

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1203**of 21 June 2023****amending Implementing Regulations (EU) 2018/2019 and (EU) 2020/1213 as regards certain plants for planting of *Malus domestica* originating in the United Kingdom**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/2031 of the European Parliament and of the Council of 26 October 2016 on protective measures against pests of plants, amending Regulations (EU) No 228/2013, (EU) No 652/2014 and (EU) No 1143/2014 of the European Parliament and of the Council and repealing Council Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC⁽¹⁾, and in particular Article 42(4), third subparagraph thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2018/2019⁽²⁾ establishes, on the basis of a preliminary risk assessment, a list of high risk plants, plant products and other objects.
- (2) Following a preliminary assessment, 34 genera and one species of plants for planting originating from third countries were provisionally listed in Implementing Regulation (EU) 2018/2019 as high risk plants. One of the listed genera is *Malus* Mill.
- (3) Commission Implementing Regulation (EU) 2020/1213⁽³⁾ sets out the phytosanitary measures for the introduction into the Union territory of certain plants, plant products and other objects, which have been removed from the Annex to Implementing Regulation (EU) 2018/2019, but for which phytosanitary risks are not yet fully assessed. This is because one or more pests hosted by those plants are not yet included in the list of Union quarantine pests of Commission Implementing Regulation (EU) 2019/2072⁽⁴⁾, but they may fulfil the conditions to be included following a further complete risk assessment.
- (4) On 17 September 2021, the United Kingdom⁽⁵⁾ submitted to the Commission a request for export to the Union of the following: up to one-year-old free of leaves graftwood and budwood of *Malus domestica*; up to seven-year-old dormant, bare rooted free of leaves plants for planting of *Malus domestica*; and up to seven-year-old plants for planting of *Malus domestica* in growing medium ('the relevant plants'). That request was supported by the relevant technical dossier.

⁽¹⁾ OJ L 317, 23.11.2016, p. 4.

⁽²⁾ Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of Regulation (EU) 2016/2031 and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation (OJ L 323, 19.12.2018, p. 10).

⁽³⁾ Commission Implementing Regulation (EU) 2020/1213 of 21 August 2020 concerning the phytosanitary measures for the introduction into the Union of certain plants, plant products and other objects which have been removed from the Annex to Implementing Regulation (EU) 2018/2019 (OJ L 275, 24.8.2020, p. 5).

⁽⁴⁾ Commission Implementing Regulation (EU) 2019/2072 of 28 November 2019 establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and the Council, as regards protective measures against pests of plants, and repealing Commission Regulation (EC) No 690/2008 and amending Commission Implementing Regulation (EU) 2018/2019 (OJ L 319, 10.12.2019, p. 1).

⁽⁵⁾ 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 Protocol on Ireland/Northern Ireland in conjunction with Annex 2 to that Protocol, for the purposes of this act, references to the United Kingdom do not include Northern Ireland.

- (5) On 29 March 2023, the European Food Safety Authority ('the Authority') adopted a scientific opinion as regards the risk assessment of the relevant plants originating in the United Kingdom ⁽⁶⁾. The Authority identified *Colletotrichum aenigma*, *Meloidogyne mali*, *Eulecanium excrescens*, *Takahashia japonica*, Tobacco ringspot virus, Tomato ringspot virus and *Erwinia amylovora* as pests relevant for these plants.
- (6) The Authority evaluated the risk mitigation measures described in the dossier for *Colletotrichum aenigma*, *Meloidogyne mali*, *Eulecanium excrescens*, *Takahashia japonica*, Tobacco ringspot virus and Tomato ringspot virus and estimated the likelihood of the freedom of "the relevant plants" from those pests. It concluded that the likelihood that "the relevant plants" would be free from those pests is high. Concerning *Erwinia amylovora*, the Authority evaluated whether the special requirements for the introduction into, and movement within the specified protected zones, listed in point 9 of Annex X to Implementing Regulation (EU) 2019/2072, of plants of *Malus* Mill., other than fruits and seeds, are fulfilled. It concluded that the United Kingdom fulfils those special requirements.
- (7) On the basis of that opinion, the phytosanitary risk from the introduction into the Union territory of the relevant plants is considered to be reduced to an acceptable level, provided that appropriate measures are applied to address the risk of pests related to those plants.
- (8) The measures described by the United Kingdom in the technical dossier are considered sufficient to reduce the risk from the introduction into the Union territory of the relevant plants to an acceptable level. Those measures should therefore be adopted as phytosanitary import requirements to ensure the phytosanitary protection of the Union territory from introduction of the relevant plants into it.
- (9) Consequently, the relevant plants should no longer be considered high risk plants.
- (10) Implementing Regulation (EU) 2018/2019 should therefore be amended accordingly.
- (11) *Erwinia amylovora* is listed as a protected zone quarantine pest, for certain protected zones, and as a Union regulated non-quarantine pest for the rest of the Union territory, in Annexes III and IV to Implementing Regulation (EU) 2019/2072 respectively. Special requirements are in place in point 9 of Annex X to that Regulation, to prevent the entry and spread of the pest within the specified protected zones. Tobacco ringspot virus and Tomato ringspot virus are listed as Union quarantine pests in Annex II to Implementing Regulation (EU) 2019/2072.
- (12) *Colletotrichum aenigma*, *Eulecanium excrescens*, *Takahashia japonica* are not yet included in the list of Union quarantine pests of Implementing Regulation (EU) 2019/2072. A complete risk assessment on those pests needs to become available, in order to determine whether the pests fulfil the conditions to be listed in Annex II to Implementing Regulation (EU) 2019/2072, and the relevant plants, originating in the United Kingdom, to be listed in Annex VII to that Regulation, together with the respective measures.
- (13) Implementing Regulation (EU) 2020/1213 should therefore be amended accordingly.
- (14) *Meloidogyne mali* is not included in the list of Union quarantine pests. A pest risk analysis for that pest was published by the European and Mediterranean Plant Protection Organization (EPPO) in September 2017 ⁽⁷⁾. Based on discussions with the Member States, it was concluded that the pest should not be regulated as a Union quarantine pest nor as a Union regulated non-quarantine pest, because although the pest has been present in certain Member States for long time without official control measures, its impact in those Member States is considered low. For that reason, no import requirements are necessary with respect to that pest.
- (15) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee for Plants, Animals, Food and Feed,

⁽⁶⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2022. Scientific Opinion on the commodity risk assessment of *Malus domestica* plants from United Kingdom. EFSA Journal 2023;21 (5):8002.

⁽⁷⁾ EPPO (2017) Pest risk analysis for *Meloidogyne mali*. EPPO, Paris. Available at http://www.eppo.int/QUARANTINE/Pest_Risk_Analysis/PRA_intro.htm and <https://gd.eppo.int/taxon/MELGMA>.

HAS ADOPTED THIS REGULATION:

Article 1

The Annex to Implementing Regulation (EU) 2018/2019 is amended in accordance with Annex I to this Regulation.

Article 2

The Annex to Implementing Regulation (EU) 2020/1213 is amended in accordance with Annex II to this Regulation.

Article 3

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 June 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

In the Annex to Implementing Regulation (EU) 2018/2019, in the table of point 1, in the second column 'Description', the entry for 'Malus Mill.' is replaced by the following:

'Malus Mill., other than:

- one- to two-year-old bare rooted, dormant, free of leaves, grafted plants for planting of *Malus domestica* originating in Serbia;
 - up to three-year-old bare-rooted, dormant, free of leaves, grafted plants for planting of *Malus domestica* originating in Moldova;
 - up to three-year old bare-rooted, dormant, free of leaves, rootstocks of *Malus domestica* originating in Ukraine;
 - up to three-year old bare-rooted, dormant, free of leaves, grafted plants for planting of *Malus domestica* originating in Ukraine;
 - up to one-year-old free of leaves, cuttings of *Malus domestica* originating in the United Kingdom; and
 - up to seven-year-old plants for planting of *Malus domestica* originating in the United Kingdom'.
-

ANNEX II

In the table in the Annex to Implementing Regulation (EU) 2020/1213, the following entry is inserted after '*Ligustrum delavayanum* and *Ligustrum japonicum*, up to 20-year old plants for planting in growing medium, with a maximum diameter of 18 cm at the base of the stem.':

Plants, plant products or other objects	CN Code	Third countries of origin	Measures
' <i>Malus domestica</i> : — up to 1-year old cuttings; and — up to 7-year old plants for planting.	ex 0602 10 90 ex 0602 20 20 ex 0602 20 80	United Kingdom	(a) Official statement that: (i) the plants are free from <i>Colletotrichum aenigma</i> , <i>Eulecanium excrescens</i> and <i>Takahashia japonica</i> ; (ii) the site of production has been found free from <i>Colletotrichum aenigma</i> , <i>Eulecanium excrescens</i> , and <i>Takahashia japonica</i> during official inspections carried out at appropriate times, since the beginning of the last growing season; (iii) a system has been put in place to ensure that tools and machinery have been cleaned to be free from soil and plant debris, and disinfected to be free from <i>Colletotrichum aenigma</i> , before they have been introduced into the site of production; and (iv) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of <i>Eulecanium excrescens</i> , and <i>Takahashia japonica</i> , with such a sample size as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %; and to an official inspection for the presence of <i>Colletotrichum aenigma</i> including random sampling and testing of the plants; (b) the phytosanitary certificates for those plants include under the heading 'Additional Declaration': (i) the following statement: 'The consignment complies with Commission Implementing Regulation (EU) 2020/1213'; and (ii) the specification of the registered sites of production.'