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Subject:	Proposal for a Regulation of the European Parliament and of the Council on protective measures against pests of plants - <i>Delegations' comments</i>

Delegations will find in Annex comments received from the Swedish delegation on the Presidency compromise text for the above proposal.



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**Comments from Sweden on document 6971/15 - Articles 1-31 including
relevant Annexes**

Please find below comments and text proposals regarding the compromise text presented in document 6971/15 – the Articles and Annexes discussed in the meeting of the Council working group on 23-24 March.

Article 2
(2) Definition of plant product

We miss a legal basis for possible decisions that wood shall be considered as a plant product in other cases than the ones listed. The wording “except where otherwise provided” seems not to be enough. We believe empowerments are needed in relevant Articles – probably Articles 27, 29 and 41.

(7b) Definition of authorised operator

We believe that the references to Articles 91 and 91a shall be deleted. Possibly an addition of Article 93 would be appropriate.

Article 5

It is better, we believe, to use only the word “assessment” in paragraph 3 (as in the Commission proposal) and not “pest risk assessment”. We would not like to give third countries the impression that the EU thinks it is enough with a “pest risk assessment” for the listing of quarantine pests as this procedure is only a part of a full “pest risk analysis” according to ISPM 11.

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Article 8 (and 46)

We believe that Article 8.5 and 46.5 are duplications with rules in the ROC. According to ROC Member States shall monitor compliance. According to Article 135 in ROC Member States shall take necessary action. Furthermore Article 19 in ROC empowers the Commission to decide on specific rules. In this context paragraphs 1 (a) and 1 (d) in Article 19 are relevant.

The empowerment in Article 8.6 (c) and 46.6 (c) are duplications with the empowerment in Article 19 in the ROC.

Article 15

1. The term “phytosanitary measure” shall be reserved for official measures. In paragraphs 2 and 2a we therefore propose a deletion of the word “phytosanitary”.

2. We wonder whether there shall be a reference to the new paragraph 2a in paragraph 4.

Article 15a

As in Article 15 we propose a deletion of the word “phytosanitary” in the last sentence of paragraph 2.

Article 18

SE supports the derogation introduced in paragraph 5a. However, it does not make sense to require surveys for three years preceding the planned abolition of the demarcated area for diseases like the potato wart. In such an area, no potatoes are grown, which means that the abolition will be based on other criteria than absence of symptoms on tubers of potatoes, in the case of the potato wart disease soil sampling for the possible detection of viable sporangia. The EPPO standard PM 3/59¹ sets out conditions for descheduling of previously infested plots. This standard does not require these tests to be repeated during three years. Neither does the Council directive on control of Potato Wart Disease. We therefore propose a new paragraph 5b:

“5b. The Commission shall by means of delegated acts in accordance with Article 98 set out derogations from paragraph 1 for specific pests when annual surveys are not appropriate according to scientific and technical evidence and international standards.”

¹ *SYNCHYTRUM ENDOBIOTICUM*: SOIL TESTS AND DESCHEDULING OF PREVIOUSLY INFESTED PLOTS

Article 21

As early detection of new pests is of outmost importance we are of the opinion that it would be appropriate to add to the Article a requirement regarding general surveillance. As it would be difficult with a too strict requirement in this respect we propose a linkage to the surveys for EU quarantine pests and pests provisionally qualifying as Union quarantine pests. When conducting those surveys it would not be too resource-demanding to also look for the unknown, for emerging threats. Our proposal is therefor too add a sentence in the end on section 1 of paragraph 1 saying:

“When conducting those surveys Member States shall also conduct surveillance with the aim to find pests where the suspicion is that they can provisionally qualify as Union quarantine pests.”

Article 24

As it would be extremely difficult for us to in beforehand decide on extra resources we propose the following rewording of paragraph 1:

“ ... a separate plan containing information concerning the decision making processes, procedures and protocols to be followed, ~~and minimum resources to be made available and~~ including procedures to make available further resources, in case of ...”

Paragraph 2 (ba) already sets out a requirement to include resources necessary in the contingency plan.

Articles 27.7 and 29.7

Having reflected further on the notification requirements in Articles 27.7 and 29.7 we can support them as formulated in those Articles. However, we believe that there can be a need to further specify what is meant by the wording “... which creates a risk of spread of quarantine pests”. We therefore propose an addition in Article 97a as follows:

“97a (e) the cases of non-compliance to be notified where the non-compliance creates a risk of spread of Union quarantine pests or pests provisionally qualifying as Union quarantine pests.”

Possibly, it would also be better to in paragraph 7 of both Article 27 and 29 to say not only “risk of spread of quarantine pests” but instead use the wording “Union quarantine pests”.

Annex II, Section 1 (b) (iii) and c (iva)

We still believe that the criteria in Section 1 (b) (iii) and c (iva) need to be clarified. We therefore support the clarification mentioned at the meeting:

Annex II, section 1, 3(b) (iii)

(iii) cultivation practices and control measures applied in that territory are favorable for the establishment of the pest;

Annex II, section 1, 3(c) (iva)

(iva) cultivation practices and control measures applied in that territory are favorable for the spread of the pest;

Annex II, Section 2

Sweden proposes the following redraft of the criteria “Economic impacts”:

“(a) Economic impacts: the pest has the potential to cause major losses in terms of the direct and indirect effects referred to in point (4) of Section 1 for plants with ~~a total annual production~~ significant economical values for the Union territory ~~of at least EUR 1 billion.~~”

As Article 6 sets a limit to the percentage of EU quarantine pests that can be listed as priority pests the figure EUR 1 billion can be deleted. The restriction in the Article is sufficient. Furthermore, we believe the wording “a total annual production” can be interpreted as that only cultivated crops are of relevance. Therefore we propose a deletion of those words.
