

COMMISSION IMPLEMENTING REGULATION (EU) 2022/853**of 31 May 2022****amending Implementing Regulation (EU) 2018/2019 and Implementing Regulation (EU) 2019/2072 as regards fruits of *Momordica charantia* L., originating in Honduras, Mexico, Sri Lanka and Thailand**

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 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 risk assessment, fruits of *Momordica* L. originating from third countries or areas of third countries where *Thrips palmi* Karny is known to occur and where effective mitigation measures for that pest are lacking, were included in the Annex to Implementing Regulation (EU) 2018/2019 as high risk plants.
- (4) On 13 November 2019, Mexico submitted to the Commission a request for export to the Union of *Momordica charantia* L. fruits. That request was supported by the respective technical dossier.
- (5) On 27 November 2019, Honduras, Sri Lanka, and Thailand submitted to the Commission a request for export to the Union of *Momordica charantia* L. fruits. Their requests were supported by the respective technical dossier.
- (6) On 31 December 2020, the European Food Safety Authority ('the Authority') adopted scientific opinions regarding the commodity risk assessment of *Momordica charantia* L. fruits originating from Mexico⁽⁴⁾, Honduras⁽⁵⁾, Sri Lanka⁽⁶⁾ and Thailand⁽⁷⁾. *Thrips palmi* Karny was the only pest of concern analysed in those opinions. The Authority evaluated the risk mitigation measures described in the dossiers for that pest and estimated the likelihood of freedom from the pest.

⁽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⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2021. Scientific Opinion on the Commodity risk assessment of *Momordica charantia* fruits from Mexico. EFSA Journal 2021;19(2):6398, 37 pp. <https://doi.org/10.2903/j.efsa.2021.6398>

⁽⁵⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2021. Scientific Opinion on the commodity risk assessment of *Momordica charantia* fruits from Honduras. EFSA Journal 2021;19(2):6395, 34 pp. <https://doi.org/10.2903/j.efsa.2021.6395>

⁽⁶⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2021. Commodity risk assessment of *Momordica charantia* fruits from Sri Lanka. EFSA Journal 2021;19 (2):6397, 35 pp. <https://doi.org/10.2903/j.efsa.2021.6397>

⁽⁷⁾ EFSA PLH Panel (EFSA Panel on Plant Health), 2021. Scientific Opinion on the commodity risk assessment of *Momordica charantia* fruits from Thailand. EFSA Journal 2021;19(2):6399, 33 pp. <https://doi.org/10.2903/j.efsa.2021.6399>

- (7) On the basis of those opinions, the phytosanitary risk arising from the introduction of *Momordica charantia* L. fruits from Honduras, Mexico, Sri Lanka and Thailand into the Union can be addressed by means of phytosanitary import requirements in order to ensure that that risk is reduced to and kept at an acceptable level. Therefore, *Momordica charantia* L. fruits originating in those countries should be removed from the list of high risk plants, plant products and other objects in the Annex to Implementing Regulation (EU) 2018/2019.
- (8) The risk mitigation measures applied by Sri Lanka are considered sufficient to keep the phytosanitary risk from the introduction into the Union of *Momordica charantia* L. fruits originating in that country at an acceptable level.
- (9) The Commission considers that the risk mitigation measures proposed by Honduras, Mexico and Thailand in the dossiers are not sufficient, by themselves, to reduce the phytosanitary risk resulting from the introduction into the Union of *Momordica charantia* L. fruits originating in those countries to an acceptable level. Therefore, the import into the Union of *Momordica charantia* L. fruits originating in those countries should fulfil specific import requirements: those fruits should originate from a pest free area, or from a site of production with complete physical protection, or from a site of production where several measures have been taken concerning the production, handling and inspection of those fruits.
- (10) Therefore, as Annex II to Commission Implementing Regulation (EU) 2019/2072 ⁽⁸⁾ lists *Thrips palmi* Karny as a Union quarantine pest and point 71 of Annex VII to that Implementing Regulation provides for special import requirements for *Momordica* L. fruits originating from all third countries, specific import requirements for *Momordica charantia* L. fruits originating in Honduras, Mexico, Sri Lanka and Thailand should be added to Annex VII to Implementing Regulation (EU) 2019/2072.
- (11) Implementing Regulations (EU) 2018/2019 and (EU) No 2019/2072 should therefore be amended accordingly.
- (12) In order to comply with the obligations for the European Union resulting from the World Trade Organization agreement on the application of sanitary and phytosanitary measures ⁽⁹⁾, the import of *Momordica charantia* L. fruits originating in Honduras, Mexico, Sri Lanka and Thailand should resume within the shortest possible delay. Therefore, this Regulation should enter into force on the third day following that of its publication.
- (13) 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

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.

⁽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 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) 2019/2072**

Annex VII to Implementing Regulation (EU) 2019/2072 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, 31 May 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

In the table in point 3 of the Annex to Implementing Regulation (EU) 2018/2019, the text in the second column, 'Description', is replaced by the following:

'*Momordica* L., other than fruits of *Momordica charantia* L. originating in Honduras, Mexico, Sri Lanka and Thailand'

Annex VII to Implementing Regulation (EU) 2019/2072 is amended as follows:

a) Point 71 is replaced by the following:

	Plants, plant products and other objects	CN codes	Origin	Special requirements
'71	Fruits of <i>Momordica</i> L., other than fruits of <i>Momordica charantia</i> L. originating in Honduras, Mexico, Sri Lanka, and Thailand	ex 0709 99 90	Third countries	Official statement that the fruits originate in: (a) a country recognised as being free from <i>Thrips palmi</i> Karny in accordance with the relevant International Standards for Phytosanitary Measures, provided that this freedom status has been communicated in advance in writing to the Commission by the national plant protection organisation of the third country concerned, or (b) an area established by the national plant protection organisation in the country of origin as being free from <i>Thrips palmi</i> Karny in accordance with the relevant International Standard for Phytosanitary Measures, which is mentioned on the phytosanitary certificate, provided that this freedom status has been communicated in advance in writing to the Commission by the national plant protection organisation of the third country concerned.'

b) The following point 71.1 is inserted between points 71 and 72:

'71.1	Fruits of <i>Momordica charantia</i> L.	ex 0709 99 90	Honduras, Mexico, Sri Lanka, and Thailand	Official statement that the fruits: (a) originate in an area established by the national plant protection organisation in the country of origin as being free from <i>Thrips palmi</i> Karny, in accordance with the relevant International Standard for Phytosanitary Measures, which is mentioned on the phytosanitary certificate, provided that this freedom status has been communicated in advance in writing to the Commission by the national plant protection organisation of the third country concerned, or (b) originate in a site of production with physical protection against <i>Thrips palmi</i> Karny, and immediately prior to export, have been found free of that pest and/or symptoms of it by an official inspection of a representative sample, defined in accordance with international standard ISPM31 (¹),
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				and have been handled and packaged in ways to prevent infestation with <i>Thrips Palmi</i> Karny after leaving the site of production, and information on traceability is included in the phytosanitary certificate. or (c) have been produced following an effective systems approach to ensure freedom from <i>Thrips palmi</i> Karny, which includes at least the fulfilment of all of the following requirements: (i) the site of production: — has been equipped with sticky traps to detect <i>Thrips palmi</i> Karny during the entire production cycle, — has been subjected to at least thrice-a-week inspections and found free of symptoms and/or the pest of concern, during the entire production cycle; in case of suspicion of the presence of <i>Thrips palmi</i> Karny, appropriate treatments have been carried out to ensure the absence of that pest, — has been subjected to effective weed control to eliminate alternative hosts of <i>Thrips palmi</i> Karny, and (ii) the fruits were subject to effective cultural control measures against <i>Thrips palmi</i> Karny and those measures have been communicated in advance in writing to the Commission by the national plant protection organisation of the third country concerned, and (iii) the harvested fruits have been: — handled and transported to the packaging houses in a way that prevents infestation after leaving the site of production, — brushed and washed with water containing a disinfectant to ensure freedom from larvae or adults of <i>Thrips palmi</i> Karny,
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				— handled and packaged in ways that prevent infestation after leaving the packaging house, — immediately prior to export, found free of symptoms of <i>Thrips palmi</i> Karny by an official inspection of a representative sample, defined in accordance with international standard ISPM31, (iv) information on traceability is included in the phytosanitary certificate.
(¹) ISPM 31. Methodologies for sampling of consignments (fao.org)				