# EU Plant Health Law explained

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The new EU Plant Health Law explained – applied in 2019, it introduces stricter measures to protect the Union territory against plant pests

Regulation (EU) 2016/2031 of the European Parliament 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

## Update

Overview of the New Plant Health Law that was applied on 14 December 2019, replacing the EU plant health regime that had been in place since 1977. It signifies a major change in approach that is more proactive, focussing on the prevention of entry or spread of plant pests within the EU. Imports of most plants and plant products from non-EU countries are now subject to more stringent conditions, with significant implications for some origins and value chains that are high risk in plant health terms. Numerous items of secondary legislation are now in place, including Implementing Regulation (EU) 2019/2072, which lists requirements covering the import and movements of regulated pests, regulated plants, plant products and other objects.

## Background

The EU regulatory framework for plant health aims to protect European agriculture and forestry by preventing the entry and spread of harmful organisms. The regime is indispensable for protecting the health, economy and competitiveness of the EU plant production sector, and the environment, as well as maintaining the Union's open trade policy.

In the context of growing global trade and climate change (which is having a significant impact on species distribution), the EU faced new threats from harmful organisms with an outdated regulatory framework. The new Plant Health Law (Regulation (EU) 2016/2031) was introduced to address these increasing risks from imported pests. It signified a major overhaul of the EU's existing Plant Health legislation under Council Directive 2000/29/EC, which had been in place since 1977.

It repealed and replaced seven Council Directives on harmful organisms, and became fully applicable on 13 December 2019:


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- amended Regulations (EU) 228/2013, (EU) 652/2014 and (EU) 1143/2014
- repealed Directives 69/464/EEC, 74/647/EEC, 93/85/EEC, 98/57/EC, 2000/29/EC, 2006/91/EC and 2007/33/EC

## What is changing?

The new EU Plant Health Regulation (EU) 2016/2031, applied on 14 December 2019, takes a proactive approach that is focused on the prevention of entry and spread of plant pests within the EU. New rules are brought in for surveillance, eradication and imports, based on the premise that to avoid future harm to EU agriculture or the environment, resources need to be invested at an early (preventative) stage. The overall aim is to have more effective measures for the protection of the Union territory, to ensure safe trade, and to mitigate the impacts of climate change on the health of EU crops and forests.

The new Plant Health Regulation makes reference to the International Plant Protection Convention (IPPC), an intergovernmental treaty that aims to protect the world's plant resources from the spread and introduction of pests. The IPPC sets the International Standards for Phytosanitary Measures (ISPMs) and is the main global standard-setting organisation for plant health.

Under the new framework, the Plant Health section of the European Commission's Standing Committee on Plants, Animals, Food and Feed reviews the plant health situation on an ongoing basis, and new EU measures are periodically introduced to control the introduction and spread of harmful organisms.

The main changes under the new Plant Health Law, and the associated secondary legislation, are as follows.

## Regulated plants and phytosanitary certificates

In order to enter the EU, all living plant material (including entire plants, parts of plants, fruits, cut flowers, seeds, etc.) must be accompanied by a phytosanitary certificate that confirms its compliance with EU legislation. A small number of (low-risk) commodities are exempted from this requirement, and can continue to be exported without a certificate. The exempted plants currently listed (Annex XI, Part C, of Implementing Regulation (EU) 2019/2072) are pineapple, coconuts, durian, banana and dates from any third country.

## Pest categorisation and priority pests

The new Plant Health Law brings all pests (quarantine and non-quarantine) under the same regulation, classifying them according to the following three categories:


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- Union quarantine pests: not present at all in EU territory, or present very locally and under official controls. Strict measures must be taken to prevent their entry or further spread within the EU, and they must be eradicated immediately if detected.
- Protected zone quarantine pests: present in most parts of the EU, but absent in certain areas called “protected zones”. Measures must be taken to prevent their introduction into protected zones, or to eradicate if detected.
- Regulated non-quarantine pests: widely present in the EU, but known to have a negative impact on plant quality. Plant reproductive material on the market must be guaranteed free or almost free of these pests.

The Plant Health Law also introduces the concept of “priority pests”. These are Union quarantine pests with the most severe potential impacts in the EU, and subject to enhanced measures such as surveys, eradication plans and simulation exercises. Article 6(2) of the Plant Health Law empowers the Commission to establish priority pests, and these are listed under Commission Delegated Regulation (EU) 2019/1702. Twenty quarantine pests are currently listed including the bacterial disease *Xylella fastidiosa*, the Japanese beetle (*Popillia japonica*), the Asian long-horned beetle (*Anoplophora glabripennis*), Citrus greening and Citrus black spot, whose potential economic, environmental and social impact on EU territory is particularly severe.

The selection of priority pests is based on an assessment carried out by the European Commission’s Joint Research Centre and the European Food Safety Authority (EFSA), taking into account the probability of spread, establishment and consequences for the Union. Prioritisation is used by EU countries to focus resources in the most efficient way to protect their agriculture, economy and environment.

## High risk plants

Article 42 of the Plant Health Law sets out new measures for high risk plants, plant products or other objects to prevent the introduction of new pests via imports from third countries. Importing high risk plants is prohibited unless and until a full pest risk assessment has been carried out to determine if imports are acceptable and, if yes, under what conditions. Listing of high risk plants can be on a global basis, or for one or more named exporting countries where the risks are considered to be high. The main criterion for listing is that the commodity/ country is known to be a significant pathway for serious pests into the EU (for example where there are historically high levels of EU plant health interceptions).

Commission Implementing Regulation (EU) 2018/2019 sets out the list of high risk plants, which consists mainly of plants for planting. The only agri-food product is fruits of *Momordica* (bitter melon) originating from third countries where melon thrips (*Thrips palmi*) is known to occur, and where effective mitigation measures for this pest are lacking.


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## Lists of pests, commodities and additional plant health requirements

Implementing Regulation (EU) 2019/2072 sets out the listing of Union quarantine pests, protected zone quarantine pests, and Union regulated non-quarantine pests. It also specifies the additional measures that must be applied to certain plants, plant products and other objects to allow import into the EU. It contains the following Annexes that are particularly relevant to agri-food imports from third countries (Articles refer to the Plant Health Law):

- Annex II sets out the list of Union quarantine pests (Art. 5)
- Annex VI lists the plants, plant products and other objects whose introduction into the Union from certain third countries is prohibited (Art. 40(2))
- Annex VII lists the plants, plant products and other objects originating from certain third countries, where there are special requirements for their introduction into the Union (Art. 41(2)).

## Why?

Before December 2016, the EU plant health regime was framed by Council Directive 2000/29/EC. This open regime allowed free movement of plants and plant products into and within the Union, provided that any specific restrictions and requirements were respected (e.g. provenance from a pest free area or appropriate treatment). However, major outbreaks of some dangerous forestry pests in the previous decade (e.g. *Xylella fastidiosa*, *Anoplophora chinensis*, *Bursaphelenchus xylophilus*) raised awareness about the dangers and potentially high economic impact of the introduction and spread of new pests. Globalisation, and high volumes of imports from other continents, increase the risk. Climate change ianother risk factor, making crops and ecosystems in the Union more vulnerable to imported pests that are increasingly able to survive under European conditions.

The existing regulatory framework was felt to no longer provide adequate protection. An amendment of the basic legislation was proposed to address these risks, in particular those relating to increased imports of high risk commodities.

## Timeline

The new EU Plant Health Regulation was introduced on 13 December 2016 and applied on 14 December 2019.


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## What are the major implications for exporting countries?

Tighter rules under the new EU Plant Health Law are having an impact on third countries exporting plants and plant products to the EU, affecting both public authorities and private sector operators. Public authorities in exporting countries must ensure that the necessary measures are in place, and are applied efficiently and effectively at all times, to guarantee that exports fully meet the new rules. There is low tolerance of harmful organisms, particularly those posing a threat to the Union territory, and non-compliances can lead to the imposition of additional measures or prohibitions.

For competent authorities in some exporting countries, meeting the new rules has required investment in infrastructure, capacity building and human resources to meet additional inspection and administrative responsibilities. The impacts for both public and private sectors can be particularly significant in certain third countries and value chains where special requirements for the export of plants and plant products are applied (Annex VII of Implementing Regulation (EU) 2019/2072).

Producers in third countries face additional challenges in addressing plant health on export crops. The new Plant Health Law is implemented at a time when farmers are experiencing a significant decline in the range of plant protection products available and registered for use, as well as reductions in the permitted pesticide maximum residue levels.

## Resources

Online resources from the European Commission:

- Standing Committee on Plants, Animals, Food and Feed
- Trade Control and Expert System (TRACES)

International Plant Protection Convention (IPPC)

IPPC International Standards for Phytosanitary Measures (ISPMs)

## Sources

Regulation (EU) 2016/2031 (New EU Plant Health Law)

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