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NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)
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 - Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 18 October 2023, the Commission submitted to the Council and the European Parliament the above-mentioned proposal¹.
2. The proposal is based on Article 43(2) of the Treaty on the Functioning of the European Union (TFEU) and is hence subject to the ordinary legislative procedure.

¹ 14398/23

3. On 13 December 2023, the European Economic and Social Committee delivered its opinion on the proposal².
4. In the European Parliament, the Committee on Agriculture and Rural Development (COMAGRI) has the lead responsibility, and Mrs Clara Aguilera (S&D, Spain) was appointed rapporteur. The Committee on the Environment, Public Health and Food Safety (COMENVI) was associated but decided not to deliver an opinion. COMAGRI adopted its position at its meeting on 13 February 2024.

II. WORK IN THE COUNCIL AND WITH THE PARLIAMENT

5. At its meeting on 7 February 2024, the Permanent Representative Committee granted the Presidency a mandate to enter into negotiations with the European Parliament³. Subsequently, on 1 March, the Permanent Representative Committee approved a revised mandate⁴.
6. On 5 March, a provisional agreement was reached between co-legislators during an informal trilogue, resulting in the final compromise text as set out in the Annex to this note. The Presidency informed delegations on the outcome of the trilogue during the meeting of the Permanent Representative Committee on 8 March 2024.

III. ANALYSIS OF THE FINAL COMPROMISE TEXT WITH A VIEW TO AGEEMENT.

7. The final compromise text constitutes a balanced package which preserves many important elements of the Council mandate while taking on board the main concerns of European Parliament. In particular, the two delegated acts proposed by the Commission in Article 1 (8) and in Article 1 (9) are maintained whilst the one proposed in Article 1 (12) has been changed into an implementing act and the date of application of Article 1 (11) has been set at 18 months after the date of entry into force of the Regulation. In addition, a new point (12a) has been introduced in Article 1 to amend Article 94 of Regulation (EU) 2016/2031.

² 6130/24

³ 6274/24

⁴ 6816/24

IV. CONCLUSION

8. The Permanent Representatives Committee is therefore invited to:
- a) confirm an agreement on the final compromise text as set out in the Annex to this note with a view to reaching an agreement at first reading with the European Parliament;
 - b) authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament's Committee on Agriculture and Rural Development that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in the annex to this note, and subject to revision of that text by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.
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2023/0378 (COD)

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

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 Committee⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

⁵

- (1a) *Enhanced clarity, transparency and coherence are needed to ensure the correct implementation of this Regulation as healthy plants are vital to sustainable agricultural and horticultural production and contribute to food security and food safety and to protect the environment against pests.*
- (2) Regulation (EU) 2016/2031 of the European Parliament of the Council⁶ 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, which should be simplified in line with the Commission's Communication on 'Long-term competitiveness of the EU: looking beyond 2030'⁷.
- (3a) Reporting requirements play a key role in ensuring proper monitoring and correct enforcement of legislation. However, it is important to streamline those requirements *and promote harmonised, standardised and digitalised procedures* in order to ensure that they fulfil the purpose for which they were intended and to *reduce bureaucracy while limiting* the administrative *and financial* burden.

⁶ Regulation (EU) 2016/2031 of the European Parliament 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).

⁷ COM(2023)168.

- (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 in this regards during the preceding calendar year.
- (5) As experience has shown during the application of Regulation (EU) 2016/2031, it is more effective, for the purpose of co-ordination of phytosanitary policy at Union level, to notify the demarcated areas immediately after their establishment. Immediate notification of demarcated areas by a Member State to the other Member States, the Commission and the professional operators helps to become aware about the presence and spread of the pest concerned and to decide on next measures to be taken. Therefore, Article 18(6) of Regulation (EU) 2016/2031 should establish 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 obligation does not add any new administrative burden, because the immediate notification of demarcated areas is an existing obligation set out in Annex I, point 7.1, to Commission Implementing Regulation (EU) 2019/1715⁸ and is currently practised by all Member States. Setting out that obligation in Article 18(6) of Regulation (EU) 2016/2031 will further enhance clarity about the applicable rules concerning demarcated areas, while the respective obligation in Implementing Regulation (EU) 2019/1715 should be removed to avoid overlaps of the respective provisions.

⁸ 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 from 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 no practical value, to the obligation of immediate notification of demarcated areas. It should therefore be removed from that Article.
- (6a) For reasons of consistency with the amendment of Article 18(6) of Regulation (EU) 2016/2031, the notifications referred to in Article 19(2) and the abolition of the demarcated areas referred to in Article 19(4) should also be made through the electronic notification system referred to in Article 103 of that Regulation.*
- (6b) As experience has shown, on certain occasions the 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 on 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, that team could also be available to provide third countries with urgent assistance, upon the request by one or more Member States and of the third country concerned, concerning the outbreaks in their territories of Union quarantine pests and pests subject to the measures adopted pursuant to Article 30 of that Regulation.*

- (6c) *In order to ensure the appropriate functioning of the Team, rules should be established concerning its appointment, composition and financing by the Commission. For reasons of better co-ordination 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.*
- (7) 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. Those are Union quarantine pests, pests subject to the measures adopted pursuant to Articles 29 and 30 of Regulation (EU) 2016/2031, priority pests and protected zone quarantine pests respectively. Moreover, and in accordance with Article 23(2) of Regulation (EU) 2016/2031, 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 enhance the rationalisation and digitalisation of the reporting obligations, the Articles concerned should be amended by adding the provisions that those notifications are to be submitted through the electronic notification system referred to in Article 103 of that Regulation.*
- (8) In accordance with Article 23(1), third subparagraph, 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 programme and* to reduce administrative burden for the competent authorities, that period should be extended to 10 years ■ *, while being subject to review and update.*

- (9) Article 30(1), second subparagraph, of Regulation (EU) 2016/2031 sets out that, where the Commission concludes that 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, are fulfilled, it is to immediately, by means of implementing acts, adopt measures for a limited time as regards the risks posed by that pest.
- (10) During the implementation of that provision, certain Member States expressed their doubts concerning the precise scope of the term ‘measures’, and in particular whether it concerns actions taken in the context of imports or internal movement of goods, in order to prevent the entry and spread of the respective pest in the Union territory. Therefore, and for reasons of legal clarity and completeness, Article 30(1) should be amended to specifically indicate that those measures may include the prohibition of the **■ *respective pest’s introduction into, movement within, or holding, multiplication or release*** in the Union territory, and requirements concerning the introduction into, and movement within, the Union of plants, plant products and other objects. ***However, pursuant to Articles 8 and 48 of this Regulation, it should also still be allowed to grant derogations from these prohibitions, needed, for example, for relevant research or breeding activities with regards to resistances or tolerances.***
- (11) Article 41(4) of Regulation (EU) 2016/2031 sets out 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 under Article 103 of that Regulation. That Article sets out the requirement to prevent the presence of Union quarantine pests on those plants, plant products or other objects.

- (12) However, no requirement to notify **■ non-compliance with** the respective rules exists 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.***

Therefore, Article 37 of Regulation (EU) 2016/2031 should be amended, by providing that in case of non-compliance with the requirements on RNQPs, Member States adopt the necessary measures **■ and notify the Commission, the other Member States and the third country concerned** through the electronic notification system referred to in Article 103 of Regulation (EU) 2016/2031.

- (13) 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.***

- (13a) The Commission should be empowered to adopt a delegated act, supplementing this Regulation by setting out procedures to be complied with for the listing of high risk plants, plant products and other objects ***pursuant to Article 42(1).*** That procedure should include all of the following elements: the preparation **■ of the respective evidence for the assessment** of the ***high risk plants, plant products and other objects***; the actions to be taken following the reception of **■ that evidence**; the procedures **■ of the respective assessment**; the handling of dossiers concerning confidentiality and data protection. This is necessary because, experience has shown that a specified procedure in respect of listing high risk plants could guarantee transparency and consistency to Member States, third countries and the professional operators concerned.

- (14) 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 respective 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). The respective plants, plant products and other objects are currently listed respectively in Annexes VI and VII to Implementing Regulation (EU) 2019/2072⁹. Such cases are those in which *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* a third country has made a request for **■** a derogation and has provided written guarantees that the measures it is applying on its territory are effective in reducing the respective risk from these 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 application of certain temporary measures set out in points 2 and 3 of Section 1 of Annex II to Regulation (EU) 2016/2031.
- (15) 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 respective phytosanitary risk to an acceptable level **■** .
- (15a) In order to ensure *their timely review, the application period of all those implementing acts should be no longer than 5 years. In exceptional cases, if justified on the basis of an updated assessment, it should be possible for that period of up to five years to be renewed, and the derogation concerned to be subject to amended conditions, in order to address any phytosanitary risk.*

⁹ [1] 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. 1–279).

- (18) Moreover, the Commission should be empowered to adopt a delegated act, 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). This is necessary because, the experience since the adoption of Regulation (EU) 2016/2031 has shown that a standardised procedure in respect of granting such temporary derogations is necessary to guarantee transparency and consistency to Member States, third countries and the professional operators concerned.
- (16) 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, as the experience of the application of that Article has shown, in certain cases the introduction of those commodities into the Union territory could be subject to special measures that reduce the respective phytosanitary risk to an acceptable level, while for some of the **relevant pests** a full assessment is still pending. For this reason, the Commission should be empowered to adopt an implementing act 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), 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). In order to reduce any phytosanitary risk to an acceptable level, those acts 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.*

(17) ■

(18) ■

(19) ■

- (20) 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.
- (21) 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 case where such requirements for movement do not exist. This is a frequent case in practice, where the 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.
- (22) For this reason, the requested level of phytosanitary protection on the part of the respective third country should be also 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.
- (23) 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 respectively 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), provides for several options for such requirements. That specification is to include the full wording of the relevant requirement.

- (24) The practical implementation of Regulation (EU) 2016/2031 has shown that the phytosanitary certificates should also indicate reference to the requirements adopted pursuant to Article 37(4) of the Regulation, namely measures to prevent the presence of RNQPs on the plants for planting concerned, as referred to in point (f) of Article 36 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). It will also offer more clarity and certainty to the competent authorities, the professional operators and the third countries, with regards to the application of the rules concerning RNQPS and the respective plants for planting.
- (25) For this reason, Article 71(2) of Regulation (EU) 2016/2031 should include a reference to the implementing acts adopted pursuant to Article 37(4). Moreover, the reference to Article 37(2) 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 that provision, 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.***
- (25a) ***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.***

- (25b) *As experience since the adoption of Regulation (EU) 2016/2031 has shown, in certain cases it is appropriate that certain plants, plant products or other objects should not be accompanied by a plant passport, even if they are distributed through distance sales. Therefore the Commission should be empowered to adopt implementing acts allowing 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.*
- (26) 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 Regulation (EU) 2016/2031. 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.
- (27) Trade practises 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 way other than by physical attachment. The requirements of Regulation (EU) 2016/2031 for the issuance of plant passports for the respective plants, plant products and other objects are to remain as applicable.
- (28) Therefore, the Commission should be empowered to adopt **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, **■ 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 **■** .

- (28a) *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 delivering 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, to reduce administrative burden, and to make further use of the electronic information 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, on condition 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. Taking into account the guarantees provided through the electronic information system as regards secure access to documents, the above introduced option should no longer be limited to the territory of the Member State where the phytosanitary import checks were carried out. For similar reasons, this limitation to the territory of the Member State should also no longer be applied to the use of certified copies.*
- (29) 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, and in the absence of such international standards, it is not possible, based on Article 99 of Regulation (EU) 2016/2031, to adopt a delegated act setting out the necessary elements for the respective official attestations. Due to the lack of such a delegated act, the introduction into the Union territory of the relevant plants, plant products or other objects cannot take place with those official attestations as alternatives to phytosanitary certificates.

- (30) Moreover, and in accordance with certain implementing acts adopted pursuant to Council Directives 77/93/EEC¹⁰ and 2000/29/EC¹¹, 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/EEC¹², 93/422/EEC¹³, 93/423/EEC¹⁴, and Implementing Decision 2013/780/EU¹⁵. Those Decisions have been adopted in the absence of any respective international standards.

¹⁰ 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).

¹¹ 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).

¹² 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).

¹³ 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).

¹⁴ 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).

¹⁵ 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).

- (31) The experience gained from the application of Regulation (EU) 2016/2031 and those Decisions, which are still in force, indicates that those official attestations offer adequate guarantees for the phytosanitary protection of the Union territory, despite the fact that no respective international standards have ever existed. For this reason, and in order to ensure the continued use of official attestations under Regulation (EU) 2016/2031, the condition that the elements of that delegated act are required by the applicable international standards should be removed from Article 99(1).
- (32) 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 Regulation (EU) 2016/2031*** and protected zones quarantine pests, the first sentence of that Article 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.
- (33) Regulation (EU) 2016/2031 should therefore be amended accordingly.

- (33a) *Since the application of Regulation (EU) 2016/2031 and Regulation (EU) 2017/625, 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 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 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 non-compliances and should annually report a summary of those records to the Commission and to the competent authorities of the other Member States. In order to enhance the rationalisation and digitalisation of the reporting obligations, those reports should be submitted via the IMSOC as referred to in Article 131 of Regulation (EU) 2017/625.*
- (34) 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 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.;

(1a) *in Article 19, the following paragraph is added:*

- '8. *The notifications referred to in paragraph 2 and the abolition of the demarcated areas referred to in paragraph 4 shall be made through the electronic notification system referred to in Article 103.*';**

(1b) *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 on the measures to be taken pursuant to Articles 10 to 19, 27 and 28 of Regulation (EU) 2016/2031 concerning new outbreaks of Union quarantine pests and pests subject to the measures adopted pursuant to Article 30 of that Regulation. In well-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 by one or more Member States and of the third country concerned, concerning the outbreaks in their territories of Union quarantine pests and pests subject to the measures adopted pursuant to Article 30 of that Regulation.

For each case of assistance, the Commission shall appoint specific members of the Team, on the basis of their expertise, and in consultation with that 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 cooperation and 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 in coordination with the relevant European Union reference laboratory referred to in Article 94 of Regulation (EU) 2017/625 and with other reference laboratories, as appropriate;***

- (c) *specific assistance to support coordination among the competent authorities of the Member States or third countries and with those laboratories, as appropriate.*

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 the respective Member State(s) providing the expert(s).

2. *Member States may submit to the Commission the list of experts 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 for 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 mission question.*

That indemnity, 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.''

(2) 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 to the electronic system for the submission of notifications and reports referred to in Article 103, established by the Commission for that purpose;’

(3) 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*. *The 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. Those notifications shall be submitted to the electronic system for the submission of notifications and reports referred to in Article 103‘;’

(4) 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 to the electronic system for the submission of notifications and reports referred to in Article 103’;

(4 a) *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 co-operate to synchronise plans for certain species, where appropriate for priority pest species of similar biology and overlapping or adjoining ranges."*

(5) 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/or requirements concerning the introduction into, and the movement within, the Union territory of plants, plant products and other objects.’;

(6) 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 to the electronic system for the submission of notifications and reports referred to in Article 103;’

(7) 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 and reporting 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.’

(8) in Article 42(1), the following subparagraphs are added:

- ‘ 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 procedure shall provide for all the following elements:

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

(9) the following Article 42a is inserted after Article 42:

- ‘ 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, which 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 respective parts of the implementing act referred to in Article 40(2) and Article 41(2), by inserting a reference to the derogation concerning the respective 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 equivalent or more stringent requirements 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 respective phytosanitary risk; 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 necessary** measures in respect of 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. That delegated act shall provide for the following elements of the procedure:
- (a) the preparation, content and submission of the respective request and dossiers by the third countries concerned;
 - (b) the actions to be taken following the reception of those requests and dossiers, ***including, as 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 respective phytosanitary risk of the high-risk plants, plant products or other objects is not yet fully assessed;
 - (ai) ***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 necessary measures in respect of the phytosanitary risk concerned;***
 - (b) 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 are necessary to reduce the respective phytosanitary risk to an acceptable level, concerning the introduction of those plants, plant products and other objects into the Union.

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 case the report concerned 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 5 years. However, that period may be renewed,** and the **derogation concerned may be subject to amended conditions, if 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).'

(10) 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, and/or movement within, the Union territory of the plants, plant products and other objects concerned from other third countries;’

(11) 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***’;

(11a) in Article 81, the following paragraph 3 is added:

‘3. The Commission may, by means of implementing acts, set out the cases where the provision referred to in 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 certain conditions for its application. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).’;

(12) 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 packing** 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).’

(12a) 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 place of entry of the plant, plant product or other object concerned into the Union territory by

(i) a certified copy of the original phytosanitary certificate. The certified copy of the original phytosanitary certificate 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,

(ii) the information contained in the electronic information system referred to in Article 103, on condition that the electronic phytosanitary certificate or a digital copy of the phytosanitary certificate is accessible in this system and shall be 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.

(13) 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).;’

(14) In Article 103, the first sentence is replaced by the following:

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

(15) in Article 104, first paragraph, the first sentence 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), Article **19(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 62(1), Article 77(2) and Article 95(5).’

Article 1a

Amendment to Regulation (EU) 2017/625

In Article 66 of Regulation (EU) 2017/625, the following paragraph 5a is inserted after paragraph 5:

‘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 under the first subparagraph 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 non-compliances and shall annually report a summary of those records to the Commission and to the competent authorities of the other Member States.

That report shall be submitted via the IMSOC’.

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 (11) shall apply from ... [**18** months from the entry into force of this Regulation].

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President
