COMMISSION DECISION

of 28 November 2005

providing for the temporary marketing of certain seed of the species *Triticum durum*, not satisfying the requirements of Council Directive 66/402/EEC

(notified under document number C(2005) 4527)

(Text with EEA relevance)

(2005/841/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 66/402/EEC of 14 June 1966 on the marketing of cereal seed [1], and in particular Article 17 thereof,

Whereas:

(1) In Austria the quantity of available seed of winter varieties of durum wheat (*Triticum durum*) suitable for the national climatic conditions and which satisfies the germination capacity requirements of Directive 66/402/EEC is insufficient and is therefore not adequate to meet the needs of the Member State.

(2) It is not possible to meet the demand for seed of that species satisfactorily with seed from other Member States or from third countries, which satisfies all the requirements laid down in Directive 66/402/EEC.

(3) Accordingly, Austria should be authorised to permit the marketing of seed of that species subject to less stringent requirements for a period expiring on 15 November 2005.

(4) In addition, other Member States irrespective of whether the seed was harvested in a Member State or in a third country covered by 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 the equivalence of seed produced in third countries [2] which are in a position to supply Austria with seed of that species, should be authorised to permit the marketing of such seed.

(5) It is appropriate that Austria act as coordinator in order to ensure that the total amount of seed authorised pursuant to this Decision does not exceed the maximum quantity covered by this Decision.

(6) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seeds and Propagating Material for Agriculture, Horticulture and Forestry,

HAS ADOPTED THIS DECISION:

Article 1

The marketing in the Community of seed of winter durum wheat which does not satisfy the minimum germination capacity requirements laid down in Directive 66/402/EEC shall be permitted, for a period expiring on 15 November 2005, in accordance with the terms set out in the Annex to this Decision and subject to the following conditions:

(a) the germination capacity is at least 75 % of pure seed,

(b) the official label states the germination ascertained in the official examination or the examination carried out under official supervision pursuant to Article 2(1)(F)(d) and 2(1)(G)(d) of Directive 66/402/EEC,

(c) the seed must have been first placed on the market in accordance with Article 2 of this Decision.

Article 2

Any seed supplier wishing to place on the market the seed referred to in Article 1 shall apply to the Member State in which he is established.

[1] OJ 125, 11.7.1966, p. 2309/66. Directive as last amended by Directive 2004/117/EC (OJ L 14, 18.1.2005, p. 18).

[2] OJ L 8, 14.1.2003, p. 10. Decision as last amended by Regulation (EC) No 885/2004 (OJ L 168, 1.5.2004, p. 1).

The Member State concerned shall authorise the supplier to place that seed on the market, unless:

(a) there is sufficient evidence to doubt as to whether the supplier is able to place on the market the amount of seed for which he has applied for authorisation; or

(b) the total quantity authorised to be marketed pursuant to the derogation concerned would exceed the maximum quantity specified in the Annex.

Article 3

The Member States shall assist each other administratively in the application of this Decision.

Austria shall act as coordinating Member State in order to ensure that the total amount authorised does not exceed the maximum quantity specified in the Annex.

Any Member State receiving an application under Article 2 shall immediately notify the coordinating Member State of the amount covered by the application. The co-ordinating Member State shall immediately inform the notifying Member State as to whether authorisation would result in the maximum quantity being exceeded.

Article 4

Member States shall immediately notify the Commission and the other Member States of the quantities in respect of which they have granted marketing authorisation pursuant to this Decision.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 28 November 2005.

For the Commission
Markos KYPRIANOU
Member of the Commission

ANNEX

Species	Type of variety	Maximum quantity (tonnes)
Triticum durum	Auradur, Heradur, Inverdur, Prowidur, Superdur, Windur	500