

Q&A ON THE COMMISSION'S PROPOSAL FOR A NEW PLANT REPRODUCTIVE MATERIAL LAW

1. What is plant reproductive material?

It is material of any kind of plants (from seeds up to fully grown trees) used for the production of other plants.

Seeds, young plants, tubers and other types of "plant reproductive material" are fundamental to our future food supply and, more widely, to the productivity, diversity, and quality of all plant crops – in agriculture, horticulture, vineyards and forestry.

2. Why is the Commission revising the legislation on plant reproductive material (former seed and plant propagating material)?

The current 12 Directives partly date back to the 1960's and therefore the rules need to be updated and modernised. The legal framework is complex, fragmented and burdensome. The rules need to be made more flexible and efficient across the EU. Their consistency with EU policies on sustainable agriculture, biodiversity protection and climate change should be improved.

3. What are the aims of the new legislation?

The new law will:

- replace 12 Directives with a single Regulation;
- grant more responsibility and flexibility to businesses dealing in plant reproductive material;
- enhance biodiversity and opportunities for niche markets through less stringent and simplified requirements for old varieties and heterogeneous plant material, and for small producers;
- steer plant breeding towards environmental aims;
- streamline administrative procedures to support innovation;
- establish a level playing field by introducing the principle of cost recovery.

Therefore we propose:

- to improve registration procedures – to ensure different varieties can be reliably identified and, in the case of agricultural crops, are suitable for cultivation and use;
- to strengthen certification and inspection where required, to protect the identity, quality and health of plant reproductive material;
- to cut red tape and costs by making the rules more flexible and efficient across the EU;
- to make the rules more compatible with policy aims such as sustainable intensification of agriculture and the conservation of biodiversity.

4. What are the current rules?

Currently, the marketing of seeds & plant propagating material (now plant reproductive material) is regulated by 12 Directives which cover the most important plant species on the EU market (around 150 so-called listed species).

The EU legislation is a consumers' legislation with the objective to ensure a broad and informed choice, so that, e.g. that the user of seed gets the necessary information on the identity of the material and that the health and quality of the material is ensured.

The two basic pillars are (1) registration of varieties/material and (2) certification/inspection of lots before marketing. Furthermore, there are specific requirements for the production and marketing depending on the plant species and their marketing categories (pre-basic, basic, certified and standard material).

In order to support the conservation of genetic resources and to protect biodiversity, less stringent rules were laid down in 2008-2009 for old, traditional varieties: conservation varieties and so-called amateur varieties. There is e.g. a lighter variety registration procedure.

http://ec.europa.eu/food/plant/plant_propagation_material/index_en.htm

5. Is the new proposal going to regulate what people plant in their gardens?

Private gardeners and farmers who use seeds and plants and produce them for their own consumption are not covered by this proposal. The proposal only concerns the marketing of plant reproductive material, and production of that material with a view to marketing.

6. Does the proposal oblige farmers to only produce and use only certified seed?

No. The draft Regulation offers the choice to breeders and farmers to breed and use either certified or non-certified (standard) material. This should depend on the needs and choices of each farmer. Certified material offers higher guarantees concerning quality and health, while standard material usually entails lower costs.

However, the draft Regulation creates the possibility to determine, at a later stage, whether certain species should only be marketed as certified material. This concerns species important for food/feed security, for which a higher level of identity, health and quality should be ensured. This is a system which for several decades has been

functioning with success under the existing legislation for certain agricultural species, and has been accepted widely by the Member States and the farming sectors involved.

7. How is the exchange of seeds between farmers affected by the new legislation?

According to the new proposal, the exchange in kind of seeds and other plant reproductive material between non-professionals is out of the scope of the legislation. The proposal only covers the exchange of material between farmers and other operators professionally engaged in producing or breeding plant reproductive material in which case they would have to respect the rules of the Regulation. This is a reasonable requirement to ensure that material offered by professional operators respects minimum standards for quality and health.

8. Will there be less or more choice for the users, including consumers?

According to the proposal, a broader choice for users of plant reproductive material will be available on the market: new improved and tested varieties, plant material not fulfilling variety definition (heterogeneous plant material), traditional varieties, and niche market material.

The marketing rules are adapted to the type of each material, the production system and the size of business concerned. Thus material will be available for all kinds of production systems and needs: improved varieties for sustainable agriculture, better testing covering the needs of organic agriculture, heterogeneous material for organic or other low input systems, traditional varieties adapted to regional or local conditions, and niche market material for more small scale production.

9. Does the proposal oblige people to register traditional varieties cultivated since long?

In general, the obligation to register a variety only concerns only those 150 species, which have been considered important for the production and marketing of plant reproductive material in the European Union. However, as the production and marketing of traditional varieties is gaining ground all over the Union, it is important to guarantee their users information about which varieties are available and where to find information about them. Moreover, it should be ensured that each variety only bears one name as not to mislead the farmer and consumer.

Of course the requirements for the registration of traditional varieties are much more flexible, meaning that such varieties will not have to be tested for being "DUS" (distinct, uniform and stable). Their registration will be possible on the mere basis of a description indicating their characteristics ("officially recognised description" based on e.g.; historical data or practical knowledge) and against reduced fees. Such a provision will ensure official recording and maintenance of those varieties, with very low costs or administrative burdens.

10. What is the relation between the existing legislation and the new proposal as regards traditional varieties?

The new approach on 'varieties with officially recognised description' replaces the current rules on so-called conservation and amateur varieties (Directives 2009/145/EC and 2008/62/EC) and abolishes the requirements for variety testing, seed certification

and quantitative restrictions. There is a flexible determination of region(s) of origin for production and marketing restrictions for a particular area have been removed.

These varieties are now called 'varieties with officially recognised description' to distinguish them from varieties with 'official description' undergoing the normal variety registration procedure. The officially recognised description can be based on old official descriptions, scientific work, practical experience etc.

11. Should we also register traditional varieties and other material only marketed mostly locally in small quantities by micro-enterprises?

No. Material marketed in small quantities by non-professionals or by micro-enterprises ('niche market material') will be exempted from the registration obligation. This exemption concerns in principle the marketing of traditional varieties or any other type of material at a small scale, and it is a proportionate requirement for small scale business.

12. Does the proposal prohibit populations, or other material not belonging to any variety?

No, to the contrary, there will be a new approach. The proposal ensures that, by the date of application of the new legislation, basic rules for the marketing of "heterogeneous material" (namely, material not belonging to any variety) are adopted. This is important to ensure that this material is appropriately labelled, described and registered in some manner, however, without unnecessary costs and burdens.

13. Does the new proposal support the conservation of genetic resources?

This proposal introduces the rule that once a variety is deleted from a variety register, its sample should be sent to a gene bank for conservation. This should be a great step towards halting the loss of hundreds of traditional varieties, which unfortunately have vanished over the last decades.

Furthermore, the new proposal does not regulate any transfer or maintenance of plant reproductive material for the conservation of genetic resources by gene banks, organisations and networks for the conservation of genetic resources including persons belonging to those organisations or networks.

Finally, less stringent rules are proposed for the varieties with officially recognised description to support their conservation on farm and marketing (former conservation and amateur varieties, see question 10).

14. Does the proposal take into account the interests of small enterprises?

Out of the 7000 operators active in the seed sector in the entire EU, a large majority are small and medium sized enterprises (SMEs). In the area of vegetatively propagated material (e.g. young plants) the majority of operators are micro-enterprises (micro-enterprises are enterprises employing no more than ten persons with an annual turnover or balance sheet not exceeding EUR 2 million). Therefore, the Commission aims to give strong support to SMEs and micro-enterprises. A diversity of operators with different breeding aims and market segments is also an instrument to counter the loss of plant genetic resources. Both these aims have played a central role when drafting the new Regulation.

More specifically, micro-enterprises will be released from the obligation to pay any fees for the registration of their varieties, or for the issuance of official labels for certification. Moreover, micro-enterprises may market niche market material without the obligation to register the concerned plant material.

Finally, all operators larger than micro-enterprises will have the option either to produce official labels for certification themselves, or to ask the competent authorities to do so against the payment of the corresponding fees. This is particularly important for SMEs, who might need to choose one or the other option according to their needs at the time of certification.

15. Can organic agriculture benefit from the new Regulation?

Yes, the variety testing shall provide for the specific needs of organic agriculture. It has to consider that organic agriculture often requires less uniform varieties and testing for value of cultivation and use should take into account resilience and low input conditions.

Furthermore, the proposed opening for the marketing of heterogeneous material not fulfilling the variety definition will also contribute to answering needs of organic agriculture. The detailed requirements for this new complex and technical issue need to be developed together with the Member States experts in the form of a secondary act.

16. How is the new legislation contributing to combating of climate change?

The variety testing has been developed further to include testing on sustainability value for cultivation and use. This would include e.g. testing for plant diseases and reduced input of resources, such as water, in order to steer plant breeding and agriculture into a more sustainable direction and to address the challenges of climate change.

Furthermore, the proposed opening for the marketing of heterogeneous material which does not fulfil the definition of a uniform variety but possesses a diversity in characteristics can also contribute to combating climate change, e.g. through higher resistance against plant diseases.

17. How does the proposal help to preserve agro-biodiversity and plant genetic resources?

The Commission is taking a number of steps to contribute to the preservation of biodiversity.

First of all, the rules on old traditional varieties, the so-called conservation and amateur varieties (now varieties with officially recognised description), which do not comply with normal variety registration requirements, have been made significantly more flexible in order to support the conservation and use of these varieties.

The present rules on so-called 'preservation mixtures', i.e. grass mixtures including wild plant species to preserve the natural environment have been simplified.

In addition, the new opening foreseen to allow the marketing of heterogeneous material (e.g. populations) contributes to biodiversity.

Moreover, the Commission has introduced a new approach on allowing the production and marketing of small quantities of any type of material by micro-enterprises, of niche market material.

18. Why is the forest reproductive material included in the proposal?

The existing legislation on forest reproductive material will need to be revised in order to align it with the requirements of the Lisbon Treaty (empowerments for delegated or implementing acts).

Meanwhile, rules on forest reproductive material share the same basic principles of identification of the reproductive material and certification/inspections of the reproductive material as any other plant reproductive material. With forest reproductive material being included, the sector will also benefit from the harmonisation of official controls.

The proposal fully respects the specificities of the sector and uses a distinctive approach in a separate chapter dedicated to forest reproductive material, including the specific terminology.