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Committee on Sanitary and Phytosanitary Measures

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## NEW PLANT HEALTH LAW OF THE EUROPEAN UNION

### COMMUNICATION FROM THE EUROPEAN UNION

The following communication, received on 10 March 2017, is being circulated at the request of the Delegation of the European Union.

#### 1 THE REGULATION

1.1. Regulation (EU) No 2016/2031 on protective measures against pests of plants<sup>1</sup> ("Plant Health Law") was adopted on 26 October 2016 and entered into force on 13 December 2016. It constitutes a new European Union (EU) legal framework for plant health providing comprehensive and clear rules for the prevention of entry into, and spread within, the EU territory of pests injurious to plant health. These new rules will apply from 14 December 2019.

1.2. The European Commission proposed and presented a draft Regulation in May 2013 as part of the "Animal and Plant Health Package: Smarter rules for safer food" aiming to strengthen the enforcement of health and food safety standards for the whole agri-food chain. The Commission proposal was notified under the WTO SPS Agreement as G/SPS/N/EU/44 on 21 May 2013. The final Regulation was notified as G/SPS/N/EU/44/Add.2 on 26 January 2017.

1.3. The Plant Health Regulation introduces measures on the prevention and eradication of quarantine pests, and on regulated non-quarantine pests if present on particular plants for planting.

1.4. The Plant Health Regulation introduces rules for listing of quarantine and regulated non-quarantine pests, and measures against quarantine pests, in accordance with specific criteria for risk assessment and risk management. Those criteria are in line with the respective principles and standards of the International Plant Protection Convention (IPPC) and deemed to be in line with the SPS Agreement. Moreover, this Regulation introduces the possibility to identify certain quarantine pests as "priority pests", which have the most severe potential economic, environmental or social impact for the EU territory.

1.5. A more proactive approach has been introduced for the prevention and eradication of outbreaks of quarantine pests within the EU territory. This includes measures on notifications of outbreaks by competent authorities and professional operators, surveys, multiannual survey programmes, demarcation of outbreak areas, detailed eradication rules, as well as action plans, contingency plans and simulation exercises for priority pests.

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<sup>1</sup> Regulation (EU) 2016/2031 of the European Parliament and 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, OJ L 317, 23 November 2016, p. 4-104.

1.6. The Plant Health Regulation maintains the basic approach of Directive 2000/29/EC<sup>2</sup> concerning import and the prevention of entry of quarantine pests into the EU territory. The lists of pests and regulated commodities currently in Annexes I to V of Directive 2000/29/EC will be adopted separately under a new Implementing Regulation of the European Commission. These will be updated on the basis of the results of individual risk assessments.

1.7. The European Commission will also retain the power to adopt specific measures to address the risk for the EU territory of particular pests.

1.8. A new concept introduced by the Plant Health Regulation is the one of "high risk plants, plant products and other objects", namely commodities whose import will be prohibited into the European Union until a full risk assessment confirms their phytosanitary status. The European Commission will adopt the list of high risk plants, plant products and other objects under an Implementing Regulation by 14 December 2018. This list will take into account the specific criteria in Annex III to this Regulation.

1.9. The European Commission may also adopt temporary measures with regards to the import of plants, plant products or other objects which are likely to pose newly identified pest risks which are not sufficiently covered by any EU measures, when there is insufficient phytosanitary experience as regards their trade, and no assessment has been carried out as regards those newly identified pest risks.

1.10. According to Plant Health Regulation, all plants (namely living plant material such as plants for planting, fruits, vegetables or cut flowers) will only be imported into the European Union if accompanied by a phytosanitary certificate. This is important to ensure an appropriate level of phytosanitary protection as well as an effective overview of the plants' import into the Union and the risks thereof. The European Commission will adopt by 14 December 2018 an Implementing Regulation listing those plants that will not require an import certificate. The listing of those plants will take into account the criteria of Annex VI to this Regulation.

1.11. The Plant Health Regulation introduces some further requirements, or codifies existing practices, which concern both imports into the European Union as well as exports from EU to non-EU countries. As an example, wood packaging material should only be imported into, or exported out of the European Union if it bears the ISPM 15 mark.

1.12. Competent authorities of the EU member State of origin where plants, plant products and other objects destined for export to non-EU countries were grown, produced, stored or processed, will have to issue pre-export certificates at the request of a professional operator, for the purpose of exchanging within the European Union or final export out of the European Union the necessary phytosanitary information as the basis for issuing the phytosanitary certificate for export.

## **2 FURTHER STEPS**

2.1. The new legal framework for plant health will be complemented by a series of regulatory acts detailing a number of implementing measures. As it is customary, any measure potentially affecting international trade will be notified to the WTO SPS Committee.

2.2. More information about the new Plant Health Law is available on the European Commission website: [http://europa.eu/rapid/press-release\\_MEMO-16-4310\\_en.htm](http://europa.eu/rapid/press-release_MEMO-16-4310_en.htm).

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<sup>2</sup> Council Directive of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community, OJ L 169, 10 July 2000, p. 1-112.