

**The marketing of seed and seed potatoes
in relation to conservation of
plant genetic resources *in situ***

ESA Position

**on the Commission Working Paper of 11.11.2002 for the
implementation of Council Directive 98/95/EC of 14.12.1988
amending in respect of the consolidation of the Internal
Market and Plant Genetic resources the Directives on the
marketing of seed and on the Common Catalogue of varieties
of agricultural plant species**

Brussels, 28/02/2003

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I. General

ESA is aware of the legal provisions in the Directives on the marketing of seed of agricultural and vegetable species laying down the legal base for regulating within the framework of legislation on the seed trade the conservation in situ of plant genetic resources, including seed mixtures, associated with specific natural and semi-natural habitats and threatened by genetic erosion.

ESA is aware of the provisions in the Directives on the Common Catalogue and on the marketing of vegetable species providing for the setting of specific conditions for the acceptance of conservation varieties, and, as concerns vegetables, the acceptance of varieties with no intrinsic values for commercial crop production but developed for growing under particular conditions.

ESA welcomes the initiative to provide for a Directive setting specific conditions for conservation varieties of agricultural and vegetable species, for amateur varieties of vegetable species and for preservation seed mixtures.

In order to assess the implementation of these provisions as well as their effect in reaching the aims as set out by Regulation 98/95/EC, ESA suggests that the Commission will prepare a

respective analysis and report at the latest three years after their coming into force.

II. Specific remarks

1. Conservation varieties

1.1. Definition

The Definition comprises landraces and varieties threatened by genetic erosion.

Purpose of conservation varieties is to maintain genetic resources in particular those bound to local traditions and / or bound to ecological and historical specific areas.

ESA accepts the definition as such subject to the following:

a) To be in accordance with this definition, a variety which is not anymore protected in a Member State or in the E.U. or listed in a catalogue should be considered as threatened by genetic erosion only when it has been given up by maintainer and not marketed for a period of more than 10 year.

Consequently ESA strongly recommends to extend the period after deletion from a variety list or from the Common Catalogue and/or rejection of registration or protection from 5 years as foreseen to 10 years.

The longer period is needed in order to enable interested parties to build up maintenance breeding in a correct way in order to ensure consumer protection.

This can only start after expiry of the plant variety protection for respective varieties, since otherwise the PVP would be infringed. Furthermore, the longer period is necessary in order to avoid confusion in view of the reputation of the established variety without compensation of the costs for opening and maintaining markets for the owner of the varieties.

b) ESA is opposed to the possible registration of rejected varieties as conservation varieties.

c) ESA supports the preconditions as to natural adaptation and traditional growing.

1.2. Conditions for acceptance

ESA is supportive to the conditions as provided for acceptance. This refers specifically to the needed description and to the deposit of samples.

In this respect, ESA is convinced that a minimum of requirements of Distinctness, Uniformity and Stability (DUS) must also be applied to conservation varieties in order to allow for respective control as well as quality. For vegetable species these requirements should be at least equivalent to those required for amateur varieties.

ESA strongly recommends the introduction of a control of the cultivation at least on the basis of sample checks of conservation varieties already on the market.

Official tests or at least official inspection of private tests for the duration of the minimum period of one year before their registration as conservation variety is needed in order to comply with the main goal of the seed Directives, which is consumer protection.

ESA is concerned about the requirement as to known or proposed denomination. It must be made sure that no confusion with existing denominations will occur.

1.3. Maintenance and propagation

ESA disagrees with the content of footnote 2 and insists to provide for a means of adapted official control of the identity of the conservation variety.

This could be assured by the DUS requirements mentioned above and by subsequent testing of seed being sold for stability.

For potatoes, it must be assured that the phytosanitary requirements as set out for seed potato propagation must apply. Hazardous quarantine diseases can only be suppressed by control of maintenance breeding and control of propagating material.

1.4. Conditions for the marketing

The appropriate quantity of seed to be marketed should be decided on a yearly basis. The regions for use/conservation should be defined and restricted to the traditional localities and regions included in the definition.

Amateur varieties of vegetable species

2.1. Definitions

ESA accepts the definitions as such subject to the following:

A period of 5 years after deletion of a variety list is not relevant for amateur varieties. Bridges between catalogue on the one hand and amateur variety list on the other hand must be established: when a variety from the catalogue lost any intrinsic value for commercial crop, this variety corresponds actually to the definition of an amateur variety. Consequently no period of grace should be required to delete the variety from the catalogue and to add it on the amateur list, if requested by the maintainer.

2.2. Conditions for acceptance

ESA strongly recommends the implementation of the Directive 98/95 regarding amateur varieties with a control of the cultivation at least on the basis of sample checks of amateur varieties already on the market.

Official tests or at least official inspection of private tests for the duration of the minimum period of one year before the registration as amateur variety is needed in order to comply with one of the main goals of the Seed Directives, which is consumer protection.

ESA is concerned about the requirement as to known or proposed denomination. It must be made sure that no confusion with existing denominations will occur.

2.3. Maintenance and propagation

ESA disagrees with the content of footnote 3, and insists to provide for a means of official adapted control of the identity of the amateur variety.

This could be assured by the DUS requirements mentioned above and by subsequent testing of seed being sold for stability.

3. Preservation seed mixtures

ESA is opposed to any inclusion of seed mixtures as conservation varieties.

A seed mixture by definition is not a variety. Neither may the plant genetic resources contained in any given mixture be properly conserved within a mixture.

Moreover, mixtures will not allow for proper control and testing requirements.

ESA is of the opinion that conservation of plant genetic resources must be based on clearly defined respective plant varieties and not mixtures thereof.