



Federal Republic of Nigeria

Official Gazette

No. 68

Lagos - 11th September, 2013

Vol. 100

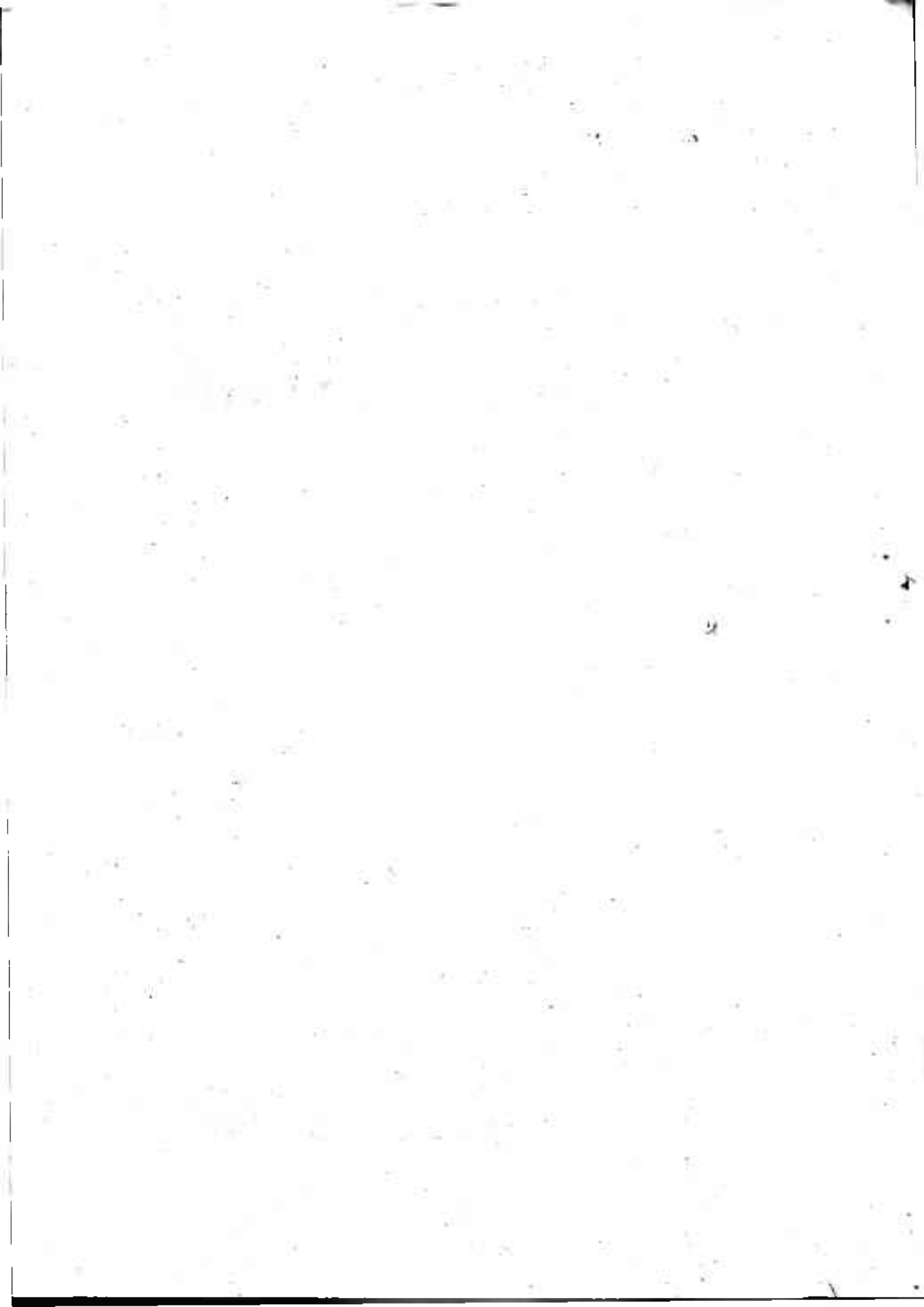
Government Notice No. 163

The following is published as Supplement to this *Gazette* :

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Printed and Published by The Federal Government Printer, Lagos, Nigeria
FGP 101/92013/150 (OL 74)

Annual Subscription from 1st January, 2013 is Local : ₦25,500.00 Overseas : ₦37,500.00 [Surface Mail] ₦49,500.00 [Second Class Air Mail]. Present issue ₦1,500.00 per copy. Subscribers who wish to obtain *Gazette* after 1st January should apply to the Federal Government Printer, Lagos for amended Subscriptions.



S. I. No. 19 of 2013

ECONOMIC COMMUNITY OF WEST AFRICAN STATES

**REGULATION C/REG. 4/05/2008 ON THE HARMONIZATION OF
RULES GOVERNING QUALITY CONTROL, CERTIFICATION
AND MARKETING OF PLANT SEEDS AND SEEDLINGS
IN THE ECOWAS REGION**

SIXTIETH ORDINARY SESSION OF THE COUNCIL OF MINISTERS

Abuja, 17 – 18 May 2008

THE COUNCIL OF MINISTERS

MINDFUL OF Articles 10, 11 and 12 of ECOWAS Revised Treaty establishing the Council of Ministers and defining its composition and functions ;

MINDFUL OF Decision A/DEC.11/01/05 adopting an Agricultural Policy for the Economic Community of West African States ;

MINDFUL OF Decision C/DEC.1/5/81 in relation to the eradication of hunger, popularization of seed varieties and more productive animal species, financing of research programmes and agricultural production projects, as well as the storage and processing of agricultural products ;

MINDFUL OF Decision C/DEC.5/5/81 related to the production of selected basic seeds and the choice of seed production stations ;

MINDFUL OF Decision C/DEC.1/05/83 on short and medium term programmes for implementation of the Regional Agricultural Development Strategy ;

MINDFUL OF Decision C/DEC.14/12/90 on the establishment of a Sub-regional Seed Committee ;

MINDFUL OF Decision C/DEC.16/12/90 on the establishment of Inter State Technical Committees to monitor price trends for specific agricultural products or groups of products ;

CONSIDERING the strategic role of the agricultural sector in the economy of Member States in terms of meeting the food needs of the population and eradicating poverty in rural areas ;

CONSIDERING the need to promote in Member States, sustainable agriculture that is more productive and competitive, and capable of ensuring food security and higher living standards for farmers ;

CONSIDERING that seeds are of crucial importance in promoting, sustainable agriculture and for actualization of the Community agricultural policy ;

CONSIDERING that seeds are of crucial importance in promoting sustainable agriculture and for actualization of the Community agricultural policy ;

RECOGNIZING that regular supply of quality and affordable seeds to markets of Member States is a prerequisite for achieving food security and improved living standards for farmers ;

DESIROUS OF ensuring safe and regular quality seeds supply to Member States' markets and, to this end, harmonizing the rules governing seed production and marketing in these States ;

COMMENDING the active involvement and positive contribution of other sub regional organizations such as CILSS and UEMOA in the formulation, improvement and finalisation of this draft Regulation ;

ON THE RECOMMENDATION OF the ECOWAS Member States' Ministers of Food and Agriculture meeting in Ouagadougou on 8 November 2007.

ENACTS :

SECTION I—GENERAL PROVISIONS

CHAPTER I : DEFINITIONS

Definitions.

I.—For the purposes of this Regulation—

“*Farmer-seed Farmer*” means the category of farmers specialized in seed farming ;

“*Allogamy*” means the cross-pollination mode whereby the two gametes (male and female reproductive cells) are from two different individuals ;

“*Seed Analysis*” means the range of techniques used in the laboratory to determine the quality of seed sample ;

“*Cropping History*” means cropping undertaken during the planting season immediately preceding the said season ;

“*Self Fertilization*” means the fertilization of a pistle by a pollen from the same flower or another flower of the same plant ;

“*Autogamy*” means the fertilization mode whereby the male and female gametes come from the same unit ;

“*Plant Castration*” means the removal or destruction of male plants reproductive organs ;

“*Catalogue of Species and Varieties*” means the official document containing the list of all registered species and varieties ;

“*West African Catalogue of Plant Species and Varieties*” or “*WACPSV*” means the catalogue of plant species and varieties common to Member States ;

“*Seed Category*” means the class of seeds of the same nature potentially of one or several generations ;

“*Phytosanitary Certificate*” means the document that conforms to the models recommended by the International Convention for Plant Protection (ICPP) ;

“*Certification*” means the culmination of seed quality control process in

the field or in the laboratory, ensuring that the seeds conform to minimum standards of varietal purity through genealogical parentage and a system of breeder seed maintenance of varietal features, in accordance with the provisions of applicable technical regulations ;

"Seed Production Farm" means any plot of land devoted to seeds production and farming of a specific variety ;

"Marketing" means the sale, conservation for the purpose of selling, sale offer and any form of cession, supply or transfer for the purpose of commercial transaction, of seeds or plants with or without remuneration ;

"Commission" means the ECOWAS Commission ;

"Community" means the Economic Community of West African States ;

"Seeds Conditioning" means the operation by which seeds are dried, cleaned, sorted, treated and packaged to avoid physical, chemical or biological degradation and facilitate handling ;

"Seed Farming Contract" means a written agreement bidding farmers-seed farmers and seed producers accredited by competent authorities ;

"Quality Control" means the set of activities carried out by competent authorities to verify that the varietal or genetic purity of seeds, their physiological and health conditions as well as their technological standards conform to the technical regulations applicable in Member States ;

"Seed Controller" means any technician responsible for inspecting standing plants to ensure that seed farming establishment and management conform to technical regulations applicable in Member States ;

"Cropping Declaration" means the document or form to be filled out by any individual or corporate body whose name features on the list of seed producers ;

"Disjunction" means any plant deriving from a species progeny but without the features of that species given the fact that it has not been genetically engineered ;

"Seed Distributor" means any individual or corporate body other than the seed producer engaged in seed marketing either as a wholesaler, semi-wholesaler or retailer ;

"Community Law" means a law resulting from the enforcement of the ECOWAS Treaty and subsequent texts ;

"Seed Sampling" means any portion that is representative of seed batch sampled in accordance with the applicable technical regulations ;

"Sampling" means the range of techniques used to obtain samples following a specific process ;

"Packaging" means any container notably bags, sachets, cartons made of various materials such as cotton, paper, aluminium and polythelene in which seeds are packaged ;

"Roguing" means the elimination of off-type plants, diseased plants or any other plants that could alter seed quality ;

"Species" means all plants that inter-cross and are distinguishable by a number of common features ;

"Germination Test or Trial" means any laboratory test carried out in view of observing the appearance of a seedling and its development up to the stage where its basic organs indicate that it would be able or unable, in future, to evolve into a normal plant under conducive full soil conditions ;

"Seed Health Status" means a condition related to the presence or absence of diseases caused mainly by moulds, bacteria, virus and other parasites such as insects, acarinas and nematodes ;

"Label" means any document visibly displaying specific information in a readable manner to facilitate seed identification or traceability ;

"Germinating Capacity" means the ability of a batch of seeds to germinate, evaluated by calculating the percentage of grains that germinate in a given batch of seeds, under normalized conditions within a given time frame ;

"Generation" means phylogenies in successive progenies ;

"Farm Grain and Seed" means any seed or grain produced on the farm itself meant for the farmer's personal use and not destined for sale on the market ;

"Weed Grain" means any grain produced by herbaceous wild plants ;

"Registration" means the procedure by which the species or varieties intended to be included in the national catalogue of species, are registered ;

"Homozygote" means any unit whose cells contain double the amount of genes of a specific nature ;

"Off-Type" means any plant of given species that does not conform to the standards of the species ;

"Double Cross Hybrid" means the product of a cross between two single cross involving four strains ;

"Single Cross (F)" means the product of a cross between two pure strains obtained by artificial self-fertilization ;

"Three-Way Cross" means the product of a cross between a single female cross and a pure male strain ;

"Hybrid" means the product of a cross between two or several genetically different species ;

"Unit" means any live specimen of an animal or plant species deriving from a single cell ;

"Isolation" means measures taken to protect a seed production farm from pollution by a foreign pollen ;

"Isolation In Time" means staggering the planting date of varieties of the same species such that the flowering periods do not coincide ;

"Isolation In Space" means keeping a set distance between a variety meant for farming and another variety of the same species, or between a variety that has been farmed and the same variety that has not been rogued ;

"ISTA" means International Seed Test Association ;

"Laboratory Assistant" means any person trained to work in a laboratory ;

"Seed Analysis Laboratory" means any premises specially designed to conduct seed tests generally on special purity, varietal purity, germination, humidity level and health status, with a view to determining the quality ;

"Pure Strain" means any genetically homozygote and homogeneous strain ;

"Strain" means stock of descendants of one or several parents. In plants, line is the result of successive self-fertilizations over several generations ;

"Seed Batch" means any quantity of seeds defined and identifiable by a number, and is homogenous especially in terms of identity and varietal or genetic purity, special purity, germinating capacity and humidity level ;

"RAW SEED BATCH" means any batch of seeds meant for certification ;

"Maintainer" means any person or organization responsible for maintaining a variety listed in the national catalogue and likely to be sent in for certification ;

"Parent Material (G_0)" means any initial or zero generation (G_0) material, production of which is based on a well-defined breeder seed conservation method ;

"Active Ingredient" means the content of a product to which its effectiveness is wholly or partly attributable ;

"Inert Ingredient" means any impurities such as debris, soil or straw fragments contained in a batch of seeds ;

"Standards" means a set of benchmarks for evaluating seed quality ;

"Seed Breeder" means any individual or corporate body that has created or discovered or developed a new variety ;

"Accredited Private Body" means any private institution authorized by the Member State to undertake control and certification activities ;

"Batch Origin" means any place for production of seed batch such as country, town, village or any other relevant locality ;

"Seed Production Farm" means any plot of a land of a single tenant comprising one or several seed farms ;

"Adventive Plant" means any undesirable plant or weed growing on a farm land ;

"Allogamous Plant" means any cross-fertilized plant ;

"Autogamous Plant" means any plant which reproduces through the fertilization of its ovules by its own pollen ;

"Plant" means any young plant, stem cuttings, leaves or root, grafts and runners meant for plant production ;

"Diseased Plant" means any plant showing signs of malformation caused by infestation ;

"Shoot" means any young plant resulting from grain germination and still dependent on the same grain for nourishment ;

"Pollen" means an aggregation of microscopic grains produced by stamens and which constitute the male productive elements of flowering plant ;

"Contamination" means any contamination of the seed farming process by the presence of off-type and adventive weeds and/or dangerous diseases and other cultivated plant species difficult to separate ;

"Seed Producer" means any individual or corporate body specialized in the production of seeds and duly registered for inspection ;

"Seed Producer-Distributor" means any individual or corporate body specialized in the production of seeds and engaged in their wholesale, semi-wholesale or retail marketing ;

"Specific Purity" means the proportion of elements considered in a seed batch ;

"Varietal or Genetic Purity" means the proportion of plants in the field that meet the standards of the variety. In the laboratory, it means the proportion of a given variety in a seed batch ;

"Technical Regulation" means the document specifying the characteristics of a product or its production procedures and methods, including the applicable administrative requirements that must be respected. Technical regulation may also partially or fully determine the terminologies, symbols or specifications used for packaging, marking and labelling of a product, service, production procedure or method ;

"Plant Breeder" means any individual or corporate body engaged in plant improvement with a view of creating new varieties ;

"Seed" means any plant material or organ, or part of plant organ, such as grain, shoot, bulb, scion, rhizome, tuber or embryo, able to reproduce a unit ;

"Seed Tuber" means all or any part of a tuber meant for cultivation, as in the case of yam and potato ;

"Conventional Seed" means any seed of a variety of which the visual, technological and agronomic characteristics have been stabilized through genetic and biological manipulation ;

"Certified Seed" means any seed obtained from the first or second farming of basic seed ;

"Rogue Seed" means any seed of undesirable plants or weeds growing in a farmland ;

"Basic Seed or Foundation Seed (G₁)" means any seed from pre-basic or has been produced under the responsibility of a maintainer in accordance with generally accepted breeding conservation rules for that variety and intended for the production of certified seeds.

"Infected Seed" means any seed invaded by living pathogens such as bacteria, mycoplasma, viruses, protozoa, fungi or yeasts ;

"Infested Seed" means any seed invaded by parasitic animals such as insects or acarids ;

"Parent Seed" means any seed sown to produce a new generation. Any generation can be used as parent seed, except the generation sold to farmers to produce consumer grains ;

"Non-conventional Seed" means any seed other than conventional seed ;

"Pre-Basic or Breeder Seed" means any generation $G^1 G^2 G^3$ seed situated between parent material and basic seed. Pre-basic seed is produced directly by the breeder of the variety or his authorized agent ;

"Official Control and Certification Body" means the national service or body responsible for seed control and certification ;

"Seed Storage" means any conservation of seeds in a storage area or warehouse under appropriate temperature and humidity conditions ;

"Moisture or Water Content" means the percentage of water content in a seed sample ;

"Seed Technician" means any seed professional licensed by the national seed quality control and certification body or authority of the Member State to assist seed producers ;

"Chemical Treatment" means the use of one or several chemical agents on seeds for their phytosanitary protection ;

"Phytosanitary Treatment" means the use of chemical products of several to protect them against diseases and parasites ;

"Composite Variety" means any variety obtained by the combination of several lines or populations, of relative genetic variability ;

"Plant Species or Varieties" means the collection of plants of the lowest known botanic taxon (i) defined by using the characteristics of some genotype or a combination of genotypes, (ii) distinguishable from all other plant collections by at least one of these characteristics and (iii) considered as an entity given its capacity for authentic reproduction.

CHAPTER II—PURPOSE AND SCOPE

Purpose.

2.—1. The purpose of this Regulation is to harmonize the rules governing quality control, certification and marketing of plant seeds and agricultural plants in the Member States.

2. The harmonization is aiming at ensuring good quality and determining the origin of the seeds of plant species and varieties listed in the West African Catalogue of Plant Species and varieties, as defined in Article 9 of this regulation

3. More specifically, the purpose of this harmonization should—

- facilitate local production of quality seeds ;

- facilitate trade in seeds amongst Member States, through implementation of regionally agreed principles and rules that minimize trade barriers ;
- facilitate timely and convenient access by farmers to quality seeds ;
- create a climate propitious for private investments in the seed industry ;
- help widen the choice of seeds available to farmers ; and
- promote partnership between public and private sectors.

Scope.

3.—1. This Regulation shall apply to all seed related activities, especially those pertaining to seed quality control, certification and marketing.

2. It shall not be applicable to freely used farm grains and seeds, without prejudice to the regulations in force in the ECOWAS region.

CHAPTER III—GENERAL PRINCIPLES

Principle of Harmonization.

4. In pursuance of this harmonization as intended by this Regulation, the Community shall help bridge the gap between Member States' legislations in terms of seeds.

Principle of Free Movement of Seeds.

5. In view of contributing to the organization of a common market as defined in the Community agricultural policy, there shall be free movement of seeds on the ECOWAS Member States territory so far as the seeds conform to the quality standards applicable in the ECOWAS region.

Principle of Mutual Recognition and Equivalence.

6. Member States shall implement the principle of mutual recognition of certifications based on technical specifications and Community standards on plant seeds as well as applicable procedures of control and registration in the ECOWAS region, and shall recognize such conditions and procedures as equivalent.

Each Member State allows on its territory seeds that comply with the technical standards adopted by another Member State.

Principle of International Standards recognition.

7. To ensure the free movement of seeds within Community and foster regional and international trade thereon, Member States shall anchor their seed technical regulations on international standards, guidelines and recommendations.

Principle of Participation and Information.

8.—1. Member States shall ensure the full participation of various seed sector stakeholders in the process of public decision-making in seed related matters.

2. Member States shall organize public access to the seed related information held by public authorities.

3. Member States shall help train and build the awareness of the seed sector stakeholders.

CHAPTER IV—SEED MANAGEMENT TOOL AND ORGAN

West African Catalogue of Plant Species and Varieties.

9.—1. A West African Catalogue of Plant Species and Varieties, hereinafter known as the "WACPSV", is hereby established for a more effective management of seed quality control and certification in the Member States.

2. The WACPSV shall be the official document containing the list of all registered varieties in the Member States.

3. The WACPSV shall be constituted by all registered varieties listed in the Member States' national catalogues. To this end, each Member State shall institute a national catalogue of plant species and varieties.

4. The conditions for organizing WACPSV shall be determined by the Commission by regulations made thereunder.

10.—1. A West African Seed Committee hereinafter referred to as WASC is hereby established. This Committee shall implement seed quality control, certification and marketing related applicable regulations, with a view to fostering the development of the seed sector in Member States.

West African
Seed
Committee.

2. The West African Seed Committee shall work closely with national seed committees for development of the seed sector. To this end, each Member State shall set up a national seed committee and a seed sector support fund.

3. At the request of WASC, each Member State shall provide information for verification of compliance with national seed quality control and certification systems with Community texts. WASC may conduct investigations in the Member States to verify the accuracy of information provided.

4. The functions, organisation, operations and financing of the West African Seed Committee shall be defined in due course.

SECTION II—QUALITY CONTROL

CHAPTER V—PRELIMINARY PROVISIONS

11.—1. The purpose of control shall be to enable the official quality control and certification authority or any other accredited private body to ascertain that the seeds submitted to it.

Purpose of
Control.

- are of acceptable varietal or genetic purity ;
- are in good physiological and health condition ; and
- meet technological standards, where appropriate

2. The required standards regarding the above characteristics shall be spelt out in the annexed technical regulations as mentioned in Article 58 of this Regulation.

12. Seed quality control shall apply to all stages and venues of production, from the farm to the producer's or distributor's storage facility which must have previously been subject to control.

Area of
Control.

13. Seed quality control in each Member State shall be carried out by the official quality control and certification authority or any other accredited private body, in accordance with the provisions of this Regulation.

Quality
Control
Authority.

CHAPTER VI—ADMISSION FOR CONTROL

Application
for
Admission
for Quality
Control.

14.—(a) In each Member State, admission for quality control shall be granted to any individual or corporate body who applies accordingly. Admission shall be determined by the official national quality control and certification authority or any other accredited private body for one or several of the species listed in the WACPSV and, with regard to each of these species, for one or several categories of seed as defined in Article 22 of this Regulation ;

(b) Applications, using the appropriate form, shall be addressed to the official quality control and certification authority or any other accredited private body in the Member State before the start of the planting season ;

(c) The quality control and certification authority or any other accredited private body shall examine the application and ensure that the admission requirements that are set by regional regulations have been met. The applicant shall be notified of the approval or rejection of the application within fifteen (15) days of its submission ;

(d) Where the official quality control and certification authority or any other accredited private body deems it necessary, it may grant an additional period of ten (10) days to the applicant for submission of fresh application or provision of supplementary information.

Eligibility
Criteria.

15.—(a) *General Criteria*

Any individual or corporate body wishing to be admitted for quality control shall meet the following conditions—

(i) undertake to observe the annexed technical regulations as mentioned in Article 58 of this Regulation ;

(ii) have sufficient land ;

(iii) have sufficient and qualified technical personnel ; and

(iv) possess appropriate facilities and equipment.

(b) *Specific Criteria*

The specific criteria shall be determined by the annexed technical regulations in accordance with the characteristics of each species.

Professional
Card.

16.—1. The official quality control and certification service shall issue a professional card to individuals or corporate bodies who have met the admission requirements.

2. Issuance of such card shall be subject to payment of a single registration fee in accordance with the type of activity. The amount, payment modalities and allocation of the proceeds of the single registration fee shall be determined by the concerned State.

3. Professional card shall be issued to the following individuals or corporate bodies :

- Seed/Plant Breeder
- Producer of basic seeds
- Producer of certified seeds
- Plant producer (Nursery farmer)
- Wholesaler
- Retailer
- Importer/Exporter
- Associated operators such as packaging professionals, brokers, transporters and packers.

17. The professional card shall be issued for a period of three years, renewable upon the holder's request, in accordance with the applicable procedures.

Validity of
Professional
Card.

18.—1. The professional card shall be suspended in the following cases, after written notification to the holder—

Suspension
of
Professional
Card.

(a) Where there has been non-observance of the provisions of this Regulation despite the official quality control and certification authority's directives ;

(b) Where sanction has been imposed on the holder in accordance with the concerned Member State's legislation related to crack down on offenses.

2. In the event of suspension of the professional card, the holder shall have a period of thirty (30) days from the date of notification to comply with the provisions of this Regulation. After this deadline, the holder's name shall be deleted from the register of professionals for the specific activity.

19.—1. Professional card shall be withdrawn where—

Withdrawal
of
Professional
Card.

(a) The holder has not been active for two consecutive years ;

(b) The holder commits fresh infringement punishable by suspension within one year of the lifting of a previous suspension ;

(c) The holder under suspension has not complied with the provisions of this Regulation within the thirty (30) days time frame granted under *Article 18* of this Regulation.

2. The official quality control and certification authority shall serve notice of termination to the professional card holder. However, the holder may still have access to the quality control services for crops cultivated prior to the withdrawal decision and, hence obtain certification for the seeds therefrom derived, where these have met the set standards.

3. Where a professional card has been withdrawn, fresh application may be filed only after three years following the date of withdrawal of the card.

Seed Producer
and Farmer-
Seed Grower.

20.—1. A seed producer is any individual or corporate entity duly admitted for quality control.

2. A seed producer may enter into multiplication contract with one or several farmer-seed growers engaged in similar species.

3. A farmer-seed grower shall not be authorized to conclude multiplication contract with several producers. However, exemptions may be allowed where the contract with several producers does not cause prejudice to any one of them.

Varieties to
be farmed.

21.—1. Only seeds of the varieties registered in national catalogue or the West African Catalogue of Plant Species and Varieties (WACPSV) may be eligible for multiplication, for the purpose of certification.

2. The characteristics of these varieties shall be consistent with those of samples deposited at the time of registration in the WACCPSV and conserved under the responsibility of the national committee in charge of registration in the catalogue.

Seed
Categories.

22. The seed categories shall be as follows :

(a) Parent Materials (G_0)

Parent material G_0 , means the initial material, production of which shall be based on well-defined methodology for pedigree seed production.

(b) *Pre-basic Seed* (G_1 , G_2 , and G_3).—Pre-basic seed G_1 , G_2 , and G_3 , means the seed generations between parent material and basic seed. Pre-basic seed shall be produced directly by the breeder of the variety or his/her authorized agent.

(c) *Basic Seed* (G_4).—Basic seed G_4 , means the seed derived from pre-basic seed produced under the responsibility of the maintainer according to pedigree seed production of rules generally accepted for the variety, and intended for production of certified seeds.

(d) *Certified Seed*.—Certified seed means the seed resulting directly from the first or second multiplication of basic seeds

Generations
of
Certificated
Seed.

23.—1 Certified concern several successive seed generations :

- First generation or " R_1 ," certified seed, from basic seed ;
- Second generation or " R_2 ," certified seed, " R_1 ," certified seed ;
- Third generation or " R_3 ," certified seed, from " R_2 ," certified seed ;

2. For hybrid varieties, certified seeds resulting from one sole hybridization (F_1) of basic seeds. These are referred to certified seeds of hybrid varieties.

Generations
of
Authorized
Certified
Seeds.

24.—1. The last authorized generation under this Regulation shall be the certified seeds of the second generation " R_2 ," which is not likely to produce seeds.

2. However, in case of difficulty of certified seeds supply owing to force majeure in one of the Member States, the other Member States may authorize the delivery or marketing of seeds from the last authorized R_n generation to address the crisis situation. Such seed must comply with the basic standards required for R_n certified seeds and shall be referred to as third generation of " R_n " seed.

3. The required standards in relation to the above characteristics shall be defined in the annexed technical regulations as mentioned in Article 59 of this Regulation.

CHAPTER VIII— PRODUCTION CONDITIONS

25.—1. Individual or corporate entities admitted for quality control shall abide by the production zones recommended by the breeder of a given variety:

Location of
Seed Farm.

2. The seed farm shall be accessible for inspection at any time throughout the growing cycle.

26. The minimum and maximum areas per crop and per plot shall be as applicable in each Member State.

Cultivated
Areas.

27.—1. The number of seed varieties and categories authorized for multiplication on the same agricultural property shall be determined by the species and in accordance with the standards laid down in the annexed technical regulations.

Number of
Varieties and
Categories.

2. The number of varieties shall not be restricted, as far as testing stations or experimental farms are concerned, on condition that the isolation standards defined in the aforementioned technical agreements are observed.

28.—1. The official quality control and certification authority or any other accredited private body shall ensure that the producer or farmer-seed grower uses only certified parent seeds.

Origin of the
Parent Seed.

2. All seed producers or farmer-seed grower shall justify the origin of the parent seed with documentary evidence such as certification label, invoice, delivery note or any other relevant document.

CHAPTER IX—PRODUCTION CONTROL

29. Control shall be undertaken at all stages of activity, namely: Seed production, conservation, packaging, warehousing, transportation, marketing and utilization.

Control
Periods.

30.—1. Before each certification season, individuals or corporate bodies admitted for control shall transmit, prior to cultivation, a cropping declaration to the national quality control and certification authority or any other accredited private body within a reasonable time frame, failing which the declaration shall be rejected.

Cropping
Declaration.

2. Any subsequent changes to the cropping declaration shall be reported immediately to the quality control and certification authority or any other accredited private entity:

3. A sample cropping declaration shall feature in the implementing Regulation as defined in Article 57 of this Regulation.

Seed
Multiplication
Contract.

31.—1. The seed multiplication contract concluded between the seed producer and one or several farmer-seed growers shall include :

(a) a commitment by the farmer-seed grower to respect existing regulations, allow the quality control agents to inspect his/her crops and not inconvenience neighbouring seed farms ; and

(b) an undertaking by the producer to provide the farmer-seed grower with all necessary technical instructions and deliver the parent seeds in good time.

2. A seed multiplication contract template is listed in the implementing Regulation referred to in Article 57 of this Regulation.

Control
Agents.

32.—1. Throughout their growing cycle, seed crops shall be under the surveillance of sworn in agents, hereinafter known as inspectors, drawn from the official national quality control and certification authority of the concerned Member State or any other accredited private body.

2. The inspectors shall have the mandate to visit seed farms to ascertain their characteristics and cropping condition.

Field
Inspections.

33.—1. The inspectors shall carry out extension visits and shall, in this regard, have free access to seed farms. They shall produce a field inspection report with respect to each visit.

2. At least four inspection exercises shall be undertaken in the course of a cropping cycle.

(a) *First Inspection : Preliminary Inspection.*—This first inspection shall take place before cropping to ascertain whether or not the land set aside by the producer meets the minimum characteristics and standards required for species to be multiplied.

(b) *Second Inspection : Pre-Flowering phase.*—The second inspection shall take place during the vegetative phase extending from cropping phase to that start of flowering up to emergence of inflorescence.

(c) *Third Inspection : Flowering Phase.*—The third inspection shall take place when some 50 percent of the plants are in flower, the flowers are open, the stigmas are receptive and the spores release pollen.

(d) *Fourth Inspection : Pre-Harvest Phase.*—The fourth inspection shall take place a few days before harvest: the seed is sufficiently firm and has attained physiological maturity.

3. The field characteristics and minimum standards required for each species are specified in the annexed technical regulations mentioned in Article 58 of this Regulation.

34.—1. The minimum number of inspections shall be determined based on the following characteristics :

- Seed farm environment ;
- Origin of parent seed ;
- Cropping history ;
- Isolation ;
- Crop condition.

Factors
determining
Number of
Inspections.

35.—1. A seed farm shall be rejected by the official quality control and certification authority or any other accredited private body if it fails to meet the required standards in respect of :

- Physical purity,
- Adventive plants,
- Health status, and
- Varietal purity.

Grounds for
Rejection of
a Seed farm.

2. The required standards in regard to the above characteristics shall be spelt out in the annexed technical regulations mentioned in Article 58 of this Regulation.

36.—1. The inspections shall take place in the presence of the seed grower or an accredited representative of the producer, and a report containing observations on the cropping condition of the seed farm issued.

Inspection
Report.

2. The report shall also contain technical recommendations or directives in accordance with the rules governing the specific species.

3. A sample field inspection report is listed in the implementing Regulation mentioned in Article 57 of this Regulation.

37.—1. Any seed producer without the necessary technical skills shall resort to the services of a seed technician whom he shall engage from the stage of production up to that of sale to distributors.

Seed
Technicians.

2. The seed technician shall meet the following conditions :

- be accredited by the official national quality control and certification authority ;
- provide services to only one producer at a time. This requirement may, however, be waived if the contract concluded with several producers does not cause prejudice to any of them.

3. The seed technician shall :

- oversee standing crops ;
- be present at each inspection visit ;
- tidy up the sowing, cropping, harvesting and transportation as well as the packaging and storage facilities ;
- identify seed batches ; and
- store the seeds in appropriate conditions.

4. The application for registration template as seed technician is found in the annexed Regulation mentioned in Article 57 of this Regulation.

Internal
Control.

38. Any producer admitted for control may put in place an internal crop control structure that engages seed technicians.

Abandoning a
Seed Farm.

39. seed farm may be abandoned for climatic or technical reasons at any stage of the vegetative process. In that event, the producer shall accordingly inform the official quality control and certification authority or any other accredited private body within the shortest possible time.

Classification
of Crops.

40.—1. The inspectors shall classify the crops on the basis of the outcomes of and the observations made during control visits.

2. A crop may be rejected where the technical recommendations or directives issued during previous visits have not been complied with :

(a) the concerned party shall be notified as soon as possible of any rejection;

(b) where there has been multiplication of parent seeds imported from non-ECOWAS Member States, classification of the seed farms shall be subject to the results of varietal control conducted in the laboratory or in the farm.

CHAPTER X—QUALITY CONTROL OF SEED BATCHES

Constitution
of Seed
Batch.

41.—1. All seed batches shall be physically identifiable by a number which could be a figure or letter or a combination of both.

2. With the authorization of the quality control service, a given batch of certified seeds may be constituted from the products of several farms of the same variety and of the same parent seed.

3. However, with respect to pre-basic and basic seeds, the product from one farm constitutes a batch

Size of a
Seed Batch.

42. The size of seed batches shall depend on the species. It shall be defined in the annexed technical regulations mentioned in Article 58 of this Regulation.

Identification
of Raw Seed
Batches.

43. From the harvest to the packaging stage, raw seed batches of all categories, whether bagged or loose, shall be provisionally identified by a label, a harvest tag or any other relevant document to avoid any accidental mix up.

Sampling.

44.—1. To determine the value of seed batches, the official quality control and certification authority or any other accredited private body shall take samples for laboratory testing.

2. Sampling shall be carried out in accordance with the international rules established by the International Seed testing Association (ISTA)

3. The sample weight for each species shall be defined in the annexed technical regulations mentioned in Article 58 of this Regulation.

4. The samples shall be placed in sachets bearing the following information—

- Official quality control and certification authority or accredited private body of the Member State ;

- Name of producer ;
- Species and variety ;
- Category ;
- Batch number ;
- Batch weight or number of units in the batch ;
- Treatment and products used ;
- Sampling date ;
- Name of agent of the official authority or accredited private body responsible for quality control and certification or of the laboratory assistant.

45.—1. Any seed batch submitted for certification shall be tested in a laboratory designated by the Member State or an official laboratory affiliated to the ISTA.

Laboratory
Control.

2. Such control shall embrace the five key areas indicated hereunder. These standards shall be defined in the annexed technical regulations as stipulated in Article 58 of this Regulation.

(a) *Analytical Purity*.—The laboratory control of analytical purity shall determine.

(i) The composition of the analysed sample; and

(ii) The identity of seed species and inert particles that constitute the sample.

(b) *Water Content*.—The laboratory control of water content shall seek to determine seed moisture content using appropriate methodology.

(c) *Germination Test*.—The germination test shall seek to determine the germinative value of the seeds for sowing in farm and provide data for comparison of different seed batches between them.

(d) *Health Status Test*.—The health status test shall determine the health of a seed sample through examination to detect diseases caused by organisms such as fungi, bacteria and viruses as well as animal parasites including nematodes and insects.

(e) *Varietal Purity*.—The laboratory control of varietal purity shall ascertain the varietal identity of a seed batch and compare its varietal purity with that of a reference sample.

Determination of varietal purity may be morphological, physiological, cytological or chemical.

46.—1. All test results shall be indicated in a seed analysis report issued by the competent national seed testing laboratory of the Member State.

Laboratory
Reports.

2. A sample seed laboratory report is presented in the annexed Regulation mentioned in Article 57 of this Regulation.

3. For this purpose of seed trade in Member States, an International Seed Analysis Certificate is also issued to the national seed testing laboratory of the Member State in accordance with the applicable rules of the ISTA.

A posteriori
Control.

47.—1. A posteriori control shall be carried out after certification, on a reference sample of seeds of all categories. Such control may extend to parent material and pre-basic seeds in the event of a dispute or complaint.

2. With regard to pre-basic and basic seeds, the outcomes of such control shall enable to confirm or modify the classification of remaining seed batches and the progeny of controlled batches.

3. The sample used for quality control shall be taken in accordance with ISTA standards and conserved by the official quality control and certification authority or any other accredited private body of the Member State.

4. A posteriori control shall be conducted in accordance with a protocol established by the quality control and certification authority in collaboration with the national research institutions concerned.

5. Quality control during seed marketing shall be carried out by agents of the official quality control and certification authority or any other accredited private entity and agents of the Ministry of Trade.

CHAPTER XI—CONDITIONING

Seed
Treatment.

48. Seeds presented for certification shall be treated in a seed conditioning plant accredited by the official quality control and certification authority of the Member State in which they have been provided.

Use of
Sorting
Sieve.

49. Seed cleaning lines in accredited conditioning plants shall use at least one set of three-grid sieve, with top, middle and bottom sieves, selected according to the species to be conditioned.

Maintenance
of Facilities.

50. The conditioning facilities shall be leaned after every use to avoid accidental mix ups.

CHAPTER XII—PACKAGING

Types of
Packaging.

51. The type of packaging used shall be those authorised in each Member State. The packaging shall be clean, resistant and to ensure proper seed protection and viability.

52.—1. All producers shall mark the packaging of their seeds.

2. The package markings shall be indicated in clear and easily legible print—

- (a) name and address of the producer or distributor ;
- (b) logo or trade name, where it exist ;
- (c) name of the species and of the variety as listed in the WACPSV ;
- (d) category, generation and production cycle ;
- (e) net weight ;
- (f) certification label ; and
- (g) name of the product used for treatment

CHAPTER XIII—SPLITTING — REPACKAGING

53. Where seed batches have been assembled and labelled, any subsequent splitting and/or repackaging shall be undertaken in the presence of agents of the quality control and certification authority, failing which the seed batches concerned shall be rejected.

Splitting and Repackaging.

54. In the case of splitting and/or repackaging, the new labels shall bear the same particulars as the original labels, with additional information indicating that the batch has been repackaged.

Labelling.

CHAPTER XIV—STORAGE

55.—1. All seed storage facilities must have an appropriate temperature and humidity. They shall be kept tidy and well ventilated to ensure effective seed conservation.

State of Storage Facilities.

2. Storage facilities must also be regularly disinfected.

56. Seed bags shall be placed on duckboards or pallets. They must not be laid down on the ground or be kept in contact with walls. Seeds batches shall be arranged in a way to create a passage between piles of seeds to facilitate control and sampling.

Conditions for Bags Storage.

CHAPTER XV—MODALITIES

57. An implementing Regulation of the Commission shall define the administrative documents template to be used for seed quality control in Member States.

Administrative documents template.

58. An implementing Regulation of the Commission related to the annexed technical regulations shall complement the modalities of seed quality certification and control in the Member States.

Annexed technical regulations.

SECTION III: SEED CERTIFICATION

CHAPTER XVI—CERTIFICATION, ELIGIBILITY CONDITIONS AND CERTIFICATION FEE

59. All plant seed produced for the purpose of marketing shall be certified in accordance with the provisions of the Regulation and its implementing Regulations.

Certification.

60. Certificate shall be applicable only to seed batches from farms regularly eligible for control and for varieties listed in WACPSV.

Eligibility.

61.—1. Any service in respect of certification, be it for control in the field or in laboratory, shall be subject to collection of a certification fee.

Certification Fee.

2. A certification fee shall be collected by the official service or any other quality control and certification body at the time of certification labels issuance or laboratory reports

3. The fee, payment modalities and the conditions for allocation of proceeds shall be determined by each Member State.

**Mandatory
Labelling.**

62.—1. Any packaging containing certified seeds shall bear a certification label issued by the official quality control and certification authority or body. The certification label shall be different from the seed producer's label in accordance with Article 52 of this Regulation.

2. The official service or body responsible for quality control and certification shall have the sole authority to print, distribute and affix official certification labels. This responsibility may, however, be delegated to an accredited private body.

3. Certification labels shall be affixed in a way to ensure inviolability of the package.

4. A certification label identical to that affixed to the package shall be placed inside the said package, where such package does not bear printed specifications of the seed batch.

5. The certification labels sample is listed in the implementing Regulation as stipulated in Article 57 of this regulation.

**Colour of
Certification
Labels.**

63. The colours of certification labels shall depend on seed category. The authorised colours shall be :

- (a) white with diagonal stripes- for parent material and pre-basic seeds ;
- (b) white for basic seeds ;
- (c) blue for "R1" or first generation certified seeds ; and
- (d) red for "R2" or second generation seeds and "F1" hybrid seeds.

**Specifications
on
Certification
Labels.**

64.—1. The top side of certification labels shall bear the following indications—

(a) Name of species, followed where appropriate by cropping suitability or varietal type ; for example—

Species: rainfed rice or irrigated rice ;

Hybrid maize or composite maize ;

(b) Name of variety as listed in ACPSV ;

(c) Batch number ;

(d) Size ;

(e) Minimum germination capacity ;

(f) Year and month of harvest ;

(g) Minimum genetic purity ;

(h) Weight ;

(i) Reference to this Regulation ;

(j) Name of official quality control and certification service or body.

2. The seal of the official quality control and certification authority or accredited private body of the country in which the seed was produced, shall be used as a guarantee of the authenticity of the certification label.

3. The back side of the certification label shall bear no annotation.

4. The number of certification labels shall be strictly limited to the number of units that make up each certified batch.

65.—1. Where a seed batch has been declassified or rejected after testing, for non-compliance with the set standards, all certification labels already issued shall be withdrawn and recovered by the official quality control and certification service or any other accredited private body at the request of any person wishing to use the batch in question.

Withdrawal
of
Certification
Labels.

2. A certification attestation template is listed in the implementing Regulation mentioned in Article 57 of this regulation.

CHAPTER XIX—EXEMPTIONS

67.—(a) Authorization of non-conforming pre-basic and basic seeds. The official authority or any other accredited private body responsible for quality control and certification may exceptionally issue certification labels for pre-basic or basic seeds, which germinating capacity falls below the required standards. In such case, the real germinating capacity shall be indicated on the label.

Exceptional
Issuance of
Certification
Labels.

(b) Authorization of non-conforming seeds.—The official authority or any other accredited private body responsible for quality control and certification may exceptionally issue, in case of an emergency and/or for dormant seeds, certification labels for non-conforming seed batches, after a rapid preliminary evaluation of viability through a biochemical process.

CHAPTER XX—CARRY-OVER SEED BATCHES

68.—1. Certified seed batches shall be considered as carry-over batches counting from the starting date of the new planting season following the harvest season. Such batches shall be declared to the official quality control and certification authority or any other accredited private body.

Declaration
of Carry-
Over Seed
Batches.

2. Such seed batches shall be examined to ascertain germinating capacity by the national laboratory of the Member State or any other laboratory duly accredited. Labels of non-conforming batches shall be withdrawn.

CHAPTER XXI—MUTUAL RECOGNITION

69. Seeds certified by an authorised service of a Member State in accordance with the provisions of this Regulation and its implementing Regulations shall be recognised as such by all other Member States.

Mutual
Recognition
of
Certification.

SECTION IV: SEED MARKETING

CHAPTER XXII— MARKETING BY PRODUCER-DISTRIBUTORS AND DISTRIBUTORS

Variety of Seeds Marketed on the Regional Market.	70. Only seeds registered in the West African Catalogue of Plant Species and Varieties shall be marketed in the sub-region.
Accreditation.	71.—1. The marketing of seeds by producer-distributors and distributors shall be subject to official accreditation. 2. Such accreditation shall be renewable every three years at the holder's request. 3. The criteria for accreditation shall be determined by each Member State in accordance with the provisions of the Regulation.
Stores Accounting.	72. All seed producers-distributors and distributors shall keep detailed account of stock entries and withdrawals in a ledger that shall be available for checking and inspection at all times by the official quality control and certification authority or any other accredited private body, and by the competent authorities of the Ministry of Trade.
State of Storage Facilities.	73.—1. All storage facilities for seed marketing must have appropriate temperature and humidity levels. They shall be kept tidy and well ventilated for effective seed conservation. 2. The storage facilities shall also be regularly disinfected.
Conditions for Bags Storage.	74. Seed bags shall be placed on duckboards or pallets. They must not be laid down on the ground or be kept in contact with walls. Seeds batches shall be arranged in a way to create a passage between piles of seeds to facilitate control and sampling.
Conditions for Transportation.	75. Seeds shall be transported in conditions that maintain their intrinsic quality.

CHAPTER XXIII— EXPORT-IMPORT

Procedure.	76.—1. Without prejudice to Community regulations on external trade, the import and export of conventional seeds shall be subject to prior declaration to the official quality control and certification authority or body. 2. The importer or exporter shall provide the following information regarding the seed batch— - Individual or corporate name ; - Name and address of consignee or supplier ; - Species and variety as registered in the WACPSV ; - Category and generation ; - Batch number ;
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- Declared batch weight ;
- Number of packages ;
- Unit weight of packages ;
- Number of labels specifying first and last figures ; and
- Chemical treatment with the name of active ingredients used.

3. The import and export of unconventional seeds shall be governed by the legislation applicable in the Member States.

77. Member States' national seed testing laboratories accredited by the ISTA shall be authorised to issue an International Certificate where this is required.

Issuance of
International
Certificate.

78.—1. All seed export and import shall be accompanied by a phytosanitary certificate issued by the national service or agency responsible for plant protection in the seed country of origin.

Phytosanitary
Certificate.

2. For the purpose of issuance of phytosanitary certificate, Member States shall periodically conduct surveys and exchange information with a view to drawing up comprehensive inventories of existing pests in the respective States.

3. Such inventories shall aim at updating the list of quarantine and non-quarantine pests.

4. The list of quarantine and non-quarantine pests and the modalities of seed phytosanitary control drawn up for the purpose of inter and intra-Community trade shall be determined by ECOWAS Commission.

79. Exchange of plant material among Member States for scientific research shall not be affected by the provisions of Article 76 of this Regulation. However, a phytosanitary certificate shall be required.

Scientific
Research.

80.—1. Any imported or exported seed batch that arouses suspicion of fraud or falsification shall be considered as dubious and temporarily impounded.

Dubious
Seed
Batches.

2. A sample thereof shall be taken by the official quality control and certification authority or any other accredited private body and transmitted to the national seed testing laboratory for investigation of fraud and falsification. Where the results fail to match the specifications on the documents accompanying the seeds, the seed batch shall be seized by agents or officers of the criminal police or sworn in agents of Customs and plant protection. Thus, the use of such batch shall not be authorised; and labels shall be withdrawn and destroyed.

81.—1. Any batch transmitting through the territory of a Member State shall be declared to the official quality control and certification authority or any other accredited private body by the individual or corporate entity responsible for the transit.

Batches in
Transit

2. Information concerning the consignee and the country of destination shall be communicated to the official quality control and certification authority or any other accredited private body and to the official plant protection services by the aforementioned individual or corporate entity.

3. Transiting batches shall be accompanied by a phytosanitary certificate indicating the source and destination of the seeds. The concerned batches shall not be subject to quality control in the transit countries.

SECTION V : SANCTIONS

Sanctions for
Infringement.

82.—1. The following shall constitute breaches of the provisions of this Regulation and its implementing Regulations.

- (a) production of seeds without professional card ;
- (b) marketing of seeds without accreditation ;
- (c) misleading information on seed labelling, wilful modification or alteration of labelling and the use of any trickery to mislead third parties regarding seed quality ;
- (d) distribution, for animal or human consumption, of seeds treated with substances harmful to human or animal health and, thus, unfit for consumption;
- (e) failure to keep proper ledger as laid down in Article 73 of the Regulation;
- (f) import or export of conventional seeds without prior declaration ;
- (g) import or export of unconventional seeds contrary to the applicable legislation ;
- (h) obstruction of official inspection or control activities;
- (i) non-compliance with the conditions of admission for control ; and
- (j) fraud or attempted fraud in the use or marketing of seeds transiting through Member States.

2. Member States shall take all appropriate measures to impose sanctions for any breach of the provisions of the Regulation.

Empowerment
and
Authority of
Control
Agents.

83.—1. Member States shall draw up a list of agents authorised to carry out compliance verifications.

2. The agents shall be granted the power to inspect and investigate to enable them to, among other things—

- (a) enter the professional premises including compounds and buildings meant for seed distribution as well as seed warehouses, storeroom and other storage places and depots ;
- (b) access request submission to them on any document related to seed producers and seed distributors activities ;
- (c) inspect facilities, sites, works, vehicles, devices and tools used in seed related activities; and
- (d) collect samples and ensure the validity of these samples and leave open the possibility of alternative evaluation.

3. Inspections during seed production and marketing shall be carried out in the presence of the producer and the distributor or their representative.

SECTION VI : GUARANTEES FOR PERSONS SUBJECT TO CONTROL AND FOR DISTRIBUTORS

84. Individuals or corporate bodies subject to compliance control and inspection at all stages of seed production, certification and marketing shall be granted the following guarantees—

Scope of
Guarantees.

(a) confidentiality of the information they provide, since the authorised individuals or corporate bodies are bound by professional secrecy ;

(b) Representatives of samples used as basis for contested administrative measures ;

(c) Right to resort to alternative opinion and to lodge an appeal according to applicable procedures ;

(d) Right to be present or be represented during control exercise ;

(e) Right to request disclosure of documents such as notification of measures taken against them, grounds for such decision, receipts for sampling and seed seizure reports, laboratory test results, their statements and any other document that inform the decisions that affect them.

SECTION VII: MISCELLANEOUS PROVISIONS

85. To further its activities, WACPSV may be open to the sub-regional institutions operating in the seed sector. Specific Conventions shall define the modalities of such opening.

Implementa-
tion.

ARTICLE 86. Seed quality control, certification and marketing activities within the community shall be carried out in accordance with applicable ECOWAS texts.

Relation
with Other
Community
Texts.

SECTION VIII : FINAL PROVISIONS

87. This Regulation shall be published by the Commission in the Official Journal of the Community within thirty (30) days following signature by the Chairperson of the Council of Ministers. It shall also be published in the Member States' Official Gazette within the same time frame.

Publication.

88. This Regulation shall enter into force upon its publication.

Entry into
Force.

DONE in ABUJA, this 18TH DAY OF May, 2008.

H.E. MRS. MINATA SAMATE CESSOUMA
Chairperson for the Council

