COMMISSION IMPLEMENTING REGULATION (EU) 2020/1362

of 30 September 2020

amending Implementing Regulation (EU) 2020/1213 concerning the phytosanitary measures for the introduction into the Union of certain plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi, originating in New Zealand

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 the third subparagraph of Article 42(4) thereof,

Whereas:

(1) Commission Implementing Regulation (EU) 2018/2019 ([2]) established, on the basis of a preliminary risk assessment, a list of high risk plants, plant products and other objects.

(2) In accordance with Regulation (EU) 2016/2031, if it is concluded, on the basis of a risk assessment, that a plant, plant product or other object originating in a third country, group of third countries or a specific area of the third country concerned poses an unacceptable pest risk, but that that risk can be reduced to an acceptable level by applying certain measures, the Commission is to remove that plant, plant product or other object from the list established by Implementing Regulation (EU) 2018/2019 and add it to the list referred to in Article 41(2) of Regulation (EU) 2016/2031.

(3) In addition, Commission Implementing Regulation (EU) 2020/1213 ([3]) sets out 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.

(4) The Annex to Implementing Regulation (EU) 2018/2019 includes plants of the genus *Acer* L. as high risk plants.

(5) On 29 August 2019, New Zealand submitted to the Commission a request for export to the Union of one- to three-year-old bare rooted, dormant, free of leaves grafted or budded plants for planting belonging to the species *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi ('the specified plants'). That request was supported by the respective technical dossier.

(6) On 20 May 2020, the European Food Safety Authority ('the Authority') published a scientific opinion regarding the commodity risk assessment of *Acer* spp. plants from New Zealand ([4]). The Authority identified *Eotetranychus sexmaculatus*, *Meloidogyne fallax*, *Oemona hirta* and *Platypus apicalis* ('the specified pests') as pests relevant for the specified plants, evaluated the risk mitigation measures described in the dossier for those pests and estimated the likelihood of pest freedom for each pest related to that commodity.

(7) Following that opinion, Commission Implementing Regulation (EU) 2020/1361 ([5]) removed the specified plants from the list of high risk plants established by Implementing Regulation (EU) 2018/2019.

([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]) EFSA PLH Panel (EFSA Panel on Plant Health), 2020. Scientific Opinion on the commodity risk assessment of Acer spp. plants from New Zealand. EFSA Journal 2020; 18(5): 6105. https://doi.org/10.2903/j.efsa.2020.6105.

([5]) Commission Implementing Regulation (EU) 2020/1361 of 30 September 2020 amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Malus domestica*, originating in Serbia and certain plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi, originating in New Zealand (see page 1 of this Official Journal).

(8) Moreover, and on the basis of that opinion, the necessary measures to address the risk of the specified pests can be adopted as phytosanitary import requirements, to ensure the phytosanitary protection of the Union territory from introduction of the specified plants into the Union.

(9) Concerning Oemona hirta and Platypus apicalis, the measures described by New Zealand in the dossier are considered sufficient to reduce the risk from introduction into the Union of the specified plants to an acceptable level. Therefore, the measures for those two pests should be based on those described by New Zealand in the dossier.

(10) Concerning Meloidogyne fallax, the measures described by New Zealand in the dossier are in line with the existing requirements laid down in point 10 of Annex VII to Commission Implementing Regulation (EU) 2019/2072 ([6]) for nematodes, regarding trees and shrubs, intented for planting.

(11) With regard to *Eotetranychus sexmaculatus*, it is considered that the sole application of the measures proposed by New Zealand in the dossier cannot reduce the risk from introduction into the Union of the specified plants to an acceptable level, as according to the opinion of the Authority, some uncertainties remain. Addressing the identified uncertainties, by applying additional measures as regards official statements and phytosanitary certificates for those plants, can reduce the risk from introduction into the Union of the specified plants to an acceptable level. Therefore, the measures applied by New Zealand in the dossier for *Eotetranychus sexmaculatus* should be complemented with those measures, which address the uncertainties.

(12) *Oemona hirta* and *Meloidogyne fallax* are listed as Union quarantine pests in Annex II to Implementing Regulation (EU) 2019/2072. *Eotetranychus sexmaculatus* and *Platypus apicalis* are not yet included in the list of Union quarantine pests of Implementing Regulation (EU) 2019/2072 but they may fulfil the conditions to be included following a further complete risk assessment. If it is established that those pests fulfil those conditions, they will be included in the list of Annex II to Implementing Regulation (EU) 2019/2072, and the relevant plants will be listed in Annex VII to that Regulation, together with the respective measures, based on a complete risk assessment on those pests. Implementing Regulation (EU) 2019/2072 should be then reviewed accordingly.

(13) The Annex to Implementing Regulation (EU) 2020/1213 should therefore be amended accordingly.

(14) In order to comply with the Union obligations deriving from the World Trade Organization agreement on the application of sanitary and phytosanitary measures ([7]), the import of the specified plants should resume within the shortest possible delay. Therefore, this Regulation should enter into force on the third day following that of its publication.

(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

Subject matter

This Regulation sets out phytosanitary measures for the introduction into the Union of certain plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi, originating in New Zealand.

([6]) 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).

([7]) The World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement), https://www.wto.org/english/tratop_e/sps_e/spsagr_e.htm.

Article 2

Amendment of Implementing Regulation (EU) 2020/1213

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

Article 3

Entry into force

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, 30 September 2020.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

In the Annex to Implementing Regulation (EU) 2020/1213, the following points are added:

'Plants, plant products or other objects	CN Code	Third countries of origin	Measures
4. Bare rooted, dormant, free of leaves, grafted or budded, one- to three-year old plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi	ex 0602 90 41 ex 0602 90 45 ex 0602 90 46 ex 0602 90 48 ex 0602 90 50	New Zealand	(a) Official statement that: (i) the plants are free from *Eotetranychus sexmaculatus;* (ii) the plants have been grown throughout their life in a place of production, which, together with the sites of production that form part of it, is registered and supervised by the national plant protection organisation of the country of origin (iii) the site of production has been found free from *Eotetranychus sexmaculatus* during official inspections carried out at appropriate times, since the beginning of the complete production cycle; in case of suspicion of the presence of *Eotetranychus sexmaculatus* at the site of production, appropriate treatments have been carried out to ensure the absence of the pest; a surrounding zone of 100 m has been established, which is subject to specific surveys at appropriate times to detect *Eotetranychus sexmaculatus* and where the pest has been found on any host plants, those plants have been rogued out and destroyed immediately; (iv) 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 the *Eotetranychus sexmaculatus*, before they have been introduced into each site of production; (v) at harvest, the plants have been cleaned and trimmed and the plants have undergone an official phytosanitary inspection, consisting at least of a detailed visual examination, in particular of stems and branches of the plants to confirm the absence of the *Eotetranychus sexmaculatus*; (vi) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of *Eotetranychus sexmaculatus*, in particular of stems and branches of the plants, and the size of the sample for inspection has been such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %; (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) 2020/1362'; (ii) the specification of the registered sites of production.

5. Bare rooted, dormant, free of leaves, grafted or budded one- to three- year old plants for planting of *Acer japonicum* Thunberg, *Acer palmatum* Thunberg and *Acer shirasawanum* Koidzumi	ex 0602 90 41 ex 0602 90 45 ex 0602 90 46 ex 0602 90 48 ex 0602 90 50	New Zealand	(a) Official statement that: (i) the plants are free from *Oemona hirta* and *Platypus apicalis*; (ii) the plants have been grown throughout their life in a place of production, which, together with the sites of production that form part of it is registered and supervised by the national plant protection organisation of the country of origin; (iii) the site of production has been found free from *Oemona hirta* and *Platypus apicalis* during official inspections carried out at appropriate times, since the beginning of the complete production cycle; in case of suspicion of the presence of *Oemona hirta* or *Platypus apicalis* at the site of production, appropriate treatments have been carried out to ensure the absence of the pests; (iv) at harvest, the plants have been cleaned and have undergone an official inspection to confirm the absence of *Oemona hirta* and *Platypus apicalis*; (v) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of *Oemona hirta* and *Platypus apicalis* and the size of the sample for inspection has been such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %; (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) 2020/1362'; (ii) the specification of the registered sites of production.'