

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 452 final

Brussels, 30th July 1979

PROPOSAL FOR A COUNCIL DIRECTIVE
AMENDING DIRECTIVE 77/97/EEC ON PROTECTIVE MEASURES
AGAINST THE INTRODUCTION INTO THE MEMBER STATES
OF HARMFUL ORGANISMS OF PLANTS' OR PLANT PRODUCTS

(presented by the Commission to the Council)

COM(79) 452 final

EXPLANATORY MEMORANDUM

Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of harmful organisms of plants or plant products⁽¹⁾ has laid down the measures which must or may be applied for purposes of plant protection to intra-community trade in plants or plant products or to imports from third countries.

Developments since the adoption of this Directive have revealed the need to make certain amendments to its provisions to be implemented forthwith.

The FAO Conference has not yet amended the International Plant Protection Convention of 6 December 1951, to incorporate in it the recommendations of the 1976 FAO Consultation concerning the model certificates to be used for trade in plants or plant products, which have already been taken into account in the abovementioned Directive. Consequently, it is necessary to authorise for a transitional period use of the model certificate which is provided for in the present text of the Convention and has been in use hitherto.

The Directive provides for a period of time in which a system of measures is to be set up at Community level to ensure compliance with the phytosanitary requirements for seeds provided for in the Directive. In essence, this involves the establishment of a link between the plant health controls and the Community systems for certification of seeds and propagating material with regard to quality. This period of time has proved to be insufficient and it is necessary to extend it.

With regard to imports of plants or plant products from third countries, experience has shown that certificates complying with the required models are in certain cases issued by departments other than those authorised for these purposes. It is desirable therefore to extend the Directive so as to authorise satisfactory procedures in such cases. In addition, it may be useful to list for information the authorised departments in third countries.

The Directive provides special requirements for round oak wood to protect the Community against the introduction of oak wilt (*Ceratrysis fagacearum*). To ensure effective protection, it is necessary to extend the protective measure to oak lumber in view of the risk of introducing this organism via the latter. A degree of flexibility in applying the measures is, however, called for to allow the particular circumstances of each individual case to be better taken into account. There must therefore be provision for the possibility to

(1) OJ No L 26 of 31.1.1977, p.20

make exceptions, under conditions laid down at Community level, from the general rules.

Finally, the wording of certain provisions of the Directive may give rise to ambiguous interpretation and it is therefore desirable to make these texts clearer

Proposal for a Council Directive amending Directive 77/97/EEC on protective measures against the introduction into the Member States of harmful organisms of plants or plant products

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,

Having regard to the Opinion of the European Parliament,

Whereas Council Directive 77/93/EEC¹ laid down the measures which Member States shall or may apply, on grounds of the protection of plant health, in intra-community trade in plants or plant products or on their importation from non-member countries;

Whereas, having regard to developments since the adoption of the abovementioned Directive, certain of its provisions should be amended as stated below;

Whereas the International Plant Protection Convention of 6 December 1951, despite the recommendations put forward at the FAO consultation of 1976, has not yet been amended in such a way to allow the introduction of the model certificates provided for in the Directive; whereas, therefore, the model certificates set out in the current version of the Convention should be allowed for a transitional period.

(1) OJ No L 26, 31.1.1977, p.20

Whereas, in the case of seeds, the measures to ensure compliance with the requirements laid down in the Directive, are to be determined at Community level; whereas the period specified for this purpose has not been sufficient and should therefore be extended,

Whereas in the case of importations of plant or plant products from non-member countries the authorities responsible in such countries for issuing certificates should be, in principle, those empowered under the International Plant Protection Convention; whereas it could be desirable to establish lists of these authorities;

Whereas the measures laid down in the Directive in the case of oak round wood against the introduction of oak wilt (*Ceratocystis fagacearum*) into the Community have on the one hand proved insufficient and on the other unnecessarily strict; whereas, in the interests of effective protection,

a basis should be established for the extension of such measures to oak lumber; whereas the Member States should also be given the power to permit under certain conditions to be determined beforehand at Community level, derogations from the general requirements on oak wilt and similar cases,

Whereas it is useful, furthermore, to clarify certain provisions of the Directive,
HAS ADOPTED THIS DIRECTIVE:

Article 1

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

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

"2. This Directive, save where it expressly provides otherwise, concerns wood only in so far as it retains all or part of its natural round surface, with or without bark."

2. In Article 7(1), first sentence, the words "(1) and (2)" shall be added after the words "in Article 6".

3. In Article 7(1), third and fourth sentences as follows shall be added:

"By way of derogation from the provisions laid down in the first sentence, the phytosanitary certificate shall, for a transitional period, be in accordance with the specimen set out in the Annex to the International Plant Protection Convention of 6 December 1951. The date of expiry of the abovementioned period shall be fixed in accordance with the procedure laid down in Article 16."

4. In Article 7(3) the words "' by 31 December 1980" shall be substituted for the words "before expiry of the period referred to in Article 20(1)(b)".
5. In Article 8(2), there is added a fifth sentence as follows:
"Remaining stocks of certificates based upon a model used previously for re-forwarding may be used until 31 December 1980."
6. In Article 9(1), there are added after the words "provided for in Articles 7 and 8" the words "and issued by countries other than the country of origin".
7. In Article 12(1)(a), there are added after the words "to make sure", the words "as far as can be determined".
8. In Article 12(1)(b), there are added second and third sentences as follows:

"The certificates shall be issued by authorities empowered for this purpose under the International Plant Protection Convention of 6 December 1951, or, in the case of non-contracting countries, on the basis of laws or regulations of the country. In accordance with the procedure laid down in Article 16, lists of the authorities empowered by the various non-member countries to issue certificates may be established."

9. Article 14(3) shall be replaced by the following:
"3. In accordance with procedure laid down in Article 16, Member States may be authorized on request to provide for derogations in so far as such derogations are not yet allowed under paragraph 1,
- from Article 4(1) with regard to Annex III part A (9) for trial or scientific purposes and for work on varietal selection,
- from Article 4(1) with regard to Annex III part A (1) to (7) and (10), and from Article 5 (1) and the third indent of Article 12(1)(a), with regard to the requirements referred to in Annex IV part A (2), (3) and (4),

provided that

- by virtue of the origin of the plants or plant products, or
- by means of an appropriate treatment, or
- by means of particular precautions in view of the use of the plants or products

it can be ensured that there is no risk of spreading harmful organisms."

Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from the date laid down in Article 20(1)(b) of Directive 77/93/EEC.

Article 3

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President