

II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 29 April 2004

amending Decision 2002/757/EC 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.

(notified under document number C(2004) 1585)

(Text with EEA relevance)

(2004/426/EC)

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 Community¹ and in particular Article 16(3), fourth sentence thereof,

Whereas:

- (1) In 2002, the United Kingdom informed the other Member States and the Commission 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 of the measures taken to control it.

¹ OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2004/31/EC (OJ L 85, 23.3.2004, p. 18.).

- (2) By Commission Decision 2002/757/EC² the Member States were provisionally required to take emergency phytosanitary measures to prevent the introduction into and the spread within the Community of the harmful organism.
- (3) As a result of the official surveys carried out under Decision 2002/757/EC, and based on recent information on the damage caused by the harmful organism, it appears that the list of host plants of the harmful organism, designated in that Decision as "susceptible plants", should be extended.
- (4) The measures set out in Decision 2002/757/EC should not be applicable to foliage and cut branches but should be limited to plants for planting which are moved from the place of production in the Community; they should moreover also be extended to plants for planting of *Camellia* spp., other than seeds.
- (5) It appears necessary to ensure that the registered producers shall notify every suspected occurrence or confirmed presence of the harmful organism to their responsible official bodies.

² OJ L 252, 20.9.2002, p. 37.

- (6) It further appears necessary to extend the surveys carried out by the Member States as regards evidence of infestation by the harmful organism to include both cultivated and uncultivated/unmanaged plants.
- (7) It is appropriate that the results of such measures be continually assessed, and possible subsequent measures be considered in the light of the results of that assessment. The subsequent measures should also take into account the information to be provided and the scientific opinions to be delivered by the Member States.
- (8) Decision 2002/757/EC should therefore be amended accordingly.
- (9) 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

Decision 2002/757/EC is amended as follows:

1. Article 1(2) is replaced by the following:
 - “2. “susceptible plants” means plants, other than fruit and seeds, of *Acer macrophyllum* Pursh, *Aesculus californica* Nutt., *Aesculus hippocastanum* L., *Arbutus menziesii* Pursch., *Arbutus unedo* L., *Arctostaphylos* spp. Adans, *Camellia* spp., *Castanea sativa* Mill., *Fagus sylvatica* L., *Hamamelis virginiana* L., *Heteromeles arbutifolia* (Lindley) M. Roemer, *Kalmia latifolia* L., *Leucothoe fontanesiana* (Steudel) Sleumer, *Lithocarpus densiflorus* (H & A), *Lonicera hispidula* (Dougl.), *Pieris* spp., *Pseudotsuga menziesii* (Mirbel) Franco, *Quercus* spp. L., *Rhamnus californica* (Esch), *Rhododendron* spp. L., other than *Rhododendron simsii* Planch., *Sequoia sempervirens* (D. Don) Endl., *Syringa vulgaris* L., *Taxus* spp., *Trientalis latifolia* (Hook), *Umbellularia californica* (Pursch.), *Vaccinium vitis-idaea* Britt., *Vaccinium ovatum* (Hook & Arn) Nutt. and *Viburnum* spp. L.”.
2. In Article 3(4) “plants of *Rhododendron* spp., other than *Rhododendron simsii* Planch, and *Viburnum* spp., other than fruit and seeds” is replaced by “plants intended for planting of *Viburnum* spp., *Camellia* spp. and *Rhododendron* spp., other than *Rhododendron simsii* Planch, other than seeds”.

3. Article 5 is replaced by the following:

“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 from their place of production unless they meet the conditions laid down in point 3 of the Annex to this Decision. The producers of these plants shall be registered in accordance with the provisions of Commission Directive 92/90/EEC³.
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.”.

4. Article 6 is amended as follows:

- (a) Paragraph 1 is replaced by the following:

“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.”;

- (b) In paragraph 2 “1 November 2003” is replaced by “1 November 2004”.

- (c) The following new paragraph 3 is added:

“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.”.

5. In Article 8 “31 December 2003” is replaced by “31 December 2004”.

6. The Annex is amended in accordance with the Annex to this Decision.

³ OJ L 344, 26.11.1992, p. 38.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 29 April 2004.

For the Commission
David BYRNE
Member of the Commission

ANNEX

The Annex to Decision 2002/757/EC is amended as follows:

1. In the first paragraph of point 1a and point 2 "Article 7 or 8 of Directive 2000/29/EC" is replaced by "Article 13(1) of Directive 2000/29/EC".
2. Point 3 is replaced by the following:
 - “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 from the place of production 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; 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 destruction of the infected plants and all susceptible plants within 2 m radius of the infected plants, and
 - (i) 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, and
 - 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, and
 - while during this three months-period no treatments that may suppress symptoms of the harmful organism have been carried out, and
 - the plants have been found free from the harmful organism in these official inspections,
 - (ii) 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.”.

3. The following point 4 is added:

"4. In cases where signs of the harmful organism have been found on any plants at places in the Community other than places of production, 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."