COMMISSION IMPLEMENTING REGULATION (EU) 2020/885

of 26 June 2020

as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/2031 ([1]) 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, and in particular Article 30(1) thereof,

Whereas:

(1) In 2011, Italy informed the Commission that a new aggressive strain of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto ('the specified pest'), the causal agent of kiwi canker, was present in its territory and that it had adopted official measures to prevent the further introduction and spread within its territory of the specified pest. The available information also showed that this aggressive strain of the specified pest was present in a third country that exports the propagating material of kiwi plants, including pollen, to the Union. That information remains relevant today to the Union territory.

(2) For this reason, the Commission adopted Implementing Decision 2012/756/EU ([2]).

(3) Implementing Decision 2012/756/EU was replaced by Implementing Decision (EU) 2017/198 ([3]), which expired on 31 March 2020.

(4) The specified pest is not listed as a Union quarantine pest in Annex II, protected zone quarantine pest in Annex III or regulated non-quarantine pest in Annex IV to Commission Implementing Regulation (EU) 2019/2072 ([4]).

(5) The reasons for the adoption of Implementing Decision (EU) 2017/198, including the respective preliminary pest risk analysis of the Commission, remain valid. Due to the ongoing phytosanitary risk posed by the specified pest, measures should be adopted concerning the introduction into the Union of live pollen and plants intended for planting, other than seeds, of *Actinidia* Lindl. ('the specified plants') from third countries. Measures should also be provided for the movement within the Union of those plants that originate in the Union. Those measures should be the same as the measures set out in Implementing Decision (EU) 2017/198, as they have proven effective to protect the Union territory from the specified pest.

(6) In order to ensure an increased level of protection of the Union territory from the specified pest, specified plants introduced into the Union should be rigorously inspected and, where appropriate, tested for the presence of the specified pest at the border control post or at destination control point established in accordance with Commission Delegated Regulation (EU) 2019/2123 ([5]).

([1]) OJ L 317, 23.11.2016, p. 4.

([2]) Commission Implementing Decision 2012/756/EU of 5 December 2012 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto (OJ L 335, 7.12.2012, p. 49).

([3]) Commission Implementing Decision (EU) 2017/198 of 2 February 2017 as regards measures to prevent the introduction into and the spread within the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto (OJ L 31, 4.2.2017, p. 29).

([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 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]) Commission Delegated Regulation (EU) 2019/2123 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for the cases where and the conditions under which identity checks and physical checks on certain goods may be performed at control points and documentary checks may be performed at distance from border control posts (OJ L 321, 12.12.2019, p. 64).

(7) Implementing Decision (EU) 2017/198 should be repealed and replaced by this Regulation. This is necessary in order to take into account the provisions of Regulation (EU) 2016/2031 and Implementing Regulation (EU) 2019/2072, which apply since 14 December 2019.

(8) This Regulation should apply as soon as possible in order to replace Implementing Decision (EU) 2017/198, which expired on 31 March 2020. It should enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

(9) Member States should, where applicable, adapt their legislation in order to comply with this Regulation.

(10) This Regulation should apply until 31 December 2021 to allow time to monitor the evolution of the situation and determine the phytosanitary status of the specified pest in respect of the Union territory.

(11) 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

Subject matter

This Regulation establishes measures to prevent the entry into, and the spread within, the Union of *Pseudomonas syringae* pv. *actinidiae* Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto ('the specified pest').

Article 2

Prohibition of Pseudomonas syringae pv. actinidiae Takikawa, Serizawa, Ichikawa, Tsuyumu & Goto

The specified pest shall not be introduced into, moved within, or held, multiplied or released in, the Union territory.

Article 3

Introduction of live pollen and plants intended for planting, other than seeds, of Actinidia Lindl. into the Union

Live pollen and plants intended for planting, other than seeds, of *Actinidia* Lindl ('the specified plants') originating in third countries may only be introduced into the Union if they comply with the specific requirements for introduction, as set out in Articles 4, 5 and 6.

Article 4

Phytosanitary certificate

Specified plants originating in third countries shall be accompanied by a phytosanitary certificate, which includes under the heading 'Additional declaration' the information that one of the following conditions is fulfilled:

(a) The specified plants have been grown throughout their life in a country where the specified pest is known not to occur.

(b) The specified plants have been grown throughout their life in a pest-free area, established as regards the specified pest by the National Plant Protection Organisation (NPPO) of the country of origin in accordance with the Food and Agriculture Organisation of the United Nations' (FAO) International Standard for Phytosanitary Measures (ISPM) No 4 ([6]). The name of the pest-free area shall be included in the certificate under the heading 'Place of Origin'.

([6]) Requirements for the establishment of pest free areas. ISPM No 4 (1995), Rome, IPPC, FAO 2016.

(c) The specified plants have been produced in a pest-free place or a pest-free site of production, established as regards the specified pest by the NPPO of the country of origin in accordance with the FAO's ISPM No 10 ([7]). The specified plants have been grown in a structure with a degree of isolation and protection from the outside environment that effectively excludes the specified pest. At that place or site the specified plants have been officially inspected twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the export and found free from the specified pest.

That place or site of production is surrounded by a zone with a radius of at least 100 metres, where official inspections were carried out twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the export and any specified plants showing symptoms of infection which were found during those inspections were immediately destroyed.

(d) The specified plants have been produced in a pest-free place of production established as regards the specified pest by the NPPO of the country of origin in accordance with the FAO's ISPM No 10. At that place the specified plants have been officially inspected, sampled and tested twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the export and found free from the specified pest.

That place of production is surrounded by a zone with a radius of 4 500 metres ('the surrounding zone'), where one of the following conditions has been fulfilled:

(i) official inspections, sampling and testing have been carried out twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the export. The specified pest has not been found during the official inspection, sampling and testing;

(ii) all specified plants within a radius of 500 m from that place of production have been immediately destroyed;

(iii) each specified plant within a radius of 500 m from that place of production has been regularly tested at the most appropriate times for detecting symptoms of infection and found free from the specified pest.

In the case of points (ii) and (iii), all specified plants within that zone at a distance of 500 m to 4 500 m from the place of production have been destroyed or tested according to a sampling scheme able to confirm with 99 % reliability that the level of presence of the specified pest in the specified plants is below 0,1 %.

Article 5

Additional information to be included in the phytosanitary certificate

Where the information set out in points (c) or (d) of Article 4 is given, the certificate shall, in addition, include the information that one of the following conditions is satisfied:

(a) the specified plants have been directly derived from mother plants grown under the conditions set out in points (a), (b) or (c) of Article 4;

(b) the specified plants have been directly derived from mother plants, which were subject to prior individual testing confirming their freedom from the specified pest;

(c) the specified plants have been tested according to a sampling scheme able to confirm with 99 % reliability that the level of presence of the specified pest in the specified plants is below 0,1 %.

Article 6

Inspection

Specified plants introduced into the Union, accompanied by a phytosanitary certificate and complying with Articles 4 and 5, shall be rigorously inspected and, where appropriate, tested for the presence of the specified pest at the border control post or at a control point established in accordance with Delegated Regulation (EU) 2019/2123.

([7]) Requirements for the establishment of pest free places of production and pest free production sites. ISPM No 10 (1999), Rome, IPPC, FAO 2016.

Article 7

Movement of the specified plants within the Union

Specified plants that have spent any part of their lives in the Union, may only be moved within the Union, if they meet the specific requirements set out in Articles 8 and 9.

Article 8

Issuance of plant passport and conditions for movement

Specified plants that have spent any part of their lives in the Union and plants introduced into the Union according to Article 3 may be moved within the Union only if they are accompanied by a plant passport prepared, issued and used in accordance with Articles 78 to 95 of Regulation (EU) 2016/2031, and if they meet one of the following conditions:

(a) The specified plants have been grown throughout their life in a Member State where the specified pest is not known to occur.

(b) The specified plants have been grown throughout their life in a protected zone listed in Annex III of Implementing Regulation (EU) 2019/2072.

(c) The specified plants have been grown throughout their life in a pest-free area, established as regards the specified pest by the competent authority of a Member State of origin in accordance with the FAO's ISPM No 4.

(d) The specified plants have been produced in a pest-free place or a pest-free site of production, established as regards the specified pest by the responsible official body of the Member State of origin in accordance with the FAO's ISPM No 10. The specified plants have been grown in a structure with a degree of isolation and protection from the outside environment that effectively excludes the specified pest. At that place or site, the specified plants have been officially inspected twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement and found free from the specified pest.

That place or site of production is surrounded by a zone with a radius of at least 100 metres, where official inspections were carried out twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement and any plants showing symptoms of infection which were found during those inspections were immediately destroyed.

(e) The specified plants have been produced in a pest-free place of production, established as regards the specified pest by the competent authority of the Member State of origin in accordance with the FAO's ISPM No 10.

At that place the specified plants have been officially inspected, sampled and tested twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement and found free from the specified pest.

That place of production is surrounded by a zone with a radius of 500 metres ('the surrounding zone'), where one of the following conditions have been fulfilled:

(i) official inspections, sampling and testing have been carried out throughout the surrounding zone twice at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement. The specified pest has not been found during the official inspection, sampling and testing;

(ii) all specified plants within the surrounding zone have been immediately destroyed;

(iii) each specified plant within the surrounding zone has been regularly tested at the most appropriate times for detecting symptoms of infection and found free from the specified pest.

The surrounding zone is itself encircled by a further zone, with a width of 4 000 metres, where one of the following conditions has been fulfilled:

(i) following official inspections, sampling and testing that have been carried out throughout that further zone twice, at the most appropriate times for detecting symptoms of infection during the last complete cycle of vegetation prior to the movement, eradication measures were taken in all cases when the specified pest has been identified on the specified plants. These measures shall consist of the immediate destruction of the infected specified plants;

(ii) all specified plants within that further zone have been destroyed;

(iii) all specified plants within that further zone have been tested according to a sampling scheme able to confirm with 99 % reliability that the level of presence of the specified pest in the specified plants is below 0,1 %.

Article 9

Additional conditions for movement

Where the requirements set out in points (d) or (e) of Article 8 are met, the specified plants shall, in addition, satisfy one of the following requirements:

(a) the specified plants have been directly derived from mother plants grown under the conditions set out in points (a), (b), (c) or (d) of Article 8;

(b) the specified plants have been directly derived from mother plants, subject to prior individual testing confirming their freedom from the specified pest;

(c) the specified plants have been tested according to a sampling scheme able to confirm with 99 % reliability that the level of presence of the specified pest in the specified plants is below 0,1 %.

Article 10

Compliance

Member States shall repeal or amend the measures, which they have already adopted to protect themselves against the introduction and spread of the specified pest, in order to comply with this Regulation. They shall immediately inform the Commission of those measures.

Article 11

Entry into force and application

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

It shall apply until 31 December 2021.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 26 June 2020.

For the Commission
The President
Ursula VON DER LEYEN