

# Plan protection products: creation of a supplementary protection certificate

1994/0285(COD) - 23/07/1996 - Final act

**OBJECTIVE:** harmonizing, at Community level, the effective protection afforded to inventions in the plant protection field and, consequently, to ensure the proper functioning of the internal market and place the European industry in the same conditions of competitiveness as its North American and Japanese counterparts. **COMMUNITY MEASURE:** Regulation (EC) No 1610/96 of the European Parliament and the Council concerning the creation of a supplementary protection certificate for plant protection products. **SUBSTANCE:** the Regulation provides for the creation of a new industrial property instrument, the supplementary protection certificate, which will give plant protection products (insecticides, fungicides and herbicides) a supplementary protection of five years from the expiry of the basic patent. The supplementary certificate will apply to all patents existing at national level, whether granted under national law, the European Patent Convention (Munich), or, subsequently, the Community Patent Convention (Luxembourg) instituting a Community patent. As was decided for medicinal products in 1992, this Regulation harmonizes the conditions for granting supplementary protection certificates and their duration; it does not create a single application or a body specifically responsible for issuing supplementary protection certificates. The application for a certificate must be lodged with the competent industrial property office of the Member State which granted the basic patent, that office being required to publish notification of the granting of the certificate. The certificate, which cannot be granted for a period exceeding five years, gives an overall maximum of 15 years exclusive protection from the time the plant protection product in question first obtains authorization to be placed on the market. The certificate can be granted for all products in respect of which a first authorization for placement on the market in the Community was obtained after 1 January 1985 and which are protected by a valid patent on the date on which it enters into force. **DATE OF ENTRY INTO FORCE:** 8 February 1997. The Regulation is applicable from 2 January 1998 in those Member States whose legislation in force on 1 January 1990 did not provide for the patentability of plant protection products.