imported under an equivalence regime.

Article 4
Amendment to Annexes

Amendments to the Annexes, with the exception of those concerning the first column of the table in Annex I, shall be adopted in accordance with the procedure referred to in Article 5(2).

Article 5
Committee

1. The Commission shall be assisted by the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry set up by Article 1 of decision 66/399/EEC[5], hereinafter referred to as 'the Committee'.

[5] OJ 125, 11.7.1966, p. 2289/66.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

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

3. The Committee shall adopt its Rules of Procedure.

Article 6
Entry into force

This Decision shall apply from 1 January 2009.

Article 7

This Decision is addressed to the Member States.

Done at Brussels,

For the Council
The President

ANNEX I

Countries and authorities

Country (*)	Authority responsible for the approval and control of production
1	**2**
CA	National Forest Genetic Resource Centre Natural Resources Canada Canadian Forest Service-Atlantic Fredericton, Net Brunswick
CH	Federal Office for Environment (FOEN) Department pf the Environment, Transport, Energy and Communications (UVEK) Forest Division Federal Plant Protection Service Birmensdorf
NO	Norwegian Forest Research Institute Aas
TR	Ministry of Forestry Forest Tree Seeds and Tree Breeding Research Directorate Orman Bak awligi Arastima Planlama ve Koord. Dai. Bsk. Orman Genel Müdürlügü, 2N° lu Bina GAZI- ANKARA
US	National Tree Seed Laboratory USDA Forest Service Purdue University West Lafayette, Indiana

(*) CA – Canada, CH – Switzerland, NO – Norway, TR – Turkey, US – United States of America

ANNEX II

A. Conditions relating to seed produced in third countries.

1. Seed shall be officially certified as being derived from approved basic material and the packages closed in accordance with national rules for the application of the OECD Forest Seed and Plant Scheme. An official OECD Label shall be attached to each seed lot and accompanied by either a copy of the official OECD Certificate of Provenance or a document from the supplier giving all the information contained in the official OECD Certificate of Provenance and together with the name of the supplier.

2. In the case of seeds, the OECD label or document of the supplier shall also include the following additional information assessed, as far as possible, by internationally accepted techniques:

   (a) purity: the percentage by weight of pure seed, other seed and inert matter of the product marketed as a seed lot;

   (b) the germination percentage of pure seed, or, where germination percentage is impossible or impractical to assess, the viability percentage assessed by reference to a specified method;

   (c) weight of 1000 pure seeds;

   (d) the number of germinable seeds per kilogram of product marketed as seed, or, where the number of germinable seeds is impossible or impractical to assess, the number of viable seeds per kilogram.

3. By derogation to paragraph 2, the above mentioned additional information concerning the seed testing procedure using internationally accepted techniques may be provided by the supplier importing seed prior to first marketing in the Community.

4. In order to make seed of the current year's crop rapidly available, seed may be marketed by the supplier importing it as far as the first buyer without fulfilling all the conditions required under paragraph 2(b) and 2(d) of this Annex. The respect of the conditions as laid down in paragraph 2(b) and 2(d) must be stated by the supplier importing that material as soon as possible.

5. In the case of small quantities of seed, as defined by Commission Regulation (EC) 2301/2002 of 20 December 2002 laying down detailed rules for the application of Council Directive 1999/105/EC as regards the definition of small quantities of seed[6] the requirements as laid down in paragraph 2(b) and 2(d) do not apply.

[6] OJ L 348, 21.12.2002, p. 75–77.

6. Seed lots shall reach a minimum species purity level of 99%. However, in the case of closely related species, excluding artificial hybrids, the species purity of the fruit or seed lot if it does not reach 99% shall be stated on the suppliers label or document.

7. As a derogation to paragraph 1, seed in appropriate quantities may be derived from non approved basic material:

   (a) for tests, scientific purposes or genetic conservation;

   (b) where seed units are clearly shown not to be intended for forestry purposes.

B. Conditions relating to planting stock produced in third countries.

1. The production of the planting stock shall take place in a nursery registered with the authorities referred to in Annex I to this Decision or under the official supervision of these authorities, in the third country. An OECD Label shall be attached to each consignment and accompanied either by a copy of the official OECD Certificate of Provenance or a document form the supplier giving all the information contained in the official OECD Certificate of Provenance and the name of the supplier.

2. Planting stock shall comply with the requirements laid down in Annex VII, Part D, of Directive 1999/105/EC.

3. Planting stock to be marketed to the end-user in regions having a Mediterranean climate shall comply with the requirements laid down in Annex VII, Part E, of Directive 1999/105/EC.