

Council Directive 2008/90/EC of 29 September 2008 on the marketing of fruit plant propagating material and fruit plants intended for fruit production (Recast version)

CHAPTER 1

**SCOPE AND DEFINITIONS**

*Article 1*

**Scope**

1 This Directive shall apply to the marketing of fruit plant propagating material and fruit plants intended for fruit production within the Community.

2 This Directive shall apply to the genera and species listed in Annex I as well as to their hybrids. It shall also apply to rootstocks and other parts of plants of other genera or species than those listed in Annex I or their hybrids, if material of genera or species listed in Annex I or their hybrids is grafted or is to be grafted onto them.

3 This Directive shall apply without prejudice to the plant health rules laid down by Directive 2000/29/EC.

4 This Directive shall not apply to propagating material or fruit plants shown to be intended for export to third countries, provided they are identified as such and kept sufficiently isolated.

Implementing measures for the first subparagraph, with particular reference to identification and isolation, shall be adopted in accordance with the procedure referred to in Article 19(2).

*Article 2*

**Definitions**

For the purposes of this Directive, the following definitions shall apply:

1. 'propagating material' means seeds, parts of plants and all plant material, including rootstocks, intended for the propagation and production of fruit plants;
2. 'fruit plants' means plants intended to be planted or replanted, after marketing;
3. 'variety' means a plant grouping within a single botanical taxon of the lowest known rank, which can be:
  - (a) defined by the expression of the characteristics resulting from a given genotype or combination of genotypes;
  - (b) distinguished from any other plant grouping by the expression of at least one of the said characteristics; and
  - (c) considered as an entity in view of its ability to be propagated unchanged;
4. 'clone' means the vegetative genetically uniform progeny of a single plant;

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5. 'pre-basic material' means propagating material which:
- (a) has been produced, according to generally accepted methods, for the maintenance of the identity of the variety including the relevant pomological characteristics and for the prevention of diseases;
  - (b) is intended for the production of basic material or certified material other than fruit plants;
  - (c) satisfies the specific requirements for pre-basic material established pursuant to Article 4; and
  - (d) has been found by official inspection to satisfy the conditions in (a), (b) and (c);
6. 'basic material' means propagating material which:
- (a) has been produced either directly or in a known number of stages in a vegetative way from pre-basic material, according to generally accepted methods, for the maintenance of the identity of the variety including the relevant pomological characteristics and for the prevention of diseases;
  - (b) is intended for the production of certified material;
  - (c) satisfies the specific requirements for basic material, established pursuant to Article 4; and
  - (d) has been found by official inspection to satisfy the conditions in (a), (b) and (c);
7. 'certified material' means:
- (a) propagating material which:
    - (i) has been produced directly in a vegetative way from basic material or pre-basic material or, if intended to be used for the production of rootstocks, by certified seeds from basic or certified material of rootstocks;
    - (ii) is intended for the production of fruit plants;
    - (iii) satisfies the specific requirements for certified material, established pursuant to Article 4; and
    - (iv) has been found by official inspection to satisfy the conditions in (i), (ii) and (iii);
  - (b) fruit plants which:
    - (i) have been produced directly from certified, basic or pre-basic propagating material;
    - (ii) are intended for the production of fruits;
    - (iii) satisfy the specific requirements for certified material, established pursuant to Article 4; and
    - (iv) have been found by official inspection to satisfy the conditions in (i), (ii) and (iii);

8. ‘CAC (*Conformitas Agraria Communitatis*) material’ means propagating material and fruit plants which:
- (a) have varietal identity and adequate varietal purity;
  - (b) are intended for:
    - the production of propagating material,
    - the production of fruit plants, and/or
    - the production of fruits;
  - (c) satisfy the specific requirements for CAC material established pursuant to Article 4;
9. ‘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;
10. ‘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;
11. ‘responsible official body’ means:
- (a) an authority, established or designated by the Member State under the supervision of the national government and responsible for questions concerning the quality of propagating material and fruit plants;
  - (b) any State authority established:
    - either at national level, or
    - at regional level, under the supervision of the national authorities, within the limits set by the national legislation of the Member State concerned;
12. ‘official inspection’ means inspection carried out by the responsible official body or under the responsibility of the responsible official body;
13. ‘lot’ means a number of units of a single commodity, identifiable by its homogeneity of composition and origin.