

Commission Decision of 29 April 2005 providing for a derogation from certain provisions of Council Directive 2000/29/EC as regards oak (*Quercus L.*) logs with bark attached, originating in the United States of America (notified under document number C(2005) 1298) (2005/359/EC)

Article 1

By way of derogation from Article 5(1) of Directive 2000/29/EC and from the third indent of Article 13(1)(i) of that Directive with regard to Annex IV(A)(I)(3) to that Directive, Member States shall be authorised, with effect from 1 January 2005, to permit the introduction into their territory of oak (*Quercus L.*) logs with bark attached, originating in the United States of America (hereinafter the logs), if the conditions provided for in Articles 2 to 7 are complied with.

Article 2

1 In order to benefit from this exemption the logs must have been fumigated and identified as set out in Annex I.

2 Member States may exempt fumigated logs from the requirements provided for in Articles 5(1) as regards wet storage, 5(2) and 6(2).

Article 3

1 The logs shall only be unloaded in ports listed in Annex II.

2 Upon request by the Member State concerned, the list of ports of unloading in Annex II may be amended by the Commission, after consultation with the other Member States.

Article 4

1 The inspections required pursuant to Article 13 of Directive 2000/29/EC shall be made by officials specially instructed or trained for the purposes of this Decision with the assistance of the experts referred to in Article 21 of Directive 2000/29/EC under the procedure laid down therein, either in the ports listed in Annex II or at the first place of storage referred to in Article 5.

If the port of unloading and the first place of storage are located in different Member States, those Member States shall make arrangements covering the place where the inspections are to be carried out, and the exchange of information about the arrival and storage of the consignments.

2 The inspections shall include the following:

- a an examination of each phytosanitary certificate;
- b an identity check consisting of comparing the marking on each log and the number of logs with the information given in the related phytosanitary certificate;
- c a fumigation colour reaction test, as specified in Annex III, on an appropriate number of the logs selected at random from each consignment.

3 If the inspections do not show that the consignment fully complies with the conditions provided for in Article 2(1), the whole consignment shall be rejected and removed from the Community.

The Commission and the responsible official bodies of all other Member States shall immediately be informed of the details of the consignment concerned.

Changes to legislation: There are outstanding changes not yet made to Commission Decision of 29 April 2005 providing for a derogation from certain provisions of Council Directive 2000/29/EC as regards oak (*Quercus L.*) logs with bark attached, originating in the United States of America (notified under document number C(2005) 1298) (2005/359/EC). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Article 5

1 The logs shall only be stored in places which have been notified to and approved by the responsible official bodies of the Member State concerned and which have appropriate wet storage facilities, available for the period provided for in paragraph 2.

2 The logs shall be kept in continuous wet storage, starting at the latest at the time of flushing in the neighbouring oak stands.

3 Neighbouring oak stands shall regularly be inspected for symptoms of *Ceratocystis fagacearum* (Bretz) Hunt at appropriate intervals by the responsible official bodies.

If symptoms which may have been caused by *Ceratocystis fagacearum* (Bretz) Hunt are found, further official testing shall be carried out in accordance with appropriate methods to confirm whether or not the fungus is present.

If the presence of *Ceratocystis fagacearum* (Bretz) Hunt is confirmed, the Commission shall immediately be informed.

Article 6

1 The logs shall only be processed at plants which have been notified to and approved by the said responsible official bodies.

2 The bark and other waste arising from processing shall immediately be destroyed at the place of processing.

Article 7

1 Prior to importation, the importer shall notify each consignment sufficiently in advance to the responsible official bodies of the Member State of the envisaged first place of storage, providing the following information:

- a quantity of logs,
- b country of origin,
- c port of shipment,
- d port or ports of unloading,
- e place or places of storage,
- f place or places where processing will be carried out.

2 When an importer notifies the intended import of a consignment as referred to in paragraph 1 he or she shall be informed by the responsible official body, prior to import, of the conditions provided for in this Decision.

3 Copies of the information provided for in paragraphs 1 and 2 shall be conveyed by the responsible official body of the Member State concerned to the competent authority of the port of unloading.

Article 8

1 Member States may exempt logs of *Quercus L.* species belonging to the white oak group from the fumigation provided for in Article 2(1), if the following conditions are satisfied:

- a the logs shall be in consignments composed solely of logs belonging to species of the white oak group;
- b the logs shall be identified in accordance with Annex IV;
- c the logs shall be dispatched from the ports of shipment on 15 October at the earliest and reach the place of storage on 30 April of the following year at the latest;

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- d the logs shall be kept in wet storage;
- e the logs shall not be introduced into or through areas south of 45° latitude; however, Marseilles may be used as port of unloading, provided that it is ensured that the consignment is moved immediately to areas north of 45° latitude;
- f the inspections referred to in Article 4 shall comprise, in place of the fumigation colour reaction test, a white oak log identification colour test as specified in Annex IV, on at least 10 % of the logs selected at random from each consignment.

By way of derogation from point (c), the plant protection organisation of the Member State of storage may permit consignments to be unloaded and put into wet storage after 30 April of the following year, as provided for in that point, if their arrival at the port of unloading has been unforeseeably delayed.

2 Paragraph 1 shall not apply to Greece, Spain, Italy, Cyprus, Malta and Portugal.

Article 9

Member States shall communicate to the Commission and the other Member States the text of the provisions which they adopt under the authorisation provided for in Article 1.

[^{F1}Article 10

Member States which have made use of the derogation provided for in Article 1 shall report to the Commission and the other Member States on its operation by 30 June of each year for the preceding period between 1 May and 30 April.

The report shall include details of quantities imported.

Textual Amendments

- F1** Substituted by [Commission Decision of 26 November 2010 extending the period of validity of Decision 2005/359/EC providing for a derogation from certain provisions of Council Directive 2000/29/EC as regards oak \(*Quercus L.*\) logs with bark attached, originating in the United States of America \(notified under document C\(2010\) 8229\) \(2010/723/EU\)](#).

Article 11

The Decision shall expire on 31 December 2020.]

Textual Amendments

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Article 12

This Decision is addressed to the Member States.

Changes to legislation:

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Changes and effects yet to be applied to :

- Decision revoked by [S.S.I. 2019/130 reg. 7986](#) (This amendment not applied to legislation.gov.uk. Affecting provision revoked (31.12.2020 immediately before IP completion day) by S.S.I. 2020/466, reg. 1(1)(b), sch. (with reg. 32))
- Decision revoked by [S.I. 2019/787 Sch. 17 para. 17](#) (This amendment not applied to legislation.gov.uk. S.I. 2019/787 revoked immediately before IP completion day by S.I. 2020/1482, regs. 2(2)(a), 54(b))
- Decision revoked by [S.I. 2020/1482 Sch. 3 para. 9](#)