

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)

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)

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 Article 15(1) thereof,

Whereas:

- (1) Under Directive 2000/29/EC, oak (*Quercus L.*) logs with bark attached, originating in the United States of America, may, in principle, not be introduced into the Community because of the risk of introducing *Ceratocystis fagacearum* (Bretz) Hunt, the cause of oak wilt.
- (2) Experience has shown that in respect of the United States of America, the risk of spreading *Ceratocystis fagacearum* (Bretz) Hunt can be eliminated by applying certain measures.
- (3) One of these measures is fumigation. Certain Member States have requested that import of fumigated oak logs takes place only through specified ports where the appropriate handling and inspection facilities are available.
- (4) It is also possible to dispense with fumigation, as regards oak wood belonging to the white oak group, under certain technical conditions. Certain Member States have requested a further derogation to allow importations of white oak during certain months of the year. This second derogation should be limited to those parts of the Community where potential vectors of *Ceratocystis fagacearum* (Bretz) Hunt have little or no activity during the winter, i.e. to areas north of 45° latitude.
- (5) The Commission will ensure that the United States of America makes available all technical information necessary to monitor the functioning of the protective measures required.

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- (6) The Member States should therefore be granted a derogation, for a limited period of time, for the introduction of oak (*Quercus L.*) logs with bark from the United States of America.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

*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.

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

#### 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;

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- 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;
- 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.

#### *[<sup>F1</sup>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**

- 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 12*

This Decision is addressed to the Member States.

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## ANNEX I

### CONDITIONS ON FUMIGATION AND RELATED IDENTIFICATION REFERRED TO IN ARTICLE 2.1

1. The logs shall have been piled on an impervious surface under a gas-proof cover in such a way and to such a height as to ensure effective gas dispersal through the logs.
2. Without prejudice to any additional export requirements set by the official plant protection organisation of the United States of America (i.e. Animal and Plant Health Inspection Service — APHIS) the pile shall have undergone fumigation with pure methyl bromide which is carried out at a minimum rate of 240 g/m<sup>3</sup> of total volume under cover for 72 hours and at a temperature of the logs of at least + 5 °C. After 24 hours of treatment, an addition of gas shall have been made to regain the aforementioned concentration; the temperature of the logs shall have been maintained at + 5 °C, at least, throughout the procedure. It may be decided, based on scientific evidence and in accordance with the procedure referred to in Article 18(2) of Directive 2000/29/EC, that other methods shall or may be used.
3. The fumigation procedures as described in 1 and 2 shall have been carried out by officially licensed fumigation operatives, using proper fumigation facilities and qualified staff to requisite standards.

The operatives shall have been informed of the details of the procedures required for log fumigation.

The lists of licensed fumigation operatives and their changes shall have been notified to the Commission. The Commission may declare that individual licensed fumigation operatives can no longer be accepted for the purpose of this Decision. The sites at which the licensed operatives shall carry out the fumigation procedures shall be located at the ports of shipment to the Community, but selected inland sites may also be approved by the official plant protection organisation concerned.

4. A fumigation batch identification mark (digits and/or letters) shall have been placed in a non-removable manner on the base end of each log of the pile undergoing fumigation. The fumigation batch identification mark shall have been reserved to the shipper. It shall not have been used for logs of other batches. Records of the identification marks shall be kept by the licensed fumigation operatives.
5. The individual fumigation procedure including the marking referred to in 4 shall have been systematically supervised at the fumigation sites, directly by officials of the official plant protection organisation concerned or by cooperating State/province officials in such a way as to guarantee compliance with the requirements laid down in 1, 2, 3 and 4.
6. The official phytosanitary certificate required pursuant to Article 13(1)(ii) of Directive 2000/29/EC shall have been issued by the official plant protection organisation concerned after finalisation of the fumigation, and have been based on the actions mentioned in 5 and the examination carried out in accordance with Article 6 of the said Directive relating to the conditions laid down in Article 6(1)(a) of that Directive and in this Annex.
7. This certificate shall indicate the botanical name of the genus or the species, the number of logs in the consignment and the fumigation batch identification marks referred to in 4, without prejudice to the information required under the section related to disinfestation and/or disinfection treatment.

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In all cases, the certificate shall bear the following ‘Additional Declaration’:

‘It is hereby certified that the logs shipped under this certificate have been fumigated by ..... (licensed fumigation operative) ..... at ..... (fumigation site) ..... in accordance with the provisions laid down in Annex I to Commission Decision 2005/359/EC.’

8. In the case of logs to be dispatched via Canadian ports of shipment, all or part of the measures set out in points 1 to 7 and to be carried out by the official plant protection organisation concerned, may be carried out by the Canadian Food Inspection Agency (CFIA).

## [<sup>F2</sup>ANNEX II

### PORTS OF UNLOADING

#### Textual Amendments

- F2** Substituted by [Commission Decision of 31 October 2006 amending Decision 2005/359/EC as regards the ports of unloading of oak \(\*Quercus L.\*\) logs with bark attached, originating in the United States \(notified under document number C\(2006\) 5142\) \(2006/750/EC\)](#).

1. Amsterdam
2. Antwerp
3. Århus
4. Bilbao
5. Bremen
6. Bremerhaven
7. Copenhagen
8. Hamburg
9. Klaipeda
10. Koper
11. Larnaca
12. Leghorn
13. Le Havre
14. Lemesos
15. Lisbon
16. Marseilles
17. Marsaxlokk

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18. Muuga
19. Naples
20. Nordenham
21. Oporto
22. Piraeus
23. Ravenna
24. Riga
25. Rostock
26. Rotterdam
27. Salerno
28. Sines
29. Stralsund
30. Valencia
31. Valletta
32. Venice
33. Vigo
34. Wismar
35. Zeebrugge]

### ANNEX III

#### FUMIGATION COLOUR REACTION TEST

The fumigation colour reaction test referred to in Article 4(2)(c) shall be performed as follows:

Samples of the entire sapwood thickness shall be taken with an increment borer from areas with intact bark at least one metre from the log ends and soaked in a freshly prepared (less than one day old) 1 % solution of 2,3,5-triphenyl-2H-tetrazolium chloride (TTC) made with distilled water. Samples which show no red coloration after three days soaking are considered as having been adequately fumigated.

### ANNEX IV

#### WHITE OAK LOG IDENTIFICATION

1. Officials of the official plant protection organisation concerned shall have identified each log as belonging to the white oak group either by visual means, as far as possible, or by carrying out white oak log identification colour tests as specified in



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2. This identification colour test shall be performed on at least 10 % of the logs per consignment.
2. The white oak log identification colour test shall be carried out by means of spraying or painting 10 % sodium nitrite solution to an area of clean superficially dried heartwood at least five centimetres in diameter. Evaluation of the test shall be done within 20 to 60 minutes of application. At temperatures below 2,5 °C, 20 % ethylene glycol can be added to the solution as an antifreeze agent. Samples of logs in which the natural colour initially turns reddish brown becoming black to grey blue in later stages are considered as belonging to the white oak group.
3. Each log shall be marked 'WO', under the supervision of the official plant protection organisation concerned or cooperating State/province officials.
4. The official phytosanitary certificate required pursuant to Article 13(1)(ii) of Directive 2000/29/EC shall be issued by the official plant protection organisation concerned, and be based on the actions mentioned in 1, 2 and 3. The certificate shall indicate the botanical name of the genus or the species and the number of logs in the consignment. It shall bear the following 'Additional Declaration':

It is hereby certified that the logs shipped under this certificate belong solely to species of the white oak group.

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- (1) [OJ L 169, 10.7.2000, p. 1](#). Directive as last amended by Commission Directive 2005/16/EC ([OJ L 57, 3.3.2005, p. 19](#)).

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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](#)