# 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

## 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(1) Regulation (EU) 2016/2031 has repealed and replaced Council Directive 2000/29/EC[(2)], while Commission Implementing Regulation (EU) 2019/2072[(3)] has replaced Annexes I to V to that Directive.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)].

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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.

(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.,

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— *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

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# 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 Bührer) Nickle et al.,