

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- (2) Directive 2000/29/EC has been repealed and replaced by Regulation (EU) 2016/2031.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.
- (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.

⁽¹⁾ OJ L 317, 23.11.2016, p. 4.

⁽²⁾ Commission Implementing Decision (EU) 2018/1203 of 21 August 2018 authorising Member States to provide for a temporary derogation from certain provisions of Council Directive 2000/29/EC in respect of ash wood originating or processed in the United States of America and repealing Commission Implementing Decision (EU) 2017/204 (OJ L 217, 27.8.2018, p. 7).

⁽³⁾ Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community (OJ L 169, 10.7.2000, p. 1).

⁽⁴⁾ 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).

- (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.

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

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 cm².

(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;
- (e) it keeps records of its procedures for verification by APHIS or an agency approved by APHIS, including the duration of treatment, temperatures during treatment and, for each specific bundle to be exported, the compliance check and final moisture content.

3. Labelling

Each bundle of the specified wood must visibly display both a unique bundle number and a label with the words 'HT-KD' or 'Heat Treated-Kiln Dried'. That label must be issued by, or under the supervision of, a designated officer of the approved facility after verifying that the processing requirements set out in point 1 and the requirements for facilities set out in point 2 have been complied with.

4. Pre-export inspections

The specified wood destined for the Union must be inspected before export by APHIS, or an agency approved by APHIS, to ensure that the requirements laid down in points 1 and 3 are met.

Part B**Specified wood with their respective CN codes**

1.	<p>Wood of <i>Fraxinus</i> L., other than in the form of</p> <ul style="list-style-type: none"> — chips, particles, sawdust, shavings, wood waste and scrap, obtained in whole or part from these trees, — wood packaging material, in the form of packing cases, boxes, crates, drums and similar packings, pallets, box pallets and other load boards, pallet collars, dunnage, whether or not actually in use in the transport of objects of all kinds, except dunnage supporting consignments of wood, which is constructed from wood of the same type and quality as the wood in the consignment and which meets the same Union phytosanitary requirements as the wood in the consignment, but including wood which has not kept its natural round surface, and furniture and other objects made of untreated wood 	<p>ex 4401 12 00 ex 4403 12 00 ex 4403 99 00 ex 4404 20 00 ex 4406 12 00 ex 4406 92 00 4407 95 10 4407 95 91 4407 95 99 ex 4407 99 27 ex 4407 99 40 ex 4407 99 90 ex 4416 00 00 ex 9406 10 00</p>
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