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Accompanying document to the

Proposal for a

COUNCIL DIRECTIVE

on the marketing of fruit plant propagating material and fruit plants intended for fruit production (Recast version)

IMPACT ASSESSMENT

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Executive summary

Four options have been examined: Option A: Repealing of legislation, Option B: No action (keeping the existing situation), Option C: Alternative regulation/Self regulation, Option D: Simplification of legislation.

Option A - Repealing of the existing legislation

At the moment this option cannot be supported due to the risk of different approaches in the Member States which could create conflict in the internal market. During the fruit production process, suppliers must start from un-harmonised legislation (either national legislation or no existing legislation system) and move to a market regulated by Community rules. Therefore, costs will increase for producers and consumers and environmental and social costs will also be increased. The absence of harmonised rules in the internal market and/or the adoption of voluntary standards cannot be considered an input for research intended to transfer the results to the market.

Option B - No Action keeping the existing legislation

Based on our experience to date, this option is not acceptable for technical reasons as some definitions and conditions are obsolete, thus the weak points identified by experts and Member States will remain unresolved.

Option C: - Alternative regulation/Self regulation

Theoretically this option could be acceptable. In practice, due to the particular organisation of the market (e.g. thousands of suppliers involved in and grouped in several professional organisations, a low number of firms with a large business specialising in fruit plant propagating material¹, breeding or reproduction, the remaining firms are small and/or the fruit plant propagating material production is not their most important business), the proposal for alternative regulation/self regulation is not realistic.

Option D - Simplification of the existing legislation

The recasting of Directive 92/34/EEC is a necessary requisite for a more efficient and transparent functioning of the internal market for fruit plant propagating material. A framework Directive was decided as the legal solution since it can easily be transposed by the Member States, the relevant implementing measures can be adopted, where appropriate and in some cases, other non-legislative measures can also be decided.

¹ Propagating material means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants.

The basic approach to attain the objectives is as follows:

- Adoption of a harmonised approach for the marketing of propagating material (new definitions, new conditions to be met),
- Creation of a legal basis for increased guarantees of the material marketed in relation to variety identification, genetic resources and biodiversity,
- Transfer to the implementing measures all the detailed rules to increase their harmonisation and management (e.g. rapid up-dating of technical conditions).

Glossary

Propagating material	Propagating material means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants
Fruit plants	Fruit plants mean plants for fruit production intended to be planted or replanted after marketing
Fruit plants Certification	Fruit Plant Certification means a system for the production of (vegetatively) propagated plants for planting, intended for further propagation or for sale, obtained from nuclear stock after several propagation stages under conditions ensuring that stated identity, uniformity and stability of the variety and health standards are met. The filiation of the material is recorded throughout the scheme.
Marketing	Marketing means the sale, holding with a view to sale, offer for sale, and any disposal, supply or transfer aimed at commercial exploitation of propagating material or fruit plants to third parties, whether or not for consideration.
Supplier	Supplier means any natural or legal person carrying out professionally at least one of the following activities with regard to propagating material or fruit plants: reproducing, producing, preserving and/or treating, importing and marketing.

SECTION 1: PROCEDURAL ISSUES AND CONSULTATION OF INTEREST PARTIES

The initiative, originally scheduled in the AMP 2004, is listed in the Agenda Planning as 2004/SANCO/008 (certification system on the marketing of fruit plants propagating material) and postponed to the 3rd semester 2006.

Stakeholders consultation

A questionnaire for stakeholders' consultation was published on the official SANCO website http://europa.eu.int/comm/food/consultations/index_en.htm on 21 February 2006. The questionnaire and the Report on the results are attached in Annex IV.

Consultation with COPA-COGECA is considered the most appropriate way of consulting stakeholders directly involved in fruit plants propagating material production (suppliers) and growing (farmers). A discussion about the existing situation on the marketing of propagating material, the objectives and the possible policy options of the draft IA and the results of the above-mentioned stakeholders' consultation took place in the framework of the meeting of the Advisory Group on Fruit and Vegetables held on 18 May 2006 in Brussels under point 3 of the agenda. The report of the relevant point of the meeting is attached in Annex V.

Inter-Services Steering Group

An Inter-Services Steering Group for the Impact Assessment on the proposal for revision of legislation for the marketing of fruit plant propagating material was created by DG SANCO by inviting SG, DG AGRI, BUDG, ENTR, ENV, MARKT, RTD and TRADE. The designated experts meet on 1st June 2006 and discussed the draft previously sent to the relevant services by SANCO. One meeting was considered sufficient by the attendants who suggested some improvements to the draft. The report of the meeting is attached in Annex VI.

Member States and scientists consultation

The procedures for the assessment started in 2001. An initial discussion with Member States took place at the relevant Standing Committee (SC) meeting held on 15 June 2001². At that meeting it was agreed to prepare a questionnaire on the operation of the control arrangements foreseen in article 25 of Directive 92/34/EEC. This document, prepared in close co-operation with MS's experts, consists of 98 questions grouped in 12 sections which include for each one, the possibility of adding specific comments or proposals for amendments (see annex III). The Commission services (SANCO E1) launched the questionnaire addressed to the Member State's relevant authorities on 21 December 2001.

² http://europa.eu.int/comm/food/fs/rc/scpfgs/rap01_en.pdf

These authorities provided a huge amount of information collected internally and in co-operation with stakeholder (suppliers in particular).

Based on the answers received during the Spring of 2002, a detailed evaluation of the impact of this Directive on the internal market was started.

Evidence was given of the minimum level of harmonisation achieved by Directive 92/34/EC in an area not yet covered by Community legislation, and in some cases, national legislation. Proposals aimed at improving some critical points of the legislation were submitted.

At 6 meetings of the SC, the representatives of Member States discussed different aspects of the impact of the legislation on the internal market in the area of fruit plant propagating material³.

Five meetings of experts were organised by the Commission services to carry out a detailed analysis of the impact of the legislation. The experts, supported by stakeholders contributions and scientific input provided some opinions.

13 Member States out of 25 provided specific information and proposals (independently from the questionnaire).

Information has been collected from stakeholders, scientific experts and Member States experts at the following meetings:

- international scientific meetings on fruit plants certification organised by European Plant Protection Organisation (EPPO)⁴,
- 2 meetings on fruit plant certification organised in the framework of PHARE programmes for the enlargement held on 25-27 Jun 2002 in Brno (CZ) and 24-25 Jun 2005 in Cervignano (IT).
- 1 seminar organised by COPA-COGECA on ornamental horticulture held on 19-21 Feb 2004 in Brussels.
- 1 technical meeting organised by CIHAM on fruit plant certification⁵.
- 1 meeting organised by a scientific academy (Accademia dei Georgofili) on fruit plant certification process held on 8 Oct 2002 in Florence (IT).

³ http://europa.eu.int/comm/food/fs/rc/scpfgs/rap03_en.pdf,
http://europa.eu.int/comm/food/fs/rc/scop/rap07_en.pdf,
http://europa.eu.int/comm/food/fs/rc/scpfgs/rap05_en.pdf,
http://europa.eu.int/comm/food/fs/rc/scop/rap10_en.pdf,
http://europa.eu.int/comm/food/fs/rc/scpfgs/rap06_en.pdf,
http://europa.eu.int/comm/food/fs/rc/scpfgs/rap07_en.pdf

⁴ http://archives.eppo.org/MEETINGS/2004_meetings/cert_fruit.htm,
http://www.eppo.org/MEETINGS/2005_meetings/fruit_certification.htm

⁵ http://www.eppo.org/MEETINGS/2003_meetings/valenzano.htm,

Accurate bibliographic research was carried out collecting scientific and technical information from: EPPO (certification schemes), National certification schemes, CABI Crop Protection Compendium, Scientific Journals and books.

SECTION 2: PROBLEM DEFINITION

Directive 92/34/EEC on the marketing of fruit plant propagating material and fruit plants intended for fruit production was adopted on 28 April 1992. The major aim of this Directive was “the establishment of harmonised conditions at Community level to ensure that purchasers throughout the Community receive propagating material and fruit plants which are healthy and of good quality”. Annex II to the Directive provides information about the species covered by the Directive.

In the past the legislation on the marketing of propagating material of vine, forest plants, fruit plants and ornamental plants was adopted⁶ based on harmonised principles and current knowledge. In the meantime, scientific and technical knowledge has been greatly improved upon. For that reason Directives on the marketing of ornamental plant propagating material, forest reproductive material and vine propagating material have recently been redrafted and harmonised⁷.

As regards the legislation on the marketing of fruit plants, there are numerous provisions that have been amended several times, often quite substantially. These are now scattered, so that they must be sought partly in the original instrument and partly in later amendments.

Considerable research work, comparing many different instruments, is thus needed to identify the current rules (e.g. Council Directive 2003/61/EC amending Article 20, Decision 2005/54/EC amending Art 16.2, Directive 2003/111/EC amending annex II).

The absence of improvements and harmonisation creates supplementary costs for the marketing of propagating material of fruit plants and fruit plants for fruit production. New breeding and vegetative propagation technologies developed in recent years are not covered by the existing legislation. They permit a more precise and less expensive means of controlling quality characteristics, e.g. identity of variety and plant health status. The absence of a definition of variety and the absence of a common catalogue permit the marketing of the same material under different variety names. The obsolete definition and conditions for the lowest category of material (CAC material) allows the marketing of plants which do not perform as expected in terms of type of production of fruit and health status.

⁶ In the year 1966 for forest reproductive material –Dir 66/404/EEC, in 1968 for vine propagation material – Dir 68/193/EEC, in 1991 for ornamental plants – Dir 91/682/EEC and in 1992 for fruit plants propagating material – Dir 92/34/EEC.

⁷ In the year 1999 for forest reproductive material –Dir 1999/105/EC, in 2002 for vine propagation material – Dir 2002/11/EC and new codification in the pipeline, in 1998 for ornamental plants – Dir 98/56/EC.

It must be noted that the Common Agricultural Policy, including the area of fruit production, has been reviewed, giving more importance to quality aspects than to quantitative ones, and in particular the Second Pillar (Rural development Policy) has become more focused on consumers' interests. The Extended Impact Assessment [SEC(2004) 931]⁸ accompanying the Proposal for a Council Regulation on support to Rural Development by the European Agricultural Fund for Rural Development [COM(2004)490 final]⁹ in page 18 lays down: "The latter conclusions also highlighted the fact that in the context of Agenda 2000, European Agricultural policy had "become more oriented towards satisfying the general public's growing demands regarding food safety, food quality, product differentiation, animal welfare, environmental quality and the conservation of nature and the countryside". The new Common Agricultural Policy and, in particular, the new Rural Development Strategy creates new opportunities both for suppliers and users which cannot be fully exploited based on the existing rules for the marketing of fruit plants. Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for Rural Development by the European Agricultural Fund for Rural Development¹⁰ under Title IV Rural development support foresee among others in:

Axis 1 – Improving the competitiveness of the Agricultural and Forestry Sector, and in particular Art. 31.1: Support provided for in Article 20 (c)(i) shall contribute partly to costs incurred and income foregone caused to farmers who have to apply standards in the fields of the environmental protection, public health, animal and plant health, animal welfare and occupational safety.

Axis II – Land Management, and in particular Article 39.2: Agri-environment and animal welfare payments shall be granted to farmers who make on a voluntary basis agri-environmental or animal welfare commitments. Where duly justified to achieve environmental objectives, agri-environment payments may be granted to other land managers.

Needs expressed by stakeholders, in particular by Member States

The answers given by the Member States' competent authorities to the questionnaire prepared by the Commission services in 2001¹¹ gave evidence to a number of key areas where the conditions laid down by the Directive could be improved upon. Proposals aimed at improving some critical points of the legislation were submitted and discussed. Same remarks were expressed by stakeholders consulted via the questionnaire published in the SANCO website and present at the meeting of the Advisory Group on Fruit and Vegetables both mentioned under Section 1.

⁸ http://www.cc.cec/home/dgserv/sg/sgvista/i/sgv2/portail/portail.cfm?page=portail_search_dta_get

⁹ http://www.cc.cec/home/dgserv/sg/sgvista/i/sgv2/portail/portail.cfm?page=portail_search_dta_get
¹⁰ OJ L 277, 21.10.2005, p. 1.

¹¹ Questionnaire on the operation of the control arrangements foreseen in Article 25 of Council Directive 92/34/EEC (Annex 1).

Definition of marketing and suppliers and conditions to be applied to them:

The definition of marketing, adopted in 1992, lists a group of actions, which were considered appropriate for the type of material covered by the Directive. The actions listed were considered important and sufficient to indicate the extent to which this definition applies.

Due to the technical progress on trade, these actions are now strictly related to other new actions from which they cannot be easily separated e.g. “sale and holding with a view to sale”. As a consequence, different approaches are adopted by Member States’ official bodies and by suppliers.

The definition of suppliers which covers the normal activity professionally carried out by a person involved in producing, reproducing, preserving and/or treating material and marketing does not mention importation. The action of importing is more and more important and can be carried out either by a “supplier” (as defined by Directive 92/34/EEC), in which case there are no problems, or by another person who is not considered in the same manner by the different national legislation. Some existing conditions create unnecessary obligations e.g. accreditation of suppliers instead of simple registration.

Categories, Identification and Conditions

The existing legislation applies correctly to the range and type of reproductive material available at the date of its adoption. As mentioned above, nowadays scientific and technical knowledge could mean the introduction of new types of material which are required and supported by the market. New definitions for category identification and conditions in line with scientific and technical progress are defined by international certification schemes adopted by the European Plant Protection Organisation¹² (EPPO Standards). It should be noted that the definition of categories adopted by the majority of Member States in their internal legislation is in line with these international ones.

Quality of the material (Distinctness, Uniformity, Stability –DUS- and pomological value) and variety definition and conditions

The existing definitions of categories of material and health status are technically obsolete.

The absence of a definition of variety, to which there is a reference under the definition of category, is a weak point of the legislation.

¹² EPPO is an intergovernmental organization responsible for European cooperation in plant protection in the European and Mediterranean region. Under the International Plant Protection Convention (IPPC), EPPO is the regional plant protection organization (RPPO) for Europe.

Conditions for listing varieties should be set out with reference to international protocols. Based on the existing legislation, there are several cases where the same variety is marketed under different names. For the consumer it is quite difficult or impossible to be adequately informed.

Plant health status definition and conditions

The current legislation on the quality of plant health applies correctly to the range and type of reproductive material available at the date of its adoption. The conditions related to these definitions are not profitably applicable. The procedures for the listing of new varieties and the certification of material reproduced in a vegetative way have no clear links with category identification to improve the management of the health status of the propagating material.

In the meantime, scientific and technical progress has permitted the publication of international certification schemes (see above EPPO Standards). Healthier propagating material is the first step towards permitting full exploitation of the new Agricultural Policy approach in reducing the use of pesticides.

SECTION 3: OBJECTIVES

As reflected in the Extended Impact Assessment (EIA) [SEC(2004) 931]¹³, and the Update to Impact Assessment Report [SEC(2005) 919]¹⁴, the Commission included in the Council Regulation (EC) No 1698/2005 of 20 September 2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD) provisions (in Title II) with regard to the strategic approach to rural development. More particularly, the content and the mode of adoption of the EU strategic guidelines are explicitly stated in Article 9: the Council adopts the guidelines after opinion of the EP.

These Community strategic guidelines for rural development will help to:

- *identify and agree upon the areas where the use of EU support for rural development creates the most value added at EU level;*
- *make the link with the main EU priorities (Lisbon, Göteborg) and translate them into rural development policy;*

¹³ EIA accompanying the Proposal for a Council Regulation on support to Rural Development by the European Agricultural Fund for Rural Development (EAFRD) [COM(2004) 490 final and supporting the Proposals for a Council Regulation on financing the Common Agricultural Policy [COM(2004)489 final].

¹⁴ IA accompanying the Proposal for a Council Decision on Community strategic guidelines for Rural development [COM(2005)304 final].

- *ensure consistency with other EU policies, in particular, in the field of cohesion and environment;*
- *accompany the implementation of the new market oriented Common Agricultural Policy and the necessary restructuring it will entail in the old and new Member States.*

Within the objectives defined in the Rural Development Regulation (and supported by the EIA), the strategic guidelines set out in Council Decision 2006/144/EC of 20 February 2006¹⁵ focus on a more limited set of priorities in line with Community objectives, particularly as regards growth, jobs and sustainability.

In this context, it is appropriate to review the legislation on the marketing of fruit plant and propagating material.

Two objectives can be identified:

(a) To clarify and simplify the regulatory framework in which business operates

In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him/her new opportunities and the chance to make use of the specific rights it grants.

This aim can be achieved only by a substantial review of the existing legislation on the marketing of fruit plant propagating material with particular reference to definitions to which the Directive applies, requirements to be met, identification of material and exemptions e.g. a new definition of marketing covering all the actions concerning the commercial exploitation of propagating material and fruit plants.

(b) To respond to the technical and scientific progress and the new marketing environment in line with the new Common Agricultural Policy

There is a need to respond to technical and scientific progress and the desire for clear definitions of the material to which this Directive applies (category, type of material), clear conditions to be satisfied, and to respond to consumers' and industry's needs and expectations.

It is also relevant that this Directive is now out of step with those other Directives on the marketing of propagating material which have recently been amended in the framework of the new Common Agricultural Policy. To avoid unnecessary burdens and to be consistent with better regulation principles, it is important that any changes introduced should as far as possible be complementary to those in recently updated Directives and the Plant Health Directive.

¹⁵ Council Decision of 20 February 2006 on Community strategic guidelines for rural development (programming period 2007 to 2013) (2006/144/CE) OJ L 55, 25.2.2006, p. 20.

In addition, the existing conditions do not facilitate the adoption of clear and easily applicable rules for the equivalence of requirements with third countries. At the moment, importation is subject to temporary rules which do not satisfy both Member States authorities and traders. In fact, some rules which refer to the propagating material and the accreditation of suppliers create unnecessary obligations and do not give sufficient guarantees for the quality of material (e.g. identity of variety and health status).

The specific initiatives should be:

Definition of marketing and suppliers and conditions to be applied to them

The definition of marketing, adopted in 1992, lists a group of actions, which were considered appropriate for this type of material. The actions listed were considered important and sufficient to indicate the extent to which this definition applies.

Due to technical progress on trade, the activities now listed as marketing are strictly related to other new activities from which they cannot be easily separated e.g. “sale and holding with a view to sale”. Therefore, a new definition of marketing covering all the activities concerning the commercial exploitation of propagating material and fruit should be adopted.

The definition of suppliers which covers the normal activity professionally carried out by a person involved in reproducing, producing, preserving and/or treating material and marketing does not mention importation. The action of importing is becoming more and more important and can be carried out either by a “supplier” (as defined by Directive 92/34/EEC) or by another person. In the first case there is no problem with the application of the legislation, however, in the second case, the person importing may or may not be considered as a “supplier”, depending on the legislation of that particular Member State. The addition of the action of importing to the list of actions of a supplier will increase the harmonisation and transparency of the legislation. It is also important to clarify which materials are excluded from the scope of the Directive because they are not intended for marketing.

Categories identification and conditions

Four categories under which material must be marketed should be considered as sufficient: pre basic, basic, certified and standard (to be in line with the generally accepted former denomination for the standard material the acronym CAC - Conformitas Agraria Communitatis – should be kept).

New definitions of such categories should be in line with scientific and technical progress and in particular, with the international certification schemes (European Plant Protection Organisation – EPPO Standards). A legal basis for establishing specific conditions for the material falling into each category should be introduced.

Quality of the material (Distinctness, Uniformity, Stability –DUS- and pomological value) and variety definition and conditions

New international rules, in particular CPVO (Community Plant Variety Office) protocols and UPOV (Union pour la Protection des Obtentions Végétales) guidelines, permit an easy identification of a variety.

Conditions for listing varieties should be set out with reference to these international protocols. Therefore, a definition of variety and clone should be added. This amendment should improve transparency in the market and help to decrease costs for the identification of material.

In addition, a reference to the pomological value (quality and performance of plants and their products–fruit) should be added e.g. biological value for direct consumption or processing to improve transparency for consumers.

Plant health status definition and conditions

A clear link with category identification should be established for the listing of new varieties and for the certification of material reproduced in a vegetative way to improve the management of the health status of the propagating material. Scientific and technical progress has permitted the publication of international certification schemes (EPPO Standards). Healthier propagating material is the first step towards permitting full exploitation of the new CAP approach in reducing the use of pesticides.

SECTION 4: POLICY OPTIONS

4.1. Introduction

As noted by Member States in their answers to the questionnaire and based on the results of the meeting of the Standing Committee and Working Groups, several measures must be revised.

The main policies analysed in this Impact Assessment refer to a possible revision of definitions for suppliers, marketing, variety and categories, of conditions for categories, quality of the material (Distinctness, Uniformity, Stability –DUS- and pomological value) and plant health status.

The Commission explored a number of different topics or issues in addition to the definitions of suppliers, marketing, categories and quality of material and the relevant conditions to be satisfied.

Other issues examined were the withdrawal of all detailed conditions, a compulsory certification scheme, the role of the bodies responsible for the listing of new material, the Regulated Non Quarantine Pests (RNQP) status, and the adoption of a unique centralised catalogue. These issues were not considered critical to address the problems outlined in this Assessment and have therefore not been pursued through the initiatives described.

The most important fact is that at the moment the marketing of propagating material is adopted in a different manner by the different Member States.

4.2. Main policy options

Option A: Repealing of legislation

General legislation on marketing could partially replace the specific Directive based on Article 37 of the Treaty.

Option B: No action (keeping the existing situation)

Directive 92/34/EEC shall continue to be applied as such.

Option C: Alternative regulation/Self regulation

Non-legislative options (voluntary agreements) or standardisation beyond the internal market could be envisaged.

Option D: Simplification of legislation

Clarification, simplification and technical updating of the existing legislation on fruit plant propagating material, taking into consideration the legislation on the marketing of other plant propagating material and the new Agricultural Policy.

SUMMARY OF THE MAIN POLICY OPTIONS				
Policy	Option A	Option B	Option C	Option D
definition and conditions for: Marketing, Suppliers, Categories, variety, DUS, pomological value and quality plant health status	Repealing of legislation	No action (keeping the existing situation)	Alternative regulation, Self regulation	Simplification of legislation

SECTION 5: ANALYSIS OF IMPACTS

Option A - Repealing of the legislation

1. *Economic impacts*

Competitiveness, trade and investment flows

- (a) The definitions and conditions are the cornerstone of the legislation on the marketing of fruit plant propagating material. If they are repealed the remaining part of the relevant legislation should be repealed.
- (b) The first step in the food chain will not be regulated when all others are subjected to EU rules (e.g. fruit marketing and fruit quality regulations) under Article 37 of the Treaty.
- (c) During the fruit production process, suppliers must start from un-harmonised legislation (either national legislation or no system) and move to a market regulated by Community rules.
- (d) Different approaches in the Member States could lead to the principle of the internal market being compromised. In particular, the confidence in the internal market transparency could be threatened by a hidden protectionism.
- (e) Some non-official intermediate categories are present on the market (so-called improved CAC, virus tested CAC, etc.) which are marketed as “practically equivalent” to certified material, in particular concerning the performance of the plants in terms of pest freedom, quality and yield. These could become the norm in an oligopolistic market.

Competition in the internal market

- (a) Competition will probably be linked more to price than quality.
- (b) Small/medium size suppliers must re-orientate their activity to farming or to trade, in particular in the less favoured areas.
- (c) The possibility of the creation of a “list of varieties kept by supplier” which are considered “practically equivalent”, in particular concerning identity and uniformity to the registered varieties, could also become the norm in an oligopolistic market.
- (d) Due to the market organisation (see in Annex I: characteristics of the market), the absence of a minimum level of harmonisation could increase the costs supported by suppliers to find a certain standard based on a voluntary approach in a high risk market.

- (e) Some “traditional rules” related to the old national market (e.g. discrimination between national certification systems and certification systems adopted by other Member States, “bilateral equivalence” established between two countries in the internal market, etc.) shall continue to be applied.
- (f) Several “technical conditions” will create obstacles to the circulation of the material (e.g. non conformity of material to national rules for multiplication, non “suitability” of some varieties to the local environment, etc.). Further costs would be incurred by those replacing material which is found not to satisfy the expected characteristics only when fruit production starts (3-5 years after the planting season for the majority of species).
- (g) Therefore, the costs of preventing possible risks are escalating by requesting legal protection, managing legal settlements, or buying “safer” propagating material at higher prices. These aspects could be associated with a loss of confidence in the internal market and to a re-introduction of “more efficient” national rules.

Administrative costs and business

- (a) Administrative costs could decrease due to the absence of Community rules to be applied.
- (b) The costs for businesses could increase due to stronger competition based on “market” conditions.

Innovation and research and property rights

No important changes are expected. The results of the applied research are rarely paid by the market, if the conditions for the listing of new varieties are not clearly defined. The absence of the definition of variety and, in particular, the clone is a source of confusion on the market. Healthier material offered as a clone of a known variety cannot be easily identified by farmers/buyers.

Consumers and households

- (a) The consumers, in particular, those professionally engaged shall be faced with a high risk market due to the absence of a minimum harmonised standard or to the non-official intermediate categories, now present in the market.

Specific regions or sectors

- (a) The benefits for suppliers are related to the possibility of applying new inputs based on their own cost/benefits analysis and avoiding any delays related to the adoption of rules. This could stimulate competition, but based on the existing situation (the majority of them are medium/small size enterprises) the risk of incorrect implementation of those inputs will increase the risk of collapse/ bankruptcy.
- (b) An impact on restructuring is expected in terms of concentration of firms, specialisation and adoption of specialised channels for production or marketing. This impact can be considered as a normal evolution of the market.
- (c) It will be very difficult for farmers to fully exploit all the possibilities offered by the new policy on Agriculture due to the absence of conditions for the marketing of fruit plants (e.g. categories of material which are foreseen in implementing measures of some regulations on support schemes for farmers).
- (d) The costs supported by farmers will increase due to the uncertainty of the market. Farmers will buy material at higher costs supposing that such material will offer better guarantees.
- (e) The opportunities for farmers are related to the possibility of directly negotiating the conditions for buying material. In any case, farmers will be in the same position as suppliers concerning the risk of incorrect implementation.

Third countries and international relations

- (a) Possible cross-border investment flows and relocation of economic activity could be expected. They could be supported by a national regime for equivalence to authorise the importation from third countries.
- (b) The existing temporary regime (applied as a derogation authorising MS authorities to authorise the importation from third countries) may become the norm. At the moment it is subject to criticism by some Member States.

2. *Environmental impacts*

No major changes are expected in comparison with the existing situation. However:

Biodiversity

No important changes are expected. Attention must be paid to a possible negative impact on the implementation by applicants of Reg. (EC) No 870/2004 establishing a Community programme on the conservation, characterisation, collection and utilisation of genetic resources in agriculture and repealing Regulation (EC) No 1467/94¹⁶ and some measures on genetic resources provided by Reg. No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development. The absence of a harmonised definition of variety and in particular, the clone and rules for the marketing are a source of confusion on the market. Material offered as a “local variety” cannot be easily identified by farmers/buyers as different from a known variety.

Plant health,

- (a) The absence of Community rules could discourage participation in Community agri-environmental programmes.
- (b) The plant health aspects may not to be considered economically important by the suppliers. A risk of marketing material without a Community level of health status could increase the need for treatments by farmers. This implies higher production costs for spraying and increased costs for the presence of residues in the environment and on food and feed.
- (c) As a consequence, during the fruit production process, the presence of propagating material which does not offer clear guarantees about the plant health status (quality or RNQP pests) is an unknown hazard for the environment and human and animal health due to a possible increased request of treatments to prevent or to control pests. Therefore, costs will increase for producers, consumers and environment.
- (d) Spreading of pests or new pests (quarantine and quality) will further increase in relation to:
 - unharmonised points in the marketing legislation e.g. the possibility of marketing a variety identified and described by a supplier and kept in his own list, variety produced in one country under certain requirements (no control against pests considered not important) and marketed in a second one where these pests produce big losses.
 - requirements of legislation which cannot be fulfilled in practice (e.g. material declared free from some pests by visual inspection during a certain period- growing in the nursery - when only a lab analysis could check that).

¹⁶ OJ L162, 30.4.2004, p. 18.

Social impacts

Due to re-organisation and concentration, a possible loss of jobs could be expected, in particular, at small and medium-size enterprise levels.

Option B - No Action (keeping the existing situation)

The weak points identified in the existing legislation still remain

Economic impacts

Competitiveness, trade and investment flows

- (a) As for option A, an impact on restructuring is expected in terms of concentration of firms, specialisation, and adoption of specialised channels for production or marketing. This impact can be considered as a normal evolution of the market.
- (b) Some rules have become obsolete; the cost of their application is not compensated by the advantages (e.g. virus free and virus tested material categories). The absence of some definitions is a source of conflict due to misunderstandings or “frauds”. This implies an increase in costs for both suppliers and consumers and a lack of confidence in the market.
- (c) It is very difficult for farmers to exploit fully all the possibilities offered by the new CAP due to some out-dated conditions for the marketing of fruit plants (e.g. categories of material which cannot fulfil the requirements of some regulations on support schemes for farmers).
- (d) The unclear and incomplete list of characteristics for Distinctness and Identity creates difficulties in identifying the varieties requested for planting by farmers. As requested by the Common market organisation for fruit, farmers must indicate the name of the variety of fruit when these fruit are put on the market.
- (e) It is very difficult and expensive for suppliers to fulfil some existing conditions which do not produce any benefit to the farmers and final consumers (e.g. propagating material which must be free from all viruses).

Competition in the internal market

- (a) Competition will probably be based more on price than on quality.
- (b) As for the option a), the possibility of creating a “list of varieties kept by supplier” which is considered “practically equivalent”, in particular concerning identity and uniformity to the registered varieties, could be adopted as the most convenient solution. The plant health requirements could be evaluated based simply on the obsolete existing conditions.

Innovation and research and property rights

- (a) No important changes are expected.
- (b) The results of the applied research rarely are paid by the market, if the conditions for the listing of new varieties are not clearly defined.
- (c) At the moment the absence of a definition of variety and in particular the clone, is a source of confusion on the market.
- (d) Healthier material offered as a clone of a known variety cannot be easily identified by farmers/buyers.

Consumers and households

As for option a), the consumers shall be faced with a high risk market due to the absence of a minimum harmonised standard.

Specific regions or sectors

- (a) Under the existing situation, the costs supported by farmers will further increase for replacing material which is found not to satisfy the expected characteristics when the production of fruits starts (3-5 years after the planting season for the majority of species).
- (b) These aspects become more and more important in relation to the very specialised requirements of the market for both fresh fruit and fruit for processing.
- (c) Therefore the costs for preventing possible risks are increasing by asking legal protection, managing legal settlements, or buying “safer” propagating material at higher prices.
- (d) Small/medium size suppliers must re-orientate their activity to farming or to trade, in particular in the less favoured areas.

Third countries and international relations

- (a) As in progress, possible cross-border investment flows and relocation of economic activity could be expected, based on the current regime applied as a derogation authorising MS authorities to authorise importation from third countries.
- (b) It is not possible to establish a Community equivalence system for the importation of material from third countries due to the absence of basic common conditions.
- (c) At the moment a temporary regime is in place (derogation for importation) but it is subject to criticism by some Member States due to a lack of transparency.

Environmental impacts

No substantial changes are expected. Nevertheless the spreading of pests or new pests (quarantine and quality ones) can further increase as a consequence of the presence of:

- weak points in the marketing legislation (e.g. the possibility of marketing a variety identified and described by a supplier and kept in his own list)
- conditions of legislation which cannot be fulfilled in practice (e.g. material declared free from some pests by visual inspection during a certain growing period in the nursery - when only a lab analysis could confirm this).

Social impacts

Due to the re-organization and concentration of enterprises, possible losses of jobs, but less than for option a) could be expected.

Option C - self regulation

Economic impacts

Competitiveness, trade and investment flows

- (a) The first step in the food chain will not be regulated when all others are subjected to EU rules (e.g. fruit marketing and fruit quality regulations) under Article 37 of the Treaty, unless a standardisation is accepted at Community level to avoid any uncertainties.
- (b) Standardisation in such a specific area of agriculture could be the best solution only in the case of enterprises with a similar level of knowledge and technical and economic performance. This is not the case at the moment in the Union, where a wide range of enterprises are present.
- (c) If standardisation is not to be agreed, it will be very difficult for farmers to fully exploit all the possibilities offered by the new CAP due to unhomogeneous conditions for the marketing of fruit plants (e.g. categories of material which are foreseen in implementing measures of some regulations on support schemes for farmers and which could not be foreseen in voluntary agreements).
- (d) Some non official intermediate categories present on the market (so-called improved CAC, virus tested CAC, etc.) which are marketed as “practically equivalent” to certified material could become the norm in an oligopolistic market. Due to the market organisation (see Annex I, characteristics of the market), a minimum level of harmonisation cannot be foreseen.

- (e) Different approaches in the Member States could lead to the principle of the internal market being compromised. Some “traditional rules” related to the old national market (e.g. discrimination between national certification system and certification systems adopted by other Member States, “bilateral equivalence” established between two countries in the internal market, etc.) could continue to be applied if standardisation is not compulsory.
- (f) As for option a), an impact on restructuring is expected in terms of concentration of firms, specialisation and adoption of specialised channels for production or marketing. This impact can be considered as a normal evolution of the market.

Competition in the internal market

- (a) Competition will probably be more linked to price than quality.
- (b) Small/medium size suppliers must re-orientate their activity to farming or to trade and a concentration of suppliers could be expected.
- (c) The costs to be supported by suppliers to find a certain standard based on a voluntary approach in a high risk market could be unbearable for the smaller enterprises.

Operating and administrative costs and conduct of business

- (a) For the suppliers a decrease in administrative costs could be expected due to the new conditions (no accreditation needed).
- (b) No important changes are expected in relation to operating costs. Some costs related to fulfilling the requirements of existing legislation will simply be replaced by costs necessary for the implementation of possible new standards.

Innovation and research and property rights

No important changes are expected. The results of applied research are rarely paid by the market, if the conditions for the listing of new varieties are not clearly defined. The absence of the definition of variety, and in particular, the clone is a source of confusion on the market. Healthier material offered as a clone of a known variety cannot be easily identified by farmers/buyers.

Consumers and households

The consumers will be faced with a high risk market due to the obligation to rely on the suppliers' information.

Third countries and international relations

- (a) Possible cross-border investment flows and relocation of economic activity could be expected. It could be supported by national regimes for equivalence to authorise importation from third countries.
- (b) Concerning importation from third countries, the existing temporary regime will become the norm. At the moment it is subject to criticism by some Member States.
- (c) A possible equivalence system for the importation of material from third countries could be established, if common Community conditions are adopted.

Environmental impacts

- (a) A risk of marketing of material without a Community level of health status could increase the need of treatments by farmers.
- (b) Due to the fact that plant health aspects may not to be considered economically important by suppliers, during the fruit production process the presence of propagating material which does not offer proven guarantees about the plant health status (quality or RNQP pests) is an unknown hazard for the environment and human and animal health, due to a possible increased need for treatments to prevent or to control pests. Therefore, costs will increase for producers and consumers.
- (c) The absence of Community rules could discourage the participation in Community agri-environmental programmes.

Social impacts

Due to re-organization and concentration, possible job losses could be expected, in particular in small-medium size enterprises.

Option D - Simplification of the legislation

Economic impacts

Competitiveness, trade and investment flows

- (a) A mid/long term impact on restructuring is expected in terms of concentration of firms, creation of new ones, specialisation and adoption of specialised channels for production or marketing. This impact can be considered as a normal evolution of the market which could be facilitated by the amendment of rules.

- (b) All technical measures laid down by the existing basic legislation will be transferred to specific implementing measures. They will be adopted based on an appropriate evaluation of their effectiveness and in relation to technical and scientific progress.
- (c) Better flexibility for the management of technical implementing measures is expected both by official bodies and suppliers.
- (d) In the mid-term period, more transparency is expected on the price of material, based on a stricter link between price/health quality of material.
- (e) The clear identification of category by legislation (pre-basic, basic certified and CAC) will avoid any risk of misunderstanding or need for interpretation. At the moment some non- official intermediate categories are present on the market (so-called improved CAC, virus tested CAC, etc.) which are considered “practically equivalent” to certified material, in particular concerning plant health status (quality pests).
- (f) Transparent references to certification arrangements and a clear identification of the variety (complete and transparent labelling) will improve competitiveness and facilitate intra-Community trades and imports, based on equivalence and possible reciprocity.
- (g) The transparency of the market and therefore the confidence in it will increase support through easier application of rules. Breeders will be better protected. Farmers will be confident about the identity and uniformity of the propagating material. This will permit improved planning of the activity, saving resources currently spent on adapting the production process to an un-harmonised market.
- (h) The adoption of a more transparent definition of suppliers and marketing and new, clear and simplified conditions (e.g. registration compared with accreditation) will facilitate EU competition.
- (i) New opportunities can be found by suppliers in the countries where the former definition was strictly transposed.
- (j) The resources freed from the reduction of the risks due to unclear rules can be better exploited, introducing new technology which can create direct and indirect demand for qualified employment (e.g. need of new special machinery).

Competition in the internal market and plant variety rights

- (a) The adoption of the framework Directive will permit rapid adoption of the relevant implementing measures which will be immediately applicable in all Member States.

- (b) For the Commission: the adoption of a monitoring system will permit a prompt response to the needs expressed by the market combined with the possibility of finding the most appropriate solution. It will reduce the risk of adopting frequent amendments to the basic legislation.
- (c) For the Member States: The resources now employed for transposition will be better addressed to possible initiatives on subsidiarity, where appropriate, or on monitoring of the system. The up-dating of equipment and training will be included in such processes.
- (d) For the industry and consumers: the new rules will be an incentive to improve their performance and the quality of propagating material, for both suppliers and farmers. Their efforts should be encouraged by the measures (including the financial ones) foreseen in the new agricultural policy.
- (e) A more transparent and efficient organisation of the offer will be based on propagating material, identified by a category whose characteristics are harmonised, and a Distinct Uniform and Stable variety.
- (f) Therefore there is the possibility of setting up new enterprises for the production of new varieties for wide or for “niche” markets.
- (g) The identification of which will permit a transparent and efficient organisation of the offer.
- (h) To avoid any disruption to trade, it is necessary to allow a sufficient transitional period (3-7 years depending on the categories) to permit suppliers to grow material which can fulfil the conditions required by new legislation.

Operating and administrative costs and conduct of business

- (a) For the suppliers, a reduction in administrative costs should be expected due to the new condition for registration replacing accreditation. Some new costs should be expected due to the new conditions for the categories, in particular for the CAC category e.g. the cleaning up of the above mentioned non official intermediate categories and for official listing of varieties.
- (b) Suppliers should benefit from lower costs in providing guarantees during trade (concerning the identity of material and its quality status).
- (c) The operating costs should not be subject to variation.

Innovation and research and property rights

- (a) An improvement in the knowledge and performance of suppliers who are faced with transparent rules is expected, as happened in the nineties after the adoption of the first Directive.

- (b) Improved identification of categories will permit, where appropriate, better protection for plant variety rights.
- (c) Basic research (e.g. identification of resistance to diseases) and applied research (e.g. production of new varieties which can easily be protected in the market or, if not protected, they can in any case be easily identified) will be stimulated.
- (d) The production of new varieties for the general market or for a “niche” market will be stimulated. A clear borderline will be established between normally marketed varieties and genetic resources and conservation varieties. This approach will contribute to the promotion of the conservation of biological diversity and of the conservation varieties (e.g. facilitating the implementation of Council Reg. (EC) 1590/2004.

Consumers and households

- (a) Consumers professionally engaged and/or final consumers will benefit from clear and correct information about the category and variety (clearly indicated by labels or accompanying documents) of material marketed.
- (b) Farmers shall have confidence in the category and variety of the propagating material. The non official intermediate categories, which are now largely present on the market, will become useless.
- (c) The availability of better quality propagating material means the possibility for farmers to produce fruit at lower costs. For instance, by decreasing the losses for insufficient external quality (conformity with the relevant legislation on the marketing standard for fruit (Council Regulations on the marketing standard for fruit), by linking production to specific targets (e.g. industry processing), by developing healthier crops suitable for integrated pest management production or organic farming production in relation to the CAP accompanying measures (e.g. Council Regulation (EC) 1257/1999, as amended, on support for rural development) and the protection of consumers, better identifying possibilities for the conservation of genetic resources.

Specific regions or sectors

- (a) Investment costs to be supported by suppliers are related to the improvement of technical tools and performance for the production of material under the new definition of categories, in particular as regards CAC material.
- (b) The supplementary costs for improving the system will be largely compensated by an increased market for healthier and better quality material.
- (c) The small-medium enterprises (largely present in the area of fruit plant propagating material) can find new opportunities to identify different targets for the marketing of fruit plants which are grown under different climatic conditions in EU.

Third countries and international relations

- (a) Possible impacts on the competitive position of EU firms in comparison with their non-EU rivals can be expected, from the adoption of an equivalence regime for propagating material produced in third countries and imported into the EU. As applied in the area covered by seed marketing Directives for agricultural species, this regime can be combined with the principle of reciprocity with third countries. It must be noted that at the moment a temporary regime is applied, as a derogation authorising MS authorities to authorise importation from third countries. This is due to the absence of solid legal conditions for establishing an equivalence regime concerning the categories of material and identification of varieties.
- (b) The new legal basis will permit a fully transparent and harmonised approach, e.g. the possibility of planning importation and consequently exportation under the same conditions, or to relocate the plant nurseries. Referring to these aspects, it is interesting to note that the International Centre for Advanced Mediterranean Agronomic Studies (CIHEAM) is developing a programme for Mediterranean Networks on certification of fruit plants organised in some sub-programmes (e.g. Citrus, Fruit Trees Viruses, etc) “in order to address...free trades in the Mediterranean area”. “Currently, and for the first 1998-2002 four-year period, CIHEAM is particularly involved in implementing a co-operation programme initiated in conjunction with, and jointly financed by, the European Union’s Commission. The purpose is to help Mediterranean countries to face the transition affecting, under these circumstances, the economic and social life in the whole region.”

Environmental impacts

- (a) Changes are expected in comparison with the existing situation.
- (b) Transparent references on certification will contribute to promote the adoption of appropriate legislation on the conservation of biological diversity and conservation varieties.
- (c) The most important impact shall be the introduction of new propagating material which is healthier or resistant to pests. This action can have a positive impact on agriculture by reducing the spraying of plant protection products and consequently the risk of pollution of air and surface and ground water.
- (d) The availability of healthier propagating material, e.g. tolerant and/or resistant to pests, will reduce the need for chemicals in agriculture (see above). Therefore the working conditions for agricultural workers dealing with fruit plant production will be improved.
- (e) An expected benefit for the consumers is the possibility of receiving fruit with a lower level of pesticide residues.

- (f) Suitable varieties of fruit plants will permit, by the adoption of an appropriate crop technology, an easier implementation of the measures foreseen by Council Regulation (EC) 1257/1999, as amended, on support for rural development.

Social impacts

- (a) An increased request for specialised jobs and specialised knowledge is expected in regions where special ecological conditions permit the achievement of the best results from fruit plants production (e.g. pest free areas, particular soil and weather conditions, etc.).
- (b) A moderate request for more qualified jobs is foreseen due to the necessity of improving the existing nursery technology.

Identifying the most important impacts

Link N°	Cause	Effect	Likelihood	Intensity
1	Suppliers and Marketing definition and conditions	Facilitate trades	High	High
2	Categories identification	Facilitate trades	High	High
3	Variety, DUS and Pomological value definition and conditions	Increased confidence on the market	High	High
4	Quality plant health status	Increased confidence on the market	High	High

SECTION 6: COMPARING THE OPTIONS

SYNOPSIS OF IMPACT OF THE NEW PROPOSAL RECASTING DIRECTIVE 92/34/EEC							
	impact						
	Administrative impact for suppliers	technical impact for suppliers	Professional users impact	Final consumers impact	Transparency of the market	Employment	Environment
Repealing of the existing legislation	-+	+	--+	--	---	-+	-
No changes (keeping the existing situation)	0	0	-	-	--	0	-
Self regulation	-+	-+	-+	-	--+	-+	-
Simplification of the existing legislation	-++	-++	-+++	+	+++	+	++

Key - = Costs
 + = Benefits
 0 = no changes

IMPACT ON CERTAIN GROUPS		
	Advantages	Disadvantages
No changes		Farmers, consumers, exporting third countries, environment, genetic resources, official bodies
	Suppliers, final traders, breeders, rural areas	
Repealing of the existing legislation	Final traders	Farmers, consumers, exporting third countries, breeders, rural areas, , environment, genetic resources
	Suppliers, official bodies	
Simplification of the existing legislation	Farmers, consumers, breeders, exporting third countries, environment, rural areas, genetic resources, official bodies	
	Suppliers, final traders	

SECTION 7: MONITORING AND EVALUATION

Monitoring

The Commission may make a financial contribution to the performance of Community comparative tests and trials carried out within the Community for the post-control of samples of propagating material or fruit plants placed on the market under the provisions of this Directive whether mandatory or discretionary, including those relating to plant health.

These comparative tests and trials shall be used to harmonise the technical methods of examination of propagating material and fruit plants and to check satisfaction of the conditions with which the material must comply.

Commission experts may, in co-operation with the responsible official bodies of the Member States, make on-the-spot checks to ensure the uniform application of this Directive, and in particular, to verify whether suppliers are, in effect complying with the requirements of this Directive.

As far as the EU budget is concerned, the financial impact for the carrying out these activities is limited. Expenditure incurred under the initiatives listed above are subject to the financial legislation as regards the call for projects procedures. As applied under the existing Directive, the proposals submitted by the MS's competent authorities for carrying out tests and trials shall be examined by a Commission evaluation committee. The payments shall be authorised only after a specific evaluation of the final report based on a standard list of criteria.

Evaluation

In order to keep the evaluation proportionate to the resources allocated and in line with the impact of the programme and activity concerned, an evaluation should apply under the evaluation programme as planned by DG SANCO.

Annex I

Tables

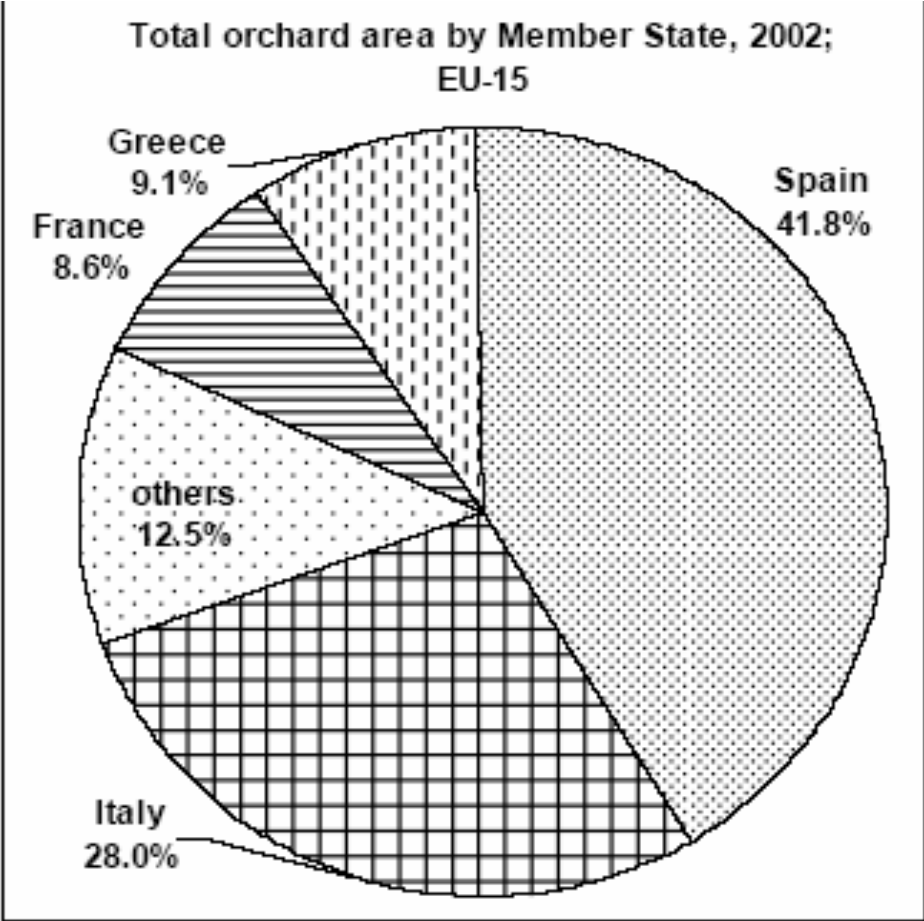
Tab.1: Total orchard area by Member States

Type de production	Superficie de production (1000 ha)	
	Union européenne (25 pays)	Union européenne (15 pays)
Fruits de table (sauf jardins familiaux)	:	:
Arbres fruitiers (sauf olives et agrumes)	:	1.893.045
Pommes (y compris pommes à cidre)	:	302.841
Poires (y compris poires à poiré)	:	132.018
Fruits à noyau	574.991	447.148
Fruits à coque	:	1.126.144
Oranges	:	307.240
Mandarines	:	25.396
Satsumas	10.929	10.929
Clémentines	:	130.588
Citrons	94.612	93.562
Pamplemousses	2.728	1.913
Total olives	4.503.219	4.493.838

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Tab. 2: Total orchard area by Member States, 2002 (to be printed)



Tab. 3: Area under strawberry production in the EU-25 (hectares)

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average 2002-2004
Area											
Austria	973	973	1.224	1.224	1.224	1.224	1.224	1.087	1.087	1.087	1.087
Belgium				2.733	2.750	2.471	1.844	2.030	1.950	1.900	1.960
Cyprus	75	70	90	95	95	95	95	95	95	95	95
Czech Republic	3.354	3.097	3.005	2.948	2.899	2.863	2.240	2.162	1.942	1.834	1.979
Denmark	1.135	983	1.095	983	991	984	1.066	788	916	978	894
Estonia	294	336	685	883	1.050	1.052	1.360	1.458	1.230		1.344
Finland	5.204	5.264	5.249	5.189	5.131	4.844	4.516	4.098	3.767	3.558	3.808
France	4.836	4.686	4.535	4.414	4.345	3.971	3.860	3.779	3.692	3.677	3.716
Germany	7.439	8.348	8.528	8.407	9.269	9.622	9.795	9.887	10.421	11.844	10.717
Greece	430	450	430	494	460	450	450	450	460		455
Hungary								450	452	440	447
Italy	7.795	7.497	6.924	7.461	7.408	7.027	6.770	6.351	6.243	6.187	6.260
Latvia	700	600	700	600	600	800	1.200	1.100	1.100	900	1.033
Lithuania						769	1.102	1.108	1.381	1.401	1.297
Luxembourg	10	10	7	4	4	3	3	4	5	5	5
Netherlands	1.885	1.720	1.943	2.105	2.009	1.909	1.894	1.926	2.116	2.336	2.126
Poland	61.300	53.600	50.200	52.614	58.297	61.967	65.754	37.962	43.931	52.388	44.760
Portugal	791	898	900	901	637	577	561	526	551		539
Slovakia	1.640	1.830	1.550	1.630	1.750	1.750	125	162	240	270	224
Slovenia	112	90	44	36	59	107	97	78	75	75	76
Spain	8.900	7.200	9.271	9.374	10.937	11.100	9.775	8.864	8.100	7.558	8.174
Sweden	2.565	2.950	2.950	2.950	2.710	2.710	1.907	2.209	2.208	2.001	2.139
United Kingdom	4.623	4.494	4.207	3.537	3.341	3.289	3.416	3.051	3.177	3.299	3.176
EU-15	46.586	45.473	47.263	49.776	51.216	50.181	47.081	45.050	44.693	44.430	44.724
EU-10	67.475	59.623	56.274	58.806	64.750	69.403	71.973	44.575	50.446	57.403	50.808
EU-25	114.061	105.096	103.537	108.582	115.966	119.584	119.054	89.625	95.139	101.833	95.532

Blank cell: not available

Sources : Eurostat for Cyprus, Finland, France, Germany, Greece, Italy, Latvia, Lithuania, Luxembourg, Poland, Portugal, Sweden, United Kingdom; Eurostat with corrections provided by Ministry of Agriculture for Slovakia, Slovenia and Spain; Ministry of Agriculture for Belgium, Czech Republic (commercial farms and households) and Denmark; Statistical Office for Austria (only intensive production) and Estonia; FruitVeB for Hungary; nc: non available / non communicated.

Tab. 4: Area in blackcurrants in the EU-25 (in hectares)¹⁷

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average 2002-2004
Austria	111	111	155	155	155	155	155	213	213	213	213
Czech Republic	352	362	387	368	376	364	354	358	425	444	409
Denmark	1.827	1.783	1.531	1.280	1.411	1.492	1.850	1.939	2.088	2.085	2.037
Estonia	839	835	937	921	884	893	1.328	1.034	1.228		1.131
Finland	1.381	1.427	1.448	1.516	1.629	1.795	1.914	2.035	2.112	2.147	2.098
France	2.780	2.497	2.477	2.437	2.480	2.640	2.576	2.312	2.496	2.533	2.447
Germany							1.200	1.200	1.400	1.300	1.300
Ireland								174	174	104	151
Latvia										456	
Lithuania					718	1.100	1.200	2.100	4.825	4.747	3.891
Netherlands	322	324	352	368	368	368	509	541	577	543	554
Poland				29.590	23.412	23.391	24.474	32.023	29.758	30.005	30.595
Slovakia				150	160	230	326	317	489	431	412
Sweden	768	607	607	607	415	415	415	470			
United Kingdom	2.389	2.380	1.956	1.225	1.457	2.006	2.386	2.327	2.595	2.987	2.636
EU-15							11.005	11.211	11.655	11.912	11.592
EU-10				31.029	25.550	25.978	27.682	35.832	36.725	36.083	36.213
EU-25							38.178	46.472	47.742	47.338	47.184

Blank cells: not available

¹⁷

For the sources see Table 3.

Tab. 5: Area under cultivation of raspberries in the EU (hectares)¹⁸

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average 2002-2004
Area											
Austria	0	0	0	0	0	0	0	143	143	143	143
Belgium	18	19	19	26	26	20	24	29	27	28	28
Czech Republic		14	43	27	27	27	21	20	16	29	22
Denmark		22	23						37	38	38
Estonia	96	99	125	130	146	145	419	517	457		487
Finland	240	277	311	340	349	383	408	431	461	466	453
France	1.262	1.316	1.312	1.352	1.537	1.546	1.519	1.442	1.473	1.463	1.459
Hungary								1.208	1.196	1.202	1.202
Italy	200	200	200	155	168	182	193	167	172	181	173
Latvia			10	100	50	40	100	100	100	260	153
Lithuania									382	377	380
Netherlands	38	40	39	40	45	36	31	32	31	36	33
Poland	12.100	12.500	12.700	12.774	12.609	12.587	12.916	13.417	13.253	14.169	13.613
Portugal						60	60	60	60	60	60
Spain				410	475	550	624	759	858	810	809
Sweden	86	101	101	101	117	117	117	131			131
United Kingdom	2.568	2.669	2.427	2.355	2.117	1.779	1.442	1.259	1.262	1.505	1.342
EU-15 (1)	4.412	4.644	4.432	4.779	4.834	4.673	4.418	4.453	4.524	4.730	4.669
EU-10 (1)								15.262	15.404	16.037	15.568
EU-25 (1)								19.715	19.928	20.767	20.137

Blank cells: not available. No data available for Germany and Ireland.

(1): some countries missing, coverage not complete.

Tab. 6: Areas cultivated with sour cherries in the EU (hectares)¹⁹

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Average 2002-2004
Austria	55	59	49	49	49	50	50	36	36	36	36
Belgium				750	775	750	500	531	578	636	582
Czech Republic	1.750	1.642	1.668	1.552	1.512	1.639	1.740	1.985	2.095	2.285	2.122
Denmark		1.464	2.505	2.490	2.626	2.639	2.569	2.558	2.414	2.363	2.445
Estonia	459	456	392	398	391	398	1.003	981	841		
Germany			5.030					4.197			
Greece	860	860	860	860	860	860	860	860	860	860	860
Hungary								6.604	6.710	6.840	6.718
Italy	1.400	1.500	1.300	1.400	1.400	1.500	1.400	1.400	1.400	1.400	1.400
Poland	34.800	38.000	38.000	38.000	38.930	39.316	39.966	39.002	37.776	39.100	38.626
Slovenia	82	78	86	86	86	72	72	58	58	58	58

Sources: same as production table, except Germany: orchard survey (Federal Statistical Office). Blank cells: not available.

¹⁸ For the sources: see Table 3.

¹⁹ For the sources: see Table 3..

Tab.7: Fruit plant propagating material production per country (15) expressed in millions of individuals

Country	CAC	certified	Total
DE	3.4	0.9	4.3
ES	24.1	562.3	586.4
FR	9.0	132.0	141.0
IT	260.7	98.4	359.1
NL	55.6	183.8	239.4
PT	28.3	-	28.3
UK	28.659 ha	7.1	
SF	-	3.5	3.5
SW	0.2	0.5	0.7
Other*	-	-	-

* data not available or marginal production

Tab.8: Fruit plant propagating material importation, list of countries and species

Species	Countries													
	BG	CH	NO	HR	SB	FY	JA	IL	MK	ZA	AR	CA	MX	US
<i>Citrus</i>													*	*
<i>Fragaria</i>								*	*	*	*		*	*
<i>Malus</i>	*	*			*	*	*							*
<i>P. armeniaca</i>	*				*									
<i>P. avium</i>	*	*		*	*									
<i>P. cerasus</i>	*	*		*	*									
<i>P. domestica</i>	*	*		*	*									
<i>P. persica</i>					*									
<i>Pyrus</i>		*			*									*
<i>Ribes</i>		*	*											
<i>Rubus</i>		*	*					*		*		*		*

ANNEX II

Background

Background

In the past fruit plant growing was not considered true agriculture, it was considered an amateur activity or a complementary activity to agriculture. This approach was generally accepted until the sixties. The first Community Regulation on the marketing of fruit and vegetables was dated 4 April 1962 (Reg. EEC 23 JO 30/965). It focused on the minimum quality standards for the marketing of fruit (e.g. size, level of ripening, etc.). The estimated area of specialised orchards in Europe was a few hundred thousand hectares. Only in the seventies did fruit growing become an important economic activity and was recognised as true agriculture. The first certification scheme for the production of fruit plant reproductive material was adopted by the European Plant Protection Organisation (EPPO) on 1980.

Based on Article 37 of the Treaty, Council Directive 92/34/EEC of 28 April 1992 was the first measure adopted at Community level on the marketing of propagating material of fruit plants and fruit plants intended for fruit production. At that time only a few Member States had appropriate legislation in place on fruit plant certification and marketing.

Directive 92/34/EEC was adopted based on the best scientific and technical information available at that time, bearing in mind the fact that the domestic situation of Member States was very different (no rules, or rules for some conditions, or rules for some species).

Characteristics of the market

Fruit plants

Fruit plants are grown in all EU countries. The most recent official data available (EUROSTAT data 2002) show that the total specialised orchard area for EU 15 is more than 8.9 million hectares (Tab. 1).

This data refers to the most important species covered by Directive 92/34/EEC, it does not take into consideration the small fruit species (all berries) covered by the above Directive. Concerning the small fruit species information is shown in Tab. 3 to 6.

More detailed information is available in “Statistics in focus” published by Eurostat on 26.4.2005 (Annex I tables), in particular for the specialised plantation of certain species of fruit trees (apple, pear, peach, apricot orange, lemon and small-fruited citrus).

Data was collected on the areas under fruit trees and was broken down by: country, region (production zone), species, variety, density (number of trees/ha), age of trees. This data is the result of the basic survey on plantation of certain species of fruit trees carried out every five years to determine the production potential of plantation from which fruit produced in intended for the marketing.

Data collected in 2002 shows that the EU orchard area declined by approximately 165.000 ha (-13%) if compared with those collected in 1997. The phenomenon, particularly notable for apple trees (53.000 ha -18%) and peach trees 43.000 ha -18% can be related to different inputs: the disappearance of small old orchards, least favoured regions being abandoned, old varieties which request a low density per ha being abandoned, the introduction of new systems of cultivation and new varieties with high density (from 800-900 individuals per ha to 3500-4000).

87.5% of the EU (15) orchard area was located in only 4 Member States (41.8% of the area is in Spain, 28.0% in Italy, 9.1% in Greece, 8.6% in France) and 12.5% in the other 11 countries (Tab. 2).

Regarding the new countries, important orchard areas are present in Hungary, Poland, Slovakia and Czech Republic.

The distribution of the species of fruit plants in the European Union is not uniform, it is mainly related to the environmental conditions e.g. citrus fruit plants are concentrated in the Mediterranean area and small fruit plants (except strawberry) are preferably concentrated in Central-Northern Europe.

Propagating material

The propagating material of fruit plants is produced in all EU countries, but the largest quantity of the propagating material marketed in the Union is produced in specialised areas concentrated in few countries (ES, IT, NL, FR, PT, UK and HU) (Tab. 7).

This means that trade in the internal market is common practice for fruit plants for planting. Special conditions are required by plant health rules (Dir 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spreading within the Community) in some cases, e.g. importation and trades to protected zones for plant health.

Material which cannot be found in the Union, such as plants for planting, are usually imported from third countries (Tab. 8) under derogation and in respect of the plant health legislation.

Based on the experience to date, it has been ascertained that it is not possible to establish a system of equivalence for importation from third countries (as foreseen by Article 16.1 of the Directive) due to the existing conditions to be fulfilled for the marketing, in particular those related to the certification of identity and quality plant health.

Market organisation

The production of propagating material is held by a huge number of suppliers accredited by the responsible official bodies of the Member States.

Only a low number of suppliers have a large business specialised in fruit plant propagating material breeding or reproduction. Some suppliers are specialised in the production of particular material e.g. stone fruits, citrus fruit or apple trees only.

In some cases the same company is involved in production of fruit plants and ornamental plants propagating material, it is accredited as supplier for fruit plants and registered as supplier for ornamental plants. In other cases the production of propagating material is a part of other farming business.

The majority of old varieties are not protected and freely marketed as ‘commonly known’. Regarding the most recent, 559 varieties of fruit plants marketed in the Union are protected by the CPVO. Several varieties of fruit plants internationally protected (based on UPOV guidelines) are also marketed in the Union, but there is no statistical data available.

Varieties “described in lists kept by supplier” are also largely marketed in the Union. It not possible to indicate figures, but only to find an approximate estimation based on the quantity of CAC material marketed in the Union, based on Tab. 7.

Due to all these reasons, information about the number of suppliers accredited is not relevant and the stakeholders prefer to speak about the number of individual plants produced (Tab.7). Concerning financial matters, due to the difference of the price of the material (a few cents for one plant of strawberry to about 1.5 euro per plant for important varieties of apple tree) and the different prices for the same material in different areas, it is quite impossible to produce a good estimation of it.

The time spent for the production of propagating material can vary from one season e.g. for strawberry plants to some years, 2 or more.

The planning of production of propagating material both for a short and mid-term period can only be estimated approximately based on:

- the estimated age of orchards to be replaced by the same variety,
- opportunities for new varieties
- market demand for type of fruit (species and characteristics) for direct consumption or for processing,
- import of fruit from third countries,
- spreading of quarantine diseases (e.g. Fireblight and Plum Pox potyvirus), which oblige orchards to be replaced with material or species not host to the same pest,
- impact of the CAP in agriculture e.g. support schemes and accompanying measures, etc.. which can convince the farmers to replace orchards with other crops or vice-versa.

Due to the new production technology e.g. frigo-plants, plants with soil, pot plants, etc., the distance between the place of production and the place of planting has no bearing on the quality of the material.

Innovation and research

Basic research is still generally carried out by University or Research Institutes. Concerning the applied research, several companies are involved in selecting and breeding new varieties. Several projects have been or are supported by EU funds.

For breeding or research activities material, in particular seed, is frequently imported from third countries.

ANNEX III

Questionnaire sent to the Member States Official bodies

This draft does not necessarily represent the views of the Commission Services

Questionnaire on the operation of the control arrangements foreseen in Article 25 of Council Directive 92/34/EEC

INTRODUCTION

The aim of this questionnaire is to create a canvas permitting the preparation of a complete and harmonised report to the Council on the operation of the control arrangements, foreseen in Article 25 of Council Directive 92/34/EEC and put in place by the MS' competent authorities. Where control arrangements overlap with those for other Directives (e.g. 2000/29), please focus your response on Directive 92/34 arrangements only wherever possible.

GENERAL INFORMATION

1. Overall organisation of the responsible Official Body

1. Which institution has been designated as the “Responsible Official Body” as understood in Article 3 of Council Directive 92/34/EEC? *(the answer is not requested if there are no changes from the last note sent by E1 Unit)*
2. How is it ensured that legal provisions are put into practice?
3. How many staff (inspectors and administrative people expressed in full-time equivalents) are employed at the various levels in the fruit plants area under the provisions of Directive 92/34/EEC and its implementing measures?
4. What is the educational requirement for staff in the respective institutions?
5. Are the staff trained on a regular basis?
6. If yes, how is this training organised?
7. Any comments or proposals for amendments of the relevant Articles of the Directive(s)

2. Carrying out of inspections (Article 5.1, Article 6.4 and Article 17)

1. How is the work in the operation foreseen in Article 5.1, Article 6.4 and Article 17 planned and organised?
 - (1a) Does the Official Body establish annual work plans?
 - (1b) Are these periodically reviewed?
2. Is there a formal internal or external assessment of the official body's work?
3. Please describe briefly the procedures for inspections carried out to verify compliance with the requirements by suppliers.
4. Is a manual used for inspections?
5. Are samples taken during the inspections?
 - (5a) If yes, what are the objectives for taking samples?
 - (5aa) What is the follow up?
 - (5aaa) Is a manual used for sampling (where appropriate)?
 - (5b) If not, please explain
6. Any comments or proposals for amendments of the relevant Articles of the Directive(s)

3. Tests and trials (Article 20)

1. Are the samples submitted to tests and trials foreseen in Article 20 (MS' trials and tests)?
2. How many samples per species have been taken in the last 3 years?
3. What is the legal status of the bodies (official/agency/private) responsible for tests and trials?
4. What is the relationship of the above bodies to the Official Body?
5. Do the bodies follow any quality system?
6. Please describe briefly the results of sampling.
7. If the above actions are not applied, please explain.
8. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

4. Corrective action in the propagating material of fruit plants sector (Article 6.4)

1. In what institution and at what level is the Official decision made to ensure that the supplier takes appropriate corrective action?
2. Have any complaints been received by the Official Body from customers which have resulted in corrective action being required?
 - (2a) If yes, what are the matters submitted?
 - (2b) What are the most frequent species and varieties mentioned?
3. What are the actions taken?
4. How does the Official Body verify the implementation of corrective action to be taken?
5. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

TRACEABILITY (trace back and trace forward)

5. Accreditation of suppliers (Article 6)

1. What are the requirements for accreditation?
2. Please describe briefly the procedure for accreditation.
3. How long is the validity of an accreditation (indefinite or renewable)?
4. Under what circumstances is the accreditation withdrawn/renewed?
5. What data needs to be recorded?
6. What are the links with the registration under Council Directive 2000/29/EC?
7. Are these records available to the public?
 - (7a) If yes, how and where
8. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

6. Measures taken by suppliers (Article 5 and Article 10)

1. Have any complaints been received by the Official Body from the customers about non-compliance with the checks required?
2. If yes, what are the matters submitted?
3. What are the most frequent species involved?

4. What are the actions taken?
5. What is the legal status of the laboratory (official/agency/private) responsible for tests?
6. What is the relationship of the laboratory to the Official Body?
7. Does the laboratory follow any quality system?
8. How do the suppliers ensure that, during production, lots of propagating material remain separately identifiable?
9. If the results of their own checks or any information at their disposal reveal:
 - the presence of one or more harmful organisms referred to in Council Directive 2000/29/EC
 - the presence of one or more harmful organisms not referred to in the above Directive in a quantity greater than that normally allowed for in order to meet the standards
 - how do suppliers report this to the responsible Official Body and what measures are laid down by that Body?
10. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

7. Quality and plant health conditions for CAC material (Article 8.1 and 11)

1. How are the minimum conditions laid down in Article 3 and 4 applied?
2. How are the requirements laid down in Article 11 fulfilled?
3. What are the requirements for labels and labelling?
4. What are the links with the plant passport?
5. What are the elements for the traceability?
6. Have any complaints been received by the Official Body from customers concerning quality or labelling of CAC material?
7. If yes, what are the matters submitted?
8. What are the most frequent species involved?
9. What are the actions taken?
10. Could an estimation of number of fruit plants intended for fruit production marketed under this system be given per species?
11. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

8. Quality and plant health conditions for certified material (Article 8.2 and 11)

1. Is there a certification scheme in place?
2. For how long has this scheme been implemented?
3. What species are submitted to this scheme?
4. Are the EPPO recommendations taken into account?
5. Concerning the pathogens:
 - Is the EPPO list followed?
 - Are the EPPO indexing methods applied?
6. In your certification schemes are the virus tested and free qualifications taken into account?
7. What are the requirements for labels and labelling?
8. What are the links with the plant passport?
9. What are the elements for the traceability?
10. Have any complaints been received by the Official Body from customers concerning quality or labelling of certified material?
11. If yes, what are the matters submitted?
12. What are the most frequent species involved?
13. What are the actions taken?
14. Could an estimation of number of fruit plants intended for fruit production certified under this system be given per species?
15. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

9. Variety (Article 9)

1. How are the requirements laid down in Article 9 fulfilled?
2. Is there a register of varieties?
3. If yes, for what species?
4. What guidelines, international or national are applied?
5. Are the provisions entered on lists kept by the supplier satisfactory?

6. How is the register mentioned in point (9.2) available for the public?
7. Have any complaints been received by the Official Body from the customers?
8. If yes, what are the matters submitted?
9. What are the most frequent species involved?
10. What are the actions taken?
11. Any comments or proposals for amendments of the relevant Articles of the 10.

10. Exemptions (Article 12)

1. Small producers (Article 12 1st indent)
 - Is the exemption for small producers foreseen in Article 12 1st indent applied?
 - If yes, please give the definition
2. Local market (Article 12, 1st indent)
 - Is the exemption for local market foreseen in Article 12 1st indent applied?
 - If yes, please give the definition
3. Local circulation (Article 12, 2nd indent)
 - Is the exemption from the checks and official inspection foreseen in Article 12, 2nd indent applied?
 - If yes, please give the definition and describe briefly the reasons and how the risk concerning the absence of checks and official inspections is managed?
4. Have any complaints been received by the Official Body from the customers?
5. If yes, what are the matters submitted?
6. What are the most frequent species involved?
7. What are the actions taken?
8. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

11. Propagating material and fruit plants produced in a third country (Article 16)

1. Is the derogation foreseen in Article 16 applied?
2. If yes, what are the most important exporting countries?

3. What are the species imported?
4. How do the official bodies check the fulfilment of the requirements foreseen by the Directive?
 - (a) For CAC material
 - Packaging
 - Inspection requirements
 - Marking and sealing
 - Obligations of suppliers
 - Identity
 - Characteristics
 - Plant health
 - Growing medium
 - (b) For certified material
 - Packaging
 - Inspection requirements
 - Marking and sealing
 - Obligations of suppliers
 - Identity
 - Characteristics
 - Plant health
 - Growing medium
5. Have any complaints been received by the Official Body from the customers?
6. Has any non conformity been found during checks and official inspections by the Official Body?
7. If yes, what are the matters?
8. What are the most frequent species involved?
9. What are the actions taken?
10. Any comments or proposals for amendments of the relevant Articles of the Directive(s).

PROPOSALS

12. General purposes

Are there any further comments or proposals for amendments to Articles that have not been mentioned already in this questionnaire?

ANNEX IV

Questionnaire to the stakeholders

Annex IV-I

Explanatory document

PROPOSAL CONCERNING AMENDMENTS TO BE MADE TO COUNCIL DIRECTIVE 92/34/EEC OF 28 APRIL 1992 ON THE MARKETING OF FRUIT PLANT PROPAGATING MATERIAL AND FRUIT PLANTS INTENDED FRUIT PRODUCTION

This document serves as the basis for consultation by stakeholders and Member States.

Their input is very important and will contribute towards identifying the likely positive and negative impacts on the proposed policy options, enabling the Commission to design its proposal in an informed manner.

Those who want to participate in the consultation may complete the questionnaire.

This document adheres to the minimum standards laid down in the Communication from the Commission COM (2002) 704 final "Towards a reinforced culture of consultation and dialogue -

general principles and minimum standards for consultation of interested parties by the Commission".

CONTEXT, SCOPE AND OBJECTIVE OF THE CONSULTATION

Background

Directive 92/34/EEC²⁰ on the marketing of fruit plant propagating material²¹ and fruit plants intended for fruit production provides for the establishment of harmonised conditions at Community level to ensure that purchasers throughout the Community receive propagating material and fruit plants which are healthy and of good quality.

In the meantime, the Common Agricultural Policy, including the area of fruit production, has been reviewed, giving more importance to quality aspects than to quantitative ones, and in particular, the Second Pillar (Rural development Policy²²) has become more focused on consumers' interests. The new Rural Development Strategy creates new opportunities for both suppliers and users which cannot be fully exploited based on the existing rules for the marketing of fruit plants.

²⁰ <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31992L0034:EN:HTML>

²¹ Propagating material means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants.

²² http://europa.eu.int/comm/agriculture/publi/capexplained/cap_en.pdf

The Commission has consulted stakeholders since 2001 on how to resolve the issues listed below. This inquiry should be considered as the ‘fine tuning’ of the consultation process. It is open to all stakeholders both within the EU and outside.

Identification of the main issues

Clarification and simplification of the regulatory framework in which business operates

In the context of a people’s Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him/her new opportunities and the chance to make use of the specific rights it grants.

Improvement of the legislation based on the technical and scientific progress and on the new marketing environment in line with the new Common Agricultural Policy

Based on technical and scientific progress, there is a need for clear definitions of the subjects to which this Directive applies (category, type of material) and clear conditions to be satisfied to respond to the new consumers’ and industry’s needs. Furthermore, there is a need for harmonising this Directive with other Directives on the marketing of propagating material which have been recently amended in the framework of the new Common Agricultural Policy.

Specific items

Definition of marketing and suppliers and conditions to be applied to them:

The definition of marketing, adopted in 1992²³, lists a group of activities, which were considered appropriate for this kind of product. The activities listed were considered important and sufficient to indicate to which extent this definition applies.

Due to the technical progress on trade, these activities are now strictly related to other new activities from which they cannot be easily separated e.g. “sale and holding with a view to sale”.

As a consequence, different approaches are adopted by Member States’ official bodies and by suppliers.

The definition of suppliers, which covers the normal activity professionally carried out by a person involved in reproducing, producing, preserving and/or treating material and marketing does not mention the importation. The importation of fruit plants is becoming more and more important and can be carried out either by a “supplier” (as defined by Directive 92/34/EEC), or by another person. In the first case there is no problem with the application of the legislation, however, in the second case, the person importing may or may not be considered as “supplier”, depending on the legislation of that particular Member State.

²³ *marketing* means the holding available or in stock, displaying or offering for sale, selling and/or delivering to another person, in whatever form, of propagating material or fruit plants.

Some existing conditions create unnecessary obligations e.g. request of accreditation of suppliers instead of simple registration.

Categories identification and conditions:

The existing legislation applies correctly to the reproductive material available at the date of its adoption. As previously mentioned, today's level of scientific and technical knowledge on the production of fruit plants enables the suppliers to respond to new market requirements. New definitions for category identification and conditions in line with scientific and technical progress are defined by international certification schemes adopted by the European Plant Protection Organisation²⁴ (EPPO Standards). It should be noted that the definition of categories

adopted by the majority of Member States in their national legislation is in line with these international ones.

Quality of the material (Distinctness, Uniformity, Stability –DUS- and pomological value) and variety definition and conditions:

The existing definitions of categories of material and health status are technically obsolete.

The absence of the definition of 'variety' to which there is a reference under the definition of category is a weak point of the legislation.

Conditions for listing and certifying varieties should be set out with reference to international protocols. Based on the existing legislation there are several cases where the same variety is marketed under different names. For the consumer it is quite difficult or impossible to be adequately informed.

Plant health status definition and conditions:

The current legislation on the quality of plant health applies correctly to the reproductive material available at the date of its adoption. The conditions related to these definitions are still not profitably applicable. The procedures for the listing of new varieties and the certification of material reproduced by vegetative way do not have clear links with category identification to better manage the health status of the propagating material.

In the meantime, the scientific and technical progress has permitted the publication of international certification schemes (see above EPPO Standards). Healthier propagating material is the first step towards permitting full exploitation of the new Agricultural Policy approach in reducing the use of pesticides.

²⁴ EPPO is an intergovernmental organization responsible for European cooperation in plant protection in the European and Mediterranean region. Under the International Plant Protection Convention (IPPC), EPPO is the regional plant protection organization (RPPO) for Europe.

Annex IV-II

**QUESTIONNAIRE ON THE
PROPOSAL CONCERNING AMENDMENTS TO BE MADE TO COUNCIL
DIRECTIVE 92/34/EEC OF 28 APRIL 1992 ON THE MARKETING OF
FRUIT PLANT PROPAGATING MATERIAL AND FRUIT PLANTS
INTENDED FRUIT PRODUCTION**

Please return this questionnaire no later than **21 April 2006** by:

1. Mail to:
SANCO-PLANT HEALTH-CONSULTATION@cec.eu.int
2. By post to the following address:

European Commission
Health & Consumer Protection Directorate-general
Mr. Michael Flueh
Office B 232 3/100
European Commission,
B-1049 Brussels

**THE RESPONSES TO THIS QUESTIONNAIRE WILL BE
AVAILABLE TO THE PUBLIC**

Profile-related questions

1. Do you represent (compulsory)
 - * a supplier
 - * a user
 - * an individual person
 - * an importer
 - * a public authority
 - * an NGO
 - * other, please specify

2. Role in organisation (compulsory)
 - * none – answering as an individual
 - * researcher
 - * senior management
 - * management
 - * strategy/policy function
 - * specialist/expert
 - * not applicable

3. Name of contact person

4. Name of your organisation (compulsory)
 - * name
 - * not applicable

5. Size of your organisation (in number of members)(not applicable for public authorities)
 - * 1-9
 - * 10-49
 - * 50-249
 - *250 +

6. Your organisation's country of establishment (indicate your country of residence if answering as an individual person) (compulsory)
 - * AT – Austria
 - * BE – Belgium
 - * CY – Cyprus
 - * CZ – Czech Republic
 - * DE – Germany
 - * DK – Denmark
 - * EE – Estonia
 - * EL – Greece
 - * ES – Spain
 - * FI – Finland
 - * FR – France

- * HU – Hungary
- * IE – Ireland
- * IT – Italy
- * LV –Latvia
- * LT – Lithuania
- * LU – Luxembourg
- * MT – Malta
- * NL – Netherlands
- * PL – Poland
- * PT – Portugal
- * SK – Slovak Republic
- * SL – Slovenia
- * SV – Sweden
- * UK – United Kingdom
- * other (please specify)

7. Your organisation’s geographical area of activities (compulsory)

- * local
- * regional
- * national
- * European Union
- * international
- * not applicable

Marketing of fruit plant propagating material and fruit plants intended fruit production related questions

8. Definition of marketing and supplier and conditions to be applied to them.

The definition of ‘marketing’ and ‘supplier’ and the conditions to be applied to them, described in the explanatory document which was adopted in 1992 and were considered appropriate.

In your view, is it important to define marketing and supplier and to fix conditions to be applied to them? Please reply using the text below

Type of changes	Very Important	Important	Not Important	Insignificant	Do not know
Definition of marketing					
Conditions for the marketing					
Need to be updated/completed					
Definition of supplier					
Conditions for supplier					
Need to be updated/completed					
Accreditation of supplier					
Registration of supplier					
Exemptions for local market					
Exemptions for small suppliers					

In your opinion, do the above definitions and conditions need to be updated/completed?

Yes	No

Any comments or proposals

9. Categories identification and conditions

Material can be marketed under four categories: pre basic, basic, certified and standard ‘CAC’ (*Conformitas Agraria Communitatis*) material.

New definitions of such categories in line with the scientific and technical progress are adopted by international certification schemes (European Plant Protection Organisation–EPPO Standards). The adoption of an EU framework scheme for certification of categories based on such international rules is proposed. This would facilitate the exploitation of the new Common Agricultural Policy (CAP) provisions in clarifying the performance of the categories of propagating material.

In your opinion, could the new proposed certification scheme which would take into account the above consideration, lead to changes for the marketing of fruit plant propagating material and fruit plants for fruit production users? Please reply using the text below

Type of changes	Significant changes	Medium changes	Marginal changes	No changes	Do not know
Price of products					
Administrative burden or complexity					
Number of available products					
Choice of products					
Market structure					
Preserving the genetic diversity					
Better alignment with new CAP					

Any comments or proposals

10. Quality of the material (Distinctness, Uniformity, Stability –DUS- and pomological value) and variety definition and conditions

New international rules, in particular CPVO (Community Plant Variety Office) protocols and UPOV (Union pour la Protection des Obtentions Végétales) guidelines, permit easy identification of a variety.

Conditions for listing and certifying varieties should be set out with reference to these international protocols. Therefore, the definition of the variety and clone should be added to the Directive. Better identification of propagating material by clarifying the characteristics of such material is a tool which will improve the exploitation of the new CAP (Common Agricultural Policy) provisions.

In addition, a reference to the pomological value (quality and performance of plants and their products–fruit) should be added e.g. reference to biological value for direct consumption or processing to improve the transparency for consumers.

In your opinion, could the new definitions and conditions which would take account of the above consideration lead to changes for the marketing of fruit plant propagating material and fruit plants for fruit production users? Please reply using the text below

Type of changes	Significant changes	Medium changes	Marginal changes	No changes	Do not know
Price of products					
Administrative burden or complexity					
Name of the variety					
Choice of “products”					
Market structure					
Plant variety rights					
Preserving the genetic diversity					
Better alignment with new CAP					

In your opinion, are definitions and conditions laid down by Directive 92/34/EEC technically obsolete?

Yes	No

Any comments or proposals

--

11. Plant health status definition and conditions

A clear link with category identification should be established for the listing of new varieties and for the certification of material reproduced by vegetative way to improve the health status of the propagating material. The scientific and technical progress has permitted the publication of international certification schemes (EPPO Standards). Healthier propagating material is the first step towards full exploitation of the new Common Agricultural Policy (CAP) approach in reducing the use of pesticides.

In your opinion, could new definitions and conditions that would take account of the above consideration lead to changes for the marketing of fruit plant propagating material and fruit plants for fruit production users? Please reply using the text below

Type of changes	Significant changes	Medium changes	Marginal changes	No changes	Do not know
Price of products					
Administrative burden or complexity					
Quality of material (plant health)					
Market structure					
Preserving the genetic diversity					
Better alignment with new CAP					

Any comments or proposals

The Questionnaire

12. *How did you perceive this questionnaire?*

- Expectations met
- Expectations not met

13. *Why?*

- Too general
- Irrelevant in content
- Too difficult to understand
- Too short
- Too technical
- Too long

Thank you for completing this questionnaire.

Annex IV-III

Draft

REPORT ON THE RESULTS OF THE QUESTIONNAIRE

ON THE

PROPOSAL CONCERNING AMENDMENTS TO BE MADE TO COUNCIL DIRECTIVE 92/34/EEC OF 28 APRIL 1992 ON THE MARKETING OF FRUIT PLANT PROPAGATING MATERIAL AND FRUIT PLANTS INTENDED FRUIT PRODUCTION

Point 7 of the Section II, Procedural issues, of the Impact Assessment Guidelines SEC(2005)791 of 15 June 2005 as revised, lays down: Gathering opinions and information from interested parties is an essential part of the policy-development process, enhancing its transparency and ensuring that proposed policy is workable and legitimate from the stakeholders point of view. Furthermore, the Commission is required by the EC Treaty to carry out wide consultations before proposing legislation (see protocol on the application of the principles of subsidiarity and proportionality).

Based on these rules, a Questionnaire to stakeholders was launched on 20 February 2006 by the Commission (SANCO E1) services. The document is published on the website http://europa.eu.int/comm/food/consultations/index_en.htm.

This document adheres to the minimum standards laid down in the Communication from the Commission COM (2002) 704 final "Towards a reinforced culture of consultation and dialogue - general principles and minimum standards for consultation of interested parties by the Commission".

About 20.000 persons (stakeholders, public authorities, individuals) were automatically notified. These persons are registered by Health and Consumers Mailing lists and/or the Health and Consumer e-News service which keep users up-to-date on all the latest developments and activities in DG Health and Consumer Protection. They receive regular information by e-mail on the topics that most interest them.

The Members of the Standing Committee on Propagating Material and Plants of Fruit Genera and Species and COPA-COGECA were informed about the publication of the questionnaire by an electronic message on 28 February 2006.

As second step will be a direct consultation of COPA-COGECA and Member States.

Based on the answers received from stakeholders and Member States, a draft report has been prepared. The input received is very important and will contribute towards identifying the positive and negative impacts on the proposed policy options, enabling the Commission to design its proposal in an informed manner.

CONTEXT, SCOPE AND OBJECTIVE OF THE CONSULTATION

Background

Directive 92/34/EEC²⁵ on the marketing of fruit plant propagating material²⁶ and fruit plants intended for fruit production provides for the establishment of harmonised conditions at Community level to ensure that purchasers throughout the Community receive propagating material and fruit plants which are healthy and of good quality.

In the meantime, the Common Agricultural Policy, including the area of fruit production, has been reviewed, giving more importance to quality aspects than to quantitative ones, and in particular, the Second Pillar (Rural development Policy²⁷) has become more focused on the interests of consumers. The new Rural Development Strategy creates new opportunities for both suppliers and users which cannot be fully exploited based on the existing rules for the marketing of fruit plants.

The Commission has consulted stakeholders since 2001 on how to resolve the issues listed below. This inquiry should be considered as the ‘fine tuning’ of the consultation process. It was open to all stakeholders both within the EU and outside.

Identification of the main issues

(a) Clarification and simplification of the regulatory framework in which business operates

In the context of a people’s Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him/her new opportunities and the chance to make use of the specific rights it grants.

(b) Improvement of the legislation based on the technical and scientific progress and on the new marketing environment in line with the new Common Agricultural Policy

Based on technical and scientific progress, there is a need for clear definitions of the subjects to which this Directive applies (category, type of material) and clear conditions to be met to respond to the needs of new consumers’ and industry. Furthermore, there is a need for harmonising this Directive with other Directives on the marketing of propagating material which have been recently amended in the framework of the new Common Agricultural Policy.

²⁵ <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=CELEX:31992L0034:EN:HTML>

²⁶ Propagating material means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants.

²⁷ http://europa.eu.int/comm/agriculture/publi/capexplained/cap_en.pdf

Scope and objective

The aim of the consultation is to gather feedback on how EU legislation on the marketing of fruit plant propagating material can be upgraded and improved. In particular, the survey asks how the current legislation could be simplified in order to make it more accessible and easier to apply, and how definitions (e.g. categories, types of material) and conditions for marketing fruit propagating material and fruit plants in the EU could be clarified.

RESULTS OF THE QUESTIONNAIRE

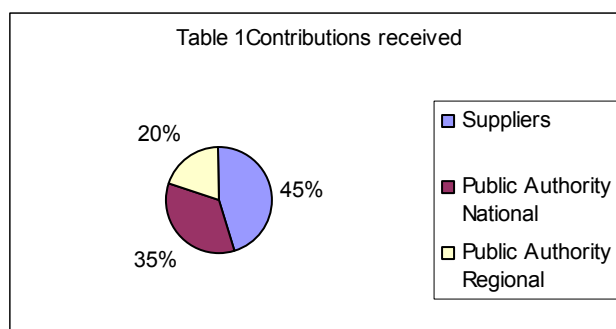
To facilitate the evaluation of the answers submitted, the report maintains the same structure as the questionnaire. Data have been described using graphs and where appropriate, comments have been added.

GENERAL QUESTIONS

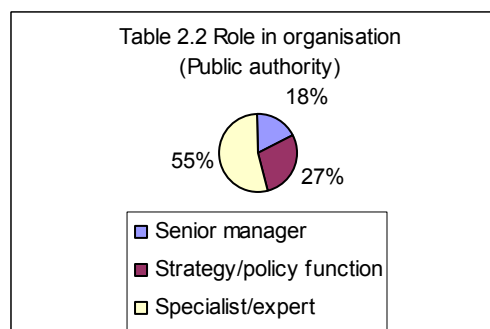
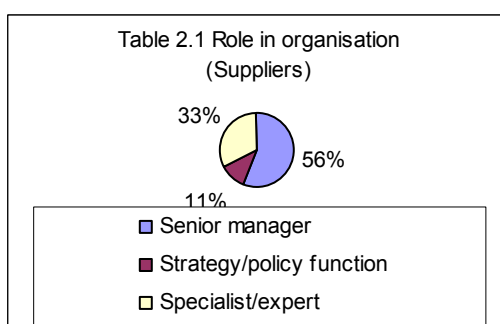
Profile-related questions

20 answers have been received by 21 April 2006. They have been grouped in 3 categories:

- Supplier's contributions,
- Public Authority (National) contributions, and
- Public Authority (Regional) contributions.

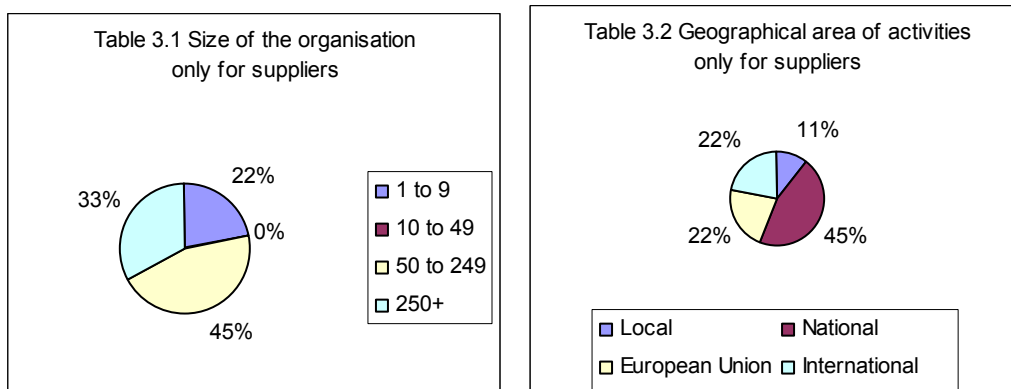


The role of the person in organisation who sent the answer is summarised hereafter;

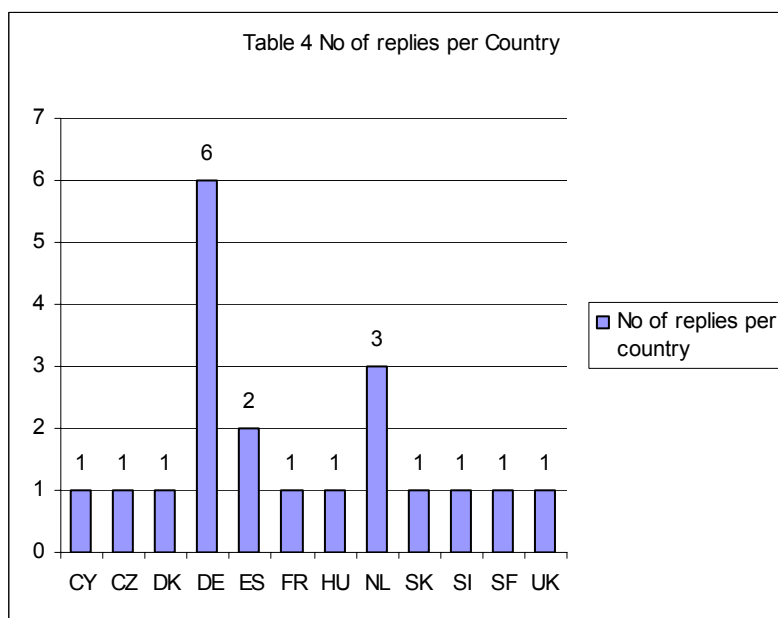


All replies indicated the name of the contact person and the name of the organisation.

As regards the suppliers, the size of the organisation (in number of members) and the geographical area of activities are summarised hereafter.



Replies arrived from 12 Member States and are described hereafter.



SPECIFIC QUESTIONS

19 answers are examined. 1 participant filled in only the general questions and declared that the questionnaire was too difficult to understand.

Marketing of fruit plant propagating material and fruit plants intended fruit production related questions

A. Definition of marketing and conditions to be applied to it.

The definition of marketing, adopted in 1992²⁸ lists a group of activities which were considered appropriate for this kind of product. The activities listed were considered important and sufficient to indicate to which extent this definition applies.

Due to the technical progress on trade, these activities are now strictly related to other new activities from which they cannot be easily separated e.g. “sale and holding with a view to sale”.

As a consequence, different approaches are adopted by Member States’ official bodies and by suppliers.

Opinions received

Suppliers consider

- The definition of marketing very important,
- The need for conditions to be applied important/very important,
- The “need for change” very important/important.

Public Authorities (National) consider

- Definition of marketing very important,
- The need for conditions to be applied very important/important,
- The “need for change” from very important to insignificant.

Public Authorities (Regional) consider

- Definition of marketing very important,
- The need for conditions to be applied important,
- The “need for change” not important.

²⁸ *marketing* means the holding available or in stock, displaying or offering for sale, selling and/or delivering to another person, in whatever form, of propagating material or fruit plants.

Table 5.1 MARKETING OF FRUIT PLANT PROPAGATING MATERIAL (SUPPLIERS OPINION)

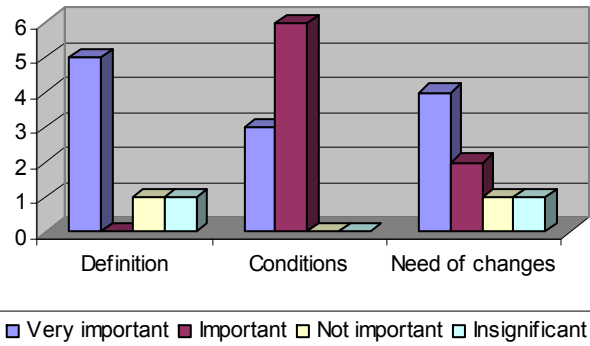


Table 5.2 MARKETING OF FRUIT PLANT PROPAGATING MATERIAL (PUBLIC AUTHORITY OPINION)

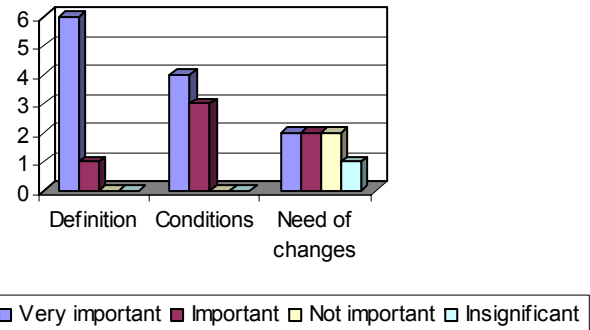


Table 5.3 MARKETING OF FRUIT PLANT PROPAGATING MATERIAL PUBLIC AUTHORITY OPINION (REGIONAL)

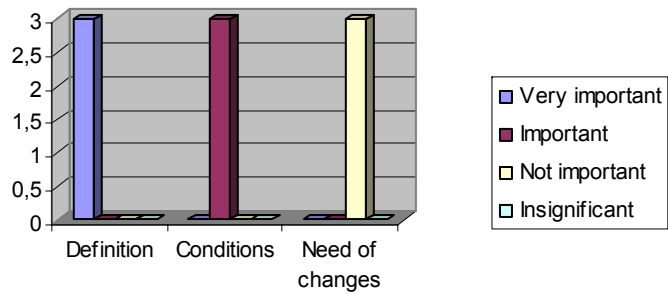
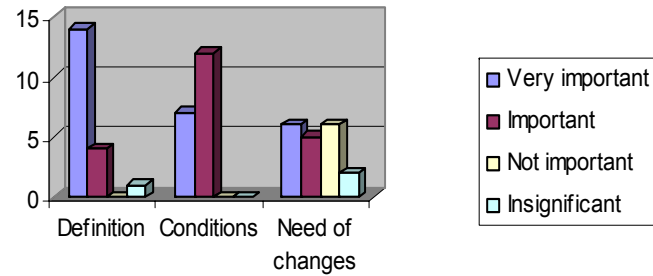


Table 5.4 MARKETING OF FRUIT PLANT PROPAGATING MATERIAL GENERAL OPINION



Comments and proposals submitted

Suppliers

- Definition should be revised (e.g. inclusion of importing)
- Conditions (e.g. exemption for the marketing to non-professional users) should be revised and clarified to avoid too strict implementation by some Member States.

Public authorities

- Definition should be revised (e.g. inclusion of importing)
- Conditions should be revised.
- The implementation of the Directive by the Member States should be discussed.
- Some amendments to the existing Directive could be proposed in a short time or later.

A large majority of participants suggested reviewing/up-dating the directive in line with Directive 98/56/EC on the marketing of ornamental plants.

B. Definition of supplier and conditions to be applied to it

The definition of suppliers, which covers the normal activity professionally carried out by a person involved in reproducing, producing, preserving and/or treating material and marketing does not mention importation. The importation of fruit plants is becoming more and more important and can be carried out either by a “supplier” (as defined by Directive 92/34/EEC), or by another person. In the first case there is no problem with the application of the legislation, however, in the second case, the person importing may or may not be considered a “supplier”, depending on the legislation of that particular Member State.

Some existing conditions create unnecessary obligations e.g. request of accreditation of suppliers instead of simple registration.

Opinions received

Opinions received

Suppliers consider:

- The definition of supplier very important/important,
- The need for conditions to be applied important/very important,
- The “need for change” important,

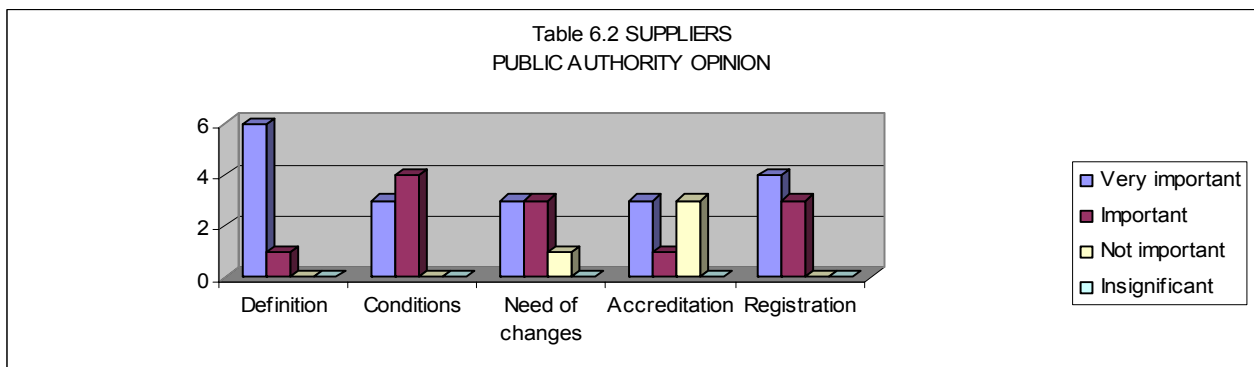
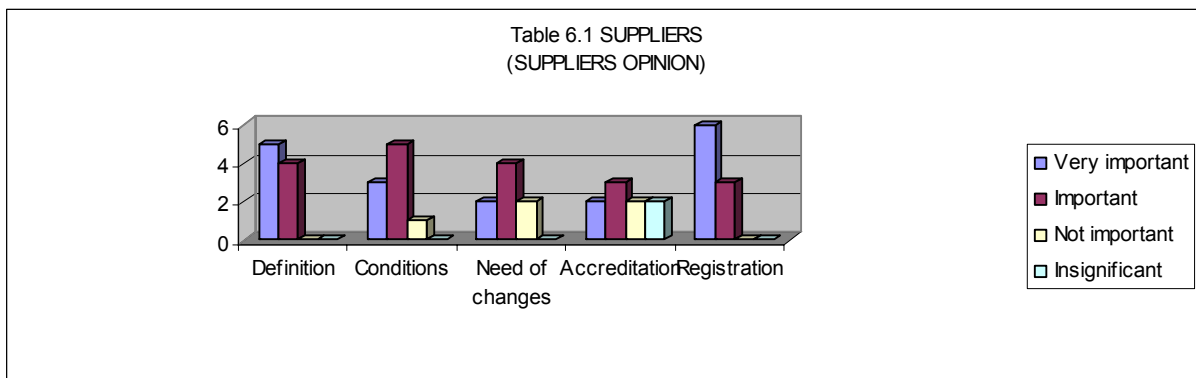
- The accreditation system of suppliers from very important to insignificant,
- The registration system of suppliers very important/important.

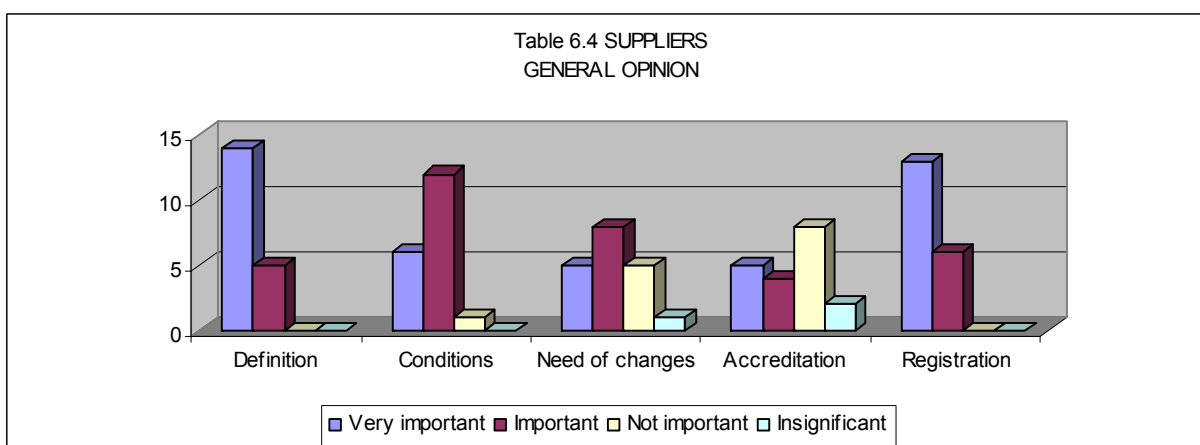
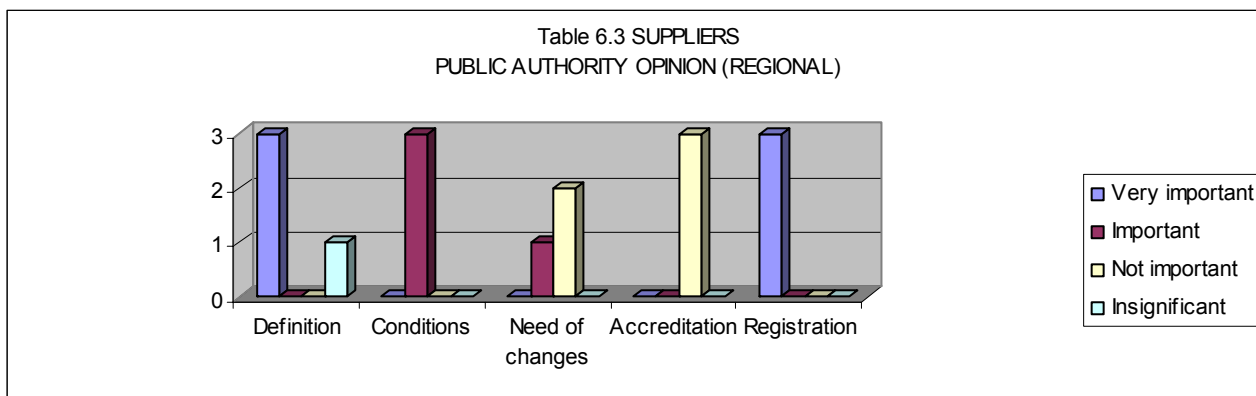
Public Authorities (National) consider

- Definition of supplier very important,
- The need for conditions to be applied important/very important,
- The “need for change” very important/important,
- The accreditation system of suppliers very important or not important,
- The registration system of suppliers very important/important.

Public Authorities (Regional) consider

- Definition of supplier very important,
- The need for conditions to be applied important/very important,
- The “need for change” not important/important,
- The accreditation system of suppliers not important,
- The registration system of suppliers very important.





Comments and proposals submitted

Suppliers

- Definition should be revised (e.g. inclusion of importing)
- Conditions should be revised (e.g. registration instead of accreditation) and clarified to avoid too strict implementation by some Member States.

Public authorities

- Definition should be revised (e.g. inclusion of importing).
- Conditions should be revised (e.g. registration instead of accreditation).

A large majority of participants suggested reviewing/up-dating the directive in line with Directive 98/56/EC on the marketing of ornamental plants.

C. Exemption from the application of the conditions for the local market and for small suppliers

Opinions received

The exemption from the application of the conditions for the local market and for small suppliers is generally considered not important.

table 7.1 EXEMPTIONS REQUIRED
SUPPLIERS OPINION

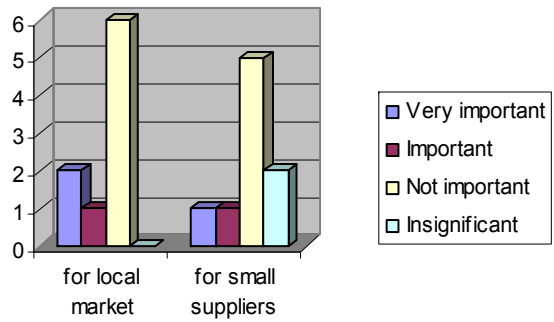


Table 7.2 EXEMPTION REQUIRED
PUBLIC AUTHORITY OPINION

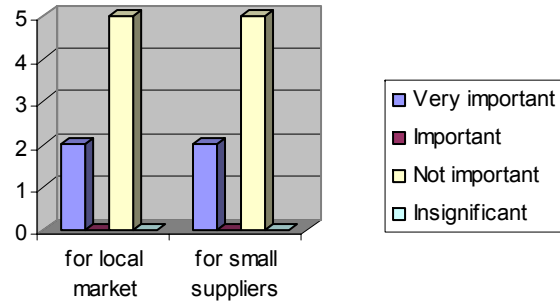


Table 7.3 EXEMPTION REQUIRED
PUBLIC AUTHORITY OPINION (REGIONAL)

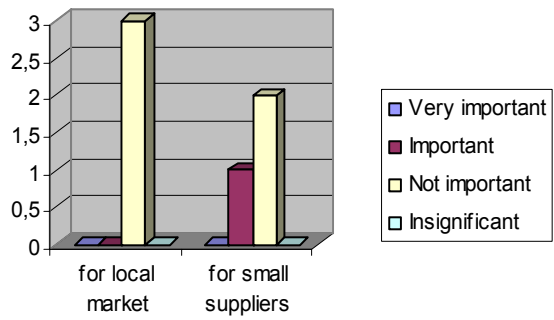
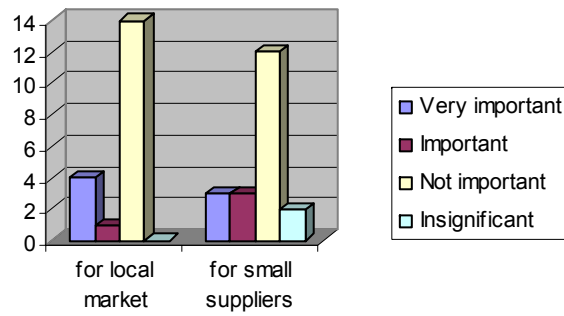


Table 7.4 EXEMPTION REQUIRED
GENERAL OPINION



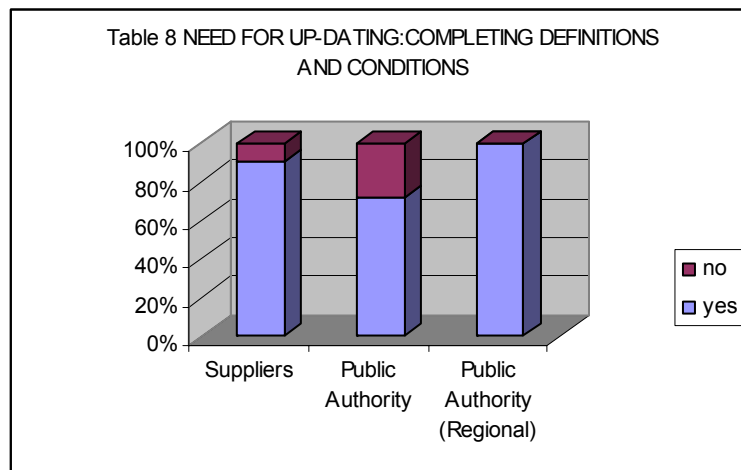
Comments and proposals submitted

Some suppliers and public authorities (national) declared that the exemption is important/very important only in particular contexts.

D. Need for up-dating/ completing the definitions and conditions

Opinions received

The majority of the replies proposed to up-date/complete the definitions and conditions laid down by the Directive in a short/medium period of time.



E. Categories identification and conditions for fruit plants propagating material and fruit plant intended for fruit production

The existing legislation applies correctly to the reproductive material available at the date of its adoption. The material can be marketed under four categories: pre basic, basic, certified and standard ‘CAC’ (*Conformitas Agraria Communitatis*) material. As previously mentioned, today’s level of scientific and technical knowledge on the production of fruit plants enables the suppliers to respond to new market requirements.

New definitions for category identification and conditions in line with scientific and technical progress are defined by international certification schemes adopted by the European Plant Protection Organisation²⁹ (EPPO Standards). It should be noted that the definition of categories adopted by the majority of Member States in their national legislation is in line with these schemes.

The adoption of an EU framework scheme for certification of categories based on such international rules is proposed. This would facilitate the exploitation of the new Common Agricultural Policy (CAP) provisions in clarifying the performance of the categories of propagating material.

²⁹ EPPO is an intergovernmental organization responsible for European cooperation in plant protection in the European and Mediterranean region. Under the International Plant Protection Convention (IPPC), EPPO is the regional plant protection organization (RPPO) for Europe.

Opinions received

Suppliers identified:

- medium changes to no changes to the price of products,
- significant to marginal changes to the administrative burden or complexity,
- medium to no changes to the availability and choice of products,
- medium marginal changes to the market structure,
- medium changes to no changes to the genetic diversity preservation, and
- absence of opinion as regards the impact on the new CAP

Public authority (national) identified:

- medium/marginal changes to the price of products,
- significant to marginal changes to the administrative burden or complexity,
- significant/medium changes to the availability and choice of products,
- significant/medium changes to the market structure,
- significant to marginal changes to the genetic diversity preservation, and
- widespread opinion as regards the impact on the new CAP.

Public authority (regional) identified

- significant/medium changes to the market structure, and
- no changes or do not know for all other impacts.

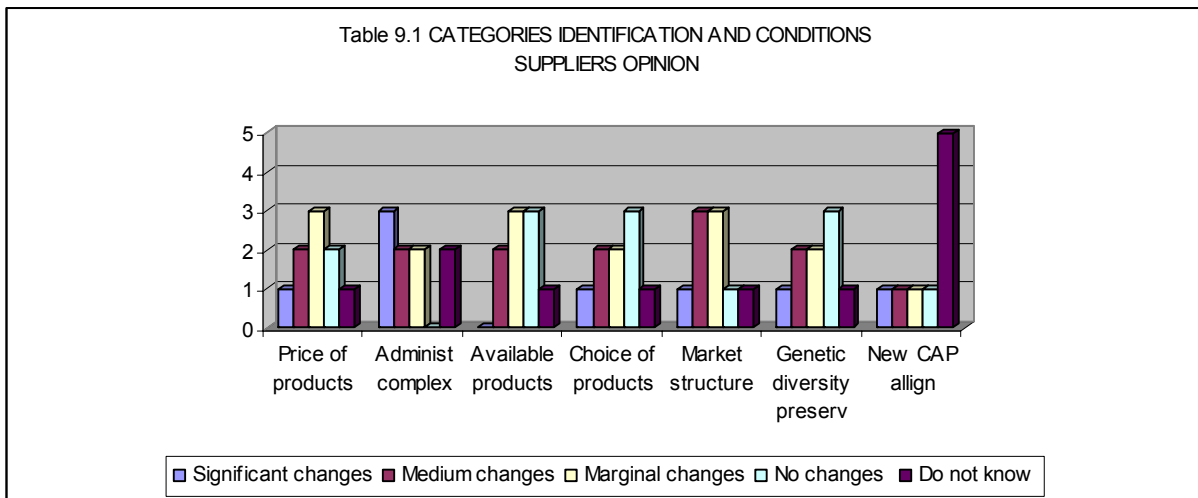


Table 9.2 CATEGORIES IDENTIFICATIONS AND CONDITIONS
PUBLIC AUTHORITY OPINION

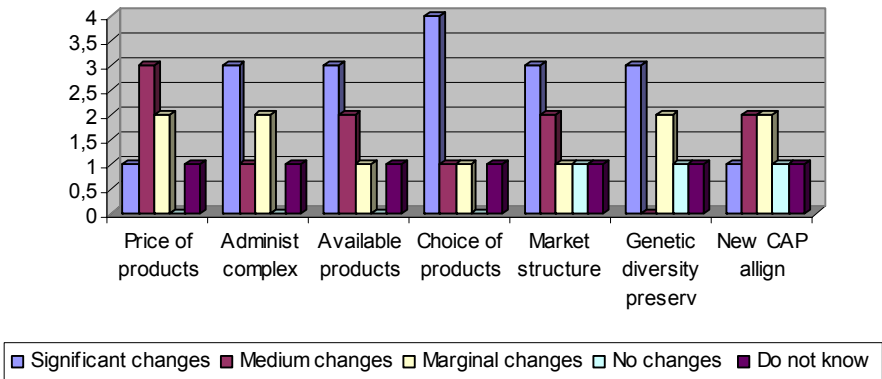


Table 9.3 CATEGORIES IDENTIFICATIONS AND CONDITIONS
PUBLIC AUTHORITY OPINION (REGIONAL)

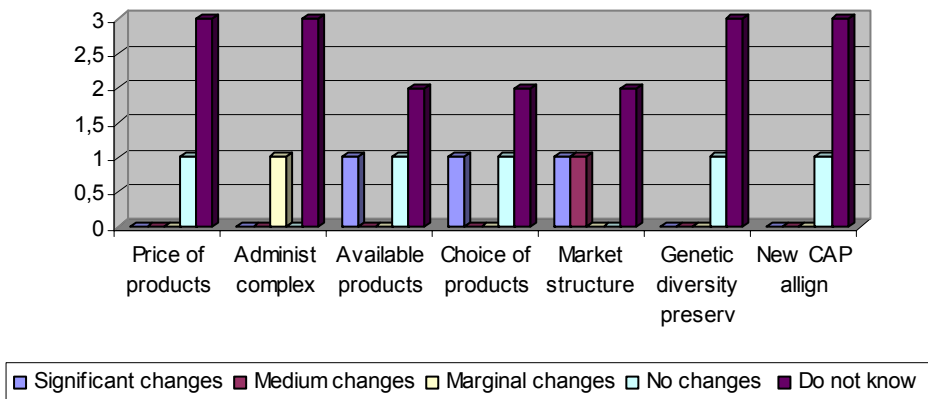
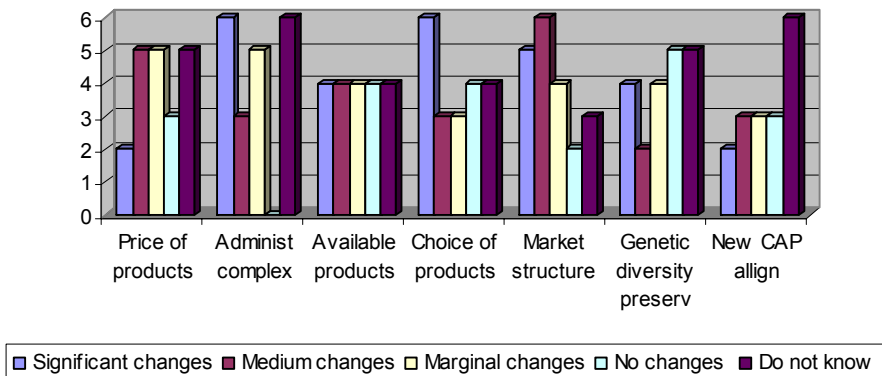


Table 9.4 CATEGORIES IDENTIFICATIONS AND CONDITIONS
GENERAL OPINION



Comments and proposals submitted

Suppliers

- Reference to the EPPO scheme should be introduced for certification to have a harmonised approach at Community level.
- An improved CAC category should be kept.
- Clear conditions should be laid down for material produced for specific purposes (e.g. genetic diversity intended in a wide manner).

Public authorities

- If a reference to the certification will be introduced, a reference to the EPPO scheme should be introduced to have a harmonised approach at Community level.
- An improved CAC category should be kept.
- Clear conditions should be laid down for material produced for specific purposes (e.g. genetic diversity intended in a wide manner).

F. Quality of the material (Distinctness, Uniformity, Stability –DUS- and pomological value) and variety definition and conditions

The existing definitions of categories of material and health status are technically obsolete.

The absence of the definition of ‘variety’ to which there is a reference under the definition of category is a weak point of the legislation.

Based on the existing legislation, there are several cases where the same variety is marketed under different names. For the consumer it is quite difficult or impossible to be adequately informed.

New international rules, in particular CPVO (Community Plant Variety Office) protocols and UPOV (Union pour la Protection des Obtentions Végétales) guidelines, permit easy identification of a variety.

Conditions for listing and certifying varieties should be set out with reference to these international protocols. Therefore, the definition of the variety and clone should be added to the Directive. Better identification of propagating material by clarifying the characteristics of such material is a tool which will improve the exploitation of the new CAP (Common Agricultural Policy) provisions.

In addition, a reference to the pomological value (quality and performance of plants and their products–fruit) should be added e.g. reference to biological value for direct consumption or processing to improve the transparency for consumers. Conditions for listing and certifying varieties should be set out with reference to international protocols.

Opinions received

For all questions, about 35% of participants declared they were not in a position to answer (Do not know), in particular, as regards the question about the impact on the new CAP, the percentage increased to about 60%. Public authorities (Regional) filled in the answer 'Do not know' for all the questions.

Suppliers identified:

- medium changes to the price of products,
- significant to marginal changes to the administrative burden or complexity,
- significant/medium changes to the variety names,
- medium changes to the availability and choice of products,
- significant/marginal changes to the market structure,
- significant to marginal changes to the Plant Variety Rights,
- marginal changes to genetic diversity preservation, and
- as mentioned above, no opinion (Do not know) as regards the impact on the new CAP.

Public authority (national) identified:

- medium/marginal changes to the price of products,
- significant changes to the administrative burden or complexity,
- significant/medium changes to the variety names,
- medium changes to the availability and choice of products,
- significant or marginal changes to the market structure,
- significant to marginal changes to the Plant Variety Rights,
- marginal changes to the genetic diversity preservation, and
- medium marginal changes as regards the impact on the new CAP

Public authority (regional) indicated

- “do not know” for all the impacts.

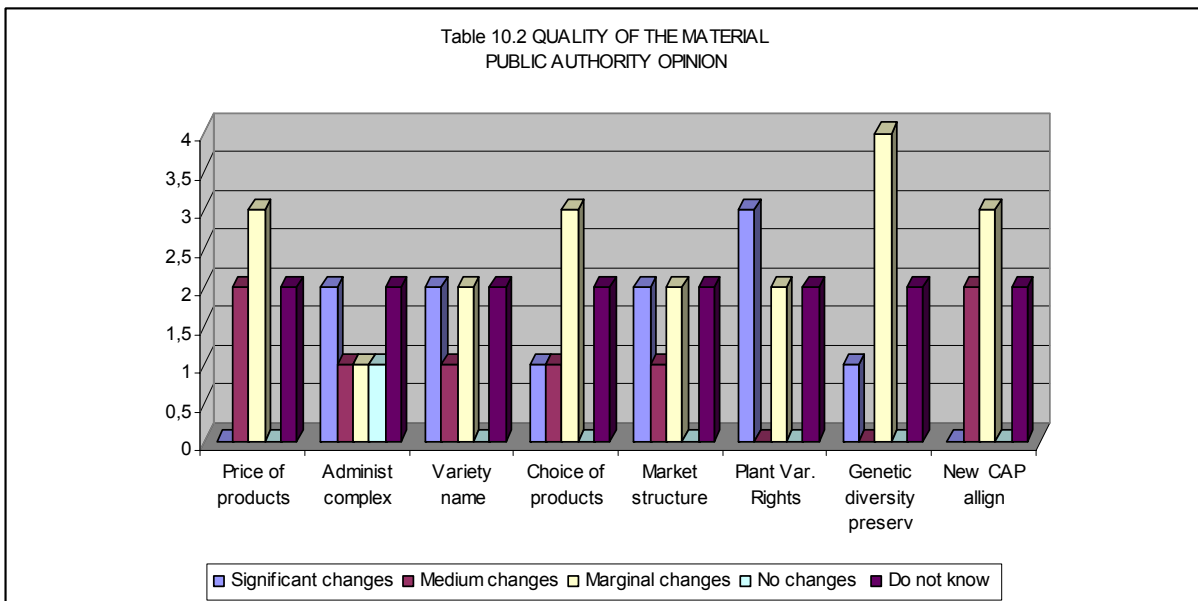
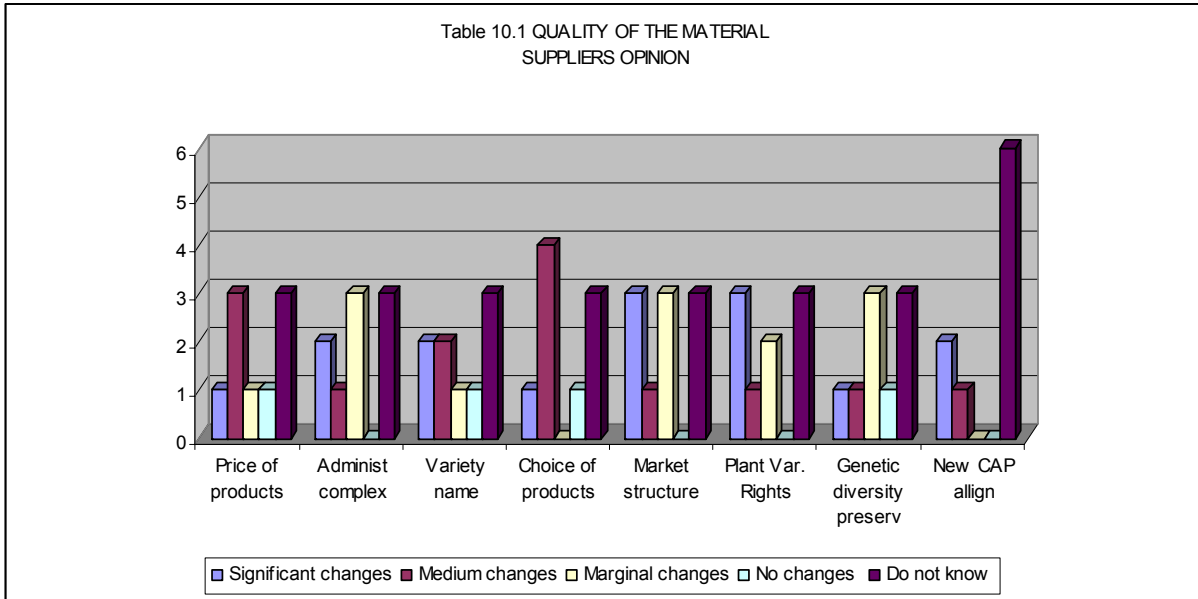


Table 10.3 QUALITY OF THE MATERIAL
PUBLIC AUTHORITY OPINION (REGIONAL)

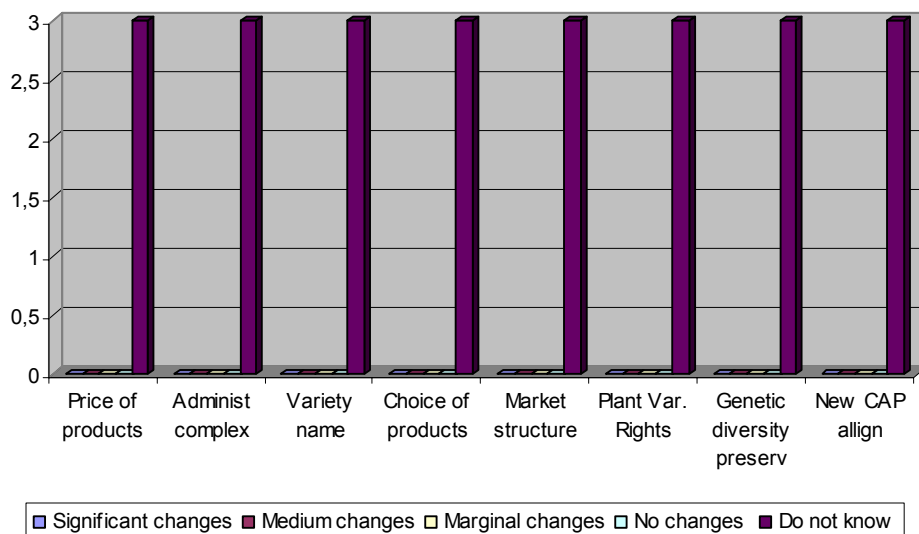
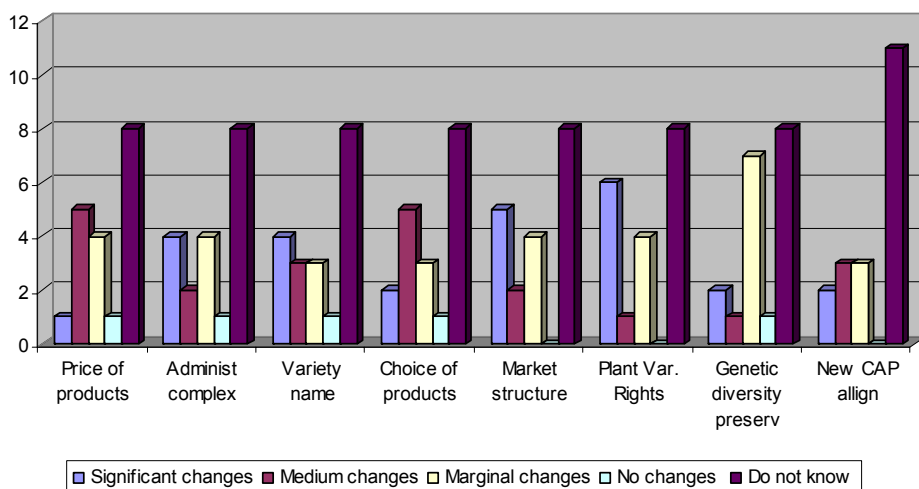


Table 10.4 QUALITY OF THE MATERIAL
GENERAL OPINION



Comments and proposals submitted

Suppliers

- DUS testing must be compulsory based on international rules,
- VCU testing is not necessary (but it has been suggested by some contributors),

- A common catalogue is welcome,
- Clear conditions should be laid down for material produced for specific purposes (e.g. genetic diversity defined in a wide manner),
- Better control/survey of the material marketed.

Public authorities

- Compulsory DUS testing must be based on international rules, (but some answers indicated that it is up to the MS to make this decision)
- VCU testing is not necessary (but it has have been suggested by some contributors),
- A common catalogue is welcome
- Clear conditions should be laid down for material produced for specific purposes (e.g. genetic diversity defined in a wide manner).

F1. Are definitions and conditions laid down by Directive 92/34/EEC technically obsolete?

Opinions received

Suppliers:

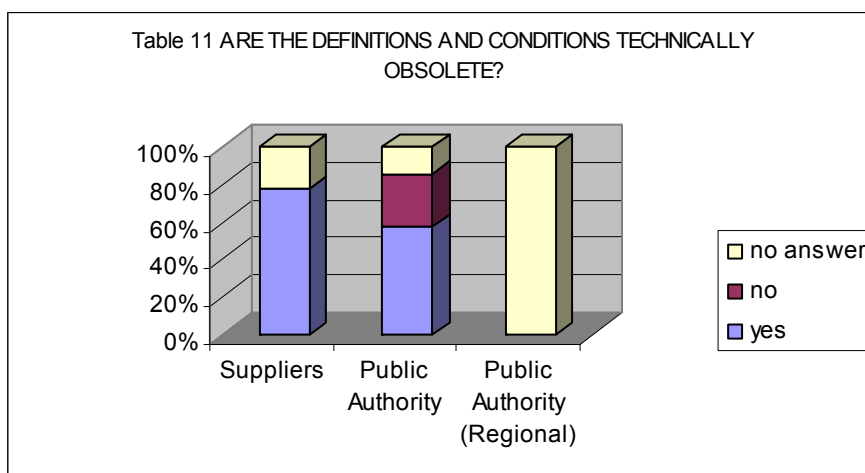
- 60% agreed about the obsolescence of the definitions and conditions,
- 40% did not answer.

Public authority (national):

- 57% agreed about the obsolescence,
- 27% did not agree,
- 16% did not answer.

Public authority (regional):

- no answers received.



Comments and proposals submitted

Suppliers

- it would be appropriate to up-date and simplify legislation as regards category identification and quality of the material

Public authorities

- it would be appropriate to up-date and simplify legislation as regards category identification and quality of the material (majority of answers),
- the Community legislation should be kept as such, (for the moment) or
- is it up to the Member States to up-date their national legislation as regards conditions.

G. Plant health status definition and conditions

The current legislation on the quality of plant health applies correctly to the reproductive material available at the date of its adoption. The conditions related to these definitions are still not profitably applicable. The procedures for the listing new varieties and the certification of material reproduced by vegetative way do not have clear links with category identification to better manage the health status of the propagating material.

In the meantime, the scientific and technical progress has permitted the publication of international certification schemes (see above EPPO Standards). Healthier propagating material is the first step towards permitting full exploitation of the new Agricultural Policy approach in reducing the use of pesticides.

Opinions received

As for the question regarding the quality of the material, some participants declared they were not in a position to answer (Do not know), in particular:

33% of suppliers declared they were not in a position to answer (Do not know) for all questions with a peak of 75% regarding the question about the impact on the new CAP,

25% of public authorities (national) for all questions, including the question about the impact on the new CAP,

Public authorities (Regional) filled in the answer 'Do not know' for all the questions.

Suppliers identified:

- medium/marginal changes to the price of products,
- significant to marginal change to the administrative burden or complexity,
- significant/marginal change to the quality of the material,
- significant/medium change to the market structure,
- significant/medium change to genetic diversity preservation, and
- indicated no opinion (Do not know) as regards the impact on the new CAP.

Public authority (national) identified:

- medium change to the price of products,
- significant/marginal changes to the administrative burden or complexity,
- significant change to the quality of the material,
- significant/medium change to the market structure,
- significant/marginal change to the genetic diversity preservation, and
- significant/marginal change as regards the impact on the new CAP

Public authority (regional) identified

- do not know for all the impacts, with the exception of:
- significant change to the quality of the material, market structure and impact on the new CAP.

Table 12.1 PLANT HEALTH STATUS DEFINITIONS AND CONDITIONS
SUPPLIERS OPINION

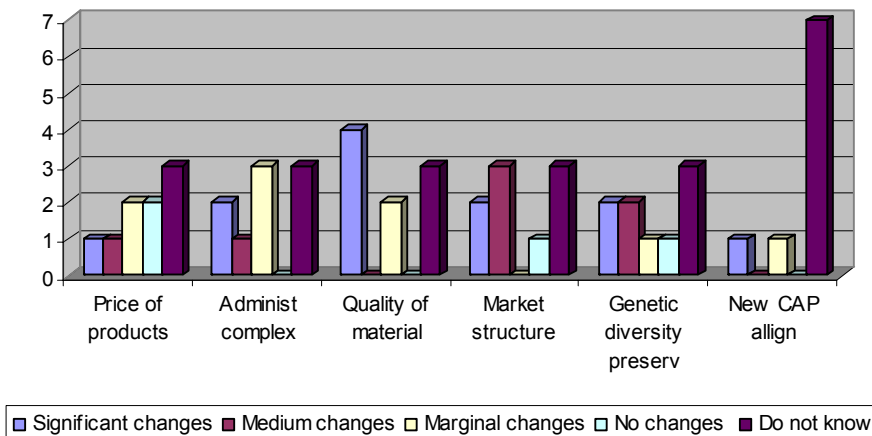


Table 12.2 PLANT HEALTH STATUS DEFINITIONS AND CONDITIONS
PUBLIC AUTHORITY OPINION

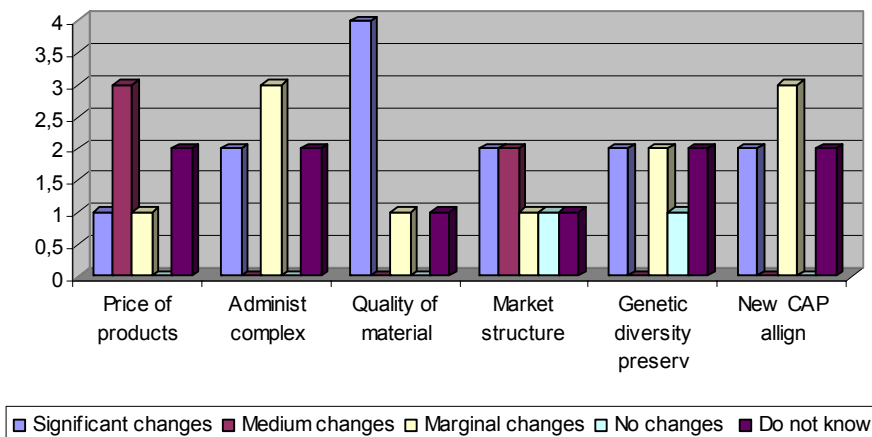
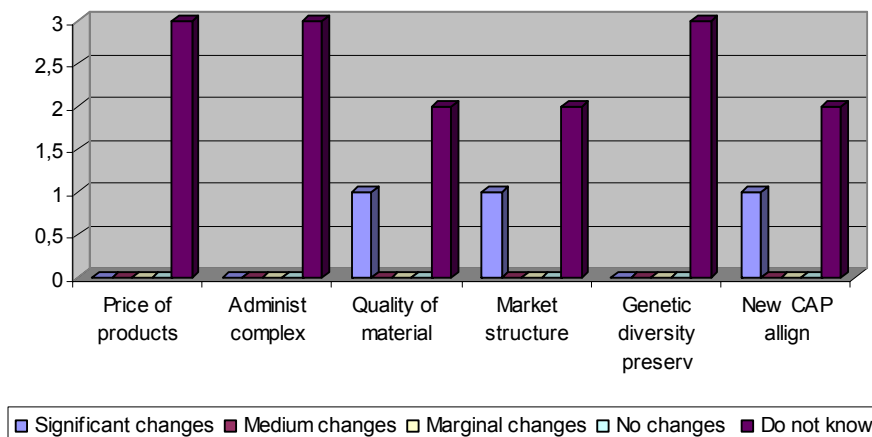
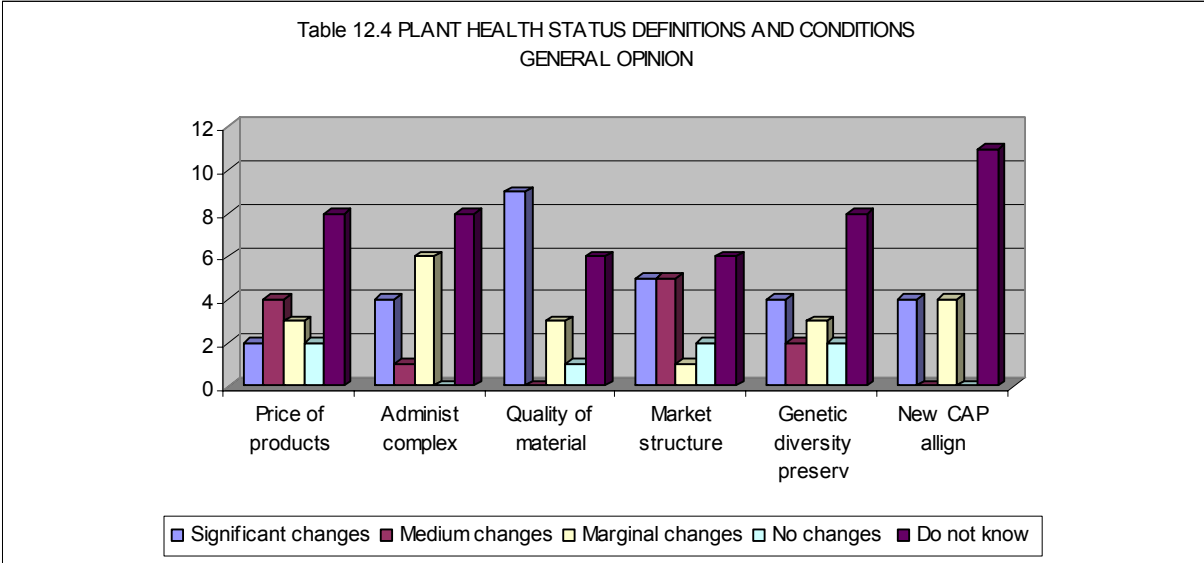


Table 12.3 PLANT HEALTH STATUS DEFINITIONS AND CONDITIONS
PUBLIC AUTHORITY OPINION (REGIONAL)





Comments and proposals submitted

Suppliers

- more detailed information is needed to express an opinion and better consultation with stakeholders should be organised,
- higher quality of professional fruit production should be requested,
- Better control/survey of the material marketed should be foreseen.

Public authorities (national)

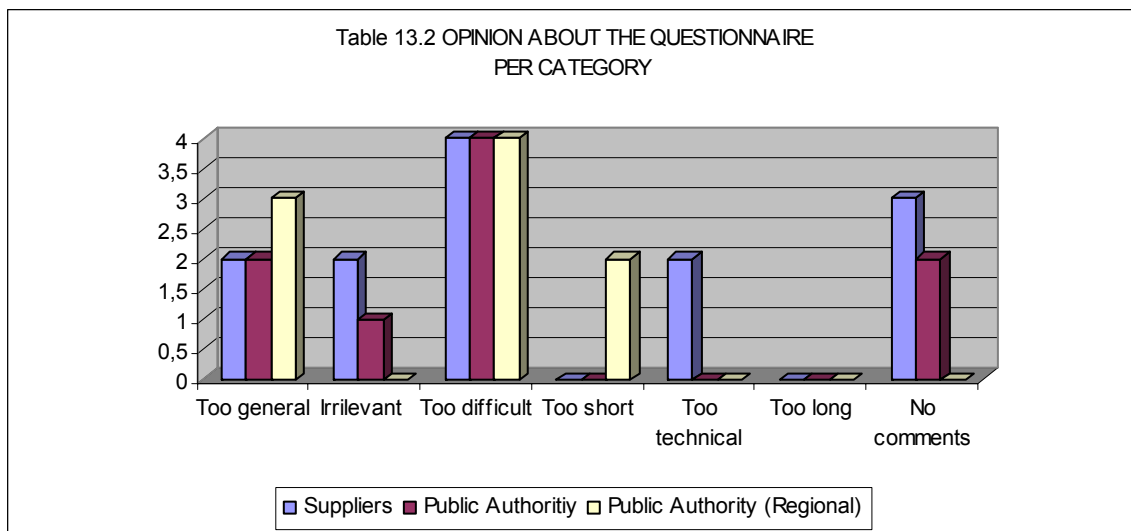
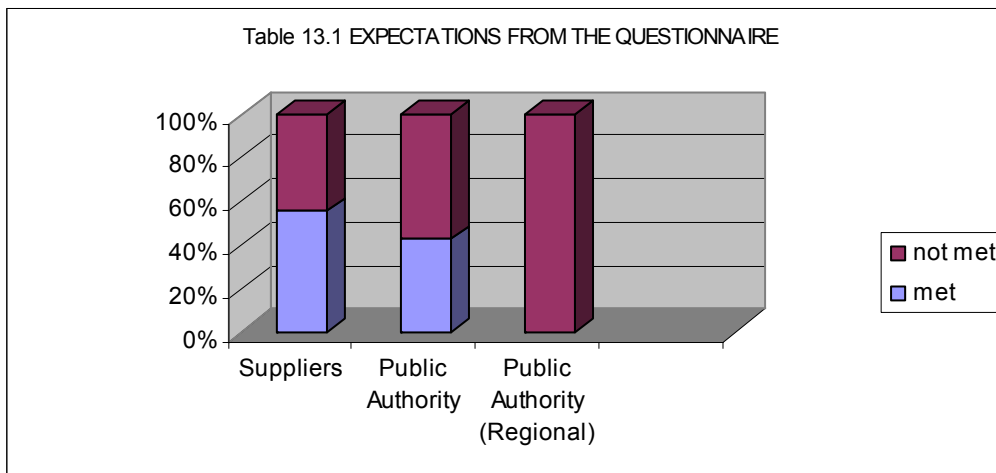
- The national scheme works in an appropriate manner and is up-dated,
- Better and stricter requirements for plant health status should be introduced for CAC material,
- The status of the certification scheme should be discussed (compulsory or recommended giving reference to international recommendations, etc),
- Clear conditions should be laid down for material produced for specific purposes (e.g. genetic diversity defined in a wide manner),
- The SC should be involved before starting a public consultation procedure.

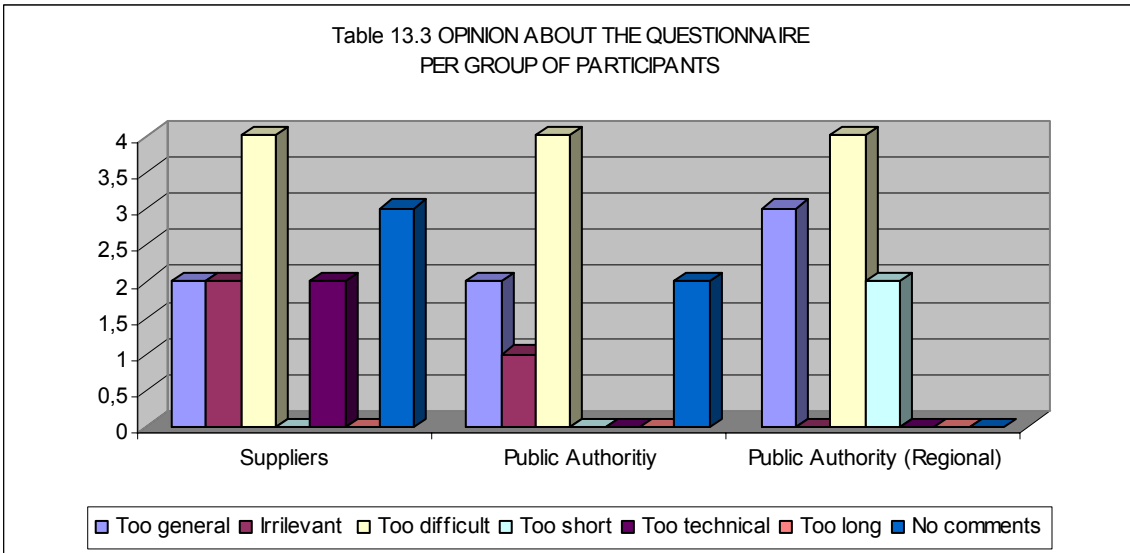
FINAL QUESTIONS

H. About the Questionnaire

Opinions received

- 55% of suppliers declared that their expectations were met,
- 57% of public authorities (national) declared that their expectations were not met, and
- 100% of public authorities (regional) declared that their expectations were not met.





Comments and proposals submitted

Suppliers

- declared that the questionnaire was too difficult to understand (45%) and/or too technical (22%), too general ((22%) and the contents irrelevant (22%).

Public authorities

- declared that the questionnaire was too difficult to understand (70%) and/or too general ((35%) and the contents irrelevant (15%), the regional authorities added that it was also too short.

ANNEX V

Report of the meeting of the Advisory Group on Fruit and Vegetables held on 18 May 2006



Comité des Organisations Professionnelles Agricoles de l'UE
Confédération Générale des Coopératives Agricoles de l'UE

FL(06)...M1

Bruxelles, le 19 mai 2006

PROJET

COMPTE-RENDU DU GROUPE CONSULTATIF:

« Fruits et légumes »

DATE DE LA REUNION : 18 mai 2006

PRESIDENT : Madame Roncolini

SERVICES DE LA COMMISSION : D.G. Agri : A1, G, C2, D4, K3, D.G. SANCO, DG TRADE

RÉDACTEUR: Dominique DEJONCKHEERE

L'ORDRE DU JOUR COMPRENAIT :

1. Approbation de l'ordre du jour et du compte-rendu de la dernière réunion du 20/12/2005, rédigé par le Président.
2. Echange de vues et présentation de l'état d'avancement de la réforme de l'OCM dans le secteur des fruits & légumes
 - 2.1. Etat d'avancement de l'étude d'impact
 - 2.2. Information sur les évaluations en cours
 - 2.3. Calendrier de la réforme
 - 2.4. Présentation du document de consultation en vue de la réforme de l'OCM fruits et légumes
 - 2.5. Discussion avec les représentants des organisations professionnelles
3. Révision de la directive concernant la commercialisation du matériel de multiplication de plantes fruitières et de plantes fruitières destinées à la production de fruits (Directive 92/34/CE)
4. Résidus de pesticides
 - 4.1. Campagne d'information Greenpeace
 - 4.2. Grande distribution
 - 4.3. Harmonisation des limites maximales

5. Etat d'avancement de la mise en place éventuelle de mesures de sauvegarde à l'encontre des importations de fraises congelées et de maïs doux
6. OMC: position de la Commission concernant l'accès au marché fruits et légumes et développements bilatéraux
7. Gestion de crise grave. Principes et ressources financières.
8. Promotion des fruits et légumes
 - 8.1. Fruits et légumes et Santé : Quelle stratégie pour l'Europe ?
 - 8.2. Insuffisances des crédits alloués
9. Divers.

1. L'ordre du jour est un approuvé avec un ajout de l'OEITFL concernant les champignons. Le rapport de la réunion du 20/12/2005 est approuvé.
2. OCM fruits et légumes
.....omissis...
3. Monsieur FOLETTA (DG SANCO) présente l'étude d'impact relative à la révision de la directive sur le matériel de multiplication des plantes fruitières. Monsieur Bazzana souligne que les exigences de la distribution n'ont rien à voir avec cette problématique, en tout cas : le breeder devrait s'engager pour améliorer la qualité des fruits obtenus par les nouvelles variétés, une amélioration des aspects phytosanitaires serait souhaitable y compris un contrôle plus efficace des services publics dans les pépinières, une réduction des procédures bureaucratiques serait aussi souhaitable. Monsieur Stalknecht souligne que le niveau de la certification CAC qui est le plus bas pour les plants fruitiers mis sur le marché ne donne pas suffisamment de garanties aux producteurs. Une simplification de la législation de base et la transposition des mesures via des règlements faciliterait les choses. Madame Petit suggère une attention accrue pour les caractéristiques des plants fruitiers, en particulier, en ce qui concerne la qualité des fruits.
4.omissis...
5.omissis...
6.omissis...
7.omissis...
8.omissis...
9.omissis...

La Présidente remercie l'assemblée et les interprètes. La réunion est close à 17.40 heures.

ANNEX VI

Report of the meeting of the Advisory Group on Fruit and Vegetables held on 18 May 2006

Short report

of the meeting of the Inter-Service Steering Group for the Impact Assessment on the Proposal for revision of the legislation for the marketing of fruit plant propagating material held on 1st June 2006 from 10h00 – 13h00 at F101 2/SDR1.

Invited: SG, DG AGRI, BUDG, ENTR, ENV, MARKT, RTD and TRADE and representative from FI (Next Presidency).

Present: Mrs M. Monedero Higuero DG TRADE, Mr D. De Froidmont DG AGRI, Mr J. Mousnier SG (partim), Mrs M. Kokkola expert from FI next presidency and Mr W. Dziworski SANCO 02 (partim).

Officials of DG ENV, BUDGET and RTD informed that they could not attend the meeting.

1. Opening of the meeting.

The meeting began at 10.00

2. Presentation of the draft Impact Assessment.

All present received the document sufficiently in advance. The colleagues agreed to receive general information about the legislation on the marketing of propagating material and about the procedures applied (e.g. MSs and stakeholders consultation).

3. Discussion.

- The draft was considered appropriate and prepared in conformity with the IA Guidelines.
- It was noted that the number of answers received from stakeholders (20) was very low and no input was received from third countries.
- Mrs. Monedero stated that more attention should be given to the production for exportation. To date it is not appropriate to place requirements for export in this draft Directive (1 among 12 Directives on the marketing of seed and propagating material). The Sec Gen explained that horizontal revision could be considered if so required.
- In the future it would be appropriate to take into account the international commitments and standards (where present) to facilitate/encourage exportation.

- Amendments to point c) *Consumers and householders* in page 22 and point a) and b) *Third countries and international relations* in page 23 were proposed respectively by DG TRADE and AGRI.
- It was suggested (DG AGRI) to emphasise that rules about official control are still present and they will continue to be applied.

4. **Planning of future activities.**

- No further meetings are considered necessary.
- After the last consultations (Consultative Committee on fruit and vegetables, COPA-COGECA and this ISSG meeting), an up-dating of section 1 – Procedural issues and consultation of interested parties, is required.
- The new draft should be sent to all participants.
- It was agreed to contact DG ENTR to receive their opinion³⁰.
- It was pointed out that participation of DG ENV should be appropriate. DG Trade also wonders why compliance with Dir 18/2001 is not mentioned for GM material

5. **Other business**

None

³⁰ DG ENTR and ENV contacted after the meeting confirmed by an electronic message that they do not have particular remarks on the draft IA.