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

COMMISSION IMPLEMENTING REGULATION (EU) 2019/2072

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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 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 5(2), Article 32(2), Article 37(2), Article 37(4), Article 40(2), Article 41(2), Article 53(2), Article 54(2), Article 72(1), Article 73, Article 79(2) and Article 80(2) thereof,

Whereas:

(1) Regulation (EU) 2016/2031 is to apply from 14 December 2019. In order for its provisions to become fully effective, implementing rules are to be adopted regulating the pests, plants, plant products and other objects, as well as respective requirements needed to protect the Union territory from phytosanitary risks.

(2) In view of this, specific rules should be set out in order to list the Union quarantine pests, the protected zone quarantine pests and the Union regulated non-quarantine pests, as well as measures to prevent their presence in the respective territories of the Union or on plants for planting.

(3) The pests listed in Part A of Annex I to Council Directive 2000/29/EC[(2)] and Section I of Part A of Annex II to that Directive have been reassessed by the European Food Safety Authority (EFSA) in order to set up the list of Union quarantine pests pursuant to Article 5 of Regulation (EU) 2016/2031. The reassessment was necessary to update the phytosanitary status of those pests in accordance with the most recent technical and scientific developments, and also to assess their compliance with the criteria of Article 3 of that Regulation in respect of the Union territory and Section 1 of Annex I thereto.

(4) As a result of that reassessment, some pests listed in Annexes I and II to Directive 2000/29/EC should not be included in the list of Union quarantine pests because they

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do not fulfil the conditions provided for in Article 3 of Regulation (EU) 2016/2031 in respect of the Union territory.

(5) Certain other pests, some of which are listed in Annexes I and II to Directive 2000/29/EC, have been found to fulfil the conditions provided for in Article 3 of Regulation (EU) 2016/2031 in respect of the Union territory, therefore they should be included in the list of Union quarantine pests.

(6) As a result of the reassessment, some of the pests listed in Annexes I and II to Directive 2000/29/EC as pests not known to occur in the Union territory, should be included in the list of Union quarantine pests as pests known to occur in the Union territory, due to their established presence in certain parts of it.

(7) The names of certain pests should be updated to reflect the latest developments of the international nomenclature. Those pests are to be listed together with the respective codes assigned by the European and Mediterranean Plant Protection Organisation ('EPPO'). This is necessary to ensure the identification of those pests, even in case of potential change of their names in the future.

(8) The protected zones recognised in accordance with Commission Regulation (EC) No 690/2008[(3)] and the respective pests listed in Part B of Annex I and Part B of Annex II to Directive 2000/29/EC have been reassessed by the Commission. The purpose of that reassessment was to conclude whether the respective pests correspond to the description of protected zone quarantine pest in Article 32(1) of Regulation (EU) 2016/2031.

(9) That reassessment has been based on the respective applications by Member States to recognise, amend or revoke protected zones, regular survey reports submitted by the Member States, Commission inspections and several other scientific and technical data.

(10) Certain pests, some of which are listed in Annexes I and II to Directive 2000/29/EC, have been found to fulfil the conditions provided for in Article 32(1) of Regulation (EU) 2016/2031, therefore they should be included in the list of protected zone quarantine pests. Those pests should be listed together with the respective codes assigned by EPPO, in order to ensure the identification of those pests, even in case of potential change of their names in the future.

(11) Regulation (EC) No 690/2008 should be repealed to avoid overlaps with the listing of protected zones in this Regulation.

(12) EPPO has made a reassessment of the pests listed in Section II of Part A of Annex II to Directive 2000/29/EC, the crops under point 3 and the pests under point 6 of Annex I to Directive 66/401/EEC[(4)], as well as the pests under point 3 of Annex II to Council Directive 66/402/EEC[(5)], Annex I to Council Directive 68/193/EEC[(6)], as well as the pests listed in the acts adopted pursuant to Article 5(5) of Council Directive 98/56/EC[(7)], Annex II to Council Directive 2002/55/EC[(8)], Annex I and point B of Annex II to Council Directive 2002/56/EC[(9)], and the acts adopted pursuant to point (c) of Article 18 of that Directive, point 4 of Annex I and point 5 of Part I of Annex II to Council Directive 2002/57/EC[(10)], the acts adopted pursuant to Article 4 of Council Directive 2008/72/EC[(11)] and the acts adopted pursuant to Article 4 of Council Directive 2008/90/EC[(12)].

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(13) That reassessment was necessary to update the phytosanitary status of those pests in accordance with the most recent technical and scientific developments, and also to assess their compliance with the respective criteria of Article 36 of Regulation (EU) 2016/2031, in respect of the Union territory, and Section 4 of Annex I thereto.

(14) Certain pests, some of which are listed in those Directives, have been found to fulfil the conditions provided for in Article 36 of Regulation (EU) 2016/2031 in respect of the Union territory, and should therefore be included in the list of Union regulated non-quarantine pests ('RNQPs'). In accordance with Article 37(7) of that Regulation, that list is to provide for specific categories of relevant plants for planting referred to in Directives 66/401/EEC, 66/402/EEC, 68/193/EEC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC.

(15) In certain cases, the respective plants for planting should not be introduced into, or moved within, the Union territory if the presence of the RNQPs or symptoms caused by RNQPs on them is above a certain threshold, as set out in Article 37(8) of Regulation (EU) 2016/2031. As set out further by that Article, that threshold is only to be set where it is possible for professional operators to ensure that the incidence of that RNQP on those plants for planting does not exceed that threshold and it is possible to verify whether that threshold is not exceeded in lots of those plants for planting.

(16) In accordance with Article 37(4) of Regulation (EU) 2016/2031, measures to prevent the presence of RNQPs on the plants for planting concerned, are to apply without prejudice to the measures adopted pursuant to Directives 66/401/EEC, 66/402/EEC, 98/56/EC, 1999/105/EC, 2002/54/EC, 2002/55/EC, 2002/56/EC, 2002/57/EC, 2008/72/EC and 2008/90/EC. Therefore, this Regulation should not affect the measures, adopted pursuant to those Directives, concerning inspections, sampling and testing of the plants for planting concerned, or the plants from which they originate, the origin of the plants for planting concerned from areas or sites free from, or with physical protection from, the RNQPs concerned, treatments of the plants for planting concerned, or the plants from which they originate, or the production of the plants for planting.

(17) Moreover, the provisions of this Regulation concerning RNQPs should not affect the exceptions for plants for planting, adopted pursuant to those Directives, from marketing requirements set out by those Directives concerning the supply of seed to official testing and inspection bodies, the supply of plants to providers of certain services, the movement of plants intended for scientific purposes, selection work, other tests or trial purposes, seed not finally certified, seeds subject to the exceptions of the provisions of Implementing Decision (EU) 2017/478[(13)] and plants shown to be intended for export.

(18) The introduction into the Union of the plants, plant products and other objects, from all or certain third countries, as listed in Part A of Annex III to Directive 2000/29/EC is prohibited.

(19) Those plants, plants products and other objects have been reviewed on the basis of any new evidence, their pest risk for the Union territory and the update of the list of Union quarantine pests.

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(20) On the basis of that review, certain of those plants, plant products and other objects are therefore to be listed pursuant to Article 40(2) of Regulation (EU) 2016/2031, together with the third countries, groups of third countries or specific areas of third countries to which that prohibition applies. Such prohibition is necessary because the phytosanitary protection of the Union cannot be guaranteed by applying less stringent measures in this regard.

(21) In view of the reassessment of Union quarantine pests, new provisions for the introduction into the Union of certain plants, plant products and other objects, and the respective special requirements, and provisions for the movement within the Union of certain plants, plant products and other objects, and the respective special requirements should be adopted pursuant to Article 41(2) of Regulation (EU) 2016/2031.

(22) The indication of CN codes should not be obligatory for the listing of the plants, plant products and other objects subject to special requirements for movement within the Union territory. This would be a proportionate approach because the CN codes are only necessary for the identification of those plants, plant products or other objects when they are introduced into the Union from a third country. Such approach would be also be in line with Article 80 of Regulation (EU) 2016/2031 pursuant to which no such codes are provided for the listing of those plants, plant products and other objects, for which a plant passport is required.

(23) The introduction of plants, plant products and other objects is prohibited in their respective protected zones and, where applicable, with regard to their third country of origin, as listed in Part B of Annex III to Directive 2000/29/EC. Moreover, the plants, plant products and other objects, as listed in Part B of Annex IV to Directive 2000/29/EC, may only be introduced into the respective protected zones if they fulfil the respective special requirements.

(24) Those plants, plant products and other objects have been reviewed on the basis of any new evidence, their pest risk for the respective protected zones and the update of the list of the protected zones quarantine pests and the protected zones.

(25) On the basis of that review, certain of those plants, plant products and other objects, and the respective protected zones, should be listed in this Regulation as provided for in Article 53(2) of Regulation (EU) 2016/2031, together with the third countries and groups of third countries of origin to which that prohibition applies.

(26) Moreover, certain of those plants, plant products and other objects, and the respective protected zones and special requirements, should be listed in this Regulation as provided for in Article 54(2) of Regulation (EU) 2016/2031.

(27) A list of plants, plant products and other objects for which a phytosanitary certificate is required for introduction into the Union territory, and the respective third countries of origin or dispatch, is to be established pursuant to Article 72(1) of Regulation (EU) 2016/2031.

(28) Implementing Regulation (EU) 2018/2019 requires a phytosanitary certificate for the introduction into the Union territory of plants, other than the plants included in the

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list referred to in Article 72(1), pursuant to the first subparagraph of Article 73 of Regulation (EU) 2016/2031. However, certain fruits have been found to fulfil the criteria set out in Annex VI to Regulation (EU) 2016/2031 and identified as plants which do not require a phytosanitary certificate. A phytosanitary certificate should therefore not be required for the introduction into the Union of the fruits listed in Annex II of Implementing Regulation (EU) 2018/2019.

(29) For reasons of clarity, Article 2 and Annex II of that Regulation should be deleted, in order to avoid overlaps with this Regulation.

(30) A list of plants, plant products and other objects for which a phytosanitary certificate is required for introduction into the respective protected zones and the respective third countries of origin or dispatch, is to be established pursuant to Article 74(1) of Regulation (EU) 2016/2031 Such a list will help to ensure clarity for the professional operators, competent authorities and all of other users of those plants, plant products and other objects.

(31) A list of plants, plant products and other objects for which a plant passport is required for movement within the Union territory is to be established pursuant to Article 79(1) of Regulation (EU) 2016/2031. Such a list will help to ensure clarity for the professional operators, competent authorities and all other users of those plants, plant products and other objects.

(32) In order to refrain from imposing requirements on professional operators, those plant passports should not be required for the movement of seeds which are subject to derogations from the requirements of the respective Directives on the marketing of seeds. This is appropriate as this Regulation applies without prejudice to the measures adopted pursuant to those Directives and should not introduce for the professional operators additional certification burdens than the ones currently laid down in those Directives obligations.

(33) A list of plants, plant products and other objects for which a plant passport is required for being introduced into, or moved within, certain protected zones is to be established pursuant to Article 80(1) of Regulation (EU) 2016/2031. Those plant passports should bear the designation ‘PZ’ to be distinguished from the plant passports required for the movement within the entire Union territory. Such a list will help to ensure clarity for the professional operators, competent authorities and all other users of those plants, plant products and other objects.

(34) In order to avoid the disruption of trade by changes in the requirements regarding RNQPs, a limited transitional period should be granted for seeds and other plants for planting that have already been produced in the Union, introduced into the Union or moved within the Union in accordance with the requirements concerning the presence of RNQPs applicable before 14 December 2019, the date of application of this Regulation. Those seeds and other plants for planting may continue to be introduced into, or moved within, the Union in accordance with those requirements for a limited period of time. It would also be proportionate to require that plant passports would only attest the compliance of those seeds and other plants for planting with the applicable requirements on Union quarantine pests, protected zone quarantine pests and measures adopted