

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 14 November 1988

amending Directive 77/93/EEC on protective measures against the introduction into the Member States of organisms harmful to plants of plant products

(88/572/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas by Directive 77/93/EEC ⁽⁴⁾, as last amended by Directive 88/272/EEC ⁽⁵⁾, the Council laid down protective measures against the introduction into the Member States of organisms harmful to plants or plant products;

Whereas, having regard to developments since then, certain of its provisions should be amended;

Whereas the scope of the Directive should be clarified in respect of 'wood'; whereas, in particular, it is useful to follow the detailed descriptions of 'wood' set out in Annex I, Part II of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff ⁽⁶⁾, as last amended by Regulation (EEC) No 3985/87 ⁽⁷⁾;

Whereas the rules relating to import inspections in intra-Community trade should be adapted to Community

case-law and to other developments, in particular to the increased confidence which has been progressively established between Member States regarding the correct operation of inspection systems in the consignor Member States;

Whereas mutual information on interceptions should be made mandatory;

Whereas the rules relating to import inspections in the case of imports from third countries should be completed by provisions relating to consignments not declared to contain plants, plant products or other objects which must be subjected to a plant health inspection in the country of origin before being permitted to enter any of the Member States,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/93/EEC is amended as follows:

1. Article 2 (2) is replaced by the following:

'2. Paragraph 1 (b) and the other provisions of this Directive, save where it is expressly provided otherwise, concern wood only in so far as it retains all or part of its natural round surface, with or without bark, or as it is in the form of chips, particles, sawdust, wood waste or scrap.

⁽¹⁾ OJ No 186, 13. 7. 1984, pp. 6 and 11.

⁽²⁾ OJ No C 300, 12. 11. 1984, p. 53.

⁽³⁾ OJ No C 25, 28. 1. 1985, p. 31.

⁽⁴⁾ OJ No L 26, 31. 1. 1977, p. 20.

⁽⁵⁾ OJ No L 116, 4. 5. 1988, p. 19.

⁽⁶⁾ OJ No L 256, 7. 9. 1987, p. 1.

⁽⁷⁾ OJ No L 376, 31. 12. 1987, p. 1.

Save for the purpose of the provisions relating to Annex V, wood, whether satisfying the conditions referred to in the first subparagraph or not, is also concerned where it is in the form of dunnage, spacers, pallets or packing material which are actually in use in the transport of objects of all kinds, provided that it presents a plant health risk.'

2. In Article 11 (1), first sentence, the following is added before the words 'Member States may': Without prejudice to the provisions of paragraph 3'.

3. In Article 11 (1), the following is added after (d)

'(e) they are necessary to check the identity of the declared plants, plant products or other objects. They are not necessary where official measures such as official sealing of their packaging or officially approved and supervised equivalent safeguards have been taken in the forwarding Member State to ensure the identity: in accordance with the procedure laid down in Article 16, or, in urgent cases, with that laid down in Article 17, it may be established whether a specific practice is an equivalent safeguard or not.'

4. Article 11 (2) is replaced by the following:

'2. They shall not require any additional declaration on the certificates referred to in Article 4, 5, 7, 8 or 9.

In the case of plants, plant products or other objects originating in non-member countries, and to the extent that Member States apply the same plant health requirements pursuant to Articles 3 and 5 in respect of the introduction of such plants, plant products or other objects into their respective territories, a Member State which introduces them from another Member State shall not require that the certificates bear additional declarations not required by the Member State which first introduced them into the Community, or that an additional declaration drawn up in one of the official languages of the Community has a wording which is different from that required by that Member State.'

5. In Article 11 (3), first subparagraph, 'with regard to fruit and vegetables and potatoes', is deleted and 'the official check on identity and the requirements permitted under paragraph 1' is replaced by 'the measures permitted under the second sentence of paragraph 1'.

6. In Article 11 (3), second subparagraph, first sentence, 'official inspections of fruit and vegetables and potatoes other than seed potatoes' is replaced by 'official phytosanitary inspections including identity checks'.

7. In Article 11 (3), the second subparagraph is supplemented by the following:

'Member States shall take the appropriate steps to ensure that the carrying-out of these inspections at the border is progressively reduced, save in cases specified in accordance with the procedure laid down in Article 16. They shall be carried out either at the place of destination of the plants, plant products or other objects, or at another designated place instead, provided that the routing of the plants, plant products or other objects is interfered with as little as possible.'

8. In Article 11, the following paragraph 6 is added.

'6. Member States shall ensure that their plant protection organization informs that of the forwarding Member State of all cases where plants, plant products or other objects coming from the Member State have been intercepted as being subject to prohibitions or restrictions relating to plant-health measures. This information is without prejudice to the measures which the first mentioned plant protection organization may deem necessary to take in respect of the intercepted consignment, and shall be given as soon as possible so that the plant protection organizations concerned may study the case with a view, in particular, to taking the steps necessary to prevent further, similar occurrences and, where appropriate and in so far as possible, taking such measures in respect of the intercepted consignment which are adequate to the risk level related to the case. In accordance with the procedure laid down in Article 16 a standardized information system may be set up.'

9. In Article 12, the following paragraph is inserted:

'3 (a) Member States may also lay down that consignments coming from third countries, which are not declared to contain plants, plant products or other objects listed in Annex V, shall be officially inspected, where there is serious reason to believe that there has been an infringement of the rules in this respect.

In accordance with the procedure laid down in Article 16

- the cases may be specified in which such inspections shall be carried out,
- the methods for such inspections may be laid down.

If, at the outcome of the inspection, doubts remain in respect of the identity of the consignment, in particular concerning genus, species or origin, the consignment shall be considered to contain plants, plant products or other objects listed in Annex V.'

10. In Annex IV, part A, the following point shall be inserted :

- | | |
|--|---|
| <p>'6 (b) Wood in the form of chips, particles, wood waste or scrap and obtained in whole or part from one or more of the genera or species referred to in Annex V (4) (b), originating in non-European countries.</p> | <p>The product has been produced exclusively from wood which was stripped of its bark or which has undergone either 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 or fumigation, and is shipped in sealed containers or in such a way as to prevent any re-infestation.</p> |
|--|---|

11. In Annex V, paragraph 4 is replaced by the following :

- '4. Wood within the meaning of Article 2 (2), first subparagraph, where it (a) meets one of the following descriptions laid down in Annex I Part II of Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (1).

CN code	Description
4401 10	— Fuel wood, in logs, in billets, in twigs, in faggots or in similar forms
ex 4401 21	— Wood in chips or particles : — Coniferous, originating in non-European countries
4401 22	— Wood in chips or particles : — Non-coniferous
ex 4401 30	— Wood waste and scrap, not agglomerated in logs, briquettes, pellets or similar forms
ex 4403 20	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared : — Other than treated with paint, stains, creosote or other preservatives, coniferous originating in non-European countries
4403 91	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared : — Other than treated with paint, stains, creosote or other preservations : — Of oak (<i>Quercus</i> spp.)
4403 99	Wood in the rough, whether or not stripped of bark or sapwood, or roughly squared : — Other than treated with paint, stains, creosote or other preservatives ; — Other than coniferous, of oak (<i>Quercus</i> spp.) or of beech (<i>Fagus</i> spp.)
ex 4404 10	Split poles ; piles, pickets and stakes of wood, pointed but not swan lengthwise : — Coniferous, originating in non-European countries
ex 4404 20	Split poles ; piles, pickets and stakes of wood, pointed but not sawn lengthwise : — Non-coniferous
4406 10	Railway or tramway sleepers (cross-ties) of wood : — Not impregnated
ex 4407 10	Woods sawn or chipped lengthwise, sliced or peeled, not planed, sanded or finger-jointed, of a thickness exceeding 6 mm, in particular beams, planks, fitches, boards, laths : — Coniferous, originating in non-European countries

CN code	Description
ex 4407 91	Wood sawn or chipped lengthwise, sliced or peeled, not planed, sanded or finger-jointed, of a thickness exceeding 6 mm, in particular beams, planks, flitches, boards, laths : — Of oak (<i>Quercus</i> spp.)
ex 4407 99	Wood sawn or chipped lengthwise, sliced or peeled, not planed, sanded or finger-jointed, of a thickness exceeding 6 mm, in particular beams, planks, flitches, boards, laths : — Other than coniferous, of tropical woods, of oak (<i>Quercus</i> spp.) or of beech (<i>Fagus</i> spp.)
ex 4415 10	Packing cases, crates and drums of wood originating in non-European countries
ex 4415 20	Pallets, box pallets and other load boards, of wood originating in non-European countries
ex 4416 00	Barrels of wood, including staves, of oak (<i>Quercus</i> spp.)

(b) and has been obtained in whole or part from one of the general or species as described hereafter :

- *Castanea*, *Quercus*, also in cases where the wood does not retain part of its natural round surface,
- *Platanus*
- Coniferae, originating in non-European countries,
- *Populus*, originating in countries of the American continent,
- *Acer saccharum*, originating in the United States of America.

Wood which meets the descriptions referred to in (a) in CN code 4401 10, ex 4404 10, ex 4407 10, ex 4415 10 or ex 4415 20 and has been obtained in whole from Coniferae is exempted, where

- there is evidence that it satisfies an internationally recognized standard or belongs to a commercial grade, not allowing any tolerance for bark, or
- there is evidence by a mark "kiln-dried", "K.D." or another internationally recognized mark, put on the wood or on its packaging in accordance with current commercial usage and supported by appropriate accompanying documents, 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,

or

- there is evidence that the wood has been adequately impregnated with an effective wood preservative permitted in the Community.

Pallets and box pallets (CN code ex 4415 20) are also exempted where they satisfy the standard set up for "UIC — Pallets" and are marked accordingly.

(¹) OJ No L 256, 7. 9. 1987, p. 1'.

Article 2

1. Member States shall bring into force the laws, regulations for administrative provisions necessary to comply with this Directive by 1 January 1989 at the latest.

2. Member States shall communicate to the Commission the main provisions of national law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 3

This Directive is addressed to the member States.

Done at Brussels, 14 November 1988.

For the Council

The President

Y. POTTAKIS
