

Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (Recast version)

CHAPTER 4

VARIETY IDENTIFICATION AND LABELLING

Article 7

Variety identification

1 Propagating material and fruit plants shall be marketed with a reference to the variety 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.

- 2 The varieties to which reference is to be made pursuant to paragraph 1 shall be:
- a legally protected by a plant variety right in accordance with provisions on the protection of new varieties;
 - b officially registered pursuant to paragraph 4 of this Article; or
 - c commonly known; a variety is considered to be commonly known if:
 - (i) it has been officially registered in another Member State;
 - (ii) it is the subject of an application for official registration in any Member State, or of an application for a plant variety right referred to in point (a); or
 - (iii) it has been already marketed before 30 September 2012 in the territory of the Member State concerned or of another Member State, provided that it has an officially recognised description.

A reference pursuant to paragraph 1 may also be made to a variety of no intrinsic value for commercial crop production provided that the variety has an officially recognised description and the propagating material and fruit plants are marketed as CAC material in the territory of the Member State concerned and are identified by a reference to this provision on the label and/or document.

3 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.

4 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 before 30 September 2012 in the territory of the Member State concerned, provided that they have an officially recognised description.

A genetically modified variety may be officially registered only if the genetically modified organism of which it consists has been authorised pursuant to Directive 2001/18/EC or pursuant to Regulation (EC) No 1829/2003.

Where products derived from fruit plants or 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

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the scope of Article 15 of Regulation (EC) No 1829/2003, the variety concerned shall be officially registered only if the food or feed derived from this material has been authorised pursuant to that Regulation.

5 Requirements for the official registration referred to in paragraph 4 shall be established in accordance with the procedure referred to in Article 19(2), taking into account current scientific and technical knowledge and covering:

- a the conditions of official 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 registration of a variety.

6 In accordance with the procedure referred to in Article 19(2):

- a system for the notification of varieties or species or interspecific hybrids to the responsible official bodies of the Member States may be set up,
- it may be decided that a common list of varieties may be established and published.

Article 8

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.

Article 9

Labelling

1 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 specific requirements established pursuant to Article 4. 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 responsible official body in accordance with the specific requirements established pursuant to Article 4.

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

2 In the case of retail supply of propagating material or fruit plants to a non-professional final consumer, requirements regarding labelling referred to in paragraph 1 may be confined to appropriate product information.

3 In the case of propagating material or a fruit plant 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 identify the genetically modified organisms.