EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

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2017/0297 (COD) **PE-CONS 32/18**

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PHYTOSAN 18
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Decision 2003/17/EC as regards the equivalence of field inspections carried out in the Federative Republic of Brazil on fodder plant seed-producing crops and cereal seed-producing crops and on the equivalence of fodder plant seed and cereal seed produced in the Federative Republic of Brazil, and as regards the equivalence of field inspections carried out in the Republic of Moldova on cereal seed-producing crops, vegetable seed-producing crops and oil and fibre plant seed-producing crops and on the equivalence of cereal seed, vegetable seed and oil and fibre plant seed produced in the Republic of Moldova

DECISION (EU) 2018/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Council Decision 2003/17/EC as regards the equivalence of field inspections carried out in the Federative Republic of Brazil on fodder plant seed-producing crops and cereal seed-producing crops and on the equivalence of fodder plant seed and cereal seed produced in the Federative Republic of Brazil, and as regards the equivalence of field inspections carried out in the Republic of Moldova on cereal seed-producing crops, vegetable seed-producing crops and oil and fibre plant seed-producing crops and on the equivalence of cereal seed, vegetable seed and oil and fibre plant seed produced in the Republic of Moldova

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 Committee[1],

Acting in accordance with the ordinary legislative procedure[2],

[1] OJ C 227, 28.6.2018, p. 76.

[2] Position of the European Parliament of 11 September 2018 (not yet published in the Official Journal) and decision of the Council of ….

Whereas:

(1) Council Decision 2003/17/EC[1] 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, the seed of certain species of fodder plants, cereal, beet, and oil and fibre plants produced in those countries is to be considered equivalent to seed produced in accordance with Union law.

(2) The Federative Republic of Brazil ('Brazil') has submitted a request to the Commission to grant equivalence to its system of field inspections of fodder plant seed-producing crops and cereal seed-producing crops, and to fodder plant seed and cereal seed produced and certified in Brazil.

(3) The Commission examined the relevant legislation of Brazil, and, based on an audit carried out in 2016 concerning the system of official controls and of certification of fodder plant and cereal seed in Brazil, and its equivalence with Union requirements, published its findings in a report entitled 'Final report of an audit carried out in Brazil from 11 April 2016 to 19 April 2016 in order to evaluate the system of official controls and certification of seed and its equivalence with European Union requirements'.

[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).

(4) Following the audit, it has been concluded that field inspections of seed-producing crops, sampling, testing and official post-controls of fodder plant and cereal seed are carried out appropriately, and satisfy the conditions set out in Annex II to Decision 2003/17/EC and the respective requirements set out in Council Directives 66/401/EEC[1] and 66/402/EEC[2]. Moreover, it has been concluded that the national authorities responsible for the implementation of seed certification in Brazil are competent and operate appropriately.

(5) The Republic of Moldova has submitted a request to the Commission to grant equivalence to its system of field inspections of cereal seed-producing crops, vegetable seed-producing crops and oil and fibre plant seed-producing crops and to cereal seed, vegetable seed and oil and fibre plant seed produced and certified in the Republic of Moldova.

(6) The Commission examined the relevant legislation of the Republic of Moldova, and, based on an audit carried out in 2016 concerning the system of official controls and of certification of cereal, vegetable and oil and fibre plant seed in the Republic of Moldova, and its equivalence with Union requirements, published its findings in a report entitled 'Final report of an audit carried out in the Republic of Moldova from 14 June to 21 June 2016 in order to evaluate the system of official controls and certification of seed and their equivalence with European Union requirements'.

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

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

(7) Following the audit, it has been concluded that field inspections of seed-producing crops, sampling, testing and official post-controls of cereal, vegetable and oil and fibre plant seed are carried out appropriately, and satisfy the conditions set out in Annex II to Decision 2003/17/EC and the respective requirements set out in Council Directives 66/402/EEC, 2002/55/EC[1] and 2002/57/EC[2]. Moreover, it has been concluded that the national authorities responsible for the implementation of seed certification in the Republic of Moldova are competent and operate appropriately.

(8) Therefore it is appropriate to grant equivalence as regards field inspections carried out in respect of fodder plant seed-producing crops and cereal seed-producing crops in Brazil, and as regards fodder plant seed and cereal seed produced in Brazil and officially certified by its authorities.

(9) It is also appropriate to grant equivalence as regards field inspections carried out in respect of cereal seed-producing crops, vegetable seed-producing crops and oil and fibre plant seed-producing crops in the Republic of Moldova, and as regards cereal seed, vegetable seed and oil and fibre plant seed produced in the Republic of Moldova and officially certified by its authorities.

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

2 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).

(10) There is a demand in the Union to import vegetable seed from third countries including the Republic of Moldova. Therefore, Decision 2003/17/EC should cover officially certified vegetable seed as referred to in Directive 2002/55/EC in order to address the demand for those seeds originating in the Republic of Moldova, as well as in other third countries in the future.

(11) Taking into consideration the applicable rules of the International Seed Testing Association (ISTA), it is appropriate that the third country concerned provide an official statement that the seed has been sampled and tested in accordance with the provisions set out in the ISTA International Rules for Seed Testing ('ISTA Rules') with regard to Orange International Seed Lot Certificates, and that the seed lots be accompanied by such a certificate.

(12) In view of the expiry of the 'Derogatory experiment on seed sampling and seed analysis' set out in Annex V(A) to the Decision adopted by the Council of the Organisation for Economic Co-operation and Development (OECD) on 28 September 2000 on the OECD Schemes for the Varietal Certification of Seed Moving in International Trade, any reference to that experiment should be deleted.

(13) Any reference to Croatia as a third country should be deleted, in view of its accession to the Union in 2013.

(14) Decision 2003/17/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Amendments to Decision 2003/17/EC

Decision 2003/17/EC is amended as follows:

(1) In Article 1, the introductory part is replaced by the following:

‘Field inspections concerning the seed-producing crops of the species specified in Annex I to this Decision carried out in the third countries listed in that Annex shall be considered equivalent to field inspections carried out in accordance with Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC provided that they:’;

(2) Article 2 is replaced by the following:

‘*Article 2*

Seed of the species specified in Annex I to this Decision, produced in the third countries listed in that Annex and officially certified by the authorities listed in that Annex shall be considered equivalent to seed complying with Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC, if it satisfies the conditions laid down in point B of Annex II to this Decision.’;

(3) Article 3 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. Where equivalent seed is ‘relabelled and refastened’ in the Community, within the meaning of OECD Schemes for the Varietal Certification of Seed moving in International Trade, the provisions of Directives 66/401/EEC, 66/402/EEC, 2002/54/EC, 2002/55/EC and 2002/57/EC concerning the reclosing of packages produced in the Community shall apply by analogy.

The first subparagraph shall be without prejudice to the OECD rules applicable to such operations.’;

(b) In paragraph 2, point (b) is replaced by the following:

‘(b) for small EC packages within the meaning of Directives 66/401/EEC, 2002/54/EC or 2002/55/EC.’;

(4) The Annexes to Decision 2003/17/EC are amended in accordance with the Annex to this Decision.

Article 2

Entry into force

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

Article 3

Addressees

This Decision is addressed to the Member States.

Done at ...,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX

Annexes I and II to Decision 2003/17/EC are amended as follows:

(1) Annex I is amended as follows:

(a) in the table, the following entries are inserted in alphabetical order:

‘BR	Ministry of Agriculture, Livestock and Food Supply Esplanada dos Ministérios, bloco D 70.043-900 Brasilia-DF	66/401/EEC 66/402/EEC’

‘MD	National Agency for Food Safety (ANSA) str. Mihail Kogălniceanu 63, MD-2009, Chisinau	66/402/EEC 2002/55/EC 2002/57/EC’

(b) in the footnote to the table referred to in point (a), the following terms are inserted in alphabetical order: ‘BR – Brazil’, ‘MD – the Republic of Moldova’;

(c) in the footnote to that table, the term ‘HR - Croatia’ is deleted;

(2) Annex II is amended as follows:

(a) in point A, paragraph 1, the following indent is added:

‘– vegetable seed, in the case of the species referred to in Directive 2002/55/EC.’;

(b) Point B is amended as follows:

(i) in paragraph 1, first subparagraph, the following indent is added:

‘– vegetable seed, in the case of the species referred to in Directive 2002/55/EC.’;

(ii) in paragraph 2.1, the following indent is inserted after the third indent:

‘– Directive 2002/55/EC, Annex II,’;

(iii) paragraph 2.2 is replaced by the following:

‘2.2. For the purpose of the examination to check whether the conditions set out in paragraph 2.1 have been satisfied, samples shall be taken officially or under official supervision in accordance with the ISTA Rules, and their weights shall conform to the weight stipulated under such methods, taking into account the weights specified in the following Directives:

– Directive 66/401/EEC, Annex III, columns 3 and 4,

– Directive 66/402/EEC, Annex III, columns 3 and 4,

– Directive 2002/54/EC, Annex II, second line,

– Directive 2002/55/EC, Annex III,

– Directive 2002/57/EC, Annex III, columns 3 and 4,’;

(iv) paragraph 2.3 is replaced by the following:

‘2.3. The examination shall be carried out officially or under official supervision in accordance with the ISTA Rules’;

(v) paragraph 2.4 is deleted;

(vi) in paragraph 3.1, the second indent is replaced by the following:

‘– a statement that the seed has been sampled and tested in accordance with current international methods: ‘Sampled and analysed in accordance with the provisions set out in the ISTA International Rules for Seed Testing with regard to Orange International Seed Lot Certificates by …, (name or member code of the ISTA seed testing station)’,’;

(vii) paragraph 4 is replaced by the following:

‘4. The seed lots shall be accompanied by an ISTA Orange International Seed Lot Certificate giving the information relating to the conditions in paragraph 2.’.