



Council of the
European Union

Brussels, 12 December 2023
(OR. en)

**Interinstitutional File:
2023/0378(COD)**

16489/23
ADD 5

LIMITE

**AGRILEG 342
AGRI 805
PHYTOSAN 126
CODEC 2423**

INFORMATION NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	16022/23, WK 16346/23
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 - Further revised Presidency text - Comments from the Netherlands

Delegations will find in annex comments from the Netherlands on further revised Presidency text of the proposal in subject.

NL written comments to the Presidency text for the Proposal for amending Regulation (EU)
2016/2031

Date: 12-12-2023

Text version 08-12-2023

16489/23, 2023/0378(COD)

- Article 71 requirement for specifying the RNQP option on the Additional Declaration of the PC.

NL cannot agree with the current proposed text for Article 71 (amendment 11) **unless** Article 2 of the proposal (Entry into force and application) is amended as follows:

The following amendment is proposed:

Article 2

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 (5)(a), shall apply from 1 January 2025.~~

Article 1, point (11~~34~~) shall apply from ... [~~612~~ 36] months from the entry into force of this Regulation].

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

Explanation:

NL requests the proposed change in Article 2 because the article referred to in Article 71(2) (Article 37(4) PHR 2016/2031) is currently on the table for amendment in the Regulation on plant reproductive material (PRM). In Article 79 of PRM-amendments a proposal is made to amend Article 37(4) of the PHR. Given the fact that discussions take place on related topics in the different legal proposals, the NL deems it not appropriate to immediately bring into force this reference to Article 37(4) in Article 71(2) of the PHR, while the entire discussion on this topic within the PRM negotiations hasn't even started yet and still needs to be concluded.

Moreover, the fact that an additional declaration is already mandatory for some of the categories planting material and not yet for some others, is expected to cause great confusion and chaos among third countries, operators and inspectors.

For that reason, NL requests that the date of application of Article 71(2) of the PHR will be as much as possible aligned with the date of application of the PRM regulation.

To make this possible, we propose a two-step approach:

1. First extend the period referred to in Article 2 (for point 11, not point 13!) of the proposal to 36 months. In this way, a date is set for application of Article 71(2), in case the PRM proposal would not be adopted.
2. Second: the NL requests that **a written declaration** will be laid down (e.g. in the minutes of the meeting of the next COPHS meeting on January 25 (under the Belgian Presidency). This declaration should make a clear statement that, once the PRM proposal is adopted, an amendment to the 36-month period mentioned in Article 2 of this proposal will be included in the PRM text in which the application date of Article 71(2) PHR will be aligned with the date of application of the PHR.

In this way, the date on which the additional declaration for RNQPs will apply will be aligned with the date on which the PRM regulation will apply.

The NL would be available to work together with the PRES to draft such a declaration.

Without the above mentioned amendments the NL cannot agree with the current proposed text for Article 71 (amendment 11)

Other technical point for consideration:

(28) Therefore, the Commission should be empowered to adopt ~~a delegated~~ implementing acts allowing certain plants, plant products and other objects to be moved without a plant passport attached to their trade units, due to their size, shape, ~~speed of their trade~~ way of packing or other specific characteristics that make that attachment impractical. In this regard, it is necessary to determine the modalities ensuring that the plant passport remains in use, although not attached, and still refers to the respective plants, plant products and other objects, in order to make sure that a plant passport always remains **connected related** to its respective commodity ~~by means of a traceability barcode, hologram, chip, other data carrier and/or database special mark, chip, database or other appropriate elements.~~