

REGULATION ON FOREST REPRODUCTIVE MATERIAL

Compromise Amendments Articles 1 - 33, Annex I - IIX, Recitals 1-63 ENVI CA 1 - 51

If Compromise AM agreed, all AM fall

13.03.2024

CA on Article 1

Subject matter

Covered: 1, 55, 56, 57, 58

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 that basic material, FRM categories, requirements for FRM identity and quality, certification, labelling, packaging, imports, professional operators, the registration of basic material, *official controls* (Rapp 1, RE 55, SD 56, EPP 57) and the national contingency plans.

CA on Article 2

Scope

Covered: 2, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, ENVI 11, 12

1. This Regulation applies to FRM of the tree species and artificial hybrids, listed in Annex I *with a view to be marketed*. (RE 59, EPP 60)
2. The objectives of this Regulation are the following:
 - (a) ensure the production and marketing of high-quality FRM in the Union and the *correct and unimpeded* (EPP 61) functioning of the internal market in FRM;

- (b) help create resilient *and productive* forests, conserve biodiversity, *prevent the use of invasive species (SD 62)* and restore forest ecosystems *and their functioning inter alia by promoting interspecific and intraspecific genetic variation*; (ENVI 11)
 - (c) support wood and biomaterials production, climate adaptation, climate mitigation and the conservation and sustainable use of forest genetic resources.
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 movement of vegetation zones and tree species' ranges as a result of climate change;
 - (b) any *relevant* (ENVI 12) 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 in at least two Member States;
- (c) are considered important for their contribution to 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.

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 for export to third countries;

~~(e a) FRM sold or transferred in any way, whether free of charge or not, between final users for their own private use and outside their commercial activities.~~

~~(Greens 67)~~

(d) FRM used for official testing, scientific purposes or selection work.

~~(d a) Forest reproductive material used for non-forest purposes other than those covered by this regulation. (Rapp 2, RE 68)~~

CA on Article 3

Definitions

Covered: 3, 4, 5, 6, 7, 8, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, ENVI 13, 14, 16, 17

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

71, 73-75, ENVI 13

1. (1) 'forest reproductive material' ('FRM') means *seed units, parts of plants and planting stocks* (EPP 71, RE 73, 75, SD 74), that belong to tree species and artificial hybrids

thereof listed in Annex I to this Regulation and used for afforestation, reforestation, and other tree planting **and direct seeding** (ENVI 13) for any of the following purposes:

77, 78, 81, 82, ENVI 14, 16, 17

- (a) wood and biomaterials production;
- (b) **conservation of forest genetic resources and** (EPP 77, RE 78) biodiversity conservation **and enhancement** (ENVI 14);
- (c) restoration of forest ecosystems **and other wooded land, and supporting their functioning** (ENVI 16);
- (ca) **setting up or restoring agroforestry systems** (ENVI 17);
- (d) climate adaptation;
- (e) climate mitigation;
- (f) conservation and sustainable use of forest genetic resources.

- (2) ‘afforestation’ means establishment of forest through planting and/or deliberate seeding **of regional adapted tree species** (Greens 81) on land that, until then, was under a different land use implies a transformation of land use form non-forest to forest¹;
- (3) ‘reforestation’ means re-establishment of forest through planting and/or deliberate seeding **of regional adapted tree species** (Greens 82) on land classified as forest²;

83, 84

- (4) ‘seed unit’ means cones, infructescences, fruits and seeds intended for the production of a planting stock **or for direct seeding**; (RE 83, EPP 84)
- (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

3, 91

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

² FAO (2020) Global Forest Resources Assessment Terms and definitions. <https://www.fao.org/3/I8661EN/i8661en.pdf>.

(7) 'production' means all stages in the generation of *seeds, parts of* (Rapp 3) plants *and plants and also those necessary to obtain an adequate* (SD 91) planting stock, with a view to be marketed;

92, 93

(8) 'seed source' means the trees within *a defined* area, from which *a seed unit* (RE 92, EPP 93) 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, family or 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 'father tree', full sibling) or a number of identified or unidentified '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;

4, 95, 96, 97

(15) 'unit of approval' means the entire area, *or individuals in the case of clones*, (Rapp 4, EPP 97, RE 96, 95) of basic material for the production of FRM that has been authorised by the competent authorities;

5, 99

(16) 'unit of notification' means the entire area *or individual(s)* (Rapp 5, RE 99) 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;

6, 103, 102

(17) ‘seed lot’ means a set of *extracted and/or cleaned* (Rapp 6, SD 103, RE 102) seeds from approved basic material and processed uniformly;

7, 105

(18) ‘plant lot’ means a set of *plants that have been produced* from a single seed lot or a *set of* vegetatively *propagated plants* which *have been produced* (Rapp 7, SD 105) in a delineable area and processed uniformly;

8, 106, 108, 109

(19) ‘lot *code*’ means the identification *code* (Rapp 8, RE 106, 108, EPP 109) 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 stand’ means an autochthonous stand or a stand raised artificially from seed, where the origin of this stand and the stand itself are located in the same region of provenance;
- (25) ‘origin’ means the following:
- (a) for an autochthonous seed source or stand, the place in which the trees are growing;
 - (b) for a non-autochthonous 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;

114, 115, 117

- (30) ‘marketing’ means the following *commercial* (EPP 117) actions conducted by a professional operator: sale, holding or offering for the purpose of sale or any other way of transferring, distribution (*including dispatching*) within, (~~or export out of the~~

Union) (RE 114, EPP 115) or import into the Union, whether free of charge or not, of FRM;

118, 119

- (31) ‘professional operator’ means any natural or legal person involved professionally, **with the authorisation of the competent authorities**, (EPP 119) in one or more of the following activities, **aimed at the commercial exploitation of the FRM**: (Greens 118)
- (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;
- (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 and which meets the requirements set out in Annex V;
- (37) ‘official certification’ means certification of source-identified, selected, qualified and tested FRM, 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;

- (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 B 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;
- (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;

126, 127

- (42) ‘deployment area for seed orchards *and parents of family(ies)*’ (SD 126, RE 127) 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 location of the seed orchards, *parents of family(ies)* (SD 126) and its components, results of progeny and provenance trials, environmental conditions and future climatic change projections;

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- (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, provenance

and clonal (SD 130) trials, the environmental conditions and future climatic change projections;

(44) 'FOREMATIS' means the Forest Reproductive Material Information System of the Commission;

131, 132, 133, 134

(45) 'natural regeneration' means the renewal of *the* forest by *natural processes* (EPP 132, RE 133, 134) *through natural seeding, sprouting, suckering or layering*; (SD 131)

(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, and an unacceptable economic impact as regards the use of that FRM in the Union;

135, 136

(47) 'practically free from *quality* pests' means free from *quality* (SD 135, Greens 136) 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.

CA on Article 5

Requirements for the marketing of FRM derived from approved basic material

Covered: 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 154, 155, 156

Voted: 152,153, ENVI 22

1. FRM derived from approved basic material shall be marketed in accordance with the following rules *by official professional operators*: (RE 142, EPP 143)

(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, which are vegetatively reproduced, may only be marketed if:

(i) it is of the 'qualified' or 'tested' categories, and (EPP 146, RE 145)

(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, may only be marketed if it has been mass propagated from seeds;

(d) FRM of the tree species and artificial hybrids listed in Annex I, which contains or consists in 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
EN 34 EN

(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 and 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);

~~(iii c) it bears a label indicating the words 'New Genomic Techniques' in accordance with Article 10 of the [OP: please insert a reference to the upcoming NGT regulation] (ENVI 22)~~

(f) FRM of the tree species and artificial hybrids listed in Annex I, may only be marketed if it is accompanied by a reference to its master certificate number(s);

(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 and 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;
- (ii) germination percentage of the pure seed. ~~**If testing procedures are being carried out, the competent authorities may authorize the marketing before the results of tests. The supplier is obliged to communicate the results of the tests to the buyer as soon as available;**~~ (SD 152)
- (iii) weight of 1000 pure seeds;
- (iv) the number of germinable seeds per kilogram of product marketed as seed, or, where the number of germinable seeds is impossible or impractical to assess,

~~*in a limited period of time, the number of viable seeds per kilogram, by reference to a specific method.*~~ (SD 153)

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.

CA on Article 6

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

Covered: 9, 157, 158, 159, 160, 161, 162, 163, 164, 165, ENVI 24

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, *or adapted to the goal of assisted migration when relevant*; and (Greens 160)
- (c) FRM shall be collected from *a maximum number of* individuals of the notified basic material, *sufficiently numerous to preserve the genetic diversity of the species*. (SD 161, 162, 163, ENVI 24)

CA on Article 7

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

Covered: Rapp, SD proposal

Voted: 166, 167

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) *a, b and c*, (SD) 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 *time limit* ~~maximum duration~~ (Rapp) of the authorisation;
- (c) *minimum requirements* ~~obligations~~ (Rapp) as regards official controls on the professional operators applying that authorisation;
- (d) the content and form of the notification referred to in paragraph 1.

CA on Article 9

Contingency plan and national register

Covered: 168, 169, 170, 171, 172, ENVI 33, ENVI 35, ENVI 37

1. Each Member State shall ~~assess whether to~~ (EPP 168) draw up one or more contingency plan to ensure 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/EU³. *The Commission European Union shall, at the request of the Member State ~~opting to draw up an emergency plan,~~ make available technical support for the drawing-up of the contingency emergency plan.* (EPP 168)

That contingency plan shall be prepared for those tree species and artificial hybrids thereof listed in Annex I, that are deemed suitable *by Member States for their* (SD 169) current and projected future climatic and ecological conditions.

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

National contingency emergency plans shall take into account the potential emergence of affected areas beyond national borders and the Member State concerned shall work with other Member States to ensure a sufficient preventive supply of FRMs for cross-border affected areas. (EPP 170)

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 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;
 - (aa) ~~a resilience strategy identification of the vulnerabilities focused on pinpointing vulnerabilities that could justify the funding provided by the competent authorities for and preventive measures, such as making seed~~

³ OJ L 347, 20.12.2013, p. 924.

storage sites and nurseries more secure, and increasing the number of storage sites and nurseries; (ENVI 33)

- (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 training of personnel of the competent authorities and, where *available and* (Greens 171, ENVI 35) 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 shall establish a national register *as set out in Article 12* (Greens 172, ENVI 37) that:

- (a) contains the tree species and artificial hybrids listed in Annex I, which are relevant for the current climatic and ecological conditions of the Member State concerned;
- (b) takes account 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.

CA on Article 10

Obligations for Professional Operators

Covered: 173, 174, 175, 176, 177, 178, 179, 180, 181, 182

1. Professional operators shall be registered in a register provided for in Article 65 of Regulation (EU) 2016/2031, in accordance with Article 66 of that Regulation.
They shall be established in the *Member State concerned* (Greens 175) *and authorised by the competent authority*. (EPP 174)
2. Professional operators shall make available to the *competent authority and the* users of their FRM *the* necessary information *about the identity of FRM*. (EPP 177, RE 178) as well as information (SD) concerning its suitability for climatic and ecological conditions *based on available ~~existing~~ knowledge and data*. That information shall be, *in compliance with competent authority's guidelines orientations*, (179 SD, 180 RE) provided to the potential purchaser through websites, planters' guides and other appropriate means prior to the transfer of the FRM concerned.

CA on Article 12

National register and national list of basic material

Covered: 184, 185, 186, 187, 188

Voted: 189

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 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 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; (EPP 185, RE 184)

- (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 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;
- (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 if the origin is unknown;
 - (ii) non-autochthonous/ non-indigenous basic material, an indication of the origin, if it is known;
- (h) purpose of use of FRM;
 - (i) in the case of FRM of the 'tested' category, an indication whether it is:
 - (i) genetically modified; or
 - (ii) an NGT plant;
- (h a) ~~a description of any additional information further information if available should be described;~~ (EPP 186, RE 187)**

(j) in the case of qualified and tested categories, information about the ~~place of harvest area used for the~~ (Greens 188) production of clone(s) or clonal mixture(s), where appropriate.

~~(j a) if applicable, the intellectual property rights existing on the FRM.~~ (Greens 189)

CA on Article 13

Union list of approved basic material

Covered: 190, 191, 192

1. 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~~ (EPP 190, RE 191, Greens 192)

New Article 13a

Production from basic material

Covered: 183, 193, 194, 195

(1) Traceability shall be ensured from the collection of FRM up to the marketing to the end user.

(2) The professional operator shall notify the competent authority of his intention to harvest forest reproductive material prior to harvesting ~~at least 3 business days to harvesting with the appointment of a responsible person~~ in order to allow the competent authority to organise controls (Greens 195, EPP 193, RE 194).

(3) Professional operators shall supply the competent authority with records documenting the harvest of the FRM (EPP 193, RE 194).

(4) The removal from the place of harvest is only permitted with a master certificate (EPP 193, RE 194).

(5) In the interest of the highest possible genetic diversity within the entire seed lot, the seed harvester shall ensure that the seed lot undergoes intensive mixing during all stages of processing prior to marketing or seeding (part Greens 183, EPP 193, RE 194).

CA on Article 14

Master certificate of identity

Covered: 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209

1. The competent authorities shall issue, upon application of a professional operator, ~~before the removal of from the harvest place and~~ (EPP 197, RE 196) after harvesting the FRM from approved basic material, a master certificate of identity ('master certificate'), showing the unique register reference of basic material, for all FRM that has been harvested.
- 1.2 The master certificate shall attest *compliance with the requirements of Article 4(2) that the FRM is derived from* (LS) *from approved basic material*. (EPP 200, RE 199)

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

- (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.
- (c a) Model master certificate for FRM that is derived from a mixture.* (EPP 203, RE 202)

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.
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 number.

4 a. *In the case of a mixture, the professional operator ~~has to~~ shall announce the mixing to the competent authority ~~at least three 3 business days prior the mixing~~ (RE) in advance in order to allow the competent authority to supervise the mixing process. (EPP 204, RE 205)*

5. A master certificate may also be issued in an electronic form ('electronic master certificate'). ~~Greens 206~~

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, 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.

6 (a) *Each Member State shall establish and update a national list of issued master certificates and make ~~it~~ that list available to the Commission and competent ~~national~~ authorities. (EPP 209, RE 208, Greens 201)*

CA on Article 15

Lots

Covered: 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 222, 223, 224, 225, 226, 227, 228, 229, 230

Voted: 221

1. FRM shall, during all stages of production, be kept separated by reference to *individual units of approval of basic material and the master certificate when issued* (EPP 210, RE 211) to ensure traceability of the FRM to the approved basic material from which it has been harvested. FRM shall be harvested from those individual units of approval and marketed in lots that shall be sufficiently homogeneous and identified as distinct from other lots of FRM.

Each lot of FRM shall be identified by the following:

- (a) lot ~~number~~ *code*; (SD 214, RE 213)
 - (a a) *purpose*; (RE 212, EPP 215)
 - (b) master certificate code and number;
 - (c) botanical name;
 - (d) category of FRM;
 - (e) *type of* basic material; (EPP 217, RE 216)
 - (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* (~~Article 5 (1)(h)~~) *and the name of the seed test station*; (EPP 218, RE 219) LS
 - (ii) ~~if applicable, the intellectual property rights existing on the FRM~~ (Greens 221)
 - (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.

2. Without prejudice to paragraph 1 of this Article and to Article 5(1), point (c), 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 the following conditions, as appropriate:
 - (a) 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;
 - (b) 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’;
 - (c) 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’;
 - (d) in the case of mixing of FRM derived from a single unit of approval from 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 (a), (b) or (c), the identity code for the region of provenance may be substituted for the register reference as in paragraph 1, point (f).

CA on Article 16

Official label

Covered: 10, 11, 12, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252

1. An official label shall be issued by the competent *authority or by the professional operator under official supervision of a competent (national)* (RE 232, SD 235) authority for every lot of FRM attesting *compliance of that FRM* ~~is deriving from a lot (in accordance with according to Articles 5 and 15).~~ (RE 233, EPP 234) LS

1(a) 2.(a) *The official label shall be printed by:*

- (a) *the competent authority, if so requested by the professional operator, or*
- (b) *the professional operator, under the official supervision of the competent authority,*
- ~~(c) *a third party acting under the responsibility of the professional operator.* (RE 239)~~

2. *The professional operator is authorised to issue and or print that label, if on the basis of an audit, the competent authority has concluded that the operator possesses sufficient competence, infrastructure and resources.* (Rapp 11, SD 235)

~~The competent authority shall authorise shall carry out an audit to assess in advance Competent authority must determine previously, based on an audit, if the operator possesses sufficient competence, infrastructure and resources to issue the official label.~~ (Rapp 11, SD 235) LS

3. The competent authority shall carry out regular controls to check whether the 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.

4. In addition to the information required under Article 15(1), the official label *or another document from the supplier ('the supplier's label or document')* mentioning with

the information required under that ~~in the said~~ Article (RE 242) shall contain all the following information:

- (a) master certificate number(s) issued in accordance with Article 14 or a reference to the other document identifying the mixture available in accordance with Article 14(3);
 - (b) *names of the supplying professional operators, including their address and registration number of professional operator) and names of the recipients including their address;* (EPP 244, RE 243) LS
 - (c) ~~*colour of the label for specific categories or other types of FRM;*~~ (EPP 249, RE 250, 251)
 - (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.
 - (e a) *A QR code with instructions on how to take care of, store and plant FRM. (RE 245)*
5. The Commission shall, by means of implementing acts, set out the following elements concerning the official label:
- (a) content of the official label;
 - (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).

5a . If a coloured label or document is used by the professional operator in respect of any category of forest reproductive material, the colour of the supplier's label or document shall correspond with the colour indicated in Annex VI.

6. An official label 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, to ensure their compliance with this Article and an appropriate, credible and effective mode for the issuance of those official labels.

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 labels;
 - (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.

CA on Article 17

Packages of seed units

Covered: 254, ENVI 47

Seed units may only be marketed in sealed packages that become unserviceable once the package is opened, *to prevent putrefaction of the FRM, the packaging of the sealed package may be adapted to the needs of the respective FRM.* (Greens 254, ENVI 47)

~~*Making it a condition that the packaging become unserviceable once opened ensures that users are aware of any tampering with the seeds and encourages them to use the entire content properly, thereby avoiding the seeds being stored incorrectly or used when they are likely to have spoiled.*~~ (EPP 253 moved to Recital 17a)

CA on Article 18

Derogation from the obligation to be approved for basic material intended for the purpose of conserving forest genetic resources

Covered: Rapp proposal, 255, 256, 257, 258, 259, 260, 261

1. By way of derogation from Article 4(1) and (2), the registration of basic material intended for the purpose of conserving forest genetic resources in the national register ~~*shall*~~ *may* (Greens 259) not be subject to approval by the competent authorities.
2. Any professional operator registering basic material for the purpose of conserving forest genetic resources used in forestry, shall notify that basic material to the competent authority of the Member State concerned.

3. Basic material referred to in paragraph 1 shall be notified to the competent authorities in accordance with the format of FOREMATIS.

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

Each unit of notification shall be identified by a unique register reference in a national register.

- That notification shall contain the **following** information ~~as set out referred to in Article 12 (3)~~. (Rapp) LS

~~(a) botanical name;~~

~~(b) category;~~

~~(c) basic material;~~

~~(d) register reference or, where appropriate, summary thereof, or identity code for region of provenance;~~

~~(e) location: a short name, if appropriate, and the region of provenance and the latitudinal, longitudinal and altitudinal range;~~

~~(f) area: the size of a seed source(s) or stand(s);~~

~~(g) origin: indication whether the basic material is autochthonous/indigenous, non-autochthonous/non-indigenous or whether the origin is unknown. For non-autochthonous/ non-indigenous basic material, indication of the origin if known;~~

~~(h) purpose: conservation and sustainable use of genetic resources. (see Article 12)~~

4. The Commission may, by means of implementing acts, establish the specific conditions as regards the requirements and content of that notification. Those implementing acts shall take account of the development of applicable international standards and shall be adopted in accordance with the examination procedure referred to in Article 27(2).

CA on Article 19

Approval by professional operators of basic material intended for the production of FRM of the source-identified category

Covered: 13, 262, 263, 264, 265, 266, 267

By way of derogation from Article 4(1) and (2), Member States may authorise professional operators to approve, for certain species, basic material intended for the

production of FRM of the source-identified category, if the following conditions are fulfilled:

(a) the region of provenance, where the basic material is located, is subject to extreme weather conditions; and

(b) those weather conditions have an impact on the reproductive cycle of the basic material and decrease the frequency of harvesting FRM from that basic material.

That authorisation shall be ~~subject to approval by~~ *notified to* (Rapp 13, RE 266, SD 267) the Commission.

CA on Article 23

Authorisation to adopt more stringent requirements

Covered: 272, 273, 274, 275, 276, 277, 278, ENVI 49

1. By way of derogation from Article 4, the Commission, by means of implementing acts, may authorise Member States to adopt, as regards the requirements for the approval of basic material and the production of FRM more stringent production requirements, than those referred to in that Article, in all or part of the territory of the Member State concerned, ~~and in accordance with the rules on transfer between regions of origin, provided those requirements do not prohibit, impede or restrict the free movement of FRM that is in conformity with this regulation~~ (EPP 273) LS
Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).
2. For the purpose of the authorisation referred to in paragraph 1, Member States shall submit to the Commission a request setting out:
 - (a) the draft provisions containing the proposed requirements;
 - (b) a justification on the necessity and proportionality of such requirements.
3. The authorisation referred to in paragraph 1 shall be granted only if all the following conditions are fulfilled:
 - (a) the measures requested ensure at least one of the following:

- (i) the improvement of the quality of the FRM concerned;
 - (ii) the protection of the environment: adaptation to climate change *enhancement* of biodiversity, *or* restoration of forest ecosystems *and supporting their functioning*; (ENVI 49)
- (b) the measures requested are necessary and proportionate to their objective pursuant to point (a); and
- (c) the measures are justified on the basis of the specific climatic and ecological conditions in the Member State concerned.
4. Where Member States have adopted additional or more stringent requirements pursuant to Article 7 of Directive 1999/105/EC, the Member States concerned shall, by ... [one year after the *date of application of this Regulation*], review those measures and repeal or amend those measures to comply with this Regulation.

They shall inform the Commission and the other Member States of those actions.

~~4. a — At the request and on basis of clear evidence of a Member State, the Commission may, as regards the requirements for the approval of basic material and the production of FRM, adopt temporary restrictions on the use and transfer of FRM, in accordance with the rules on transfer between regions of origin and targeting different regions within the territory of two or more Member States, subject to review, provided those requirements do not prohibit, impede or restrict the free movement of PRM that is in conformity with this regulation. (EPP 278) LS~~

CA on Article 28

Covered: 284, 285

Reporting

By ... [Office of Publications, please insert date of 5 years after the date of application of this Regulation], and every 5 years thereafter, Member States shall transmit to the Commission a report on the following:

- (a) quantities of *FRM per year where a master certificate was issued*; (RE 284)
- (b) number of adopted national contingency plans *decided by Member States* (EPP 285) to prepare for FRM supply difficulties and the time *and resources* (EPP 285) needed to activate those contingency plans;

24 Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ L 31, 1.2.2002, p. 1). 25 Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (c) number of websites and/or national planters' guides containing information on where to best plant FRM;
- (d) quantities of FRM per genera and species imported from third countries under Union equivalence;
- (e) penalties imposed pursuant to Article 29.

The Commission shall, by means of implementing acts, specify the technical formats for the report provided for in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 27(2).

Agence Europe

CA on Annex II

Annex II

**REQUIREMENTS FOR THE APPROVAL OF BASIC MATERIAL INTENDED FOR
THE PRODUCTION OF FRM OF THE ‘SOURCE-IDENTIFIED’ CATEGORY**

Covered: 290, 291, 292, 293, 294

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. Effective size of the population

The seed source or stand shall consist of one or more groups of trees (*stands*) *or an individual stand*. Those trees *of seed source or stand* (RE 290) shall be well distributed and sufficiently the trees shall be 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 professional operator ~~competent authority~~ (RE 291) 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 ***and also marginal populations demonstrating local adaptation to more extreme biotic and abiotic factors.*** (SD 293)
- (b) The trees shall be practically free from ***quality*** (SD 294) pests and their symptoms.

CA on Annex III

Annex III

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

Covered: 295, 296, 297, 300, ENVI 51

Voted: 298, 299

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: Stands shall be situated at a sufficient distance from stands of poor quality of the same *or related* (RE 295) 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: To maintain genetic diversity and ensure adequate cross-pollination, stands shall consist of one or more groups of 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 their symptoms and show resistance to adverse *climatic and site-specific* (Greens 296, ENVI 51) 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 form and growth habit*: The quality of the wood shall be taken into account ~~and if relevant, the form or growth habit~~ *-The quality of the wood is ~~may be~~* (Greens 298) 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, ~~if relevant for commercial use, taking into account~~ (Greens 299) 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.

Annex IV

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

Covered: 14, 15, 301, 302, 303, 304, 305, 306

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, isolation 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~~ (Rapp 14, RE 302, 303) 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 with the competent authority.
- (e) The ~~professional operator shall~~ seed orchards **shall be managed** and seed **shall be harvested** (RE 304) in such a way that the objectives of the orchards are attained. 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~~ parents **shall be selected** (Rapp 15, RE 305, 306) 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 location and any significant changes of these shall be approved and registered with the competent authority.
- (c) The identity, number and proportion of the parents in a mixture shall be approved and registered 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) Clones shall be identifiable by distinctive characteristics which have been approved and registered 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**

Covered: 16, 17, 18, 19, 20, 21, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318,
319, 320, 321, 322, 323

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 ~~lay out and conduct~~ **report the material, methods and results of tests to the competent authority responsible** for the approval of the basic material. ~~They shall interpret~~ The results ~~of those tests presented shall be analysed~~ in accordance with the internationally recognised procedures. ~~For~~ **In** 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) **shall be used**.

(Rapp 16)

a a) a minimum number of test areas of a minimum size per tree species listed in Annex I shall be fulfilled. (Greens 309)

(b) Characteristics to be examined

- (i) The ~~professional operator shall design~~ tests shall (RE) **be designed** to assess the relevant characteristics specified in point (ii) and ~~shall indicate these~~ for each test in the test records **these shall be indicated**. (RE 311, SD 310)

- (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 record describing the test sites~~ **provide all information necessary for the evaluation of test results**, (Rapp 18, SD 312) including the location, climate, soil, past use, establishment, management and any damage due to abiotic/biotic factors. ~~The professional operator~~ **He** shall make those records available to the competent authority ~~upon request~~. (Rapp 18, Greens 314) The competent authority shall record the age of the basic material and the FRM and the results at the time of the evaluation.

(d) Setting up the tests

- (i) ~~The professional operator shall~~ Each sample of FRM **shall be raised, planted and managed** (Rapp 19, RE 315, 316) in an identical way as far as the types of plant material permit.
- (ii) ~~The professional operator shall~~ Each experiment **shall be established** (Rapp 20, RE 317, 318) in a valid statistical design, ~~within 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 shall~~ data from **the** experiments **shall be analysed** using internationally recognised statistical methods and the results **shall be presented** (Rapp 21, RE 319, 320) 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 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 in two or more evaluation test-sites, at least one of which shall 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 *official-operator shall define* the reference population *shall be defined in the breeding program and describe and described* (RE 321, 322) *this* 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 characteristic.

- (ii) ~~*The professional operator shall report*~~ *It shall be reported* (RE 323) 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 measured characteristic and the characteristics normally assessed in forest stage tests. Other characteristics to be tested shall meet the requirements set out in point 3.

Agence Europe

CA Recital 2

Covered: 23

Recital 2

Text proposed by the Commission

(2) Forests cover some 45% of the land area in the Union and fulfil a multifunctional role that comprises social, economic, environmental, ecological and cultural functions. Forests have a primordial function as a carbon sink in the climate mitigation policy. High-quality, climate-adapted and **diverse** FRM is essential to cover these needs.

Amendment

(2) Forests cover some 45% of the land area in the Union and fulfil a multifunctional role that comprises social, economic, environmental, ecological and cultural functions. Forests have, **among other functions things**, a primordial function as a carbon sink in the climate mitigation policy. High-quality, climate-adapted and **diversified** FRM is essential to cover these needs. (EPP 23)

CA on Recital 8

Covered: 25, 26

Recital 8

Text proposed by the Commission

(8) The EU Biodiversity Strategy for 2030 aims to put Union biodiversity on the path to recovery by 2030. Within the framework of that strategy, Union legislation is to place emphasis on the preservation of species diversity and ensure **high** genetic diversity within species and seed lots. This aims to facilitate the supply of high-quality and genetically **diverse** FRM that is adapted to current and projected future climatic conditions. The conservation and improvement of biodiversity of forests, including the genetic diversity of the trees, are essential to sustainable forest management and for supporting forests' adaptation to climate change. Tree species and artificial hybrids under this Regulation should be genetically suited to the local conditions and be of high quality.

Amendment

(8) The EU Biodiversity Strategy for 2030 aims to put Union biodiversity on the path to recovery by 2030. Within the framework of that strategy, Union legislation is to place emphasis on the preservation of species diversity and ensure **greater-high genetic quality and** (Greens 26) diversity within species and seed lots. This aims to facilitate the supply of high-quality and genetically **diversified** (EPP 25) FRM that is adapted to current and projected future climatic conditions. The conservation and improvement of biodiversity of forests, including the genetic diversity of the trees, are essential to sustainable forest management and for supporting forests' adaptation to climate change. Tree species and artificial hybrids under this Regulation should be genetically suited to the **local regional** (EPP 25) conditions and be of high quality.

Covered : 235

Recital 17 a (new)

Text proposed by the Commission

Amendment

To maintain the quality of seeds, the packages should be designed to ~~It should be made~~ Making it a condition that the packaging become unserviceable once opened, thus ensuring that users are aware of any tampering with the seeds and encouraging them to use the entire content properly, thereby avoiding the seeds being stored incorrectly or used when they are likely to have become spoiled. (EPP 253)

CA on Recital 22

Covered : 35, 36

Recital 22

Text proposed by the Commission

Amendment

(22) The requirements for basic material intended for the purpose of conservation and sustainable use of forest genetic resources are different from those for basic material intended for the production of FRM for commercial purposes, because of the different selection criteria applied for these two types of basic material. For the purpose of conserving and sustainably using forest genetic resources, **all** trees from a stand of trees in the forest should be kept. This is necessary to help increase the genetic diversity within a single tree species. On the other hand, only trees with superior characteristics should be selected in the case of basic material intended for the production of FRM for commercial purposes. Member States should therefore be allowed to derogate from the applicable rules as regards the approval of basic

(22) The requirements for basic material intended for the purpose of conservation and sustainable use of forest genetic resources are different from those for basic material intended for the production of FRM for commercial purposes, because of the different selection criteria applied for these two types of basic material. For the purpose of conserving and sustainably using forest genetic resources, **a maximum number of** (SD 35) trees from a stand of trees in the forest should be kept. This is necessary to help increase the genetic diversity within a single tree species. On the other hand, only trees with superior characteristics should be selected in the case of basic material intended for the production of FRM for commercial purposes. **Professional operators** Member States should therefore be allowed to

material and notify this basic material intended for the purpose of conserving forest genetic resources to the competent authority.

derogate from the applicable rules as regards the approval of basic material and notify **to the competent authority in advance** (EPP 36) this basic material intended for the purpose of conserving forest genetic resources ~~to the competent authority.~~

CA on Recital 31

Covered: 43, 44

Recital 31

Text proposed by the Commission

(31) Professional operators should be authorised by the competent authority to print the official label under official supervision for certain species and categories of FRM. This will give more **flexibility** to the professional operators in relation to the subsequent marketing of that **FRM. However, professional operators can only start printing the label once the competent authority has certified the FRM concerned. That authorisation is necessary due to the official character of the official label and to guarantee the highest possible quality standards for the users of FRM.** Rules should be set out for the withdrawal or modification of that authorisation.

Amendment

(31) Professional operators should be authorised by the competent authority, **if all requirements defined by the competent authority are fulfilled** (Greens 44) to **issue and** (SD 43) print the official label under official supervision for certain species and categories, ~~excluding FRM from genetically modified or NGT plants.~~ (Greens 44) of FRM, **after an audit of the competent authority determines they have the necessary competence, infrastructure and resources. That authorisation is necessary due to the official character of the official label and to guarantee the highest possible quality standards for the users of FRM.** This will give more **flexibility** (SD 43) to the professional operators in relation to the subsequent marketing of that FRM. Rules should be set out for the withdrawal or modification of that authorisation.

CA on Recital 34

Covered: 46, 47

Recital 34

Text proposed by the Commission

(34) Prior to the purchase of FRM, professional operators should make available to the ***potential buyers of their FRM*** all the necessary information concerning its suitability for the respective climatic and ecological conditions, in order to allow ***them to select*** the most appropriate FRM for ***their*** region.

Amendment

(34) Prior to the purchase of FRM, professional operators should make available to the ***competent authority and potential buyers of their FRM*** all the necessary information concerning its ***identity quality and its*** (EPP 47) suitability for the respective climatic and ecological conditions ***of the FRM***, in order to allow ***them to select the competent authority to certify*** the most appropriate FRM for ***a specific*** (Greens 46) region.

Covered: 48

Recital 36 a (new)

Text proposed by the Commission

Amendment

(36 a) Each Member State should establish and update a national list of issued master certificates and make this list available to the European Commission and national competent authorities of all other Member States. The European Commission should provide a database into which the Member States can enter their national data. (Greens 48)

CA on Recital 38

Covered: 49, 50

Recital 38

Text proposed by the Commission

Amendment

(38) Each Member State should draw up and keep up to date a contingency plan to ensure a sufficient supply of FRM, to reforest areas affected by extreme weather events, wildfires, disease and pest outbreaks, disasters or any other event. Rules should be set out concerning the content of that plan, in order to ensure

(38) Each Member State should ~~***assess whether to***~~ draw up and keep up to date a contingency plan to ensure a sufficient supply of FRM, to reforest areas affected by extreme weather events, wildfires, disease and pest outbreaks, disasters or any other event. Rules should be set out concerning the content of that plan, in

proactive and effective action against such risks, if they emerge. Member States should be allowed to adapt the content of that plan to the specific climatic and ecological conditions in their territories. This requirement also reflects the general preparedness actions that Member States should take on a voluntary basis under the Union Civil Protection Mechanism³¹.

order to ensure **prompt** proactive and effective action against such risks, if they emerge. Member States should be allowed **to shall-define** the content of that plan **in accordance with their** specific climatic and ecological conditions in their territories **and should be allowed to adapt its content in the face of new scientific knowledge.** (SD 50) This requirement also reflects the general preparedness actions that Member States should take on a voluntary basis under the Union Civil Protection Mechanism³¹. ~~Where a Member State chooses to draw up and subsequently update such a contingency plan, the~~ **The European Commission should, at the request of the Member State concerned, support through technical and financial assistance the drawing-up of the plan and, where applicable, its updating.** (EPP 49)

³¹ *Decision No 1313/2013/EU of the European Parliament and of the Council of 17 December 2013 on a Union Civil Protection Mechanism (OJ L 347, 20.12.2013, p. 924).*

Covered: 51

Recital 43

Text proposed by the Commission

(43) FRM should only be imported from third countries, if it is established that it fulfils requirements equivalent to those applicable to FRM produced and marketed in the Union. This is necessary in order to ensure that such imported FRM affords the same level of quality as the FRM produced in the Union.

Amendment

(43) FRM should only be imported from third countries, if it is established that it fulfils requirements equivalent to those applicable to FRM produced and marketed in the Union. This is necessary in order to ensure that such imported FRM affords the same level of quality as the FRM produced in the Union. **This approach will ensure that FRM imports not only meet EU standards but also that they contribute to plant genetic diversity and sustainability.** (EPP 51)

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