Council of the European Union

Brussels, 7 February 2024
(OR. en)

6264/24

Interinstitutional File: 2024/0027(COD)

AGRILEG 47
SEMENCES 16
CODEC 325

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	5 February 2024
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2024) 52 final
Subject:	Proposal for a 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 Republic of Moldova on fodder plant seed-producing crops and on the equivalence of fodder plant seed produced in the Republic of Moldova, and as regards the equivalence of field inspections carried out in Ukraine on beet seed-producing crops and oil plant seed-producing crops and on the equivalence of beet seed and oil plant seed produced in Ukraine

Delegations will find attached document COM(2024) 52 final.

Encl.: COM(2024) 52 final

EUROPEAN
COMMISSION

Brussels, 5.2.2024
COM(2024) 52 final

2024/0027 (COD)

Proposal for a

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 Republic of Moldova on fodder plant seed-producing crops and on the equivalence of fodder plant seed produced in the Republic of Moldova, and as regards the equivalence of field inspections carried out in Ukraine on beet seed-producing crops and oil plant seed-producing crops and on the equivalence of beet seed and oil plant seed produced in Ukraine

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Decision 2003/17/EC grants equivalence to certain non-EU 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 European Union. That equivalence system contributes to the maintenance of the continuous supply of high quality seed in the Union.

The Republic of Moldova is included in those non-EU countries since 2018 as regards cereal seed, vegetable seed and seed of oil and fibre plants. In 2022 the Republic of Moldova submitted a request to the Commission that fodder plant seed is covered by the equivalence set out in Council Decision 2003/17/EC.

Ukraine is included in those non-EU countries since 2020 as regards cereal seed. In 2022 Ukraine submitted a request to the Commission that seed of beet, sunflower and swede rape is covered by the equivalence set out in Council Decision 2003/17/EC. In 2023 Ukraine submitted an additional request for seed of soya bean.

Following those requests, the Commission has examined the applicable legislations of the Republic of Moldova and of Ukraine. It concluded that the requirements and systems in place in those countries are equivalent to the ones of the Union and offer the same assurance as the Union's system.

The proposal aims to grant equivalence with EU requirements for seed of fodder plants produced in the Republic of Moldova and officially certified by its authorities; and for seed of beet, sunflower, and swede rape produced in Ukraine and officially certified by its authorities. This will make it possible to import seed of those species from the respective countries into the EU.

The proposal will therefore stimulate seed trade between the Republic of Moldova and the EU and between Ukraine and the EU. It will allow companies that are entitled to multiply varieties included in the EU common catalogue of varieties to invest in seed production capacities in those countries. This will allow EU-based companies to diversify their seed production areas and therefore contribute to reducing risks and to maintaining the continuous supply of high quality seed in the EU.

• 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

By aiming to safeguard the smooth continuation of trade in seed and the maintenance of the continuous supply of high-quality seed in the Union, this proposal is consistent with the objectives of the common agricultural policy.

Additionally, this proposal is in line with the aims of the EU-Moldova and the EU-Ukraine Association Agreements, because it will boost trade in seed that complies with the Union's rules.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis of this act is Article 43(2) of the Treaty on the Functioning of the European Union (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)

The TFEU qualifies agriculture as shared competence between the EU and its Member States. However, the sector, including the rules on marketing of seed, has been largely regulated at EU level. Therefore, in accordance with Article 2(2) of the TFEU, legislation in this field is predominantly a role for the EU institutions. The requirements for seed marketing are regulated at the Union level. In order that imported seed can move freely in the Single 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

The legal instrument is provided for by Article 43(2) of the TFEU and the relevant secondary legislation: Article 16(1) of Directive 66/401/EEC, Article 23(1) of Directive 2002/54/EC and Article 20(1) of Directive 2002/57/EC.

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

• Ex-post evaluations/fitness checks of existing legislation

Not applicable.

• Stakeholder consultations

There have been no public consultations as this is a technical initiative of limited interest for the general public. Furthermore, there have been no targeted stakeholder consultations as equivalence to the EU requirements for seed and field inspections carried out in respect of seed-producing crops has already been granted to the Republic of Moldova and to Ukraine for other crops.

• Collection and use of expertise

The Commission has assessed the relevant legislations of the Republic of Moldova and of Ukraine. Furthermore, based on inspections carried out previously by its services in those countries, it has produced reports presenting information justifying the initiative. Additionally, both countries have been admitted to the relevant Organisation for Economic Cooperation and Development (OECD) Seed Schemes for the Varietal Certification of Seed moving in International Trade Trade, and have seed laboratories accredited by the International Seed Testing Association (ISTA). The EU and its Member States are closely involved in the development of the OECD schemes and the ISTA methods. The EU

legislation is based on them and exports of seed from Member States to third countries take place in accordance with their provisions.

- **Impact assessment**

This is a Decision of purely technical nature, implementing existing rules. The granting of equivalence of field inspections carried out in third countries on seed-producing crops and of equivalence of seed produced in third countries is based on the OECD Seed Schemes for the Varietal Certification of Seed moving in International Trade and the methods of the International Seed Testing Association (ISTA). No significant economic, social or environmental impacts are expected, thus an impact assessment is not justified.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT. The proposal has no impact on compliance costs for operators. The "Digital Check" is not applicable to this proposal.

- **Fundamental rights**

This proposal does not have consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

This proposal does not have budgetary implications.

5. OTHER ELEMENTS

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

No implementation plans or monitoring, evaluation and reporting arrangements are required.

- **Explanatory documents (for directives)**

Not applicable.

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

The single substantive provision in the proposal grants equivalence to applicable Union law:

(a) as regards field inspections carried out in respect of fodder plant seed-producing crops in the Republic of Moldova, and as regards fodder plant seed produced in the Republic of Moldova and officially certified by its authorities; and

(b) as regards field inspections carried out in respect of seed-producing crops of beet, sunflower, swede rape and soya bean in Ukraine, and as regards seed of beet, sunflower, swede rape and soya bean produced in Ukraine and officially certified by its authorities.

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(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 Committee[1],

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

Whereas:

(1) Council Decision 2003/17/EC[3] provides that, under certain conditions, field inspections carried out on certain seed-producing crops in the third countries listed in its Annex I, 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) In 2022, the Republic of Moldova submitted a request to the Commission for the granting of equivalence to its system of field inspections of seed-producing fodder plants and to seed of fodder plants produced and certified in the Republic of Moldova.

(3) The Commission examined the relevant legislation of the Republic of Moldova. It also carried out in 2016 an audit of the system of official controls and of certification of cereal, vegetable and oil and fibre plant seed in the Republic of Moldova and published its findings in a report[4]. On the basis of the audit, the Commission

[1] OJ C , , p. .

[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) http://data.europa.eu/eli/dec/2003/17(1)/oj.

[4] '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' https://ec.europa.eu/food/audits-analysis/audit-report/details/3667.

concluded that the national authorities responsible for the implementation of seed certification in the Republic of Moldova are competent, have adequate facilities in place, and operate appropriately. Those authorities are also responsible for field inspections of seed-producing fodder plants and for the certification of seed of fodder plants.

(4) On the basis of the examination of the legislation and of the audit conclusions, the Commission concluded that the field inspections of fodder plant seed-producing crops, sampling, testing and official post-controls of fodder plant seed are carried out appropriately and satisfy the requirements set out in Annex II to Decision 2003/17/EC and in Council Directive 66/401/EEC[5].

(5) In 2022, Ukraine submitted a request to the Commission for the granting of equivalence to its system of field inspections of seed-producing crops of *Beta vulgaris* (beet), *Helianthus annuus* (sunflower) and *Brassica napus* (swede rape) and to seed of those crops produced and certified in that country.

(6) In 2023, Ukraine submitted another request to the Commission for the granting of equivalence to its system of field inspections of seed-producing crops *Glycine max* (soya bean) and to seed of those crops produced and certified in that country.

(7) The Commission examined the relevant legislation of Ukraine. It also carried out an audit in 2015 of the system of official controls and of certification of cereal seed in Ukraine and published its findings in a report[6]. On the basis of the audit, the Commission concluded that the national authorities responsible for the implementation of seed certification in Ukraine are competent, have adequate facilities in place, and operate appropriately. Those authorities are also responsible for the field inspections of seed-producing crops of beet, sunflower, swede rape and soya bean, and for the certification of seed of those crops.

(8) On the basis of the examination of the legislation and of the audit conclusions, the Commission concluded that the field inspections on beet, sunflower, swede rape and soya bean seed-producing crops, sampling, testing and official post-controls of beet, sunflower, swede rape and soya bean seed are carried out appropriately and satisfy the requirements set out in Annex II to Decision 2003/17/EC and in Council Directives 2002/54/EC[7] and 2002/57/EC[8].

(9) The Republic of Moldova has been admitted, as regards fodder crops, to the Organisation for Economic Cooperation and Development (OECD) Seed Schemes for the Varietal Certification of Seed moving in International Trade.

(10) Ukraine has been admitted, as regards beet, sunflower, swede rape and soya bean, to the OECD Seed Schemes for the Varietal Certification of Seed moving in International Trade.

(11) The Republic of Moldova and Ukraine have seed laboratories accredited by the International Seed Testing Association. That fact provides additional assurance on the

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5 Council Directive 66/401/EEC of 14 June 1966 on the marketing of fodder plant seed (OJ 125, 11.7.1966, p. 2298/66) http://data.europa.eu/eli/dir/1966/401/2022-09-01 .

6 'Final report of an audit carried out in Ukraine from 26 May 2015 to 4 June 2015 in order to evaluate the system of official controls and certification of cereal seed and their equivalence with European Union requirements' https://ec.europa.eu/food/audits-analysis/audit-report/details/3499.

7 Council Directive 2002/54/EC of 13 June 2002 on the marketing of beet seed (OJ L 193, 20.7.2002, p. 12) http://data.europa.eu/eli/dir/2002/54/2022-09-01.

8 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) http://data.europa.eu/eli/dir/2002/57/2022-09-01.

quality of the inspections and the seed produced in those countries and their compliance with Union legislation.

(12) It is therefore appropriate to grant equivalence as regards field inspections carried out in respect of fodder plant seed-producing crops in the Republic of Moldova, and as regards the fodder plant seed produced in the Republic of Moldova and officially certified by its authorities.

(13) It is also appropriate to grant equivalence as regards field inspections carried out in respect of seed-producing crops of beet, sunflower, swede rape and soya bean in Ukraine, and as regards the seed of beet, sunflower, swede rape and soya bean produced in Ukraine and officially certified by its authorities.

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

HAVE ADOPTED THIS DECISION:

Article 1
Amendments to Decision 2003/17/EC

Annex I to Decision 2003/17/EC is 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 Brussels,

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