

Plan protection products: creation of a supplementary protection certificate

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The objective of the proposal for a regulation is to harmonise, 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. The proposal therefore provides for the creation of a new industrial property instrument, the supplementary protection certificate, which will give plant protection products (insecticides, fungicides and herbicides) supplementary protection of five years from 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 harmonises 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. According to the proposal, any invention will benefit from maximum effective protection of 15 years from the date on which authorisation to place it on the Community market is first obtained. The certificate will grant the same rights and impose the same obligations as the basic patent. The duration of the various certificates covering the same product in several Member States will be calculated on the basis of precise dates and references. Finally, the system will apply to all products authorised in the Community after 1 January 1995 for which a patent still applies and a transitional scheme will apply to products already on the market when the regulation enters into force.