

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1535

of 24 July 2023

amending Implementing Regulations (EU) 2018/2019 and (EU) No 2020/1213 as regards certain plants for planting of *Acer campestre*, *Acer palmatum*, *Acer platanoides* and *Acer pseudoplatanus* 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 are provisionally listed in Implementing Regulation (EU) 2018/2019 as high risk plants. One of the listed genera is *Acer* L.
- (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.

⁽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).

- (4) On 3 May 2022, the United Kingdom ⁽⁵⁾ submitted to the Commission requests for export to the Union of the following plants for planting ('the relevant plants'):
- up to fifteen-year-old plants for planting of *Acer campestre* with a maximum diameter of 88 mm at the base of the stem;
 - up to seven-year-old plants for planting of *Acer palmatum* with a maximum diameter of 40 mm at the base of the stem;
 - up to seven-year-old plants for planting of *Acer platanoides* with a maximum diameter of 40 mm at the base of the stem; and
 - up to seven-year-old plants for planting of *Acer pseudoplatanus* with a maximum diameter of 88 mm at the base of the stem.

Those requests were supported by the relevant technical dossiers.

- (5) On 24 May 2023, the European Food Safety Authority ('the Authority') adopted four scientific opinions regarding the risk assessment of the relevant plants originating in the United Kingdom ⁽⁶⁾ ⁽⁷⁾ ⁽⁸⁾ ⁽⁹⁾. The Authority identified *Bemisia tabaci*, *Coniella castaneicola*, *Cryphonectria parasitica*, *Entoleuca mammata*, *Eulecanium excrescens*, *Meloidogyne fallax*, *Meloidogyne mali*, *Phytophthora ramorum*, *Scirtothrips dorsalis* and *Takahashia japonica* as pests relevant for each of the species of the relevant plants.
- (6) The Authority evaluated the risk mitigation measures described in the dossiers 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.
- (7) Based on those opinions, 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 dossiers 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) *Bemisia tabaci*, *Cryphonectria parasitica* and *Entoleuca mammata* are listed as a protected zone quarantine pest, for certain protected zones in the Union territory, in Annex III to Implementing Regulation (EU) 2019/2072. *Meloidogyne fallax*, *Phytophthora ramorum* and *Scirtothrips dorsalis* are listed as Union quarantine pests in Annex II to Implementing Regulation (EU) 2019/2072.

⁽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.

⁽⁶⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2023. Scientific Opinion on the commodity risk assessment of *Acer campestre* plants from the UK. *EFSA Journal* 2023;21(7):8071, 291 pp. <https://doi.org/10.2903/j.efsa.2023.8071>

⁽⁷⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2023. Scientific Opinion on the commodity risk assessment of *Acer palmatum* plants from the UK. *EFSA Journal* 2023;21(7):8075, 228 pp. <https://doi.org/10.2903/j.efsa.2023.8075>

⁽⁸⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2023. Scientific Opinion on the commodity risk assessment of *Acer platanoides* plants from the UK. *EFSA Journal* 2023;21(7):8073, 268 pp. <https://doi.org/10.2903/j.efsa.2023.8073>

⁽⁹⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2023. Scientific Opinion on the commodity risk assessment of *Acer pseudoplatanus* plants from the UK. *EFSA Journal* 2023;21(7):8074, 271 pp. <https://doi.org/10.2903/j.efsa.2023.8074>

- (12) *Coniella castaneicola*, *Eulecanium excrescens* and *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, 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 ⁽¹⁰⁾. Based on discussions with the Member States, it was concluded that it should not be regulated as a Union quarantine pest nor as a Union regulated non-quarantine pest, because although that pest has been present in certain Member States for a 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,

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, 24 July 2023.

For the Commission
The President
Ursula VON DER LEYEN

⁽¹⁰⁾ 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>.

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 'Acer L.', is replaced by the following:

'Acer L., other than:

- One- to three-year-old bare rooted, dormant, free of leaves, grafted or budded plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg, and *Acer shirasawanum* Koidzumi, originating in New Zealand;
 - up to fifteen-year-old plants for planting of *Acer campestre* with a maximum diameter of 88 mm at the base of the stem, originating in the United Kingdom;
 - up to seven-year-old plants for planting of *Acer palmatum* with a maximum diameter of 40 mm at the base of the stem, originating in the United Kingdom;
 - up to seven-year-old plants for planting of *Acer platanoides* with a maximum diameter of 40 mm at the base of the stem, originating in the United Kingdom; and
 - up to seven-year-old plants for planting of *Acer pseudoplatanus* with a maximum diameter of 88 mm at the base of the stem, originating in the United Kingdom.'
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ANNEX II

In the table in the Annex to Implementing Regulation (EU) 2020/1213, the following entry is added before '*Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi, bare rooted, dormant, free of leaves, grafted or budded, one- to three-year-old plants for planting' originating in New Zealand:

Plants, plant products or other objects	CN Code	Third countries of origin	Measures
<ul style="list-style-type: none"> — <i>Acer campestre</i>, up to fifteen-year-old plants for planting with a maximum diameter of 88 mm at the base of the stem; — <i>Acer palmatum</i>, up to seven-year-old plants for planting with a maximum diameter of 40 mm at the base of the stem; — <i>Acer platanoides</i>, up to seven-year-old plants for planting with a maximum diameter of 40 mm at the base of the stem; and — <i>Acer pseudoplatanus</i>, up to seven-year-old plants for planting with a maximum diameter of 88 mm at the base of the stem. 	ex 0602 90 41 ex 0602 90 45 ex 0602 90 46 ex 0602 90 48	United Kingdom	(a) Official statement that: <ul style="list-style-type: none"> (i) the plants are free from <i>Coniella castaneicola</i>, <i>Eulecanium excrescens</i> and <i>Takahashia japonica</i>; (ii) the site of production has been found free from <i>Coniella castaneicola</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>Coniella castaneicola</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>Coniella castaneicola</i> including random sampling and testing of the plants; (b) the phytosanitary certificates for those plants include under the heading "Additional Declaration": <ul style="list-style-type: none"> (i) the following statement: "The consignment complies with Commission Implementing Regulation (EU) 2020/1213"; and (ii) the specification of the registered sites of production.'