Council of the European Union
General Secretariat

Interinstitutional files:
2023/0227 (COD)

Brussels, 14 November 2025

WK 15515/2025 INIT

LIMITE

AGRI
AGRILEG
SEMENCES
PHYTOSAN
FORETS
CODEC

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

INFORMATION

From:	General Secretariat of the Council
To:	Working Party on Genetic Resources and Innovation in Agriculture (Seeds, Propagating and Planting Materials)
Subject:	Informal videoconference of the Working Party on Genetic Resources and Innovation in Agriculture (Seeds, Propagating and Planting Materials; PRM) on 21 November 2025 - Comments from Belgium, the Netherlands and Poland concerning second sampling

Delegations will find in the annex comments and drafting suggestions from Belgium, the Netherlands and Poland on Article 80 of the proposal for a Regulation on the production and marketing of PRM in the EU, concerning second sampling.

Dear colleagues

After the presentation by the Commission services (WK 15157 2025 INIT) we are still not sure whether a second sample in case of an appeal is possible under OCR whenever it is not feasible to take one big sample.

The competent authority should take one big sample that may serve a second analysis in case of an appeal. If it is not technically feasible to take one big sample, the competent authority should inform the operator thereof. This would be the case for seed potatoes as the extra quantity of seed potatoes taken in the one big sample would simply rot. If it is then not possible to take a second sample, a second expert opinion analysis (appeal) is not possible for the seed potato sector. This also holds true for operators with very small production quantities – one big sample might be the quantity of the entire production.

You might be wondering, but why would a (seed potato) operator ever appeal an analysis concerning PRM quality? They probably would not, although the right to a second expert opinion analysis is also valid in this case, but experience has shown us that they will appeal in the case of RNQP-analyses. Since RNQPs are now still included in the Directives a second sample is possible. However, when applying PRM in the future, the Directives will be repealed and RNQPs will fall under PHR which is subject to OCR. Meaning that a second sample in the case of an appeal of an RNQP-analysis might not be possible anymore and an appeal becomes impossible for some operators since one sample cannot be taken in practice. This means that this plant health matter is a PRM matter since the problem occurs due to the repeal of the Directives.

We hope that other Member States understand that the right to a second expert opinion analysis should be maintained for the seed potato sector and very small operators, and that other Member States are willing to support our proposal for amendment included hereafter.

The amendment of Article 35 of OCR would allow competent authorities to decide to take a second sample of the same lot in case of an appeal of the applicable analysis. This is possible for RNQP analyses (point g) and analyses within the scope of PRM (point k; f.i. germination rate, purity).
Changes made to WK 14585/2025 INIT are indicated in yellow

Article 80

Amendments of Regulation (EU) 2017/625

Regulation (EU) 2017/625 is amended as follows:

(1) in Article 1, paragraph 2, the following point is added:

‘(k) production and marketing of plant reproductive material with the exception of Chapter IV (Variety registration) of Regulation (EU) …/….’;

(2) in Article 3, the following point is added:

‘(52) ‘plant reproductive material’ means plant reproductive material as defined in Article 3(1) of Regulation (EU) …/… of the European Parliament and the Council(*)+’;

_____

(*) Regulation (EU) …/… of the European Parliament and of the Council …. (OJ …, p…). [footnote that will be in that regulation goes here]

[+ OJ: Please insert in the text the number of this Regulation and insert the number, date, title and OJ reference of this Regulation in the footnote.]

(3) the following article is inserted after Article 22:

'Article 22a

Specific rules on official controls and for action taken by the competent authorities in relation to plant reproductive material

1. Official controls to verify compliance with the rules referred to in Article 1(2), point (k), shall include official controls on plant reproductive material, professional operators and other persons subject to those rules.

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 plant reproductive material in order to verify compliance with Union rules 9 referred to in Article 1(2), point (k), applicable to those goods and for action taken by the competent authorities following the performance of those official controls.

Those delegated acts shall lay down rules on specific requirements for the performance of such official controls on:

(a) the import into, and marketing within, the Union of particular plant reproductive material subject to the rules referred to in Article 1(2), point (k), concerning its identification and quality, and

(b) ~~specific requirements for the performance of such official controls on~~ the activities of professional operators during the production or marketing of particular plant reproductive material subject to the rules referred to in Article 1(2), point (k).

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 (k), 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 noncompliance with the rules on plant reproductive material of a particular origin or provenance;

(b) uniform frequency of official controls performed by competent authorities on operators authorised to carry out certification under official supervision in accordance with Article 12(1) of Regulation (EU) …/… of the European Parliament and of the Council*++

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 145(2).

_____

* Regulation (EU) .... of the European Parliament and of the Council of ... [the final title of the PRM Regulation] (OJ L ..., ELI:...).'

++ OJ: Please insert in the text the number of this Regulation and insert the number, date, title and OJ reference of this Regulation in the footnote.]

4. For the purposes of Article 30, the delegation of certain official control tasks, referred to in this Article, to one or more natural persons shall be allowed.';

(3a) in Article 35, second paragraph, the following subparagraph is added:

'When assessing the presence of regulated non-quarantine pests to verify compliance with the rules referred to in Article 1, paragraph 2, point (g), or when assessing the quality of plant reproductive material to verify compliance with the rules referred to in Article 1, paragraph 2, point (k), a new sample on the same goods may be taken to allow for a second expert opinion and for the review referred to in paragraph 3, if so requested by the operator and provided that the identity and traceability of those goods are guaranteed.'

~~(4) in Article 40(1), the following point is added:~~

~~'(c) laboratories which are accreditated by the International Seed Testing Association to carry out sampling of seed and analyses, tests and diagnoses on seed samples 'samples'.~~