



Basic information	
<b>1994/0285(COD)</b> COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Plan protection products: creation of a supplementary protection certificate  <b>Subject</b> 3.10.09.02 Plant health legislation 3.50.16 Industrial property, European patent, Community patent, design and pattern	





Key players				
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>
	<b>JURI</b> Legal Affairs		AÑOVEROS TRIAS DE BES Julio (PPE)	02/02/1995
	<b>Former committee responsible</b>		<b>Former rapporteur</b>	<b>Appointed</b>
	<b>JURI</b> Legal Affairs		AÑOVEROS TRIAS DE BES Julio (PPE)	02/02/1995
	<b>Former committee for opinion</b>		<b>Former rapporteur for opinion</b>	<b>Appointed</b>
	<b>AGRI</b> Agriculture and Rural Development		MAYER Xaver (PPE)	22/03/1995
	<b>ECON</b> Economic and Monetary Affairs		GASÒLIBA I BÖHM Carles-Alfred (ELDR)	16/02/1995
	<b>ENER</b> Research, Technological Development and Energy		HEINISCH Renate Charlotte (PPE)	02/02/1995
	<b>ENVI</b> Environment, Climate and Food Safety			
	Council of the European Union	<b>Council configuration</b>	<b>Meetings</b>	<b>Date</b>
Fisheries		1935	1996-06-10	
Telecommunications		1888	1995-11-27	

Key events			

Date	Event	Reference	Summary
09/12/1994	Legislative proposal published	COM(1994)0579 	Summary
16/01/1995	Committee referral announced in Parliament, 1st reading		
23/05/1995	Vote in committee, 1st reading		Summary
23/05/1995	Committee report tabled for plenary, 1st reading	A4-0118/1995	
14/06/1995	Debate in Parliament	CRE link	Summary
15/06/1995	Decision by Parliament, 1st reading	T4-0291/1995	Summary
05/10/1995	Modified legislative proposal published	COM(1995)0456 	Summary
27/11/1995	Council position published	11217/3/1995	Summary
14/12/1995	Committee referral announced in Parliament, 2nd reading		
22/02/1996	Vote in committee, 2nd reading		Summary
22/02/1996	Committee recommendation tabled for plenary, 2nd reading	A4-0048/1996	
12/03/1996	Decision by Parliament, 1st reading	T4-0114/1996	Summary
12/03/1996	Debate in Parliament	CRE link	Summary
10/06/1996	Act approved by Council, 2nd reading		Summary
23/07/1996	Final act signed		
23/07/1996	End of procedure in Parliament		
08/08/1996	Final act published in Official Journal		

Technical information	
<b>Procedure reference</b>	1994/0285(COD)
<b>Procedure type</b>	COD - Ordinary legislative procedure (ex-codecision procedure)
<b>Procedure subtype</b>	Legislation
<b>Legislative instrument</b>	Regulation
<b>Legal basis</b>	EC before Amsterdam E 100A
<b>Stage reached in procedure</b>	Procedure completed
<b>Committee dossier</b>	JURI/4/07325

Documentation gateway				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A4-0118/1995 OJ C 166 03.07.1995, p. 0003	23/05/1995	
Committee recommendation tabled for plenary, 2nd reading		A4-0048/1996 OJ C 078 18.03.1996, p. 0004	22/02/1996	
<b>Council of the EU</b>				
Document type	Reference	Date	Summary	
Council position	11217/3/1995 OJ C 353 30.12.1995, p. 0036	27/11/1995	Summary	

European Commission				
Document type		Reference	Date	Summary
Legislative proposal		COM(1994)0579  OJ C 390 31.12.1994, p. 0021	09/12/1994	<a href="#">Summary</a>
Modified legislative proposal		COM(1995)0456  OJ C 335 13.12.1995, p. 0015	05/10/1995	<a href="#">Summary</a>
Commission communication on Council's position		SEC(1995)1841 	11/12/1995	<a href="#">Summary</a>
Commission opinion on Parliament's position at 2nd reading		COM(1996)0185 	02/05/1996	<a href="#">Summary</a>
Other institutions and bodies				
Institution/body	Document type	Reference	Date	Summary
ESC	Economic and Social Committee: opinion, report	CES0409/1995 OJ C 155 21.06.1995, p. 0014	27/04/1995	

Additional information		
Source	Document	Date
European Commission	<a href="#">EUR-Lex</a>	

Final act
<a href="#">Regulation 1996/1610</a> <a href="#">OJ L 198 08.08.1996, p. 0030</a> <span style="float: right;"><a href="#">Summary</a></span>

## Plan protection products: creation of a supplementary protection certificate

1994/0285(COD) - 09/12/1994 - Legislative proposal

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.

## Plan protection products: creation of a supplementary protection certificate

1994/0285(COD) - 02/05/1996 - Commission opinion on Parliament's position at 2nd reading

The Commission accepted the spirit and objective of Parliament's amendment to the common position, which sought to change a declaration which the Commission and the Council wished to attach to the minutes of the Council meeting into a recital, but proposed a different wording.

## **Plan protection products: creation of a supplementary protection certificate**

1994/0285(COD) - 10/06/1996

The Council adopted the Regulation by qualified majority, with Italy voting against the proposal (with an explanation of vote)

## **Plan protection products: creation of a supplementary protection certificate**

1994/0285(COD) - 11/12/1995 - Commission communication on Council's position

The Commission accepted all the changes resulting from the Council's work, both in relation to the amended proposal and subsequently.

## **Plan protection products: creation of a supplementary protection certificate**

1994/0285(COD) - 05/10/1995 - Modified legislative proposal

The Commission's amended proposal incorporated the four amendments adopted by the European Parliament to clarify the economic and legal conditions affecting the plant protection sector within the Community. The amendments were aimed mainly at emphasising that: - research into plant protection products contributed to the continuing improvement in the production and procurement of food of good quality; - plant protection products would continue to be developed if there was sufficient protection in the Community to encourage research; - the plant protection sector was in a similar situation to that experienced by the medicinal products sector when an equivalent measure to restore the period of effective protection under the patents was proposed and then adopted; - one of the purposes of the proposal was to place European industry on the same competitive footing as its international competitors. The Commission also incorporated new provisions designed to: - take account of the amendment of Directive 91/414/EEC, which had been taken place since the Commission had submitted its proposal; - clarify the scope of the protection granted by the supplementary certificate and the links between basic patents and supplementary certificates; - point out that, in general, the holder of more than one patent for the same should not be granted more than one certificate for that product and indicate the circumstances in which two or more certificates could be granted for the same product; - take account of the situation in Member States where authorisation for placing plant protection products on the market was not published in an official publication; - take account of the unique nature of the procedure for granting a product market authorisation: account would be taken of a provisional first marketing authorisation only if it was directly followed by a definitive authorisation concerning the same product; - enable the Member States which already had in place specific provisions for supplementary protection certificates for medicinal products to apply them, mutatis mutandis, to the supplementary certificates for plant protection products; - take account of the situation in Member States where their national parliaments had to adopt implementing rules: as a result, the regulation would enter into force six months after its publication in the OJ.

## **Plan protection products: creation of a supplementary protection certificate**

1994/0285(COD) - 27/11/1995 - Council position

The Council's common position incorporated the four amendments adopted by the European Parliament at first reading and approved by the Commission. They aim to ensure that: - pharmaceutical research contributes to the improvement in the production and procurement of food of good quality at affordable prices; - the competitiveness of the plant protection sector requires a level of protection for innovation which is equivalent to that granted to medicinal products by Regulation (EEC) No 1768/92; - one of the objectives of the supplementary protection certificate is to place European industry on the same competitive footing as its North American and Japanese counterparts. The Council also incorporated in full the technical improvements to the text introduced by the Commission in its amended proposal.

## **Plan protection products: creation of a supplementary protection certificate**

1994/0285(COD) - 27/11/1995

The Council adopted, by a qualified majority, Italy voting against, a common position on the proposal for a regulation concerning the creation of a supplementary protection certificate for plant protection products.

## **Plan protection products: creation of a supplementary protection certificate**

1994/0285(COD) - 15/06/1995 - Text adopted by Parliament, 1st reading/single reading

The European Parliament approved this proposal for a regulation subject to the following amendments: it added three recitals aimed at emphasising that: - research on pharmaceutical products contributed to the improvement in the production and procurement of food of good quality at affordable prices; - competitiveness in this sector required a level of protection for innovation which was equivalent to that granted to medicinal products by Regulation (EEC) No 1768/92 concerning the creation of a supplementary protection certificate for medicinal products; - the real objective of this certificate was to place European industry on the same competitive footing as its American and Japanese counterparts.

## **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.

## **Plan protection products: creation of a supplementary protection certificate**

1994/0285(COD) - 12/03/1996 - Text adopted by Parliament, 2nd reading

In adopting the report by Mr Julio ANOVE-ROS TRIAS de BES (EPP, ES), the European Parliament approved the common position of the Council concerning the creation of a supplementary protection certificate for plant protection products. Since the common position of the Council takes over all the amendments tabled by the European Parliament at first reading, the EP puts forward only one amendment seeking to introduce a new recital for the sake of transparency.