

**Consolidated text\* of Preserved Commission Decision (EC) 2002/757 on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov.**

Text of the Preserved Commission Decision (EC) 2002/757 on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov, as amended, insofar as it applies to Guernsey, by:

- The Plant Health (Brexit) (Amendment) (Guernsey) Regulations, 2020 (G.S.I. No. 130 of 2020)

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This document is up to date as at the 26<sup>th</sup> April 2022 so that the reader should check for any subsequent amendments to this Regulation under later Guernsey legislation.

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\* Note: unlike the consolidated texts of legislation of domestic origin i.e. Laws, Ordinances and Statutory Instruments, this consolidation does not include notes on each amendment.

PRESERVED COMMISSION DECISION (EC) 2002/757

of 19 September 2002

**on provisional emergency phytosanitary measures to prevent the introduction into and the spread within the Community of *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov.**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to 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 (1), as last amended by Commission Directive 2002/36/EC (2), and in particular Article 16(3), third sentence thereof,

Whereas:

(1) Where a Member State considers that there is a danger of introduction into or spread within its territory of a harmful organism not listed in Annex I or Annex II to Directive 2000/29/EC, it may temporarily take any additional measures necessary to protect itself from that danger.

(2) The United Kingdom informed the other Member States and the Commission on 29 April 2002 of outbreaks of *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov. (hereinafter referred to as: 'the harmful organism') on its territory and adopted on 13 May 2002 additional measures to prevent the introduction into and the spread within the Community of the harmful organism. The Netherlands and Germany also reported on 29 April 2002 outbreaks of the organism in their respective territories.

(3) The harmful organism is currently not listed in Annex I or II to Directive 2000/29/EC. However, a preliminary pest-risk analysis based on available scientific information has demonstrated that the harmful organism and its damaging effects could be of significant plant-health concern to the Community, in particular the non-European isolates only present in the United States of America for the oak trees in the Community and the European isolates for ornamental plants such as *Rhododendron* spp. and *Viburnum* spp. The relevant services in the Member States have been asked to continue scientific work on the risk of the non-European isolates for the oak trees in the Community, the epidemiology of the harmful organism and the potential host plants.

(4) It is therefore necessary to take provisional emergency phytosanitary measures against the introduction into and spread within the Community of the harmful organism.

(5) Those measures should apply to the introduction or the spread of the harmful organism, the production and movement of known host plants of the harmful organism within the Community, the control of the harmful organism and to a more general surveillance for the presence or continued absence of the harmful organism in the Member

States. However, it is not necessary to apply such measures to plants of *Rhododendron simsii* Planch, other than fruit and seeds, because the available information indicates that these plants are not affected by the harmful organism.

(6) The results of the above measures will be regularly assessed in 2002 and 2003, in particular on the basis of information to be provided by the Member States. Possible subsequent measures will be considered in the light of the results of that assessment, and the scientific opinion delivered by the Member States.

(7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

#### Article 1

For the purpose of this Decision:

1. 'the harmful organism' means *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov.
2. ~~'susceptible plants' means plants, other than fruit and seeds, of *Acer macrophyllum* Pursh, *Acer pseudoplatanus* L., *Adiantum aleuticum* (Rupr.) Paris, *Adiantum jordanii* C. Muell., *Aesculus californica* (Spach) Nutt., *Aesculus hippocastanum* L., *Arbutus menziesii* Pursch., *Arbutus unedo* L., *Arctostaphylos* spp. Adans, *Calluna vulgaris* (L.) Hull, *Camellia* spp. L., *Castanea sativa* Mill., *Fagus sylvatica* L., *Frangula californica* (Eschsch.) Gray, *Frangula purshiana* (DC.) Cooper, *Fraxinus excelsior* L., *Griselinia littoralis* (Raoul), *Hamamelis virginiana* L., *Heteromeles arbutifolia* (Lindley) M. Roemer, *Kalmia latifolia* L., *Laurus nobilis* L., *Leucothoe* spp. D. Don, *Lithocarpus densiflorus* (Hook. & Arn.) Rehd., *Lonicera hispidula* (Lindl.) Dougl. ex Torr. & Gray, *Magnolia* spp. L., *Michelia doltsopa* Buch. Ham. ex DC, *Nothofagus obliqua* (Mirbel) Blume, *Osmanthus heterophyllus* (G. Don) P. S. Green, *Parrotia persica* (DC) C.A. Meyer, *Photinia x fraseri* Dress, *Pieris* spp. D. Don, *Pseudotsuga menziesii* (Mirbel) Franco, *Quercus* spp. L., *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., *Rosa gymnocarpa* Nutt., *Salix caprea* L., *Sequoia sempervirens* (Lamb. ex D. Don) Endl., *Syringa vulgaris* L., *Taxus* spp. L., *Trientalis latifolia* (Hook.), *Umbellularia californica* (Hook. & Arn.) Nutt., *Vaccinium ovatum* Pursh and *Viburnum* spp. L.~~
3. ~~'susceptible wood' means wood of *Acer macrophyllum* Pursh, *Aesculus californica* (Spach) Nutt., *Lithocarpus densiflorus* (Hook. & Arn.) Rehd., *Quercus* spp. L. and *Taxus brevifolia* Nutt.~~
4. ~~'susceptible bark' means isolated bark of *Acer macrophyllum* Pursh, *Aesculus californica* (Spach) Nutt., *Lithocarpus densiflorus* (Hook. & Arn.) Rehd., *Quercus* spp. L. and *Taxus brevifolia* Nutt.~~

#### Article 2

~~The introduction into the Community and spread within the Community of non-European or European isolates of the harmful organism shall be banned.~~

### *Article 3*

~~1. Susceptible plants and susceptible wood may only be introduced into the territory of the Union if they comply with the emergency phytosanitary measures laid down in points 1a and 2 of Annex I to this Decision, if the formalities referred to in the first subparagraph of Article 13(1) of Directive 2000/29/EC are completed and if, as a result of those formalities in respect of the presence of non-European isolates of the harmful organism, susceptible plants and susceptible wood are found free from the harmful organism.~~

~~By way of derogation from the first subparagraph, until 31 December 2026 bark-free sawn wood of *Quercus* spp. L. originating in the United States of America may be introduced into the Union without complying with point 2 of Annex I to this Decision, provided that it complies with the conditions set out in Annex II to this Decision.~~

~~2. The provisions specified in points 1a and 2 of Annex I to this Decision shall apply only to susceptible plants and susceptible wood originating in the United States of America destined for the Community and leaving on or after 1 November 2002.~~

~~3. The measures laid down in Part A, Section I(3) of Annex IV as regards wood of *Quercus* L., including wood which has not kept its natural round surface, originating in the United States of America, shall not apply to susceptible wood of *Quercus* L. which satisfies the requirements of point 2(b) of Annex I to this Decision.~~

~~4. As of 1 November 2002 plants intended for planting of *Viburnum* spp., *Camellia* spp. and *Rhododendron* spp., other than *Rhododendron simsii* Planch, other than seeds, originating in third countries, other than the United States of America, introduced into the Community may only be moved in the Community if they are accompanied by a plant passport prepared and issued in accordance with Commission Directive 92/105/EEC<sup>1</sup>.~~

### *Article 4*

~~Susceptible bark originating in the United States of America shall not be permitted entry in the Community.~~

### *Article 5*

~~1. Plants intended for planting of *Viburnum* spp., *Camellia* spp. and *Rhododendron* spp., other than *Rhododendron simsii* Planch, other than seeds, originating in the Community may not be moved within the Community unless they meet the conditions laid down in point 3 of~~

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<sup>1</sup> — OJ L 4, 8.1.1993, p. 22.

~~Annex I to this Decision. The producers of these plants shall be registered in accordance with the provisions of Commission Directive 92/90/EEC<sup>2</sup>.~~

~~2. Member States shall ensure that the registered producers shall notify every suspected occurrence or confirmed presence of the harmful organism on the place of production to their own responsible official bodies.~~

#### *Article 6*

~~1. Member States shall conduct official surveys for the harmful organism in their territory, including both cultivated and uncultivated/unmanaged plants, to determine whether there is evidence of infestation by the harmful organism.~~

~~2. Without prejudice to the provisions of Article 16(1) of Directive 2000/29/EC, the results of these surveys provided for in the first paragraph shall be notified to the Commission and to the other Member States annually by 1 December.~~

~~3. Member States may take appropriate measures within their territory to carry out official monitoring of movements of susceptible plants to ascertain whether they comply with the conditions set out in this Decision.~~

#### *Article 6a*

~~1. Member States shall inform the Commission and the other Member States in writing when they have made use of the derogation provided for in the second subparagraph of Article 3(1).~~

~~Member States that made use of the derogation shall provide the Commission and the other Member States before 15 July each year with information on the number of consignments imported in the previous year pursuant to the second subparagraph of Article 3(1) of this Decision and with a detailed report of all cases of interceptions as referred to in paragraph 2 of this Article.~~

~~2. Member States shall notify the Commission and the other Member States no later than two working days after the date of interception of each consignment introduced into their territory pursuant to the second subparagraph of Article 3(1) which does not comply with the conditions set out in Annex II.~~

~~3. The Commission shall request the United States of America to provide it with the technical information necessary to allow the Commission to assess the functioning of the Kiln Drying Sawn Hardwood Lumber Certification Program.~~

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<sup>2</sup>— OJ L 344, 26.11.1992, p. 38.

*Article 7*

~~Member States shall adjust at the latest, by 31 October 2002, the measures which they have adopted with a view to protecting themselves against the introduction and spread of the harmful organism in such a manner that the measures comply with this Decision and shall forthwith inform the Commission of the adjusted measures.~~

*Article 8*

~~This Decision shall be reviewed by 31 January 2008 at the latest.~~

*Article 9*

~~This Decision is addressed to the Member States.~~

## ANNEX I

1a. ~~Without prejudice to the provisions of Annex III, Part A(2), and Annex IV, Part A(1),(11.1), (39) and (40) of Directive 2000/29/EC, susceptible plants originating in the United States of America shall be accompanied by a certificate referred to in Article 13(1) of Directive 2000/29/EC:~~

- ~~(a) stating that they originate in areas in which non-European isolates of the harmful organism are known not to occur. The name of the area shall be mentioned on the certificate under the rubric 'place of origin'; or~~
- ~~(b) issued after official verification that no signs of non-European isolates of the harmful organism have been observed on any susceptible plants at the place of production during official inspections, including laboratory testing of any suspicious symptoms carried out since the beginning of the last complete cycle of vegetation.~~

~~Further, the certificate shall only be issued after representative samples of the plants have been taken before shipment and have been inspected and found free from non-European isolates of the harmful organism in these inspections. The latter shall be mentioned on the certificate under the rubric 'additional declaration' as 'found free from non-European isolates of *Phytophthora ramorum* Werres, De Cock & Man in 't Veld sp. nov.'.~~

1b. ~~The introduced susceptible plants referred to in point 1a may only be moved within the Community if they are accompanied by a plant passport prepared and issued in accordance with the provisions of Directive 92/105/EEC attesting to the inspections referred to in Article 3(1).~~

2. ~~Susceptible wood originating in the United States of America may only be imported into the Community if, it is accompanied by a certificate referred to in Article 13(1) of Directive 2000/29/EC~~

- ~~(a) stating that it originates in areas in which non-European isolates of the harmful organism is known not to occur. The name of the area shall be mentioned on the certificate under the rubric 'place of origin'; or~~
- ~~(b) issued after official verification that the wood has been stripped of its bark and:
  - ~~(i) that it has been squared so as to remove entirely the rounded surface; or~~
  - ~~(ii) that the water content of the wood does not exceed 20% expressed as a percentage of the dry matter; or~~
  - ~~(iii) that the wood has been disinfected by an appropriate hot air or hot water treatment;~~~~

~~or~~

- (c) ~~in the case of sawn wood with or without residual bark attached, if there is evidence by a mark 'Kiln-dried', 'KD' or another internationally recognised mark put on the wood or on its packaging in accordance with current commercial usage, that it has undergone kiln-drying to below 20 % moisture content, expressed as a percentage of dry matter, at time of manufacture, achieved through an appropriate time/temperature schedule.~~
3. ~~Plants intended for planting of *Viburnum* spp., *Camellia* spp. and *Rhododendron* spp., other than *Rhododendron simsii* Planch, other than seeds, originating in the Community may be moved within the Community only if they are accompanied by a plant passport and:~~
- (a) ~~the plants originate in areas in which the harmful organism is known not to occur;~~  
~~or~~
- (b) ~~no signs of the harmful organism have been observed on the plants at the place of production since the beginning of the last complete cycle of vegetation on official inspections, including laboratory testing of any suspicious symptoms, carried out at least once at appropriate times when the plants are in active growth and, from 1 May 2007 onwards, carried out at least twice during the growing season at appropriate times when the plants are in active growth; the intensity of these inspections shall take into account the particular production system of the plants;~~  
~~or~~
- (c) ~~in cases where signs of the harmful organism have been found on the plants at the place of production, appropriate procedures have been implemented aiming at eradicating the harmful organism, consisting at least of the following:~~
- (i) ~~destruction of the infected plants and all susceptible plants within 2 m radius of the infected plants, including associated growing media and plant debris,~~
- (ii) ~~for all susceptible plants within 10 m radius of the infected plants, and any remaining plants from the affected lot:~~
- ~~– the plants have been retained at the place of production,~~
  - ~~– official additional inspections have been carried out at least twice in the three months after the eradication measures have been taken when the plants are in active growth,~~
  - ~~– while during this three months period no treatments that may suppress symptoms of the harmful organism have been carried out,~~
  - ~~– the plants have been found free from the harmful organism in these official inspections,~~
- (iii) ~~for all other susceptible plants at the place of production, the plants have been subject to official intensive re-inspection following the finding and have been found free from the harmful organisms in these inspections,~~

(iv) ~~appropriate phytosanitary measures have been taken on the growing surface within a 2 m radius of infected plants.~~

4. In cases where signs of the harmful organism have been found on any plants at places in ~~the Community~~Guernsey other than places of production, ~~the competent authority~~Member States shall take appropriate measures to at least contain the harmful organism. This may include the determination of the area concerned in which the measures shall be implemented.

## ANNEX II

### **PART I**

#### **Conditions referred to in the second subparagraph of Article 3(1)**

~~The conditions referred to in the second subparagraph of Article 3(1) under which bark free sawn wood of *Acer macrophyllum* Pursh and *Quercus* spp. L. originating in the United States of America may be introduced into the Union without complying with point 2 of Annex I, are the following:~~

- ~~(1) the wood shall be manufactured at sawmills or treated at appropriate premises approved and audited by the US National Hardwood Lumber Association (NHLA) to participate in the Kiln Drying Sawn Hardwood Lumber Certification Program ('the programme');~~
- ~~(2) the wood shall undergo kiln drying to below 20 % moisture content, expressed as a percentage of dry matter, achieved through an appropriate time/temperature schedule;~~
- ~~(3) once the condition laid down in point (2) is fulfilled, a standard steel ID clip shall be affixed to each bundle by, or under the supervision of, the designated officer of the mill referred to in point (1). Each ID clip shall be stamped with 'NHLA — KD' along with a unique number assigned to each bundle;~~
- ~~(4) in order to ensure that the conditions laid down in points (2) and (3) are fulfilled, the wood shall be subject to a checking system which is set up under the programme and which includes pre shipment inspection and monitoring at the approved sawmills carried out by independent third party auditors qualified and authorised for that purpose. The Animal and Plant Health Inspection Service, US Department of Agriculture shall carry out occasional pre shipment inspections and six monthly audits of NHLA records and procedures relating to the programme, of the independent third party auditors and of the sawmills and other appropriate premises that participate in the programme;~~
- ~~(5) the wood shall be accompanied by a standard 'Certificate of Kiln Drying' which complies with the model set out in Part II of this Annex, and which is issued by a person or persons authorised to participate in the programme and is validated by an inspector of the NHLA. The Certificate of Kiln Drying shall be completed and shall include information on the amount of bark free sawn wood in board feet and cubic metres. The certificate shall also specify the total number of bundles and each of the ID clip numbers assigned to those bundles.~~

### **PART II**

#### **Model of Certificate of Kiln Drying**

~~Agreement No 07-8100-1173-MU~~

~~Cert #: xxxxx-xxxxx~~

**CERTIFICATE OF KILN DRYING**

***Sawn Hardwood Lumber***

<b>Lumber Kiln Dried by</b>	<b>Consignee</b>
Name of Company:	Name:
Address:	Address:
City/State/Zip:	City/State/Zip:
Phone:	Country:
Order #:	Port:
Invoice #:	Container #:
Customer PO#:	

~~Certificate Standard: This certifies that the lumber described below is of the allowed genera Quercus sp. and/or Platanus sp. and/or the species Acer saccharum and/or Acer macrophyllum; and has met the treatment requirements of the Dry Kiln Operators Manual and is bark free.~~

***Description of Consignment:***

~~Botanical Name of wood:~~

~~List species, thickness, grade of various items contained in shipment:~~

<del>Bundle Numbers</del>	<del>Clip ID Numbers</del>	<del>Board Footage</del>	<del>Cubic Meters</del>
<del>Totals:</del>	<del># Bundles</del>	<del>BdFt</del>	<del>Cubic Meters:</del>

~~(This document is issued under a program officially approved by the Animal, Plant, Health, and Inspection Service of the U.S. Department of Agriculture. The products covered by this document are subject to pre shipment inspection by that Agency. No liability shall be attached to the U.S. Department of Agriculture or any representatives of the Department with respect to this certificate.)~~

***AUTHORIZED PERSON RESPONSIBLE FOR CERTIFICATION***

<del>Name (print) _</del>	<del>Title _</del>
<del>I certify that the products described above satisfy the Kiln Drying requirements listed under Certificate Standard and are bark free.</del>	
<del>Signature _</del>	<del>Date _</del>

***NATIONAL HARDWOOD LUMBER ASSOCIATION VALIDATION***

Name (print)	Authorized signature	Title	Date
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~~National Hardwood Lumber Association PO Box 34518 | Memphis, TN 38184-0518 | Ph. 901-377-1818 | Fax 901-347-0034 | [www.nhla.com](http://www.nhla.com)~~

~~PLEASE SIGN THIS FORM IN BLUE INK~~