EU procedure on temporary derogations to import plants and plant products

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European Commission to define how non-EU countries must request temporary derogations from plant health import bans or specific requirements

Draft Commission Delegated Regulation (EU) supplementing Regulation (EU) 2016/2031 of the European Parliament and of the Council as regards the procedure to be followed to grant temporary derogations from the prohibition provided for in Article 40(1) and from the requirements referred to in Article 41(1) thereof

Update

The European Commission is preparing a new Regulation that defines how non-European Union (EU) countries must formally request temporary derogations from EU plant health import bans or specific import requirements. The proposed text formalises and tightens the procedure that countries must follow when they seek temporary market access or flexibility for plants and plant products that are otherwise prohibited or restricted under the EU Plant Health Law.

Impacted products

Plants and plant products

What is changing?

The EU proposes to standardise the way temporary derogations (authorised exemptions) from plant health import bans or specific import requirements are requested and assessed. Any request for a temporary derogation will have to follow a clearly defined legal and scientific procedure.

According to the proposed procedure, requests for a temporary derogation must be officially submitted by the National Plant Protection Organisation (NPPO) of the exporting country.

No derogation can be examined without this formal request, which must clearly:

- indicate the EU import rules for which the derogation is requested
- explain why the derogation is needed

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- be supported by relevant technical information and data
- be accompanied by a complete technical dossier and a brief summary of its content.

The technical dossier must be prepared according to the methodology used by the European Food Safety Authority (EFSA) for high-risk plant assessments (EFSA 2018) and must include, among other things:

- description of the plant or product and its production process
- identification of all pests potentially associated with the commodity in the exporting country
- existing phytosanitary measures and inspections
- evidence that the risk can be reduced to an acceptable level
- clear identification of confidential commercial information (if any).

This proposal significantly raises the level of technical demands that will be expected from exporting countries, similar to a commodity risk assessment (EFSA 2019).

The assessment of requests will become more systematic and science-driven. The European Commission will first verify that the dossier is complete and robust. Where needed, it will request a scientific risk assessment during which EFSA may directly contact the NPPO to obtain additional data. A temporary derogation will be granted only if it is shown that the phytosanitary risk can be reduced to an acceptable level through appropriate mitigation measures.

Another change concerns transparency and data handling. The proposed Regulation clarifies what information may be treated as confidential, while noting that confidentiality considerations cannot limit the information required to assess phytosanitary risk. Scientific conclusions will be published, reinforcing transparency and exposing evidence to scrutiny.

This proposed Regulation marks a shift from flexible, case-by-case management of derogations to a structured, evidence-based system.

Why?

By formalising how requests are submitted and assessed, the EU aims to guarantee that all derogations are based on consistent scientific evidence and comparable risk assessments.

Timeline

The Regulation is likely to be published in June 2026, and will apply 20 days after publication.

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What are the major implications for exporting countries?

This proposal provides better clarity on EU expectations, but also demands greater preparation, stronger NPPO coordination, and earlier investment in pest surveillance and documentation for non-EU exporting countries seeking temporary access to the EU market.

Recommended Actions

The World Trade Organization consultation on this proposal (G/SPS/N/EU/917) closed on 11 April 2026; feedback via the European Commission's Have Your Say webpage closed on 4 March 2026.

Background

Under the EU Plant Health Law (Regulation 2016/2031), certain plants and plant products are prohibited from entering the EU because they present an unacceptable phytosanitary risk (Art. 40). Other plants and products may be imported, but only if they comply with specific pest-related requirements defined by the EU (Art. 41).

The Plant Health Law recognises that, in exceptional and justified situations, these prohibitions or requirements may be temporarily lifted. Article 42a allows the EU to grant temporary derogations, provided that the phytosanitary risk is properly assessed and can be effectively managed through appropriate measures. Some cases require the submission of a request by a non-EU country.

A review of the first five years of application of the EU Plant Health Law identified the need to clarify, simplify, and harmonise several plant health-related import procedures (Council of the EU 2024). Differences in implementation between EU Member States, administrative burdens, and the absence of clear procedures for issues such as high-risk listings, temporary derogations, and equivalence created uncertainty for both EU authorities and non-EU trading partners. (See Revision of EU Plant Health Law.)

Resources

Council of the EU (2024) Plant health law: Council and Parliament strike deal to simplify and strengthen current rules. Press release, 5 March.

EFSA (2018) Information required for dossiers to support demands for import of high risk plants, plant products and other objects. EFSA supporting publication, EN-1492.

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EFSA (2019) Guidance on commodity risk assessment for the evaluation of high risk plants dossiers. EFSA Journal, 17(4): e05668.

IPPC (2023) Glossary of phytosanitary terms. ISPM 5. International Standards for Phytosanitary Measures. Rome: International Plant Protection Convention.

Regulation (EU) 2016/2031 on protective measures against pests of plants (the Plant Health Law).

Sources

Draft Commission Delegated Regulation as regards the procedure to be followed to grant temporary derogations

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