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#### WORKING DOCUMENT

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| From:    | General Secretariat of the Council  |
| To:      | Delegations   |
| Subject: | Proposal for a regulation on the production and marketing of forest reproductive material – Request for comments on Articles 10-17, 30-31 and Annex VII |

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#### **DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (15.11.2023)**

Delegations will find attached a table containing the text of the articles which were discussed during the meeting of the Working Party on Genetic Resources and Innovation in Agriculture (Seeds, Propagating and Planting Materials) of 3 November 2023.

Delegations are invited to provide drafting suggestions and comments following the instructions indicated in page 2 by 15 November 2023. Please forward them to the Presidency (**DELETED**) with copy to the General Secretariat of the Council (**DELETED**).

Dear Delegates,

Please find below the articles of the FRM proposal discussed at the WP meeting on 3 November 2023, in a table format.

We kindly ask for your drafting suggestions and comments by **15 November 2023**.

Please make sure that you send us your comments by filling in the table in the Word file attached. In order to do this, please download the document by selecting the .zip download

Please follow these points when completing the table:

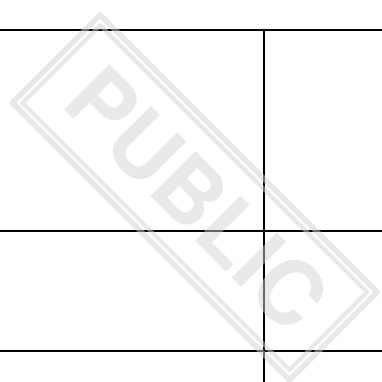
- Indicate the MS delegation who has filled in the table.
- Do not delete any rows or columns from the table.
- Do not insert any new rows or columns.
- Do not use comments “bubbles”.
- Do not edit the first column.
- Insert your comments into the second and third columns of the table only, corresponding to the provision concerned.
- For drafting suggestions please highlight amendments in underline and deletions in ~~striketrough~~.
- Send your comments as a Word document to

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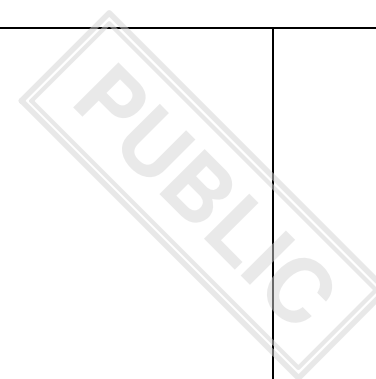
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| <b>Member State:</b> |  |
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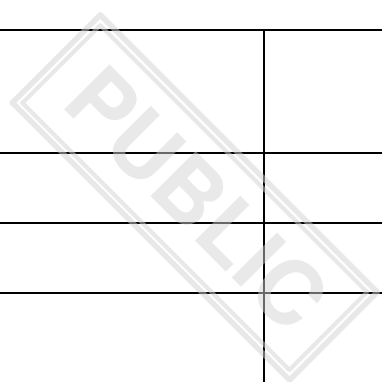
| <b>Commission proposal (FRM)</b>  | <b>MS Drafting Suggestions</b> | <b>MS Comments</b> |
|---|--------------------------------|--------------------|
| <b>CHAPTER III</b><br><br><b>REGISTRATION OF PROFESSIONAL OPERATORS AND BASIC MATERIAL, AND DEMARCATION OF REGIONS OF PROVENANCE</b>  |                                |                    |
| <i>Article 10</i><br><br><b><i>Obligations for professional operators</i></b>   |                                |                    |
| 1. Professional operators shall be registered in a register provided for in Article 65 of Regulation (EU) 2016/2031, in accordance with Article 66 of that Regulation.<br><br>They shall be established in the Union. |                                |                    |
| 2. Professional operators shall make available to the users of their FRM all necessary information concerning its suitability for current and projected future climatic and ecological conditions. That               |                                |                    |



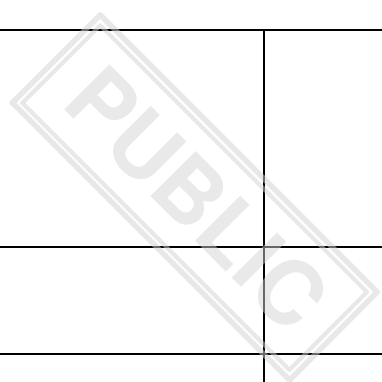
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| information shall, prior to the transfer of the FRM concerned, be provided to the potential purchaser through websites, planters' guides and other appropriate means.  |  |  |
| <i>Article 11</i><br><b><i>Demarcation of regions of provenance for certain categories</i></b>   |  |  |
| <p>Member States shall, for the relevant species of basic material intended for the production of FRM of the 'source-identified' and 'selected' categories, demarcate the regions of provenance.</p> <p>The competent authorities shall draw up and publish on their website maps showing the demarcations of the regions of provenance. They shall make those maps available to the Commission and other Member States through FOREMATIS.</p> |  |  |
| <i>Article 12</i><br><b><i>National register and national lists of basic material</i></b>  |  |  |
| 1. Each Member State shall establish, publish and keep updated, in electronic format, a national register of the basic material of the various species approved on its territory pursuant to Articles 4 and 19 and notified pursuant to Article 18.  |  |  |



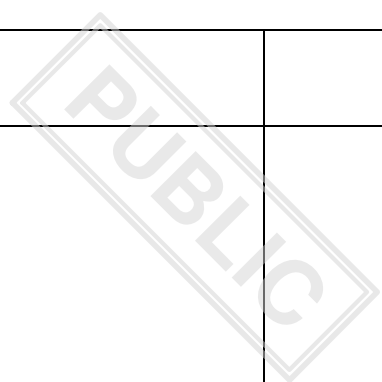
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| <p>That register shall contain full details of each unit of approved basic material, together with its unique register reference.</p> <p>By way of derogation from Article 4, the competent authorities shall immediately register in their national registers the basic material included, before ... [OJ, please, insert the date of the of this Regulation], in their respective national registers referred to in Article 10(1) of Directive 1999/105/EC, without applying the registration procedure set out in that Article.</p> |  |  |
| <p>2. Each Member State shall establish, publish and keep updated a national list of basic material, which shall be presented as a summary of the national register. It shall make that list available in electronic format to the Commission and the other Member States through FOREMATIS.</p>   |  |  |
| <p>3. Member States shall present the national list in a common form for each unit of approval of basic material. For the categories ‘source-identified’ and ‘selected’, it may contain only a summary description of the basic material, on the basis of regions of provenance.</p>   |  |  |
| <p>The national list shall provide in particular</p>   |  |  |



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| the following details:  |  |  |
| (a) botanical name;   |  |  |
| (b) category;   |  |  |
| (c) basic material;   |  |  |
| (d) register reference or, where appropriate, summary thereof, or identity code for region of provenance;   |  |  |
| (e) location of basic material: a short name, if appropriate, and one of the following sets of particulars:<br><br>(i) for the 'source-identified' category, region of provenance and the latitudinal, longitudinal and altitudinal range;<br><br>(ii) for the 'selected' category, region of provenance and the geographical position defined by latitude, longitude and altitude or the latitudinal, longitudinal and altitudinal range;<br><br>(iii) for the 'qualified' category, the exact geographical position(s) defined by latitude, longitude and altitude, where the basic material is maintained; |  |  |



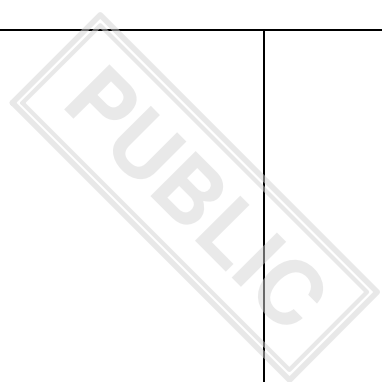
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| (iv) for the 'tested' category, the exact geographical position(s) defined by latitude, and longitude and altitude, where the basic material is maintained;  |  |  |
| (f) area: the size of a seed source(s), stand(s) or seed orchard(s);   |  |  |
| (g) origin:<br><br>(i) indication whether the basic material is autochthonous/indigenous, non-autochthonous/non-indigenous or if the origin is unknown;<br><br>(ii) non-autochthonous/ non-indigenous basic material, an indication of the origin, if it is known; |  |  |
| (h) purpose of use of FRM;   |  |  |
| (i) in the case of FRM of the 'tested' category, an indication whether it is:<br><br>(i) genetically modified; or<br><br>(ii) an NGT plant;  |  |  |
| (j) in the case of qualified and tested categories, information about the place of production of clone(s) or clonal mixture(s), where appropriate.   |  |  |



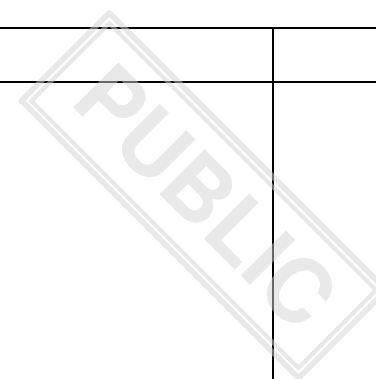
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| <i>Article 13</i><br><b><i>Union List of Approved Basic Material</i></b>   |  |  |
| 1. On the basis of the national lists provided by each Member State in accordance with Article 12, the Commission shall publish a list entitled ‘Union List of Approved Basic Material for the Production of Forest Reproductive Material’.<br><br>That list shall be made available in electronic format through FOREMATIS.   |  |  |
| 2. That list shall reflect the details given in the national lists referred to in Article 12(1) and show the area of utilisation.  |  |  |
| <i>Article 13 bis</i><br>Should contain the following elements:  |  |  |
| <ul style="list-style-type: none"><li>• The professional operator shall notify the competent authority of his intention to harvest forest reproductive material at least 14 days prior to harvesting in order to allow the competent authority to organise controls.</li><li>• Professional operators shall supply the competent authority with records which shall contain details of all consignments detained and marketed.</li><li>• Traceability shall be ensured from the collection of FRM up to the marketing to the end user.</li><li>• In the interest of the highest possible</li></ul> |  |  |



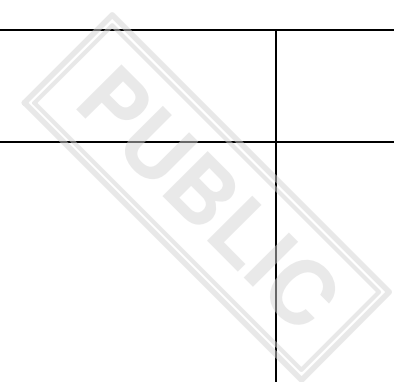
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| genetic diversity within the entire seed lot, the seed harvester shall ensure that the seed lot undergoes intensive mixing prior to marketing or seeding.  |  |  |
| <b>CHAPTER IV</b><br><b>MASTER CERTIFICATE, LABELLING AND PACKAGING</b>  |  |  |
| <i>Article 14</i><br><b><i>Master certificate of identity</i></b>  |  |  |
| <p>1. The competent authorities shall issue, upon application of a professional operator, after harvesting the FRM from approved basic material, a master certificate of identity ('master certificate'), showing the unique register reference of basic material, for all FRM that has been harvested.</p> <p>The master certificate shall attest compliance with the requirements of Article 4(2).</p> <p>The Commission shall, by means of an implementing act, adopt the content and the model for the master certificate of identity for FRM:</p> <p>(a) Model master certificate for FRM that is derived from seed sources</p> |  |  |



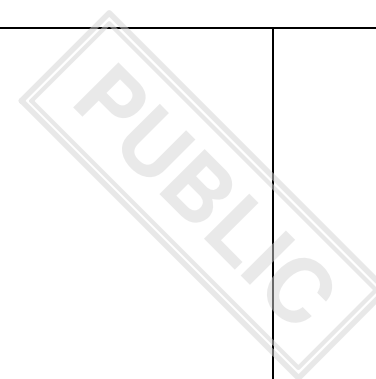
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| <p>and stands;</p> <p>(b) Model master certificate for FRM that is derived from seed orchards or parents of family(ies); and</p> <p>(c) Model master certificate for FRM that is derived from clones and clonal mixtures.</p> <p>That implementing act shall be adopted in accordance with the examination procedure referred to in Article 27(2).</p> |  |  |
| <p>2. Where in accordance with Article 15(2) a Member State adopts measures as regards subsequent vegetative propagation, a new master certificate shall be issued.</p>  |  |  |
| <p>3. Where mixing takes place in accordance with Article 15(3), Member States shall ensure that the register references of the components of the mixtures are identifiable, and a new master certificate or other document identifying the mixture shall be issued.</p>   |  |  |
| <p>4. Where a lot referred to in Article 15(1) is subdivided into smaller lots that are not processed uniformly and subjected to subsequent vegetative propagation, a new master certificate shall be issued and a reference shall be made to the previous</p>   |  |  |



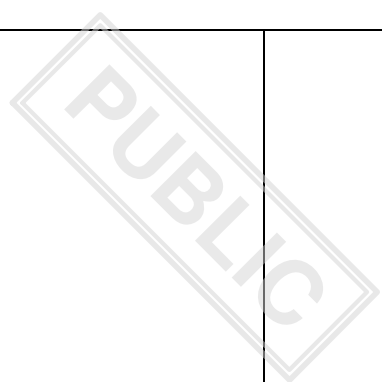
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| master certificate number.  |  |  |
| <p>5. A master certificate may also be issued in an electronic form ('electronic master certificate').</p> <p>The Commission may, by means of implementing acts, set out technical arrangements for the issuance of electronic master certificates, for ensuring their compliance with this Article and an appropriate, credible and effective mode for the issuance of electronic master certificates. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).</p> |  |  |
| <p>6. The Commission is empowered to adopt delegated acts, in accordance with Article 26, supplementing this Article, by setting out rules on:</p> <p>(a) digital recording of all actions taken by the professional operator and the competent authorities, in order to issue the master certificate; and</p> <p>(b) establishment of a centralised platform that connects all the Member States and the Commission, to facilitate the processing of, access to and use of those records.</p>                                  |  |  |



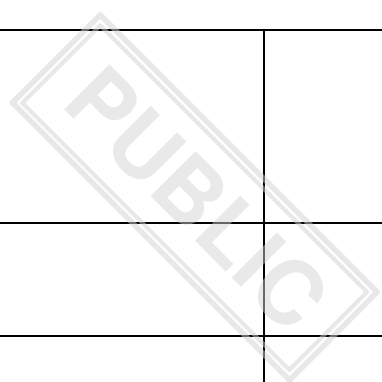
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| <i>Article 15</i><br><br><b>Lots</b>  |  |  |
| <p>1. FRM shall, during all stages of production, be kept separated by reference to individual units of approval of basic material to ensure traceability of the FRM to the approved basic material from which it has been harvested. FRM shall be harvested from those individual units of approval and marketed in lots that shall be sufficiently homogeneous and identified as distinct from other lots of FRM.</p> <p>Each lot of FRM shall be identified by the following:</p> <ul style="list-style-type: none"><li>(a) lot number;</li><li>(b) master certificate code and number;</li><li>(c) botanical name;</li><li>(d) category of FRM;</li><li>(e) basic material;</li><li>(f) register reference or identity code for region of provenance;</li><li>(g) region of provenance for FRM of the ‘source-identified’ and ‘selected’ categories or other FRM if</li></ul> |  |  |



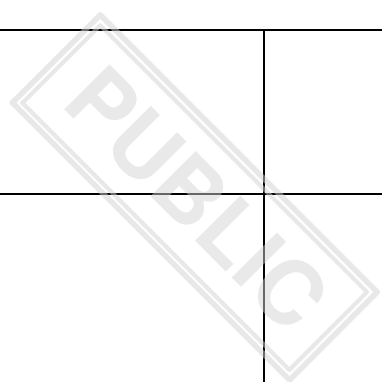
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| <p>appropriate;</p> <p>(h) if appropriate, whether the origin of the basic material is autochthonous or indigenous, non-autochthonous or non-indigenous, or unknown;</p> <p>(i) in the case of seed units, the year of ripening;</p> <p>(j) age and type of planting stock of seedlings or cuttings, whether undercuts, transplants or containerised;</p> <p>(k) for the ‘tested’ category whether it is:</p> <p>(i) genetically modified;</p> <p>(ii) an NGT plant.</p> |  |  |
| <p>2. Without prejudice to paragraph 1 of this Article and to Article 5(1), point (c), Member States shall keep separately FRM, which is subject to subsequent vegetative propagation and shall identify it as such. Such FRM shall have been harvested from a single unit of approval in the ‘selected’, ‘qualified’ and ‘tested’ categories. In such cases, the produced FRM shall assume the same category as the original FRM.</p>                                   |  |  |



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| <p>3. Without prejudice to paragraph 1, the mixing of FRM shall be subject to the following conditions, as appropriate:</p> <p>(a) within the ‘source-identified’ or ‘selected’ categories, mixing shall apply to FRM derived from two or more units of approval within a single region of provenance;</p> <p>(b) in the case of mixing of FRM within a single region of provenance, from seed sources and stands in the ‘source-identified category, the new combined lot shall be certified as ‘FRM derived from a seed source’;</p> <p>(c) in the case of mixing of FRM derived from non-autochthonous or non-indigenous basic material with that from basic material of unknown origin, the new combined lot shall be certified as being ‘of unknown origin’;</p> <p>(d) in the case of mixing of FRM derived from a single unit of approval from different years of ripening, the actual years of ripening and proportion of FRM from each year shall be recorded.</p> <p>In the case of mixing in accordance with</p> |  |  |
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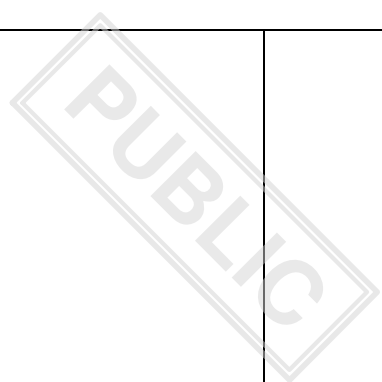


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| the first subparagraph, points (a), (b) or (c), the identity code for the region of provenance may be substituted for the register reference as in paragraph 1, point (f).  |  |  |
| <i>Article 16</i><br><b>Official label</b>  |  |  |
| 1. An official label shall be issued by the competent authority for every lot of FRM attesting compliance of that FRM with the requirements referred to in Article 5.   |  |  |
| 2. Competent authorities shall authorise the professional operator to print the official label after the competent authority has attested compliance of that FRM with the requirements referred to in Article 5. The professional operator is authorised to print that label, if, on the basis of an audit, the competent authority has concluded that the operator possesses the infrastructure and resources to print the official label. |  |  |
| 3. The competent authority shall carry out regular controls to check whether the professional operator complies with the requirements referred to in paragraph 2.<br><br>Where, after having granted the authorisation referred to in paragraph 2, the competent authority finds that a   |  |  |



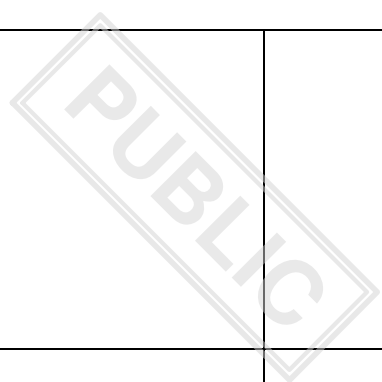
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| professional operator does not fulfil the requirements referred to in that paragraph, it shall without delay withdraw, or modify as appropriate, the authorisation.   |  |  |
| <p>4. In addition to the information required under Article 15(1), the official label shall contain all the following information:</p> <p>(a) master certificate number(s) issued in accordance with Article 14 or a reference to the other document identifying the mixture available in accordance with Article 14(3);</p> <p>(b) name of the professional operator;</p> <p>(c) quantity supplied;</p> <p>(d) in the case of FRM of the ‘tested’ category, whose basic material is approved under Article 4, the words ‘provisionally approved’;</p> <p>(e) whether the FRM has been vegetatively propagated.</p> |  |  |
| <p>5. The Commission shall, by means of implementing acts, set out the following elements concerning the official label:</p> <p>(a) content of the official label;</p>  |  |  |





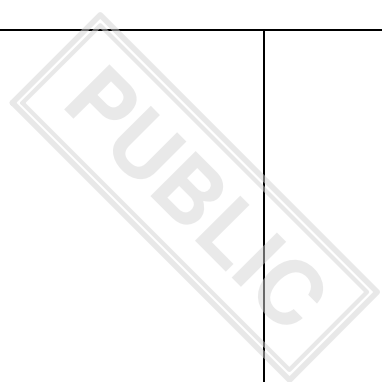
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| <p>(b) additional information in the case of seeds and small quantities of seeds;</p> <p>(c) colour of the label for specific categories or other types of FRM;</p> <p>(d) additional information in the case of specific genera or species.</p> <p>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).</p>  |  |  |
| <p>6. An official label may also be issued in an electronic form ('electronic official label').</p> <p>The Commission may, by means of implementing acts, set out technical arrangements for the issuance of electronic official labels, to ensure their compliance with this Article and an appropriate, credible and effective mode for the issuance of those official labels. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).</p> |  |  |
| <p>7. The Commission is empowered to adopt delegated acts, in accordance with Article 26, supplementing this Article, by setting out rules on:</p>   |  |  |

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| <p>(a) digital recording of all actions taken by the professional operators and the competent authorities in order to issue the official labels;</p> <p>(b) the establishment of a centralised platform that connects the Member States and the Commission to facilitate the processing of, access to and use of those records.</p> |  |  |
| <p><i>Article 17</i></p> <p><b><i>Packages of seed units</i></b></p>  |  |  |
| <p>Seed units may only be marketed in sealed packages with that become unserviceable once the package is opened.</p>  |  |  |
| <p><b>CHAPTER VIII</b></p> <p><b>Reporting, penalties and amendments of Regulations (EU) 2016/2031 and 2017/625</b></p>   |  |  |
| <p><i>Article 30</i></p> <p><b><i>Amendments of Regulation (EU) 2016/2031</i></b></p>   |  |  |
| <p>Regulation (EU) 2016/2031 is amended as follows:</p> <p>(1) in Article 37, paragraph 4 is replaced by the following:</p> <p>‘4. The Commission shall, by means of an implementing act, where appropriate, set out measures to</p>  |  |  |

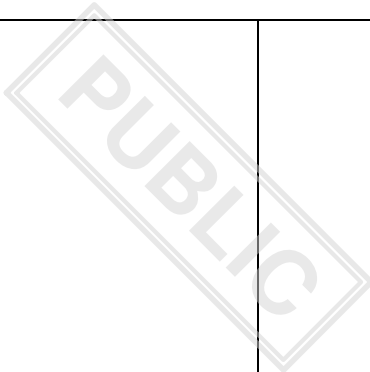


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| <p>prevent the presence of Union regulated non-quarantine pests on the plants for planting concerned, as referred to in Article 36, point (f), of this Regulation. Those measures shall, where appropriate, concern the introduction into and the movement within the Union of those plants.’;</p>   |  |  |
| <p>(2) in Article 83, the following paragraph is added:</p> <p>‘5a. In the case of plants for planting produced, or marketed, as categories source-identified, selected, qualified or tested, as referred to in Regulation (EU) .../...*+, the plant passport shall be included, in a distinct form, in the official label produced in accordance with the respective provisions of that Regulation.</p> <p>Where this paragraph applies,</p> <p>(a) the plant passport for movement within the Union territory shall contain the elements set out in Parts E and F of Annex VII to this Regulation;</p> <p>(b) the plant passport for introduction into, and movement within, a protected</p> |  |  |

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| <p>zone shall contain the elements set out in Part H of Annex VII to this Regulation.’;</p> <p>* Regulation (EU) .../... of the European Parliament and of the Council of ... .. (OJ ...).’;</p> <p>+ OJ: Please insert in the text the number of this Regulation and institutions and insert the number, date, title and OJ reference of this Regulation in the footnote.</p> |  |  |
| (3) Annex VII is amended in accordance with Annex VII to this Regulation.  |  |  |
| <p><i>Article 31</i></p> <p><b><i>Amendments of Regulation (EU) 2017/625</i></b></p>   |  |  |
| Regulation (EU) 2017/625 is amended as follows:  |  |  |
| <p>(1) in Article 1(2), the following point is added:</p> <p>‘(l) production and marketing of forest reproductive material.’;</p>  |  |  |
| <p>(2) in Article 3, the following point is added:</p> <p>‘(52) ‘forest reproductive material’ means material as defined in Article 3(1) of Regulation (EU) .../... of ...*+’</p>  |  |  |



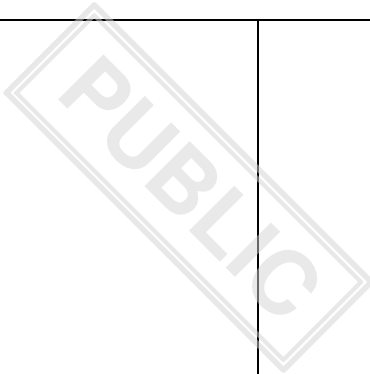
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| <p>* Regulation (EU) .../... of the European Parliament and of the Council of ... ... (OJ ...).’;</p> <p>+ OJ: Please insert in the text the number of this Regulation and institutions and insert the number, date, title and OJ reference of this Regulation in the footnote.</p>  |  |  |
| <p>(3) the following article is inserted after Article 22a:</p>  |  |  |
| <p>‘Article 22b</p> <p><b>Specific rules on official controls and for action taken by the competent authorities in relation to forest reproductive material</b></p> <p>1. Official controls to verify compliance with the rules referred to in Article 1(2), point (l), shall include official controls on the production and marketing of forest reproductive material, and on operators subject to those rules.</p> <p>2. The Commission is empowered to adopt delegated acts in accordance with Article 144 to supplement this Regulation by laying down rules for the performance of official controls on forest reproductive material in order to check compliance with Union rules referred to in Article 1(2), point (l), applicable to those goods</p> |  |  |



and for action taken by the competent authorities following the performance of those official controls.

Those delegated acts shall lay down rules on:

- (a) specific requirements for the performance of such official controls on the production and marketing within, the Union of particular of particular forest reproductive material subject to the rules referred to in Article 1(2), point (1), to respond to non-compliance with the Union rules on forest reproductive material of a particular origin or provenance;
- (b) specific requirements for the performance of such official controls on the activities of professional operators related to the production of particular forest reproductive material subject to the rules referred to in Article 1(2), point (1), to respond to non-compliance with the Union rules on forest reproductive material of a particular origin or provenance; and
- (c) the cases where the competent authorities are to take one or more

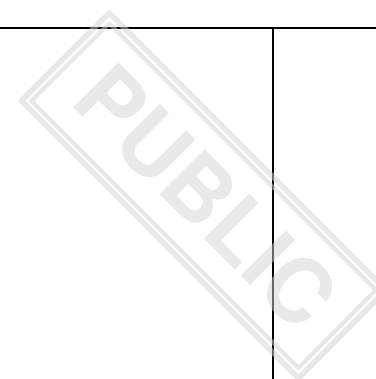


of the measures referred to in Article 137(2) and Article 138(2) in relation to specific non-compliances.

3. The Commission shall, by means of implementing acts, lay down rules on uniform practical arrangements for the performance of official controls on plant reproductive material in order to verify compliance with Union rules referred to in Article 1(2), point (l), applicable to those goods and for action taken by the competent authorities following such official controls on:

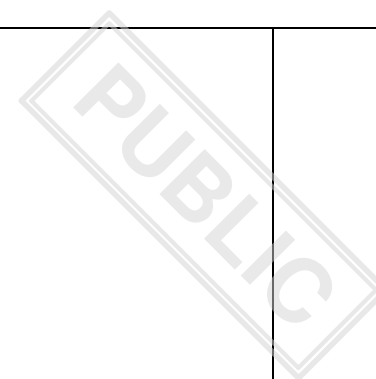
- (a) uniform minimum frequency of such official controls, where a minimum level of official control is necessary to respond to recognised uniform risks of non-compliance with the rules on forest reproductive material of a particular origin or provenance;
- (b) frequency of official controls performed by competent authorities on operators authorised to issue official labels under official supervision in accordance with Article 16(1) of Regulation (EU) .../...\*+

Those implementing acts shall be adopted in accordance with the examination

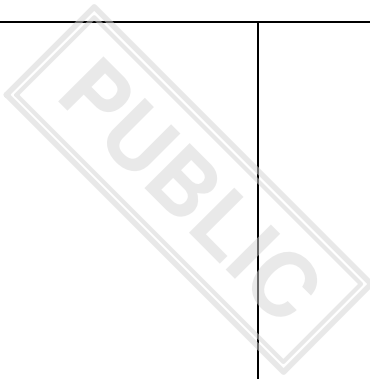


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| <p>procedure referred to in Article 145(2).</p> <hr/> <p>* Regulation (EU) .../... of the European Parliament and of the Council of ... .. (OJ ...).’</p> <p>+ OJ: Please insert in the text the number of this Regulation and institutions and insert the number, date, title and OJ reference of this Regulation in the footnote.</p>  |  |  |
| <p><b>ANNEX VII</b></p> <p><b>Amendment of Annex VII to Regulation (EU) 2016/2031</b></p>  |  |  |
| <p>In Annex VII to Regulation (EU) 2016/2031, the following parts are added:</p>   |  |  |
| <p>‘PART G</p> <p><b>Plant passports for movement within the Union territory, combined with the official label, as referred to in Article 83(5), second subparagraph</b></p> <p>(1) The plant passport for movement within the Union territory, combined in a joint label with the official label referred to in Article 83(5), shall contain the following elements:</p> <p>(a) the words ‘Plant Passport’ in the</p> |  |  |





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| <p>upper right-hand corner of the joint label, in one of the official languages of the Union and in English, if different, separated by a slash;</p> <p>(b) the flag of the Union in the upper left-hand corner of the joint label printed in colour or in black and white. The plant passport shall be positioned in the joint label immediately above the official label and have the same width as that official label.</p> <p>(2) Point (2) of Part A shall apply accordingly.</p>  |  |  |
| <p>PART H</p> <p><b>Plant passports for introduction into and movement within protected zones, combined with the official label, as referred to in Article 83(5), third subparagraph</b></p> <p>(1) The plant passport for introduction into and movement within protected zones, combined in a joint label with the official label for FRM referred to in Article 83(5), shall contain the following elements:</p> <p>(a) the words ‘Plant Passport — PZ’ in the upper right-hand corner of the joint label in one of the official</p> |  |  |



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| <p>languages of the Union and in English, if different, separated by a slash;</p> <p>(b) immediately underneath those words, the scientific name(s) or code(s) of the protected zone quarantine pest(s) concerned;</p> <p>(c) the flag of the Union in the upper left-hand corner of the joint label printed in colour or in black and white.</p> <p>The plant passport shall be positioned in the joint label immediately above the official label and have the same width [as that official label.</p> <p>(2) Point (2) of Part B shall apply accordingly.'</p> |  |  |
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