Commission Implementing Regulation (EU) 2020/1002 of 9 July 2020 establishing a derogation from Implementing Regulation (EU) 2019/2072 as regards the requirements for introduction into the Union of ash wood originating or processed in the United States

COMMISSION IMPLEMENTING REGULATION (EU) 2020/1002

of 9 July 2020

establishing a derogation from Implementing Regulation (EU) 2019/2072 as regards the requirements for introduction into the Union of ash wood originating or processed in the United States

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 41(2) thereof,

Whereas:

(1) Commission Implementing Decision (EU) 2018/1203[(2)] authorises Member States to provide for a temporary derogation from certain provisions of Council Directive 2000/29/EC[(3)] in respect of special requirements concerning the introduction into the Union of ash (*Fraxinus* L.) wood originating or processed in the United States.

(2) Directive 2000/29/EC has been repealed and replaced by Regulation (EU) 2016/2031. Commission Implementing Regulation (EU) 2019/2072[(4)] setting out rules and requirements concerning the introduction into the Union of certain plants, plant products or other objects has replaced Annexes I to V to that Directive.

(3) Pursuant to Article 8(1) of Regulation (EU) 2019/2072 in conjunction with point 87 of Annex VII to that Regulation, the introduction into the Union of ash wood originating or processed in the United States (‘the specified wood’) is subject to certain special requirements to avoid the risk of infestation into the Union by the pest *Agrilus planipennis* Fairmaire. Those requirements differ to a certain extent from the requirements set out in Implementing Decision (EU) 2018/1203, as regards the introduction into the Union of the specified wood, its inspection and supervision.

(4) On the basis of recent Commission audits carried out in 2018 and 2019, it has been concluded that by applying under its official control the requirements laid down in Implementing Decision (EU) 2018/1203, the United States ensures a level of phytosanitary protection which is equivalent to that provided by the requirements set out in points 87(a) and (b) of Annex VII to Regulation (EU) 2019/2072.

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2020/1002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) Implementing Decision (EU) 2018/1203 is to apply until 30 of June 2020. On 16 January 2020, the United States has requested a prolongation of that derogation after 30 June 2020.

(6) In order to guarantee the continuing imports of ash wood originating or processed in the United States, it is appropriate to provide for a derogation from Article 8(1) and points 87(a) and (b) of Annex VII to Implementing Regulation (EU) 2019/2072 so as to allow the introduction of the specified wood into the Union subject to compliance with special requirements reflecting, with a few adaptations, those set out in Implementing Decision (EU) 2018/1203.

(7) This Regulation should apply from 1 July 2020, in order to ensure the continuation of imports of the specified wood.

(8) This Regulation should apply until 30 June 2023, in order to allow for the review of its application by that date.

(9) 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

Special requirements for a temporary derogation

By way of derogation from Article 8(1) and points 87(a) and (b) of Annex VII to Implementing Regulation (EU) 2019/2072, the introduction into the Union of ash (*Fraxinus* L.) wood originating or processed in the United States ('the specified wood') shall be subject to compliance with the requirements set out in Article 2 and the Annex to this Regulation.

Article 2

Phytosanitary certificate

1 The specified wood shall be accompanied by a phytosanitary certificate issued in the United States, certifying freedom from Union quarantine pests and pests not listed as Union quarantine pests, subject to the measures adopted pursuant to Article 30 of Regulation (EU) 2016/2031 after inspection.

2 The phytosanitary certificate shall include under the heading 'Additional declaration' the following elements:

a the statement 'In accordance with European Union requirements laid down in Commission Implementing Regulation (EU) 2020/1002 (*)

> Commission Implementing Regulation (EU) 2020/1002 of 9 July 2020 establishing a derogation from Implementing Regulation (EU) 2019/2072 as regards the requirements for introduction into the Union of ash wood originating or processed in the United States (OJ L 221, 10.7.2020, p. 122)';

b the bundle number(s) corresponding to each specific bundle being exported;

c the name of the approved facility(ies) in the United States.

***Changes to legislation:** There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2020/1002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Article 3

Date of expiry

This Regulation shall expire on 30 June 2023.

Article 4

Entry into force and date of application

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

It shall apply from 1 July 2020.

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

Done at Brussels, 9 July 2020.

For the Commission

The President

Ursula VON DER LEYEN

Changes to legislation: *There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2020/1002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX

Part A

1. Processing requirements

The processing of the specified wood, as referred to in Article 1, must fulfil all of the following requirements:

(a) Debarking

The specified wood is debarked, with the exception of any number of visually separate and clearly distinct small pieces of bark which comply with one of the following requirements:

(1) they are less than 3 cm in width (regardless of length) or

(2) if they are greater than 3 cm in width, the total surface area of each individual piece of bark is less than 50 cm^2.

(b) Sawing

The specified sawn wood is produced from debarked round wood.

(c) Heat treatment

The specified wood is heated through its profile to at least 71 °C for 1 200 minutes in a heat chamber approved by the Animal and Plant Health Inspection Service (APHIS), or an agency approved by APHIS.

(d) Drying

The specified wood is dried following industrial drying schedules of at least two-week duration, recognised by APHIS.

The final moisture content of the wood shall not exceed 10 % expressed as a percentage of dry matter.

2. Requirements for facilities

The specified wood must be produced, handled or stored in a facility which fulfils all the following requirements:

(a) it is officially approved by APHIS, or an agency approved by APHIS, pursuant to its certification programme concerning the pest *Agrilus planipennis* Fairmaire;

(b) it is registered in a database published on the APHIS website;

(c) it is audited by APHIS, or an agency approved by APHIS, at least once per month and it has been concluded that it complies with the requirements of this Annex. In the case these audits are performed by an agency approved by APHIS, APHIS must carry out six-monthly audits of this work. The six-monthly audits shall include the verification of the procedures and documentation of the agency and audits at approved facilities;

(d) it uses equipment for the treatment of the specified wood which has been calibrated consistently with the equipment's manual of operation;