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European Union

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### **DRAFT STATEMENT OF THE COUNCIL'S REASONS**

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Subject: Position of the Council at first reading with a view to the adoption of a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL 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  
– Draft Statement of the Council's reasons

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## I. INTRODUCTION

1. On 6 May 2013, the Commission submitted to the European Parliament and to the Council the above-mentioned proposal, based on Article 43 of the Treaty on the Functioning of the European Union<sup>1</sup>.
2. The Economic and Social Committee issued its opinion on 10 December 2013, and on 13 January 2014 the Committee of the Regions informed the Council that it would not issue an opinion.
3. The European Parliament adopted its position at first reading on 15 April 2014<sup>2</sup>. This position was subsequently confirmed by the newly elected Parliament and Mrs. Anthea McINTYRE (ECR (UK)) was appointed as the Rapporteur.
4. Two national parliaments have delivered opinions on the application of the principles of subsidiarity and proportionality<sup>3</sup>.
5. Following the preparatory work carried out by the Working Party on Protection and Inspection – Plant Health, the Working Party of the Chief Plant Health Officers (COPHS) and the Working Party of Agricultural Attachés/Phytosanitary experts, the Permanent Representatives Committee at its meeting of 30 June 2015, gave a mandate<sup>4</sup> to the Presidency to enter into negotiations with the European Parliament.

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<sup>1</sup> Doc. 9574/13  
<sup>2</sup> Doc. 8307/14  
<sup>3</sup> Doc.11870/13 and 12254/13  
<sup>4</sup> Doc. 10108/15 REV2

6. Following a number of technical meetings and informal trilogues during the Luxembourg Presidency, a tentative agreement on an overall compromise was reached in a trilogue on 16 December 2015<sup>5</sup>, with a view to an early second reading agreement between the European Parliament and the Council. That compromise was endorsed by the Permanent Representatives Committee on 18 December 2015. After that, the text was revised jointly by the Commission, the European Parliament and the Council services to ensure that it reflected the compromise reached.
7. On 3 May 2016, the Chair of the Committee on Agriculture and Rural Development of the European Parliament addressed a letter to the President of the Permanent Representatives Committee stating that, if the Council adopts its position at first reading in accordance with the above-mentioned compromise text, he would recommend to the Plenary that the Council's position be accepted without amendment, subject to legal-linguistic verification, at Parliament's second reading.
8. On 26 May 2016, the Council reached a political agreement on the compromise text<sup>6</sup>.

## II. OBJECTIVE

The general objective of the Regulation is to address increased risks in the plant health sector, which stem from new pests and diseases (originating from trade globalisation and climate change). It will also modernise plant health instruments related to trade, both intra-EU (improved traceability in the internal market) and from third countries, focusing on a risk-based approach. Better surveillance and early eradication of outbreaks of new pests are the tools which should ensure an appropriate level of plant health.

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<sup>5</sup> Doc. 15142/15 + ADD1, doc.15143/15.

<sup>6</sup> Doc. 8338/16 + ADD1

### **III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING**

#### **1. General**

The compromise reached between the two co-legislators maintains the objectives of the Commission proposal and, at the same time, takes on board a number of amendments introduced by the Council and the most important amendments adopted by the European Parliament at first reading.

#### **2. Main issues**

The main elements of the compromise reached with the European Parliament are outlined below:

##### a) Scope

According to the Commission's proposal, only parasitic plants could be considered as pests of plants.

The Council and the European Parliament agreed that in order to allow a more flexible response to existing and emerging risks, it would be possible to include in the scope of the Regulation also non-parasitic plants, subject to the condition that they have a severe economic, social and environmental impact on the Union territory.

b) Priority pests

The Commission's proposal introduced the new concept of 'priority' pests: those pests have severe impacts for the Union territory and specific Union resources should be devoted to fight them - thus implying also more far-reaching obligations for both competent authorities, professional operators and private individuals.

According to the compromise reached, priority pests will be identified on the basis of a number of detailed criteria set out in an annex to the Regulation, and their number will not be limited *a priori*.

c) Import regime

The Commission's proposal contained some tools to prevent pests being introduced into the Union territory through plants, plant products or other objects coming from third countries.

The Council and the European Parliament agreed on the need to reinforce such a system by introducing some new elements.

Consequently, a new category of 'high risk' plants, plant products or other objects was added: those are plants, plant products or other objects which present, on the basis of a preliminary assessment, a pest risk of an unacceptable level for the Union territory. Therefore their introduction into the Union territory from a third country shall be prohibited, pending the completion of a full risk assessment.

Moreover, phytosanitary certificates, which attest the conformity with the Union legislation of a plant, plant product or other object being imported from a third country into the Union territory, shall be required for an extended range of plants, plant products or other objects.

b) Delegated and implementing powers

The proposed empowerments of the Commission were studied with a specific attention; a number of Articles were redrafted in order to better circumscribe the Commission's empowerment.

The compromise reached also foresees the adoption of the list of priority pests through a delegated act, considering that this relates to the identification of wider policy priorities and is not just the application of scientific criteria to the pests of plants.

#### **IV. CONCLUSION**

The Council's position at first reading fully reflects the agreement reached between the two co-legislators, as the latter was confirmed by the above mentioned letter from the Chair of the European Parliament's Committee on Agriculture and Rural Development to the Chair of the Permanent Representatives Committee (Part 1) dated 3 May 2016. It was subsequently endorsed by the Council on 26 May 2016 through the adoption of the political agreement.

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