

COMMISSION IMPLEMENTING DECISION (EU) 2016/764**of 12 May 2016****amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.)***(notified under document C(2016) 2731)*

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾, and in particular the fourth sentence of Article 16(3) thereof,

Whereas:

- (1) Since the adoption of Commission Implementing Decision (EU) 2015/789 ⁽²⁾, and until February 2016, several outbreaks of *Xylella fastidiosa* (Wells et al.) (hereinafter 'the specified organism') in different parts of the area surrounding the province of Lecce have been notified by Italy to the Commission. Those outbreaks have taken place in many different municipalities located in the provinces of Taranto and Brindisi. Furthermore, the last audit carried out by the Commission in November 2015 confirmed that the survey activities required by Implementing Decision (EU) 2015/789 were conducted only to a very limited extent in the area surrounding the province of Lecce (Apulia region, Italy). That audit also confirmed that the current programme of surveys still does not ensure the timely detection of new outbreaks or the accurate determination of the true extent of the spread of the specified organism in the area.
- (2) The last audit confirmed the risk of a rapid spread of the specified organism in the rest of the area concerned. For this reason, and given the size of that area, it is appropriate to expand the infected zone where containment measures may apply beyond the borders of the province of Lecce, and allow the move of specified plants out of that area only under very strict conditions. Such expansion should take place without delay taking into account that the risk of further spreading of the specified organism in the rest of the Union territory increases with the start of the flight season of the insect vectors in early spring. The infected zone should therefore be extended to cover those municipalities, or parts of certain municipalities, of the provinces of Brindisi and Taranto where outbreaks of the specified organism have taken place or where it is likely that that organism is already spread and established. That infected zone, however, should not include the area that has been declared by Italy as free from the specified organism before the adoption of this Decision.
- (3) For purposes of legal certainty, the wording of point (c) of Article 7(2) should be amended to make clear that the measures to be taken in accordance with that Article apply in the infected zone and not outside of it.
- (4) In order to ensure effective protection of the rest of the Union territory from the specified organism, and in view of the enlargement of the containment area, it is appropriate to replace the surveillance zone with new requirements for surveys in that containment area. Those requirements should apply to an area of a width of 20 km from the borders of the buffer zone and extending into that containment area, and within the surrounding buffer zone of 10 km.
- (5) Since the adoption of Implementing Decision (EU) 2015/789, experience has shown that it is disproportionate to apply the same requirements for the movement of specified plants within the infected zones as for their movement out of the infected zones into the buffer zones, because the specified organism is already established in those infected zones.
- (6) Since the adoption of Implementing Decision (EU) 2015/789, experience has confirmed that specified plants which are grown for their entire production cycle *in vitro*, in a sterile medium, do not pose a risk of spreading of the specified organism, because that mode of growth eliminates the risk of infection by precluding the possibility of contact with the vectors of the specified organism. It is therefore appropriate to allow the movement within and the introduction into the Union of those specified plants under certain conditions.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ Commission Implementing Decision (EU) 2015/789 of 18 May 2015 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) (OJ L 125, 21.5.2015, p. 36).

- (7) Since the adoption of Implementing Decision (EU) 2015/789, experience with official checks has shown that specified plants originating in areas which are free from the specified organism, should be subject to the same requirements as the specified plants originating in third countries where the specified organism is not present, as regards official checks at introduction into the Union.
- (8) Annex I should be amended to include all plant species which, since the adoption of Commission Implementing Decision (EU) 2015/2417 ⁽¹⁾ have been identified by the Commission as specified plants.
- (9) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Implementing Decision (EU) 2015/789

Implementing Decision (EU) 2015/789 is amended as follows:

- (1) in Article 4(2), the third subparagraph is replaced by the following:

‘As regards the presence of the specified organism in the province of Lecce, and in the municipalities, listed in Annex II, the infected zone shall at least include that province and those municipalities, or as applicable, the land registry plots (“Fogli”) of those municipalities.’;

- (2) Article 7 is amended as follows:

- (a) paragraph 1 is replaced by the following:

‘1. By way of derogation from Article 6, only in the infected zone referred to in the third subparagraph of Article 4(2), the responsible official body of the Member State concerned may decide to apply the containment measures set out in paragraphs 2 to 7 (hereinafter: “containment area”);’

- (b) in paragraph 2, point (c) is replaced by the following:

‘(c) a location within the infected zone referred to in the third subparagraph of Article 4(2), situated within a distance of 20 km from the border of that infected zone with the rest of the Union territory.’;

- (c) the following paragraph 7 is added:

‘7. The Member State concerned shall monitor the presence of the specified organism by annual surveys at appropriate times during the year in the areas situated within the distance of 20 km as referred to in point (c) of paragraph 2.

Those surveys shall be carried out in accordance with the provisions of Article 6(7).’;

- (3) Article 8 is deleted;

- (4) in Article 9, paragraph, 1 is replaced by the following:

‘1. This Article shall apply to specified plants, other than plants which have been grown for the entire production cycle *in vitro*.

The movement out of the demarcated areas, and from the infected zones into the respective buffer zones, of specified plants which have been grown for at least part of their life in a demarcated area established in accordance with Article 4, shall be prohibited.’;

⁽¹⁾ Commission Implementing Decision (EU) 2015/2417 of 17 December 2015 amending Implementing Decision (EU) 2015/789 as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells et al.) (OJ L 333, 19.12.2015, p. 143).

(5) the following Article 9a is inserted:

‘Article 9a

Movement within the Union of specified plants which have been grown *in vitro*

1. Specified plants which have been grown for the entire production cycle *in vitro*, and for at least part of their life in a demarcated area established in accordance with Article 4, may only be moved out of the demarcated areas, and from the infected zones into the respective buffer zones, if the conditions set out in paragraphs 2 to 5 are fulfilled.

2. The specified plants referred to in paragraph 1 have been grown in a site where all of the following conditions are fulfilled:

- (a) it is registered in accordance with Directive 92/90/EEC;
- (b) it is authorised by the responsible official body as a site free from the specified organism and its vectors, taking into account the relevant International Standards for Phytosanitary Measures;
- (c) it is physically protected against the introduction of the specified organism by its vectors;
- (d) it is subjected annually to at least two official inspections carried out at appropriate times;
- (e) throughout the time of growth of the specified plants, neither symptoms of the specified organism nor its vectors were found in the site or, if suspect symptoms were observed, tests carried out confirmed the absence of the specified organism.

3. The specified plants referred to in paragraph 1 have been grown in a transparent container under sterile conditions and fulfil one of the following conditions:

- (a) they have been grown from seeds;
- (b) they have been propagated, under sterile conditions, from mother plants which have spent their entire lives in an area of the Union territory free from the specified organism and which have been tested and found free from the specified organism;
- (c) they have been propagated, under sterile conditions, from mother plants which have been grown in a site fulfilling the conditions set out in paragraph 2 and which have been tested and found free from the specified organism.

4. The specified plants referred to in paragraph 1 shall be transported in a transparent container under sterile conditions that precludes the possibility of infection by the specified organism through its vectors.

5. They shall be accompanied by a plant passport prepared and issued in accordance with Directive 92/105/EEC.;

(6) Article 17 is amended as follows:

(a) in paragraph 3, the introductory phrase is replaced by the following:

‘Where specified plants, other than plants which have been grown for the entire production cycle *in vitro* originate in an area where the specified organism is known to be present, the phytosanitary certificate shall state under the rubric “Additional Declaration” that:’;

(b) the following paragraph 3a is inserted:

‘3a. Where specified plants, which have been grown for the entire production cycle *in vitro*, originate in an area where the specified organism is known to be present, the phytosanitary certificate shall state under the rubric “Additional Declaration” that:

- (a) the specified plants have been grown in one or more sites fulfilling the conditions set out in paragraph 4a;
- (b) the national plant protection organisation of the third country concerned has communicated in writing to the Commission the list of those sites, including their location within the country;

- (c) the specified plants have been transported under sterile conditions in a transparent container that precludes the possibility of infection by the specified organism through its vectors;
- (d) the specified plants meet one of the following conditions:
 - (i) they have been grown from seeds;
 - (ii) they have been propagated, under sterile conditions, from mother plants which have spent their entire lives in an area free from the specified organism and which have been tested and found free from the specified organism;
 - (iii) they have been propagated, under sterile conditions, from mother plants which have been grown in a site fulfilling the conditions of paragraph 4 and which have been tested and found free from the specified organism.

The phytosanitary certificate referred to in point (a) of paragraph 1 shall indicate under the rubric "place of origin" the site referred to in point (a) of this paragraph.;

- (c) the following paragraph 4a is added:

'4a. The site referred to in point (a) of paragraph 3a shall fulfil all of the following conditions:

- (a) it is authorised by the national plant protection organisation as free from the specified organism and its vectors, in accordance with the relevant International Standards for Phytosanitary Measures;
- (b) it is physically protected against the introduction of the specified organism by its vectors;
- (c) it is subjected annually to at least two official inspections carried out at appropriate times;
- (d) throughout the production time of the specified plants, neither symptoms of the specified organism nor its vectors were found in the site, or, if suspect symptoms were observed, testing has been undertaken and absence of the specified organism has been confirmed.;

- (7) in Article 18, paragraphs 2, 3 and 4 are replaced by the following:

'2. In the case of specified plants originating in a third country, where the specified organism is not present or in an area referred to in Article 17(2), the responsible official body shall carry out the following checks:

- (a) a visual inspection; and
- (b) in the case of suspicion of the presence of the specified organism, sampling and testing of the lot of the specified plants to confirm the absence of the specified organism or its symptoms.

3. In the case of specified plants, originating in an area where the specified organism is known to be present the responsible official body shall carry out the following checks:

- (a) a visual inspection; and
- (b) sampling and testing of the lot of the specified plants to confirm the absence of the specified organism or its symptoms.

4. The samples referred to in paragraphs 2(b) and 3(b) shall be of a size that allows identifying with 99 % reliability a level of infected plants of 1 % or above, taking account of ISPM No 31.

The first subparagraph shall not apply to specified plants which have been grown for the entire production cycle *in vitro* and are transported in transparent containers under sterile conditions.;

- (8) Annex I is amended as set out in Annex I to this Decision.
- (9) the Annex set out in Annex II to this Decision is added as Annex II.

*Article 2***Addressees**

This Decision is addressed to the Member States.

Done at Brussels, 12 May 2016.

For the Commission
Vytenis ANDRIUKAITIS
Member of the Commission

ANNEX I

Annex I to Implementing Decision (EU) 2015/789 is amended as follows:

(1) the following entries are inserted in alphabetical order:

Ambrosia
Artemisia arborescens L.
Coelorachis cylindrica (Michx.) Nash
Coprosma repens A. Rich.
Coronilla valentina L.
Cyperus eragrostis Lam.
Fagopyrum esculentum Moench
Lavandula stoechas L.
Solanum lycopersicum L.
Metrosideros excelsa Sol. ex Gaertn
Parthenocissus quinquefolia (L.) Planch.
Polygala x grandiflora nana
Rhus
Rosa x floribunda
Salvia apiana Jeps.
Solanum melongena L.
Solidago fistulosa Mill.
Ulmus
Vicia sativa L.

(2) the following entries are deleted:

Ambrosia acanthicarpa Hook.
Ambrosia artemisiifolia L.
Ambrosia trifida L.
Rhus diversiloba Torr. & A. Gray
Ulmus americana L.
Ulmus crassifolia Nutt.

(3) the entry 'Cytisus racemosus Broom' is replaced by the following:

'Genista x spachiana (syn. Cytisus racemosus Broom)'.

ANNEX II

The following Annex II is added to Implementing Decision (EU) 2015/789:

'ANNEX II

LIST OF MUNICIPALITIES REFERRED TO IN ARTICLE 4(2)

1. Municipalities located in the province of Brindisi:

Brindisi

Carovigno

Ceglie Messapica Only land registry plots (*Fogli*) 11, 20 to 24, 32 to 43, 47 to 62, 66 to 135

Cellino San Marco

Erchie

Francavilla Fontana

Latiano

Mesagne

Oria

Ostuni Only land registry plots (*Fogli*) 34 to 38, 48 to 52, 60 to 67, 74, 87 to 99, 111 to 118, 141 to 154, 175 to 222

San Donaci

San Michele Salentino

San Pancrazio Salentino

San Pietro Vernotico

San Vito dei Normanni

Torchiarolo

Torre Santa Susanna

Villa Castelli

2. Municipalities located in the province of Taranto:

Avetrana

Carosino

Faggiano

Fragagnano

Grottaglie Only land registry plots (*Fogli*) 5, 8, 11 to 14, 17 to 41, 43 to 47, 49 to 89

Leporano Only land registry plots (*Fogli*) 2 to 6, 9 to 16

Lizzano

Manduria

Martina Franca Only land registry plots (*Fogli*) 246 to 260

Maruggio

Monteiasi

Monteparano

Pulsano

Roccaforzata

San Giorgio Ionico

San Marzano di San Giuseppe

Sava

Taranto

Only: (Section A, land registry plots (*Fogli*) 49, 50, 220, 233, 234, 250 to 252, 262, 275 to 278, 287 to 293, 312 to 318)
(Section B, land registry plots (*Fogli*) 1 to 27)
(Section C, land registry plots (*Fogli*) 1 to 11)

Torricella'.
