

COUNCIL DIRECTIVE

of 19 December 1985

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

(85/574/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 100 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 its Directive 77/93/EEC ⁽⁴⁾, as last amended by Directive 84/378/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 for the reasons given below;

Whereas it is useful to give a detailed definition of certain terms used in connection with the term 'plants';

Whereas machinery should be established to determine, at Community level, acceptable tolerances for certain harmful organisms on products other than plants intended for planting;

Whereas it is appropriate to lay down, with a view to the intended adoption in a standardized layout of the specimen certificates approved by the International Plant Protection Convention of 6 December 1951, as amended on 21 November 1979, certain rules concerning the conditions in accordance with which such certificates may be issued, certain rules for the use of previous models during a transitional period, and certification requirements in the case of the introduction of plants and plant products from third countries;

Whereas the procedure applicable to certain types of amendments to be made to the Annexes to Directive 77/93/EEC should be simplified;

Whereas, as a result of the adoption of certain new headings in the Annexes, the Member State concerned could impose the relevant prohibitions or restrictions also where the products concerned, originating in a third country, come from other Member States;

Whereas certain provisions laid down in the enacting terms of that Directive should be deleted following the adoption, by Directive 84/378/EEC, of more appropriate provisions in the Annexes;

Whereas derogations from the general provisions of Directive 77/93/EEC which have been granted in accordance with conditions determined on a Community basis pursuant to Article 14 (2) and (3) of that Directive have presented considerable advantages in that they have enabled specific situations to be taken into account; whereas the scope of such derogations should therefore be extended;

Whereas, moreover, experience has shown that the same degree of urgency may attach to such derogations as attaches to the safeguard provisions laid down in Article 15 of that Directive; whereas therefore the urgency procedure specified in Article 17 of the said Directive should also be made applicable to these derogations,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/93/EEC is hereby amended as follows:

1. Article 2 (1) (a) shall be replaced by the following:

'(a) Plants shall be considered to mean living plants and living parts thereof, including seeds.

Living parts of plants shall be considered to include:

- fruit — in the botanical sense — other than that preserved by deep freezing,
- vegetables, other than those preserved by deep freezing,
- tubers, corms, bulbs, rhizomes,
- cut flowers,
- branches with foliage,
- cut trees retaining foliage,
- plant tissue cultures.'

⁽¹⁾ OJ No C 186, 13. 7. 1984, p. 6.

⁽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 207, 2. 8. 1984, p. 1.

- Seeds shall be considered to mean seeds in the botanical sense, other than those not intended for planting.
2. In Article 2 (1), the following shall be inserted after (c):
 - '(d) plants intended for planting shall be considered to mean:
 - plants which are already planted and are intended to remain planted or to be replanted after their introduction, or
 - plants which are not planted at the time of introduction, but are intended to be planted thereafter.'

Points (d) and (e) shall become points (e) and (f) respectively.
 3. In Article 3:
 - paragraphs 2 and 3 shall be deleted,
 - former paragraph 4 shall become paragraph 2,
 - the following paragraph shall be inserted:

'3. Paragraphs 1 and 2 shall not apply, in accordance with conditions which may be determined in accordance with the procedure laid down in Article 16, in the case of slight contamination of plants, other than those intended for planting, by harmful organisms listed in Annex I, Part A, or in Annex II, Part A, which have previously been selected in agreement with the authorities representing the Member States in the field of plant health.'
 - former paragraphs 5, 6 and 7 shall become 4, 5 and 6 respectively.
 4. Article 7 (1) shall be replaced by the following:

'1. Where it is considered, on the basis of the examination laid down in Article 6 (1) and (2), that the conditions therein are fulfilled, a phytosanitary certificate conforming to the model in Annex VIII, Part A, may be issued, drawn up in at least one of the official languages of the Community and filled in, except in respect of stamp and signature, either entirely in capital letters or entirely in typescript, and preferably in one of the official languages of the Member State of destination.

The botanical names of plants shall be indicated in Latin characters. Uncertified alterations or erasures shall invalidate the certificate. Any copies of this certificate shall only be issued with the indication "copy" or "duplicate" printed or stamped thereon.

By way of derogation from the first subparagraph, remaining stocks of phytosanitary certificates conforming to the original version of the model laid down in the Annex to the International Plant Protection Convention of 6 December 1951 may be used until 31 December 1986.'
 5. In Article 7 (3), '31 December 1980' shall be replaced by '31 December 1986'.
 6. In Article 8 (2), first subparagraph, second sentence, the passage 'reforwarding phytosanitary certificate in accordance with the specimen in Annex VIII, Part B, drawn up in at least one official Community language, preferably that of the Member State of destination' shall be replaced by 'reforwarding phytosanitary certificate, in one original copy only, conforming to the model laid down in Annex VIII, Part B, drawn up in at least one of the official languages of the Community, and filled in, except in respect of stamp and signature, either entirely in capital letters or entirely in typescript, and preferably in one of the official languages of the Member State of destination'.
 7. In Article 8 (2), the following subparagraph shall be inserted after the first subparagraph:

'Article 7 (1), second subparagraph, shall apply by analogy.'
 8. In Article 8 (2), second subparagraph, '31 December 1980' shall be replaced by '31 December 1986'.
 9. Article 10 shall be deleted.
 10. In Article 12 (1) (b), second sentence, the words 'The certificates shall be issued' shall be replaced by 'The certificates prescribed in Articles 7, 8 or 9 shall contain information in accordance with the model defined in the Annex to the International Plant Protection Convention of 6 December 1951, as amended on 21 November 1979, irrespective of their layout, and shall be issued'.
 11. In Article 12 (1) (b), the following subparagraph shall be added:

'By way of derogation from the first subparagraph phytosanitary certificates issued in accordance with the original version of the model laid down in the Annex to the International Plant Protection Convention of 6 December 1951 may be used for a transitional period. The date of expiry of such period may be determined in accordance with the procedure laid down in Article 16.'
 12. In Article 13 the following paragraph shall be added:

'However, the following shall be adopted in accordance with the procedure laid down in Article 16:

 - headings additional to Annex III to this Directive in respect of certain plants, plant products or other objects originating in specified third countries, provided that:
 - these headings are introduced at the request of a Member State which already applies special prohibitions as regards the intro-

- duction of such products from third countries,
- harmful organisms occurring in the country of origin constitute a plant-health risk for the whole or part of the Community, and
 - their possible presence on the products in question cannot be detected effectively at the time of their introduction,
- headings additional to the other Annexes to this Directive in respect of certain plants, plant products or other objects originating in specified third countries, provided that:
 - these headings are introduced at the request of a Member State which already applies special prohibitions or restrictions as regards the introduction of such products from third countries, and
 - harmful organisms occurring in the country of origin constitute a plant-health risk for the whole or part of the Community in respect of crops, the scale of possible damage to which is unforeseeable,
 - any amendment to part B of the Annexes to this Directive, in agreement with the Member State concerned,
 - any other amendment to the Annexes to this Directive to be made in the light of developments in scientific or technical knowledge.
13. In Article 14 (1) (a), point (i) shall be deleted, points (ii), (iii) and (iv) shall become points (i), (ii) and (iii) respectively.
14. In Article 14 (1) (a):
- in point (i), the reference to Article 10 shall be deleted,
 - in point (iii), the terms '5 to 10 and 12' shall be replaced by the terms '5 to 9 and 12'.
15. In Article 14 (1) (c) (i), the terms 'and 4 (1) with regard to requirements referred to in Annex III, Part A (8), and from Articles' shall be deleted.
16. In Article 14 (2) and (3), the terms 'or, in urgent cases, with that laid down in Article 17', shall be inserted after 'In accordance with the procedure laid down in Article 16'.
17. In Article 14 (3), second indent, the terms '1 to 8 and 10' shall be replaced by 'remaining items', and the words 'with regard to the requirements referred to in Annex IV, Part A, 2, 3 and 4' replaced by 'with regard to other requirements referred to in Annex IV, Part A'.
18. In Article 14 (3), the following indent shall be inserted after the second indent:
- '— from Articles 7 (2) and 12 (1) (b), in the case of wood, if equivalent safeguards are given.'

Article 2

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 January 1987 at the latest.
2. Member States shall forthwith inform the Commission of all laws, regulations and administrative provisions adopted in implementation of this Directive. The Commission shall inform the other Member States thereof.

Article 3

This Directive is addressed to the Member States.

Done at Brussels, 19 December 1985.

For the Council
The President
M. FISCHBACH