EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Decision 2008/971/EC as regards the forest reproductive material of the 'tested' category, its labelling and the names of the authorities responsible for the approval and control of the production

DECISION (EU) 2024/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Council Decision 2008/971/EC
as regards the forest reproductive material of the 'tested' category,
its labelling and the names of the authorities responsible
for the approval and control of the production

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 legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure[2],

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1 Opinion of 4 December 2024 (not yet published in the Official Journal).
2 Position of the European Parliament of 17 December 2024 (not yet published in the Official Journal) and decision of the Council of …

Whereas:

(1) Council Directive 1999/105/EC[3] applies, inter alia, to the marketing of forest reproductive material within the Union. That Directive concerns reproductive material of tree species and artificial hybrids thereof which are important for forestry purposes in all or part of the Union.

(2) Council Decision 2008/971/EC[4] determines the conditions under which forest reproductive material of the 'source identified', 'selected' and 'qualified' categories, produced in third countries listed in Annex I to that Decision, as regards the approval and registration of basic material and the subsequent production of forest reproductive material from that basic material, is to be imported into the Union. The third countries concerned have implemented the OECD Scheme for the Certification of Forest Reproductive Material Moving in International Trade ('OECD Forest Seed and Plant Scheme').

(3) The OECD Forest Seed and Plant Scheme was amended in 2013 to include forest reproductive material of the 'tested' category in addition to the 'source-identified', 'selected' and 'qualified' categories of forest reproductive material, which have been in the OECD Forest Seed and Plant Scheme since 2011.

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[3] Council Directive 1999/105/EC of 22 December 1999 on the marketing of forest reproductive material (OJ L 11, 15.1.2000, p. 17, ELI: http://data.europa.eu/eli/dir/1999/105/oj).

[4] 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, ELI: http://data.europa.eu/eli/dec/2008/971/oj).

(4) The national rules for the certification of forest reproductive material ('the national rules') in Canada, Norway, Serbia, Switzerland, Türkiye, the United Kingdom and the United States ('the specified third countries') provide that an official field inspection is to be carried out during the collection and processing of seed and the production of planting stock.

(5) According to the national rules of the specified third countries, the systems for the approval and registration of basic material and the subsequent production of forest reproductive material from that basic material are to follow the OECD Forest Seed and Plant Scheme. In addition, those national rules require seed and planting stock of the 'source identified', 'selected', 'qualified' and 'tested' categories to be officially certified and the seed packages to be officially closed in accordance with the OECD Forest Seed and Plant Scheme.

(6) In the absence of a Decision at Union level in relation to the equivalence of forest reproductive material of the 'tested' category, Commission Implementing Decision (EU) 2021/773[5] authorised temporarily, until 31 December 2024, Member States to decide on the equivalence of forest reproductive material from the 'tested' category produced in the third countries listed in Annex I to Decision 2008/971/EC, which include the specified third countries. That authorisation was necessary to avoid any risk of disruption of imports of forest reproductive material into Member States.

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[5] Commission Implementing Decision (EU) 2021/773 of 10 May 2021 authorising Member States, in accordance with Council Directive 1999/105/EC, to temporarily decide on the equivalence of forest reproductive material of certain categories produced in certain third countries (OJ L 169, 12.5.2021, p. 1, ELI: http://data.europa.eu/eli/dec_impl/2021/773/oj).

(7) An examination of the national rules of the specified third countries, as regards the 'tested' category, shows that the conditions for approval of basic material are considered to be equivalent to those set out in Directive 1999/105/EC, provided that the conditions set out in Annex II to Decision 2008/971/EC are met as regards seed and planting stocks.

(8) The names and addresses of some authorities responsible for the approval and control of the production, as listed in Annex I to Decision 2008/971/EC, have changed and therefore need to be updated.

(9) It is possible to use genetic modification for the production of seed or planting stock of the 'tested' category. Therefore, in order to ensure informed choices for the users of forest reproductive material, the OECD label and the supplier's label or document should state whether that type of modification has been used in the production of the basic material for that category, as it occurs currently with the 'qualified' category.

(10) In view of the addition of the 'tested' category in Annex II to Decision 2008/971/EC, an annex should be added to that Decision with a table indicating the categories under which forest reproductive material from the different types of basic material is allowed to be imported into the Union to ensure clarity and correct application of that Decision. This is necessary to ensure legal clarity, consistency with Directive 1999/105/EC, as well as correct application of those rules and informed choices by the operators applying that Decision.

(11) Decision 2008/971/EC should therefore be amended accordingly.

(12) In view of the need to ensure that this Decision enters into force before the expiry of Implementing Decision (EU) 2021/773 on 31 December 2024, it is considered to be appropriate to invoke the exception to the eight-week period provided for in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union (TEU), to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(13) Since the objective of this Decision, namely to extend the equivalence regime for the import of forest reproductive material established by Decision 2008/971/EC to the 'tested' category, cannot be achieved by the Member States but can only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Decision does not go beyond what is necessary in order to achieve that objective.

(14) This Decision should enter into force as a matter of urgency on the day of its publication in the *Official Journal of the European Union* in order to ensure that it enters into force before the expiry of Implementing Decision (EU) 2021/773.

(15) As Implementing Decision (EU) 2021/773 expires on 31 December 2024, this Decision should apply from 1 January 2025 in order to ensure legal clarity and continuity of the respective rules,

HAVE ADOPTED THIS DECISION:

Article 1

Amendments to Decision 2008/971/EC

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”, “qualified” and “tested” categories produced in a third country listed in Annex I is to be imported into the Union.’;

(2) in Article 3, paragraph 2 is replaced by the following:

‘2. Seed and planting stock of the “source identified”, “selected”, “qualified” and “tested” categories of species and artificial hybrids thereof 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 met.’;

(3) the Annexes are amended in accordance with the Annex to this Decision.

Article 2

Entry into force and application

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

It shall apply from 1 January 2025.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*

ANNEX

The Annexes to Decision 2008/971/EC are amended as follows:

(1) Annex I is replaced by the following:

‘ANNEX I

Countries and authorities

Country[1]	Authority responsible for the approval and control of production
CA	Natural Resources Canada – Canadian Forest Service Atlantic Forestry Centre 1350 Regent Street Fredericton NB E3C 2G6
CH	Federal Office for the Environment (FOEN) Department of the Environment, Transport, Energy and Communications (UVEK) Forest Division Federal Plant Protection Service Monbijoustrasse 40 CH-3003 Bern

[1] CA – Canada, CH – Switzerland, GB – United Kingdom, NO – Norway, RS – Serbia, TR – Türkiye, US – United States.

Country[1]	Authority responsible for the approval and control of production
GB[2]	Department for Environment, Food & Rural Affairs (DEFRA) Eastbrook Shaftesbury Road Cambridge CB2 8DR
NO	Norwegian Forest Seed Center c/o Øyvind Meland Edvardsen Box 118, N-2301 Hamar
RS	Group for Forest Reproductive Material and Genetic Resources Directorate for Forest Ministry of Agriculture, Forestry and Water Management Ministry of AFW – Directorate for Forest Omladinskih brigada 1 Novi Beograd
TR	Ministry of Agriculture and Forestry General Directorate of Forestry Forest Tree Seeds and Tree Breeding Research Institute Directorate Sogutozu 06560 Ankara

[2] 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, and in particular Article 5(4) of the Windsor Framework (see Joint Declaration No 1/2023 of the Union and the United Kingdom in the Joint Committee established by 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 of 24 March 2023 (OJ L 102, 17.4.2023, p. 87)) in conjunction with Annex 2 to that Framework, for the purposes of this Annex, references to the United Kingdom do not include Northern Ireland.

Country[1]	Authority responsible for the approval and control of production
US	United States Department of Agriculture Forest Service Cooperative Forestry National Seed Laboratory 5675 Riggins Mill Road Dry Branch, Georgia 31020 OFFICIAL STATE CERTIFICATION AUTHORITIES (Authorised to issue OECD certificates through cooperative agreement with USDA Forest Service) Washington State Crop Improvement Association, Inc. 2575 NE Hopkins Ct. Pullman, Washington 99163

’;

(2) in Annex II, Section C is replaced by the following:

‘C. Additional conditions relating to the “qualified” and “tested” categories of seed and planting stock produced in third countries

As regards seed or planting stock of the “qualified” and “tested” categories, 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.’;

(3) the following annex is added:

‘ANNEX III

Categories under which forest reproductive material
from the different types of basic material may be imported into the Union

Basic material	Category of forest reproductive material			
	Source-identified	Selected	Qualified	Tested
Seed source	x			
Stand	x	x		x
Seed orchard			x	x
Parents of family(ies)			x	x
Clone			x	x
Clonal mixture			x	x

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