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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	23 December 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	Proposal for a DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Decisions 2003/17/EC and 2005/834/EC as regards the equivalence of field inspections and the equivalence of checks on practices for the maintenance of varieties of agricultural plant species carried out in the United Kingdom
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Delegations will find attached document COM(2020) 853 final.

Encl.: COM(2020) 853 final



Brussels, 23.12.2020
COM(2020) 853 final

2020/0379 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Decisions 2003/17/EC and 2005/834/EC as regards the equivalence of field inspections and the equivalence of checks on practices for the maintenance of varieties of agricultural plant species carried out in the United Kingdom

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Council Decision 2003/17/EC¹ recognises the equivalence of certain third countries as regards field inspections and production of seed of certain species that are carried out in accordance with Council Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC. The national provisions governing seed harvested and controlled in those countries afford the same assurances as regards the seed's characteristics and the arrangements for its examination, for ensuring seed identification, for marking and for control as the provisions applicable to seed harvested and controlled within the Union.

The United Kingdom has submitted to the Commission a request for its fodder plant seed, cereal seed, beet seed and oil and fibre plant seed to be declared equivalent in accordance with Decision 2003/17/EC.

The Commission has carried out an examination of the applicable legislation of the United Kingdom. It was concluded that its requirements and system in place are equivalent to the ones of the Union and offer the same assurance as the Union's system.

Therefore, it is appropriate to recognise the seed of the United Kingdom as equivalent to the respective seed harvested, produced and controlled in the Union.

The United Kingdom has also submitted to the Commission a request to recognise, pursuant to Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC, equivalence as regards the checks on practices of maintenance of varieties carried out in the United Kingdom.

The Commission has examined the relevant legislation of the United Kingdom and its equivalence with the provisions concerning the maintenance of varieties pursuant to Directives 66/401/EEC, 66/402/EEC, 2002/53/EC, 2002/54/EC, 2002/55/EC and 2002/57/EC. It concluded that the checks on practices for the maintenance of those varieties carried out in the United Kingdom afford the same assurances as those carried out by the Member States.

Therefore, it is appropriate to recognise equivalence as regards the official checks on practices for the maintenance of the varieties, regulated by those Directives, in the United Kingdom.

- **Consistency with existing policy provisions in the policy area**

This is a technical implementation of existing requirements and thus consistent with existing policy provisions in the policy area or marketing of seeds.

- **Consistency with other Union policies**

This proposal is in line with the aims of the Union trade and agricultural policy, because it will boost trade in seed that comply with the Union's rules.

¹ Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries (OJ L 8, 14.1.2003, p. 10).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of this act is Article 43(2) TFEU, which empowers the European Parliament and the Council to establish provisions necessary for the pursuit of the objectives of the common agricultural policy.

- **Subsidiarity (for non-exclusive competence)**

Requirements for seed are regulated at the Union level. In order to guarantee that seed imported from the United Kingdom can move freely in the internal market, action at Union level is necessary.

- **Proportionality**

This is the only possible form of Union action to achieve the pursued objective.

- **Choice of the instrument**

A decision is the appropriate instrument for this technical implementation of existing requirements.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

The Member States have been informed and consulted in the Standing Committee on Plants, Animal, Food and Feed. No separate consultation has been done, as the initiative only concerns technical implementation of existing rules and no separate consultation has taken place under similar initiatives in the past.

- **Collection and use of expertise**

The Commission has carried out a legislative analysis in exchange with the United Kingdom. The United Kingdom has transposed and implemented those Directives, and complied with those prior to its withdrawal from the Union. The United Kingdom has informed the Commission that this legislation will not change and will continue to apply from 1 January 2021.

- **Impact assessment**

This is a Decision of purely technical nature, implementing existing rules, thus there is no requirement for an impact assessment.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT. The proposal will retain trade of agricultural seeds between the United Kingdom and the Union. Equivalence would therefore contribute to the maintenance of the continuous supply of high quality seed in the Union. The proposal has no impact on compliance costs for operators. The 'Digital Check' is not applicable to this proposal.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

None

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

The single substantive provision in the proposal adds the United Kingdom to the list of countries, for which equivalence of field inspections, and maintenance of varieties, of seed-producing crops of cereal species and the equivalence of the produced seed has been recognised. This is based on the examination of the applicable legislation of the United Kingdom and the conclusion that its requirements and system in place offer the same assurance as the Union's system. Following the addition of the United Kingdom on that list, the imports of seeds from the United Kingdom into the Union, as well as the maintenance of the respective varieties in that country, shall be allowed.

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Decisions 2003/17/EC and 2005/834/EC as regards the equivalence of field inspections and the equivalence of checks on practices for the maintenance of varieties of agricultural plant species carried out in the United Kingdom

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Decision 2003/17/EC³ provides that under certain conditions field inspections carried out on certain seed-producing crops in the listed third countries are to be considered equivalent to field inspections carried out in accordance with Union law and that under certain conditions seed of certain species produced in those countries is to be considered equivalent to seed produced in accordance with Union law.
- (2) Council Decision 2005/834/EC⁴ establishes rules on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries. It sets out that the official checks on practices for the maintenance of varieties carried out in the third countries and by the authorities, listed in the Annex of that Decision, for the species covered by the Directives referred to for each of those countries, are to afford the same guarantees as those carried out by the Member States.
- (3) The United Kingdom has transposed and effectively implemented Council Directives 66/401/EEC⁵, 66/402/EEC⁶, 2002/53/EC⁷, 2002/54/EC⁸ 2002/55/EC⁹ and

² OJ C , , p. .

³ Council Decision 2003/17/EC of 16 December 2002 on the equivalence of field inspections carried out in third countries on seed-producing crops and on the equivalence of seed produced in third countries (OJ L 8, 14.1.2003, p. 10).

⁴ Council Decision 2005/834/EC of 8 November 2005 on the equivalence of checks on practices for the maintenance of varieties carried out in certain third countries and amending Decision 2003/17/EC (OJ L 312, 29.11.2005, p. 51).

⁵ Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed (OJ L 125, 11.7.1966, p. 2298).

⁶ Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed (OJ L 125, 11.7.1966, p. 2309).

2002/57/EC¹⁰, as well as their implementing acts. Those acts set out the rules on the basis of which those Council Directives recognise the respective equivalence.

- (4) Union law, including Decisions 2003/17/EC and 2005/834/EC, is applicable to and in the United Kingdom during the transition period that ends on 31 December 2020, in accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement), and in particular Article 126 and Article 127(1) thereof.
- (5) In view of the end of the transition period provided for in Withdrawal Agreement, the United Kingdom has submitted a request to the Commission for the recognition of equivalence, from 1 January 2021, of fodder plant seed, cereal seed, beet seed and seed of fibre and oil plants produced in the United Kingdom to fodder plant seed, cereal seed, beet seed and seed of fibre and oil plants produced in the Union and in compliance with Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC.
- (6) The United Kingdom has also requested the recognition of the equivalence as regards the checks on practices for the maintenance of varieties carried out in the United Kingdom pursuant to those Directives, and also to Directive 2002/53/EC.
- (7) The United Kingdom has informed the Commission that its legislation, which has transposed those Directives, will not change and will continue to apply from 1 January 2021.
- (8) The Commission has examined the relevant legislation of the United Kingdom and its equivalence with Union requirements, and has concluded that field inspections of seed-producing crops, are carried out appropriately, and satisfy the conditions of Annex II to Decision 2003/17/EC and the respective requirements of Directives 66/401/EEC, 66/402/EEC, 2002/54/EC and 2002/57/EC.
- (9) Therefore, it is appropriate to recognise the equivalence of field inspections carried in respect of those seeds produced in the United Kingdom and officially certified by its authorities, and in order to avoid any unnecessary disruption to trade after the end of the transition period.
- (10) The Commission has examined the relevant legislation of the United Kingdom and its equivalence with the provisions concerning the practices for the maintenance of varieties pursuant to Directives 2002/53/EC and 2002/55/EC. The Commission concluded that the checks on practices for the maintenance of such varieties carried out in the United Kingdom afford the same assurances as those carried out by the Member States.
- (11) Therefore, it is appropriate to recognise the equivalence of the official checks on practices for the maintenance of the varieties, regulated by Directives 66/401/EEC,

⁷ Council Directive 2002/53/EC of 13 June 2002 on the common catalogue of varieties of agricultural plant species (OJ L 193, 20.7.2002, p. 1).

⁸ Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed (OJ L 193, 20.7.2002, p. 12).

⁹ Council Directive 2002/55/EC of 13 June 2002 on the marketing of vegetable seed (OJ L 193, 20.7.2002, p. 33).

¹⁰ Council Directive 2002/57/EC of 13 June 2002 on the marketing of seed of oil and fibre plants (OJ L 193, 20.7.2002, p. 74).

66/402/EEC, 2002/53/EC, 2002/54/EC, 2002/55/EC and 2002/57/EC, in the United Kingdom.

- (12) The United Kingdom should therefore be included in Annex I to Decision 2003/17/EC and in the Annex to Decision 2005/834/EC, without prejudice to the application of Union law to and in the United Kingdom in respect of Northern Ireland in accordance with Article 5(4) of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement in conjunction with Annex 2 to that Protocol.
- (13) Decisions 2003/17/EC and 2005/834/EC should therefore be amended accordingly.
- (14) As the transition period provided for in the Withdrawal Agreement ends on 31 December 2020, this Decision should apply from 1 January 2021,

HAVE ADOPTED THIS DECISION:

Article 1

Amendments to Decisions 2003/17/EC and 2005/834/EC

1. Annex I to Decision 2003/17/EC is amended in accordance with point 1 of the Annex to this Decision.
2. The Annex to Decision 2005/834/EC is amended in accordance with point 2 of the Annex to this Decision.

Article 2

Entry into force and date of application

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Decision shall apply from 1 January 2021.

Article 3

Addressees

This Decision is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President