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## WORKING DOCUMENT

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From:	Presidency
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the production and marketing of forest reproductive material, amending Regulations (EU) 2016/2031 and 2017/625 of the European Parliament and of the Council and repealing Council Directive 1999/105/EC (Regulation on forest reproductive material) - Revised Presidency text

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With a view to the informal videoconference of the members of the Working Party on Genetic Resources and Innovation in Agriculture (Seeds, propagating and planting material) of 19 and 20 December 2023, Delegations will find attached a **revised** Presidency text on the above proposal. It tries to accommodate the comments provided by delegations on the articles discussed so far (1-17, 30-31 and Annexes II-VII). Deletions are marked in strikethrough and additions in bold and underline.

Compared to the previous version (16296/23) this revised text only concerns the following Articles: 3(5), 3(23), 3(37) and 3(27a); 4 (a), (b) and (e); 5.1; 6; 9a; 9b; 9c; 13a.3 and 16 and Annex V.

## CHAPTER I GENERAL PROVISIONS

### *Article 1*

#### **Subject matter**

This Regulation sets out rules concerning the production and marketing of forest reproductive material ('FRM') and in particular requirements for the approval of basic material intended for the production of FRM, ~~the origin and traceability of~~ such ~~that~~ basic material, FRM categories, requirements for FRM identity and quality, certification, labelling, packaging, imports, professional operators, the registration of basic material, requirements for [official] controls and the national contingency plans.

### *Article 2*

#### **Scope and objectives**

1. This Regulation applies to FRM of the tree species listed in Annex I, and ~~artificial~~ their hybrids, ~~considered as such~~ ~~thereof, listed in Annex I~~ if at least one of the parent species is listed in Annex I.
2. The objectives of this Regulation are the following:
  - (a) ensure the sustainable production, ~~and marketing~~ and traceability of high-quality FRM in the Union ~~and the functioning of the internal market in FRM;~~
  - (b) help create sustainable resilient forests, ~~conserve biodiversity~~ and restore sustainable forest ecosystems;
  - (c) ~~support wood and biomaterials production, climate adaptation, climate mitigation and the conservation [and sustainable use] of forest genetic resources~~ and conserve biodiversity;
  - (d) support sustainable wood and, biomaterials production;**
  - (e) contribute to climate adaptation of FRM and forests and;**
  - (f) contribute to climate mitigation.**
3. The Commission shall be empowered to adopt delegated acts, in accordance with Article 26, amending the list set out in Annex I as specified in paragraph 3, taking into account:
  - (a) the shift ~~movement~~ of vegetation zones and tree species' ranges as a result of climate change;

- (b) any developments of technical or scientific knowledge.

Those delegated acts shall add species ~~and artificial hybrids~~ to the list in Annex I, if such species ~~and artificial hybrids~~ fulfil at least one of the following elements:

- (a) represent a significant area and economic value of FRM production in the Union;
- (b) are marketed **as FRM** in at least two Member States;
- (c) are considered important for ~~their contribution to~~ adaptation to climate change, and **conservation of biodiversity.** ~~adaptation to climate change, and~~
- ~~(d) are considered important for their contribution to the conservation of biodiversity.~~

The delegated acts referred to in the first subparagraph shall remove species ~~and artificial hybrids~~ from the list in Annex, I if they no longer fulfil any of the elements set out in the first subparagraph.

**[Insofar as certain species and hybrids are not subject to the measures contained in this regulation, Member States may take such measures, or less stringent measures, in respect of their own territory.]**

4. This Regulation does not apply to the following:

- (a) plant reproductive material referred to in Article 2 of Regulation (EU) .../... [*Office of Publications, please insert reference to Regulation on production and marketing of plant reproductive material*];
- (b) propagating material of ornamental plants as defined in Article 2 of Directive 98/56/EC;
- (c) FRM ~~produced~~ **exclusively intended** for export to third countries;
- (d) FRM used **solely** for official testing, scientific purposes or selection work.
- (e) FRM subject to service contracts for the following purposes: cleaning, disinfection, treatments, transport etc.**

### Article 3

#### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘forest reproductive material’ (‘FRM’) means **seed units, parts of plants** and planting stock, ~~cones, infructescences, fruits and seeds intended for the production of a planting stock,~~ that belong to tree species **listed in Annex I and their** ~~and artificial hybrids thereof listed in Annex I to this Regulation and used for afforestation,~~

reforestation and other tree planting, direct seeding in the forest and other tree planting pursuant to the objectives referred to Article 2(2) for any of the following purposes:

**(i) sustainable wood and biomaterials production;**

**(ii) conservation of forest genetic resources and biodiversity conservation;**

**(iii) resilience and restoration of sustainable forest ecosystems;**

**(iv) adaptation to climate change;**

**(v) mitigation of climate change;**

**(vi) agroforestry;**

**(vii) conservation and sustainable use of forest genetic resources.**

- (4) 'seed unit' means cones, infructescences, fruits and seeds ~~intended for the production of a planting stock;~~
- (5) 'planting stock' means ~~any plant or part of a plant used in plant propagation and comprises~~ plants raised from seed units, from parts of plants, or from plants from natural regeneration;
- (6) 'parts of plants' means stem cuttings, leaf cuttings and root cuttings, explants or embryos used for micropropagation, buds, layers, roots, scions, sets and any other parts of a plant ~~used for the production of a planting stock;~~
- (5) 'planting stock' means any plant or part of a plant used in plant propagation and comprises plants raised from seed units, from parts of plants, or from plants from natural regeneration;
- (2) 'afforestation' means establishment of forest through planting and/or deliberate seeding on land that, until then, was under a different land use and—implies a transformation of land use ~~from~~ non-forest to forest<sup>1</sup>;
- (3) 'reforestation' means re-establishment of forest through planting and/or deliberate seeding and/ or vegetative propagation and/or natural regeneration on land classified as forest<sup>2</sup>;
- ~~(4) 'seed unit' means cones, infructescences, fruits and seeds intended for the production of a planting stock;~~

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<sup>1</sup> FAO (2020) Global Forest Resources Assessment Terms and definitions.  
<https://www.fao.org/3/I8661EN/i8661en.pdf>.

- (5) ~~‘planting stock’ means any plant or part of a plant used in plant propagation and comprises plants raised from seed units, from parts of plants, or from plants from natural regeneration;~~
- (6) ~~‘parts of plants’ means stem cuttings, leaf cuttings and root cuttings, explants or embryos used for micropropagation, buds, layers, roots, scions, sets and any other parts of a plant used for the production of a planting stock;~~
- (7) ~~‘production’ means all stages in the generation of the seed and plants, the conversion from seed unit to seed, and the raising of plants from a planting stock, with a view for the respective FRM to be marketed;~~
- (14) ‘basic material’ means any of the following: seed source, stand, seed orchard, parents of family(ies), clone or clonal mixtures;
- (8) ‘seed source’ means the trees within a delineated area, from which **FRM**seed is collected;
- (9) ‘stand’ means a delineated population of trees possessing sufficient uniformity in composition;
- (10) ‘seed orchard’ means a plantation of selected trees, where each tree is identified by a clone, **parent of** family or **[plus tree] [+definition]** provenance, which is isolated or managed to avoid or reduce pollination from outside sources, and managed to produce frequent, abundant and easily harvested crops of seed;
- (11) ‘parents of family(ies)’ means trees used as ~~parents~~ to obtain progeny by controlled or open pollination of one identified parent used as a female (~~‘mother tree’~~), with the pollen of one **parent** ~~‘father tree’~~, (full sibling) or a number of identified or unidentified **parents** ~~‘father trees’~~ (half-sibling);
- (12) ‘clone’ means a group of individuals (ramets) derived originally from a single individual (ortet) by vegetative propagation, for example by cuttings, micropropagation, grafts, layers or divisions;
- (13) ‘clonal mixture’ means a mixture of identified clones in defined proportions;
- (14) ~~‘basic material’ means any of the following: seed source, stand, seed orchard, parents of family(ies), clone or clonal mixtures;~~
- (15) ‘unit of approval’ means the entire area **or individual(s)** of basic material for the production of FRM that has been authorised by the competent authorities;
- (16) ~~‘unit of notification’ means the entire area of basic material for the production of FRM intended for the purpose of the conservation and sustainable use of forest genetic resources that has been notified to the competent authorities;~~
- (17) ‘seed lot’ means a set of **extracted and/or cleaned** seeds **originally** collected from approved basic material and processed uniformly;

- (18) 'plant lot' means a set of plants ~~planting stock~~ that has been grown from a single seed lot or a set of vegetatively propagated planting stock which has been raised in a ~~delimited~~deable area and processed uniformly;
- (19) 'lot ~~codenumber~~' means the identification codenumber of the seed lot or plant lot, as appropriate;
- (20) 'provenance' means the place in which any stand of trees is growing;
- (21) ~~'sub-species' means a group within a species that has become somewhat phenotypically and genetically different from the rest of the group;~~
- (22) 'region of provenance' means, ~~in regard to species or sub-species,~~ the area or group of areas subject to sufficiently uniform ecological conditions, in which stands or seed sources showing similar phenotypic or genetic characteristics are found, taking into account altitudinal boundaries, where appropriate;
- (23) ~~'autochthonous stand' means a stand of native tree species which has been continuously regenerated either by natural regeneration or artificially from FRM collected in the same stand or stands of native tree species within close proximity;~~
- (24) 'indigenous seed source or stand' means a seed source or stand of [native] tree species which has been continuously regenerated either by natural regeneration or artificially from FRM collected in the same seed source or stand, or seed sources or stands of [native] tree species [within close proximity] located in the same region of provenance.
- (25) 'origin' means the following:
- (a) for ~~an autochthonous~~ an indigenous seed source or stand, the place in which the trees are growing;
  - (b) for a non-autochthonous indigenous seed source or stand, the place from which the seed or plants were originally introduced;
  - (c) for a seed orchard, the places where its components were originally located, such as their provenances or other relevant geographical information;
  - (d) for the parents of families, the places where their components were originally located, such as their provenances or other relevant geographical information;
  - (e) for a clone, ~~the origin is~~ the place, where the ortet is or was initially located or selected;
  - (f) for a clonal mixture, ~~the origins are~~ the places, where the ortets are or were initially located or selected;
- (26) 'location of the basic material' means the geographical area or geographical position(s) of the basic material as appropriate for each category of FRM;
- (27) 'place of production of clones or clonal mixtures or parents of families' means the place or exact geographical position, where the FRM was produced;

(28) 'foundation stock' means a plant, group of plants, FRM, DNA stock or genetic information of the clone, or clones in case of clonal mixture, that serves as a reference material for the control of the identity of the clone(s);

~~(29) 'set' means a stem cutting without roots;~~

(31) 'professional operator' means any natural or legal person involved professionally in one or more of the following activities:

**(a) harvesting and collection of FRM**

**(b) processing and storage of FRM;**

~~(a)(c)~~ production (including growing, multiplying and maintaining) of FRM;

~~(b)(d)~~ **marketing and dispatching of FRM;**

**(7) 'production' means all stages in the generation of the seeds, parts of plants and plants, with a view for the respective FRM to be marketed, [which also include production under services contract];**

(30) 'marketing' means the following actions [conducted by a professional operator]: sale, holding or offering for the purpose of sale or any other way of transferring, distribution within, **or export out of the Union** or import into the Union, whether free of charge or not, of FRM;

~~(31) 'professional operator' means any natural or legal person involved professionally in one or more of the following activities:~~

~~(a) production, including growing, multiplying and maintaining of the FRM;~~

~~(b) marketing of the FRM;~~

~~(c) storage, collection, dispatching and processing of the FRM;~~

(32) 'competent authority' means a central or regional authority of a Member State, or, where applicable, the corresponding authority of a third country, responsible for the organisation of official controls, registration of basic material, certification of FRM and other official activities concerning the production and marketing of FRM, ~~or any other authority to which that responsibility has been conferred, in accordance with Union law;~~

**(38) 'category' means FRM that classified qualifies as source-identified, selected, qualified or tested material;**

(33) 'source-identified' means a category of FRM derived from basic material consisting of either a seed source or stand located within a single region of provenance and which meets the requirements set out in Annex II;

(34) 'selected' means a category of FRM derived from basic material consisting of a stand located within a single region of provenance, which has been phenotypically selected at the population level and which meets the requirements set out in Annex III;



- (35) 'qualified' means a category of FRM derived from basic material consisting of seed orchards, parents of family(ies), clones or clonal mixtures, the components of which have been phenotypically selected at the individual level, and which meets the requirements set out in Annex IV;
- (36) 'tested' means a category of FRM derived from basic material consisting of stands, seed orchards, parents of family(ies), clones or clonal mixtures, where the superiority of that FRM has demonstrated by comparative testing or an estimate of the superiority of the FRM calculated on the basis of the genetic evaluation of the components of the basic material, and which meets the requirements set out in Annex V;
- (37) ['official certification' means certification of ~~source identified, selected, qualified and tested~~ FRM of any category, if all relevant inspections and, where appropriate, sampling and FRM testing have been carried out by the competent authority and if it has been concluded that the FRM meets the respective requirements of this Regulation;]
- (37a) ['certification under official supervision' means attestation by a professional operator that FRM of any category complies with the applicable requirements, and where at least one or more of the relevant inspections, sampling, testing or label printing issuance have been carried out by that professional operator, following the authorisation by, and under the supervision of, the competent authority, and if it has concluded that the FRM concerned meets those requirements;]**
- (38) ~~'category' means FRM that qualifies as source identified, selected, qualified or tested material;~~
- (39) 'genetically modified organism' means a genetically modified organism as defined in Article 2(2) of Directive 2001/18/EC, excluding organisms obtained through the techniques of genetic modification listed in Annex I **A part 2B** to Directive 2001/18/EC;
- (40) 'NGT plant' means plants obtained by certain new genomic techniques as defined in Article 3, point 2 of Regulation (EU) [*Office of Publications, please insert reference to Regulation on plants obtained by certain new genomic techniques and their food and feed*] ~~of the European Parliament and of the Council~~<sup>3</sup>;
- (41) ~~'seed transfer zones' means an area and/or altitudinal zones designated by the competent authorities for the movement of FRM belonging to the source identified and selected categories, taking into account, as appropriate, the origin and provenance of the FRM, provenance trials, environmental conditions and future climatic change projections;~~
- (42) ~~'deployment area for seed orchards' means the area designated by the competent authorities, in which FRM belonging to the qualified and tested categories is adapted~~

<sup>3</sup> ~~Regulation (EU) .../... of the European Parliament and of the Council on plants obtained by certain new genomic techniques and their food and feed, and amending Directives 68/193/EEC, 1999/105/EC, 2002/53/EC, 2002/55/EC, and Regulation (EU) 2017/625 (OJ ...).~~



~~to the climatic and ecological conditions of that area, taking into account, as appropriate, the location of the seed orchards and its components, results of progeny and provenance trials, environmental conditions and future climatic change projections;~~

- (43) ~~‘deployment area for clones and clonal mixtures’ means the area designated by the competent authorities, in which FRM belonging to the qualified and tested categories is adapted to the climatic and ecological conditions of that area, taking into account, as appropriate, the origin or provenance of the clone(s), results of progeny and provenance trials, the environmental conditions and future climatic change projections;~~
- (44) ‘FOREMATIS’ means the Forest Reproductive Material Information System of the Commission;
- (45) ‘natural regeneration’ means the renewal of a forest by trees that develop from seeds which have ~~fallen and germinated *in situ*~~ **or trees which have been vegetatively regenerated in situ;**
- (46) ‘quality pests’ means pests fulfilling all of the following:
- (a) they are not Union quarantine pests, protected zone quarantine pests, or regulated non-quarantine pests (‘RNQPs’) within the meaning of Regulation (EU) 2016/2031, nor pests subject to the measures adopted pursuant to Article 30(1) of that Regulation;
  - (b) they occur during FRM production or storage; and
  - (c) their presence has an unacceptable adverse impact on the quality of the FRM, ~~or~~ **and an unacceptable economic, environmental or social impact as regards the use of that FRM in the Union;**
- (47) ‘practically free from **quality** pests’ means ~~completely free from pests, or~~ a situation where the presence of quality pests on the respective FRM is so low that those pests do not affect adversely the quality of that FRM.

## CHAPTER II

### BASIC MATERIAL AND FRM DERIVING FROM IT

#### *Article 4*

#### **Approval of basic material for the production of FRM**

1. Only basic material approved by the competent authorities may be used for the production of FRM.
2. Basic material intended for the production of FRM to be certified as ‘source-identified’ shall be approved, if it fulfils the requirements set out in Annex II.

Basic material intended for the production of FRM to be certified as ‘selected’ shall be approved, if it fulfils the requirements set out in Annex III.

Basic material intended for the production of FRM to be certified as ‘qualified’ shall be approved, if it fulfils the requirements set out in Annex IV.

Basic material intended for the production of FRM to be certified as ‘tested’ shall be approved, if it fulfils the requirements set out in Annex V.

The assessment of the requirements laid down in Annexes II to V for the approval of basic material, may include besides visual inspection, documentary checks, tests and analyses or other complementary methods, also the use of bio-molecular techniques, if they are considered more appropriate for the purpose of that approval.

The basic material for all categories shall be assessed for its sustainability characteristics as set out in Annexes II to V, to take into account the climatic and ecological conditions.

The approval of the basic material shall be carried out with a reference to the unit of approval.

The Commission is empowered to adopt delegated acts in accordance with Article 26 amending Annexes II, III, IV and V, as regards requirements for the approval of basic material intended for the production of:

- (a) FRM of ‘source-identified’ category, and in particular the requirements concerning types of basic material, **number of flowering/fruiting trees,** effective size of the population **[need to be consistent with the annexes]**, origin and region of provenance, sustainability characteristics;
- (b) FRM of the ‘selected’ category, and in particular the requirements concerning origin, isolation **or limitation of pollen flow, number of flowering/fruiting trees,** effective size of the population **[need to be consistent with the annexes]**, age and development, uniformity, sustainability characteristics, volume production, wood quality, and form or growth habit;
- (c) FRM of the ‘qualified’ category, and in particular the requirements concerning orchards, parents of family(ies), clones, and clonal mixtures;
- (d) FRM of the ‘tested’ category, and in particular the requirements concerning characteristics to be examined, documentation, setting up the tests, analysis and validity of the tests, the genetic evaluation of the components of basic material, the comparative testing of FRM, provisional approval and early tests;
- (e) ~~FRM in accordance with the requirements of Regulation (EU) 2018/848 of the European Parliament and of the Council.~~

Those amendments shall adapt the rules for the approval of basic material to the development of scientific and technical knowledge, ~~and the development of the OECD Forest Seed and Plant Scheme and other applicable international standards.~~ **in particular regarding the use of molecular techniques, and to the relevant international standards.**

3. Only approved basic material shall be included under the form of a unit of approval in the national register pursuant to Article 12. Each unit of approval shall be identified by a unique register reference in a national register.
4. The approval of basic material shall be withdrawn, if the requirements set out in this Regulation are no longer met.
5. After approval, the basic material intended for the production of FRM under the selected, qualified and tested categories shall be re-inspected by the competent authorities at regular intervals.
6. The Commission is empowered to adopt delegated acts in accordance with Article 26 amending Annexes II, III, IV and V, in order to adapt them to the development of scientific and technical knowledge, in particular regarding the use of ~~bio~~-molecular techniques, and to the relevant international standards.

#### *Article 5*

#### **Requirements for the marketing of FRM derived from approved basic material**

0. **[FRM of the source-identified, selected, qualified or tested category may only be marketed within the Union:**
  - (a) **following official certification by the competent authorities, or certification by the professional operator under supervision of the competent authorities;**
  - (b) **if it complies with paragraph 2.]**
1. **FRM derived from approved basic material shall be marketed** **[by professional operators]** in accordance with the following rules:
  - (a) FRM of the species listed in Annex I may only be marketed, if it is of the categories ‘source-identified’, ‘selected’, ‘qualified’ or ‘tested’, and it has been derived from basic material that has been approved pursuant to Article 4 and if that basic material meets the requirements of Annexes II, III, IV and V, respectively;
  - (b) FRM of the ~~artificial~~ hybrids listed in Annex I may only be marketed, if it is of the ‘selected’, ‘qualified’ or ‘tested’ categories, and it has been derived from basic material that has been approved pursuant to Article 4 and if that basic material meets the requirements of Annexes III, IV and V, respectively;
  - (c) FRM of the tree species ~~and artificial hybrids~~ listed in Annex I **and their hybrids**, which are vegetatively reproduced, may only be marketed if:
    - (i) it is of the ‘selected’, ‘qualified’ or ‘tested’ categories, and
    - (ii) it has been derived from basic material which has been approved pursuant to Article 4 and which meets the requirements of Annexes III, IV and V, respectively;

- (iii) FRM of the ‘selected’ category, **that** may only be marketed if it has been mass propagated from seeds;
- (d) FRM of the tree species **listed in Annex I** and **their** artificial hybrids ~~listed in Annex I~~, which contains or consists ~~of~~ genetically modified organisms, may only be marketed if:
  - (i) it is of the ‘tested’ category, and
  - (ii) it has been derived from basic material which has been approved pursuant to Article 4 and which meets the requirements of Annex V; and
  - (iii) it is authorised for cultivation in the Union pursuant to Article 19 of Directive 2001/18/EC or Articles 7 and 19 of Regulation (EC) 1829/2003, or, where applicable, in the respective Member State in accordance with Article 26b of Directive 2001/18/EC;
- (e) FRM of the tree species **listed in Annex I** and **their** artificial hybrids ~~listed in Annex I~~, which contain or consist of a category 1 NGT plant as defined in Article 3(7) of Regulation (EU) .../... (Office of Publications, please insert reference to NGT Regulation ...), may only be marketed if:
  - (i) it is of the ‘tested’ category, and
  - (ii) it has been derived from basic material which has been approved pursuant to Article 4 and which meets the requirements of Annex V; and
  - (iii) the plant has obtained a declaration of category 1 NGT plant status pursuant to Article 6 or 7 of Regulation (EU) .../... (Office of Publications, please insert reference to NGT Regulation ...) or is progeny of such plant(s);
- (f) FRM of the tree species **listed in Annex I** and **their** artificial hybrids ~~listed in Annex I~~, may only be marketed if it is accompanied by a reference to its master certificate number(s) **an official label containing a reference to the master certificate code [code instead of number: make consistent throughout the text]**;
- (g) it complies with Articles 36, 37, 40, 41, 42, 49, 53 and 54 of Regulation (EU) 2016/2031 concerning Union quarantine pests, protected zone quarantine pests, RNQPs, and pests subject to the measures under Article 30 of that Regulation;
- (h) In the case of seeds, FRM of the tree species **listed in Annex I** and **their** artificial hybrids ~~listed in Annex I~~, may only be marketed, if in addition to compliance with points (a) to (g), information is available as regards:
  - (i) **purity, as measured by the percentage by weight of pure seed, other seed and inert matter of the product marketed as a seed lot;**
  - (ii) **germination percentage of the pure seed, or in cases where germination percentage assessing is impossible or impractical, the**

**viability percentage, the viability percentage assessed by reference to a specified method;**

- (iii) **the** weight of 1000 pure seeds;
- (iv) the number of germinable seeds per kilogram **or liter** of product marketed as seed, or, where the number of germinable seeds is impossible or impractical to assess, the number of viable seeds per kilogram.
- (v) **[for artificial hybrids of larch, the hybrid percentage, if appropriate ]**

**By way of derogation from paragraph 1, point (h), and in order to make seed of the current seasons crop rapidly available, notwithstanding the fact that the examination in respect of germination as laid down in paragraph (h), point (ii) has not been concluded, marketing of FRM may take place as far as to the first buyer. The respect of the conditions as laid down in paragraph (h), points (ii) and (iv) and (v) shall be stated by the professional operator as soon as possible**

- 2. The categories under which FRM from the different types of basic material may be marketed are as set out in the table in Annex VI.
- 3. The Commission is empowered to adopt delegated acts in accordance with Article 26(2), amending the table of Annex VI concerning categories under which FRM from the different types of basic material may be marketed.

That amendment shall adapt those categories to the development of scientific and technical knowledge and of the relevant international standards.

*[Article 6*

***Requirements for FRM derived from basic material intended for the purpose of conserving forest genetic resources***

In order for FRM derived from basic material subject to the derogation of Article 18 to be marketed, all the following conditions shall be fulfilled:

- (a) FRM of the species listed in Annex I may only be marketed, if it is of the ‘source-identified’ category;
- (b) FRM shall be of origin which is naturally adapted to the local and regional conditions; and
- (c) FRM shall be collected from all individuals of the notified basic material.]

**(WILL BE DISCUSSED WITH ARTICLE 18)**

## *Article 7*

### **Temporary authorisation of marketing of FRM derived from basic material not meeting the category requirements**

#### **[merge Article 7 and Article 21 after the completion of discussion on Article 21]**

1. Competent authorities may temporarily authorise the marketing of FRM derived from approved basic material which does not meet all the requirements of the appropriate category referred to in Article 5(1), following the adoption of the delegated act referred to in paragraph 2.

The competent authorities of the respective Member State shall notify the Commission and the other Member States of those temporary authorisations and of the respective reasons justifying their approval.

2. The Commission is empowered to adopt delegated acts, in accordance with Article 26, supplementing this Article, by setting out the conditions for the granting of the temporary authorisation to the Member State concerned.

Those conditions shall include:

- (a) the justification for granting that authorisation to ensure achievement of the objectives of this Regulation;
- (b) the maximum duration of the authorisation;
- (c) obligations as regards official controls on the professional operators applying that authorisation;
- (d) the content and form of the notification referred to in paragraph 1.

## *Article 8*

### **Special requirements for certain species, categories and types of FRM**

The Commission is empowered to adopt delegated acts, in accordance with Article 26, supplementing, as necessary, this Regulation as regards the requirements as appropriate for each type, species or category of FRM:

- (a) concerning fruit and seed lots of the species listed in Annex I as regards species purity;
- (b) concerning parts of plants of the species **listed in Annex I** and ~~their artificial hybrids listed in Annex I~~ as regards quality in relation to general characteristics, health and size;
- (c) for external quality standards for *Populus* spp. propagated by stem cuttings or sets as regards defects and minimum dimensions for stem cuttings and sets;

- (d) concerning planting stock of the species **listed in Annex I** and ~~their artificial hybrids listed in Annex I~~ as regards quality in relation to general characteristics, health, vitality and physiological quality;
- (e) concerning planting stock to be marketed to users in regions having a Mediterranean climate as regards defects, size and age of the plants and, where appropriate, size of the container.

That delegated act shall be based on the experience gained by the application of the requirements as appropriate for each type, species or category of FRM as regards the provisions for inspections, sampling and testing, ~~and~~ isolation distances **or limitation of pollen flow**. It shall adapt those requirements based on the development of the respective international standards, the technical and scientific developments, or the climatic and ecological developments.

## *Article 9*

### **Contingency plan and national register**

1. Each Member State ~~may~~**shall** draw up one or more contingency plan to ensure **preparedness and capacity to establish** a sufficient supply of FRM to reforest areas affected by extreme weather events, wildfires, disease and pest outbreaks, disasters or any other event, as relevant and identified in the national risk assessments develop in accordance with Article 6(1) of Decision No 1313/2013/EU<sup>4</sup>. **Those plans may be coordinated between neighbouring countries.**

That contingency plan ~~may~~**shall** be prepared for ~~those tree species listed in Annex I and their artificial hybrids thereof listed in Annex I~~, that are **economically and ecologically relevant as stand forming species, under** ~~deemed suitable for the current and projected future climatic and ecological conditions of the Member State concerned.~~

The contingency plan shall take into account the projected future distribution of the relevant **provenances or breeding populations of** tree species and ~~their artificial hybrids thereof~~, on the basis of national and/or regional climate model simulations, **if available**, for the Member State concerned.

2. Member States shall, at an appropriate stage, consult ~~all~~ relevant stakeholders in the process of drawing up and keeping up to date such contingency plans.
3. Each contingency plan shall, **if appropriate**, include the following:
  - (a) the roles and responsibilities of the bodies involved in the execution of the contingency plan in case of any event causing a major shortage of FRM, as well as ~~the chain of command and procedures for the coordination of actions to be taken by competent authorities, other public authorities, delegated bodies or natural persons involved, laboratories and professional operators, including the coordination with neighbouring Member States and neighbouring third countries, where appropriate;~~

<sup>4</sup> OJ L 347, 20.12.2013, p. 924.



- (b) ~~access of competent authorities to supplies of FRM that have been maintained for the purpose of contingency planning, premises of professional operators, in particular forest nurseries and laboratories producing FRM, other relevant operators and natural persons;~~
- (c) ~~access of competent authorities, where necessary, to equipment, personnel, external expertise and resources necessary for the rapid and effective activation of the contingency plan;~~
- (d) ~~measures concerning the submission of information to the Commission, the other Member States, the professional operators concerned and the public, as regards the major FRM shortage, and the measures taken against it in the event of an officially confirmed or suspected major FRM shortage;~~
- (e) ~~arrangements for recording findings of the presence of any major FRM shortage;~~
- (f) ~~the available assessments of the Member State as regards the risk of a major FRM shortage for its territory and its potential impact on human, animal and plant health, and the environment;~~
- (g) ~~principles for the geographical demarcation of the area(s) where a major FRM shortage has occurred;~~
- (h) principles concerning the **competence** training of personnel of the competent authorities and, where appropriate, the bodies, public authorities, laboratories, professional operators and other persons referred to in point (a).

Member States shall regularly review and, where appropriate, update their contingency plans to take account of the technical and scientific developments in relation to climate model simulations addressing the projected future distribution of the relevant tree species and artificial hybrids thereof.

4. Member States ~~may~~ shall establish **a contingency plan** ~~a~~ **identify in the** national register that:

- (a) contains the tree species **listed in Annex I** and **their** artificial hybrids ~~listed in Annex I~~, which are relevant for the current climatic and ecological conditions of the Member State concerned;
- (b) takes account **if available** ~~of~~ the projected future distribution of those tree species and ~~artificial hybrids thereof~~.

~~Within 4 years from the date of establishment of their national registers, Member States shall establish contingency plans for the species and artificial hybrids included in their registers.~~

5. Member States shall collaborate with each other and with all relevant stakeholders for the establishment of their contingency plans, on the basis of an exchange of best practices and experience gained with the establishment of those plans.

6. Member States shall make their contingency plans available to the Commission, the other Member States and all relevant professional operators through publication in FOREMATIS.

## **[CHAPTER IIb** **AUTHORISATION OF PROFESSIONAL OPERATORS AND** **OFFICIAL SUPERVISION OF THE COMPETENT** **AUTHORITIES<sup>5</sup>**

### **Article 9a**

#### **Authorisation of professional operators to carry out certification under official supervision**

1. **A professional operator may, upon application, be authorised by the competent authority to perform all or certain activities required for certification of FRM under official supervision of the competent authority for FRM of the source-identified, selected, qualified or tested category and to issue an official label for them.**

**In order to be granted such authorisation, and depending on the activities to be authorised for, the professional operator shall:**

- (a) possess the necessary knowledge for complying with the requirements referred to in Article 5;**
  - (b) be qualified to carry out the necessary inspections, sampling and testing to ensure compliance with those requirements, referred to in Annex XX or employ personnel, ~~qualified for such inspections~~ or use laboratories employing qualified personnel, for those activities;**
  - (c) have identified, and have the capability to monitor, the critical points of the production process which may influence the quality and identity of the PRM, and keep records of the results of that monitoring;**
  - (c) have in place systems to ensure the fulfilment of the requirements concerning lots pursuant to Article 15 and issuance of the official label pursuant to Article 16;**
2. **The Commission is empowered to adopt delegated acts in accordance with Article 26, supplementing paragraph 1 as regards one or more of the following elements:**
- (a) procedure for the application submitted by the professional operator;**

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<sup>5</sup> **The Commission suggests** suggests to add articles 9a and 9b on authorisation of operators and certification under official supervision: To be discussed

- (b) specific actions to be taken by the competent authority, in order to confirm the compliance with paragraph 1, points (a) to (e).

#### Article 9b

#### Withdrawal or modification of the authorisation of a professional operator

Where an authorised professional operator no longer fulfils the requirements set out in Article 109a(1), the competent authority shall request that operator to take corrective actions within a specified period of time.

The competent authority shall without delay withdraw, or modify as appropriate, the authorisation, if the professional operator does not apply the corrective actions referred to in the first subparagraph within the specified period of time. In case it is concluded that the authorisation had been granted following fraud, the competent authority shall impose the appropriate sanctions to the professional operator. ]

#### Article 9c

#### Official supervision by the competent authorities

1. For the purposes of the certification under official supervision, the competent authorities shall conduct regular audits to ensure that the professional operator fulfils the requirements referred to in Article 109a(1).

They shall also organise training and examinations of the personnel carrying out field inspections, sampling and testing provided for in this Regulation.

2. For the purposes of the certification under official supervision, the competent authorities shall carry out official inspections, sampling and testing on a portion of the ~~erops~~FRM on the site of production and on lots of the PFRM in order to confirm compliance of that material with the requirements referred to in Article 75.

That portion shall be determined on the basis of the assessment of the potential risk of non-compliance of the PFRM with those requirements.

3. The Commission may, by means of implementing acts, specify the requirements for the audits, training, ~~examinations~~, inspections, sampling and testing, as referred to in paragraphs 1 and 2, with regard to all or particular genera or species.

Those implementing acts may specify one or more of the following elements:

- (a) the risk criteria as referred to in paragraph 2 and minimum portion of the ~~erops and the lots~~ of PFRM, to be subject to inspections, sampling and testing, as referred to in paragraph 2;
- (b) monitoring activities to be carried out by the competent authorities;
- (c) use of particular accreditation schemes by the professional operator, and the possibility for the competent authorities to reduce the inspections,

sampling and testing, and monitoring activities referred to in this Article due to the use of those schemes.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 7625(2).

# CHAPTER III

## REGISTRATION OF PROFESSIONAL OPERATORS AND BASIC MATERIAL, AND DEMARCATION OF REGIONS OF PROVENANCE

### *Article 10*

#### Obligations for professional operators

1. Professional operators shall be registered in a register provided for in Article 65 of Regulation (EU) 2016/2031 **for the activities related to the production and marketing of FRM**, in accordance with Article 66 of that Regulation.

They shall be established in the Union.

2. Professional operators shall **ensure that FRM remains traceable and identifiable at all stages of production and marketing. They secure the identity of FRM and shall facilitate** ~~make available to the users of their FRM the access of users to the existing information~~ **all necessary information available** concerning its suitability for **specific** ~~current and projected future~~ climatic and ecological conditions. That information shall, prior to the transfer of the FRM concerned, be provided to the potential purchaser through websites, planters' guides and other appropriate means. **They may also refer to websites managed by the competent authorities or public institutes if those are available.**

### *Article 11*

#### Demarcation of regions of provenance for certain categories

Member States shall, for the relevant species of basic material intended for the production of FRM of the 'source-identified' and 'selected' categories, demarcate the regions of provenance.

The competent authorities shall draw up and publish on their website maps showing the demarcations of the regions of provenance. They shall make those maps available to the Commission and other Member States through FOREMATIS.

**National register and national lists of basic material**

1. Each Member State shall establish, publish and keep updated, in electronic format, a national register of the basic material of the various species approved on its territory pursuant to Articles 4 and 19 and notified pursuant to Article 18.

That register shall contain full details of each unit of approved basic material, together with its unique register reference.

By way of derogation from Article 4, the competent authorities shall immediately register in their national registers the basic material included, before ... [*OJ, please, insert the application date ~~of the~~ of this Regulation*], in their respective national registers referred to in Article 10(1) of Directive 1999/105/EC, without applying the registration procedure set out in that Article.

2. Each Member State shall establish, publish and keep updated a national list of basic material, which shall be presented as a summary of the national register. It shall make that list available ~~in electronic format~~ to the Commission and the other Member States through **and in accordance with the format of** FOREMATIS.
3. Member States shall present the national list in a common form for each unit of approval of basic material. For the categories ‘source-identified’ and ‘selected’, it may contain only a summary description of the basic material, on the basis of regions of provenance.

The national list shall provide in particular the following details:

- (a) botanical name;
- (b) category;
- (c) **type of** basic material;
- (d) register reference or, where appropriate, summary thereof, or identity code for region of provenance;
- (e) location of basic material: a short name, if appropriate, and one of the following sets of particulars:
  - (i) for the ‘source-identified’ category, region of provenance and **the geographical position defined by latitude, longitude, and altitude or the latitudinal, longitudinal and altitudinal range;**
  - (ii) for the ‘selected’ category, region of provenance and the geographical position defined by latitude, longitude and altitude or the latitudinal, longitudinal and altitudinal range;
  - ---

(iii) for the ‘qualified’ category, the exact geographical position(s) defined by latitude, longitude and altitude, where the basic material is maintained;

- (iv) for the ‘tested’ category, the exact geographical position(s) defined by latitude, and longitude and altitude, where the basic material is maintained;

**In points (i)-(iv) a uniform coordinate system as defined in the Forest Reproductive Material Information System of the Commission (FOREMATIS) will apply.**

- (f) area: the size of a seed source(s), stand(s) or seed orchard(s);
- (g) origin:
- (i) indication whether the basic material is ~~autochthonous/indigenous, non-autochthonous/non-indigenous~~ **or unknown. In the case of indigenous or non-indigenous basic material, information about the origin, if it is known** ~~or if the origin is unknown;~~
- (ii) ~~non-autochthonous/ non-indigenous basic material, an indication of the origin, if it is known;~~
- (iii) **in the case of for seed orchards; provenances or other relevant geographic information where its components were originally located mustshall be stated if known. For seed orchards representing a more advanced stage of breeding, information from breeding records may substitute the information about origin and Region(s) of Provenance.**
- (h) **one or more purpose(s) of use of FRM as referred to in Article 3(1);**

**(i) further other information relevant for the characterisation of the basic material; information (e. g. genetic background, forest site conditions where it is grown) if available should be described;**

- (j) in the case of FRM of the ‘tested’ category, an indication whether it is:
- (i) genetically modified; ~~or~~
- (ii) [an NGT plant] **[check progress NGT proposal];**
- (k) in the case of qualified and tested categories, information about the place of production of **offsprings of parents of families,** clone(s) or clonal mixture(s), where appropriate;

**(l) The code of master certificates issued for that unit of approval of basic material**

### *Article 13*

#### **Union List of Approved Basic Material**



4. On the basis of the national lists provided by each Member State in accordance with Article 12, the Commission shall publish a list entitled 'Union List of Approved Basic Material for the Production of Forest Reproductive Material'.

That list shall be made available in electronic format through FOREMATIS.

2. ~~That list shall reflect the details given in the national lists referred to in Article 12(1) and show the area of utilisation.~~

## **CHAPTER IV**

### **HARVESTING AND COLLECTION, MASTER**

### **CERTIFICATE, LABELLING AND PACKAGING [OF FRM]**

#### **Article 13a**

##### **Harvest and collection from basic material**

1. ~~:-The professional operator shall notify the competent authority of his~~**intention to harvest forest reproductive material, at least 14 days within a reasonable period prior to harvesting, in order to allow the competent authority to organise the respective official controls.**
2. **Traceability shall be ensured from the collection of FRM up to the marketing to the end user or to direct sowing in forest.**
- (1) 3. **The competent authority may define the technical conditions to be considered during harvesting and collection.**
3. **Professional operators shall keep, and supply the competent authority with, records documenting the harvest of the FRM.**
4. **The seed harvester shall ensure that the seed lot undergoes intensive mixing prior to marketing or seeding.**
5. **The seed lot shall be sufficiently homogeneous, in accordance with the applicable international standards.**
6. **Professional operators shall maintain and annually supply the competent authority with records which shall contain details of all consignments that have been detained and marketed.**

#### ***Article 14***

##### **Master certificate of identity**

1. The competent authorities shall issue, upon application of a professional operator, after harvesting the FRM from approved basic material **and after checking whether all respective requirements have been fulfilled, information provided was correct,** a master certificate of identity ('master certificate'), showing the unique register reference of basic material, for all FRM that has been harvested.

The master certificate shall attest **that the FRM derives it is deriving from approved basic material in accordance with the requirements of** ~~compliance with the requirements of (Article 4(2)).~~

The Commission shall, by means of an implementing act, adopt the content and the model for the master certificate of identity for FRM, **and in particular for all of the following**:

- (a) Model master certificate for FRM that is derived from seed sources and stands;
- (b) Model master certificate for FRM that is derived from seed orchards or parents of family(ies); ~~and~~
- (c) Model master certificate for FRM that is derived from clones and clonal mixtures;-

**(d) Model master certificate for FRM that is derived from a mixture.**

That implementing act shall be adopted in accordance with the examination procedure referred to in Article 27(2).

- 2. Where in accordance with Article 15(2) a Member State adopts measures as regards subsequent vegetative propagation, a new master certificate shall be issued.
- 3. Where mixing takes place in accordance with Article 15(3), Member States shall ensure that the register references of the components of the mixtures are identifiable, and a new master certificate or other document identifying the mixture shall be issued. **In this case, The professional operator shall notify the competent authority of its intention to carry out that mixing, has to appoint for some days prior to that operation. The competent authority may decide to supervise the mixing process.**
- 4. Where a lot referred to in Article 15(1) is subdivided into smaller lots that are not processed uniformly and subjected to subsequent vegetative propagation, a new master certificate shall be issued and a reference shall be made to the previous master certificate ~~code~~**number**.
- 5. A master certificate may also be issued in an electronic form ('electronic master certificate').

The Commission may, by means of implementing acts, set out technical arrangements for the issuance of electronic master certificates, for ensuring their compliance with this Article and an appropriate, credible and effective mode for the issuance of electronic master certificates. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).

- 6. The Commission is empowered to adopt delegated acts, in accordance with Article 26, supplementing this Article, by setting out rules on:
  - (a) digital recording of all actions taken by ~~the professional operator and the competent authorities,~~ **and, where applicable by the professional operators,** in order to issue the master certificate; and
  - (b) establishment of a centralised platform that connects all the Member States and the Commission, to facilitate the processing of, access to and use of those

records. ~~Each member state shall establish and update a national list of issued master certificates and make it available to the EU COM and national authorities.~~

## Article 15

### Lots

1. ~~FRM shall, during all stages of production, be kept separated by reference to individual units of approval of basic material to ensure traceability of the FRM to the approved basic material from which it has been harvested. FRM shall be harvested from these the individual units of approval and marketed in lots that shall be sufficiently homogeneous and identified as distinct from other lots of FRM.~~ **FRM shall, during all stages of production, be kept separated by reference to the master certificate code to ensure traceability of the FRM to the approved basic material from which it has been harvested.**

Each lot of FRM shall be identified by the following:

- (a) lot ~~code or~~ number;
- (b) master certificate code ~~and number~~;
- (c) botanical name;
- (d) category of FRM;
- (e) -purpose(s) of use;**
- (fe) type of** basic material;
- (f) register reference or identity code for region of provenance;
- (g) region of provenance for FRM of the ‘source-identified’ and ‘selected’ categories or other FRM if appropriate;
- (h) if appropriate, whether the origin of the basic material is autochthonous or indigenous, non-autochthonous or non-indigenous, or unknown;
- (i) in the case of seed units, the year of ripening, **purity, germination percentage of the pure seed, weight of 1000 pure seeds, and the number of germinable seeds per kilogram (Art. 5 1.(h)) the name of the seed test station and the number of trees from which the FRM was collected;**
- (j) age and type of planting stock of seedlings or cuttings, whether undercuts, transplants or containerised;
- (k) for the ‘tested’ category whether it is:
  - (i) genetically modified\_;

(ii) [an NGT plant] **[CHECK CONSISTENCY NGT PROPOSAL]**.

2. Without prejudice to paragraph 1 of this Article and to Article 5(1), point (c), **professional operators** ~~Member States~~ shall keep separately FRM, which is subject to subsequent vegetative propagation and shall identify it as such. Such FRM shall have been harvested from a single unit of approval in the ‘selected’, ‘qualified’ and ‘tested’ categories. In such cases, the produced FRM shall assume the same category as the original FRM.
3. Without prejudice to paragraph 1, the mixing of FRM shall be subject to **all of** the following conditions **as applicable:**

**(a1) the mixing shall have at least one of the purpose(s) as its original lots at least one purpose is matched. The new combined lot must be certified with the matching purposes.**

**(2) as appropriate:**

- (ba)** within the ‘source-identified’ or ‘selected’ categories, mixing shall apply to FRM derived from two or more units of approval within a single region of provenance;
- (cb)** in the case of mixing of FRM within a single region of provenance, from seed sources and stands in the ‘source-identified category, the new combined lot shall be certified as ‘FRM derived from a seed source’;
- (de)** in the case of mixing of FRM derived ~~from non-autochthonous or non-~~indigenous basic material with that from basic material of unknown origin, the new combined lot shall be certified as being ‘of unknown origin’;
- (ed)** in the case of mixing of FRM derived from a single unit of approval from **one or** different years of ripening, the actual years of ripening and proportion of FRM from each year shall be recorded.

In the case of mixing in accordance with the first subparagraph, points **(ba)**, **(cb)** or **(de)**, the identity code for the region of provenance may be substituted for the register reference as in paragraph 1, point **(gf)**. **The resulting lot shall must be mixed in such a way that it is homogeneous.**

## *Article 16<sup>6</sup>*

### **Official label and operator’s label or document**

1. An official label shall be issued by the **authorized professional operator under the supervision of** competent authorities ~~for every lot of FRM attesting compliance of that FRM with the requirements referred to in Article 5.~~

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<sup>6</sup> 1a and 1b: new Commission proposal. This Article needs to be discussed with articles 9a, 9b and 9c.

- ~~[1a. FRM of the source-identified, selected, qualified or tested category **Pre-basic, basic and certified seed and material** shall be identified, and their compliance with this Regulation shall be attested, through an official label, issued by the competent authority an authorised professional operator confirming that the requirements referred to in Article 75 have been fulfilled.~~
- ~~1b. The official label shall be issued by and printed by the competent authority professional operator or a person contracted by that operator, under the official supervision of the competent authority, and bear a serial number given by the competent authority. That label shall ensure unique identification and traceability of the lot.]~~
- 1c In addition to the official label, the professional operator may also issue and print Supplieroperator's label or/and supplieroperator's document, with supplementary information shall be issued by the professional operator for every lot of FRM attesting confirming that FRM is deriving from a lot, and also confirming compliance with the respective requirements of Articles 5 and 15 (according art. 5 and 15).
- ~~2. The Competent authorities must determine, base on, shall authorise the professional operator to print the official label after the competent authority has attested compliance of that FRM with the requirements referred to in Article 5. The professional operator is authorised to print that label, if, on the basis of an audit, the competent authority has concluded that the operator possesses the infrastructure and resources to print the official label.~~
- ~~3. The competent authority shall carry out regular controls to check whether the authorized professional operator complies with the requirements referred to in paragraph 2.~~
- ~~Where, after having granted the authorisation referred to in paragraph 2, the competent authority finds that a professional operator does not fulfil the requirements referred to in that paragraph, it shall without delay withdraw, or modify as appropriate, the authorisation.~~
- ~~2. By way of derogation from paragraph 1, competent authorities may also issue official labels, if the respective professional operators have requested so or if those operators are not in position to fulfil the requirements for the respective authorisation as referred to in Article 9a.~~
- 4.3. In addition to the information required under Article 15(1), the official label or another document from the supplier ("the supplier label or document") shall contain all the following information:

(a) master certificate number(s) **or code** issued in accordance with Article 14 or a reference to the other document identifying the mixture available in accordance with Article 14(3);

(b) name of the **supplying** professional operator **(including address and registration number of professional operator)**;

**(ba) recipient (including address)**

(c) quantity supplied;

(d) in the case of FRM of the ‘tested’ category, whose basic material is approved under Article 4, the words ‘provisionally approved’;

(e) whether the FRM has been vegetatively propagated.

**The operator’s label or document may also contain any of those elements and supplement them with any other information as necessary.**

**4 The information provided must be kept permanently and forgery-proof. To this end, the information on the official label must be included in full in the invoice produced by the professional operator. The invoice must be kept for at least 10 years. The period begins at the end of the year in which the documents to be retained were created or incurred.**

**The professional operator shall be responsible for ~~Revisions~~ proof the documentation of all FRM goods processes, as well as the filing of all other documents that are necessary for the competent authority to check compliance with the provisions of this ~~Regulation~~.**

5. The Commission shall, by means of implementing acts, set out the following elements concerning the official label **and the suppliers label or document**:

(a) **additional** content of the official label **or “supplier label or document”**;

(b) additional information in the case of seeds and small quantities of seeds;

~~(c) — colour of the label for specific categories or other types of FRM;~~

(d) additional information in the case of specific genera or species.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).

6. An official **operator’s label or document** may also be issued in an electronic form (‘electronic official label’).

The Commission may, by means of implementing acts, set out technical arrangements for the issuance of electronic official labels **or supplier-operator’s**

**label or document**, to ensure their compliance with this Article and an appropriate, credible and effective mode for the issuance of those official labels **or supplier operator's label or document**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).

7. The Commission is empowered to adopt delegated acts, in accordance with Article 26, supplementing this Article, by setting out rules on:
- (a) digital recording of all actions taken by the professional operators ~~and the competent authorities~~ in order to issue the official **or supplier operator's labels or document**;
  - (b) the establishment of a centralised platform that connects the Member States and the Commission to facilitate the processing of, access to and use of those records.]

#### *Article 17*

#### **Packages of seed units**

Seed units may only be marketed in sealed/~~closed~~, packages ~~with~~ that become unserviceable once ~~the~~ **those packages are opened. In the case of recalcitrant seeds, the packages shall be only closed, without a seal being required.**

#### *Article 30*

#### **Amendments of Regulation (EU) 2016/2031**

Regulation (EU) 2016/2031 is amended as follows:

- (1) in Article 37, paragraph 4 is replaced by the following:
  - ‘4. The Commission shall, by means of an implementing act, where appropriate, set out measures to prevent the presence of Union regulated non-quarantine pests on the plants for planting concerned, as referred to in Article 36, point (f), of this Regulation. Those measures shall, where appropriate, concern the introduction into and the movement within the Union of those plants.’; **Those measures shall be adopted in accordance with the principles set out in Section 2 of Annex II to this Regulation.**
- (2) in Article 83, the following paragraph is added:
  - ‘5a. In the case of plants for planting produced, or marketed, as categories source-identified, selected, qualified or tested, as referred to in Regulation (EU) .../...\*+, the plant passport shall be included, in a distinct form, in the official label produced in accordance with the respective provisions of that Regulation.

Where this paragraph applies,



- (a) the plant passport for movement within the Union territory shall contain the elements set out in Part ~~[G-E and F]~~ of Annex VII to this Regulation;
- (b) the plant passport for introduction into, and movement within, a protected zone shall contain the elements set out in Part ~~[FH]~~ of Annex VII to this Regulation.’;

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\* Regulation (EU) .../... of the European Parliament and of the Council of ... ... (OJ ...).’;

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

- (3) Annex VII is amended in accordance with Annex VII to this Regulation.

### *Article 31*

#### **Amendments of Regulation (EU) 2017/625**

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

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

‘(l) production and marketing of forest reproductive material.’;

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

‘(532) ‘forest reproductive material’ means material as defined in Article 3(1) of Regulation (EU) .../... of ...\*+’

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\* Regulation (EU) .../... of the European Parliament and of the Council of ... ... (OJ ...).’;

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

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

#### *‘Article 22b*

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

1. Official controls to verify compliance with the rules referred to in Article 1(2), point (l), shall include official controls on the production and marketing of forest reproductive material, and on operators 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 forest reproductive material in order to check compliance with Union rules referred to in Article 1(2), point (l), 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:

- (a) specific requirements for the performance of such official controls on the production and marketing within, the Union of particular of particular forest reproductive material subject to the rules referred to in Article 1(2), point (l), to respond to non-compliance with the Union rules on forest reproductive material of a particular origin or provenance;
  - (b) specific requirements for the performance of such official controls on the activities of professional operators related to the production of particular forest reproductive material subject to the rules referred to in Article 1(2), point (l), to respond to non-compliance with the Union rules on forest reproductive material of a particular origin or provenance; and
  - (c) the cases where the competent authorities are to take one or more of the measures referred to in Article 137(2) and Article 138(2) in relation to specific non-compliances.
3. The Commission shall, by means of implementing acts, lay down rules on uniform practical arrangements for the performance of official controls on ~~plant~~ **forest** reproductive material in order to verify compliance with Union rules referred to in Article 1(2), point (l), 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 non-compliance with the rules on forest reproductive material of a particular origin or provenance;
    - (b) frequency of official controls performed by competent authorities on operators authorised to issue official labels under official supervision in accordance with Article 16(1) of Regulation (EU) .../...\*+

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

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\* Regulation (EU) .../... of the European Parliament and of the Council of ...  
... (OJ ...).’

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

## ANNEX II

### REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF FRM OF THE 'SOURCE-IDENTIFIED' CATEGORY

**A. General requirement:** The seed source or stand shall meet the criteria set by the competent authorities.

#### **B. Specific requirements:**

##### **1. Type of basic material**

The basic material shall be a seed source or stand located within a single region of provenance.

##### **2. Number of flowering/fruiting trees or adequate genetic diversity (seed sources) and effective size of the population (stands)**

2. The seed source or stand shall consist of one **individual stand** or more groups of trees (**stands**). Those trees (**seed sources or stands**) shall be well distributed and sufficiently numerous to maintain genetic diversity and ensure adequate cross-pollination between the trees in those seed sources or stands.

##### **3. Origin and region of provenance**

- (a) The region of provenance, the location and the latitudinal, longitudinal and altitudinal range of the place(s), where the FRM is collected, shall be stated in the master certificate.
- (b) The **competent authority** ~~professional operator~~ shall determine either by historical evidence (bibliography, documentation kept by competent authorities, research institutes or any other organisations) or by other appropriate means (provenance trials), including internationally recognised bio-molecular techniques, whether the origin of the basic material is:

(i) ~~autochthonous~~;

(ii) ~~non-autochthonous~~;

(iii) indigenous;

(iv) non-indigenous;

(v) unknown.

In the case of ~~non-autochthonous~~ or non-indigenous basic material, the origin of that basic material shall be stated if known.

~~The competent authority shall verify the information provided by the professional operator.~~

##### **4. Sustainability characteristics**

- (a) The trees shall be well-adapted to the climatic and ecological conditions including the biotic and abiotic factors prevailing in the region of provenance.
- (b) The trees shall ~~in~~ be practically free from quality pests ~~and diseases~~ and their symptoms.

## ANNEX III

### REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF FRM OF THE 'SELECTED' CATEGORY

**A. General requirement:** The competent authority shall assess the stand with respect to the specific purpose for which the FRM will be used and shall give due weight to requirements set out in Section B, depending on that purpose. The competent authority shall determine the criteria for selection on the basis of that specific purpose for use of the FRM. That purpose shall be indicated in the national register of the Member State concerned.

#### B. Specific requirements:

1. **Origin:** It shall be determined either by historical evidence (bibliography, documentation kept by competent authorities, research institutes or any other organisations) or by other appropriate means (provenance trials), including internationally recognised bio-molecular techniques, whether the stand is ~~autochthonous~~/indigenous, ~~non-autochthonous~~/non-indigenous or whether its origin is unknown. For ~~non-autochthonous~~/non-indigenous basic material the origin shall be stated if known.
2. **Isolation [and/or] limitation of pollen flow:** Stands shall be situated at a sufficient distance from stands of poor quality of the same species or from stands of a related species which can form hybrids with the species in question. Particular attention shall be paid to this requirement when the stands surrounding ~~autochthonous~~/indigenous stands are ~~non-autochthonous~~/non-indigenous or of unknown origin.
3. **~~Effective size of the population~~Number of flowering/fruiting trees or effective size of the population:** To maintain genetic diversity and ensure adequate cross-pollination, stands shall consist of one or more groups of **adult flowering** trees. Those trees shall be well distributed and sufficiently numerous in a given area to maintain genetic diversity, to avoid the unfavourable effects of inbreeding and ensure adequate cross-pollination between those trees.
4. **Age and development:** The age or stage of development of the trees in the stands shall be such to allow the criteria given for the selection of those trees to be clearly judged.
5. **Uniformity:** Stands shall show a normal degree of individual variation in morphological characteristics. When necessary, inferior trees shall be removed
6. **Sustainability characteristics:**
  - (a) Stands shall be well-adapted to the climatic and ecological conditions, including the biotic and abiotic factors prevailing in the region of provenance.
  - (b) The trees shall be practically free from **quality** pests ~~and diseases~~ and their symptoms and show resistance to adverse site conditions in the place where they are growing.
7. **Volume production:** For the approval of selected stands, the volume of wood produced shall normally be superior to the accepted average volume produced under similar ecological and management conditions.
8. **Wood quality:** The quality of the wood shall be taken into account. The quality of the wood is an essential criterion, if the FRM will be used in the forestry industry for the

purpose of producing timber, furniture or pulp. In that case the competent authority shall give more weight to this criterion.

**9. Form or growth habit:** Trees in stands shall show particularly good morphological features, especially straightness and circularity of stem, favourable branching habit, small size of branches and good natural pruning. In addition, the proportion of forked trees and those showing spiral grain shall be low.

**When necessary such trees shall be removed.**



## ANNEX IV

### REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF FRM OF THE 'QUALIFIED' CATEGORY

#### 1. Seed orchards

- (a) The competent authority shall approve and register the type and objective of the crossing design, the crossing design of component clones or families and field layout, the component clones or families and if appropriate the ~~ir relatedness~~ degree of their relationship, their numbers and numbers of ramets per clone in the case of clonal seed orchards, isolation or limitation of pollen flow and location and any changes of these.
- (b) The ~~professional operator shall select~~ component clones or families shall be selected for their outstanding characteristics and ~~shall give~~ due weight shall be given to the requirements set out in points 4 and 6 to 9 of Section B of Annex III, taking into account the specific purpose for which the resulting FRM will be used.
- (c) The component clones or families shall be planted or shall have been planted according to a plan which has been approved by the competent authority and established in such a way that each component can be identified.
- (d) Thinning carried out in seed orchards shall be described together with the selection criteria used for such thinning and registered ~~by~~with the competent authority.
- (e) The ~~professional operator shall manage seed orchard~~ ~~professional operator shall manage~~ seed orchards shall be managed and harvest seed in such a way that the objectives of the orchards are attained, which includes optimising random pollination and attaining the best possible conformity between the genetic content of the approved unit of basic material and harvested seed lots. In the case of a seed orchard intended for the production of an artificial hybrid, the percentage of hybrids in the FRM shall be determined by a verification test.

#### 2. Parents of family(ies)

- (a) The ~~professional operator shall select~~ parents shall be selected for their outstanding characteristics or for their combining ability. In the case of a selection based on outstanding characteristics, due weight shall be given to the requirements set out in points 4 and 6 to 9 of Section B of Annex III, taking into account the specific purpose for which the resulting FRM will be used.
- (b) The objective, crossing design and pollination system, components, isolation and/or limitation of pollen flow, ~~and~~ location and any significant changes of these shall be approved and registered ~~with~~by the competent authority.
- (c) The identity, number and proportion of the parents in a mixture shall be approved and registered ~~by~~with the competent authority.
- (d) In the case of parents intended for the production of an artificial hybrid, the percentage of hybrids in the FRM shall be determined by a verification test.

### 3. Clones

- (a) The competent authority shall approve and register clones that shall either be identifiable by distinctive characteristics, or traceable through propagation cycles and/or molecular markers, as appropriate its traceability of propagation cycles and/or by genetic markers ~~which have been approved and registered by with the competent authority.~~
- (b) The value of individual clones shall be established by the observation and the qualitative assessment of the characteristics of those clones or have been demonstrated by sufficiently prolonged experimentation.
- (c) Ortets used for the production of clones shall be selected for their outstanding characteristics and due weight shall be given to the requirements set out in points 4 and 6 to 9 of Section B of Annex III, taking into account the specific purpose for which the resulting FRM will be used.
- (d) Approval shall be restricted by the competent authority to a maximum number of years or a maximum number of ramets produced.

### 4. Clonal mixtures

- (a) Clonal mixtures shall meet the requirements set out in point 3(a), (b) and (c).
- (b) The identity, number and proportion of the component clones of a mixture, and the selection method and foundation stock shall be approved and registered by the competent authority. Each mixture shall contain sufficient genetic diversity.
- (c) Approval shall be restricted by the competent authority to a maximum number of years or a maximum number of ramets produced.

## ANNEX V

### REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR THE PRODUCTION OF FRM OF THE 'TESTED' CATEGORY

#### 1. REQUIREMENTS FOR ALL TESTS

##### (a) General

If the basic material is a stand, it shall satisfy the appropriate requirements set out in Annex III. If the basic material is a seed orchard(s), parents of family(ies), clones or clonal mixture(s), it shall satisfy the appropriate requirements set out in Annex IV. The competent authority shall determine the selection criteria based on the intended purpose for which the FRM will be used.

~~The professional operators shall prepare, lay out and conduct~~ Tests set up for the approval of the basic material **are to be prepared, laid out, conducted and their result interpreted.** ~~They shall interpret the results of those tests~~ in accordance with the internationally recognised procedures. For comparative tests, the professional operator shall compare the FRM under test with one or preferably several approved or pre-chosen standards as described in point 3(b).

##### (b) Characteristics to be examined

- (i) ~~The professional operator shall design~~ Tests **must be designed** to assess **those characters** ~~the relevant characteristics specified in point (ii) and shall indicate these for each test in the test records.~~
- (ii) Weight shall be given to adaptation, growth, biotic and abiotic factors of importance. In addition, other characteristics, considered important in view of the intended specific purpose, shall be evaluated in relation to the ecological conditions of the region in which the test is carried out including current and future projected climatic conditions.

##### (c) Documentation

~~The professional operator shall keep~~ Records **must describe** the test sites, including the location, climate, soil, past use, establishment, management and any damage due to abiotic/biotic factors **and be available to the competent authority.** ~~He shall make those records available to the competent authority upon request.~~ The competent authority shall record the age of the basic material and the FRM and the results at the time of the evaluation **and inspect it afterwards in regular intervals.**

##### (d) Setting up the tests

- (i) ~~The professional operator~~ **Each sample of FRM shall be** raised, planted and managed **each sample of FRM** in an identical way as far as the types of plant material permit.
- (ii) ~~The professional operator shall establish~~ **Each experiment shall be established** in a valid statistical design ~~with a sufficient number of trees~~, in order that the individual characteristics of each component under examination can be evaluated.

##### (e) Analysis and validity of results

- (i) ~~The professional operator~~ **The data from the experiments** shall **be** analysed ~~the data from experiments~~ using internationally recognised statistical methods and shall present the results for each characteristic examined.
- (ii) The methodology used for the test and the detailed results obtained shall be made freely available.
- (iii) The competent authority of the Member State in which the test was carried out **may** ~~shall~~ designate the suggested deployment area, and shall inform about any characteristics of the FRM, which might limit its usefulness.
- (iv) If during tests it is proved that the FRM does not possess at least the characteristics of the basic material from which that FRM was produced, including in particular the resistance/tolerance to plant pests of economic importance, then such FRM shall not be certified as tested material.

## 2. REQUIREMENTS FOR GENETIC EVALUATION OF THE COMPONENTS OF BASIC MATERIAL

- (a) The components of the following basic material may be genetically evaluated: seed orchards, parents of family(ies), clones and clonal mixtures.

### (b) Documentation

The following additional documentation shall be required for approval of the basic material providing information about:

- (i) the identity, origin and pedigree of the evaluated components;
- (ii) the crossing design used to produce the FRM used in the evaluation tests.

### (c) Test procedures

The following requirements shall be met:

- (i) The genetic value of each component shall be estimated **using information from** ~~in~~ two or more evaluation test-sites, at least one of which shall **preferably** be in an environment relevant for the intended deployment area of the FRM.
  - (ii) The test period shall be of sufficient duration for the tested characteristics to be expressed.
  - (iii) The estimated superiority of the FRM to be marketed shall be calculated on the basis of these genetic values and the specific crossing design.
  - (iv) Evaluation tests and genetic calculations shall be approved by the competent authority.
- ### (d) Interpretation
- (i) ~~The estimated superiority of the FRM shall be calculated against a reference population for a characteristic or set of characteristics. The professional operator shall define the reference population in the breeding program and describe this reference population in the test reports.~~
  - (ii) It shall be stated whether the estimated genetic value of the FRM is inferior to the reference population for any important characteristic.

### 3. REQUIREMENTS FOR COMPARATIVE TESTING OF FRM

#### (a) Sampling of the FRM

- (i) The sample of the FRM for comparative testing shall be truly representative of the FRM derived from the basic material to be approved.
- (ii) Sexually produced FRM for comparative testing shall be:
  - harvested in years of good flowering and good fruit/seed production, and
  - harvested by methods that ensure that the samples obtained are representative.

Artificial pollination may be utilised for the production of such FRM.

#### (b) Standards

- (i) The performance of standards used for comparative purposes in the tests shall, if possible, be known over a sufficiently long period in the region in which the test is to be carried out. The standards represent, in principle, basic material that has been shown to be useful for the intended purpose for forestry at the time that the test starts, and in ecological conditions for which it is proposed to certify the FRM. The standards used for comparative purposes in the tests shall be, as far as possible:
  - stands selected according to the criteria in Annex III; or
  - basic material officially approved for the production of FRM of the tested category.
- (ii) For comparative testing of ~~artificial~~-hybrids, both parent tree species shall, if possible, be included among the standards.
- (iii) Several standards shall be used whenever possible. When justified, standards may be replaced by the most suitable of the FRM under test or the mean of the components of the test.
- (iv) The same standards shall be used in all tests over as wide a range of site conditions as possible.

#### (c) Interpretation

- (i) A statistically significant superiority as compared with the standards shall be demonstrated for at least one important characteristics.
- (ii) ~~The professional operator~~ **It shall be reported** ~~The professional operator~~ shall report if there are any characteristics of economic or environmental importance which show significantly inferior results to the standards, and their effects shall be compensated for by favourable characteristics.

### 4. PROVISIONAL APPROVAL

Preliminary assessment of young trials may be the basis for provisional approval. Claims of superiority based on an early assessment shall be re-examined at a maximum interval of ten years.

## 5. EARLY TESTS

Nursery, greenhouse and laboratory tests may be accepted by the competent authority for provisional approval or for final approval, if it can be shown that there is a close correlation between the ~~target-measured characteristics~~ and the characteristics normally assessed in forest stage tests. Other characteristics to be tested shall meet the requirements set out in point 3.

## ANNEX VI

### CATEGORIES UNDER WHICH FRM FROM THE DIFFERENT TYPES OF BASIC MATERIAL MAY BE MARKETING

Basic material	Category of FRM (Label colour, if coloured official label used)			
	Source-identified (Yellow)	Selected (Green)	Qualified (Pink)	Tested (Blue)
Seed source	x			
Stand	x	x		x
Seed orchard			x	x
Parents of family(ies)			x	x
Clone			x	x
Clonal mixture			x	x



## Amendment of Annex VII to Regulation (EU) 2016/2031

In Annex VII to Regulation (EU) 2016/2031, the following parts are added:

## ‘PART G

**Plant passports for movement within the Union territory, combined with the official ~~or~~ supplier-label ~~or document~~, as referred to in Article 83(5), second subparagraph**

- (1) The plant passport for movement within the Union territory, combined in a joint label with the official ~~or supplier~~-label ~~or document~~ referred to in Article 83(5), shall contain the following elements:
  - (a) the words ‘Plant Passport’ in the upper right-hand corner of the joint label, in one of the official languages of the Union and in English, if different, separated by a slash;
  - (b) the flag of the Union in the upper left-hand corner of the joint label printed in colour or in black and white. The plant passport shall be positioned in the joint label immediately above the official label and have the same width as that official ~~or~~ supplier-label ~~or document~~.
- (2) Point (2) of Part A shall apply accordingly.

## PART H

**Plant passports for introduction into and movement within protected zones, combined with the official ~~or supplier~~-label ~~or document~~, as referred to in Article 83(5), third subparagraph**

- (1) The plant passport for introduction into and movement within protected zones, combined in a joint label with the official label for FRM referred to in Article 83(5), shall contain the following elements:
  - (a) the words ‘Plant Passport — PZ’ in the upper right-hand corner of the joint label in one of the official languages of the Union and in English, if different, separated by a slash;
  - (b) immediately underneath those words, the scientific name(s) or code(s) of the protected zone quarantine pest(s) concerned;
  - (c) the flag of the Union in the upper left-hand corner of the joint label printed in colour or in black and white.

The plant passport shall be positioned in the joint label immediately above the official ~~or~~ supplier-label ~~or document~~ and have the same width [as that official ~~or supplier~~-label ~~or document~~].

(2) Point (2) of Part B shall apply accordingly.’

## ANNEX VIII

### Correlation table

Council Directive 1999/105/EC	This Regulation
Article 1	Article 1, subparagraph 1
Article 2	Article 3
Article 3(1)	Article 2(1)
Article 3(2)	Article 2(5)
Article 3(3)	–
Article 3(4)	Article 2(4), point (c)
Article 4(1)	Article 4(1)
Article 4(2), point (a)	Article 4(2), subparagraphs 1 to 4
Article 4(2), point (b)	Article 4(2), subparagraph 7 and Article 4(3)
Article 4(3), point (a)	Article 4(4)
Article 4(3), point (b)	Article 4(5)
Article 4(4)	Articles 6 and 18
Article 4(5)	Article 21
Article 5	–
Article 6(1)	Article 5(1)
Article 6(2)	Article 5(2)
Article 6(3), subparagraph 1	Article 8(1)
Article 6(3), subparagraph 2	Article 8(2)
Article 6(4)	Article 10(1)
Article 6(5), point (a)	Article 2(4), point (d)
Article 6(5), point (b)	–
Article 6(6)	–
Article 6(7)	Article 7

Article 6(8)	Article 4(6)
Article 7	Article 23
Article 8	–
Article 9	Article 11
Article 10	Article 12
Article 11	Article 13
Article 12	Article 14
Article 13	Article 15
Article 14(1), subparagraph 1	Article 16(1)
Article 14(1), points (a) to (e)	Article 16(4)
Article 14(2) to (6)	–
Article 14(7)	Article 15(1)(j)
Article 15	Article 17
Article 16	Article 31
Article 17	–
Article 18	Article 21
Article 19	Article 24
Article 20	–
Article 21	Article 22
Article 22	Article 5(1)(g)
Article 23	Articles 2(2), 4(2), 4(6), 5(3)
Article 24	Articles 14(1), 14(5), 16(5), 16(6), 18(4), 21(3), 22(1), 23(1)
Article 25	Article 26
Article 26	Article 27
Article 27	–
Article 28	–

Article 29	Article 32
Article 30	Article 33
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III
Annex IV	Annex IV
Annex V	Annex V
Annex VI	Annex VI
Annex VII	Article 8
Annex VIII	Article 14