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 developoments, 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 occurences 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 identify 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.'