

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1217

of 25 August 2020

on a derogation from Implementing Regulation (EU) 2019/2072 concerning the introduction into the Union of naturally or artificially dwarfed plants for planting of *Chamaecyparis* Spach, *Juniperus* L. and certain species of *Pinus* L., originating in Japan, and repealing Decision 2002/887/EC

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 Articles 30(1), 40(1) and 41(1) thereof,

Whereas:

- (1) Regulation (EU) 2016/2031 has repealed and replaced Council Directive 2000/29/EC⁽²⁾, while Commission Implementing Regulation (EU) 2019/2072⁽³⁾ has replaced Annexes I to V to that Directive.
- (2) Article 7 in conjunction with point 1 of Annex VI to Implementing Regulation (EU) 2019/2072 prohibits the introduction into the Union of plants for planting of *Chamaecyparis* Spach, *Juniperus* L. and *Pinus* L., other than fruit and seeds. Previously the respective prohibition was set out in Article 4(1) in conjunction with point 1, Part A of Annex III to Directive 2000/29/EC.
- (3) Commission Decision 2002/887/EC⁽⁴⁾ authorised the Member States to provide for derogations from Article 4(1) of Directive 2000/29/EC, with regard to the prohibitions referred to in point 1, Part A of Annex III to that Directive, for naturally or artificially dwarfed plants of *Chamaecyparis* Spach, *Juniperus* L. and certain species of *Pinus* L., other than fruit and seeds, originating in Japan.
- (4) On 3 August 2017, Japan submitted a request for extending that authorisation also to naturally or artificially dwarfed plants of black pine bonsai (*Pinus thunbergii* Parl.) and provided a technical information in support of that request.
- (5) In May 2019, the European Food Safety Authority (EFSA) delivered a scientific opinion evaluating the plant health risks from black pine bonsai imported from Japan⁽⁵⁾. That scientific opinion was based on the available scientific and technical information provided by Japan, concluding on the likelihood of pest freedom as regards the pests that could be associated with that commodity if certain conditions are fulfilled.

⁽¹⁾ OJ L 317, 23.11.2016, p. 4.

⁽²⁾ 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).

⁽³⁾ 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).

⁽⁴⁾ Commission Decision 2002/887/EC of 8 November 2002 authorising derogations from certain provisions of Council Directive 2000/29/EC in respect of naturally or artificially dwarfed plants of *Chamaecyparis* Spach, *Juniperus* L. and *Pinus* L., originating in Japan (OJ L 309, 12.11.2002, p. 8).

⁽⁵⁾ EFSA Panel on Plant Health, 2019. Scientific Opinion on the commodity risk assessment of black pine (*Pinus thunbergii* Parl.) bonsai from Japan. *EFSA Journal* 2019;17(5):5667, 184 pp. <https://doi.org/10.2903/j.efsa.2019.5667>

- (6) Some of the pests concerned are not yet listed as Union quarantine pests but might fulfil the criteria to be listed as such, thus they should be subject to provisional measures set out in Article 30(1) of Regulation (EU) 2016/2031. On the basis of the EFSA scientific opinion, the conditions for import of *Pinus thunbergii* Parl. bonsai plants from Japan ensuring certain level of pest freedom are deemed to be acceptable and a derogation should be granted for their introduction into the Union, for an initial period until 31 December 2023, in order to allow for a review of those measures.
- (7) In October 2019, Japan also submitted a request for prolongation of the derogation granted by Decision 2002/887/EC for *Chamaecyparis* Spach, *Juniperus* L. and certain species of *Pinus* L. The circumstances justifying granting this derogation pursuant to Decision 2002/887/EC still apply and the phytosanitary risks from introduction of these commodities remain low. Since there is no new information giving cause for revision of the specific conditions therein, such prolongation of the derogation should be granted. However, the list of pests of concern for *Pinus* sp. should be updated to cover recent changes in taxonomy and the new scientific information in the EFSA scientific opinion.
- (8) That derogation should be subject to the same requirements as set out in Decision 2002/887/EC. Those requirements should apply without prejudice to Implementing Regulation (EU) 2019/2072, and especially the requirements set out in point 30 of Annex VII to that Regulation concerning the introduction into the Union of naturally or artificially dwarfed plants for planting other than seeds.
- (9) As Directive 2000/29/EC has been repealed and replaced by Regulation (EU) 2016/2031, Decision 2002/887/EC should be repealed and replaced by this Regulation for reasons of clarity and legal consistency.
- (10) The derogation provided for in this Regulation should apply until 31 December 2023 to allow for its review.
- (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

Definition

For the purposes of this Regulation, 'specified plants' shall mean naturally or artificially dwarfed plants for planting of the following species:

- *Chamaecyparis* sp. Spach,
- *Juniperus* sp. L.,
- *Pinus parviflora* Sieb. & Zucc. (*Pinus pentaphylla* Mayr),
- *Pinus thunbergii* Parl.,
- *Pinus parviflora* Sieb. & Zucc., grafted on a rootstock of another *Pinus* species, originating in Japan, and
- *Pinus thunbergii* Parl. grafted on a rootstock of another *Pinus* species, originating in Japan.

*Article 2***Derogation from the prohibition to introduce into the Union the specified plants**

By way of derogation from Article 7 and point 1 of Annex VI to Implementing Regulation (EU) 2019/2072, the specified plants are allowed to be introduced in the Union, if they comply with the conditions set out in the Annex to this Regulation.

*Article 3***Periods of application of the derogation**

The derogation provided for in Article 2 applies to the specified plants imported into the Union in the following periods:

- (a) *Chamaecyparis*: from 1 October 2020 to 31 December 2023;
- (b) *Juniperus*: from 1 November to 31 March each year until 31 December 2023;
- (c) *Pinus L.*: from 1 October 2020 to 31 December 2023.

*Article 4***Repeal of Decision 2002/887/EC**

Decision 2002/887/EC is repealed.

*Article 5***Entry into force and application**

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, 25 August 2020.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Conditions for the introduction into the Union of the specified plants in accordance with Article 2

1. In the case where the specified plants are *Pinus parviflora* Sieb. & Zucc. or *Pinus thunbergii* Parl. grafted on a rootstock of another *Pinus* species, the rootstock shall not bear any shoots.
2. The total number of the specified plants imported shall not exceed the quantities that have been determined for each year and notified to the Commission and the other Member States by the importing Member State, having regard to the available confinement facilities or quarantine stations.
3. Prior to export to the Union, the specified plants shall have been grown, held and trained for at least two consecutive years in officially registered nurseries, which are subject to a control regime by the National Plant Protection Organisation ('NPPO') of Japan. The annual lists of the officially registered nurseries shall be made available to the Commission, by 31 October of each year. Those lists shall include the number of plants grown in each of these nurseries, as far as they are deemed suitable for introduction into the Union pursuant to this Regulation.
4. In the case of *Juniperus* plants, the plants of the genera *Chaenomeles* Lindl., *Crataegus* L., *Cydonia* Mill., *Juniperus* L., *Malus* Mill., *Photinia* Ldl. and *Pyrus* L., which have been grown in the two last years prior to import in the naturally or artificially dwarfed plants nurseries mentioned in point 3 and in their immediate vicinity, shall have been officially inspected at least six times a year at appropriate intervals for the presence of the pests of concern. In the case of *Chamaecyparis* and *Pinus* plants, the plants of the genus *Chamaecyparis* Spach and of the genus *Pinus* L. which have been grown in those naturally or artificially dwarfed plants nurseries and in their immediate vicinity shall have been officially inspected at least six times a year at appropriate intervals, for the presence of pests of concern.

The pests of concern are:

(a) for *Juniperus* plants:

- (i) *Aschistonyx eppoi* Inouye,
- (ii) *Gymnosporangium asiaticum* Miyabe ex Yamada and *G. yamadae* Miyabe ex Yamada,
- (iii) *Oligonychus perditus* Pritchard et Baker,
- (iv) *Popillia japonica* Newman,
- (v) any other quarantine pest or pest subject to the measures referred to in Article 30 of Regulation (EU) 2016/2031 which is not known to occur in the Union;

(b) for *Chamaecyparis* plants:

- (i) *Popillia japonica* Newman,
- (ii) any other quarantine pest or pest subject to the measures referred to in Article 30 of Regulation (EU) 2016/2031 which is not known to occur in the Union;

(c) for *Pinus parviflora* Sieb. & Zucc. (*Pinus pentaphylla* Mayr) plants:

- (i) *Bursaphelenchus xylophilus* (Steiner and Bühner) Nickle et al.,
- (ii) *Coleosporium paederiae* Dietel ex Hirats. f.,
- (iii) *Crisicoccus pini* (Kuwana),
- (iv) *Cronartium kurilense* (Dietel) Y. Ono,
- (v) *Cronartium quercuum* (Berk.) Miyabe ex Shirai,
- (vi) *Dendrolimus sibiricus* Chetverikov,
- (vii) *Dendrolimus spectabilis* (Butler),
- (viii) *Dendrolimus superans* Butler,
- (ix) *Monochamus* spp. (non-European populations),
- (x) *Pissodes nitidus* Roelofs,
- (xi) *Popillia japonica* Newman,

- (xii) *Pseudocercospora pini-densiflorae* (Hori & Nambu) Deighton,
 - (xiii) *Thecodiplosis japonensis* Uchida & Inouye,
 - (xiv) any other quarantine pest or pest subject to the measures referred to in Article 30 of Regulation (EU) 2016/2031 which is not known to occur in the Union;
- (d) for *Pinus thunbergii* Parl plants:
- (i) *Bursaphelenchus xylophilus* (Steiner and Bührer) Nickle et al.,
 - (ii) *Coleosporium asterum* (Dietel) Sydow & P.Sydow,
 - (iii) *Coleosporium phellodendri* Komarov,
 - (iv) *Crisicoccus pini* (Kuwana),
 - (v) *Cronartium orientale* Kaneko,
 - (vi) *Dendrolimus sibiricus* Chetverikov,
 - (vii) *Dendrolimus spectabilis* (Butler),
 - (viii) *Dendrolimus superans* Butler,
 - (ix) *Dothistroma septosporum* (Dorogin) Morelet,
 - (x) *Fusarium circinatum* Nirenberg & O'Donnell,
 - (xi) *Monochamus* spp. (non-European populations),
 - (xii) *Pissodes nitidus* Roelofs,
 - (xiii) *Popillia japonica* Newman,
 - (xiv) *Pseudocercospora pini-densiflorae* (Hori & Nambu) Deighton,
 - (xv) *Sirex nitobei* Mats.,
 - (xvi) *Thecodiplosis japonensis* Uchida & Inouye,
 - (xvii) *Urocera japonicus* (F. Sm.),
 - (xviii) any other quarantine pest or pest subject to the measures referred to in Article 30 of Regulation (EU) 2016/2031 which is not known to occur in the Union.
5. The specified plants shall have been found free, in those inspections, from the pests of concern listed in points (a) to (d). Infested plants shall be removed by the NPPO, or the competent national bodies or professional operators under the official supervision of the NPPO of Japan. The remaining specified plants shall be effectively treated and held for an appropriate period and inspected to ensure freedom from such pests.
- Any detection of pests of concern specified in point 4, during the inspections carried out pursuant to point 4, shall be officially recorded, and the records shall be made available to the Commission, upon request. Any detection of any of the pests of concern shall disqualify the nursery from the status of officially registered nursery. The Commission shall be informed immediately thereof. In such case, the registration may only be renewed in the following year at the earliest.
6. The specified plants intended for export to the Union, shall at least during the period of two consecutive years referred to in point 3:
- (a) be potted in pots which are placed either on shelves at least 50 cm above ground or onto concrete flooring, impenetrable for nematodes, which is well maintained and free from debris; and
 - (b) be found free, in the inspections referred to in point 4, from the pests of concern; and
 - (c) if they belong to the genus *Pinus* L. and in the case of grafting on a rootstock of a *Pinus* species other than *Pinus parviflora* Sieb. & Zucc. or *Pinus thunbergii* Parl., have a rootstock derived from sources officially approved as healthy material; and
 - (d) be made recognisable with a marking or a traceability code, exclusive for each individual plant and notified to the NPPO of Japan, enabling the identification of the officially registered nursery and the year of potting.

7. The specified plants have been traceable from the time of their removal from the nursery until the time of loading for export, through sealing of transport vehicles or appropriate alternatives.
8. The specified plants and the adhering or associated growing medium ('the material') shall be accompanied by a phytosanitary certificate, issued by the NPPO of Japan, attesting compliance with the requirements specified in points 1 to 7 of this Implementing Regulation, and in point 30 of Annex VII to Regulation (EU) 2019/2072.

The certificate shall indicate:

- (a) the name or the names of the officially registered nursery or officially registered nurseries;
 - (b) the markings or traceability codes referred to in point 6(d), as far as they enable identification of the registered nursery and the year of potting;
 - (c) the specification of the last treatment applied, prior to dispatch;
 - (d) under 'Additional Declaration', the statement 'This consignment meets the conditions laid down in Commission Implementing Regulation (EU) 2020/1217'.
9. The operator responsible for the consignment shall complete and submit the relevant part of the Common Health Entry Document (CHED) into the IMSOC, indicating at least the following information regarding each consignment of specified plants:
 - (a) the type of material,
 - (b) the quantity of material,
 - (c) the declared date of import,
 - (d) the officially approved site where the specified plants will be held under the post-entry detention referred to in point 10.

Member States shall officially inform the importers, prior to the introduction, of the conditions laid down in points 1 to 12.

10. Before the material is released, it shall be subject to official post-entry detention in a confinement facility or quarantine station.
 - (a) in the case of *Pinus* and *Chamaecyparis* plants, for a period of not less than three months of active growth; and
 - (b) in the case of *Juniperus* plants, for a period from 1 April until 30 June of each year.

The material shall also be found free, during this post-entry detention period, from any pests of concern listed in point 4. Particular attention shall be given by the competent authority or the professional operators to preserve for each plant the marking or traceability code, referred to in point 6(d).

11. Any lot containing material which has not been found free from the pests of concern, during the post-entry detention period, referred to in point 10, shall be immediately destroyed by the competent authority or the professional operator under the official supervision of the competent authority.
 12. Member States shall notify, to the Commission and to the other Member States, any contamination by the pests of concern, which has been confirmed during the post-entry detention period, referred to in point 10. In such case, the relevant nursery in Japan shall be disqualified from the official registered nursery status. The Commission shall immediately inform Japan thereof.
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