

COMMISSION IMPLEMENTING REGULATION (EU) 2022/490**of 25 March 2022****amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Juglans regia* L., *Nerium oleander* L. and *Robinia pseudoacacia* L. originating in Turkey, and amending Implementing Regulation (EU) 2020/1213 as regards the phytosanitary measures for the introduction of those plants for planting into the Union territory**

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 assessment, a list of high risk plants, plant products and other objects.
- (2) Commission Implementing Regulation (EU) 2018/2018 ⁽³⁾ lays down specific rules concerning the procedure to be followed, in order to carry out the risk assessment referred to in Article 42(4) of Regulation (EU) 2016/2031 for high risk plants, plant products and other objects.
- (3) Following a preliminary assessment, 34 genera and one species of plants for planting, originating from all third countries, were included in the Annex to Implementing Regulation (EU) 2018/2019 as high risk plants, amongst which are the genera *Juglans* L., *Nerium* L. and *Robinia* L.
- (4) 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 the Annex to Implementing Regulation (EU) 2018/2019 and add it to the list referred to in Article 41(2) of Regulation (EU) 2016/2031.
- (5) That list is provided for by Commission Implementing Regulation (EU) 2020/1213 ⁽⁴⁾.
- (6) On 9 August 2019, Turkey submitted to the Commission a request for export to the Union of two-year-old grafted plants for planting of *Juglans regia* L., which are bare-rooted, free of leaves and with a maximum diameter of 2 cm at the base of the stem. That request was accompanied by the respective 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) 2018/2018 of 18 December 2018 laying down specific rules concerning the procedure to be followed in order to carry out the risk assessment of high risk plants, plant products and other objects within the meaning of Article 42(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council (OJ L 323, 19.12.2018, p. 7).

⁽⁴⁾ 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).

- (7) On 19 May 2021, the European Food Safety Authority ('the Authority') adopted a scientific opinion regarding the commodity risk assessment of *Juglans regia* L. plants for planting from Turkey⁽⁵⁾. The Authority identified *Anoplophora chinensis*, *Euzophera semifuneralis*, *Garella musculana*, *Lasiodiplodia pseudotheobromae* and *Lopholeucaspis japonica* as pests relevant for those plants for planting, evaluated the risk mitigation measures described in the dossier for those pests and estimated the likelihood of their freedom from those pests.
- (8) On 27 November 2019, Turkey submitted to the Commission a request for export to the Union of one-to-four-year-old plants for planting with growing medium of *Nerium oleander* L. That request was accompanied by the respective technical dossier.
- (9) On 25 March 2021, the Authority adopted a scientific opinion regarding the commodity risk assessment of *Nerium oleander* L. plants for planting from Turkey⁽⁶⁾. The Authority identified *Phenacoccus solenopsis* as pest relevant for those plants for planting, evaluated the risk mitigation measures described in the dossier for that pest and estimated the likelihood of their freedom from that pest.
- (10) On 27 November 2019, Turkey submitted to the Commission a request for export to the Union of three-to-seven-year-old, bare-rooted plants for planting and plants in growing medium of *Robinia pseudoacacia* L. That request was accompanied by the respective technical dossier.
- (11) On 25 March 2021, the Authority adopted a scientific opinion regarding the commodity risk assessment of *Robinia pseudoacacia* L. plants from Turkey⁽⁷⁾. The Authority identified *Anoplophora chinensis*, *Lopholeucaspis japonica*, and *Pochazia shantungensis* as pest relevant for those plants for planting, evaluated the risk mitigation measures described in the dossier for those pests and estimated the likelihood of their freedom from those pests.
- (12) On the basis of those opinions, the measures necessary to address the risk of those pests should be adopted as phytosanitary import requirements, in order to ensure that the phytosanitary risk from introduction of the specified plants into the Union is reduced to an acceptable level.
- (13) Therefore, the following plants should be removed from the Annex to Implementing Regulation (EU) 2018/2019: plants for planting of *Juglans regia* L. originating in Turkey, which are up to 2 years old, bare rooted, free of leaves and with a maximum diameter of 2 cm at the base of the stem, plants for planting of *Nerium oleander* L. originating in Turkey which are up to 4 years old, and plants for planting of *Robinia pseudoacacia* L. originating in Turkey which are up to 7 years old and with a maximum diameter of 25 cm. Those plants for planting should be added to the Annex to Implementing Regulation (EU) 2020/1213 and, if applicable, the necessary phytosanitary import measures should be set out therein.
- (14) Given the uncertainties identified in those dossiers by the Authority, the sole application of the measures proposed by Turkey in the dossiers cannot reduce to an acceptable level the risk from the introduction of the specified plants into the Union. In order to reduce the phytosanitary risk to such a level, it should be required that those plants have been grown in pest-free sites of production, in addition to the measures already proposed in the dossiers by Turkey.

(5) EFSA PLH Panel (European Food Safety Authority Panel on Plant Health), Scientific Opinion on the Commodity risk assessment of *Juglans regia* plants from Turkey. EFSA Journal 2021;19(6):6665, 99 pp. <https://doi.org/10.2903/j.efsa.2021.6665>.

(6) EFSA PLH Panel, Scientific Opinion on the commodity risk assessment of *Nerium oleander* plants from Turkey. EFSA Journal 2021;19(5):6569, 34 pp. <https://doi.org/10.2903/j.efsa.2021.6569>.

(7) EFSA PLH Panel, Scientific Opinion on the commodity risk assessment of *Robinia pseudoacacia* plants from Turkey. EFSA Journal 2021;19(5):6568, 54 pp. <https://doi.org/10.2903/j.efsa.2021.6568>.

- (15) *Anoplophora chinensis* and *Lopholeucaspis japonica* are listed as Union quarantine pests in Annex II to Commission Implementing Regulation (EU) 2019/2072⁽⁸⁾. *Euzophera semifuneralis*, *Garella musculana*, *Lasiodiplodia pseudotheobromae*, *Phenacoccus solenopsis* and *Pochazia shantungensis* are not yet included in that list but may fulfil the conditions to be included once a complete risk assessment has been carried out.
- (16) In line with Article 42(5) of Regulation (EU) 2016/2031, the risk assessment will be carried out within a reasonable period of time. However, given the demand for imports, temporary phytosanitary measures concerning *Euzophera semifuneralis*, *Garella musculana*, *Lasiodiplodia pseudotheobromae*, *Phenacoccus solenopsis* and *Pochazia shantungensis* are necessary and appropriate until the risk assessment has been completed.
- (17) In order to comply with obligations deriving from the World Trade Organization Agreement on the application of sanitary and phytosanitary measures⁽⁹⁾, the import of those commodities in the Union should start within the shortest possible delay. Therefore, this Regulation should enter into force on the third day following that of its publication in the *Official Journal of the European Union*.
- (18) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Implementing Regulation (EU) 2018/2019

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

Article 2

Amendment of Implementing Regulation (EU) 2020/1213

The Annex to Implementing Regulation (EU) 2020/1213 is amended in accordance with Annex II 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, 25 March 2022.

For the Commission
The President
Ursula VON DER LEYEN

⁽⁸⁾ 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).

⁽⁹⁾ The World Trade Organisation Agreement on the Application of Sanitary and Phytosanitary Measures (adopted 15 April 1994, entered into force 1 January 1995), 1867 UNTS 493 (SPS Agreement).

ANNEX I

In the Annex to Implementing Regulation (EU) 2018/2019, in point 1, in the table, the second column 'Description' is amended as follows:

(1) the entry '*Juglans* L.' is replaced by the following:

"*Juglans* L. other than up to two-year-old plants for planting of *Juglans regia* L. which are bare-rooted, free of leaves and with a maximum diameter of 2 cm at the base of the stem, originating in Turkey";

(2) the entry '*Nerium* L.' is replaced by the following:

"*Nerium* L. other than up to four-year-old plants for planting of *Nerium oleander* L. originating in Turkey";

(3) the entry '*Robinia* L., other than bare rooted dormant grafted plants for planting with a maximum diameter of 2,5 cm of *Robinia pseudoacacia* L. originating in Israel' is replaced by the following:

"*Robinia* L. other than bare rooted dormant grafted plants for planting with a maximum diameter of 2,5 cm of *Robinia pseudoacacia* L. originating in Israel and other than up to seven-year-old plants for planting of *Robinia pseudoacacia* L. with a maximum diameter of 25 cm, originating in Turkey".

ANNEX II

The Annex to Implementing Regulation (EU) 2020/1213 is amended as follows:

(1) the following entries are inserted after '*Jasminum polyanthum* Franchet, unrooted cuttings of plants for planting'

Plants, plant products or other objects	CN Code	Third countries of origin	Measures
<p>"<i>Juglans regia</i> L, up to two-year-old plants for planting which are bare-rooted, free of leaves, and with a maximum diameter of 2 cm at the base of the stem.</p>	<p>ex 0602 20 20</p>	<p>Turkey</p>	<p>(a) Official statement that:</p> <ul style="list-style-type: none"> (i) the plants are free from <i>Euzophera semifuneralis</i>, <i>Garella musculana</i> and <i>Lasiodiplodia pseudotheobromae</i>; (ii) the site of production has been found free from <i>Euzophera semifuneralis</i>, <i>Garella musculana</i> and <i>Lasiodiplodia pseudotheobromae</i> during official inspections carried out at appropriate times, since the beginning of the complete production cycle; (iii) a system has been put in place to ensure that grafting and pruning tools have been disinfected to be free from <i>Lasiodiplodia pseudotheobromae</i>, before they have been introduced into each site of production, and the grafted or pruned plants have been subjected to appropriate treatment to prevent entry of <i>Lasiodiplodia pseudotheobromae</i> via the cuts; and (iv) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of <i>Euzophera semifuneralis</i> and <i>Garella musculana</i> in particular in stems and branches of the plants, with such a sampling 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>Lasiodiplodia pseudotheobromae</i> including random sampling and testing of the plants; <p>(b) The phytosanitary certificates for those plants include under the heading 'Additional Declaration':</p> <ul style="list-style-type: none"> (i) the following statement: 'The consignment complies with Implementing Regulation (EU) 2020/1213'; (ii) the specification of the registered sites of production."

<p>“<i>Nerium oleander</i> L., up to four-year-old plants for planting.</p>	<p>ex 0602 90 45 ex 0602 90 46 ex 0602 90 47 ex 0602 90 70 ex 0602 90 91</p>	<p>Turkey</p>	<p>(a) Official statement that:</p> <ul style="list-style-type: none"> (i) the plants are free from <i>Phenacoccus solenopsis</i>; (ii) the site of production has been found free from <i>Phenacoccus solenopsis</i> during official inspections carried out at appropriate times, since the beginning of the production cycle of the plants; and (iii) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of <i>Phenacoccus solenopsis</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 %; <p>(b) The phytosanitary certificates for those plants shall include under the heading ‘Additional Declaration’:</p> <ul style="list-style-type: none"> (i) the following statement: ‘The consignment complies with Implementing Regulation (EU) 2020/1213’; (ii) the specification of the registered sites of production”
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(2) the following entry is added after ‘*Robinia pseudoacacia*, bare rooted, dormant grafted plants for planting with a maximum diameter of 2,5 cm’

Plants, plant products or other objects	CN Code	Third countries of origin	Measures
<p>“<i>Robinia pseudoacacia</i> L., up to seven-year-old plants for planting with a maximum diameter of 25 cm.</p>	<p>ex 0602 90 41 ex 0602 90 45 ex 0602 90 46 ex 0602 90 48</p>	<p>Turkey</p>	<p>(a) Official statement that:</p> <ul style="list-style-type: none"> (i) the plants are free from <i>Pochazia shantungensis</i>; (ii) the site of production has been found free from <i>Pochazia shantungensis</i> during official inspections carried out at appropriate times, since the beginning of the production cycle of the plants; and (iii) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of <i>Pochazia shantungensis</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 % for each pest; <p>(b) The phytosanitary certificates for those plants shall include under the heading ‘Additional Declaration’:</p> <ul style="list-style-type: none"> (i) the following statement: ‘The consignment complies with Implementing Regulation (EU) 2020/1213’; (ii) the specification of the registered sites of production.”