

Commission Decision of 21 January 2005 authorising Member States temporarily to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of the importation of soil contaminated by pesticides or persistent organic pollutants for decontamination purposes (notified under document number C(2005) 92) (2005/51/EC)

COMMISSION DECISION

of 21 January 2005

authorising Member States temporarily to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of the importation of soil contaminated by pesticides or persistent organic pollutants for decontamination purposes

(notified under document number C(2005) 92)

(2005/51/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⁽¹⁾, and in particular Article 15(1) thereof,

Whereas:

- (1) Under Directive 2000/29/EC, soil originating in certain third countries may not, in principle, be introduced into the Community.
- (2) The United Nations Food and Agriculture Organisation (FAO) manages a programme on prevention and disposal of obsolete and unwanted pesticides to assist developing countries in identifying and eliminating obsolete pesticide stockpiles and soil contaminated by these products due to leakage. Moreover, two international legally binding instruments address the production, use and releases of persistent organic pollutants and the safe management of waste containing these substances, with the aim of protecting human health and the environment from these substances. Because developing countries and countries with economies in transition do not always have adequate facilities for the safe destruction or reprocessing of these stockpiles and contaminated soil, international agreements and programmes foresee shipment of such soil to a treatment facility for processing or destruction.
- (3) Under the aforementioned programme, soil should be packaged and labelled in compliance with the International Maritime Dangerous Goods Code (IMDG Code), using only United Nations approved containers. Shipment should comply with the IMDG Code and Council Regulation (EEC) No 259/93⁽²⁾ on the supervision and control of shipments of waste within, into and out of the European Community.

Changes to legislation: This version of this Decision was derived from EUR-Lex on IP completion day (31 December 2020 11:00 p.m.). It has not been amended by the UK since then. Find out more about legislation originating from the EU as published on legislation.gov.uk. (See end of Document for details)

- (4) The Commission considers that there is no risk of spreading organisms harmful to plants or plant products when the soil is treated in dedicated hazardous waste incinerators, which comply with Directive 2000/76/EC of the European Parliament and of the Council⁽³⁾ on the incineration of waste, in such a way as to ensure that the pesticide or persistent organic pollutant content is destroyed or irreversibly transformed.
- (5) Member States should therefore be authorised to provide for derogations, for a limited period and subject to specific conditions, to allow the import of such contaminated soil.
- (6) The authorisation to provide for derogations should be terminated if it is established that the specific conditions laid down in this Decision are not sufficient to prevent the introduction of harmful organisms into the Community or have not been complied with.
- (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:

[^{F1}Article A1

In this Decision:

‘contaminated soil’ means:

- a soil contaminated by pesticides governed by the programme of the Food and Agriculture Organization of the United Nations on the prevention and disposal of obsolete and unwanted pesticides or any other similar multilateral programme; or
- b soil contaminated with persistent organic pollutants listed in the Stockholm Convention on persistent organic pollutants or in the 1998 Protocol to the 1979 Convention on long-range trans-boundary air pollution on persistent organic pollutants ;

‘dedicated hazardous waste incinerator’ means an incinerator in Great Britain which is officially authorised to treat contaminated soil under retained EU law relating to industrial emissions;

‘Plant Health Regulation’ means Regulation (EU) 2016/2031 on protective measures against pests of plants.]

Textual Amendments

F1 [Art. A1](#) inserted (31.12.2020) by [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **44(2)**

Article 1

[^{F21} The competent authorities may authorise the introduction into Great Britain of contaminated soil originating in third countries by way of derogation from:

- a any prohibition that would otherwise apply to its introduction by virtue of Article 40(1) of the Plant Health Regulation; or
- b any requirements that would otherwise apply to its introduction by virtue of Article 41(1) of the Plant Health Regulation.]

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[^{F3}2.] The authorisation to provide for derogations, as mentioned in paragraph 1 shall be subject to the specific conditions provided for in the Annex, and shall only apply to soil that is introduced into [^{F4}Great Britain] between 1 March 2005 and [^{F5}31 December 2024] and [^{F6}is] destined for treatment in dedicated hazardous waste incinerators.

[^{F7}3.] The authorisation is without prejudice to any further authorisation or procedures which may be required under other legislation.

Textual Amendments

- F2** Art. 1(1) substituted for words (31.12.2020) by The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(a)**
- F3** Words in Art. 1 renumbered as Art. 1(2) (31.12.2020) by The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(b)**
- F4** Words in Art. 1(2) substituted (31.12.2020) by The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(b)(i)**
- F5** Substituted by Commission Implementing Decision (EU) 2019/1999 of 28 November 2019 amending Decision 2005/51/EC as regards the period during which soil contaminated by pesticides or persistent organic pollutants may be introduced into the Union for decontamination purposes (notified under document C(2019) 8555).
- F6** Word in Art. 1(2) inserted (31.12.2020) by The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(b)(ii)**
- F7** Words in Art. 1 renumbered as Art. 1(3) (31.12.2020) by The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(c)**

^{F8}Article 2

Textual Amendments

- F8** Arts. 2-5 omitted (31.12.2020) by virtue of The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(d)**

^{F8}Article 3

Textual Amendments

- F8** Arts. 2-5 omitted (31.12.2020) by virtue of The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(d)**

^{F8}Article 4

Textual Amendments

- F8** Arts. 2-5 omitted (31.12.2020) by virtue of The Plant Health (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1482), regs. 1(2)(b), **44(3)(d)**

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^{F8} Article 5

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Textual Amendments

F8 Arts. 2-5 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **44(3)(d)**

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ANNEX

Specific conditions applying to soil originating in third countries benefiting from the derogation provided for in Article 1 of this Decision

[^{F9}1. In this Annex, 'IMDG Code' means the 2018 edition of the International Maritime Dangerous Goods Code.]

Textual Amendments

F9 Annex paras. 1, 2 substituted for Annex paras. 1-6 (31.12.2020) by [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **44(4)(a)**

[^{F9}2. The specific conditions are:

- (a) the introduction of the contaminated soil is authorised in accordance with Regulation [\(EC\) No 1013/2006](#) of the European Parliament and of the Council on shipments of waste prior to its introduction by the appropriate competent authority within the meaning of that Regulation;
- (b) the soil is packaged in sealed drums or bags in compliance with the IMDG Code and transported in sealed shipping containers from the packaging site in the country of origin to the dedicated hazardous waste incinerator treatment site in accordance with the authorisation mentioned in point (a);
- (c) the soil is accompanied on its introduction into Great Britain by a phytosanitary certificate issued by the national plant protection organisation in the country of origin which includes under the heading "Additional declaration" the statement: "Authorised under Decision [2005/55/EC](#)";
- (d) the soil is introduced through a point of entry in Great Britain approved by the competent authority;
- (e) the soil is transported directly from its point of entry in Great Britain to the dedicated hazardous waste incinerator where it is to be treated.]

^{F9}3.

^{F9}4.

^{F9}5.

^{F9}6.

^{F10}7.

Textual Amendments

F10 Annex para. 7 omitted (31.12.2020) by virtue of [The Plant Health \(Amendment etc.\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1482\)](#), regs. 1(2)(b), **44(4)(b)**

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- (1) [OJ L 169, 10.7.2000, p. 1](#). Directive as last amended by Commission Directive 2004/102/EC ([OJ L 309, 6.10.2004, p. 9](#)).
- (2) [OJ L 30, 6.2.1993, p. 1](#). Regulation as last amended by Commission Regulation (EC) No 2557/2001 ([OJ L 349, 31.12.2001, p. 1](#)).
- (3) [OJ L 332, 28.12.2000, p. 91](#).

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