Commission Implementing Regulation (EU) 2020/1201 of 14 August 2020 as regards measures to prevent the introduction into and the spread within the Union of Xylella fastidiosa (Wells et al.)

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1201

of 14 August 2020

as regards measures to prevent the introduction into and the spread within the Union of *Xylella fastidiosa* (Wells *et al*.)

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 28(1) and (2) thereof,

Whereas:

(1) Commission Implementing Decision (EU) 2015/789[(2)] has been applied since May 2015 with the aim to prevent further spread within and introduction into the Union of *Xylella fastidiosa* (Wells *et al*.) ('the specified pest'). That Implementing Decision has been updated on several occasions to take into account the scientific and technical evidence made available at the time.

(2) On 15 May 2019, the European Food Safety Authority ('the Authority') published a new Scientific Opinion[(3)] on the risk to plant health posed by the specified pest in the Union territory, focusing on potential establishment, short# and long#range spread, the length of the asymptomatic period, the impact of the specified pest and an update on risk reduction options. On 15 May 2019, the Authority published a scientific report[(4)] on the effectiveness of *in planta* control measures for the specified pest, confirming as previously stated that there are currently no control measures available to eliminate the specified pest from a diseased plant in open field conditions. On 25 June 2019, the Authority published a pest survey card[(5)] on the specified pest providing further elements to ensure more targeted survey activities. On 28 April 2020, the Authority updated the database of plant species found infected by the specified pest worldwide[(6)]. Moreover, on 8 June 2020, the Authority published the Guidelines for statistically sound and risk-based surveys of *Xylella fastidiosa*[(7)] that will assist Member States to implement the confidence level, the design prevalence proposed and preparation of the survey activities to be carried out within and outside the demarcated areas, in the Union territory.

(3) The recent scientific developments, the outcome of the audits carried out by the Commission in the Member States concerned and the experience gained during the

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implementation of Implementing Decision (EU) 2015/789 indicate the need to update those measures in order to ensure a more targeted approach for the control of the specified pest in the Union territory.

(4) For the purpose of clarity, the definition of host plants should refer to all the plant species or genera found infected by the specified pest worldwide, while the definition of specified plants should only refer to those host plants which have been found infected by a particular subspecies of the specified pest. In this context, and in order to ensure a certain proportionality, some measures of this Regulation should only apply to host plants and some others only to specified plants.

(5) In order to ensure a better overview of the presence of the specified pest, Member States should intensify the annual surveys for that presence in line with the latest scientific and technical information.

(6) In order to eradicate the specified pest and prevent its further spread in the rest of the Union, Member States should establish demarcated areas consisting of an infected zone and a buffer zone, and apply eradication measures. The width of the buffer zones should be proportionate to the level of risk and the spreading capacity of the vector.

(7) 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, recently introduced, where it was found to be present. This will be the most proportionate approach as long as the surveys carried out in the area concerned lead to the conclusion that the specified pest has not been established.

(8) In certain areas of the Union, it is appropriate to conclude that 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 in the respective buffer zones and at the outer part of the infected zones, in order to prevent the spread of the specified pest to the rest of the Union territory.

(9) In order to ensure the immediate removal of the infected plants and prevent further spread of the specified pest in the rest of the Union territory, the monitoring of the demarcated areas should be carried out annually at the most appropriate time of the year. The monitoring should also focus on vectors present in the demarcated area so as to determine the risk of further spreading by vectors and to evaluate the effectiveness of the phytosanitary control measures applied against the vector population, in all its stages.

(10) Experience confirms, in line with the latest scientific evidences, that vector control, together with the immediate removal of the bacterial inoculum, is key to prevent further spread of the specified pest within the rest of the Union territory. Therefore, Member States should ensure proper implementation of the phytosanitary treatments, prior to the removal of the plants, as well as during the year, against the vector population, in all its stages. Those treatments should include efficient chemical, biological or mechanical

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treatments against the vectors, with preference to non-chemical solutions, wherever possible.

(11) Plant species known to be susceptible to the subspecies of 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 which have been moved through such an area, are more likely to have been infected with the specified pest. Therefore, it is proportionate to establish special requirements for the movement within the Union only as regards specified plants. It is also proportionate to apply less stringent requirements for the movement of those plants within the infected zones, or from the infected zones to the buffer zones, than the requirements applied for their movement out of the demarcated areas.

(12) With the aim of facilitating trade while protecting plant health, and taking into account the nature of the specified pest, host plants originating in a third country where that pest is not present should, when introduced into the Union, be accompanied by a phytosanitary certificate including an additional declaration stating that that country is free from the specified pest.

(13) In order to ensure that host plants introduced into the Union 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 should be similar to those set out for movement of specified plants originating in demarcated areas.

(14) 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 for export to the Union should be also intensified.

(15) Rules should be established 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 of host plants from third countries. Those rules should be proportionate, effective and take into account the provisions of Regulation (EU) 2017/625 of the European Parliament and of the Council[(8)], which became applicable on 14 December 2019.

(16) Implementing Decision (EU) 2015/789 should therefore be repealed.

(17) As regards survey activities carried out in areas of the Union territory where the pest is known not to occur or where derogation for the establishment of the demarcated areas is applied, as well as 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 the level of statistical confidence required. The requirements relating to those survey activities should therefore apply from 1 January 2023.

(18) 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:

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CHAPTER I

DEFINITIONS

Article 1

Definitions

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

(a) 'specified pest' means *Xylella fastidiosa* (Wells *et al*.) and any of its subspecies;

(b) 'host plants' means all plants for planting, other than seeds, belonging to the genera or species listed in Annex I;

(c) 'specified plants' means host plants for planting, other than seeds, belonging to the genera or species listed in Annex II and known to be susceptible to the specific subspecies of the specified pest.

CHAPTER II

ANNUAL SURVEYS FOR THE PRESENCE OF THE SPECIFIED PEST AND CONTINGENCY PLANS

Article 2

Surveys of the specified pest in the territories of the Member States

1 Member States shall conduct annual surveys of the host plants for the detection of the specified pest in their territory.

2 Those surveys shall be carried out by the competent authorities, or under the official supervision of the competent authorities.

3 Those surveys shall be performed on the basis of the level of risk. They shall take place in open air, including cropping fields, orchards, vineyards, as well as nurseries, garden centres and/or trading centres, natural areas and other relevant locations.

4 Those surveys shall consist in the collection of samples and testing of plants for planting. Taking into account the European Food Safety Authority's (Authority) Guidelines for statistically sound and risk-based surveys of *Xylella fastidiosa*, the survey design and sampling scheme used shall be able to identify within the Member State concerned, with at least 80 % of confidence, a level of presence of infected plants of 1 %.

5 Those surveys shall be carried out at appropriate times of the year with regard to the possibility to detect the specified pest, taking into account the biology of that pest and its vectors, the presence and biology of host plants, and the scientific and technical information referred to in the Authority's Pest Survey Card on *Xylella fastidiosa.*

6 The presence of the specified pest shall be monitored by one of the molecular tests listed in Annex IV. In case of positive results detected in areas other than the demarcated areas, the presence of the specified pest shall be confirmed by one more positive molecular test listed in that Annex, targeting different parts of the genome. Those tests shall be performed on the

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same plant sample or, if appropriate for the molecular confirmatory test used, on the same plant extract.

7 The identification of the subspecies of the specified pest shall be carried out on each plant species that is found infected by the specified pest in the demarcated area concerned. That identification shall be carried out by using the molecular tests listed in Section B of Annex IV.

8 Member States shall report the results of the surveys referred to in paragraph 1 in accordance with Article 22(3) of Regulation (EU) 2016/2031.

Article 3

Contingency plans

1 Each Member State shall establish a contingency plan. That contingency plan shall set out the actions to be taken in its territory concerning:

a the eradication of the specified pest, as set out in Articles 7 to 11;

b the movements of specified plants within the Union, as set out in Articles 19 to 26;

c the official checks to be carried out on movements of specified plants within the Union and of host plants into the Union, as set out in Articles 32 and 33.

Each Member State shall update its contingency plan, as appropriate, by 31 December of each year. Contingency plans established under Implementing Decision (EU) 2015/789 shall be updated by 31 December 2020.

2 In addition to the elements referred to in Article 25(2) of Regulation (EU) 2016/2031, the contingency plan shall include all of the following elements:

a the minimum resources to be made available and the procedures for making those additional resources available in case of a confirmed or suspected presence of the specified pest;

b rules detailing the procedures for identifying the owners of the plants to be removed, for notifying the order of removal and for accessing private properties.

CHAPTER III

DEMARCATED AREAS

Article 4

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.

Where only the presence of one or more particular subspecies of the specified pest is confirmed, the Member State concerned may demarcate an area with regard to those subspecies only.

Where the confirmation of the presence of a subspecies is pending, the Member State concerned shall demarcate that area with regard to the specified pest and all of its possible subspecies.