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2020/0378 (COD)

Proposal for a

DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Decision 2008/971/EC as regards the equivalence of forest reproductive material produced in the United Kingdom to such material produced in the Union

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Council Decision 2008/971/EC establishes rules for the equivalence of forest reproductive material produced in third countries.

Following the withdrawal of the United Kingdom from the Union on 1 February 2020, and in view of the end of the transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement) on 31 December 2020, the United Kingdom has submitted a request to the Commission to recognise equivalence, as regards forest reproductive material produced in that country complying with the requirements of Council Directive 1999/105/EC.

The United Kingdom has transposed and effectively implemented Directive 1999/105/EC since its adoption.

It has informed the Commission that its respective legislation, which has transposed that Directive, will not change and will continue to apply from 1 January 2021. The Commission has examined the legislation of the United Kingdom and concluded that forest reproductive material produced in the United Kingdom is equivalent to forest reproductive material produced in the Union and complying with Directive 1999/105/EC, since the former affords the same assurances as regards the approval of its basic material and the measures taken for its production with a view to marketing, as the latter.

- **Consistency with existing policy provisions in the policy area**

This is a technical implementation of existing requirements and thus consistent with existing policy provisions in the policy area or marketing of seeds.

- **Consistency with other Union policies**

This proposal is in line with the aims of the Union trade and agricultural policy, because it will boost trade in forest reproductive material that complies with the Union's rules.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of this act is Article 43(2) TFEU, which empowers the European Parliament and the Council to establish provisions necessary for the pursuit of the objectives of the common agricultural policy.

- **Subsidiarity (for non-exclusive competence)**

Requirements for forest reproductive material are regulated at the Union level. In order to guarantee that material imported from the United Kingdom can move freely in the internal market, action at Union level is necessary.

- **Proportionality**

This is the only possible form of Union action to achieve the pursued objective.

- **Choice of the instrument**

A decision is the appropriate instrument for this technical implementation of existing requirements.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

No separate consultation has been required, as the initiative only concerns technical implementation of existing rules and no separate consultation has taken place under similar initiatives in the past.

- **Collection and use of expertise**

The Commission has carried out a legislative analysis in exchange with the United Kingdom. The United Kingdom has transposed and implemented Directive 1999/105/EC and its implementing acts and complied with their requirements prior its withdrawal from the Union. The United Kingdom has informed the Commission that this legislation will not change and will continue to apply from 1 January 2021.

- **Impact assessment**

This is a Decision of purely technical nature, implementing existing rules, thus there is no requirement for an impact assessment.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT. The proposal will retain trade of forest reproductive material between the United Kingdom and the Union. Equivalence would therefore contribute to the maintenance of the continuous supply of high quality seed in the Union. The proposal has no impact on compliance costs for operators. The ‘Digital Check’ is not applicable to this proposal.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

None

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

Council Decision 2008/971/EC 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 to that Decision shall be imported into the Union. It applies, provided that the conditions set out in Annex II to that Decision and in Council Directives 2000/29/EC and 2001/18/EC are satisfied. Systems for approval and registration of basic material and subsequent production of reproductive material from this basic material, under control of third country authorities set out in Annex I to that Decision, or under official supervision of these authorities, applied in the third countries listed in that Annex, shall be considered equivalent to those carried out by the Member States in accordance with Directive 1999/105/EC.

The single substantive provision in the proposal adds the United Kingdom to the list of countries, for which the Union recognises the equivalence of forest reproductive material, and in particular the ‘source identified’, ‘selected’ and ‘qualified’ categories, with the respective material produced in the Union. This is based on the examination of the applicable legislation of the United Kingdom and the conclusion that its requirements and system in place are equivalent to the ones of the Union, and in particular of Council Directive 1999/105/EC and Council Decision 2008/971/EC, and offer the same assurance as the Union’s system.

Following the addition of the United Kingdom on the list of countries in Annex I to Decision 2008/971 the imports of forest reproductive material from the United Kingdom into the Union, shall be allowed.

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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/EC¹ establishes rules for the equivalence of forest reproductive material produced in third countries.
- (2) Council Directive 1999/105/EC² applies to the marketing within the Union of forest reproductive material. It concerns reproductive material of those tree species and artificial hybrids thereof, which are important for forestry purposes in all or part of the Union.
- (3) The United Kingdom has transposed and effectively implemented Council Directive 1999/105/EC, as well as its implementing acts.
- (4) Union law, including Directive 1999/105/EC and Decision 2008/971/EC, is applicable to and in the United Kingdom during the transition period that ends on 31 December 2020, in accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (Withdrawal Agreement), and in particular Article 126 and Article 127(1) thereof.
- (5) In view of the end of the transition period provided for in the Withdrawal Agreement, the United Kingdom has submitted a request to the Commission for the recognition of the equivalence, from 1 January 2021, of forest reproductive material produced in that country with such material produced in the Union in accordance with respective Union law.

¹ Council Decision 2008/971/EC of 16 December 2008 on the equivalence of forest reproductive material produced in third countries (OJ L 345, 23.12.2008, p. 83).

² Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material (OJ L 11, 15.1.2000, p. 17).

- (6) The United Kingdom has informed the Commission that its legislation, which has transposed Directive 1999/105/EC, will not change and will continue to apply from 1 January 2021.
- (7) The Commission has examined the relevant legislation of the United Kingdom. It has concluded that forest reproductive material, and in particular the categories ‘source identified’, ‘selected’ and ‘qualified’ categories, produced in the United Kingdom is equivalent to forest reproductive material produced in the Union and complying with Directive 1999/105/EC and the conditions of Annex II to Decision 2008/971/EC, since the former affords the same assurances as regards the approval of its basic material and the measures taken for its production with a view to marketing as the latter.
- (8) Therefore, it is appropriate to recognise the equivalence of such forest reproductive material produced in the United Kingdom to that produced in the Union.
- (9) The United Kingdom should therefore be included in Annex I to Decision 2008/971/EC, without prejudice to the application of Union law to and in the United Kingdom in respect of Northern Ireland in accordance with Article 5(4) of the Protocol on Ireland/Northern Ireland to the Withdrawal Agreement in conjunction with Annex 2 to that Protocol.
- (10) Decision 2008/971/EC should therefore be amended accordingly.
- (11) As the transition period provided for in the Withdrawal Agreement ends on 31 December 2020, this Decision should apply from 1 January 2021,

HAVE ADOPTED THIS DECISION:

Article 1

Amendments to Decision 2008/971/EC

Annex I to Decision 2008/971/EC is amended in accordance with the Annex to this Decision.

Article 2

Entry into force and application

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 2021.

Article 3

Addressees

This Decision is addressed to the Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President