



2024/2970

2.12.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/2970

of 29 November 2024

amending Implementing Regulation (EU) 2019/2072 as regards measures to prevent the presence of the Tomato brown rugose fruit virus on plants for planting of *Solanum lycopersicum* L. and hybrids thereof and of *Capsicum annuum* L., and establishing the frequency rates of official controls

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 37(2), Article 37(4), Article 72(2) and Article 79(2) thereof,

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) ⁽²⁾, and in particular Article 22(3), Article 52 and Article 54(3) thereof,

Whereas:

- (1) Commission Implementing Regulation (EU) 2023/1032 ⁽³⁾ established measures to prevent the introduction into and the spread within the Union territory of Tomato brown rugose fruit virus (ToBRFV) ('the specified pest'). Those measures were based on Article 30(1) of Regulation (EU) 2016/2031 as that pest was not listed as a Union quarantine pest at that time. The specified pest is transmitted through plants for planting of *Solanum lycopersicum* L. and hybrids thereof, and of *Capsicum annuum* L.
- (2) According to reports submitted by several Member States, since the adoption of Implementing Regulation (EU) 2023/1032, the specified pest has widely spread within the Union territory despite the measures set out in that Regulation. Moreover, the updated pest risk analysis of the European and Mediterranean Plant Protection Organization (EPPO) of June 2024 ⁽⁴⁾ noted that the situation regarding this pest has evolved to such an extent that there has been an increase in its area of distribution worldwide.

⁽¹⁾ OJ L 317, 23.11.2016, p. 4, ELI: <http://data.europa.eu/eli/reg/2016/2031/oj>.

⁽²⁾ OJ L 95, 7.4.2017, p. 1, ELI: <http://data.europa.eu/eli/reg/2017/625/oj>.

⁽³⁾ Commission Implementing Regulation (EU) 2023/1032 of 25 May 2023 establishing measures to prevent the introduction into and the spread within the Union territory of Tomato brown rugose fruit virus (ToBRFV) and amending Implementing Regulation (EU) 2020/1191 (OJ L 139, 26.5.2023, p. 34, ELI: http://data.europa.eu/eli/reg_impl/2023/1032/oj).

⁽⁴⁾ EPPO (2024) Pest risk analysis for tomato brown rugose fruit virus. EPPO, Paris. Available at <https://gd.eppo.int/taxon/TOBRFV/documents>.

- (3) On the basis of the Member States reports and the risk analysis of EPPO, it is concluded that the specified pest is widely present in the Union territory, thus it cannot qualify as a Union quarantine pest or be subject to the measures pursuant to Article 30 of Regulation (EU) 2016/2031. Moreover, it is transmitted mainly through specific plants for planting, and its presence on those plants has an unacceptable economic impact as regards their intended use. Finally, feasible and effective measures are available to prevent its presence on the plants for planting concerned. The specified pest now fulfils all the criteria set out in Article 36 of Regulation (EU) 2016/2031 to be listed as a Union regulated non-quarantine pest. The specified pest should therefore be listed as a Union regulated non-quarantine pest in Annex IV to Commission Implementing Regulation (EU) 2019/2072 ⁽⁹⁾, with a tolerance threshold of 0 %, and be subject to appropriate measures to prevent its presence on the specified plants.
- (4) Since the specified pest is transmitted through plants for planting of *Solanum lycopersicum* L. and hybrids thereof, and of *Capsicum annuum* L., it should be listed, with respect to those plants for planting, in Part F and Part I of Annex IV to Implementing Regulation (EU) 2019/2072, concerning vegetable seeds and vegetable propagating and planting material other than seeds respectively.
- (5) In order to ensure that the seeds of *Solanum lycopersicum* L. and hybrids thereof, and the seeds of *Capsicum annuum* L. are free from the specified pest, it is appropriate to require that one of the following two requirements is fulfilled: either the seeds originate in a country established by the national plant protection organisation as being free from the specified pest, in accordance with the International Standards for Phytosanitary Measures (ISPM), or those seeds are subject to official testing, or testing by professional operators under official supervision, for the presence of the specified pest upon their entry into, or before they are moved within the Union, and are found to be free from that pest in those tests.
- (6) In order to avoid an excessive destruction of seeds in the case of small seed lots of *Solanum lycopersicum* L. and hybrids thereof, and of *Capsicum annuum* L. originating from 30 or less than 30 mother plants, it is appropriate to allow that only mother plants, and not their seeds, be subject to testing.
- (7) In order to ensure that the plants for planting, other than seeds, of *Solanum lycopersicum* L. and hybrids thereof, and of *Capsicum annuum* L. are free from the specified pest, it is appropriate to require that one of the following two requirements is fulfilled: either the plants for planting originate in a country established by the national plant protection organisation as being free from the specified pest, in accordance with the International Standards for Phytosanitary Measures or the plants for planting derive from seeds that comply with the requirements laid down in Part E of Annex V to Implementing Regulation (EU) 2019/2072 and have been maintained in appropriate hygiene conditions to prevent infection.
- (8) Plants for planting belonging to varieties of *Capsicum annuum* L. which are known to be resistant to the specified pest, should not be subject to the requirements of this Regulation and the respective rates of controls, as the respective phytosanitary risk is acceptable and that resistance is sufficiently documented and controlled by the competent authorities.
- (9) Annex XI, Part A, to Implementing Regulation (EU) 2019/2072 lists those plants for which a phytosanitary certificate is required. Since such a certificate should be required for plants for planting of *Solanum lycopersicum* L. and hybrids thereof and of *Capsicum annuum* L., it is appropriate to amend that Annex accordingly. Annex XIII to Implementing Regulation (EU) 2019/2072 lists those plants for which a plant passport is required. Since a plant passport should be required for plants for planting of *Solanum lycopersicum* L. and hybrids thereof, and of *Capsicum annuum* L., it is appropriate to amend that Annex accordingly.

⁽⁹⁾ 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 (OJ L 319, 10.12.2019, p. 1, ELI: http://data.europa.eu/eli/reg_impl/2019/2072/oj).

- (10) In accordance with Article 4(2) of Commission Implementing Regulation (EU) 2022/2389 ⁽⁶⁾, the frequency rate for identity checks and for physical checks on consignments of plants for planting entering the Union is to be 100 %. Due to the number of interceptions of consignments of plants for planting of *Solanum lycopersicum* L. and hybrids thereof, and *Capsicum annuum* L. affected by the specified pest during the last three years, it is appropriate to maintain the derogation from Implementing Regulation (EU) 2022/2389 that is provided for in Implementing Regulation (EU) 2023/1032 regarding the minimum frequency rates of sampling and testing as part of physical checks with regard to that pest. Due to the higher number of interceptions of that pest in those plants originating from Israel and China compared to other third countries, it is appropriate to maintain the higher frequency rates set out in Implementing Regulation (EU) 2023/1032 for consignments containing those plants.
- (11) In view of the risk posed by the specified pest and in order to take into account the evolution of the number of interceptions, the derogation regarding the minimum frequency rates should be of a temporary nature.
- (12) As Implementing Regulation (EU) 2023/1032 is to expire on 31 December 2024, this Regulation should enter into force as soon as possible and should apply from 1 January 2025 in order to avoid any legal gap.
- (13) 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

Amendment to Implementing Regulation (EU) 2019/2072

Implementing Regulation (EU) 2019/2072 is amended in accordance with the Annex to this Regulation.

Article 2

Frequency rates of official controls on introduction into the Union of plants for planting of *Solanum lycopersicum* L. and hybrids thereof and of *Capsicum annuum* L. with regard to ToBRFV

1. By way of derogation from Article 4(2) of Implementing Regulation (EU) 2022/2389, the rules set out in paragraphs 2 and 3 shall apply.
2. Sampling and testing as part of the physical checks for the presence of Tomato brown rugose fruit virus ("ToBRFV") shall be carried out on at least 20 % of the consignments of plants for planting of *Solanum lycopersicum* L. and hybrids thereof, and *Capsicum annuum* L. originating in third countries.
3. However, sampling and testing for the presence of ToBRFV shall be carried out on 50 % of consignments of plants for planting of *Solanum lycopersicum* L. and hybrids thereof and of *Capsicum annuum* L. originating in Israel, and on 100 % of consignments of those plants originating in China.

⁽⁶⁾ Commission Implementing Regulation (EU) 2022/2389 of 7 December 2022 establishing rules for the uniform application of frequency rates for identity checks and physical checks on consignments of plants, plant products and other objects entering the Union (OJ L 316, 8.12.2022, p. 42, ELI: http://data.europa.eu/eli/reg_impl/2022/2389/oj).

*Article 3***Entry into force and application**

This Regulation shall enter into force on the first day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2025.

Article 2 shall apply until 31 December 2026.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 November 2024.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX

Implementing Regulation (EU) 2019/2072 is amended as follows:

1) Annex IV is amended as follows:

(a) in Part F, the following row is added to the table, under the title 'Viruses, viroids, virus-like diseases and phytoplasmas':

Tomato brown rugose fruit virus (ToBRFV)	<i>Solanum lycopersicum</i> L. and hybrids thereof	0 %
	<i>Capsicum annuum</i> L. other than seeds belonging to a variety known to be resistant to ToBRFV	

(b) in Part I, the following row is inserted between the third and the fourth rows of the table, under the title 'Viruses, viroids, virus-like diseases and phytoplasmas':

Tomato brown rugose fruit virus (ToBRFV)	<i>Solanum lycopersicum</i> L. and hybrids thereof	0 %
	<i>Capsicum annuum</i> L. other than plants for planting belonging to a variety known to be resistant to ToBRFV	

2) Annex V is amended as follows:

(a) in Part E, the following rows are added to the table, under the title 'Viruses, viroids, virus-like diseases and phytoplasmas':

Tomato brown rugose fruit virus (ToBRFV)	<i>Solanum lycopersicum</i> L. and hybrids thereof	(a) the seeds originate in a country established as being free from ToBRFV by the national plant protection organisation of that country, in accordance with the International Standards for Phytosanitary Measures
		or
		(b) (i) the seeds have been subjected to official testing or testing by professional operators under official supervision of the competent authority for ToBRFV, on a representative sample and using appropriate molecular methods, and have been found, in those tests, free from that pest;
		or
		(ii) in the case of a seed lot originating from 30 or less than 30 mother plants, the seeds, or the mother plant of those seeds, have been subjected to official testing, or testing by the professional operator under official supervision of the competent authority, for the presence of ToBRFV on a representative sample and using appropriate molecular methods, and have been found, in those tests, free from that pest.

Tomato brown rugose fruit virus (ToBRFV)	<i>Capsicum annuum</i> L., other than seeds belonging to a variety known to be resistant to ToBRFV	<p>(a) the seeds originate in a country established as being free from ToBRFV by the national plant protection organisation of that country, in accordance with the International Standards for Phytosanitary Measures;</p> <p>or</p> <p>(b) (i) the seeds have been subjected to official testing or testing by professional operators under official supervision of the competent authority for ToBRFV, on a representative sample and using appropriate molecular methods, and have been found, in those tests, free from that pest;</p> <p>or</p> <p>(ii) in the case of a seed lot originating from 30 or less than 30 mother plants, the seeds, or the mother plant of those seeds, have been subjected to official testing, or testing by the professional operator under official supervision of the competent authority, for the presence of ToBRFV on a representative sample and using appropriate molecular methods, and have been found, in those tests, free from that pest.'</p>
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(b) in Part H, the following rows are inserted between the third and the fourth rows of the table, under the title 'Viruses, viroids, virus-like diseases and phytoplasmas':

'Tomato brown rugose fruit virus (ToBRFV)	<i>Solanum lycopersicum</i> L. and hybrids thereof	<p>(a) the plants for planting originate in a country established as being free from ToBRFV by the national plant protection organisation of that country, in accordance with the International Standards for Phytosanitary Measures;</p> <p>or</p> <p>(b) the plants for planting derive from seeds that comply with the requirements laid down in Part E of this Annex, and have been maintained in appropriate hygiene conditions to prevent infection.</p>
Tomato brown rugose fruit virus (ToBRFV)	<i>Capsicum annuum</i> L, other than plants for planting belonging to a variety known to be resistant to ToBRFV	<p>(a) the plants for planting originate in a country established as being free from ToBRFV by the national plant protection organisation of that country, in accordance with the International Standards for Phytosanitary Measures;</p> <p>or</p> <p>(b) the plants for planting derive from seeds that comply with the requirements laid down in Part E of this Annex, and have been maintained in appropriate hygiene conditions to prevent infection.'</p>

3) In Annex XI, part A, point 9 is replaced by the following

'9. Vegetable seeds of:		All third countries
<i>Capsicum annuum</i> L.	ex 1 209 91 80	
<i>Pisum sativum</i> L.	Peas (<i>Pisum sativum</i>) seeds, for sowing: 0713 10 10	
<i>Solanum lycopersicum</i> L. and hybrids thereof	ex 1 209 91 80	
<i>Vicia faba</i> L.	Broad beans and horse beans seeds, for sowing: ex 0713 50 00 — Other, seeds for sowing: ex 0713 90 00'	

4) In Annex XIII, point 6 is replaced by the following:

- '6. Seed, where its movement is carried out within the scope of application of Directive 2002/55/EC, and for which specific RNQPs have been listed according to Article 37(2) of Regulation (EU) 2016/2031 in Annex IV, of:
- *Allium cepa* L.,
 - *Allium porrum* L.,
 - *Capsicum annuum* L.,
 - *Phaseolus coccineus* L.,
 - *Phaseolus vulgaris* L.,
 - *Pisum sativum* L.,
 - *Solanum lycopersicum* L. and hybrids thereof,
 - *Vicia faba* L.'
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