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COMMISSION OF THE EUROPEAN COMMUNITIES

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**WORKING DOCUMENT
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SERVICES**

COMMISSION DIRECTIVE/.../EC

of [...]

amending Council Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed-potatoes, seed of oil and fibre plants and vegetable seed and Decision 95/232/EC on the organisation of a temporary experiment in order to establish conditions to be satisfied by the seed of hybrids and varietal associations of swede rape and turnip rape

Draft

COMMISSION DIRECTIVE ../.../EC

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amending Council Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC and 70/458/EEC on the marketing of beet seed, fodder plant seed, cereal seed, seed-potatoes, seed of oil and fibre plants and vegetable seed and Decision 95/232/EC on the organisation of a temporary experiment in order to establish conditions to be satisfied by the seed of hybrids and varietal associations of swede rape and turnip rape

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/400/EEC of 14 June 1966 on the marketing of beet seed¹, as last amended by Directive 98/96/EC² and in particular Article 21a thereof,

Having regard to Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed³, as last amended by Directive 2001/64/EC⁴ and in particular Article 21a thereof,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed⁵, as last amended by Directive 2001/64/EC and in particular Article 21a thereof,

Having regard to Council Directive 66/403/EEC of 14 June 1966 on the marketing of seed potatoes⁶, as last amended by Commission Decision 1999/742/EC⁷, and in particular Article 19a thereof,

Having regard to Council Directive 69/208/EEC of 30 June 1969 on the marketing of seed of oil and fibre plants⁸, as last amended by Directive 98/96/EC, and in particular Articles 2(1b), 12a and 20a thereof,

1 OJ 125, 11.7.1966, p. 2290/66.

2 OJ L 25, 1.2.1999, p. 27.

³ OJ L 25, 11.7.1966, p. 2298/66.

⁴ OJ L 234, 1.9.2001, p 62.

5 OJ 125, 11.7.1966, p. 2309/66.

6 OJ 125, 11.7.1966, p. 2320/66 .

7 OJ L 297, 18.11.1999, p. 39.

Having regard to Council Directive 70/458/EEC of 29 September 1970 on the marketing of vegetable seed⁹, as last amended by Council Directive 98/96/EC and in particular Article 40a thereof

Having regard to Commission Decision 95/232/EC of 27 June 1995 on the organisation of a temporary experiment under Council Directive 69/208/EEC in order to establish conditions to be satisfied by the seed of hybrids and varietal associations of swede rape and turnip rape¹⁰, as last amended by Decision 2001/18/EC¹¹,

Whereas:

- (1) Directives 66/400/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/458/EEC as well as Commission Decision 95/232/EC in respect inter alia of hybrids of swede rape, lay down minimum conditions in respect of the crop and the seed, including those related to varietal purity. These conditions do not include specific growing conditions and other requirements regarding the presence of genetically modified seed, in particular in seed lots of non-genetically modified varieties. It is therefore appropriate to complement the minimum conditions in the seed marketing Directives with additional conditions and requirements concerning the presence of genetically modified seed, in particular in the case of adventitious or technically unavoidable presence of such seeds, in seed crops and in seed lots of non-genetically modified varieties.
- (2) Currently genetically modified varieties have been obtained for the following species cultivated in the EU : beet, maize, potato, swede rape, soya bean, cotton, chicory and tomato, and it is therefore appropriate to limit the scope of this Directive to such species.
- (3) It should be ensured that the level in seed lots of non-genetically modified varieties, of genetically modified seed having received authorisation in accordance with Community legislation for the placing on the market of genetically modified organisms, should be consistent with Community legislation for the adventitious presence of genetically modified organisms in food and food ingredients. Thresholds should be established in the case of adventitious or technically unavoidable presence

8 OJ L 169, 10.7.1969, p. 3.

9 OJ L 225, 12.10.1970, p. 7.

¹⁰ OJ L 154, 5.7.1995, p 22.

¹¹ OJ L 4, 9.1.2001, p.36.

of such seeds. In establishing such thresholds, the reproductive system of the plants concerned, as well as the probability of volunteers, as confirmed by the Scientific Committee on Plants (SCP) in its opinion on 7 March 2001 concerning the adventitious presence of GM seed in conventional seed, should be taken into account. Accordingly this threshold should be 0.3% for swede rape and cotton (cross-pollinated); 0.5% for tomato (self-pollinated), beet and chicory (cross-pollinated cultivated vegetatively), maize (cross-pollinated for which the probability of volunteers is very low) and potato (propagated and cultivated vegetatively); and 0.7% for soja bean (self-pollinated for which the probability of volunteers is very low). The above thresholds would contribute to achieve the current 1% threshold in food and food ingredients pursuant to Commission Regulation (EC) N° 49/2000¹², above which the indication of the presence of a genetic modification is compulsory. The impact of the inclusion of GM seed in the seed used to produce food and food ingredients on the target threshold of 1% has been confirmed by the SCP. Where the above thresholds are not fulfilled, any label or document which is affixed or accompanies the seeds should state that the seed lot contains genetically modified seeds exceeding the established threshold. The latter threshold should be without prejudice to the existing conditions to be satisfied by the seed in respect of the varietal purity.

- (4) Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC¹³ requires that no genetically modified organism may be placed on the market, unless it has been authorised in accordance with that Directive. Compliance with this requirement should be ensured by applying defined seed sampling and testing conditions. This requirement should be adapted following the adoption of a proposal which should amend Directive 2001/18/EC and foresee that the adventitious or technically unavoidable presence of genetically modified organisms in trace amounts in seeds should not require authorisation, if certain conditions are fulfilled.
- (5) Compliance with the above requirements should be ensured by seed testing carried out in accordance with the protocol for sampling and testing of seed lots of non-genetically modified varieties for the presence of genetically modified seed, as laid down in Commission Regulation (EC) N°/...

¹² OJ L 6, 11.1.2000, p. 13.

- (6) Fields used to grow seed of non-genetically modified varieties should be free from seed of genetically modified plants from previous cropping, which are still capable of germinating. As confirmed by the SCP, different break of rotation period based on the seed longevity should be followed.
- (7) In the case of seed crops of cross-pollinating plants, sufficient isolation should be required in respect of any neighbouring sources of pollen of genetically modified plants, which may result in undesirable foreign pollination. As confirmed by the SCP, higher isolation distances than the ones currently applicable to seed crops of the species concerned would not be needed, except in the case of beet and hybrids of swede rape for which the increased distances recommended by the SCP should be followed. As recommended by the SCP, other appropriate measures to reduce foreign pollination such as the use of physical or pollen barriers should be taken.
- (8) Furthermore, as recommended by the SCP, good practices for seed production to minimise admixtures and undesirable gene flow throughout crop growth and post-harvest handling should be implemented.
- (9) The examination of the satisfaction of the various requirements related to the seed crop or seed lot, where appropriate, might not be carried out under given conditions, including the establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species or of a closely related species are not grown. Suitable arrangements should be taken at least by check inspection as regards the compliance of the seed crop and by check testing as regards the compliance of the seed lot. The above conditions shall be established by the Commission by implementing measures.
- (10) According to the seed marketing Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/458/EEC, in the case of seed of a variety which has been genetically modified, any label or document, official or otherwise, which is affixed to or accompanies the seed lot must clearly indicate that the variety has been genetically modified. It is appropriate to establish the details of the information required for labelling in the case of seeds of varieties, which have been genetically modified.

¹³ OJ L 106, 17.4.2001, p. 1

- (11) The seed marketing Directives 66/400/EEC, 66/401/EEC, 66/402/EEC, 66/403/EEC, 69/208/EEC, 70/458/EEC and Decision 95/232/EC should therefore be amended accordingly.
- (12) The provisions of this Directive will be reviewed in the light in particular of the extent of the cultivation of genetically modified varieties, of the status of the current food and food ingredient labelling threshold, or of the possible establishment of thresholds for the adventitious or technically unavoidable presence of genetically modified organisms in trace amounts in seeds of non-genetically modified varieties, for which an authorisation will not be required if certain conditions are fulfilled.
- (13) The requirements in respect of seed crops cannot apply retroactively to the seed crops established before the publication of this Directive and an exemption has thus to be foreseen in this Directive.
- (14) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I, III and IV to Directive 66/400/EEC are amended in accordance with Annex I to this Directive.

Article 2

Annexes IV and V to Directive 66/401/EEC are amended in accordance with Annex II to this Directive.

Article 3

Annexes I, II, IV and V to Directive 66/402/EEC are amended in accordance with Annex III to this Directive.

Article 4

Annexes I, II and III to Directive 66/403/EEC are amended in accordance with Annex IV to this Directive.

Article 5

Annexes I, II, IV and V to Directive 69/208/EEC are amended in accordance with Annex V to this Directive.

Article 6

Article 5 of Decision 95/232/EC is amended in accordance with Annex VI to this Directive.

Article 7

Annexes I, II, IV and V to Directive 70/458/EEC are amended in accordance with Annex VII to this Directive.

Article 8

The requirements specified in Annex I point 1, Annex III point 1, Annex IV point 1, Annex V point 1, Annex VI and Annex VII point 1 shall not apply to seed from seed crops which were established before the publication of this Directive.

Article 9

The Commission shall review the provisions of this Directive before 31 December 2006, on the basis of new available information.

Article 10

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2002. They shall forthwith inform the Commission thereof.

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. Member States shall determine how such reference is to be made.

Article 9

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

Article 10

This Directive is addressed to the Member States.

Done at Brussels,

For the Commission

Member of the Commission

ANNEX I

Annexes I, III and IV to Directive 66/400/EEC are amended as follows:

(1) Annex I, Part A is amended as follows:

(a) In section 01 the following subparagraph is added:

"In the case of a crop of a non-genetically modified variety, no genetically modified plants of the same species or of a closely related species shall have been grown in the field in the previous five years."

(b) The following sections 6, 7 and 8 are added:

"6. In relation to any neighbouring sources of pollen of genetically modified plants which may result in undesirable foreign pollination, the minimum distance of the crop for the production of seed shall be at least 2000 meters. Furthermore appropriate measures to reduce foreign pollination shall be taken in particular the use of physical or pollen barriers.

7. Good practice for seed production to minimise admixtures and undesirable gene flow throughout crop growth and post-harvest handling shall be implemented by seed growers, in particular in respect of drilling, cultivation, harvesting, transport and storage.

8. The examination of the satisfaction of the conditions under sections 01, second subparagraph, and 6 above need not to be carried unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check inspection as regards the compliance of the seed crop with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 21. Such conditions shall include the establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown."

(2) In Annex I, part B the following section 1a is inserted after section 1:

"1a. Presence of genetically modified seed:

Without prejudice to the conditions to be satisfied by the seed in respect of the varietal purity in accordance with Annex I Part A and B section 1, in the case of seed of a non-genetically modified variety, the adventitious or technically unavoidable presence of genetically modified seed having received authorisation in accordance with Community legislation for the placing on the market of genetically modified organisms shall not exceed 0,5 %. In order to establish that the presence of this material is adventitious or technically unavoidable, the producers must be in a position to supply evidence to satisfy the Member State that they have taken appropriate steps to avoid genetically modified organisms.

Compliance with the above requirement and the requirement of Directive 2001/18/EC that no GMO be deliberately released or placed on the market unless it has been authorised in accordance with that Directive, shall be ensured by seed testing carried out in accordance with the protocol for sampling and testing of seed lots of non-genetically modified varieties for the presence of genetically modified seed as laid down in Commission Regulation (EC) N° ./....

The examination of the satisfaction of these requirements need not be carried unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check testing as regards the compliance of the seed lot with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 21. Such conditions shall include the establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown.

Notwithstanding the conditions laid down in the first subparagraph of this section, the Member States shall permit the marketing of such a seed of a non-genetically modified variety provided that any label or document, official or otherwise, which is affixed to or accompanies the seed lot under the provisions of this Directive states :

- "the seeds contain genetically modified seeds exceeding 0.5%".

(3) Annex III is amended as follows:

(a) In part A I the following points 5a and 5 b are inserted:

"5a. For seed of non-genetically modified varieties which do not meet the condition laid down in Annex I, part B, section 1a, first subparagraph :

- "the seed lot contains genetically modified seeds exceeding 0.5%".

5b. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself."

(b) In part B the following points 7 a and 7 b are inserted:

"7a. For seed of non-genetically modified varieties which do not meet the condition laid down in Annex I, part B, section 1a, first subparagraph :

- "the seed lot contains genetically modified seeds exceeding 0.5%".

7b. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself."

(4) Annex IV is amended as follows:

(a) In part A the following indents are inserted after the fourth indent:

“- for seed of non-genetically modified varieties which do not meet the condition laid down in Annex I, part B, section1 a, first subparagraph :

“the seed lot contains genetically modified seeds exceeding 0.5%”.

- in the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself. "

(b) In part C the following indents are inserted after the third indent:

“- for seed of non-genetically modified varieties which do not meet the condition laid down in Annex I, part B, section1a, first subparagraph :

“the seed lot contains genetically modified seeds exceeding 0.5%”.

- in the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself. "

ANNEX II

Annexes IV and V to Directive 66/401/EEC are amended as follows :

(1) Annex IV is amended as follows:

(a) In part A(I)(a) the following point 5a is inserted:

“5a. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(b) In part A(I) (c) (4) the following subparagraph is added:

“In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(c) In part B (a) the following points 7a is inserted:

“7a. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(d) In part B (c)(11) the following subparagraph is added:

“In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(2) Annex V is amended as follows:

(a) In part A the following indent is inserted after the third indent:

“- in the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(b) In part C the following indent is inserted after the third indent:

“- in the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

ANNEX III

Annexes I, II, IV and V to Directive 66/402/EEC are amended as follows:

(1) Annex I is amended as follows:

(a) In section 1 the following subparagraph is added:

"In the case of a crop of a non-genetically modified variety of maize, no genetically modified plants of the same species or of a closely related species shall have been grown in the field in the previous year."

(b) The following section 2a is inserted after section 2:

"2a. In relation to any neighbouring sources of pollen of genetically modified plants of maize which may result in undesirable foreign pollination, appropriate measures to reduce foreign pollination shall be taken, in particular the use of physical or pollen barriers."

(c) The following sections 6 and 7 are added:

"6. In the case of maize, good practices for seed production to minimise admixtures and undesirable gene flow throughout crop growth and post-harvest handling shall be implemented by the seed growers, in particular in respect of drilling, cultivation, harvesting, transport and storage.

7. In the case of maize, the examination of the satisfaction of the conditions under sections 1, second subparagraph, and 2a above need not be carried out unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check inspection as regards the compliance of the seed crop with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 21. Such conditions shall include the possible establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown."

(2) In Annex II the following section 1a is inserted after section 1:

"1a. Presence of genetically modified seed:

Without prejudice to the conditions to be satisfied by the seed in respect of the varietal purity in accordance with Annex I section 3 and Annex II section 1, in the case of seed of a non-genetically modified variety of maize, the adventitious or technically unavoidable presence of genetically modified seed having received authorisation in accordance with Community legislation for the placing on the market of genetically modified organisms shall not exceed 0,5 %. In order to establish that the presence of this material is adventitious or technically unavoidable, the producers must be in a position to supply evidence to satisfy the Member State that they have taken appropriate steps to avoid genetically modified organisms.

Compliance with the above requirement and the requirement of Directive 2001/18/EC that no GMO be deliberately released or placed on the market unless it has been authorised in accordance with that Directive, shall be ensured by seed testing carried out in accordance with the protocol for sampling and testing of seed lots of non-genetically modified varieties for the presence of genetically modified seed as laid down in Commission Regulation (EC) N° ./....

The examination of the satisfaction of these requirements needs not be carried out unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check testing as regards the compliance of the seed lot with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 21. Such conditions shall include the possible establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown.

Notwithstanding the conditions laid down in the first subparagraph of this section, the Member States shall permit the marketing of such a seed of a non-genetically modified variety provided that any label or document, official or otherwise, which is affixed to or accompanies the seed lot under the provisions of this Directive states :

- "the seed lot contains genetically modified seeds exceeding 0.5%".

(3) Annex IV is amended as follows:

(a) In part A (a) the following points 5a and 5 b are inserted:

"5a. For seed of non-genetically modified varieties of maize which do not meet the condition laid down in Annex II, section 1a, first subparagraph :

- "the seed lot contains genetically modified seeds exceeding 0.5%".

5b. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself."

(b) In part A (b)(4) the following subparagraphs are added:

For seed of non-genetically modified varieties of maize which do not meet the condition laid down in Annex II, section 1a first subparagraph :

- "the seed lot contains genetically modified seeds exceeding 0.5%".

In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself."

(4) Annex V is amended as follows:

(a) In part A the following indents are inserted after the third indent:

- For seed of non-genetically modified varieties of maize which do not meet the condition laid down in Annex II, section 1a, first subparagraph :

“the seed lot contains genetically modified seeds exceeding 0.5%”.

- In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(b) In part C the following indents are inserted after the third indent:

- For seed of non-genetically modified varieties of maize which do not meet the condition laid down in Annex II, section 1a, first subparagraph :

“the seed lot contains genetically modified seeds exceeding 0.5%”.

- In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

ANNEX IV

Annexes I, II and III to Directive 66/403/EEC are amended as follows:

(1) Annex I is amended as follows:

(a) the following section 01 is inserted before section 1:

"01. The previous cropping of the field shall not have been incompatible with the production of seed potatoes of the variety of the crop, and the field shall be sufficiently free from plants which are volunteers from previous cropping. In the case of a crop of a non-genetically modified variety, no genetically modified plants of the same species or of a closely related species shall have been grown on the field in the previous five years."

(b) The following sections 7, 8 and 9 are added:

"7. Good practice for seed production to minimise admixtures and undesirable gene flow throughout crop growth and post-harvest handling shall be implemented by the seed growers, in particular in respect of drilling, cultivation, harvesting, transport and storage.

8. The examination of the satisfaction of the condition under section 01, second sentence above needs not be carried out unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check inspection as regards the compliance of the seed crop with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 21. Such conditions shall include the possible establishment and monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown.

9. Presence of genetically modified seed potatoes:

Without prejudice to the conditions to be satisfied by the seed potatoes in respect of varietal purity in accordance with Annex I sections 1b and 2b, in the case of seed potatoes of a non-genetically modified variety, the adventitious or technically unavoidable presence of genetically modified seed potatoes having received authorisation in accordance with Community legislation for the placing on the market of genetically modified organism shall not exceed 0,5 %. In order to establish that the presence of this material is adventitious or technically unavoidable, the producers must be in a position to supply evidence to satisfy the Member State that they have taken appropriate steps to avoid genetically modified organisms.

Compliance with the above requirement and the requirement of Directive 2001/18/EC that no GMO be deliberately released or placed on the market unless it has been authorised in accordance with that Directive, shall be ensured by seed testing carried out in accordance with the protocol for sampling and testing of seed lots of non-genetically modified varieties for the

presence of genetically modified seed as laid down in Commission Regulation....

The examination of the satisfaction of these requirements need not be carried out unless there is doubt whether these requirements have been satisfied, provided that suitable arrangements are taken at least by check testing as regards the compliance of the seed lot with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 19. Such conditions shall include the possible establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown.

Notwithstanding the requirements laid down in the first subparagraph of this section, the Member States shall permit the marketing of such a seed of a non-genetically modified variety provided that any label or document, official or otherwise, which is affixed to or accompanies the seed lot under the provisions of this Directive states :

- "the seed potato lot contains genetically modified seeds exceeding 0.5%".

(2) In Annex III, part A, the following points 4a and 4 b are inserted:

- For seed potatoes of non-genetically modified varieties which do not meet the condition laid down in Annex I point 9, first subparagraph :

"the seed potato lot contains genetically modified seed potatoes exceeding 0.5%".

- In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself."

ANNEX V

Annexes I, II, IV and V to Directive 69/208/EEC are amended as follows:

(1) Annex I is amended as follows:

(a) In section 1 the following subparagraph is added:

“In the case of a crop of a non-genetically modified variety, no genetically modified plants of the same species, or of a closely related species shall have been grown on the field during

- the previous year in the case of soya bean,
- the previous two years in the case of cotton,
- the previous five years in the case of swede rape.”

(b) The following section 2a is inserted after section 2:

“2a. In relation to any neighbouring sources of pollen of genetically modified plants of swede rape or cotton, which may result in undesirable foreign pollination, appropriate measures to reduce foreign pollination shall be taken, in particular the use of physical or pollen barriers. ”

(c) The following sections 6 and 7 are added:

"6. In the case of swede rape, soya bean or cotton, good practice for seed production to minimise admixtures and undesirable gene flow throughout crop growth and post-harvest handling shall be implemented by the seed growers, in particular in respect of drilling, cultivation, harvesting, transport and storage.

7. In the case of swede rape, soya bean or cotton, the examination of the satisfaction of the conditions under sections 1, second subparagraph, and 2a above needs not be carried out unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check inspection as regards compliance of the seed crop with the requirements. The conditions for the exemption shall be determined in accordance with the procedure laid down in Article 20. Such conditions shall include the possible establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown."

(2) Annex II is amended as follows:

In Part I the following section 1b is inserted after section 1a:

“1b. Presence of genetically modified seed:

Without prejudice to the conditions to be satisfied by the seed in respect of the varietal purity in accordance with Annex I section 3 and Annex II section 1 or in the case of hybrids of swede rape with points 2, 3 and 5 of the annex to Commission Directive 95/232/EEC, in the case of seed of a

non-genetically modified variety of swede rape, soya bean or cotton, the adventitious or technically unavoidable presence of genetically modified seed having received authorisation in accordance with Community legislation for the placing on the market of genetically modified organisms shall not exceed 0,3 % for swede rape and cotton, and 0,7 % for soya bean. In order to establish that the presence of this material is adventitious or technically unavoidable, the producers must be in a position to supply evidence to satisfy the Member State that they have taken appropriate steps to avoid genetically modified organisms.

Compliance with the above requirement and the requirement of Directive 2001/18/EC that no GMO be deliberately released or placed on the market unless it has been authorised in accordance with that Directive, shall be ensured by seed testing carried out in accordance with the protocol for sampling and testing of seed lots of non-genetically modified varieties for the presence of genetically modified seed as laid down in Commission Regulation (EC) N°/...

The examination of the satisfaction of these requirements needs not be carried out unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check testing as regards the compliance of the seed lot with the requirements. The conditions for the exemption shall be determined in accordance with the procedure laid down in Article 20. Such conditions shall include the possible establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown.

Notwithstanding the conditions laid down in the first subparagraph of this section, the Member States shall permit the marketing of such a seed of a non-genetically modified variety provided that any label or document, official or otherwise, which is affixed to or accompanies the seed lot under the provisions of this Directive states :

- “the seed lot contains genetically modified seeds exceeding
0.3% for swede rape and cotton
0.7% for soya bean”.

(3) In Annex IV, part A(a), the following points 6a and 6 b are inserted:

“6a. For seed of non-genetically modified varieties of swede rape, soya bean and cotton, which do not meet the conditions laid down in Annex II, Part I, section 1b, first subparagraph :

- “the seed lot contains genetically modified seeds exceeding
0.3% for swede rape and cotton
0.7% for soya bean”.

6b. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(4) In Annex IV, part A(b), the following point 6 b is inserted:

“6 b. For seed of non-genetically modified varieties of swede rape, soya bean and cotton, which do not meet the conditions laid down in Annex II, Part I, section 1b, first subparagraph :

- “the seed lot contains genetically modified seeds exceeding
0.3% for swede rape and cotton
0.7% for soya bean”.

(5) Annex V is amended as follows:

(a) In part A the following indents are inserted after the third indent:

- For seed of non-genetically modified varieties of swede rape, soya bean and cotton, which do not meet the conditions laid down in Annex II, Part I, section 1b, first subparagraph :

- “the seed lot contains genetically modified seeds exceeding
0.3% for swede rape and cotton
0.7% for soya bean”.

- In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(b) In part C the following indents are inserted after the third indent:

- For seed of non-genetically modified varieties of swede rape, soya bean and cotton, which do not meet the conditions laid down in Annex II, Part I, section 1b, first subparagraph :

- “the seed lot contains genetically modified seeds exceeding
0.3% for swede rape and cotton
0.7% for soya bean”.

- In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

ANNEX VI

Decision 95/232/EC is amended as follows :

(1) Article 3 is replaced by the following :

“ Seed of hybrids and varietal associations of swede rape and turnip rape may be marketed within the Community provided that the conditions and requirements in the Annex are satisfied, without prejudice to the conditions laid down in Council Directive 69/208/EEC in respect of the seed crops, the seed lots and the labels of non-genetically modified varieties of swede rape”.

(2) In point 1(c) of the Annex the following subparagraph is added :

“ For the production of seed of hybrids of swede rape the minimum distance shall be at least 5000 meters for the production of basic seed and 3000 meters for the production of certified seed”.

ANNEX VII

Annexes I, II, IV and V to Directive 70/458/EEC are amended as follows:

(1) Annex I is amended as follows:

(a) The following section 01 is inserted before section 1:

“01. The previous cropping of the field shall not have been incompatible with the production of seed of the species and variety of the crop, and the field shall be sufficiently free from plants which are volunteers from previous cropping.

In the case of a crop of a non-genetically modified variety of chicory or tomato, no genetically modified plants of the same species or of a closely related species shall have been grown in the field during the previous two years.

(b) The following sections 6, 7 and are added:

“6. In the case of any neighbouring sources of pollen of a genetically modified plant of chicory which may result in undesirable foreign pollination, appropriate measures to reduce foreign pollination shall be taken, in particular the use of physical or pollen barriers.”

7. In the case of chicory and tomato, good practice for seed production to minimise admixtures and undesirable gene flow throughout crop growth and post-harvest handling shall be implemented by the seed growers, in particular in respect of drilling, cultivation, harvesting, transport and storage.

8. In the case of chicory and tomato, the examination of the satisfaction of the conditions under sections 01, second subparagraph, and 6 above needs not be carried out unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check inspection as regards the compliance of the seed crop with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 40. Such conditions shall include the possible establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown.”

(2) In Annex II the following section 1a is inserted after section 1:

“1a. Presence of genetically modified seed:

Without prejudice to the conditions to be satisfied by the seed in respect of the varietal purity in accordance with Annex I section 1 where applicable and Annex II section 1, in the case of seed of a non-genetically modified variety of chicory or tomato, the adventitious or technically unavoidable presence of genetically modified seed having received authorisation in accordance with Community legislation for the placing on the market of genetically modified organisms shall not exceed 0,5 %. In order to establish that the presence of this material is adventitious or technically unavoidable, the producers must be in a

position to supply evidence to satisfy the Member State that they have taken appropriate steps to avoid genetically modified organisms.

Compliance with the above requirements and the requirement of Directive 2001/18/EC that no GMO be deliberately released or placed on the market unless it has been authorised in accordance with that Directive, shall be ensured by seed testing carried out in accordance with the protocol for sampling and testing of seed lots of non-genetically modified varieties for the presence of genetically modified seed as laid down in Commission Regulation (EC) N° ./....

The examination of the satisfaction of these requirements needs not to be carried out unless there is doubt whether the requirements have been satisfied, provided that suitable arrangements are taken at least by check testing as regards the compliance of the seed lot with the requirements. The conditions for the application of this exemption shall be determined in accordance with the procedure laid down in Article 40. Such conditions shall include the possible establishment and subsequent monitoring of areas for seed production for which it has been officially ensured that genetically modified plants of the same species, or of a closely related species, are not grown.

Notwithstanding the conditions laid down in the first subparagraph of this section, the Member States shall permit the marketing of such a seed of a non-genetically modified variety provided that any label or document, official or otherwise, which is affixed to or accompanies the seed lot under the provisions of this Directive states :

- “the seed lot contains genetically modified seeds exceeding 0.5%”.

(3) Annex IV is amended as follows:

(a) In Part A (a) the following point 6a and 6 b are inserted:

“6a. For seed of non-genetically modified varieties of chicory or tomato which do not meet the condition laid down in Annex II, section 1a, first subparagraph :

- “the seed lot contains genetically modified seeds exceeding 0.5%”.

6b. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(b) In Part B (a) the following point 5a and 5 b are inserted:

“5a. For seed of non-genetically modified varieties of chicory or tomato which do not meet the condition laid down in Annex II, section 1a, first subparagraph:

- “the seed lot contains genetically modified seeds exceeding 0.5%”.

5b. In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(4) Annex V is amended as follows:

(a) In Part A the following indent is inserted after the third indent:

- For seed of non-genetically modified varieties of chicory or tomato which do not meet the condition laid down in Annex II, section 1a, first subparagraph :

“the seed lot contains genetically modified seeds exceeding 0.5%”.

- In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”

(b) In Part C the following indent is inserted after the third indent:

- For seed of non-genetically modified varieties of chicory or tomato which do not meet the condition laid down in Annex II, section 1a, first subparagraph :

“the seed lot contains genetically modified seeds exceeding 0.5%”.

- In the case of a genetically modified variety: the words 'genetically modified variety' together with information relating to the genetic modification itself.”