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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2016/2031 of the European Parliament and of the Council as regards multiannual survey programmes, notifications concerning the presence of regulated non-quarantine pests, temporary derogations from import prohibitions and special import requirements and establishment of procedures for granting them, temporary import requirements for high risk plants, plant products and other objects, the establishment of procedures for the listing of high risk plants, the content of phytosanitary certificates, the use of plant passports and as regards certain reporting requirements for demarcated areas and surveys of pest - Outcome of the European Parliament's first reading and Corrigendum procedure (Strasbourg, 24 April 2024 and 8 October 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint Declaration on practical arrangements for the co-decision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this legislative file at first reading.

¹ OJ C 145, 30.6.2007, p.5.

This file was expected² to undergo the Corrigendum procedure³ in the European Parliament after adoption by the outgoing European Parliament of its position at first reading.

II. VOTES

At its sitting of 24 April 2024, the European Parliament adopted amendment 34 (without legal linguistic revision) to the Commission proposal and a legislative resolution, constituting the European Parliament's position at first reading. It reflects what had been provisionally agreed between the Institutions.

After finalisation of the adopted text by the legal linguists, the European Parliament approved on 8 October 2024 a corrigendum to the position adopted at first reading.

With this corrigendum, the Council should be able to approve the position of the European Parliament as set out in the Annex⁴ hereto, thus bringing to a close the first reading for both Institutions.

The act would then be adopted in the wording which corresponds to the European Parliament's position.

² 10819/24 + COR 1.

³ Rule 251, EP Rules of Procedure.

⁴ The text of the corrigendum is set out in the Annex. It is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

P9_TA(2024)0346

Amendment of Regulation (EU) 2016/2031 on protective measures against pests of plants

European Parliament legislative resolution of 24 April 2024 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/2031 of the European Parliament and of the Council as regards multiannual survey programmes, notifications concerning the presence of regulated non-quarantine pests, temporary derogations from import prohibitions and special import requirements and establishment of procedures for granting them, temporary import requirements for high risk plants, plant products and other objects, the establishment of procedures for the listing of high risk plants, the content of phytosanitary certificates, the use of plant passports and as regards certain reporting requirements for demarcated areas and surveys of pest (COM(2023)0661 – C9-0391/2023 – 2023/0378(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2023)661),
- having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0391/2023),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 13 December 2023¹,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 13 March 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rule 59 of its Rules of Procedure,
- having regard to the report of the Committee on Agriculture and Rural Development (A9-0035/2024),

1. Adopts its position at first reading hereinafter set out;

¹ *OJ C, C/2024/1588, 5.3.2024, ELI: <http://data.europa.eu/eli/C/2024/1588/oj>.*

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 24 April 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council amending Regulation (EU) 2016/2031 as regards multiannual survey programmes, notifications concerning the presence of regulated non-quarantine pests, temporary derogations from import prohibitions and special import requirements and establishment of procedures for granting them, temporary import requirements for high-risk plants, plant products and other objects, the establishment of procedures for the listing of high-risk plants, the content of phytosanitary certificates and the use of plant passports, and as regards certain reporting requirements for demarcated areas and surveys of pests and amending Regulation (EU) 2017/625 as regards certain notifications of non-compliance

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁶,

Acting in accordance with the ordinary legislative procedure⁷,

⁶ *OJ C*, C/2024/1588, 5.3.2024, ELI: <http://data.europa.eu/eli/C/2024/1588/oj>.

⁷ Position of the European Parliament of 24 April 2024.

Whereas:

- I**
- (1) *Enhanced clarity, transparency and coherence are needed to ensure the correct implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council⁸, as healthy plants are vital to sustainable agricultural and horticultural production and contribute to food security and food safety and to the protection of the environment against pests.*
- (2) Regulation (EU) 2016/2031 sets out rules on protective measures against pests of plants. Those rules include the classification and listing of regulated pests, requirements concerning the introduction into, and movement within, the Union territory of certain plants, plant products and other objects, surveys, notifications of outbreaks, measures to eradicate pests if found present in the Union territory and certification.
- (3) Moreover, Regulation (EU) 2016/2031 contains a number of reporting requirements in the fields of establishment of demarcated areas and surveys of Union quarantine pests, priority pests and protected zones quarantine pests. Those reporting requirements play a key role in ensuring proper monitoring and correct enforcement of legislation. However, it is important to streamline and simplify those requirements in line with the Commission's Communication of 16 March 2023 entitled 'Long-term competitiveness of the EU: looking beyond 2030' *and to promote harmonised, standardised and digitalised procedures* in order to ensure that those requirements fulfil the purpose for which they were intended and to *reduce bureaucracy while limiting* the administrative *and financial* burden.

⁸ Regulation (EU) 2016/2031 of the European Parliament and of 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/EC (OJ L 317, 23.11.2016, p. 4).

- (4) In accordance with Article 18(6) of Regulation (EU) 2016/2031, Member States are to notify the Commission and the other Member States, by 30 April of each year, of the number and locations of the demarcated areas established, the pests concerned and the respective measures taken during the preceding calendar year.

- (5) Experience with the application of Regulation (EU) 2016/2031 has shown that it is more effective, for the purpose of coordination of phytosanitary policy at Union level, to notify the demarcated areas immediately after their establishment. Immediate notification of demarcated areas by a Member State helps the other Member States, the Commission and professional operators to become aware about the presence and spread of the pest concerned and to decide on the next measures to be taken. Therefore, it is appropriate to include in Article 18(6) of Regulation (EU) 2016/2031 an obligation for Member States to notify the Commission and the other Member States of the demarcated areas immediately after their establishment, together with the pests concerned and the respective measures taken. Such an obligation would not add any new administrative burden, because it is already set out in Annex I, point 7.1, to Commission Implementing Regulation (EU) 2019/1715⁹ and applied by all Member States. Setting out that obligation in Article 18(6) of Regulation (EU) 2016/2031 would further enhance clarity about the applicable rules concerning demarcated areas, with the understanding that the corresponding obligation in Implementing Regulation (EU) 2019/1715 is to be removed to avoid overlaps of the provisions concerned.

⁹ Commission Implementing Regulation (EU) 2019/1715 of 30 September 2019 laying down rules for the functioning of the information management system for official controls and its system components (the IMSOC Regulation) (OJ L 261, 14.10.2019, p. 37).

- (6) Moreover, and as experience with the application of Article 18(6) of Regulation (EU) 2016/2031 has shown, the obligation for Member States to notify the Commission and the other Member States, by 30 April of each year, of the number and locations of the demarcated areas established, the pests concerned, and the respective measures taken during the preceding calendar year only adds administrative burden and has no practical value in view of the obligation of immediate notification of demarcated areas. The corresponding provision should therefore be removed from that Article.
- (7) *In order to rationalise the reporting obligations and to enhance the digitalisation of reporting, the immediate notification of demarcated areas should be made through the electronic notification system referred to in Article 103 of Regulation (EU) 2016/2031. For reasons of consistency, the notifications following the finding of a presence of the pest concerned in the buffer zone referred to in Article 19(2) and the abolition of the demarcated areas referred to in Article 19(4) of that Regulation should also be made through that electronic notification system.*

- (8) *Experience has shown that on certain occasions Member States need the assistance of experts to allow for swift action against new outbreaks of particular pests in their territories. Therefore, a Union Plant Health Emergency Team ('the Team') should be created, with the purpose of providing Member States, upon their request, with urgent assistance in relation to the measures to be taken pursuant to Articles 10 to 19, 27 and 28 of Regulation (EU) 2016/2031 concerning Union quarantine pests, and the measures to be taken pursuant to Article 30 of that Regulation. In order to protect the Union territory from possible outbreaks in third countries bordering the Union territory or presenting an imminent phytosanitary risk for that territory, the Team could also be available to provide third countries with urgent assistance, upon the request of one or more Member States and of the third country concerned, in relation to the outbreaks in their territories of Union quarantine pests and pests subject to the measures adopted pursuant to Article 30 of that Regulation.*
- (9) *In order to ensure the appropriate functioning of the Team, rules should be established concerning its appointment, composition and financing by the Commission. In order to ensure better coordination and efficiency, the members of the Team should be appointed by the Commission, in consultation with the Member States or third countries concerned, from experts proposed by the Member States, and those experts should possess different specialities related to plant health.*

- (10) In accordance with Article 22(3), Article 24(2) and Article 34(2) of Regulation (EU) 2016/2031, Member States are to report to the Commission and the other Member States, by 30 April of each year, the results of the surveys which were carried out in the preceding calendar year, concerning the presence of certain pests within the Union territory, namely of Union quarantine pests, pests subject to the measures adopted pursuant to Articles 29 and 30 of that Regulation, priority pests and protected zone quarantine pests. Moreover, Article 23(2) of Regulation (EU) 2016/2031 provides that Member States are, on request, to notify their multiannual survey programmes upon their establishment to the Commission and the other Member States. ***In order to rationalise the reporting obligations and to enhance the digitalisation of reporting, the Articles concerned should be amended by specifying that those notifications are to be submitted through the electronic notification system referred to in Article 103 of that Regulation.***
- (11) In accordance with Article 23(1), third subparagraph, of Regulation (EU) 2016/2031, the multiannual survey programmes are to be established for a period of five to seven years. ***In order to cope with challenges of implementing the multiannual survey programmes and to reduce administrative burden for the competent authorities, that period should be extended to 10 years, and those programmes should be subject to review and update.***

- (12) Article 30(1), second subparagraph, of Regulation (EU) 2016/2031 sets out that, where the Commission concludes that a pest fulfils the criteria as regards pests not listed as Union quarantine pests, set out in Subsection 2 of Section 3 of Annex I to that Regulation, it is to immediately, by means of implementing acts, adopt measures for a limited time as regards the risks posed by that pest.
- (13) In the course of the implementation of that provision, certain Member States expressed their doubts concerning the precise scope of the term ‘measures’, and in particular whether it covers actions taken in the context of imports or internal movement of goods, in order to prevent the entry and spread of the pest concerned in the Union territory. Therefore, and for reasons of legal clarity and completeness, Article 30(1) of Regulation (EU) 2016/2031 should be amended to specifically indicate that those measures may include the prohibition of the ***pest concerned being introduced into, moved within, or held, multiplied or released*** in the Union territory, and requirements concerning the introduction into, and movement within, the Union territory of plants, plant products and other objects. ***However, pursuant to Articles 8 and 48 of that Regulation, it is still possible to grant derogations from those prohibitions where needed, for example for relevant research or breeding activities with regard to resistances or tolerances.***

- (14) Article 41 of Regulation (EU) 2016/2031 sets out the requirement to prevent the presence of Union quarantine pests on plants, plant products or other objects. Paragraph 4 of that Article provides that, in the event that plants, plant products or other objects have been introduced into, or moved within, the Union territory in violation of paragraph 1 of that Article, Member States are to adopt the necessary measures, as referred to in Union legislation on official controls, and to notify the Commission and other Member States through the electronic notification system referred to in Article 103 of that Regulation.
- (15) However, there is no requirement to notify ***non-compliance with*** the rules set out in Article 37 of Regulation (EU) 2016/2031, which concerns measures to prevent the presence of regulated non-quarantine pests ('RNQPs') on plants for planting ***above the specified thresholds when introduced into or moved within the Union territory***. That Article should therefore be amended by providing that, in the event of non-compliance with the requirements on RNQPs, Member States are to adopt the necessary measures ***and to notify the Commission, the other Member States and the third country concerned*** through the electronic notification system referred to in Article 103 of that Regulation.

- (16) Consequently, Article 104 of Regulation (EU) 2016/2031, which concerns notifications in the case of presence of pests, should also include a reference to Article **37(10) of that Regulation**.
- (17) The power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission in respect of supplementing Regulation (EU) 2016/2031 by setting out the procedure to conduct the listing of high-risk plants, plant products and other objects **pursuant to Article 42(1)** of that Regulation. That procedure should include the following elements: the preparation **of the evidence for the assessment** of the **high-risk plants, plant products and other objects**; the actions to be taken following the receipt of **that evidence**; the procedures **for that assessment**; and the handling of dossiers concerning confidentiality and data protection. This is necessary because experience has shown that a specified procedure to conduct the listing of high-risk plants could ensure transparency and consistency for Member States, third countries and the professional operators concerned. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹⁰. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

¹⁰ OJ L 123, 12.5.2016, p. 1, ELI: http://data.europa.eu/eli/agree_interinstit/2016/512/oj.

- (18) In certain cases, it is appropriate to allow the introduction into the Union territory of certain plants, plant products or other objects, from certain third countries, by way of derogation from the prohibition established pursuant to Article 40(1) of Regulation (EU) 2016/2031 or the special and equivalent requirements established by the implementing act adopted in accordance with Article 41(2) thereof. The plants, plant products and other objects concerned are currently listed in Annexes VI and VII to Commission Implementing Regulation (EU) 2019/2072¹¹. Such cases are those where *the Commission has received evidence justifying the adoption of temporary derogations with requirements equivalent to, or more stringent than, those referred to in Article 41 of Regulation (EU) 2016/2031, or* where a third country has made a request for *a* derogation and has provided written guarantees that the measures that it is applying on its territory are effective in reducing the relevant risk from those plants, plant products or other objects and *an* assessment has shown that the risk for the Union territory can be reduced to an acceptable level by the application of certain temporary measures set out in points 2 and 3 of Section 1 of Annex II to Regulation (EU) 2016/2031.
- (19) For purposes of clarity, *consistency* and transparency, the Commission should be empowered to adopt implementing acts providing for such derogations. For reasons of completeness, those acts should also set out the temporary *and proportionate* measures ■ which are necessary to reduce the phytosanitary risk concerned to an acceptable level ■ . Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².

¹¹ Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ L 319, 10.12.2019, p. 1).

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13, ELI: <http://data.europa.eu/eli/reg/2011/182/oj>).

- (20) In order to ensure *their timely review, the application period of all those implementing acts should be no longer than five years. In exceptional cases, if justified on the basis of an updated assessment, it should be possible for that period to be renewed*, and for the *derogation concerned to be subject to amended requirements, in order to address any phytosanitary risk*.
- (21) Moreover, the power to adopt delegated acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of supplementing Regulation (EU) 2016/2031 with elements concerning the procedure to be followed in order to grant temporary derogations from Article 40(2) and Article 41(2) of that Regulation. This is necessary because experience since the adoption of Regulation (EU) 2016/2031 has shown that a standardised procedure for granting such temporary derogations is necessary to ensure transparency and consistency for Member States, third countries and the professional operators concerned.

- (22) In accordance with Article 42(4) of Regulation (EU) 2016/2031, a plant, plant product or other object is to be removed from the list of high-risk plants, plant products and other objects if it is concluded, on the basis of a risk assessment, that their introduction into the Union territory is to be subject to prohibition, special requirements or no requirements at all. However, experience with the application of that Article has shown that in certain cases the introduction of those commodities into the Union territory could be subject to special measures that reduce the phytosanitary risk concerned to an acceptable level, while for some of the ***relevant pests*** a full assessment is still pending. For that reason, implementing powers should be conferred on the Commission to remove plants, plant products or other objects from the list of high-risk plants, plant products or other objects adopted pursuant to Article 42(3) of Regulation (EU) 2016/2031, if they present a phytosanitary risk which is not yet fully assessed and no implementing act has yet been adopted for them pursuant to Article 42(4) of that Regulation. In order to reduce any phytosanitary risk to an acceptable level, implementing acts adopted pursuant to those powers should set out temporary measures concerning the introduction of those plants, plant products and other objects into the Union territory, ***which should be limited to the appropriate and reasonable period of time needed to perform the full assessment***. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

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- (23) In accordance with Article 44(1), point (a), of Regulation (EU) 2016/2031, the Commission is to set out equivalent requirements, by means of implementing acts, on request of a particular third country, if the third country concerned ensures, through the application under its official control of one or more specified measures, a level of phytosanitary protection which is equivalent to the special requirements in respect of the movement within the Union territory of the plants, plant products and other objects concerned.
- (24) Experience with the implementation of that provision has shown that setting out requirements equivalent only to the special requirements in respect of the movement of plants, plant products and other objects within the Union territory is neither adequate nor possible in the event that such requirements for movement do not exist. This is frequently the case where Union rules concern pests which are only present in third countries and not in the Union territory and where only requirements for the introduction of commodities into the Union territory have been adopted.
- (25) For that reason, the requested level of phytosanitary protection on the part of the third country concerned should also be equivalent to the applicable special requirements in respect of the introduction into the Union territory of the plants, plant products and other objects concerned from all or certain third countries.

- (26) In accordance with Article 71(2) of Regulation (EU) 2016/2031, the phytosanitary certificate is to specify under the heading ‘Additional Declaration’ which specific requirement is fulfilled, whenever the respective implementing act, adopted pursuant to Article 28(1) and (2), Article 30(1) and (3), Article 37(2), Article 41(2) and (3) and Article 54(2) and (3) of that Regulation, provides for several options for such requirements. That specification is to include the full wording of the relevant requirement.
- (27) Practice in the application of Regulation (EU) 2016/2031 has shown that the phytosanitary certificates should also indicate a reference to the requirements adopted pursuant to Article 37(4) of that Regulation, namely measures to prevent the presence of RNQPs on the plants for planting concerned, as referred to in Article 36, point (f), of that Regulation, in the case where the respective provision provides for several different options for such requirements. This is consistent with the approach concerning the Union quarantine pests, as Article 71(2) of that Regulation refers to the implementing act adopted pursuant to Article 41(2) and (3) thereof. It would also offer more clarity and certainty to the competent authorities, professional operators and third countries with regard to the application of the rules concerning RNQPs and the plants for planting concerned.

- (28) For that reason, Article 71(2) of Regulation (EU) 2016/2031 should include a reference to the implementing acts adopted pursuant to Article 37(4) thereof. Moreover, the reference to Article 37(2) of that Regulation should be removed, as it is not relevant to the content of the Additional Declaration of a phytosanitary certificate. ***The Commission should ensure that, by the date of application of those amendments, the rules concerning the presence of RNQPs on plants for planting are updated by adapting the relevant requirements established in Implementing Regulation (EU) 2019/2072.***
- (29) ***Article 81(1) of Regulation (EU) 2016/2031 provides that no plant passport is to be required for the movement of plants, plant products or other objects supplied directly to a final user, including home gardeners. However, that exception is not to apply to final users receiving those plants, plant products or other objects by means of sales through distance contracts.***
- (30) ***Experience since the adoption of Regulation (EU) 2016/2031 has shown that, in certain cases, certain plants, plant products or other objects should not be accompanied by a plant passport, even if they are distributed through distance sales. Therefore, implementing powers should be conferred on the Commission to allow it to provide that Article 81(1), point (a), is not to apply, under certain conditions, to particular plants, plants products or other objects distributed by means of sales through distance contracts.*** Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

- (31) In accordance with Article 88 of Regulation (EU) 2016/2031, plant passports are to be attached by the professional operators concerned to the trade unit of the plants, plant products and other objects concerned before they are moved within the Union territory pursuant to Article 79 or into or within a protected zone pursuant to Article 80 of that Regulation. Where such plants, plant products or other objects are moved in a package, bundle or container, the plant passport is to be attached to that package, bundle or container.
- (32) Trade practices based on Regulation (EU) 2016/2031 have shown that, in certain cases, it is not practically feasible to attach plant passports to trade units of particular plants, plant products or other objects due to their size, shape or other specific characteristics ■ . Instead, the trade units of those plants, plant products or other objects should be allowed to be moved within the Union territory with a plant passport associated with them in a way other than by physical attachment. The requirements of Regulation (EU) 2016/2031 for the issuance of plant passports for the plants, plant products and other objects concerned should remain unchanged.
- (33) Therefore, implementing powers should be conferred on the Commission to allow certain plants, plant products and other objects to be moved without a plant passport attached to their trade units, due to their size, shape, *way of packaging* or other specific characteristics that make that attachment impractical. In this regard, it is necessary to determine the arrangements ensuring that the plant passport remains in use, although not attached, and still refers to the respective plants, plant products and other objects ■ . Those powers should be exercised in accordance with Regulation (EU) No 182/2011.

- (34) *Article 94 of Regulation (EU) 2016/2031 provides for plant passports to be issued at the border control posts to replace the phytosanitary certificates of plants, plant products or other objects introduced in the Union territory. Instead of issuing plant passports at the border control posts, Member States are already allowed to replace the phytosanitary certificate by a certified copy of the original phytosanitary certificate to accompany the movement of the plant, plant product or other object up to the point where the plant passport is issued. In order to contribute to the process of digitalisation, reduce administrative burden and make further use of the electronic notification system referred to in Article 103 of that Regulation, Member States should have the possibility to use in such cases the information contained in that system, provided that the electronic phytosanitary certificate or a digital copy of the phytosanitary certificate is accessible in that system and is made available upon request of the competent authorities. Taking into account the guarantees provided through the electronic notification system as regards secure access to documents, such possibility should no longer be limited to the territory of the Member State where the phytosanitary import checks were carried out. For similar reasons, that limitation to the territory of the Member State should no longer apply to the use of certified copies.*

- (35) In accordance with Article 99(1) of Regulation (EU) 2016/2031, the Commission is empowered to adopt delegated acts supplementing that Regulation by setting out the elements to be contained in official attestations specific for plants, plant products or other objects, other than wood packaging material, which are required by the applicable international standards. Since the adoption of Regulation (EU) 2016/2031, no such international standards have been adopted, and no preparatory work is currently being carried out by any international organisation to produce such standards. As a result, it is not possible to adopt those delegated acts and, as a consequence, plants, plant products or other objects cannot be introduced into the Union territory with such official attestations as alternatives to phytosanitary certificates.

- (36) Moreover, and in accordance with certain implementing acts adopted pursuant to Council Directives 77/93/EEC¹³ and 2000/29/EC¹⁴, plants, plant products and other objects are still being introduced into the Union territory accompanied by official attestations, other than phytosanitary certificates, issued in several third countries. Those acts are, in particular, Commission Decisions 93/365/EC¹⁵, 93/422/EEC¹⁶ and 93/423/EEC¹⁷, and Commission Implementing Decision 2013/780/EU¹⁸. Those Decisions have been adopted in the absence of any relevant international standards and are still in force.

¹³ Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of harmful organisms of plants or plant products (OJ L 26, 31.1.1977, p. 20).

¹⁴ 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).

¹⁵ Commission Decision 93/365/EEC of 2 June 1993 authorizing the Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of heat-treated coniferous wood, originating in Canada, and establishing the details of the indicator system to be applied to the heat-treated wood, (OJ L 151, 23.6.1993, p. 38).

¹⁶ Commission Decision 93/422/EEC of 22 June 1993 authorizing the Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of kiln dried coniferous wood, originating in Canada, and establishing the details of the indicator system to be applied to the kiln dried wood (OJ L 195, 4.8.1993, p. 51).

¹⁷ Commission Decision 93/423/EEC of 22 June 1993 authorizing the Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of kiln dried coniferous wood, originating in the United States of America, and establishing the details of the indicator system to be applied to the kiln dried wood (OJ L 195, 4.8.1993, p. 55).

¹⁸ Commission Implementing Decision 2013/780/EU of 18 December 2013 providing for a derogation from Article 13(1)(ii) of Council Directive 2000/29/EC in respect of bark-free sawn wood of *Quercus* L., *Platanus* L. and *Acer saccharum* Marsh. originating in the United States of America (OJ L 346, 20.12.2013, p. 61).

- (37) The experience gained from the application of Regulation (EU) 2016/2031 and Decisions 93/365/EC, 93/422/EEC, 93/423/EEC and 2013/780/EU indicates that the official attestations to which they refer offer adequate guarantees for the phytosanitary protection of the Union territory, despite the fact that no relevant international standards have ever existed. For that reason, and in order to ensure the continued use of official attestations under Regulation (EU) 2016/2031, the condition that the elements of the delegated act concerned are required by the applicable international standards should be removed from Article 99(1) of that Regulation.
- (38) In accordance with Article 103 of Regulation (EU) 2016/2031, the Commission is to establish an electronic system for the submission of notifications by the Member States. In order to ensure that such electronic system could be applicable also for the submissions of reports, such as the reports for the surveys of Union quarantine pests, priority pests, ***pests subject to the measures adopted pursuant to Articles 29 and 30 of that Regulation*** and protected zones quarantine pests, the first paragraph of Article 103 of that Regulation should be amended in order to also include the submission of reports by the Member States. This is necessary to rationalise the reporting system and strengthen the process of digitalisation of phytosanitary measures.
- (39) Regulation (EU) 2016/2031 should therefore be amended accordingly.

- (40) *Since the application of Regulation (EU) 2016/2031 and Regulation (EU) 2017/625 of the European Parliament and of the Council¹⁹, experience has shown that the notification of the absence of the phytosanitary certificate or other official attestations in the case of plants, plant products or other objects introduced into the Union as part of passengers' personal luggage or through postal services and intended for personal consumption or use increases the administrative burden for the competent authorities disproportionately in relation to the phytosanitary risk concerned. The notification of those consignments, if they are subject to the measures referred to in Article 1(2), point (g), of Regulation (EU) 2017/625, should therefore be exempted from Article 66(5) of that Regulation if the non-compliance concerns the absence of the phytosanitary certificate or other official attestations as referred to in Article 99(1) of Regulation (EU) 2016/2031. However, and in order to ensure an effective overview of the origin and nature of non-compliances in each Member State, the competent authorities should keep a record of those cases of non-compliance and should, on an annual basis, provide the Commission and the competent authorities of the other Member States with a report containing a summary of those records. In order to rationalise the reporting obligations and to enhance the digitalisation of reporting, those reports should be submitted via the information management system for official controls (IMSOC) referred to in Article 131 of Regulation (EU) 2017/625.*

¹⁹ Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (OJ L 095 7.4.2017, p. 1).

- (41) In order to allow for the third countries and their professional operators to adapt to the new rules on the issuance of phytosanitary certificates concerning compliance with the respective RNQP rules, the amendment of Article 71(2) of Regulation (EU) 2016/2031 should apply from **18** months from the date of entry into force of this Regulation,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) 2016/2031

Regulation (EU) 2016/2031 is amended as follows:

- (1) in Article 18(6), the first subparagraph is replaced by the following:

‘Member States shall notify the Commission and the other Member States of the demarcated areas immediately after their establishment, together with the pests concerned and the respective measures taken. Those notifications shall be made through the electronic notification system referred to in Article 103.’;

- (2) *in Article 19, the following paragraph is added:*

'8. The finding of a presence of the pest concerned in the buffer zone referred to in paragraph 2 of this Article and the abolition of the demarcated areas referred to in paragraph 4 of this Article shall be notified through the electronic notification system referred to in Article 103.'

(3) *the following article is inserted:*

‘Article 19a

Union Plant Health Emergency Team

- 1. A Union Plant Health Emergency Team (‘the Team’), composed of experts, shall be created with the purpose of providing Member States, upon their request, with urgent assistance in relation to the measures to be taken pursuant to Articles 10 to 19, 27 and 28 concerning new outbreaks of Union quarantine pests and pests subject to the measures adopted pursuant to Article 30. In justified cases, the Team may also provide urgent assistance to third countries bordering the Union territory or presenting an imminent phytosanitary risk for that territory, upon the request of one or more Member States and the third country concerned, in relation to the outbreaks in their territories of Union quarantine pests and pests subject to the measures adopted pursuant to Article 30.*

For each case of assistance, the Commission shall appoint specific members of the Team, on the basis of their expertise, and in consultation with the Member State or third country concerned.

That assistance may include in particular:

- (a) scientific, technical and managerial on-the-spot or remote assistance as regards the eradication of the pests concerned, the prevention of their spread and other measures, in close collaboration with the competent authorities of the Member State or third country concerned by outbreaks of pests or suspicion thereof;*
- (b) specific scientific advice on the suitable diagnostic methods, as appropriate, in coordination with the relevant European Union reference laboratory referred to in Article 94 of Regulation (EU) 2017/625 and other reference laboratories;*
- (c) specific assistance, as appropriate, to support coordination among the competent authorities of the Member States or third countries and with those laboratories.*

The content, conditions and timing of that assistance shall be determined by the Commission in agreement with the Member State or third country concerned and with the respective Member States providing the experts.

2. *Member States may submit to the Commission the list of experts that they propose for designation as members of the Team and keep it updated. On that occasion, Member States shall provide all relevant information on the professional profile and the field of expertise of each expert proposed.*
3. *Members of the Team shall be entitled to an indemnity for their participation in the Team's on-the-spot activities and, where applicable, for serving as team leaders or rapporteurs on a specific assistance mission.*

That indemnity, and the reimbursement of travel and subsistence costs, shall be paid by the Commission in accordance with the rules for the reimbursement of travel, subsistence and other expenses for experts.';

(4) in Article 22(3), the first subparagraph is replaced by the following:

‘ Member States shall report to the Commission and the other Member States, by 30 April of each year, the results of the surveys referred to in paragraph 1 which were carried out in the preceding calendar year. Those reports shall include information on where the surveys were conducted, the timing of the surveys, the pests and the plants, plant products or other objects concerned, the number of inspections and samples taken, and the finding of each pest concerned. Those reports shall be submitted through the electronic notification system referred to in Article 103.’;

(5) Article 23 is amended as follows:

(a) in paragraph 1, the third subparagraph is replaced by the following:

‘The multiannual survey programmes shall be established for a period of *five to* 10 years. *Those programmes* shall be *reviewed and* updated *on the basis of the applicable rules and the phytosanitary situation of the territory concerned.*’;

(b) paragraph 2 is replaced by the following:

‘2. Member States shall, on request from the Commission, notify their multiannual survey programmes to the Commission and the other Member States. Those notifications shall be submitted through the electronic notification system referred to in Article 103.’;

(6) in Article 24, paragraph 2 is replaced by the following:

‘2. Member States shall report to the Commission and the other Member States by 30 April of each year the results of the surveys referred to in paragraph 1 which were carried out in the preceding calendar year. Those reports shall be submitted through the electronic notification system referred to in Article 103.’;

(7) *in Article 25, paragraph 3 is replaced by the following:*

‘3. *Contingency plans may be combined for multiple priority pests with similar biology and range of host species. In those cases, the contingency plan shall consist of a general part common to all priority pests covered by it and of specific parts for each priority pest concerned. Similarly, Member States may cooperate to synchronise contingency plans for certain species, where appropriate for priority pest species of similar biology and overlapping or adjoining ranges of host species.*’;

(8) in Article 30(1), the third subparagraph is replaced by the following:

‘Those measures shall, where appropriate, implement, specifically for each of the pests concerned, one or more of the provisions referred to in points (a) to (g) of the first subparagraph of Article 28(1). They may include the prohibition of the ***pest’s introduction into, movement within, or holding, multiplication or release*** in the Union territory and requirements concerning the introduction into, and the movement within, the Union territory of plants, plant products and other objects.’;

(9) in Article 34, paragraph 2 is replaced by the following:

‘2. Member States shall notify the Commission and the other Member States, by 30 April of each year, of the results of the surveys referred to in paragraph 1 which were carried out in the preceding calendar year. Those notifications shall be submitted through the electronic notification system referred to in Article 103.’;

(10) in Article 37, the following paragraph is added:

’10. In the event that plants for planting have been introduced into, or moved within, the Union territory in ***non-compliance with*** paragraph 1 ***of this Article***, Member States shall adopt the necessary measures ■ and shall notify that ***non-compliance*** and those measures to the Commission and other Member States through the electronic notification system referred to in Article 103.

Member States shall also notify those measures to the third country from which the plants for planting were introduced into the Union territory.’;

(11) in Article 42, the following paragraph is inserted:

‘1a. The Commission is empowered to adopt a delegated act, in accordance with Article 105, supplementing this Regulation by setting out the procedure to conduct the listing of high-risk plants, plant products and other objects.

That delegated act shall provide for all of the following elements:

- (a) the preparation of the evidence for the assessment of the high-risk plants, plant products and other objects;
- (b) the actions to be taken following the receipt of that evidence;
- (c) the procedures for that assessment;
- (d) the handling of dossiers concerning confidentiality and data protection.’;

(12) the following article is inserted:

‘Article 42a

Temporary derogations from the prohibitions provided for in Articles 40 and 42, and from the requirements referred to in Article 41

1. By way of derogation from Article 40(1) and Article 41(1), the Commission may, by means of implementing acts, adopt temporary derogations from the prohibition provided for in Article 40(1), and from the special and equivalent requirements referred to in Article 41(2), concerning the introduction into the Union territory of specific plants, plant products and other objects originating from one or more third countries that present a phytosanitary risk which is not yet fully assessed.

Those implementing acts shall:

- (a) set out temporary measures concerning the introduction of those plants, plant products and other objects into the Union territory, in accordance with the principles set out in Section 2 of Annex II; and
 - (b) amend the relevant parts of the implementing acts referred to in Article 40(2) and Article 41(2) by inserting a reference to the derogation concerning the plant, plant product or other object concerned.
2. The temporary derogations referred to in paragraph 1 may be adopted only if the following conditions have been fulfilled:
- (a)
 - (i) *the Commission has received evidence justifying the adoption of temporary derogations with requirements equivalent to, or more stringent than, those referred to in Article 41; or*
 - (ii) the third country concerned has submitted to the Commission a request containing official written guarantees for the application in its territory, prior to and at the moment of making the request, of the measures which are necessary for addressing the phytosanitary risk concerned; and
 - (b) **an** assessment has shown that those plants, plant products or other objects pose a risk that can be reduced to an acceptable level by applying **■** the measures which are necessary to address the phytosanitary risk concerned.

3. The Commission is empowered to adopt a delegated act, in accordance with Article 105, supplementing this Regulation as regards the procedure to be followed in order to grant the temporary derogations referred to in paragraph 1 of this Article. That delegated act shall provide for the following elements of the procedure:
- (a) the preparation, content and submission of the requests and dossiers by the third countries concerned;
 - (b) the actions to be taken following the reception of those requests and dossiers, ***including, where appropriate, the consultation of scientific bodies or the consideration of scientific opinions or studies;***
 - (c) handling of the requests and dossiers concerning confidentiality and data protection.
4. By way of derogation from Article 42(2), the Commission may, by means of implementing acts, adopt temporary derogations from the acts referred to in Article 42(3) if ***all*** of the following ***conditions are*** fulfilled:
- (a) the phytosanitary risk of the high-risk plants, plant products or other objects concerned is not yet fully assessed;
 - (b) ***a provisional assessment has shown that those plants, plant products or other objects pose a risk that can be reduced to an acceptable level by applying the measures which are necessary to address the phytosanitary risk concerned;***
 - (c) no implementing act pursuant to Article 42(4) has yet been adopted as regards the plants, plant products or other objects concerned.

Those implementing acts shall set out temporary measures which concern the introduction of those plants, plant products and other objects into the Union and are necessary to reduce the respective phytosanitary risk to an acceptable level.

5. The implementing acts referred to in paragraphs 1 ■ and 4 shall provide for yearly reporting from the third country concerned about the application of the respective temporary measures. In the event that a report leads to the conclusion that the risk concerned is not appropriately addressed by the measures reported on, the act providing for those measures shall be immediately repealed or amended as necessary.
6. The application period of the implementing acts referred to in *paragraph 1 shall not be longer than five years. However, that period may be renewed, and the derogation concerned may be subject to amended requirements, if so justified on the basis of an updated assessment.*
7. The implementing acts referred to in paragraphs 1 ■ and 4 shall be adopted in accordance with the examination procedure referred to in Article 107(2).’;

(13) in Article 44(1), point (a) is replaced by the following:

- ‘(a) the third country concerned ensures, through the application under its official control of one or more specified measures, a level of phytosanitary protection which is equivalent to the special requirements in respect of the introduction into, or movement within, the Union territory of the plants, plant products and other objects concerned from other third countries;’;

(14) in Article 71, paragraph 2 is replaced by the following:

- ‘2. The phytosanitary certificate shall specify under the heading ‘Additional Declaration’ which specific requirement is fulfilled, whenever the respective implementing act adopted pursuant to Article 28(1) and (2), Article 30(1) and (3), Article 37(4), Article 41(2) and (3) and Article 54(2) and (3) allows for several different options for such requirements. That specification shall include the full wording of the relevant requirement. ***In the case of one or more categories of plants for planting, as referred to in Article 37(7) in relation to Union regulated non-quarantine pests, that specification shall include the full wording of the applicable option for the category concerned.***’;

(15) ***in Article 81, the following paragraph is added:***

- ‘3. ***The Commission may, by means of implementing acts, set out the cases where paragraph 1, point (a), of this Article does not apply to particular plants, plants products or other objects distributed by means of sales through distance contracts. Those implementing acts may specify conditions for their application. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).***’;

(16) in Article 88, the following paragraphs are added:

‘The Commission *may, by means of implementing acts, set out provisions:*

- (a) determining the plants, plant products and other objects which, by way of derogation from the first paragraph, may be moved within the Union with a plant passport associated with them in a way other than that of a physical attachment, due to their size, shape or *way of packaging* that make that attachment impossible or very difficult; and
- (b) providing for rules to ensure that the plant passport concerned, although not attached, still refers to the respective plants, plant products and other objects .

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).’;

(17) in Article 94, paragraph 2 is replaced by the following:

‘2. By way of derogation from the first subparagraph of paragraph 1, Member States may decide to replace a phytosanitary certificate at the point of entry of the plant, plant product or other object concerned into the Union territory by:

- (a) a certified copy of the original phytosanitary certificate; that copy shall be issued by the competent authority and shall accompany the movement of the plant, plant product or other object concerned only up to the point where the plant passport is issued; or*
- (b) the information contained in the electronic notification system referred to in Article 103, provided that the electronic phytosanitary certificate or a digital copy of the phytosanitary certificate is accessible in that system and is made available, upon request of competent authorities, during the movement of the plant, plant product or other object concerned up to the point where the plant passport is issued.’;*

(18) in Article 99, paragraph 1 is replaced by the following:

‘1. The Commission is empowered to adopt delegated acts in accordance with Article 105 supplementing this Regulation by setting out the elements to be contained in official attestations specific for plants, plant products or other objects, other than wood packaging material, as form of proof of the implementation of measures adopted pursuant to Article 28(1) or (2), Article 30(1) or (3), Article 41(2) or (3), Article 44, or Article 54(2) or (3).’;

(19) in Article 103, the first paragraph is replaced by the following:

‘The Commission shall establish an electronic system for the submission of notifications and reports by the Member States.’;

(20) in Article 104, first paragraph, the introductory part is replaced by the following:

‘The Commission may, by means of implementing acts, lay down specific rules concerning the submission of notifications referred to in Article 9(1) and (2), Article 11, Article 17(3), Article 18(6), Article 19(2) and **(8), Article** 28(7), Article 29(3), first subparagraph, Article 30(8), Article 33(1), Article 37(10), Article 40(4), Article 41(4), Article 46(4), Article 49(6), Article 53(4), Article 54(4), Article 60(2), Article 77(2) and Article 95(5). Those rules shall concern one or more of the following elements:’;

(21) *Article 105 is amended as follows:*

(a) in paragraph 2, the following subparagraph is added:

‘The power to adopt delegated acts referred to in Article 42(1a) and Article 42a(3) shall be conferred on the Commission for a period of five years from ... [the date of entry into force of this amending Regulation]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.’;

(b) paragraph 3 is replaced by the following:

‘3. The delegation of power referred to in Article 6(2), Article 7, Article 8(5), Article 19(7), Article 21, Article 32(5), Article 34(1), Article 38, Article 42(1a), Article 42a(3), Article 43(2), Article 46(2), Article 48(5), Article 51, Article 65(4), Article 71(4), Article 76(4), Article 81(2), Article 83(6), Article 87(4), Article 89(2), Article 96(2), Article 98(1), Article 99(1), Article 100(4), Article 101(5) and Article 102(6) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.’;

(c) paragraph 6 is replaced by the following:

‘6. A delegated act adopted pursuant to Article 6(2), Article 7, Article 8(5), Article 19(7), Article 21, Article 32(5), Article 34(1), Article 38, Article 42(1a), Article 42a(3), Article 43(2), Article 46(2), Article 48(5), Article 51, Article 65(4), Article 71(4), Article 76(4), Article 81(2), Article 83(6), Article 87(4), Article 89(2), Article 96(2), Article 98(1), Article 99(1), Article 100(4), Article 101(5) and Article 102(6) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.’.

Article 2
Amendment to Regulation (EU) 2017/625

In Article 66 of Regulation (EU) 2017/625, the following paragraph is inserted:

‘5a. Plants, plant products or other objects subject to the measures referred to in Article 1(2), point (g), which enter the Union as part of passengers’ personal luggage or through postal services intended for personal consumption or use, shall be exempted from the notification obligation set out in paragraph 5 of this Article, if the non-compliance concerns the absence of the phytosanitary certificate or other official attestation as referred to in Article 99(1) of Regulation (EU) 2016/2031.

The competent authorities shall keep a record of those cases of non-compliance and shall, on an annual basis, provide the Commission and the competent authorities of the other Member States with a report containing a summary of those records.

That report shall be submitted via the IMSOC.’.

Article 3

Entry into force and application

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

Article 1, point (14), shall apply from ... [**18** months from the date of entry into force of this Regulation].

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

Done at ...,

For the European Parliament

For the Council

The President

The President
