

Commission Directive 2009/7/EC of 10 February 2009 amending Annexes I, II, IV and V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

COMMISSION DIRECTIVE 2009/7/EC

of 10 February 2009

amending Annexes I, II, IV and V to Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

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 Community<sup>(1)</sup>, and in particular points (c) and (d) of the second paragraph of Article 14 thereof,

After consulting the Member States concerned,

Whereas:

- (1) Directive 2000/29/EC lists organisms which are harmful to plants or plant products and provides for certain measures against their introduction into Member States from other Member States or third countries.
- (2) On the basis of information supplied by Member States and an examination of Annexes I, II, IV and V to Directive 2000/29/EC by experts, it is appropriate to amend the lists of harmful organisms in Annexes I and II to improve protection against the introduction of such organisms into the Community. All changes are based on technical and scientific evidence.
- (3) Taking into account increased international trade in plants and plant products, a phytosanitary protection of the Community is needed against the introduction of the following harmful organisms which are so far not known to be present in the Community: *Dendrolimus sibiricus* Tschetverikov; *Rhynchophorus palmarum* (L.); *Agrilus planipennis* Fairmaire on plants of *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq., and *Pterocarya rhoifolia* Siebold & Zucc., and only known to be present in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and the United States; Chrysanthemum stem necrosis virus on plants of *Dendranthema* (DC.) Des Moul. and *Lycopersicon lycopersicum* (L.) Karsten ex Farw.; *Scrobipalopsis solanivora* (Povolny) on tubers of *Solanum tuberosum* L. and *Stegophora ulmea* (Schweinitz : Fries) Sydow & Sydow on plants of *Ulmus* L. and *Zelkova* L., intended for planting, other than seeds. In addition, the further spread of

*Paysandisia archon* (Burmeister), found in some areas in the Community on 11 genera of Palmae and under official control, needs to be limited for the same reasons.

- (4) The names of *Saissetia nigra* (Nietm.) and *Diabrotica virgifera* Le Conte should be amended in line with the revised scientific denominations of those organisms. *Saissetia nigra* (Nietm.) has become *Parasaissetia nigra* (Nietner). *Diabrotica virgifera* Le Conte has been split into two subspecies, namely *Diabrotica virgifera virgifera* Le Conte, regionally present in the Community, and *Diabrotica virgifera zaeae* Krysan & Smith, not present in the Community.
- (5) The listing of those organisms in Annexes I and II to Directive 2000/29/EC needs therefore to be amended.
- (6) Consequently, the relevant requirements in Annexes IV and V to Directive 2000/29/EC for the import or movement of host plants of harmful organisms referred to in Annexes I and II need to be amended to take account of the amended listing in Annexes I and II.
- (7) The CN code for wood of *Acer saccharum* Marsh. needs to be updated in Annex V, Part B to complete the list of CN codes for wood subject to import control.
- (8) Annexes I, II, IV and V to Directive 2000/29/EC should therefore be amended accordingly.
- (9) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

Annexes I, II, IV and V to Directive 2000/29/EC are amended in accordance with the text in the Annex to this Directive.

*Article 2*

1 Member States shall adopt and publish, by 31 March 2009 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 April 2009.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such a reference is to be made.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

*Article 3*

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 4*

This Directive is addressed to the Member States.

Done at Brussels, 10 February 2009.

*For the Commission*

Androulla VASSILIOU

*Member of the Commission*

## ANNEX

Annexes I, II, IV and V to Directive 2000/29/EC are amended as follows:

1. In Annex I, Part A is amended as follows:

- (a) in heading (a) of Section I:
- (i) the following point 10.0 is inserted after point 10:  
10.0. *Dendrolimus sibiricus* Tschetverikov;
- (ii) point 10.4 is replaced by the following:  
10.4. *Diabrotica virgifera zea* Krysan & Smith;
- (iii) the following point 19.1 is inserted after point 19:  
19.1. *Rhynchophorus palmarum* (L.)
- (b) in heading (a) of Section II, the following point 0.1. is inserted before point 1:  
0.1. *Diabrotica virgifera virgifera* Le Conte.

2. In Annex II, Part A is amended as follows:

- (a) in heading (a) of Section I:
- (i) the following point 1.1 is inserted after point 1:

1.1.	<i>Agilus planipennis</i> Fairmaire	Plants intended for planting, other than plants in tissue culture and seeds, wood and bark of <i>Fraxinus</i> L., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch., <i>Ulmus parvifolia</i> Jacq. and <i>Pterocarya rhoifolia</i> Siebold & Zucc., originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA
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- (ii) point 24 is deleted;
- (iii) the following point 28.1 is inserted after point 28:

28.1.	<i>Scrobipalopsis solanivora</i> Povolny	Tubers of <i>Solanum tuberosum</i> L.
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(b) in heading (c) of Section I, the following point 14.1 is inserted after point 14:

14.1.	<i>Stegophora ulmea</i> (Schweinitz: Fries) Sydow & Sydow	Plants of <i>Ulmus</i> L. and <i>Zelkova</i> L., intended for planting, other than seeds
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- (c) in heading (d) of Section I, the following point 5.1 is inserted after point 5:

5.1.	Chrysanthemum stem necrosis virus	Plants of <i>Dendranthema</i> (DC.) Des Moul. and <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw., intended for planting, other than seeds
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- (d) in heading (a) of Section II:

- (i) the following point 6.3 is inserted after point 6.2:

6.3.	<i>Parasaissetia nigra</i> (Nietner)	Plants of <i>Citrus</i> L., <i>Fortunella</i> Swingle, <i>Poncirus</i> Raf., and their hybrids, other than fruit and seeds
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- (ii) the following point 10 is inserted after point 9:

10.	<i>Paysandisia archon</i> (Burmeister)	Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: <i>Brahea</i> Mart., <i>Butia</i> Becc., <i>Chamaerops</i> L., <i>Jubaea</i> Kunth, <i>Livistona</i> R. Br., <i>Phoenix</i> L., <i>Sabal</i> Adans., <i>Syagrus</i> Mart., <i>Trachycarpus</i> H. Wendl., <i>Trithrinax</i> Mart., <i>Washingtonia</i> Raf.
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3. In Annex IV, Part A, Section I is amended as follows:

- (a) the following points 2.3, 2.4 and 2.5 are inserted after point 2.2:

2.3.	Whether or not listed among CN codes in Annex V, Part B, wood of <i>Fraxinus</i> L., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch., <i>Ulmus parvifolia</i> Jacq and <i>Pterocarya hoifolia</i> Siebold & Zucc., other than in the form of	Official statement that the wood:
—	chips, obtained in whole or part from these trees,	
—	wood packaging material, in the form of packing cases, boxes, crates,	(a) originates in an area established by the national plant protection organisation in the country of export as being free from <i>Agrilus planipennis</i> Fairmaire in accordance with the relevant International Standards for Phytosanitary Measures; or
		(b) is squared so as to remove entirely the round surface.

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<p>drums and similar packings, pallets, box pallets and other load boards, pallet collars, actually in use in the transport of objects of all kinds,</p> <p>— wood used to wedge or support non-wood cargo, but including wood which has not kept its natural round surface, originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA</p>	
<p>2.4. Whether or not listed among CN codes in Annex V, Part B, wood in the form of chips obtained in whole or part from <i>Fraxinus</i> L., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch., <i>Ulmus parvifolia</i> Jacq. and <i>Pterocarya rhoifolia</i> Siebold &amp; Zucc. originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA</p>	<p>Official statement that the wood:</p> <p>(a) originates in an area established by the national plant protection organisation in the country of export as being free from <i>Agrilus planipennis</i> Fairmaire in accordance with the relevant International Standards for Phytosanitary Measures; or</p> <p>(b) has been processed into pieces of not more than 2,5 cm thickness and width.</p>
<p>2.5. Isolated bark of <i>Fraxinus</i> L., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch., <i>Ulmus parvifolia</i> Jacq. and <i>Pterocarya rhoifolia</i> Siebold &amp; Zucc. originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA</p>	<p>Official statement that the isolated bark:</p> <p>(a) originates in an area established by the national plant protection organisation in the country of export as being free from <i>Agrilus planipennis</i> Fairmaire in accordance with the relevant International Standards for Phytosanitary Measures; or</p> <p>(b) has been processed into pieces of not more than 2,5 cm thickness and width.</p>

(b) the following point 11.4 is inserted after point 11.3:

11.4. Plants of <i>Fraxinus</i> L., <i>Juglans mandshurica</i> Maxim., <i>Ulmus davidiana</i> Planch., <i>Ulmus parvifolia</i> Jacq. and <i>Pterocarya rhoifolia</i> Siebold & Zucc., intended for planting, other than seeds and plants in tissue culture originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA	Official statement that the plants: (a) have been grown throughout their life in an area free from <i>Agrilus planipennis</i> Fairmaire, established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures; or (b) have, for a period of at least two years prior to export, been grown in a place of production where no signs of <i>Agrilus planipennis</i> Fairmaire have been observed during two official inspections per year carried out at appropriate times, including immediately prior to export.
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- (c) the text in the right hand column of point 14 is amended as follows: ‘Without prejudice to the provisions applicable to the plants in Annex IV (A)(I)(11.4), official statement that no symptoms of Elm phloem necrosis mycoplasma have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation.’
- (d) the following points 25.4.1 and 25.4.2 are inserted after point 25.4:

25.4.1. Tubers of <i>Solanum tuberosum</i> L., other than those intended for planting	Without prejudice to the provisions applicable to tubers listed in Annex III(A)(12) and Annex IV(A)(I)(25.1), (25.2) and (25.3), official statement that the tubers originate in areas in which <i>Pseudomonas solanacearum</i> (Smith) Smith is not known to occur.
25.4.2. Tubers of <i>Solanum tuberosum</i> L.	Without prejudice to the provisions applicable to tubers listed in Annex III(A)(10), (11) and (12) and Annex IV(A)(I)(25.1), (25.2), (25.3), (25.4) and (25.4.1), official statement that: (a) the tubers originate in a country where <i>Scrobipalopsis</i>

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	<p>(b) <i>solanivora</i> Povolny is not known to occur; or the tubers originate in an area free from <i>Scrobipalopsis solanivora</i> Povolny, established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures.</p>
<p>(e) point 25.8 is deleted;</p>	
<p>(f) the following point 28.1 is inserted after point 28:</p>	
<p>28.1. Plants of <i>Dendranthema</i> (DC.) Des Moul. and <i>Lycopersicon lycopersicum</i> (L.) Karsten ex Farw., intended for planting, other than seeds</p>	<p>Without prejudice to the requirements applicable to the plants listed in Annex III(A)(13), Annex IV(A)(I) (25.5), (25.6), (25.7), (27.1), (27.2) and (28), official statement that:</p> <p>(a) the plants have been grown throughout their life in a country free from Chrysanthemum stem necrosis virus; or</p> <p>(b) the plants have been grown throughout their life in an area established by the national plant protection organisation in the country of export as being free from Chrysanthemum stem necrosis virus in accordance with the relevant International Standards for Phytosanitary Measures; or</p> <p>(c) the plants have been grown throughout their life in a place of production, established as being free from Chrysanthemum stem necrosis virus and verified through official inspections and, where appropriate, testing.</p>



(g) the following point 37.1 is inserted after point 37:

<p>37.1. Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: <i>Brahea</i> Mart., <i>Butia</i> Becc., <i>Chamaerops</i> L., <i>Jubaea</i> Kunth, <i>Livistona</i> R. Br., <i>Phoenix</i> L., <i>Sabal</i> Adans., <i>Syagrus</i> Mart., <i>Trachycarpus</i> H. Wendl., <i>Trithrinax</i> Mart., <i>Washingtonia</i> Raf.</p>	<p>Without prejudice to the prohibitions applicable to the plants listed in Annex III(A)(17) and the requirements listed in Annex IV(A)(I)(37) official statement that the plants:</p> <p>(a) have been grown throughout their life in a country where <i>Paysandisia archon</i> (Burmeister) is not known to occur; or</p> <p>(b) have been grown throughout their life in an area free from <i>Paysandisia archon</i> (Burmeister), established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures; or</p> <p>(c) have, during a period of at least two years prior to export, been grown in a place of production:</p> <ul style="list-style-type: none"> <li>— which is registered and supervised by the national plant protection organisation in the country of origin, and</li> <li>— where the plants were placed in a site with complete physical protection against the introduction of <i>Paysandisia archon</i> (Burmeister) or with application of appropriate preventive treatments, and</li> </ul>
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— where, during three official inspections per year carried out at appropriate times, including immediately prior to export, no signs of *Paysandisia archon* (Burmeister) have been observed.

4. In Annex IV, Part A, Section II, the following point 19.1 is inserted after point 19:

19.1. Plants of Palmae, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: *Brahea* Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth, *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf.

Official statement that the plants:

- (a) have been grown throughout their life in an area free from *Paysandisia archon* (Burmeister), established by the national plant protection organisation in accordance with relevant International Standards for Phytosanitary Measures; or
- (b) have, during a period of at least two years prior to movement, been grown in a place of production:
- which is registered and supervised by the responsible official body in the Member State of origin, and
  - where the plants were placed in a site with complete physical protection against the introduction of *Paysandisia archon* (Burmeister) or with application of appropriate preventive treatments, and
  - where, during three official inspections per year carried out at appropriate times, no signs of *Paysandisia archon*

(Burmeister) have been observed.

5. Annex V is amended as follows:

(a) In Section I of Part A, the following point 2.3.1 is inserted after point 2.3:

2.3.1. Plants of *Palmae*, intended for planting, having a diameter of the stem at the base of over 5 cm and belonging to the following genera: *Brahea* Mart., *Butia* Becc., *Chamaerops* L., *Jubaea* Kunth, *Livistona* R. Br., *Phoenix* L., *Sabal* Adans., *Syagrus* Mart., *Trachycarpus* H. Wendl., *Trithrinax* Mart., *Washingtonia* Raf.

(b) Section I of Part B is amended as follows:

(i) the following third indent is added to point 5:

— *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA.

(ii) the following sixth indent is added to point 6(a):

— *Fraxinus* L., *Juglans mandshurica* Maxim., *Ulmus davidiana* Planch., *Ulmus parvifolia* Jacq. and *Pterocarya rhoifolia* Siebold & Zucc., including wood which has not kept its natural round surface, originating in Canada, China, Japan, Mongolia, Republic of Korea, Russia, Taiwan and USA.

(iii) in point 6(b), section

ex 4407 99	Non-coniferous wood (other than tropical wood specified in subheading note 1 to Chapter 44 or other tropical wood, oak ( <i>Quercus</i> spp.) or beech ( <i>Fagus</i> spp.)), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
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is deleted and replaced by:

ex 4407 93	Wood of <i>Acer saccharum</i> Marsh, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
4407 95	Wood of ash ( <i>Fraxinus</i> spp.) sawn or chipped lengthwise,

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	sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm
ex 4407 99	Non-coniferous wood (other than tropical wood specified in subheading note 1 to Chapter 44 or other tropical wood, oak ( <i>Quercus</i> spp.), beech ( <i>Fagus</i> spp.), maple ( <i>Acer</i> spp.), cherry ( <i>Prunus</i> spp.) or ash ( <i>Fraxinus</i> spp.)), sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness exceeding 6 mm

(1) OJ L 169, 10.7.2000, p. 1.