

Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC

CHAPTER VI

Certification of plants, plant products and other objects

Section 1

Phytosanitary certificates required for the introduction of plants, plant products and other objects into the Union territory

Article 71

Phytosanitary certificate for introduction into the Union territory

1 A phytosanitary certificate for introduction of plants, plant products and other objects into the Union territory shall be a document, issued by a third country, which fulfils the conditions of Article 76, has the contents set out in Part A of Annex V, or, where applicable, Part B of Annex V, and certifies that the plant, plant product or other object concerned complies with all of the following requirements:

- a it is free from Union quarantine pests and pests subject to measures adopted pursuant to Article 30(1);
- b it complies with the provisions of Article 37(1) concerning the presence of Union regulated non-quarantine pests on plants for planting;
- c it complies with the requirements referred to in Article 41(2) and (3) or, where applicable, Article 54(2) and (3);
- d where applicable, it complies with rules adopted in accordance with the provisions adopted pursuant to point (d) of the first subparagraph of Article 28(1), Article 28(2) and Article 30(1).

2 The phytosanitary certificate shall specify under the heading ‘Additional Declaration’ which specific requirement is fulfilled, whenever the respective implementing act, adopted pursuant to Article 28(1) and (2), Article 30(1) and (3), Article 37(2), Article 41(2) and (3) and Article 54(2) and (3), allows for several different options for such requirements. That specification shall include the full wording of the relevant requirement.

3 Where applicable, the phytosanitary certificate shall state that the plants, plant products or other objects concerned comply with phytosanitary measures recognised as equivalent, pursuant to Article 44, to the requirements of the implementing act adopted pursuant to Article 41(3).

4 The Commission is empowered to adopt delegated acts in accordance with Article 105 amending Parts A and B of Annex V to adapt them to the development of the relevant international standards.

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Article 72

Plants, plant products and other objects for which phytosanitary certificates are required

1 The Commission shall, by means of an implementing act, establish a list of the plants, plant products and other objects, and the respective third countries of origin or dispatch, for which a phytosanitary certificate is required for introduction into the Union territory.

That list shall include:

- a all plants for planting, other than seeds;
- b the plants, plant products and other objects listed in Point I of Part B of Annex V to Directive 2000/29/EC;
- c plants, plant products and other objects for which requirements have been adopted pursuant to point (d) of the first subparagraph of Article 28(1) and Article 30(1) concerning their introduction into the Union territory;
- d seeds or, as applicable, seed potatoes listed in the implementing act provided for in Article 37(2) of this Regulation and subject to equivalence decisions adopted pursuant to Directives 66/401/EEC, 66/402/EEC, 98/56/EC, 1999/105/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC and 2002/57/EC;
- e plants, plant products and other objects listed in the implementing acts provided for in Article 41(2) and (3); and
- f plants, plant products and other objects subject to points (a) and (b) of the second subparagraph of Article 49(2).

Points (a) to (e) of the first subparagraph shall not apply and a phytosanitary certificate shall not be required where an implementing act adopted pursuant to point (d) of the first subparagraph of Article 28(1), Article 30(1) or Article 41(2) and (3) requires proof of compliance in the form of an official mark, as referred to in Article 96(1), or another official attestation, as referred to in Article 99(1).

In the list established by that implementing act, the plants, plant products and other objects shall also be identified by their respective CN code, where that code is available. Other codes laid down by Union legislation shall, in addition, be referred to where they specify further the applicable CN code for a specific plant, plant product or other object.

2 The Commission shall, by means of an implementing act, amend the implementing act referred to in paragraph 1 in any of the following cases:

- a where a plant, plant product or other object listed in that act does not fulfil point (c), (d) or (e) of the first subparagraph of paragraph 1;
- b where a plant, plant product or other object not listed in that act fulfils point (c), (d) or (e) of the first subparagraph of paragraph 1.

3 In addition to the cases referred to in paragraph 2, the Commission may, by means of implementing acts, amend the implementing act referred to in paragraph 1, in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in that act hosts a Union quarantine pest or pest subject to measures adopted pursuant to Article 30(1), or where, for a plant, plant product or other object listed in that act, that risk no longer exists.

4 The implementing acts referred to in paragraphs 1, 2 and 3 shall be adopted in accordance with the examination procedure referred to in Article 107(2).

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5 By way of derogation from paragraphs 1, 2 and 3, no phytosanitary certificate shall be required for the plants, plant products or other objects which are subject to Articles 46, 47 and 48 and Article 75(1).

Article 73

Other plants for which phytosanitary certificates are required

The Commission shall, by means of implementing acts, provide that for plants, other than the plants included in the list referred to in Article 72(1), a phytosanitary certificate is required for introduction into the Union territory.

However, those implementing acts shall provide that a phytosanitary certificate is not required for those plants where an assessment, based on evidence about pest risks and experience with trade, demonstrates that such a certificate is not necessary. That assessment shall take into account the criteria set out in Annex VI. Where appropriate, that assessment may only concern plants of a particular third country of origin or dispatch, or a group of third countries of origin or dispatch.

In the list established by those implementing acts, the plants shall also be identified by their respective CN code, where that code is available.

Other codes laid down by Union legislation shall, in addition, be referred to where they specify further the applicable CN code for a specific plant, plant product or other object.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2). The first of those acts shall be adopted by 14 December 2018.

Article 74

Plants, plant products and other objects for which phytosanitary certificates are required for introduction into a protected zone

1 Phytosanitary certificates are required, in addition to the cases referred to in Article 72(1), (2) and (3), for the introduction of some plants, plant products and other objects into certain protected zones from certain third countries of origin or dispatch.

The Commission shall, by means of implementing acts, establish a list of those plants, plant products and other objects, and the respective third countries of origin or dispatch referred to in the first subparagraph.

That list shall include:

- a in the first of those implementing acts, the plants, plant products and other objects listed in Point II of Part B of Annex V to Directive 2000/29/EC;
- b plants, plant products and other objects listed in the implementing acts provided for in Article 54(2) or (3) of this Regulation.

In the list established by those implementing acts, the plants, plant products and other objects shall also be identified by their respective CN code where that code is available. Other codes laid down by Union legislation shall, in addition, be referred to where they specify further the applicable CN code for a specific plant, plant product or other object.

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A phytosanitary certificate shall not be required for plants, plant products and other objects on that list where an implementing act adopted pursuant to Article 54(2) or (3) requires proof of compliance in the form of an official mark, as referred to in Article 96(1), or another official attestation, as referred to in Article 99(1).

2 The Commission shall, by means of implementing acts, amend the implementing act referred to in paragraph 1 in the following cases:

- a where a plant, plant product or other object listed in that act does not fulfil point (b) of the third subparagraph of paragraph 1;
- b where a plant, plant product or other object not listed in that act fulfils point (b) of the third subparagraph of paragraph 1.

3 In addition to the cases referred to in paragraph 2, the Commission may, by means of implementing acts, amend the implementing act referred to in paragraph 1, in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in that act hosts the respective protected zone quarantine pest, or where, for a plant, plant product or other object listed in that act, that risk no longer exists.

4 The implementing acts referred to in paragraphs 1, 2 and 3 shall be adopted in accordance with the examination procedure referred to in Article 107(2).

5 By way of derogation from paragraphs 1, 2 and 3, no phytosanitary certificate shall be required for the plants, plant products or other objects which are subject to Articles 56, 57 and 58 and Article 75(1).

Article 75

Exceptions for travellers' luggage

1 Small quantities of particular plants, other than plants for planting, and of plant products and other objects from a third country may be exempted from the requirement for a phytosanitary certificate set out in accordance with Article 72(1), Article 73 or Article 74(1), if they comply with all of the following conditions:

- a they are introduced into the Union territory as part of travellers' personal luggage;
- b they are not to be used for professional or commercial purposes;
- c they are listed in an implementing act provided for in paragraph 2 of this Article.

2 The Commission shall, by means of implementing acts, list the plants, plant products and other objects referred to in paragraph 1 and the third countries concerned, and set out the maximum quantity, as appropriate, of the plants, plant products and other objects concerned that are to be subject to the exemption of that paragraph and, where appropriate, one or more of the risk management measures set out in Section 1 of Annex II.

That listing and the setting out of the maximum quantity concerned and, where appropriate, the risk management measures shall be decided on the basis of the pest risk posed by small quantities of those plants, plant products and other objects, in accordance with the criteria set out in Section 2 of Annex II.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

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Article 76

Conditions to be fulfilled by a phytosanitary certificate

1 Without prejudice to obligations under the International Plant Protection Convention (IPPC) and taking into account relevant international standards, the competent authority shall only accept a phytosanitary certificate accompanying plants, plant products or other objects to be introduced from a third country, if the content of that certificate complies with Part A of Annex V. Where the plants, plant products or other objects are to be introduced from a third country from which they do not originate, the competent authority shall only accept a phytosanitary certificate complying either with Part A or Part B of Annex V.

It shall not accept that phytosanitary certificate where the additional declaration referred to in Article 71(2), where applicable, is not present or not correct, and where the statement referred to in Article 71(3), where applicable, is not present.

It shall not accept a phytosanitary certificate for re-export if that phytosanitary certificate is not accompanied by the original phytosanitary certificate for export, or a certified copy of the original phytosanitary certificate for export.

2 The competent authority shall only accept a phytosanitary certificate if it fulfils the following requirements:

- a it is issued in at least one of the official languages of the Union;
- b it is addressed to the national plant protection organisation of a Member State; and
- c it has been issued no more than 14 days before the date on which the plants, plant products or other objects covered by it have left the third country in which it was issued.

3 In the case of a third country which is a contracting party to the IPPC, the competent authority shall only accept the phytosanitary certificates issued by the official national plant protection organisation of that third country or, under its responsibility, by a public officer who is technically qualified and duly authorised by that official national plant protection organisation.

4 In the case of a third country which is not a contracting party to the IPPC, the competent authority shall only accept the phytosanitary certificates issued by the authorities which are competent in accordance with the national rules of that third country and notified to the Commission. The Commission shall inform the Member States and the operators, through the electronic notification system referred to in Article 103, of the notifications received.

The Commission is empowered to adopt delegated acts in accordance with Article 105 supplementing the conditions for acceptance referred to in the first subparagraph of this paragraph to ensure the reliability of those certificates.

5 Electronic phytosanitary certificates shall only be accepted when provided through, or in electronic exchange with, a computerised information management system for official controls at Union level.

Article 77

Invalidation of phytosanitary certificate

1 Where a phytosanitary certificate has been issued in accordance with Article 71(1), (2) and (3), and the competent authority concerned concludes that the conditions referred to in Article 76 are not fulfilled, it shall invalidate that phytosanitary certificate and ensure that it no

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longer accompanies those plants, plant products or other objects concerned. In that case, and in respect of the plants, plant products or other objects concerned, the competent authority shall take one of the measures to be taken in the event of non-compliant consignments entering the Union from third countries, referred to in Union legislation on official controls.

Upon invalidation, the certificate concerned shall bear on its face and in a prominent position a triangular stamp in red, marked 'certificate cancelled' from the respective competent authority, together with its denomination and the date of invalidation. It shall be in capital letters, and in at least one of the official languages of the Union.

2 Member States shall notify, through the electronic notification system referred to in Article 103, the Commission and other Member States where a phytosanitary certificate was invalidated pursuant to paragraph 1 of this Article.

The third country which had issued that phytosanitary certificate shall also be notified by the Member State concerned.

3 The Commission may, by means of implementing acts, set out technical arrangements concerning the invalidation of the electronic phytosanitary certificates, as referred to in Article 76(5). Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

Section 2

Plant passports required for the movement of plants, plant products and other objects within the Union territory

Article 78

Plant passports

A plant passport shall be an official label for movement of plants, plant products and other objects within the Union territory and, where applicable, into and within protected zones, which attests compliance with all requirements set out in Article 85 and, for movement into and within protected zones, Article 86, and has the content and format set out in Article 83.

Article 79

Plants, plant products and other objects for which a plant passport is required for movement within the Union territory

1 Plant passports are required for movement of certain plants, plant products and other objects within the Union territory. The Commission shall, by means of implementing acts, establish a list of those plants, plant products and other objects, for which a plant passport is required for their movement within the Union territory.

That list shall include:

- a all plants for planting, other than seeds;
- b in the first of those implementing acts, the plants, plant products and other objects listed in point (I) of Part (A) of Annex V to Directive 2000/29/EC, provided that they are not already covered by point (a) of this subparagraph;

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- c plants, plant products and other objects for which requirements have been adopted pursuant to Article 28(1), (2) or (3) or Article 30(1), (3) or (4) concerning their movement within the Union territory;
 - d seeds listed in the implementing act provided for in Article 37(2); and
 - e plants, plant products and other objects listed in the implementing acts provided for in Article 41(2) and (3) with regard to their movement within the Union, with the exception of plants for planting, plant products and other objects requiring another specific label or other type of attestation pursuant to that Article.
- 2 The Commission shall, by means of implementing acts, amend the implementing act referred to in paragraph 1 in the following cases:
- a where a plant, plant product or other object not listed in that act fulfils point (c), (d) or (e) of the second subparagraph of paragraph 1; or
 - b where a plant, plant product or other object listed in that act does not fulfil point (c), (d) or (e) of the second subparagraph of paragraph 1.
- 3 In addition to the cases referred to in paragraph 2, the Commission may, by means of implementing acts, amend the implementing act referred to in paragraph 1, in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in that act hosts a Union quarantine pest or where, for a plant, plant product or other object listed in that act, that risk no longer exists.
- 4 The implementing acts referred to in paragraphs 1, 2 and 3 shall be adopted in accordance with the examination procedure referred to in Article 107(2).
- 5 By way of derogation from paragraphs 1, 2 and 3, no plant passport shall be required for the plants, plant products or other objects which are subject to Articles 46, 47, 48 and 75.
- 6 The Commission shall, not later than 14 December 2021, submit a report to the European Parliament and the Council to present the experience gained from the extension of the plant passport system to all movement of plants for planting within the Union territory including a clear cost-benefit analysis for the operators, accompanied, if appropriate, by a legislative proposal.

Article 80

Plants, plant products and other objects for which a plant passport is required for introduction into, and movement within, protected zones

- 1 Plant passports are required for certain plants, plant products and other objects being introduced into, or moved within, certain protected zones.

The Commission shall, by means of implementing acts, establish a list of those plants, plant products and other objects for which a plant passport is required for their introduction into, and movement within, certain protected zones.

That list shall include:

- a in the first of those implementing acts, the plants, plant products and other objects listed in point (II) of Part A of Annex V to Directive 2000/29/EC;
- b other plants, plant products and other objects listed in the implementing acts provided for in Article 54(3) of this Regulation.

- 2 The Commission may, by means of implementing acts, amend the implementing act referred to in paragraph 1 in the following cases:

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- a where a plant, plant product or other object not listed in that act fulfils point (b) of the third subparagraph of paragraph 1; or
- b where a plant, plant product or other object listed in that act does not fulfil point (b) of the third subparagraph of paragraph 1.

3 In addition to the cases referred to in paragraph 2, the Commission may, by means of implementing acts, amend the implementing act referred to in paragraph 1, and in accordance with the principles set out in Section 2 of Annex II, where there is a risk that a plant, plant product or other object not listed in that act hosts the respective protected zone quarantine pest, or where, for a plant, plant product or other object listed in that act, that risk no longer exists.

4 The implementing acts referred to in paragraphs 1, 2 and 3 shall be adopted in accordance with the examination procedure referred to in Article 107(2).

5 By way of derogation from paragraphs 1, 2 and 3, no plant passport shall be required for the plants, plant products or other objects which are subject to Articles 56, 57 and 58.

Article 81

Exception for direct supply to final users

1 No plant passport shall be required for the movement of plants, plant products or other objects supplied directly to a final user, including home gardeners.

That exception shall not apply to:

- a final users receiving those plants, plant products or other objects by means of sales through distance contracts; or
- b final users of plants, plant products or other objects for which a plant passport for protected zones is required pursuant to Article 80.

The Commission may, by means of implementing acts, specify that the requirements of point (b) of the second subparagraph shall only apply for particular protected zone pests, plants, plant products or other objects. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

2 The Commission is empowered to adopt delegated acts in accordance with Article 105 supplementing this Regulation by setting out the cases where, for particular plants, plant products or other objects, the exception of paragraph 1 of this Article shall only apply to small quantities. Those delegated acts shall define those quantities per period of time as appropriate to the plant, plant product or other object concerned and the respective pest risks.

Article 82

Exceptions for movements within and between the premises of a registered operator

No plant passport shall be required for the movements of plants, plant products and other objects within and between the premises of the same registered operator which are in close proximity to each other.

Member States may further define close proximity in their respective territories and whether any documents need to be issued for those movements instead of the plant passport.

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Where such movements take place within two or more Member States, the exception from the requirement for a plant passport shall require approval by the competent authorities of the Member States concerned.

Article 83

Content and format of the plant passport

1 The plant passport shall take the form of a distinct label, made on any substrate suitable for printing the elements referred to in paragraph 2, provided that the plant passport is clearly distinguishable from any other information or label which may also be indicated on that substrate.

The plant passport shall be easily visible and clearly legible, and the information on it shall be unchangeable and durable.

2 The plant passport for movement within the Union territory shall contain the elements set out in Part A of Annex VII.

By way of derogation from point 1(e) of Part A of Annex VII, the traceability code shall not be required where plants for planting fulfil all of the following conditions:

- a they are prepared in such a way that they are ready for the sale to final users without any further preparation and no risk exists concerning the spread of Union quarantine pests or pests subject to measures adopted pursuant to Article 30(1);
- b they do not belong to types or species listed in an implementing act provided for in paragraph 3 of this Article.

3 The Commission shall, by means of implementing acts, identify types and species of plants for planting for which the exemption referred to in paragraph 2 shall not apply. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

4 The plant passport for introduction into, and movement within, a protected zone shall contain the elements set out in Part B of Annex VII.

5 In the case of plants for planting produced, or made available on the market, as pre-basic, basic or certified material or pre-basic, basic or certified seed or seed potatoes, as respectively referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC and 2008/90/EC, the plant passport shall be included, in a distinct form, in the official label produced in accordance with the respective provisions of those Directives.

Where this paragraph applies, the plant passport for movement within the Union territory shall contain the elements set out in Part C of Annex VII to this Regulation.

Where this paragraph applies, the plant passport for introduction into, and movement within, a protected zone shall contain the elements set out in Part D of Annex VII to this Regulation.

6 The Commission is empowered to adopt delegated acts in accordance with Article 105 amending Parts A, B, C and D of Annex VII in order to adapt the elements set out therein, where applicable, to the development of scientific and technical knowledge.

7 By 14 December 2017, the Commission shall adopt, by means of implementing acts, the format specifications of the plant passport for movement within the Union territory and the

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plant passport for introduction into, and movement within, a protected zone, as regards the plant passports referred to in the first and second subparagraphs of paragraph 2 and in the second and third subparagraphs of paragraph 5. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

Where the nature of particular plants, plant products or other objects so requires, specific size specifications for the plant passport may be set out for such plants, plant products or other objects.

8 A plant passport may also be issued in an electronic form ('electronic plant passport'), provided that it contains all the elements referred to in paragraph 2, and that the technical arrangements have been set out through the implementing acts referred to in the second subparagraph of this paragraph.

The Commission may, by means of implementing acts, set out technical arrangements for the issuance of electronic plant passports, to ensure their compliance with the provisions of this Article and an appropriate, credible and effective mode for the issuance of those plant passports. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

Article 84

Issuance of plant passports by authorised professional operators and competent authorities

1 Plant passports shall be issued by authorised operators, under the supervision of the competent authorities.

Authorised operators shall issue plant passports only for the plants, plant products or other objects for which they are responsible.

2 By way of derogation from paragraph 1, competent authorities may also issue plant passports.

3 Authorised operators shall only issue plant passports in the premises, collective warehouses and dispatching centres which are under their responsibility and declared by them pursuant to point (d) of Article 66(2) or, where Article 94(1) applies, in another location if so authorised by the competent authority.

Article 85

Substantive requirements for a plant passport for movement within the Union territory

A plant passport shall be issued for movement within the Union territory for a plant, plant product or other object which fulfils the following requirements:

- (a) it is free from Union quarantine pests or pests subject to measures adopted pursuant to Article 30(1);
- (b) it complies with the provisions of Article 37(1) concerning the presence of Union regulated non-quarantine pests on plants for planting and the provisions of Article 37(4) concerning the measures to be taken;
- (c) it complies with the requirements concerning its movement within the Union, as referred to in Article 41(2) and (3);

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- (d) where applicable, it complies with rules adopted in accordance with the relevant measures adopted pursuant to Article 17(3), points (a) to (d) of the first subparagraph of Article 28(1), Article 28(2) and Article 30(1) and (3); and
- (e) where applicable, it complies with measures adopted by the competent authorities for the eradication of Union quarantine pests pursuant to Article 17(1) or pests subject to measures adopted pursuant to Article 30(1) and the eradication of pests provisionally qualifying as Union quarantine pests pursuant to Article 29(1).

Article 86

Substantive requirements for a plant passport for movement into and within a protected zone

1 A plant passport shall be issued for introduction into, and movement within, a protected zone for a plant, plant product and other object which fulfils all of the requirements of Article 85, and in addition the following requirements:

- a it is free from the respective protected zone quarantine pest; and
- b it complies with the requirements referred to in Article 54(2) and (3).

2 Where Article 33(2) applies, the plant passport referred to in paragraph 1 of this Article shall not be issued for plants, plant products or other objects originating in the demarcated area concerned and which may host the protected zone pest concerned.

Article 87

Examinations for plant passports

1 A plant passport may only be issued for plants, plant products and other objects for which a meticulous examination in accordance with paragraphs 2, 3 and 4 has shown that they fulfil the requirements of Article 85, and, where applicable, Article 86.

Plants, plant products and other objects may either be examined individually or by representative samples. The examination shall also cover the packaging material of the plants, plant products or other objects concerned.

2 The examination shall be carried out by the authorised operator. However, in the following cases, the examination shall be carried out by the competent authority:

- a where point (c) of the first subparagraph of paragraph 3 of this Article applies concerning inspections, sampling and testing;
- b where Article 84(2) applies; or
- c where an examination is carried out in the immediate vicinity as referred to in point (b) of the first subparagraph of paragraph 3 of this Article and the authorised operator does not have access to that immediate vicinity.

3 The examination shall fulfil all of the following conditions:

- a it shall be carried out at appropriate times and taking into account the risks involved;
- b it shall be carried out at the premises referred to in point (d) of Article 66(2). Where so required by the implementing acts adopted pursuant to Article 28(1), Article 30(1), Article 37(4), Article 41(2) or Article 54(2), an examination shall also be carried out in the immediate vicinity of the place of production of the plants, plant products or other object concerned;

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- c it shall be made at least by visual examination, complemented by:
 - (i) inspections, sampling and testing by the competent authority in the event of suspicion of the presence of a Union quarantine pest or pests subject to measures adopted pursuant to Article 30(1), or in the event of the suspicion of the presence of a protected zone quarantine pest in the respective protected zone; or
 - (ii) sampling and testing in the event of suspicion of the presence of a Union regulated non-quarantine pest, where applicable above the respective thresholds;
- d its results shall be recorded and stored for at least three years.

That examination shall take place without prejudice to any specific examination requirements or measures adopted in accordance with Article 28(1), (2) or (3), Article 30(1), (3) or (4), Article 37(4), Article 41(2) or (3) or Article 54(2) or (3). Where those examination requirements or measures require the examination to be carried out by the competent authority, that examination shall not be carried out by the authorised operator referred to in paragraph 2 of this Article.

4 The Commission is empowered to adopt delegated acts in accordance with Article 105 supplementing this Regulation by setting out detailed measures concerning visual examination, sampling and testing, and the frequency and timing of the examinations, referred to in paragraphs 1, 2 and 3 of this Article, with regard to specific plants, plant products and other objects, on the basis of the particular pest risks they may present. Those examinations shall, where appropriate, concern certain plants for planting belonging to pre-basic, basic, or certified material, seed or seed potatoes, or standard or CAC material or seed, as respectively referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC.

Where the Commission adopts such delegated acts for specific plants for planting, and those plants for planting are subject to certification schemes pursuant to Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC and 2008/90/EC, the Commission shall set out the requirements as regards the examinations for the presence of Union quarantine pests or pests subject to measures adopted pursuant to Article 30(1) of this Regulation and Union regulated non-quarantine pests and the examinations for other characteristics of the plants for planting pursuant to those Directives in a single certification scheme.

When adopting those delegated acts, the Commission shall take into account the development of scientific and technical knowledge and international standards.

Article 88

Attaching of the plant passports

Plant passports shall be attached by the professional operators concerned to the trade unit of the plants, plant products and other objects concerned before they are moved within the Union territory pursuant to Article 79 or into or within a protected zone pursuant to Article 80. Where such plants, plant products or other objects are moved in a package, bundle or container, the plant passport shall be attached to that package, bundle or container.

Status: Point in time view as at 26/10/2016.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/2031 of the European Parliament of the Council, CHAPTER VI. (See end of Document for details)

Article 89

Authorisation of professional operators to issue plant passports

1 The competent authority shall grant an authorisation to a professional operator to issue plant passports ('the authorisation to issue plant passports') for particular families, genera or species, and commodity types of plants, plant products and other objects where that professional operator complies with both of the following conditions:

- a it possesses the necessary knowledge to carry out the examinations referred to in Article 87 concerning the Union quarantine pests or pests subject to measures adopted pursuant to Article 30(1), protected zone quarantine pests and Union regulated non-quarantine pests that could affect the plants, plant products and other objects concerned, and concerning the signs of the presence of those pests, the symptoms caused by them, and the means to prevent the presence and spread of those pests;
- b it has in place systems and procedures enabling it to fulfil its obligations concerning traceability pursuant to Articles 69 and 70.

2 The Commission is empowered to adopt delegated acts in accordance with Article 105 supplementing this Regulation by setting out criteria to be fulfilled by the professional operators in order for them to comply with the conditions set out in point (a) of paragraph 1 of this Article and procedures to ensure that those criteria are met.

Article 90

Obligations of authorised operators

1 Where an authorised operator intends to issue a plant passport, it shall identify and monitor the points of its production process, and the points concerning the movement of plants, plant products and other objects, which are critical as regards compliance with Article 37(1), Article 41(1), Articles 85 and 87 and, where applicable, Article 33(2), Article 54(1) and Article 86, and the rules adopted pursuant to Article 28(1), (2) and (3), Article 30(1), (3) and (4), and, where applicable, Article 37(4).

It shall keep for at least three years records concerning the identification and monitoring of those points.

2 The authorised operator referred to in paragraph 1 shall ensure that appropriate training is provided, when necessary, to its personnel involved in the examinations referred to in Article 87, in order to ensure that that personnel possesses the necessary knowledge to carry out those examinations.

Article 91

Pest risk management plans

1 Authorised operators may have in place pest risk management plans. The competent authority shall approve those plans, if they fulfil all of the following conditions:

- a they set out measures which are appropriate for those operators to fulfil the obligations set out in Article 90(1);
- b they fulfil the requirements set out in paragraph 2 of this Article.

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Authorised operators implementing an approved pest risk management plan may be subject to inspections with a reduced frequency.

2 The pest risk management plans shall cover, where appropriate in the form of standard operating procedure manuals, at least the following:

- a the information required under Article 66(2) concerning the registration of the authorised operator;
- b the information required under Articles 69(4) and 70(1) concerning the traceability of plants, plant products and other objects;
- c a description of the production processes of the authorised operator and its activities as regards movement and sales of plants, plant products and other objects;
- d an analysis of the critical points referred to in Article 90(1) and the measures taken by the authorised operator to mitigate the pest risks associated with those critical points;
- e the procedures in place and actions foreseen where quarantine pests are suspected or found to be present, the recording of those suspicions or findings and the recording of the actions taken;
- f the roles and responsibilities of the personnel involved in the notifications referred to in Article 14, the examinations referred to in Article 87(1), the issuance of plant passports pursuant to Article 84(1), Article 93(1) and (2) and Article 94, and the attaching of plant passports pursuant to Article 88; and
- g the training provided to the personnel referred to in point (f) of this paragraph.

3 Where the competent authority becomes aware that the professional operator concerned does not apply the measures referred to in point (a) of the first subparagraph of paragraph 1, or that a pest risk management plan is no longer up to date with any of the requirements referred to in point (b) of the first subparagraph of paragraph 1, that authority shall without delay take the measures necessary to ensure that non-compliance with those conditions does not continue. Those measures may include the withdrawal of the approval of that plan.

Where the competent authority has taken measures in accordance with the first subparagraph other than the withdrawal of the approval of the plan, and the non-compliance continues, that authority shall without delay withdraw that approval.

Article 92

Inspections and withdrawal of authorisation

1 The competent authority shall carry out inspections at least once per year, and sampling and testing if appropriate, to verify whether the authorised operators comply with Article 83(1), (2), (4) or (5), Article 87, Article 88, Article 89(1), Article 90 or Article 93(1), (2), (3) or (5).

2 Where the competent authority becomes aware that an authorised operator does not comply with the provisions referred to in paragraph 1 or that a plant, plant product or other object, for which that professional operator has issued a plant passport, does not comply with Article 85 or, where applicable, Article 86, that authority shall without delay take the measures necessary to ensure that non-compliance with those provisions does not continue.

Those measures may include the withdrawal of the authorisation to issue plant passports for the plants, plant products and other objects concerned.

3 Where the competent authority has taken measures in accordance with paragraph 2 other than the withdrawal of the authorisation to issue plant passports for the plants, plant

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products and other objects concerned, and non-compliance with Article 85 or, where applicable, Article 86 continues, that authority shall without delay withdraw that authorisation.

Article 93

Replacing a plant passport

1 An authorised operator which has received a trade unit of plants, plant products or other objects for which a plant passport has been issued, or the competent authority acting on request of a professional operator, may issue a new plant passport for that trade unit, replacing the plant passport initially issued for that trade unit, provided that the conditions of paragraph 3 are fulfilled.

2 Where a trade unit of plants, plant products or other objects for which a plant passport has been issued is divided into two or more new trade units, the authorised operator responsible for those new trade units, or the competent authority acting on request of a professional operator, shall issue a plant passport for each new trade unit resulting from the division, provided that the conditions set out in paragraph 3 are fulfilled. Those plant passports shall replace the plant passport issued for the initial trade unit.

3 A plant passport, as provided for in paragraphs 1 and 2, may only be issued if the following conditions are fulfilled:

- a the traceability requirements referred to in Article 69(3) concerning the plants, plant products or other objects concerned are fulfilled;
- b as applicable, the plants, plant products or other objects concerned continue to comply with the requirements referred to in Articles 85 and 86; and
- c the characteristics of the plants, plant products or other objects concerned have not changed.

4 Where a plant passport is issued pursuant to paragraph 1 or 2, the examination referred to in Article 87(1) shall not be required.

5 Following the replacement of a plant passport pursuant to paragraph 1 or 2, the authorised operator concerned shall retain the replaced plant passport or its content for at least three years.

Where the replacement of a plant passport pursuant to paragraph 1 or 2 is carried out by the competent authority, the professional operator on whose request it is issued shall retain the replaced plant passport or its content for at least three years.

That retainment may take the form of storage of the information contained in the plant passport in a computerised database, provided that this includes the information contained in any traceability barcode, hologram, chip or other data carrier which may supplement the traceability code as referred to in Annex VII.

Article 94

Plant passports replacing phytosanitary certificates

1 By way of derogation from Article 87, where a plant, plant product or other object, introduced into the Union territory from a third country which, for movement within the Union territory, requires a plant passport pursuant to Article 79(1) and Article 80(1), the passport shall be issued if the checks by means of official controls at the border control post concerning its

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introduction have been completed satisfactorily and have led to the conclusion that the plant, plant product or other object concerned fulfils the substantive requirements for issuance of a plant passport according to Article 85 and, where appropriate, Article 86.

The replacement of a phytosanitary certificate by a plant passport may be carried out at the place of destination of the plant, plant product or other object concerned, instead of the point of entry, where checking at the place of destination is allowed, as referred to in Union legislation on official controls.

2 By way of derogation from the first subparagraph of paragraph 1, Member States may decide to replace a phytosanitary certificate at the place of entry of the plant, plant product or other object concerned into the Union territory by a certified copy of the original phytosanitary certificate.

That certified copy of the original phytosanitary certificate shall be issued by the competent authority and shall accompany the movement of the plant, plant product or other object concerned only up to the point where the plant passport is issued and only within the territory of the respective Member State.

3 The competent authority shall retain the phytosanitary certificate for at least three years. That retainment may take the form of storage of the information contained in the phytosanitary certificate in a computerised database.

Where point (a) of Article 101(2) applies, that phytosanitary certificate shall be replaced by a certified copy thereof.

Article 95

Invalidation and removal of the plant passport

1 The professional operator which has under its control a trade unit of plants, plant products or other objects shall invalidate the plant passport and, where possible, remove it from that trade unit where it becomes aware that any of the requirements of Articles 83 to 87, 89, 90, 93 or 94 are not fulfilled.

Without prejudice to the notification obligation referred to in Article 14, that professional operator shall inform the competent authority under the competence of which it operates.

2 Where the professional operator fails to comply with paragraph 1, the competent authority shall invalidate the plant passport and, where possible, remove it from the trade unit concerned.

3 Where paragraphs 1 and 2 apply, the professional operator concerned shall retain the invalidated plant passport or its content for at least three years.

That retention may take the form of storage of the information contained in the invalidated plant passport in a computerised database, provided that this includes the information contained in any traceability barcode, hologram, chip or other data carrier which may supplement the traceability code as referred to in Annex VII, and a statement concerning that invalidation.

4 Where paragraphs 1 and 2 apply, the professional operator concerned shall inform accordingly the authorised operator, or competent authority, who issued the invalidated plant passport.

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5 Member States shall notify, through the electronic notification system referred to in Article 103, the Commission and other Member States where a plant passport was removed and invalidated pursuant to paragraph 2 of this Article.

Section 3

Other attestations

Article 96

Marking of wood packaging material, wood, or other objects

1 The mark applied on wood packaging material, wood or other objects to attest that a treatment has been applied in accordance with Annex 1 to ISPM15 shall comply with the requirements set out in Annex 2 to ISPM15 in all of the following cases:

- a wood packaging material introduced into the Union territory from a third country, as referred to in Article 43;
- b wood packaging material marked within the Union territory, moving out of the Union territory;
- c wood packaging material, wood or other objects moving within the Union territory, if required so by an implementing act adopted pursuant to Article 28, 30, 41 or 54;
- d any other wood packaging material, wood or other object marked within the Union territory.

The mark shall only be applied where the wood packaging material, wood or other objects have been subject to one or more of the approved treatments referred to in Annex 1 to ISPM15, without prejudice to Regulations (EC) No 1005/2009⁽¹⁾, (EC) No 1107/2009⁽²⁾ and (EU) No 528/2012⁽³⁾ of the European Parliament and of the Council.

For wood packaging material, wood or other objects marked in the Union territory, the mark shall only be applied by a registered operator authorised in accordance with Article 98.

Points (a) and (b) of the first subparagraph shall not apply to wood packaging material which is subject to the exemptions provided for in ISPM15.

2 The Commission is empowered to adopt delegated acts in accordance with Article 105 amending the requirements set out in paragraph 1 of this Article in order to adapt them to the development of international standards and in particular to ISPM15.

Article 97

Repairing of wood packaging material in the Union territory

1 Wood packaging material that is marked with the mark referred to in Article 96 shall only be repaired if all of the following conditions are fulfilled:

- a the person carrying out that repair is a registered operator authorised in accordance with Article 98;
- b the material and treatment used are eligible for repair;
- c the mark is applied anew, as appropriate.

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2 The Commission may, by means of implementing acts, set out specific arrangements concerning the material, treatment and marking referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2). Those implementing acts shall take into account relevant international standards and in particular ISPM15.

3 Paragraphs 1 and 2 shall not apply where a professional operator permanently obliterates by any means all earlier applications of that mark from the wood packaging material.

Article 98

Authorisation and supervision of registered operators applying the mark of wood packaging material in the Union territory

1 An authorisation to apply the mark referred to in Article 96 and to repair wood packaging material in accordance with Article 97 shall be granted by the competent authority on application to a registered operator provided that the registered operator fulfils both of the following conditions:

- a it possesses the necessary knowledge to carry out the treatment of the wood packaging material, wood and other objects required pursuant to the acts referred to in Articles 96 and 97;
- b it operates appropriate facilities and equipment to carry out that treatment ('treatment facilities');

The Commission is empowered to adopt delegated acts in accordance with Article 105 supplementing this Regulation by specifying the requirements for authorisation, where appropriate in view of the development of scientific and technical knowledge and international standards.

2 An authorisation to apply the mark referred to in Article 96 and to repair wood packaging material according to Article 97 shall be granted by the competent authority on application to a registered operator using wood treated in a facility of another operator, provided that it fulfils all of the following conditions in respect of wood packaging material marked with that mark:

- a it exclusively uses wood:
 - (i) which has been subject to one or more of the approved treatments referred to in Annex 1 of ISPM15 and has been treated in facilities operated by a registered operator authorised pursuant to paragraph 1 of this Article; or
 - (ii) which has been subject to one or more of the approved treatments referred to in Annex 1 of ISPM15 in a treatment facility in a third country that has been approved by the national plant protection organisation of that third country;
- b it ensures that the wood used for that purpose can be traced back to those treatment facilities in the Union territory or to the third country treatment facilities concerned;
- c where applicable pursuant to Article 28(1) and (2), Article 30(1) and (3), Article 41(2) and (3) and Article 54(2) and (3), it exclusively uses wood referred to in point (a) of this subparagraph which is accompanied by a plant passport or any other document providing guarantees that the treatment requirements referred to in Annex 1 to ISPM15 are fulfilled.

3 The competent authority shall supervise at least once per year the registered operators authorised pursuant to paragraphs 1 and 2 to verify and ensure that they treat and mark as

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appropriate wood packaging material, wood and other objects in accordance with Article 96(1) and Article 97 and fulfil the conditions set out respectively in paragraphs 1 and 2 of this Article.

4 Where the competent authority becomes aware that a professional operator does not comply with the requirements referred to in paragraphs 1 or 2, that authority shall without delay take the measures necessary to ensure that the non-compliance with those provisions does not continue.

Where the competent authority has taken those measures other than the withdrawal of the authorisation referred to in paragraphs 1 or 2, and the non-compliance continues, that authority shall without delay withdraw the authorisation referred to in paragraphs 1 or 2.

Article 99

Attestations other than the mark of wood packaging material

1 The Commission is empowered to adopt delegated acts in accordance with Article 105 supplementing this Regulation by setting out the elements to be contained in official attestations specific for plants, plant products or other objects, other than wood packaging material, which are required by the applicable international standards as form of proof of the implementation of measures adopted pursuant to Article 28(1) or (2), Article 30(1) or (3), Article 41(2) or (3), Article 44, or Article 54(2) or (3).

2 The delegated acts referred to in paragraph 1 may also set out requirements concerning one or more of the following:

- a the authorisation of professional operators as regards the issuance of the official attestations referred to in paragraph 1;
- b the supervision by the competent authority of the professional operators authorised pursuant to point (a) of this paragraph;
- c the withdrawal of that authorisation referred to in point (a) of this paragraph.

3 The Commission shall adopt, by means of implementing acts, the format specifications of the attestations referred to in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

Section 4

Export of plants, plant products and other objects from the Union territory

Article 100

Phytosanitary certificate for export from the Union

1 Where, for the export of a plant, plant product or other object from the Union territory to a third country, a phytosanitary certificate is required by the phytosanitary import requirements of that third country ('phytosanitary certificate for export'), that certificate shall be issued by the competent authority, at the request of the professional operator, when all of the following conditions are fulfilled:

- a the professional operator is registered by that competent authority in accordance with Article 65;

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- b the professional operator has under its control the plant, plant product or other object to be exported;
- c it is ensured that that plant, plant product or other object complies with the phytosanitary import requirements of the third country concerned.

The competent authority shall also issue a phytosanitary certificate for export at the request of persons other than professional operators, provided that the conditions set out in points (b) and (c) of the first subparagraph are fulfilled.

For the purpose of this paragraph, the competent authority shall not delegate the issuance of the phytosanitary certificate for export to any other person.

2 Without prejudice to obligations under the IPPC, and taking into account the relevant international standards, the phytosanitary certificate for export shall be issued where the information available allows the competent authority to certify compliance of the plant, plant product or other object concerned with the phytosanitary import requirements of the third country concerned. That information may originate from one or more of the following elements, as applicable:

- a inspections, sampling and testing of the plants, plant products or other objects concerned, or their place of production and its vicinities;
- b official information on the pest status in the production site, place of production, area or country of origin of the plants, plant products or other objects concerned;
- c a plant passport, as referred to in Article 78, accompanying the plants, plant products or other objects concerned, where that plant passport attests the results of inspections by the competent authority;
- d the mark of wood packaging material as referred to in Article 96(1), or the attestations referred to in Article 99(1);
- e the information included in the pre-export certificate referred to in Article 102;
- f official information included in the phytosanitary certificate as referred to in Article 71, where the plants, plant products or other objects concerned have been introduced into the Union territory from a third country.

3 The phytosanitary certificate for export shall comply with the description and format of the model set out in Part A of Annex VIII.

4 The Commission is empowered to adopt delegated acts in accordance with Article 105 amending the elements referred to in paragraph 2 of this Article and Part A of Annex VIII to adapt them to the development of the relevant international standards.

5 Electronic phytosanitary certificates for export shall be provided through, or in electronic exchange with, a computerised information management system for official controls at Union level.

Article 101

Phytosanitary certificate for re-export from the Union

1 For the re-export of a plant, plant product or other object which originates in a third country and has been introduced into the Union territory from that, or another, third country, a phytosanitary certificate for re-export from the Union ('the phytosanitary certificate for re-export') shall, where possible, be issued instead of the phytosanitary certificate for export.

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The phytosanitary certificate for re-export shall be issued by the competent authority at the request of the professional operator when all of the following conditions are fulfilled:

- a that professional operator is registered by that competent authority in accordance with Article 65;
- b the professional operator has under its control the plant, plant product or other object to be re-exported;
- c it is ensured that that plant, plant product or other object complies with the phytosanitary import requirements of the third country concerned.

The competent authority shall also issue a phytosanitary certificate for re-export at the request of persons other than professional operators, provided that the conditions set out in points (b) and (c) of the second subparagraph are fulfilled.

For the purpose of this paragraph, the competent authority shall not delegate the issuance of the phytosanitary certificate for re-export to any other person.

2 Without prejudice to obligations under the IPPC, and taking into account the relevant international standards, the phytosanitary certificate for re-export shall be issued where the information available allows certifying of compliance with the phytosanitary import requirements of the third country concerned and that all of the following conditions are complied with:

- a the original phytosanitary certificate accompanying the plant, plant product or other object concerned from the third country of origin, or a certified copy of it, is attached to the phytosanitary certificate for re-export;
- b the plant, plant product or other object concerned has not been grown, produced or processed to change its nature since its introduction in the Union territory;
- c the plant, plant product or other object concerned has not been exposed to any risk of infestation or contamination with quarantine pests or regulated non-quarantine pests, listed as such by the third country of destination, during storage in the Member State from which it is to be exported to that third country;
- d the identity of the plant, plant product or other object concerned has been maintained.

3 Article 100(2) shall apply *mutatis mutandis*.

4 The phytosanitary certificate for re-export shall comply with the description and format of the model set out in Part B of Annex VIII.

5 The Commission is empowered to adopt delegated acts in accordance with Article 105 amending Part B of Annex VIII to adapt it to the development of the relevant international standards.

6 Electronic phytosanitary certificates for re-export shall be provided through, or in electronic exchange with, a computerised information management system for official controls at Union level.

Article 102

Pre-export certificates

1 The competent authorities of the Member State from which the plants, plant products or other objects referred to in Article 100(1) are exported and the competent authorities of the Member State in which the plants, plant products or other objects were grown, produced, stored

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or processed shall exchange the necessary phytosanitary information as the basis for issuing the phytosanitary certificate for export.

2 The exchange of information referred to in paragraph 1 shall take the form of a harmonised document ('pre-export certificate'), in which the competent authorities of the Member State, in which the plants, plant products and other objects were grown, produced, stored or processed, certify compliance of those plants, plant products or other objects with specific phytosanitary requirements concerning one or more of the following:

- a the absence, or presence below a specified threshold, of particular pests in the plants, plants products or other objects concerned;
- b the origin of the plants, plant products or other objects concerned in a specific field, production site, place of production or area;
- c the pest status in the field, production site, place of production or area of origin or country of origin of the plants, plant products or other objects concerned;
- d the results of the inspections, sampling and testing of the plants, plant products or other objects concerned;
- e the phytosanitary procedures applied to the production or processing of the plants, plant products or other objects concerned.

3 The pre-export certificate shall be issued, on request of the professional operator, by the competent authorities of the Member State in which the plants, plant products or other objects were grown, produced, stored or processed, while those plants, plant products or other objects are on the premises of the professional operator concerned.

4 The pre-export certificate shall accompany the plants, plant products and other objects concerned during their movement within the Union territory, unless the information contained in it is exchanged between the Member States concerned through, or in electronic exchange with, a computerised information management system for official controls at Union level.

5 Without prejudice to the requirements set out in paragraph 3, the pre-export certificate may be issued when the plants, plant products or other objects have left the premises of the professional operator concerned, provided that inspections and, where necessary, sampling have been carried out, confirming the compliance of those plants, plant products or other objects with one or more of the specific phytosanitary requirements referred to in paragraph 2.

6 The pre-export certificate shall contain the elements and shall be in the format as set out in Part C of Annex VIII.

The Commission is empowered to adopt delegated acts in accordance with Article 105 amending Part C of Annex VIII in order to adapt it to the development of scientific and technical knowledge and of relevant international standards.

7 The Commission may, by means of implementing acts, lay down the procedures for the issuance of the pre-export certificate. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 107(2).

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- (1) Regulation (EC) No 1005/2009 of the European Parliament and of the Council of 16 September 2009 on substances that deplete the ozone layer ([OJ L 286, 31.10.2009, p. 1](#)).
- (2) Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC ([OJ L 309, 24.11.2009, p. 1](#)).
- (3) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ([OJ L 167, 27.6.2012, p. 1](#)).

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