

COMMISSION IMPLEMENTING REGULATION (EU) 2023/446**of 27 February 2023****amending Implementing Regulation (EU) 2018/2019 as regards certain plants for planting of *Ligustrum delavayanum* and *Ligustrum japonicum* originating in the United Kingdom and 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), the 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) 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 third countries were provisionally listed in Implementing Regulation (EU) 2018/2019 as high risk plants. That list includes the genus *Ligustrum* L.
- (4) Commission Implementing Regulation (EU) 2020/1213⁽⁴⁾ 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⁽⁵⁾, 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) 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).

⁽⁵⁾ 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 of 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) On 3 December 2021, the United Kingdom ⁽⁶⁾ submitted to the Commission, a request for export to the Union of large topiary evergreen plants of *Ligustrum delavayanum* grafted onto *Ligustrum japonicum* rootstocks grown in pots that are up to 20 years old and having a maximum diameter of 18 cm at the base of the stem. That request was supported by the relevant technical dossier.
- (6) On 28 September 2022, the European Food Safety Authority ('the Authority') adopted a scientific opinion covering the risk assessment of plants for planting of *Ligustrum delavayanum* and of plants for planting of *Ligustrum japonicum*, in growing medium, that are up to 20 years old and with a maximum diameter of 18 cm at the base of the stem, irrespective of whether they are grafted or not ('the relevant plants') ⁽⁷⁾. The Authority identified *Bemisia tabaci*, *Diaprepes abbreviatus*, *Epiphyas postvittana* and *Scirtothrips dorsalis* as pests relevant for those plants and estimated the likelihood of freedom of the commodity from the pests.
- (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 and the corresponding special requirements of Annex VII to Implementing Regulation (EU) 2019/2072 are complied with.
- (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) *Bemisia tabaci* is listed as a protected zone quarantine pest in Annex III to Implementing Regulation (EU) 2019/2072 and *Scirtothrips dorsalis* is listed as a Union quarantine pest in Annex II to that Implementing Regulation.
- (12) *Diaprepes abbreviatus* is not yet included in the list of Union quarantine pests of Implementing Regulation (EU) 2019/2072, therefore the measures for that pest are based on those described by the United Kingdom in the dossier. When a complete risk assessment on that pest becomes available, it will be established if that pest fulfils the conditions to be listed in Annex II to Implementing Regulation (EU) 2019/2072 and the relevant plants in Annex VII to that Regulation, together with the respective measures.
- (13) Implementing Regulation (EU) 2020/1213 should therefore be amended accordingly.
- (14) *Epiphyas postvittana* is not included in the list of Union quarantine pests. The pest is present in a number of Member States and no official control measures are applied. Furthermore, the impact of the pest in the Union is not considered to be significant. For these reasons, 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⁾ 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.

⁽⁷⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2022. Scientific Opinion on the commodity risk assessment of *Ligustrum delavayanum* topiary plants grafted on *Ligustrum japonicum* from the UK. EFSA Journal 2022;20(11):7593.

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 twentieth 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, 27 February 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

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

'*Ligustrum* L., other than up to 20-year-old plants for planting of *Ligustrum delavayanum* and *Ligustrum japonicum* in growing medium, with a maximum diameter of 18 cm at the base of the stem, originating in the UK'.

ANNEX II

In the table in the Annex to Implementing Regulation (EU) 2020/1213, the following entry is inserted after '*Juglans regia* L., up to 2-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.':

Plants, plant products or other objects	CN Code	Third countries of origin	Measures
' <i>Ligustrum delavayanum</i> and <i>Ligustrum japonicum</i> , up to 20-year-old plants for planting in growing medium, with a maximum diameter of 18 cm at the base of the stem.	ex 0602 10 90	United Kingdom	(a) official statement that: <ul style="list-style-type: none"> (i) the plants are free from <i>Diaprepes abbreviatus</i>; (ii) the site of production has been found free from <i>Diaprepes abbreviatus</i> during official inspections carried out at appropriate times, since the beginning of the last growing season; and (iii) immediately prior to export, consignments of the plants have been subjected to an official inspection for the presence of <i>Diaprepes abbreviatus</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 %; (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.'