



18 May 2022

(22-3824)

Page: 1/2

Committee on Sanitary and Phytosanitary Measures

Original: English

**NOTIFICATION**

<b>1. Notifying Member:</b> <u>EUROPEAN UNION</u> <b>If applicable, name of local government involved:</b>
<b>2. Agency responsible:</b> European Commission, Health and Food Safety Directorate-General
<b>3. Products covered (provide tariff item number(s) as specified in national schedules deposited with the WTO; ICS numbers should be provided in addition, where applicable):</b> Plants for planting, that have a stem or root collar diameter of 1 cm or more at their thickest point, of <i>Acer</i> spp., <i>Aesculus hippocastanum</i> , <i>Alnus</i> spp., <i>Betula</i> spp., <i>Carpinus</i> spp., <i>Citrus</i> spp., <i>Cornus</i> spp., <i>Corylus</i> spp., <i>Cotoneaster</i> spp., <i>Crataegus</i> spp., <i>Fagus</i> spp., <i>Lagerstroemia</i> spp., <i>Malus</i> spp., <i>Melia</i> spp., <i>Ostrya</i> spp., <i>Photinia</i> spp., <i>Platanus</i> spp., <i>Populus</i> spp., <i>Prunus laurocerasus</i> , <i>Pyrus</i> spp., <i>Rosa</i> spp., <i>Salix</i> spp., <i>Ulmus</i> spp. and <i>Vaccinium corymbosum</i>
<b>4. Regions or countries likely to be affected, to the extent relevant or practicable:</b> <input checked="" type="checkbox"/> <b>All trading partners</b> <input type="checkbox"/> <b>Specific regions or countries:</b>
<b>5. Title of the notified document:</b> Draft Commission Implementing Regulation (EU) establishing measures to prevent the introduction into, establishment and spread within the Union territory of <i>Anoplophora chinensis</i> (Forster) and repealing Decision 2012/138/EU. <b>Language(s):</b> English. <b>Number of pages:</b> 21 <a href="https://members.wto.org/crnattachments/2022/SPS/EEC/22_3462_00_e.pdf">https://members.wto.org/crnattachments/2022/SPS/EEC/22_3462_00_e.pdf</a> <a href="https://members.wto.org/crnattachments/2022/SPS/EEC/22_3462_01_e.pdf">https://members.wto.org/crnattachments/2022/SPS/EEC/22_3462_01_e.pdf</a>
<b>6. Description of content:</b> Update of the current EU phytosanitary measures for <i>Anoplophora chinensis</i> , including the import requirements, strengthened surveillance and update of the list of host plants.
<b>7. Objective and rationale:</b> <input type="checkbox"/> food safety, <input type="checkbox"/> animal health, <input type="checkbox"/> plant protection, <input checked="" type="checkbox"/> protect humans from animal/plant pest or disease, <input type="checkbox"/> protect territory from other damage from pests.
<b>8. Is there a relevant international standard? If so, identify the standard:</b> <input type="checkbox"/> <b>Codex Alimentarius Commission (e.g. title or serial number of Codex standard or related text):</b> <input type="checkbox"/> <b>World Organization for Animal Health (OIE) (e.g. Terrestrial or Aquatic Animal Health Code, chapter number):</b> <input type="checkbox"/> <b>International Plant Protection Convention (e.g. ISPM number):</b> <input checked="" type="checkbox"/> <b>None</b> <b>Does this proposed regulation conform to the relevant international standard?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No

	<b>If no, describe, whenever possible, how and why it deviates from the international standard:</b>
<b>9.</b>	<b>Other relevant documents and language(s) in which these are available:</b>
<b>10.</b>	<b>Proposed date of adoption (dd/mm/yy):</b> To be determined. <b>Proposed date of publication (dd/mm/yy):</b> To be determined.
<b>11.</b>	<b>Proposed date of entry into force:</b> <input type="checkbox"/> <b>Six months from date of publication, and/or (dd/mm/yy):</b> 20 days from the date of publication and for the import requirements on 1 July 2024. <input type="checkbox"/> <b>Trade facilitating measure</b>
<b>12.</b>	<b>Final date for comments:</b> <input checked="" type="checkbox"/> <b>Sixty days from the date of circulation of the notification and/or (dd/mm/yy):</b> 17 July 2022 <b>Agency or authority designated to handle comments:</b> <input checked="" type="checkbox"/> <b>National Notification Authority, [X] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b>  European Commission DG Health and Food Safety, Unit D2-Multilateral International Relations Rue Froissart 101 B-1049 Brussels Tel: +(32 2) 29 54263 Fax: +(32 2) 29 98090 E-mail: <a href="mailto:sps@ec.europa.eu">sps@ec.europa.eu</a>
<b>13.</b>	<b>Text(s) available from:</b> <input checked="" type="checkbox"/> <b>National Notification Authority, [X] National Enquiry Point. Address, fax number and e-mail address (if available) of other body:</b>  European Commission DG Health and Food Safety, Unit D2-Multilateral International Relations Rue Froissart 101 B-1049 Brussels Tel: +(32 2) 29 54263 Fax: +(32 2) 29 98090 E-mail: <a href="mailto:sps@ec.europa.eu">sps@ec.europa.eu</a>



EUROPEAN  
COMMISSION

Brussels, **XXX**  
SANTE/11096/2021 feedback  
(POOL/G1/2021/11096/11096-EN.docx)  
[...] (2022) **XXX** draft

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

**of **XXX****

**establishing measures to prevent the introduction into, establishment and spread within  
the Union territory of *Anoplophora chinensis* (Forster) and repealing Decision  
2012/138/EU**

*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**

**establishing measures to prevent the introduction into, establishment and spread within the Union territory of *Anoplophora chinensis* (Forster) and repealing Decision 2012/138/EU**

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<sup>1</sup>, and in particular Article 28(1) and (2) and Article 41(2) thereof,

Whereas:

- (1) Commission Implementing Decision 2012/138/EU<sup>2</sup> provides for measures to prevent the introduction into, and the spread within, the Union territory of *Anoplophora chinensis* (Forster) ('the specified pest').
- (2) The recent outbreaks of the specified pest in some Member States and the experience gained during the application of Implementing Decision 2012/138/EU show the need to update those measures to have a more targeted approach for the surveillance and control of the specified pest in the Union territory.
- (3) Article 1, point (a), of Implementing Decision 2012/138/EU includes a list of specified plants, hosts of the specified pest on which that pest has been reported in the Union territory. Those specified plants are subject to requirements for introduction into, movement within the Union territory, and eradication or containment of that pest.
- (4) These specified plants are still of phytosanitary concern. Therefore, this Regulation should also provide for such a list of specified plants, subject to the respective measures. Following findings of the specified pest on *Vaccinium corymbosum*, *Melia* spp., *Ostrya* spp. and *Photinia* spp. plants and since those plants are host plants of the specified pest, they should be added to that list.
- (5) The host plants present in the Union territory, namely plants of *Acer* spp., *Aesculus hippocastanum*, *Alnus* spp., *Betula* spp., *Carpinus* spp., *Chaenomeles* spp., *Citrus* spp., *Cornus* spp., *Corylus* spp., *Cotoneaster* spp., *Crataegus* spp., *Cryptomeria* spp., *Hibiscus* spp., *Fagus* spp., *Ficus* spp., *Lagerstroemia* spp., *Malus* spp., *Melia* spp., *Morus* spp., *Ostrya* spp., *Parrotia* spp., *Photinia* spp., *Platanus* spp., *Populus* spp., *Prunus laurocerasus*, *Pyrus* spp., *Rosa* spp., *Salix* spp. and *Ulmus* spp. and *Vaccinium*

<sup>1</sup> OJ L 317, 23.11.2016, p. 4.

<sup>2</sup> Commission Implementing Decision 2012/138/EU of 1 March 2012 as regards emergency measures to prevent the introduction into and the spread within the Union of *Anoplophora chinensis* (Forster) (OJ L 64, 3.3.2012, p. 38).

*corymbosum*, should be subject to annual surveillance in order to ensure that their list is up-to-date and based on the technical and scientific developments.

- (6) In order to ensure a better overview of the presence of the specified pest, Member States should intensify the annual surveys for that presence and employ methods in line with the latest scientific and technical information.
- (7) In order to eradicate the specified pest and prevent its spread in the Union territory, Member States should establish demarcated areas consisting of an infested zone and a buffer zone and apply eradication measures. The width of a buffer zone should be 2 km, as this is appropriate taking into account the spreading capacity of the specified pest.
- (8) However, in cases of isolated occurrences of the specified pest, the establishment of a demarcated area should not be required if the specified pest can be eliminated from those plants, and if there is evidence that those plants were infested before their introduction into the area, or that it is an isolated finding, not expected to lead to establishment. This is the most proportionate approach, as long as the surveys carried out in the area concerned confirm the absence of the specified pest.
- (9) In certain areas of the Union territory, the eradication of the specified pest is no longer possible. The Member States concerned should therefore be allowed to apply measures for the containment of that pest within those areas, instead of eradication. Those measures should be less stringent than the measures for eradication, but they should ensure a diligent survey approach and more precautionary actions, mainly in the respective buffer zones, in order to prevent the spread of the specified pest to the rest of the Union territory.
- (10) Member States should notify to the Commission and to the other Member States every demarcated area for containment that they intend to designate or modify, in order for the Commission to obtain an overview of the spread of the specified pest in the Union territory, and to be able to review this Regulation and include that area in a list of demarcated areas for containment.
- (11) In order to ensure the immediate removal of the infested plants and prevent further spread of the specified pest to the rest of the Union territory, the surveys of the buffer zones should be carried out annually at the most appropriate time of the year and with sufficient intensity, taking into account the possibility for the competent authorities to further monitor the host plants in the infested zones for containment.
- (12) Plant species, which are known to be susceptible to the specified pest detected in the demarcated area and which have been grown for at least part of their life in that demarcated area or have been moved through such an area, are more likely to become infested with the specified pest. Therefore, it is justified to establish special requirements for the movement within the Union territory of the specified plants.
- (13) With the aim of facilitating trade while protecting plant health, host plants originating in a third country where that pest is not present should, when introduced into the Union territory, be accompanied by a phytosanitary certificate including an additional declaration stating that that country is free from the specified pest.
- (14) In order to ensure that host plants introduced into the Union territory from areas of third countries where the specified pest is known to be present, are free from the specified pest, the requirements for their introduction into the Union territory should be similar to those set out for movement of specified plants originating in demarcated areas.

- (15) In light of the latest scientific and technical evidence, survey activities carried out by third countries to confirm the absence of the specified pest in areas of their territory or in production sites authorised to export to the Union territory should be intensified.
- (16) It is appropriate to establish rules concerning official checks on movements of the specified plants out of the demarcated areas to the rest of the Union territory, and the introduction into the Union territory of host plants from third countries.
- (17) Implementing Decision 2012/138/EU should be repealed.
- (18) As regards survey activities carried out in areas of the Union territory where the specified pest is known not to occur or in areas or production sites of third countries, it is appropriate to allow sufficient time to Member States and third countries to design those activities so that they provide sufficient level of statistical confidence required. Therefore, the requirements relating to those survey activities should apply from 1 January 2025.
- (19) The provisions concerning the conduct of surveys in demarcated areas on the basis of the European Food Safety Authority's ('the Authority') General guidelines for statistically sound and risk-based surveys for plant pests<sup>3</sup> should apply from 1 January 2025 in order to allow sufficient time for the competent authorities to plan, prepare the design and allocate sufficient resources for such surveys.
- (20) The provisions concerning the contingency plans should apply from 1 August 2023 in order to allow sufficient time for Member States to prepare those plans.
- (21) The requirements concerning the introduction of specified plants into the Union territory from third countries should apply from 1 July 2024 in order to allow sufficient time for the Member States, the third countries and the professional operators concerned to prepare for the implementation of those requirements.
- (22) The phytosanitary risk of the specified pest for the Union territory needs to be further assessed, as the full range of host plants is still to be determined on the basis of its spread within the Union territory and any technical and scientific evidence collected from the rest of the world. This Regulation should therefore apply until 31 December 2029 to allow for that further assessment and its review.
- (23) 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:

## **CHAPTER I**

### **SUBJECT MATTER AND DEFINITIONS**

#### *Article 1*

#### **Subject matter**

This Regulation sets out measures to prevent the introduction into, the establishment and spread within the Union territory of *Anoplophora chinensis* (Forster), and its eradication or containment if found present in that territory.

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<sup>3</sup> EFSA, General guidelines for statistically sound and risk-based surveys of plant pests, 8 September 2020, DOI:10.2903/sp.efsa.2020.EN-1919.

*Article 2*  
**Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) ‘specified pest’ means *Anoplophora chinensis* (Forster);
- (2) ‘specified plants’ means plants for planting, that have a stem or root collar diameter of 1 cm or more at their thickest point, of *Acer* spp., *Aesculus hippocastanum*, *Alnus* spp., *Betula* spp., *Carpinus* spp., *Citrus* spp., *Cornus* spp., *Corylus* spp., *Cotoneaster* spp., *Crataegus* spp., *Fagus* spp., *Lagerstroemia* spp., *Malus* spp., *Melia* spp., *Ostrya* spp., *Photinia* spp., *Platanus* spp., *Populus* spp., *Prunus laurocerasus*, *Pyrus* spp., *Rosa* spp., *Salix* spp., *Ulmus* spp. and *Vaccinium corymbosum*;
- (3) ‘place of production’ means a place of production as defined in the FAO International Standard for Phytosanitary Measures (‘ISPM’) No 5 <sup>(4)</sup>;
- (4) ‘host plants’ means plants for planting, that have a stem or root collar diameter of 1 cm or more at their thickest point, of *Acer* spp., *Aesculus hippocastanum*, *Alnus* spp., *Betula* spp., *Carpinus* spp., *Chaenomeles* spp., *Citrus* spp., *Cornus* spp., *Corylus* spp., *Cotoneaster* spp., *Crataegus* spp., *Cryptomeria* spp., *Hibiscus* spp., *Fagus* spp., *Ficus* spp., *Lagerstroemia* spp., *Malus* spp., *Melia* spp., *Morus* spp., *Ostrya* spp., *Parrotia* spp., *Photinia* spp., *Platanus* spp., *Populus* spp., *Prunus laurocerasus*, *Pyrus* spp., *Rosa* spp., *Salix* spp., *Ulmus* spp. and *Vaccinium corymbosum*;
- (5) ‘sentinel plants’ means specified plants specifically planted to support the early detection of the specified pest and used for surveillance.

**CHAPTER II**  
**ANNUAL SURVEYS FOR THE PRESENCE OF THE**  
**SPECIFIED PEST AND CONTINGENCY PLANS**

*Article 3*

**Surveys of the host plants in Member States**

1. Competent authorities shall carry out annual risk-based surveys of the host plants in the areas of their territories where the specified pest is not known to occur for the presence of the specified pest.  

The design and sampling scheme of those surveys shall allow to detect, within the Member State concerned, with a sufficient level of confidence, a low level of presence of infested plants. The surveys shall be based on the Authority’s General guidelines for statistically sound and risk-based surveys for plant pests.
2. The surveys shall be carried out:
  - (a) on the basis of the level of the respective phytosanitary risk;
  - (b) in open air, as well as in nurseries, garden centres, trading centres, natural and urban areas and other relevant sites as appropriate;

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<sup>4</sup> Glossary of Phytosanitary Terms — Reference Standard ISPM No 5 by the Secretariat of the International Plant Protection Convention, Rome.

- (c) at appropriate times of the year with regard to the possibility to detect the specified pest, taking into account the biology of that pest, the presence and biology of host plants, and the scientific and technical information referred to in the Authority's Pest Survey Card on *Anoplophora chinensis*<sup>5</sup>.
3. The surveys shall consist of:
- (a) visual examination of host plants; and
  - (b) where appropriate, collection of samples and testing of plants for planting.

In order to complement visual examinations specifically trained sniffer dogs may be used, where appropriate.

#### *Article 4*

### **Contingency plans**

1. Each Member State shall, in addition to the obligations provided for in Article 25 of Regulation (EU) 2016/2031, establish a contingency plan setting out the actions to be taken in its territory concerning:
- (a) the eradication of the specified pest, as set out in Article 8;
  - (b) the movements of specified plants within the Union territory, as set out in Article 10;
  - (c) the official inspections to be carried out on movements of specified plants within the Union territory and of host plants into the Union territory, as set out in Articles 10 and 11;
  - (d) the minimum resources to be made available and the procedures for making those additional resources available in case of a suspected or confirmed presence of the specified pest;
  - (e) rules detailing the procedures for identifying the owners of the plants to be removed, notifying the order of removal and accessing private properties.
2. Member States shall update their contingency plans, as appropriate, by 31 December of each year.

## **CHAPTER III**

## **DEMARCATED AREAS**

#### *Article 5*

### **Establishment of demarcated areas**

1. Where the presence of the specified pest is officially confirmed, the Member State concerned shall without delay establish a demarcated area consisting of:
- (a) a zone including the infested plants and all specified plants which are liable to become infested within a 100 m radius around infested plants (“infested zone”);

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<sup>5</sup> EFSA (European Food Safety Authority), 2020. Story map for survey of *Anoplophora chinensis*. EFSA supporting publication 2020:EN-1825. Available online: <https://arcg.is/19HTyn>. Last updated: 24 March 2020.

- (b) a buffer zone with a width of at least 2 km beyond the boundary of the infested zone.
2. The delimitation of the demarcated area shall be based on the scientific principles, the biology of the specified pest, the level of infestation, the particular distribution of the host plants in the area concerned and the evidence on the establishment of the specified pest.
  3. For the purposes of taking eradication measures referred to in Article 8 and where the competent authority concludes that eradication of the specified pest is possible, taking into account the circumstances of the outbreak, such as its size and location, the level of infestation or the number and distribution of host plants, the width of the buffer zone may be reduced to not less than 1 km.
  4. For the purposes of taking containment measures referred to in Article 9, the buffer zone shall be of a width of at least 4 km.  
  
The width of the buffer zone may be reduced to not less than 2 km, taking into account the circumstances of the outbreak, such as its size and location, the level of infestation or the number and distribution of host plants.
  5. Where the presence of the specified pest has been officially confirmed in the buffer zone of a demarcated area for containment, Articles 17 and 18 of Regulation (EU) 2016/2031 shall apply.

#### *Article 6*

##### **Derogations from the establishment of demarcated areas**

1. By way of derogation from Article 5, the competent authorities may choose not to establish a demarcated area if the following conditions are fulfilled:
  - (a) there is evidence that the specified pest has been introduced into the area with the plants on which it was found and those plants were infested before their introduction into the area concerned, or it is an isolated finding, not expected to lead to establishment; and
  - (b) it is ascertained that there is no establishment of the specified pest and the spread and successful breeding of the specified pest is not possible due to its biology, based on the results of a specific investigation and eradication measures taken.
2. Where the competent authority uses the derogation provided for in paragraph 1, it shall:
  - (a) immediately take measures to ensure the prompt eradication of the specified pest and to exclude the possibility of its spread;
  - (b) during at least one life cycle of the specified pest plus one additional year, and at least four consecutive years, monitor a width of at least 1 km around the infested plants or the place where the specified pest was found, regularly and intensively at least during the first year;
  - (c) destruct any infested plant material;
  - (d) trace back the origin of the infestation and the plants associated with the infestation as far as possible and examine those plants for any sign of infestation, including by targeted destructive sampling;

- (e) raise public awareness of the threat of the specified pest; and
- (f) take any other measure, which may help eradicate the specified pest, taking account of ISPM No 9<sup>6</sup> and applying an integrated approach in accordance with the principles set out in ISPM No 14<sup>7</sup>.

*Article 7*

**Lifting of demarcation**

1. The demarcation may be lifted when, based on the surveys referred to in Article 8(1), point (h), the specified pest is not detected in a demarcated area for at least one life cycle of the specified pest plus one additional year, in total no less than four consecutive years.

For the purposes of the first subparagraph, the exact length of the life cycle of the specified pest shall depend on evidence that is available for the area concerned or a similar climate zone.

2. The demarcation may also be lifted in cases where the conditions set out in Article 6(1) are fulfilled.

**CHAPTER IV**  
**ERADICATION AND CONTAINMENT MEASURES**

*Article 8*

**Eradication measures**

1. In the demarcated areas for eradication, the competent authorities shall take all of the following measures:
  - (a) immediate felling of infested plants and plants suspected to be infested, and complete removal of their roots;
  - (b) immediate felling of all specified plants and removal of their roots within a radius of 100 m around infested plants, and examination of those specified plants for any sign of infestation, except in cases where the infested plants were found outside the flying period of the specified pest, when the felling and removal shall be carried out in time before the start of the next flying period;
  - (c) removal, examination and safe disposal of plants felled in accordance with points (a) and (b) and of their roots, taking all necessary precautions to avoid spreading of the specified pest during and after felling;
  - (d) prohibition of any movement of potentially infested material out of the demarcated area;
  - (e) investigation of the origin of the infestation by the tracing of plants, as far as possible, and the examination of those plants for any sign of infestation, including targeted destructive sampling;

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<sup>6</sup> Guidelines for pest eradication programmes — Reference Standard ISPM No 9 by the Secretariat of the International Plant Protection Convention, Rome.

<sup>7</sup> The use of integrated measures in a systems approach for pest risk management — Reference Standard ISPM No 14 by the Secretariat of the International Plant Protection Convention, Rome.

- (f) replacement of specified plants by other non-susceptible plant species, where appropriate;
- (g) prohibition of planting of new specified plants in the open air in the area referred to in point (b), except for the places of production referred to in Article 10(1);
- (h) surveys carried out in accordance with Article 3(2) and (3), of the host plants in the demarcated area, with specific focus on the buffer zone, for the presence of the specified pest and including, where appropriate, targeted destructive sampling carried out by the competent authority and with an indication of the number of samples in the report referred to in Article 13(1);
- (i) in the cases of sentinel plants, those plants shall be subject of inspections at least once a month and shall be destroyed and examined after two years at the latest;
- (j) raising public awareness of the threat of the specified pest and the measures adopted to prevent its introduction into and spread within the Union territory, including the conditions regarding movement of specified plants from the demarcated area;
- (k) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay eradication, in particular those related to the accessibility and adequate eradication of all plants that are infested or suspected of infestation, irrespective of their location, public or private ownership or the person or entity responsible for them;
- (l) any other measure which may contribute to the eradication of the specified pest, in accordance with International Standard for Phytosanitary Measure ('ISPM') No 9<sup>8</sup> and to applying a systems approach in accordance with the principles set out in ISPM No 14<sup>9</sup>.

In the case of the first subparagraph, point (a), where it is not possible to remove deeply seated stumps and surface roots, they shall be ground to not less than 40 cm, below the surface level, or covered by insect-proof material.

The surveys referred to in paragraph (1), point (h), shall be intensified compared to the surveys referred to in Article 3.

The surveys in the buffer zone shall be based on the Authority's General guidelines for statistically sound and risk-based surveys for plant pests and the survey design and sampling scheme used in the buffer zone shall be able to identify with at least 95% of confidence, a level of presence of infested plants of 1%.

2. By way of derogation from paragraph 1, first subparagraph, point (b), where a competent authority concludes that felling is inappropriate for a limited number of individual plants, due to their particular social, cultural or environmental value, those individual plants shall be subject to a monthly individual examination for any sign of infestation and measures alternative to felling ensuring high level of protection shall be taken to prevent any possible spread of the specified pest from those plants.

<sup>8</sup> Guidelines for pest eradication programmes — Reference Standard ISPM No 9 by the Secretariat of the International Plant Protection Convention, Rome. Published 15 December 2011.

<sup>9</sup> The use of integrated measures in a systems approach for pest risk management — Reference Standard ISPM No 14 by the Secretariat of the International Plant Protection Convention, Rome. Published 8 January 2014.

- (m) The reasons for such conclusion and the measures taken as a result of it shall be communicated to the Commission in the report under Article 13.

#### *Article 9*

#### **Containment measures**

1. When the results of the surveys referred to in Article 8(1), point (h), have confirmed the presence of the specified pest in an area during more than four consecutive years and there is evidence that the specified pest can no longer be eradicated, the competent authorities may limit the measures to the containment of the specified pest.

In the demarcated areas for containment, the competent authorities shall take the following measures:

- (a) immediate start of the felling of infested plants and plants with symptoms caused by the specified pest, and the complete removal of their roots, and completion of all activities in time before the start of the next flying period;
- (b) removal, examination and disposal of plants felled and of their roots, while taking the necessary precautions to avoid spreading of the specified pest after felling;
- (c) prohibition of any movement of potentially infested material out of the demarcated area;
- (d) where appropriate, replacement of specified plants by other non-susceptible plants;
- (e) prohibition of planting in the infested zone of new specified plants in the open air, except for places of production referred to in Article 10(1);
- (f) surveys carried out in accordance with Article 3(2) and (3), of the host plants in the buffer zone for the presence of the specified pest, at appropriate times and including, where appropriate, targeted destructive sampling;
- (g) in the cases where sentinel plants are used, those plants shall be subject of inspections at least once a month and shall be destroyed and examined after two years at the latest;
- (h) raising public awareness of the threat of the specified pest and the measures adopted to prevent its introduction into and spread within the Union territory, including the conditions regarding movement of specified plants out of the demarcated area established pursuant to Article 5;
- (i) where necessary, specific measures to address any particularity or complication that could reasonably be expected to prevent, hinder or delay containment, in particular those related to the accessibility and adequate felling and destruction of all plants that are infested or suspected of infestation, irrespective of their location, ownership or the person responsible for them;
- (j) any other measure, which may help contain the specified pest.

In the case of the second subparagraph, point (a), where it is not possible to remove deeply seated stumps and surface roots, they shall be ground to at least 40 cm below surface level, or covered by insect-proof material.

The surveys referred to in the second subparagraph, point (f), shall be intensified compared to the surveys referred to in Article 3.

Those surveys shall be based on the Authority's General guidelines for statistically sound and risk-based surveys for plant pests and the survey design and sampling scheme used shall be able to identify with at least 95% of confidence, a level of presence of infested plants of 1%.

2. Member States shall notify to the Commission and to the other Member States every demarcated area for containment that they intend to designate or modify.

## **CHAPTER V**

### **MOVEMENTS WITHIN THE UNION TERRITORY**

#### *Article 10*

##### **Movements within the Union territory**

1. Specified plants originating in demarcated areas established in accordance with Article 5 may be moved out of the demarcated areas and from the infested zones into the buffer zones only if accompanied by a plant passport prepared and issued in accordance with Articles 78 to 95 of Regulation (EU) 2016/2031, and if they have been grown during at least two years prior to movement, or in the case of plants which are younger than two years, throughout their life, in a place of production which fulfils all of the following requirements:
  - (a) it is registered in accordance with Article 65 of Regulation (EU) 2016/2031;
  - (b) it has been subjected annually to at least two official inspections for any sign of the specified pest carried out at appropriate times, and no such sign has been found;
  - (c) it is located in a demarcated area where official surveys for the presence or signs of the specified pest were carried out annually within a width of at least 1 km around the site at appropriate times and no specified pest or signs of it were found and where the plants have been grown in a site:
    - (i) with physical protection against the introduction of the specified pest; or
    - (ii) where appropriate preventive treatments have been applied; or
    - (iii) where targeted destructive sampling is carried out on each lot of specified plants prior to movement.

The inspections referred to in the first subparagraph, point (b), shall include targeted destructive sampling of the roots and stems of plants. The size of the sample for inspection shall be such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %.

The targeted destructive sampling referred to in the first subparagraph, point (c), shall be carried out at the level set out in the table in Annex II.

The surveys referred to in the first subparagraph, point (c), shall be based on the Authority's General guidelines for statistically sound and risk-based surveys of plant pests, and the survey design and sampling scheme used shall be able to identify with at least 95% confidence level, a level of presence of infested plants of 1%.

Rootstocks grown in a place of production which fulfils all of the requirements of the first subparagraph may be grafted with scions which have not been grown under the conditions referred to in the first subparagraph, but which are no larger than 1 cm in diameter at their thickest point.

2. Specified plants not originating in demarcated areas, but introduced into a place of production in such areas, may be moved within the Union territory only if that place of production complies with the requirements set out in paragraph 1, first subparagraph, point (c), and only if the plants are accompanied by a plant passport as referred to in paragraph 1.
3. Specified plants imported from third countries, where the specified pest is known to be present, in accordance with Chapter VI, may be moved within the Union territory only if accompanied by the plant passport as referred to in paragraph 1.

## **CHAPTER VI**

### **INTRODUCTION INTO THE UNION TERRITORY OF SPECIFIED PLANTS ORIGINATING IN A THIRD COUNTRY**

#### *Article 11*

##### **Plants originating in a third country where the specified pest is known not to be present**

Specified plants originating in a third country, where the specified pest is known not to be present, may only be introduced into the Union territory if the following conditions are fulfilled:

- (a) the national plant protection organisation of the third country concerned has communicated in writing to the Commission that the specified pest is known not to be present in that country; and
- (b) the host plants are accompanied by a phytosanitary certificate stating under the rubric 'Additional Declaration' that the specified pest is not present in the respective third country.

#### *Article 12*

##### **Specified plants originating in third countries where the specified pest is known to be present**

1. Specified plants originating in third countries where the specified pest is known to be present shall be accompanied by a phytosanitary certificate indicating under the rubric 'Additional Declaration' one of the following:
  - (a) that the plants have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation in the country of origin and situated in a pest-free area established by that organisation in accordance with relevant International Standards for Phytosanitary Measures and on the basis of official surveys;
  - (b) that the plants have been grown during a period of at least two years prior to export or in the case of plants which are younger than two years have been grown throughout their life in a place of production:
    - (i) established as free from the specified pests in accordance with International Standards for Phytosanitary Measures;

- (ii) registered and supervised by the national plant protection organisation in the country of origin;
  - (iii) subjected annually to at least two official inspections for any sign of the specified pest carried out at appropriate times and no signs of the pest have been found; and
  - (iv) where the plants have been grown in a site:
    - with physical protection against the introduction of the specified pest, or
    - with the application of appropriate preventive treatments and surrounded by a buffer zone with a width of at least 1 km where official surveys for the presence or signs of the specified pest are carried out annually at appropriate times; and
  - (v) where immediately prior to export consignments of the plants have been subjected to an official inspection for the presence of the specified pest, in particular in roots and stems, including targeted destructive sampling; or
- (c) that the plants have been grown from rootstocks which meet the requirements of point (b), grafted with scions which meet the following requirements:
- (i) at the time of export, the grafted scions have been no larger than 1 cm in diameter at their thickest point; and
  - (ii) the grafted plants have been inspected in accordance with point (b)(iii).
- (d) The name of the pest-free area referred to in the first subparagraph, point (a), shall be mentioned under the rubric 'place of origin'.
- (e) The surveys referred to in the first subparagraph, point (a), have been based on Authority's General guidelines for statistically sound and risk-based surveys of plant pests, while the survey design and sampling scheme used has been able to identify with a sufficient level of confidence, a low level of presence of infested plants.

The surveys referred to in the first subparagraph, point (b)(iv), second indent, have been based on the Authority's General guidelines for statistically sound and risk-based surveys of plant pests, the survey design and sampling scheme used have been able to identify with at least 95% confidence level of presence of infested plants of 1%. In case signs of the specified pest have been found, eradication measures have been immediately taken to restore the pest freedom in the buffer zone.

The size of the sample for the inspection referred to in the first subparagraph, point (b)(v), shall be such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %.

2. Specified plants introduced into the Union territory in accordance with paragraph 1, shall be inspected at the point of entry or at the approved place of their destination.

The inspection methods applied shall aim at the detection of any sign of the specified pest, in particular in roots and stems, and include targeted destructive sampling. The size of the sample for inspection shall be such as to enable at least the detection of 1

% level of infestation with a level of confidence of 99 %, taking account of ISPM No 31<sup>10</sup>.

3. The targeted destructive sampling referred to in this Article shall be carried out at the level set out in the table in Annex II.

## **CHAPTER VII FINAL PROVISIONS**

### *Article 13*

#### **Reporting on measures**

Member States shall, by 30 April of each year, submit to the Commission and to the other Member States a report on the measures taken during the preceding year pursuant to this Regulation and on the results of the measures provided for in Articles 3 to 9.

The results of the surveys carried out pursuant to Articles 8 and 9 shall be submitted to the Commission using one of the templates set out in Annex I.

### *Article 14*

#### **Compliance**

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

### *Article 15*

#### **Repeal**

Implementing Decision 2012/138/EU is repealed, with the exception of its Article 2, Article 3 and Annex I, which are repealed with effect from 1 January 2023.

### *Article 16*

#### **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.

Articles 11 and 12, with the exception of Article 12(1), third and fourth subparagraph, shall apply from 1 July 2024.

Article 4 shall apply from 1 August 2023.

The following provisions shall apply from 1 January 2025:

- (a) Article 3(1), second subparagraph;
- (b) Article 8(1), fifth subparagraph;
- (c) Article 9(1), sixth subparagraph;

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<sup>10</sup> Methodologies for sampling of consignments — Reference Standard ISPM No 31 by the Secretariat of the International Plant Protection Convention, Rome.

- (d) Article 10(1), fourth subparagraph;
- (e) Article 12(1), third and fourth subparagraphs.

This Regulation shall apply until 31 December 2029.

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*

DRAFT

