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COMMISSION

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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

**amending Annexes VII, VIII, XI and XIII to Implementing Regulation (EU) 2019/2072
as regards measures against the entry into, and the presence in the Union territory of
Anoplophora glabripennis (Motschulsky) and *Anoplophora chinensis* (Forster)**

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

COMMISSION IMPLEMENTING REGULATION (EU) .../...

of **XXX**

amending Annexes VII, VIII, XI and XIII to Implementing Regulation (EU) 2019/2072 as regards measures against the entry into, and the presence in the Union territory of *Anoplophora glabripennis* (Motschulsky) and *Anoplophora chinensis* (Forster)

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/EC¹, and in particular Article 41(3), first subparagraph, and Articles 72(2) and 79(2),

Whereas:

- (1) Regulation (EU) 2016/2031 and Commission Implementing Regulation (EU) 2019/2072² replaced the provisions of Council Directive 2000/29/EC³ concerning protective measures against organisms harmful to plants. They have updated and elaborated further the respective rules on protective measures against pests of plants.
- (2) More specifically, Annex VII to Implementing Regulation (EU) 2019/2072 establishes a list of plants, plant products and other objects, originating from third countries, and the corresponding special requirements for their introduction into the Union territory. Annex VIII to that Regulation sets out a list of plants, plant products and other objects, originating in the Union territory and the corresponding special requirements for their movement within the Union territory. Annex XI to that Regulation sets out a list of plants, plant products and other objects subject to phytosanitary certificates and those for which such certificates are not required for their introduction into the Union territory. Annex XIII to that Regulation lists the plants, plant products and other objects for which a plant passport is required for their movement within the Union territory.
- (3) Commission Implementing Regulation (EU) 2022/2095⁴ establishes measures to prevent the introduction into, establishment and spread within the Union territory of

¹ OJ L 317, 23.11.2016, p. 4, ELI: <http://data.europa.eu/eli/reg/2016/2031/oj>.

² 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, ELI: http://data.europa.eu/eli/reg_impl/2019/2072/oj).

³ Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1, ELI: <http://data.europa.eu/eli/dir/2000/29/oj>).

⁴ Commission Implementing Regulation (EU) 2022/2095 of 28 October 2022 establishing measures to prevent the introduction into, establishment and spread within the Union territory of *Anoplophora*

Anoplophora chinensis (Forster). It includes requirements concerning the introduction into, and movement within, the Union of certain plants and plant products.

- (4) Commission Implementing Decision (EU) 2015/893⁵ establishes measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky). It was repealed by Implementing Regulation (EU) .../... (Office of Publications, please insert reference to the Commission Implementing Regulation concerning measures to eradicate *Anoplophora glabripennis* (Motschulsky)) establishing measures concerning the eradication of *Anoplophora glabripennis* (Motschulsky) from the Union territory.
- (5) The application of most of the measures established under Implementing Regulation (EU) 2022/2095 and Implementing Decision 2015/893 have proved effective in reducing the risk of those pests to an acceptable level.
- (6) It is appropriate, for reasons of consistency and legal certainty, to include those measures, where necessary in an updated form, in Annexes VII, VIII, XI and XIII to Implementing Regulation (EU) 2019/2072 as requirements concerning the introduction into, and movement within the Union, of plants, plant products and other objects that can host *Anoplophora glabripennis* (Motschulsky) or *Anoplophora chinensis* (Forster).
- (7) In this view, new entries, in relation to *Anoplophora glabripennis* (Motschulsky) and *Anoplophora chinensis* (Forster), should be added to Annex VII to Implementing Regulation (EU) 2019/2072 concerning plants for planting and wood in the form of chips, particles, shavings, wood waste and scrap of certain species, wood of certain species other than that form, and wood packaging material of certain species.
- (8) Based on findings of *Anoplophora chinensis* in the Union, the scope of the host plants of that pest should be extended to cover not only *Aesculus hippocastanum*, but all *Aesculus* species.
- (9) However, based on the experience in the Union, the scope of the host plants of *Anoplophora glabripennis* should be reduced to species on which findings or symptoms of that pest have been found.
- (10) In order to ensure a proportionate approach to the respective phytosanitary risk and to guarantee legal clarity, the special requirements of Annex VII to Implementing Regulation (EU) 2019/2072 related to the plants, plant products and other objects that can host *Anoplophora glabripennis* should only be applicable to those third countries, where that pest is known to be present. Those countries should be listed in Annex VII.
- (11) Article 10(1) of Regulation (EU) 2022/2095, as well as Annex II, A.(1)(c) of Implementing Decision (EU) 2015/893 require that prior to the movement of the specified plants within the Union, the plants have been grown in a site where, *inter alia*, targeted destructive sampling is carried out on each lot of specified plants. According to these provisions, that targeted destructive sampling is to be carried out at specific levels set out in those legal acts.

chinensis (Forster) and repealing Decision 2012/138/EU (OJ L 281, 31.10.2022, p. 53, ELI: http://data.europa.eu/eli/reg_impl/2022/2095/oj).

⁵ Commission Implementing Decision (EU) 2015/893 of 9 June 2015 as regards measures to prevent the introduction into and the spread within the Union of *Anoplophora glabripennis* (Motschulsky) (OJ L 146, 11.6.2015, p. 16, ELI: http://data.europa.eu/eli/dec_impl/2015/893/oj).

- (12) Experience has shown during the application of Implementing Regulation (EU) 2022/2095, and during the application of Implementing Decision (EU) 2015/893, that the established levels of destructive sampling of specified plants are disproportionately high, because they lead to the destruction of an unnecessarily large number of plants, without correspondingly increasing the confidence level of the sampling.
- (13) For that reason, those requirements on destructive sampling should be removed, as it is sufficient to require that the respective sampling scheme used for inspection is to be able to identify with at least 99% confidence level, a presence level of infested plants of 1%.
- (14) The CN codes listed in Annex VII and Annex XI to Implementing Regulation (EU) 2019/2072 should be amended to reflect the most recent amendment of Council Regulation (EEC) 2658/87⁶.
- (15) Moreover, new entries should be added in Annex VIII to Implementing Regulation (EU) 2019/2072 concerning plants, wood and wood packaging material of certain species, which have spent some time in a demarcated area for containment, established pursuant to Article 5 of Implementing Regulation (EU) .../... (*Office of Publications, please insert reference to the Commission Implementing Regulation concerning measures to eradicate *Anoplophora glabripennis* (Motschulsky)*) and to Article 5 of Implementing Regulation (EU) 2022/2095. This is necessary to ensure that the movement of those commodities from areas where that pest is established to the rest of the Union does not present an unacceptable phytosanitary risk.
- (16) In Annex XI to Implementing Regulation (EU) 2019/2072, Part A, in point 3, the reference to ‘*Alnus* L., *Carpinus* L., *Cercidiphyllum* Siebold & Zucc., *Corylus* L., *Fagus* L., *Koelreuteria* Laxm., *Platanus* L., *Tilia* spp.’ should be excluded, because it has been proven that these species are not the preferred hosts of *Anoplophora glabripennis* (Motschulsky) and therefore present lower phytosanitary risk.
- (17) Certain types of wood should also be added to the list contained in Annex XIII to Implementing Regulation (EU) 2019/2072, because a plant passport is needed for their movement within the Union, thereby attesting compliance with the respective special requirements set out in Annex VIII to that Regulation.
- (18) Implementing Regulation (EU) 2019/2072 should therefore be amended accordingly.
- (19) 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) 2019/2072

Annexes VII, VIII, XI and XIII to Implementing Regulation (EU) 2019/2072 are amended in accordance with the Annex to this Regulation.

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⁶ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1, ELI: <http://data.europa.eu/eli/reg/1987/2658/oj>).

Article 2
Entry into force

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,

For the Commission
The President
Ursula VON DER LEYEN

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