



EUROPEAN COMMISSION

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2012/0172 (COD)

Proposal for a

**DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Decision 2008/971/EC as regards the inclusion of forest reproductive material of the 'qualified' category within the scope of that Decision and the updating of the name of the authorities responsible for the approval and control of the production**

(Text with EEA relevance)

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

Council Directive 1999/105/EC on the marketing of forest reproductive material<sup>1</sup> regulates the internal marketing of reproductive material of the plant species as listed by that Directive. To facilitate trades and to promptly respond to the marketing request, that Directive foresees the possibility for the Council to establish rules for authorising the importation of reproductive material from third countries under an equivalence system.

### **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

Member States and stakeholders proposed to the Commission to submit this updating to facilitate trades, in particular the importation of forest reproductive material and to promptly respond to the marketing request in particular for fast growing tree plantations intended for energy/biomass production.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

Council Decision 2008/971/EC<sup>2</sup> provided the list of countries to be recognised for the application of the equivalence principle for importation and determined conditions under which forest reproductive material of the 'source identified' and 'selected' categories produced in those countries shall be imported in the Union. Based on new information received from the Organisation for Economic Cooperation and Development (OECD) about the adoption of an updated 'OECD Scheme for the certification of Forest Reproductive Material Moving in International Trades' also material officially certified under the category 'qualified' by the third country authorities listed by that Decision shall be considered equivalent to seed and plant stock complying with Directive 1999/105/EC, provided that the conditions laid down in Annex II of that Decision are satisfied. It should be appropriate to add the category 'qualified' to the 'source identified' and 'selected' categories.

According to information provided by the above mentioned OECD Scheme (Annex – List of National Designated Authorities in member Countries of the Scheme), the names of the authorities responsible for the approval and control of the production of Croatia (HR), Norway (NO), Serbia (SR), Turkey (TR) and USA (US), as listed in Annex I to Council Decision 2008/971/EC, have changed. In this view, Annex I of that Decision should be amended accordingly.

In Annex II an additional condition specific for the category 'qualified' must be added to permit the harmonized implementation of Directive 2001/18/EC on the deliberate release into the environment of genetically modified organisms and

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<sup>1</sup> OJ L 11, 15.1.2000, p. 17

<sup>2</sup> OJ L 354, 23.12.2008, p. 83

repealing Council Directive 90/220/EEC<sup>3</sup>. This would be necessary to ensure that, as set out in Article 3(2) of that Decision, the respective seed and planting stock officially certified by those authorities is considered equivalent to seed and planting stock complying with Directive 1999/105/EC.

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<sup>3</sup> OJ L106, 17.4.2001, p 1

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(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Decision 2008/971/EC of 16 December 2008 on the equivalence of forest reproductive material produced in third countries<sup>1</sup>, determines the conditions under which forest reproductive material of the 'source identified' and 'selected' categories produced in third countries listed in Annex I to that Decision, shall be imported in the Union.
- (2) The national rules for the certification of forest reproductive material in Canada, Croatia, Norway, Serbia, Switzerland, Turkey and the United States of America provide for an official field inspection to be carried out during the collection and processing of seed and the production of planting stock.
- (3) According to those rules, the systems for the approval and registration of basic material and the subsequent production of reproductive material from this basic material should follow the OECD Scheme for the certification of forest reproductive material moving in international trade (OECD Forest seed and plant scheme). In addition, those rules require seed and planting stock of the 'source identified' and 'selected' categories and of the category 'qualified' to be officially certified and the

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<sup>1</sup> OJ L 345, 23.12.2008, p. 83.

seed packages to be officially closed in accordance with the OECD Forest seed and plant scheme.

- (4) An examination of those rules as regards the category 'qualified' has shown that the conditions for approval of basic material satisfy the requirements laid down in Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material<sup>2</sup>. Furthermore, to the exception of conditions regarding seed quality, species purity and planting stock quality, the rules of these third countries afford the same assurances as regards the conditions applicable to seed and planting stock of the new category 'qualified' as those set out in Directive 1999/105/EC. It follows that the rules for certification of forestry material of the category 'qualified' in Canada, Croatia, Norway, Serbia, Switzerland, Turkey and the United States of America should be considered as equivalent to those set out in Directive 1999/105/EC, provided that the conditions set out in Annex II of Decision 2008/971/EC are satisfied as regards seed and planting stocks, are satisfied.
- (5) As regards material of the 'qualified' category, those conditions should include, the provision of information on whether the products have been or not genetically modified. Such information should facilitate the application of the requirements set out in Directive 2001/18/EC of the European Parliament and of the Council of 12 March 2001 on the deliberate release into the environment of genetically modified organisms and repealing Council Directive 90/220/EEC<sup>3</sup>, or where applicable, in Regulation (EC) No 1829/2003 of the European Parliament and of the Council of 22 September 2003 on genetically modified food and feed<sup>4</sup> and Regulation (EC) No 1830/2003 of the European Parliament and of the Council of 22 September 2003 concerning the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms and amending Directive 2001/18/EC<sup>5</sup>.
- (6) In addition, the names of some authorities responsible for the approval and control of the production, as listed in Annex I to Decision 2008/971/EC have changed.
- (7) Decision 2008/971/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

#### *Article 1*

Decision 2008/971/EC is amended as follows:

- (1) In Article 1, the first paragraph is replaced by the following:

"This Decision determines the conditions under which forest reproductive material of the 'source identified', 'selected' and 'qualified' categories produced in a third country listed in Annex I shall be imported into the Union."

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<sup>2</sup> OJ L 11, 15.1.2000, p.17.

<sup>3</sup> OJ L 106, 17.4.2001, p. 1.

<sup>4</sup> OJ L 268, 18.10.2003, p. 1.

<sup>5</sup> OJ L 268, 18.10.2003, p. 24.

- (2) In Article 3, paragraph 2 is replaced by the following:
- "2. Seed and planting stock of the 'source identified', 'selected' and 'qualified' categories of species listed in Annex I to Directive 1999/105/EC, produced in the third countries listed in Annex I to this Decision and officially certified by the third country authorities listed in that Annex, shall be considered equivalent to seed and planting stock complying with Directive 1999/105/EC, provided that the conditions laid down in Annex II to this Decision are satisfied."
- (3) Annexes I and II are amended in accordance with the Annex to this Decision.

*Article 2*

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2013.

*Article 3*

This Decision is addressed to the Member States.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## ANNEX

Annexes I and II to Decision 2008/971/EC are amended as follows:

(1) Annex I is replaced by the following:

### "ANNEX I

#### Countries and authorities

Country (*)	Authority responsible for the approval and control of production
1	2
CA	National Forest Genetic Resources Centre/ Centre national des ressources génétiques forestières Natural Resources Canada/Ressources naturelles Canada Canadian Forest Service-Atlantic/Service canadien des forêts - Atlantique P.O. Box 4000, FREDERICTON, NB E3B 5P7
CH	Federal Office for the Environment (FOEN) Department of the Environment, Transport, Energy and Communications (DETEK) Forest Division Federal Plant Protection Service Zürcherstraße 111 CH-8903 BIRMENS DORF
HR	Croatian Forest Research Institute – CFI Division of Genetics, Forest Tree Breeding and Seed Science Cvetno naselje 41 10450 Jastrebarsko  Ministry of Regional Development, Forestry and Water Management Department for Forest Protection and Forest Reproductive Material Trg kralja Petra Krešimira IV br. 1 10 000 Zagreb

NO	Norwegian Forest and Landscape Institute P.O. Box 115 N-1431 AAS  Norwegian Forest Seed Center P.O. Box 118 N-2301 HAMAR
SR	Ministry of Agriculture, Forestry and Water Management Ministry of AFW - Directorate for Forest Omladinskih brigada 1 Novi Beograd
TR	Ministry of Forestry Forest Tree Seeds and Tree Breeding Research Directorate Orman Bak awligi Arastima Planlama ve Koord. Dai. Bsk. Orman Genel Müdürlüğü, 2N° lu Bina TR-06560 GAZI- ANKARA
US	USA United States Department of Agriculture, Forest Service Cooperativ Forestry National Seed Laboratory 5675 Riggins Mill Road Dry Branch, Georgia 31020  OFFICIAL STATE CERTIFICATION AUTHORITIES (Authorized to issue OECD certificates through cooperative agreement with USDA Forest Service) Washington State Crop Improvement Association, Inc. 1610 NE Eastgate Blvd, Suite 610 Pullman, Washington 99163

(\* ) CA – Canada, CH – Switzerland, HR – Croatia, NO – Norway, SR – Serbia, TR – Turkey, US – United States of America."

(2) In Annex II, the following Part is added:

"C. Conditions relating to 'qualified' category of seed and planting stock produced in third countries

As regards seed or planting stock of the 'qualified' category, the OECD Label and the supplier's label or document shall state whether genetic modification has been used in the production of the basic material."