



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
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Opinion

Title **Impact assessment for new EU plant health legislation**
(draft version of 16 November 2011)

(A) Context

Harmful organisms (insects, nematodes, fungi, bacteria, viruses) can seriously damage plants and spread rapidly, often because they come from other continents so genetic resistance and natural predators are absent here. Outbreaks can endanger food security, require extra Member State expenditure and cause severe economic damage to plant growing and processing businesses in affected zones. They can also cause long lasting damage to forests and green spaces, which may have value as ecosystems, as carbon sinks, for recreation or as protection e.g. against erosion. Establishment of new pests often elicits trade bans and can permanently reduce profits. The EU Plant Health Regime (PHR) focuses on preventing the entry and spread of non-native harmful organisms. Core rules are in Council Directives 2000/29/EC and 97/3/EC. The PHR is open, as allowing movement promotes growth, which clearly increases the likelihood of periodic outbreaks.

On 21 November 2008, the Council asked the Commission to evaluate the Plant Health Regime and to propose possible modifications. Evaluation findings were presented publicly in September 2010. In preparing this Impact Assessment on PHR changes, the Commission consulted the Council Working Party of Chief Officers for Plant Health.

(B) Overall assessment

The report provides a sufficient analysis to justify action in this area, and summarises a thorough preparation process. Improvements are particularly recommended to ensure that the proposed actions and the case for intervening at EU level are clearly explained, and their costs are stated transparently. Firstly, the report should clarify the budgetary implications of co-financing direct operator losses due to action to tackle EU priority pests. Secondly, it should better show the need for a more wide-ranging EU intervention which provides more funds for early identification and tackling of priority outbreaks. Thirdly, it should explain the extent to which smaller firms could use suitable approaches. Fourthly, the differences between plants which are themselves Invasive Alien Species and harmful organisms of plants, and the implications for their management should be clarified.

(C) Main recommendations for improvements

(1) Clarify the budgetary implications of co-financing direct operator losses due to action to tackle EU priority pests. To enable a better analysis of option component "h", on compensating private operators via EU and Member State co-financing for their direct losses due to plant destruction to contain outbreaks of EU priority pests, the report should extend the annexed option description to indicate the rules under which EU co-finance would be made available. Mechanisms for coping with high demand and capping spend if necessary should be outlined, e.g. case-specific decisions on actions eligible for co-finance, scope for emergency budget adjustments, ability to quickly list or delist. Plans for further implementing measures to allow operators to actually get compensation should be briefly explained too. The description of the interacting option component "a" on adopting a list of EU priority pests should also be expanded to clarify the identification criteria, the feasibility of using scientific expertise and acting swiftly, and the possible number of pests that may be prioritised. In analysing impacts of component "h", the methods underpinning the study cost estimates should also be carefully summarised. The period of years over which the quoted range of costs in one Member State occurred should at least be recorded, and quantitative evidence on the variation in annual outbreak-related losses in other States should be supplied if possible. The possibility of outbreak spending being difficult for Member States to meet and the case for solidarity should be discussed alongside such evidence. This annexed analysis should be used to inform a discussion of impacts on the EU budget in the main text, where the predictability of costs and the possible range of costs should be covered. To support the statements made about the counter-balancing benefits for plant health and related activities and the efficiency of tackling outbreaks quickly and strongly, the report should recall relevant evidence such as the data supplied elsewhere in the report on the pinewood nematode outbreaks in different States.

(2) Better show the need for a more wide-ranging EU intervention which provides more funds for early identification and tackling of priority outbreaks. The report should strengthen its intervention logic by first showing through the problem or option chapters that problems tackled by rule changes could not be satisfactorily resolved by more strongly enforcing existing law, for example those on tackling outbreaks and inconsistent implementation. To underpin this, the evaluation results should be summarised in a supporting annex. Secondly, the report should seek to show that EU co-finance is the optimal way to improve surveillance by Member States, in preference to possible alternatives such as stricter rules. The report should discuss one or two outbreaks and lessons learned to illustrate to non-experts why a focus is put on prevention and incentivising prompt tackling of outbreaks. The report should also supply a selection of available data by Member State to demonstrate the cross-border relevance of the plant trade and pests in quantitative terms, for example on the share of jobs or output in key industry sectors that rely on plants, the value or volume of plant consignments entering from third countries or via intra-EU trade and being exported, the number of outbreaks in recent years and cost of some related actions.

(3) Explain the extent to which smaller firms could use suitable approaches. The report should mention the share of micro firms and SMEs among regulated businesses when discussing the affected parties, with reference to statistical evidence if possible. When describing the option packages in the main text, the report should explain which types of obligation need to apply to all firms to achieve objectives, and which obligations

could be suitable for exemptions or adjustments. In the detailed description of option components, such as those relating to plant passport record-keeping, the report should clearly explain how rules are made easy for small businesses to comply with.

(4) Further clarify the differences between plants which are Invasive Alien Species (IAS) and harmful organisms of plants, and implications for their management. To provide context, the report should better explain the features of the invasive alien plant problem which means different management approaches may be preferable to those used for harmful organisms of plants (e.g. reduced viability of a "stamping out" approach given the biodiversity focus and existing establishment of particular species, case for allowing some uses of IAS while prohibiting ones that risk their establishment in the wild). In assessing the impacts of option 4 which entails action on IAS plants, the report should briefly recall such features and should discuss the coherence of the option with other expected IAS rules.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The report should indicate the likely timing of the future evaluation of the regime. A table providing the latest data on proposed monitoring indicators which are already routinely collected should be provided, and broken down by Member State where possible. Abbreviations used should be spelled out in full in one annex for ease of reference.

(E) IAB scrutiny process

Reference number	2013/SANCO/002
External expertise used	No
Date of IAB meeting	14 December 2011