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From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	General Secretariat of the Council

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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 10.6.2022 establishing a derogation from Article 43(1) of Regulation (EU) 2016/2031 of the European Parliament and the Council as regards the import conditions for introduction into the Union of wood packaging material in the form of ammunition boxes, originating in the United States of America, under the control of the United States Department of Defence, and manufactured before 1 September 2007
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Delegations will find attached document C(2022) 3699 final.

Encl.: C(2022) 3699 final



Brussels, 10.6.2022
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COMMISSION DELEGATED REGULATION (EU) .../...

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establishing a derogation from Article 43(1) of Regulation (EU) 2016/2031 of the European Parliament and the Council as regards the import conditions for introduction into the Union of wood packaging material in the form of ammunition boxes, originating in the United States of America, under the control of the United States Department of Defence, and manufactured before 1 September 2007

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 43 (1) of Regulation (EU) 2016/2031 establishes the requirements for introduction into the Union of wood packaging material (WPM) on the basis of the International Standard for Phytosanitary Measures No 15 *Regulation of Wood Packaging Material in International Trade* (ISPM15).

Article 43(2) of that Regulation, *inter alia*, empowers the Commission to adopt delegated acts for WPM to be subject to less stringent requirements.

Article 22(2) of Regulation (EU) 2017/625 empowers the Commission to adopt delegated acts for the performance of official controls on plants, plant products and other objects in order to verify compliance with Union rules applicable to those goods.

In that regard, this Commission Delegated Regulation establishes a temporary derogation from the import requirements of Article 43(1) of Regulation (EU) 2016/2031, provided, that certain conditions are met.

Implementing Decision (EU) 2015/179 authorised Member States to introduce into the Union WPM of conifers in the form of ammunition boxes originating in the United States of America. That derogation expired on 31 December 2020.

The United States of America have requested a prolongation of that derogation and an extension of the scope to wood packaging material made of hard wood. Based on the analysis of the supporting dossier submitted by the US National Plant Protection Organization, the Commission has concluded that the boxes concerned do not present any risk of spreading plant pests, provided, that certain conditions are satisfied.

Based on the above and in order to take account of the provisions of Regulation (EU) 2016/2031, which has become applicable since 14 December 2019, Implementing Decision (EU) 2015/179 should be repealed and replaced by this Regulation.

This Regulation should apply until 31 July 2025 to allow time to monitor the shipments of ammunition boxes from US and the compliance with the specific conditions.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission Expert Group on "Plant Health" (E00925) was consulted on 23 September 2020, 26 May 2021, 22 October 2021 and 26 April 2022 and a number of meetings have been held with the US National Plant Protection Organization (NPPO) to discuss the issue in the framework of the plant health working group between the EU and US.

The informal discussions contributed to the preparation of a draft, which did not present controversial issues.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Commission Delegated Regulation is based on Article 43(2) of Regulation (EU) 2016/2031 and Article 22(2) of Regulation (EU) 2017/625.

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establishing a derogation from Article 43(1) of Regulation (EU) 2016/2031 of the European Parliament and the Council as regards the import conditions for introduction into the Union of wood packaging material in the form of ammunition boxes, originating in the United States of America, under the control of the United States Department of Defence, and manufactured before 1 September 2007

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/2031 of the European Parliament and the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC¹, and in particular Article 43(2),

Whereas:

- (1) Commission Implementing Decision (EU) 2015/179² authorised Member States to provide for a temporary derogation from certain provisions of Council Directive 2000/29/EC³ in respect of special conditions concerning the introduction into the Union of wood packaging material of conifers (*Pinopsida*) in the form of ammunition boxes originating in the United States of America, under the control of the United States Department of Defence. Since the validity of this Decision expired on 31 December 2020, new rules should be adopted in order to allow the introduction of such ammunition boxes under certain conditions also in future.
- (2) Article 43(1) of Regulation (EU) 2016/2031 provides for specific requirements for the introduction into the Union of wood packaging material, which should comply with the International Standard for Phytosanitary Measures No 15 (ISPM 15): Regulation of Wood Packaging Material in International Trade⁴, guaranteeing that the wood packaging material has been subjected to approved phytosanitary treatment.

¹ OJ L 317, 23.11.2016, p. 4.

² Commission Implementing Decision (EU) 2015/179 of 4 February 2015 authorising Member States to provide for a derogation from certain provisions of Council Directive 2000/29/EC in respect of wood packaging material of conifers (Coniferales) in the form of ammunition boxes originating in the United States of America under the control of the United States Department of Defence (OJ L 30, 6.2.2015, p. 38).

³ Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

⁴ International Standard for Phytosanitary Measures No 15 (ISPM 15): Regulation of Wood Packaging Material in International Trade. <https://www.ippc.int/en/core-activities/standards-setting/ispms/#614>.

- (3) Certain wood packaging material of conifers (*Pinopsida*) in the form of boxes used in the transport of ammunition and manufactured in the United States of America before 1 September 2007, have been subject to treatments which are not in line with the applicable requirements set out in Annex I to ISPM 15 and therefore do not fulfil the conditions set out in Article 43(1) of Regulation (EU) 2016/2031.
- (4) On 7 September 2018, the United States of America requested a prolongation of the derogation under Implementing Decision (EU) 2015/179 for wood packaging material made of softwood and an extension of the scope of the derogation to wood packaging material made of hardwood. The United States of America have accompanied the above-mentioned request with a dossier which represents a follow-up to a previous pathway analysis of the United States Department of Defence as regards softwood ammunition boxes, complementing it by a pathway analysis for hardwood ammunition boxes.
- (5) The Commission has concluded, on the basis of the information supplied by the United States of America and following a discussion with the relevant expert group on a derogation for introduction into the Union of wood packaging material in the form of ammunition boxes from United States of America, that the boxes referred to in recital 3 and used in the transport of ammunition, both of soft and hard wood, do not present any risk of spreading plant pests, provided that certain conditions are met. These conditions concern the date of production of those ammunition boxes, the absence, or the limited presence, of bark, the treatment and repair of such boxes, as well as their storage and transport.
- (6) This derogation should only apply to wood packaging material in the form of ammunition boxes originating in the United States of America, which has been manufactured before 1 September 2007, as boxes manufactured after that date have undergone a treatment in accordance with ISPM 15.
- (7) Therefore, such wood packaging material in the form of ammunition boxes originating in the United States of America, both of soft and hard wood, should be allowed to be introduced into, as well as stored and moved within, the Union territory, as long as it fulfils the conditions set out in this Regulation.
- (8) In order to ensure effective controls and overview of the potential phytosanitary risks, any operator moving or storing wood packaging material in the form of ammunition boxes originating in the United States of America, after the respective relevant checks, should notify the respective competent authority concerning the movement or storage of the boxes concerned.

- (9) In order to assure a swift response to any potential phytosanitary risk from wood packaging material in the form of ammunition boxes originating in the United States of America, Member States should immediately inform each other and the Commission when they become aware of a consignment not complying with the requirements concerning the conditions for introduction into the Union set out in this Regulation. In addition, they should, on an annual basis, provide the Commission and the other Member States with information on the imports made, in order to assess the application of this Regulation.
- (10) The conditions for the derogation introduced by this Regulation should apply until 31 July 2025 to allow for the review of the implementation of its measures, and to examine whether they effectively address the phytosanitary risk of the import of that wood packaging material.
- (11) Since Commission Implementing Decision (EU) 2015/179 expired already on 31 December 2020, this Implementing Regulation should enter into force on the third day after its publication in the Official Journal of the European Union, in order to ensure the swiftest possible introduction of this wood packaging material into the Union.

HAS ADOPTED THIS REGULATION:

Article 1

Authorisation to provide for derogation and conditions for the ammunition boxes

Wood packaging material in the form of boxes, actually in use in the transport of ammunition, manufactured before 1 September 2007, and originating in the United States of America, under the control of the United States Department of Defence ('the boxes'), is exempted from the requirements of Article 43(1) of Regulation (EU) 2016/2031, where:

- (a) the boxes fulfil the conditions set out in the Annex to this Regulation; and
- (b) the requirements in accordance with Articles 2, 3 and 4 are fulfilled.

Article 2

Notification obligation

1. At least five working days before the intended introduction of a consignment as referred to in Article 1, the importer shall notify the competent authorities of the Member State of the point of entry of its intention to introduce the consignment. Within the same period, the importer shall also provide the same notification to the competent authorities of the Member State of the first place of storage, where that place differs from the point of entry.
2. The notification referred to in paragraph 1 shall include the following elements:
 - (a) date of intended introduction;
 - (b) an inventory of the consignment concerned identifying the boxes forming part of it;

- (c) name and address of importer;
- (d) address of the point of entry of intended introduction;
- (e) address of the first place of storage, where that differs from the point of entry.

Article 3

Checks by the competent authorities

1. The competent authorities of the Member State of the point of entry shall check the presence and completeness of the document described in point 7 of the Annex. They shall also check compliance of a representative sample of each consignment with the following points of the Annex:
 - (a) points (1) and (2) concerning the display of the respective marks;
 - (b) point (3) concerning repaired boxes;
 - (c) point (4) concerning the absence of bark;
 - (d) point (5) concerning the moisture content level;
2. By derogation from paragraph 1, where the first place of storage differs from the point of entry, the competent authorities of the Member State of the first place of storage shall carry out the check described in that paragraph.

Article 4

Storage and movement of the boxes

1. Prior to and after the conduct of the checks referred to in Article 3, the boxes shall remain stored in closed buildings.
2. Any movement of the boxes may only take place in closed containers, or under full protective cover.

Article 5

Notification of non-compliance

Member States shall notify the Commission and the other Member States of each consignment not complying with the conditions set out in the Annex.

That notification shall take place no later than three working days after the date when the competent authority becomes aware of such a consignment.

Article 6

Reporting on imports

By 31 January of each year, the Member State of the first place of storage shall provide the Commission and the other Member States with information on the number of consignments introduced into their territories and with a report on the checks referred to in Article 3 carried out between 1 January and 31 December of the preceding year.

Article 7

Expiry date

This Regulation shall expire on 31 July 2025.

Article 8

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10.6.2022

For the Commission
The President
Ursula VON DER LEYEN