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NOTE

From: Presidency

To: Permanent Representatives Committee/Council

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Subject: Proposal for a Regulation of the Parliament and of the Council on the production and marketing of forest reproductive material, amending Regulations (EU) 2016/2031 and 2017/625 of the European Parliament and of the Council and repealing Council Directive 1999/105/EC (Regulation on forest reproductive material)
- Progress report

I. INTRODUCTION

1. On 5 July 2023 the Commission adopted two closely related legislative proposals to revise and update the rules on the production and marketing of plant reproductive material (PRM) and forest reproductive material (FRM) in the EU. These were submitted to the Council on 6 July 2023 as part of the Commission food and biodiversity package, a set of legislative proposals that also cover soil health, new genomic techniques and the partial revision of the Waste Framework Directive.

2. At present, the applicable legislation is Council Directive 1999/105/EC, which sets out rules on the production and marketing of forest reproductive material ('FRM Directive'). FRM is marketed across Member States but the conditions for operators diverge.

Moreover, the legislation has not kept pace with recent developments in science and technology, and is not in line with the increasing demand that is needed to reach the EU target of planting 3 billion additional trees by 2030.

The increasing occurrence of extreme weather events and disasters, in combination with an insufficient assessment of sustainability characteristics for the lower FRM categories, has put pressure on the supply of suitable FRM, and thus on the resilience of forest ecosystems.

3. The proposed Regulation on FRM¹ aims to replace Council Directive 1999/105/EC, clarifying its scope and updating its provisions. It is based on two pillars: (i) the harvesting of forest reproductive material from registered parent trees (i.e. basic material) to ensure traceability and (ii) the certification of FRM to guarantee the high quality of the seed. This takes into account recent developments in the field of forestry, including the New EU Forest Strategy for 2030 and the new OECD standards on the Forest Seed and Plant Scheme.
4. The Regulation has the following objectives:
 - To clarify and modernise the current rules,
 - To ensure a level playing field for operators,
 - To support innovation and the competitiveness of the FRM sector in the Union,
 - To contribute to addressing sustainability and climate-related challenges,
 - To adapt to new scientific and technical developments such as biomolecular techniques and digitalisation,
 - To ensure the conservation and sustainable use of forest genetic resources, and
 - To improve the consistency with the legislation on official controls and plant health.

¹ 11503/23 + ADD 1.

5. The proposal is based on Article 43(2) of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).
6. In the European Parliament, the Committee on Agriculture and Rural Development has the lead responsibility and Mr Herbert Dorfmann (EPP, Italy) has been re-appointed as rapporteur. The European Parliament adopted its position at first reading on 24 April 2024²
7. The European Economic and Social Committee adopted its opinion on 13 December 2023³.

II. STATE OF PLAY OF WORK WITHIN THE COUNCIL PREPARATORY BODIES

8. The Commission presented the proposal and its impact assessment⁴ at an informal videoconference of the members of the Working Party on Genetic Resources and Innovation in Agriculture (hereinafter ‘the Working Party’) on 6 July 2023 and to the Agriculture and Fisheries (AGRIFISH) Council on 25 July 2023.
9. The examination of the proposal began under the Spanish Presidency and continued under the Belgian Presidency. The Presidencies presented progress reports to the AGRIFISH Council in December 2023⁵ and June 2024⁶, respectively.
10. Building on the progress made during the Spanish and Belgian Presidencies, the Hungarian Presidency has redrafted a large number of provisions to take into account the written and oral comments provided by delegations. Moreover, it has thoroughly reviewed the entire Presidency text (including the recitals) to ensure its overall coherence.⁷

² [Texts adopted - Production and marketing of forest reproductive material - 24 April 2024 .](#)

³ 5402/24.

⁴ 11694/23.

⁵ 16142/23 + COR 1.

⁶ 11145/24.

⁷ WK 14357/24 REV 1.

11. Since July 2024 the Working Party has held four physical meetings, and an informal videoconference of the members of the Working Party was also organised. On 6 November 2024 the Permanent Representatives Committee was invited to provide guidance on the way forward regarding the official control provisions⁸.
12. The Presidency has in particular tried to clarify the provisions concerning the following topics:

a) Conservation of genetic resources (Article 4, Article 5b, Annex II-IV.)

Delegations have requested that, regarding the derogation for the FRM intended for the conservation of genetic resources, basic material should be approved by the competent authorities prior to their registration on the national list.

This derogation aims to ensure a more flexible regime for this type of FRM but there is a need to ensure the quality of this type of FRM as it would not be assessed. To avoid this, the Presidency has introduced in Article 5b a number of requirements for the marketing of FRM intended for the conservation of genetic resources as to ensure its quality.

b) Modification of Tree Species list (Annex I)

The Presidency has reduced the number of species to which this Regulation will apply in order to limit the administrative burden both for competent authorities and operators whilst guaranteeing the quality, suitability and availability for the future of FRM from the main tree species. It was particularly difficult for the Presidency to establish a list of tree species that would be acceptable to all delegations.

c) Definitions (Article 3)

The Presidency has checked the coherence of the revised text because after the redrafting of certain provisions in the articles the definitions had to be amended. As a result, some definitions were removed, added or fine-tuned in order to ensure that the wording was fully aligned and consistent with the rest of the articles.

⁸ 14909/24.

d) Official labels (Article 16)

The Presidency has straightened out the provisions on official labels and the operator's document.

Due to the high importance of traceability of FRM, it was essential to agree on a compromise about the content of the abovementioned labels and documents, while avoiding potential additional financial and administrative burden.

e) Obligations for professional operators (Article 10)

Record keeping and other obligations were further specified based on requests received from delegations.

III. MAIN OUTSTANDING ISSUE: THE OFFICIAL CONTROLS

13. The harmonisation of the framework for official controls on FRM is an essential part of the Commission proposal. Currently there are significant variations between Member States in terms of the total number and type of official controls of FRM. The Commission proposal includes changes to the Official Controls Regulation (OCR) to make it applicable to FRM and to add specific rules on controls of FRM.
14. The advantages and disadvantages of including the FRM legislation within the scope of Regulation (EU) 2017/625 on official controls have been thoroughly discussed by the Working Party since July 2023. A large number of delegations were initially opposed to this inclusion, citing the specific nature of official controls in the FRM sector and the need for flexibility in the organisation of official controls. Many delegations also expressed concerns about the potentially greater administrative and financial burden that would result from this change. Successive Presidencies have worked tirelessly to address the above concerns while at the same time preserving the objective of harmonising official controls on FRM at EU level. They have amended the text of the Commission proposal to simplify the provisions on official controls, increase flexibility for Member States, limit potential extra burdens and take account of the particularities of the FRM sector.

15. As a result a number of derogations to certain OCR provisions and a longer transitional period to give Member States sufficient time to adapt to the new system were proposed respectively in a new Article 31a and in Article 33.
16. Based on the previous discussions and in order to further address the concerns expressed by delegations regarding conflicts of interest, training of staff, frequency of controls, record keeping, reporting, audits, the delegation of official controls tasks and the delegation of powers to the Commission, the Hungarian Presidency suggested additional derogations to the OCR and a postponement of the application of the amendments to the OCR Regulation by 2 additional years.
17. Despite the above mentioned additional changes and the positive reaction of a majority of delegations, a clear support could not be identified for the revised text at technical level. The Hungarian Presidency therefore invited the Committee of Permanent Representatives to provide further guidance on the issue of official controls⁹.
18. While observing that in the Committee of Permanent Representatives more delegations could support its suggested approach, the Presidency also noted that the required qualified majority was not reached. The Presidency considers that its latest revised text represents the best achievable balance, preserving the objectives of the revision of the current Directive while taking account the main concerns raised by delegations and still establishing a harmonised and transparent framework of official controls for FRM across the Union.
19. Those delegations not supporting the Presidency's latest revised text consider that the proposed derogations are insufficient to alleviate the potential administrative and financial burden and suggest instead building a completely independent, sector-specific system of official control within the body of the FRM Regulation (see alternative proposal¹⁰).

⁹ 14909/24.

¹⁰ WK 11321/24.

IV. CONCLUSION

20. The Presidency has prepared a further revised text¹¹ for the entire proposal and its annexes which incorporates the vast majority of the comments received from delegations. The Presidency therefore considers that this revised text is the best possible way forward and that only the part on the official controls needs further extended discussion.
 21. The Hungarian Presidency thus considers that the progress made under its Presidency term represents a good basis to conclude the examination of the file at technical level.
 22. In light of the above, the Council is invited to take note of the progress made on the examination of the proposal so far and to exchange views.
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¹¹ 14351/24 REV 1.