

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into the Community of organisms harmful to plants or plant products and against their spread within the Community (repealed)

*Article 1*

1 This Directive concerns protective measures against the introduction into the Member States from other Member States or third countries of organisms which are harmful to plants or plant products.

It also concerns:

- a with effect from 1 June 1993, protective measures against the spread of harmful organisms within the Community by means related to movements of plants, plant products and other related objects within a Member State;
- b protective measures against the introduction of harmful organisms into the French overseas departments from other parts of France and, conversely, into other parts of France from the French overseas departments;
- c protective measures against the introduction of harmful organisms into the Canary Islands from other parts of Spain and, conversely, into other parts of Spain from the Canary Islands<sup>[F1];</sup>
- <sup>[F2]</sup>d the model of ‘Phytosanitary Certificates’ and ‘phytosanitary certificates for Re-export’ or their electronic equivalent issued by Member States under the International Plant Protection Convention (IPPC).]

2 Without prejudice to the conditions to be established for the protection of the plant-health situation existing in certain regions in the Community, taking into account the differences in agricultural and ecological conditions, protective measures which are justified on grounds of the protection of health and life of plants in the French overseas departments and in the Canary Islands which are additional to those laid down in this Directive may be determined <sup>[F1]</sup>in accordance with the procedure referred to in Article 18(2)].

3 This Directive shall not apply to Ceuta or Melilla.

<sup>[F14]</sup> The Member States shall ensure a close, rapid, immediate and effective cooperation between themselves and the Commission in relation to matters covered by this Directive. To this end, each Member State shall establish or designate a single authority, which shall be responsible, at least, for the coordination and contact in relation to such matters. The official plant protection organisation set up under the IPPC shall preferably be designated for this purpose.

This authority and any subsequent change shall be notified to the other Member States and to the Commission.

In accordance with the procedure referred to in Article 18(2) the single authority may be authorised to assign or delegate tasks of coordination or contact, insofar as they relate to distinct plant health matters covered by this Directive, to another service.]

5 In respect of the protective measures against the introduction of harmful organisms from the French overseas departments into other parts of France and into the other Member States and against their spread within the French overseas departments, the dates referred to in paragraph 1(a) of this Article, Article 3(4), Article 4(2) and (4), Article 5(2) and (4), Article 6(5) and (6), Article 10(1) and (2) and Article 13(8), (10) and (11) shall be replaced by a date which corresponds to the end of a six-month period following the date by which Member States must implement forthcoming provisions dealing with Annexes I to V for the protection of the

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French overseas departments. With effect from the same date, paragraph 1(b) and paragraph 2 of this Article shall be deleted.

6 In respect of the protective measures against the introduction of harmful organisms from the Canary Islands into other parts of Spain and into the other Member States and against their spread within the Canary Islands, the dates referred to in paragraph 1(a) of this Article, Article 3(4), Article 4(2) and (4), Article 5(2) and (4), Article 6(5) and (6), Article 10(1) and (2) and Article 13(8), (10) and (11) shall be replaced by a date which corresponds to the end of a six-month period following the date by which Member States must implement forthcoming provisions dealing with Annexes I to V for the protection of the Canary Islands. With effect from the same date, paragraph 1(c) of this Article shall be deleted.

#### Textual Amendments

- F1** Substituted by Council Directive 2002/89/EC of 28 November 2002 amending 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.
- F2** Inserted by Council Directive 2002/89/EC of 28 November 2002 amending 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.

#### Article 2

1 For the purposes of this Directive:

- a <sup>F1</sup>plants shall be considered to mean: living plants and specified living parts thereof, including seeds;]

living parts of plants shall be considered to include:

- fruit, in the botanical sense, other than that preserved by deep freezing,
- vegetables, other than those preserved by deep freezing,
- tubers, corms, bulbs, rhizomes,
- cut flowers,
- branches with foliage,
- cut trees retaining foliage,
- <sup>F2</sup>leaves, foliage,]
- plant tissue cultures<sup>F1</sup>,]
- <sup>F2</sup>live pollen,]
- <sup>F2</sup>bud-wood, cuttings, scions,]
- <sup>F2</sup>any other part of plants, which may be specified in accordance with the procedure referred to in Article 18(2).]

seeds shall be considered to mean: seeds in the botanical sense, other than those not intended for planting;

- b *plant products* shall be considered to mean: products of plant origin, unprocessed or having undergone simple preparation, in so far as these are not plants;
- c *planting* shall be considered to mean: any operation for the placing of plants to ensure their subsequent growth, reproduction or propagation;
- d *plants intended for planting* shall be considered to mean:
- plants which are already planted and are intended to remain planted or to be replanted after their introduction, or

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- plants which are not planted at the time of introduction, but are intended to be planted thereafter;
- [<sup>F1</sup>e *harmful organisms* shall be considered to mean: any species, strain or biotype of plant, animal or pathogenic agent injurious to plants or plant products;]
- f *plant passport* shall be considered to mean: an official label which gives evidence that the provisions of this Directive related to plant health standards and special requirements are satisfied, and which is:
  - standardised at Community level for different types of plants or plant products, and
  - prepared by the responsible official body in a Member State and issued in accordance with the implementing rules governing the details of the procedure for issuing plant passports.

For specific types of product, official agreed marks other than a label may be decided on in accordance with the procedure laid down in Article 18.

The standardisation shall be established in accordance with the procedure laid down in [<sup>F1</sup>Article 18(2)]. Under this standardisation, different marks shall be determined for plant passports which are not valid, in accordance with the second subparagraph of Article 10(1), for all parts of the Community;

- g *the responsible official bodies in a Member State* shall be:
  - (i) the official plant protection [<sup>F1</sup>organisation(s)] of a Member State referred to in Article 1(4); or
  - (ii) any State authority established
    - at national level,
    - or, under the supervision within the limits set by the constitution of the Member State concerned, of national authorities at regional level.

[<sup>F3</sup>The responsible official bodies in a Member State may, in accordance with national legislation, delegate the tasks provided for in this Directive to be accomplished under their authority and supervision to a legal person, whether governed by public or private law, provided that such person, and its members, has no personal interest in the outcome of the measure it takes.

The responsible official bodies in the Member States shall ensure that the legal person referred to in the second subparagraph is, under its officially approved constitution, charged exclusively with specific public functions, with the exception of laboratory testing which such legal person may perform even where the laboratory testing does not form part of its specific public functions.

Notwithstanding the third subparagraph, the responsible official bodies in a Member State may delegate the laboratory testing provided for in this Directive to a legal person which does not comply with that provision.

The laboratory testing may only be delegated if the responsible official body ensures throughout the time of the delegation that the legal person to which it delegates laboratory testing can assure impartiality, quality and protection of confidential information, and that no conflict of interest exists between the exercise of the tasks delegated to it and its other activities.]

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The Member States shall ensure that there is close cooperation between the bodies referred to in point (ii) of the first subparagraph and those referred to in point (i) thereof.

Moreover, [F1in accordance with the procedure referred to in Article 18(2)], other legal persons established on behalf of the body or bodies referred to in point (i) of the first subparagraph and acting under the authority and supervision of such body may be approved, provided that such person has no personal interest in the outcome of the measures it takes.

[F1The single authority referred to in Article 1(4) shall inform the Commission of the responsible official bodies in the Member State concerned. The Commission shall forward that information to the other Member States;]

- h *protected zone* shall be considered to mean a zone in the Community:
- in which one or more harmful organisms referred to in this Directive, which are established in one or more parts of the Community, are not endemic or established despite favorable conditions for them to establish themselves there,
  - in which there is a danger that certain harmful organisms will establish, given propitious ecological conditions, for particular crops, despite the fact that these organisms are not endemic or established in the Community,

and which has been recognised, [F1in accordance with the procedure referred to in Article 18(2), as fulfilling the conditions set out in the first and second indents and, in the case referred to in the first indent, at the request of the Member State(s) concerned and on the grounds that the results of appropriate surveys which have been monitored by the experts referred to in Article 21 under the procedure laid down therein show no evidence to the contrary. In the eventuality referred to in the second indent, surveys are optional.

A harmful organism shall be considered to be established in an area if it is known to occur there and if either no official measures have been taken there with a view to its eradication or such measures have proved, for a period of at least two successive years, to be ineffective.

The Member State(s) concerned shall conduct, with respect to the case provided for in the first indent of the first subparagraph, regular and systematic official surveys on the presence of organisms in respect of which the protected zone has been recognised. Each finding of such organisms shall immediately be notified[F2in writing] to the Commission. The risk arising from such finding shall be assessed by the Standing Committee on Plant Health and appropriate action decided on in accordance with the procedure referred to in Article 18(2).

The details of the surveys referred to in the first and third subparagraphs may be established in accordance with the procedure referred to in Article 18(2)], account being taken of sound scientific and statistical principles.

The results of the above surveys shall be notified[F2in writing] to the Commission. The Commission shall forward this information to the other Member States.

The Commission shall, before 1 January 1998, submit a report to the Council on the operation of the system of protected zones together, if necessary, with any appropriate proposals;

- i *a statement or measure* shall be considered official if made or taken, without prejudice to the provisions of Article 21:

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- <sup>[F1]</sup>by representatives of the official national plant protection organisation of a third country or, under their responsibility, by other public officers who are technically qualified and duly authorised by that official national plant protection organisation, in the case of statements or measures related to the issuing of the phytosanitary certificates and phytosanitary certificates for re-exports, or their electronic equivalent;]
- either by such representatives or public servants or by qualified agents employed by one of the responsible official bodies of a Member State, in all other cases, provided that such agents have no personal interest in the outcome of the measures they take and satisfy minimum standards of qualification.

Member States shall ensure that their public servants and qualified agents have the qualifications necessary for the proper application of this Directive. <sup>[F1]</sup>In accordance with the procedure referred to in Article 18(2)], guidelines may be established for such qualifications.

The Commission shall, acting within the Standing Committee on Plant Health, draw up Community programmes, the implementation of which it shall monitor, regarding the further training of the public servants and qualified agents concerned, in an effort to raise the knowledge and experience acquired in the national context to the level of the aforementioned qualifications. It shall contribute to the financing of this further training and shall propose the inclusion of the necessary appropriations for that purpose in the Community budget<sup>[F1];</sup>

- <sup>[F2];</sup> *point of entry* shall be considered to mean: the place where plants, plant products or other objects are brought for the first time into the customs territory of the Community: the airport in the case of air transport, the port in the case of maritime or fluvial transport, the station in the case of railway transport, and the place of the customs office responsible for the area where the Community inland frontier is crossed, in the case of any other transport;
- k *official body of point of entry* shall be considered to mean: the responsible official body in a Member State in charge of the point of entry;
  - l *official body of destination* shall be considered to mean: the responsible official body in a Member State in charge of the area where the ‘customs office of destination’ is situated;
  - m *customs office of point of entry* shall be considered to mean: the office of the point of entry as defined in (j) above;
  - n *customs office of destination* shall be considered to mean: the office of destination within the meaning of Article 340b(3) of Commission Regulation (EEC) No 2454/93<sup>(1)</sup>;
  - o *lot* shall be considered to mean: a number of units of a single commodity, identifiable by its homogeneity of composition and origin, and forming part of a consignment;
  - p *consignment* shall be considered to mean: A quantity of goods being covered by a single document required for customs formalities or for other formalities, such as a single phytosanitary certificate or a single alternative document or mark; a consignment may be composed of one or more lots;
  - q *customs-approved treatment or use* shall be considered to mean: the customs-approved treatments or uses referred to in point 15 of Article 4 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code<sup>(2)</sup> (hereafter referred to as the Community Customs Code);
  - r *transit* shall be considered to mean: the movement of goods which are subject to customs supervision from one point to another within the customs territory of the Community as referred to in Article 91 of Regulation (EEC) No 2913/92.]

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2 Save where it is expressly provided otherwise, the provisions of this Directive concern wood only in so far as it retains all or part of its natural round surface, with or without bark, or as it is in the form of chips, particles, sawdust, wood waste or scrap.

Save for the purpose of the provisions relating to Annex V, wood, whether satisfying the conditions referred to in the first subparagraph or not, is also concerned where it is in the form of dunnage, spacers, pallets or packing material which are actually in use in the transport of objects of all kinds, provided that it presents a plant health risk.

#### Textual Amendments

- F1** Substituted by Council Directive 2002/89/EC of 28 November 2002 amending 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.
- F2** Inserted by Council Directive 2002/89/EC of 28 November 2002 amending 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.
- F3** Substituted by Council Directive 2009/143/EC of 26 November 2009 amending Directive 2000/29/EC as regards the delegation of the tasks of laboratory testing.

### Article 3

1 Member States shall ban the introduction into their territory of the harmful organisms listed in Annex I, Part A.

2 Member States shall ban the introduction into their territory of the plants and plant products listed in Annex II, Part A, where they are contaminated by the relevant harmful organisms listed in that part of the Annex.

[<sup>F13</sup> Paragraphs 1 and 2 shall not apply in accordance with conditions which may be determined in accordance with the procedure referred to in Article 18(2), in the case of slight contamination of plants other than those intended for planting by harmful organisms listed in Annex I, Part A, or in Annex II, Part A, or in the case of appropriate tolerances established for harmful organisms listed in Annex II, Part A, Section II as regards plants intended for planting which have previously been selected in agreement with the authorities representing the Member States in the field of plant health, and based on a relevant pest risk analysis.]

4 With effect from 1 June 1993, Member States shall provide that paragraphs 1 and 2 shall be applied also to the spread of the harmful organisms concerned by means connected with the movement of plants, plant products or other objects within the territory of a Member State.

5 Member States shall ban from 1 June 1993 the introduction into and the spread within the relevant protected zones, of:

- a the harmful organisms listed in Annex I, Part B;
- b the plants and plant products listed in Annex II, Part B where they are contaminated by the relevant harmful organisms listed therein.

6 [<sup>F1</sup>In accordance with the procedure referred to in Article 18(2)]:

- a the harmful organisms listed in Annexes I and II shall be subdivided as follows:
  - organisms not known to occur in any part of the Community and relevant for the entire Community shall be listed in Annex I, Part A, Section I and Annex II, Part A, Section I respectively,
  - organisms known to occur in the Community but not endemic or established throughout the Community and relevant for the entire Community shall

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- be listed in Annex I, Part A, Section II and Annex II, Part A, Section II respectively,
- the other organisms shall be listed in Annex I, Part B and Annex II, Part B respectively against the protected zone for which they are relevant;
- b harmful organisms endemic or established in one or more parts of the Community shall be deleted, save those referred to in the second and third indents of point (a);
- c the titles of Annexes I and II, as well as the different parts and sections thereof, shall be adapted in accordance with points (a) and (b).

[<sup>F17</sup> In accordance with the procedure referred to in Article 18(2), implementing provisions may be adopted to lay down conditions for the introduction into the Member States and the spread within the Member States of:

- a organisms which are suspected of being harmful to plants or plant products but are not listed in Annexes I and II;
- b organisms, which are listed in Annex II, but which occur on plants or plant products other than those listed in that Annex, and which are suspected of being harmful to plants or plant products;
- c organisms, which are listed in Annexes I and II, which are in an isolated state and which are considered to be harmful in that state to plants or plant products.

8 Paragraphs 1 and 5(a) and paragraph 2 and 5(b) and paragraph 4 shall not apply, in accordance with the conditions which shall be determined pursuant to the procedure referred to in Article 18(2), for trial or scientific purposes and for work on varietal selections.

9 After the measures provided for in paragraph 7 have been adopted, that paragraph shall not apply, in accordance with the conditions which shall be determined pursuant to the procedure referred to in Article 18(2), for trial or scientific purposes and for work on varietal selections.]

#### **Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### *Article 4*

1 Member States shall ban the introduction into their territory of the plants or plant products listed in Annex III, Part A where they originate in the relevant countries referred to in that part of the Annex.

2 Member States shall provide that, from 1 June 1993, the introduction of plants, plant products and other objects listed in Annex III, Part B into the relevant protected zones located in their territory is prohibited.

3 [<sup>F1</sup>In accordance with the procedure referred to in Article 18(2)], Annex III shall be revised in such a way that Part A contains plants, plant products and other objects which constitute a plant-health risk for all parts of the Community, and Part B contains plants, plant products and other objects which constitute a plant-health risk only for protected zones. The protected zones shall be specified there.

4 With effect from 1 June 1993, paragraph 1 shall no longer apply to plants, plant products and other objects originating in the Community.

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5 Paragraphs 1 and 2 shall not apply, in accordance with conditions which shall be determined [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)], for trials or scientific purposes and for work on varietal selections.

6 Provided that there is no risk of harmful organisms spreading, a Member State may provide that paragraphs 1 and 2 shall not apply in individual specified cases to plants, plant products and other objects which are grown, produced or used in its immediate frontier zone with a third country and introduced into that Member State in order to be worked in nearby locations in the frontier zone of its territory.

When granting such a derogation, the Member State shall specify the location and the name of the person working it. Such details, which shall be updated regularly, shall be available to the Commission.

Plants, plant products and other objects which form the subject of a derogation under the first subparagraph shall be accompanied by documentary evidence of the location in the relevant third country from which the said plants, plant products and other objects originate.

#### **Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### *Article 5*

1 Member States shall ban the introduction into their territory of the plants, plant products and other objects listed in Annex IV, Part A, unless the relevant special requirements indicated in that part of the Annex are met.

2 Member States shall ban from 1 June 1993 the introduction into and the movement within the protected zones of the plants, plant products and other objects listed in Annex IV, Part B, unless the relevant special requirements indicated in that part of the Annex are met.

3 [<sup>F1</sup>In accordance with the procedure referred to in Article 18(2)], Annex IV shall be amended in accordance with the criteria laid down in Article 3(6).

4 With effect from 1 June 1993, Member States shall provide that paragraph 1 shall also apply to the movement of plants, plant products and other objects within the territory of a Member State, without prejudice however to Article 6(7). This paragraph and paragraphs 1 and 2 shall not apply to the movement of small quantities of plants, plant products, foodstuffs or animal feedingstuffs where they are intended for use by the owner or recipient for non-industrial and non-commercial purposes or for consumption during transport, provided that there is no risk of harmful organisms spreading.

5 Paragraphs 1, 2 and 4 shall not apply, in accordance with the conditions which shall be determined [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)], for trial or scientific purposes and for work on varietal selections.

6 Provided that there is no risk of harmful organisms spreading, a Member State may provide that paragraphs 1, 2 and 4 shall not apply in individual specified cases to plants, plant products and other objects which are grown, produced or used in its immediate frontier zone with a third country and introduced into that Member State in order to be worked in nearby locations in the frontier zone of its territory.



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When granting such a derogation, the Member State shall specify the location and the name of the person working it. Such details which shall be updated regularly, shall be available to the Commission.

Plants, plant products and other objects which form the subject of a derogation under the first subparagraph shall be accompanied by documentary evidence of the location in the relevant third country from which the said plants, plant products and other objects originate.

#### **Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

### *Article 6*

1 Member States shall lay down, at least in respect of the introduction into another Member State of the plants, plant products and other objects listed in Annex V, Part A, that the latter and their packaging shall be meticulously examined on an official basis, either in their entirety or by representative sample, and that, if necessary, the vehicles transporting them shall also be officially examined in order to make sure:

- a that they are not contaminated by the harmful organisms listed in Annex I, Part A;
- b in the case of the plants and plant products listed in Annex II, Part A, that they are not contaminated by the relevant harmful organisms listed in that part of the Annex;
- c in the case of the plants, plant products and other objects listed in Annex IV, Part A, that they comply with the relevant special requirements indicated in that part of the Annex.

2 As soon as the measures provided for in Article 3(6)(a) and in Article 5(3) are adopted, paragraph 1 of this Article shall apply only in respect of Annex I, Part A, Section II, Annex II, Part A, Section II and Annex IV, Part A, Section II. Where, in the course of the examination carried out in accordance with this provision, harmful organisms listed in Annex I, Part A, Section I or Annex II, Part A, Section I are detected, the conditions referred to in Article 10 are deemed not to be fulfilled.

3 Member States shall lay down the inspection measures referred to in paragraph 1 in order to ensure compliance with Article 3(4), (5) and (7) or Article 5(2), where the Member State of destination avails itself of one of the options listed in the abovementioned Articles.

4 Member States shall lay down that the seeds referred to in Annex IV, Part A, which are to be introduced into another Member State shall be officially examined in order to make sure that they comply with the relevant special requirements listed in that part of the Annex.

5 With effect from 1 June 1993, and without prejudice to paragraph 7, paragraphs 1, 3 and 4 shall also apply to the movement of plants, plant products and other objects within the territory of a Member State. Paragraphs 1, 3 and 4 shall not apply, as regards the harmful organisms listed in Annex I, Part B, or Annex II, Part B, and the special requirements set out in Annex IV, Part B, to the movement of plants, plant products or other objects through or outside a protected zone.

The official examinations referred to in paragraphs 1, 3 and 4 shall be carried out in accordance with the following provisions:

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- a They shall extend to the relevant plants or plant products grown, produced or used by the producer or otherwise present on his premises as well as to the growing medium used there.
- b They shall be made on the premises, preferably at the place of production.
- c They shall be made regularly at appropriate times at least once a year, and at least by visual observation, without prejudice to the special requirements listed in Annex IV; further action may be taken where this is provided for under paragraph 8.

Any producer for whom the official examination referred to in the second subparagraph is required under paragraphs 1 to 4 shall be listed in an official register under a registration number by which to identify him. The official registers thus established shall be accessible to the Commission on request.

The producer is subject to certain obligations established in accordance with paragraph 8. In particular, he shall immediately notify the responsible official body of the Member State concerned of any unusual occurrence of harmful organisms, symptoms or any other plant abnormality.

Paragraphs 1, 3 and 4 shall not apply to the movement of small quantities of plants, plant products, foodstuffs or animal feedingstuffs where they are intended for use by the owner or recipient for non-industrial and non-commercial purposes or for consumption during transport, provided that there is no risk of harmful organisms spreading.

6 With effect from 1 June 1993, Member States shall provide that producers of certain plants, plant products or other objects not listed in Annex V, Part A, specified in accordance with paragraph 8, or collective warehouses or dispatching centres in the production zone, shall also be listed in an official local, regional or national register in accordance with the third subparagraph of paragraph 5. They may at any time be subjected to the examinations provided for in the second subparagraph of paragraph 5.

In accordance with paragraph 8, a system may be set up so that certain plants, plant products and other objects may, if necessary and in so far as possible, be traced back to their origins, bearing in mind the nature of the production or trading conditions.

- 7 Member States may, in so far as no spreading of harmful organisms is to be feared, exempt
- small producers or processors whose entire production and sale of relevant plants, plant products and other objects are intended for final usage by persons on the local market and who are not professionally involved in plant production (local movement) from official registration as laid down in paragraphs 5 and 6, or
  - the local movement of plants, plant products and other objects originating from producers so exempted from the official examination required under paragraphs 5 and 6.

The provisions of this Directive on local movement shall be reviewed by the Council before 1 January 1998 on the basis of a Commission proposal and in the light of experience gained.

- 8 [F<sup>1</sup>In accordance with the procedure referred to in Article 18(2)], implementing provisions shall be adopted relating to:
- less stringent conditions on the movement of plants, plant products and other objects within a protected zone established for the said plants, plant products and other objects in respect of one or more harmful organisms,

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- guarantees in respect of the movement of plants, plant products and other objects through a protected zone established for the said plants, plant products and other objects in respect of one or more harmful organisms,
- the frequency and timing of the official examination, including further action referred to in paragraph 5, second subparagraph, (c),
- the obligations on registered producers referred to in paragraph 5, fourth subparagraph,
- the specification of the products referred to in paragraph 6, and the products for which the system introduced in paragraph 6 is envisaged,
- other requirements regarding the exemption referred to in paragraph 7, in particular as regards the concepts of ‘small producer’ and ‘local market’ and the relevant procedures.

9 Implementing rules related to the registration procedure and the registration number referred to in the third subparagraph of paragraph 5, may be adopted [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)].

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**Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

*<sup>F4</sup>Article 7*

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**Textual Amendments**

- F4** Deleted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

*<sup>F4</sup>Article 8*

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**Textual Amendments**

- F4** Deleted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

*<sup>F4</sup>Article 9*

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**Textual Amendments**

- F4** Deleted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

### Article 10

1 With effect from 1 June 1993, where it is considered, on the basis of the examination provided for in Article 6(1), (3) and (4) and carried out in accordance with Article 6(5), that the conditions of those paragraphs are fulfilled, a plant passport shall be issued in accordance with provisions which may be adopted under paragraph 4 of this Article<sup>[F4]</sup>, instead of the phytosanitary certificates referred to in Articles 7 or 8].

<sup>[F2]</sup>However, in the case of seeds mentioned in Article 6(4), a plant passport need not be issued, where it is ensured in accordance with the procedure referred to in Article 18(2) that the documents issued in accordance with the Community provisions applicable to the marketing of officially certified seed provide evidence for the compliance with the requirements referred to in Article 6(4). In such case, the documents shall be considered for all purposes to be plant passports within the meaning of Article 2(1)(f).]

If the examination does not concern conditions relevant to the protected zones, or if it is considered that such conditions are not fulfilled, the plant passport issued shall not be valid for those zones and it shall bear the mark reserved for such cases, pursuant to Article 2(1)(f).

2 With effect from 1 June 1993, plants, plant products and other objects listed in Annex V, Part A, Section I<sup>[F4]</sup>,<sup>[F2]</sup> and seeds mentioned in Article 6(4)] may not be moved within the Community, other than locally within the meaning of Article 6(7), unless a plant passport valid for the territory concerned and issued in accordance with paragraph 1 is attached to them, to their packaging or to the vehicles transporting them.

With effect from 1 June 1993, plants, plant products and other objects listed in Annex V, Part A, Section II<sup>[F4]</sup>,<sup>[F2]</sup> and seeds mentioned in Article 6(4)] may not be introduced into a specified protected zone or move therein, unless a plant passport valid for that zone and issued in accordance with paragraph 1 is attached to them, to their packaging or to the vehicles transporting them. If the conditions laid down in Article 6(8) with regard to transport through protected zones are fulfilled, this subparagraph shall not apply.

The first and second subparagraphs shall not apply to the movement of small quantities of plants, plant products, foodstuffs or animal feedingstuffs where they are intended for use by the owner or recipient for non-industrial and non-commercial purposes or for consumption during transport, provided that there is no risk of harmful organisms spreading.

3 A plant passport may be replaced at a later date and in any part of the Community by another plant passport, in accordance with the following provisions:

- a plant passport may be replaced only where consignments are divided up or where several consignments or parts thereof are combined or where the plant-health status of consignments changes, without prejudice to the particular requirements provided for in Annex IV, or in other cases specified in accordance with paragraph 4,
- the replacement may take place only at the request of a natural or legal person, whether a producer or not, listed in an official register, in accordance with the third subparagraph of Article 6(5), *mutatis mutandis*,
- the replacement passport may be prepared only by the responsible official body of the area in which the requesting premises are situated and only if the identity of the product concerned and the absence of any risk of infection due to harmful organisms listed in Annexes I and II since dispatch by the producer can be guaranteed,
- the replacement procedure must comply with the provisions which may be adopted under paragraph 4,

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- the replacement passport must bear a special mark, specified in accordance with paragraph 4 and including the number of the original producer and, if there was a change in plant-health status, of the operator responsible for that change.
- 4 <sup>[F1]</sup>In accordance with the procedure referred to in Article 18(2)], implementing provisions may be adopted for:
- the detailed procedures for issuing plant passports as laid down in paragraph 1,
  - the conditions under which a plant passport may be replaced in accordance with paragraph 3, first indent,
  - the details of the procedure for the replacement passport as laid down in paragraph 3, third indent,
  - the special mark required for the replacement passport as laid down in paragraph 3, fifth indent.

#### **Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)
- F2** Inserted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)
- F4** Deleted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### *Article 11*

1 Where it is not considered, on the basis of the examination provided for in Article 6(1), (3) and (4) and carried out in accordance with Article 6(5), that the conditions in those paragraphs are fulfilled, a plant passport shall not be issued, without prejudice to paragraph 2 of this Article.

2 In the special cases where it is established, taking into account the nature of the findings made in the examination concerned, that part of the plants or plant products grown, produced or used by the producer or otherwise present on his premises, or part of the growing medium used there, cannot present any risk of spreading harmful organisms, paragraph 1 shall not apply to that part<sup>[F2]</sup> and a plant passport may be used].

3 To the extent that paragraph 1 applies, the plants, plant products or growing medium concerned shall be the subject of one or more of the following official measures:

- appropriate treatment, followed by the issue of the appropriate plant passport in accordance with Article 10 if it is considered that, as a result of the treatment, the conditions are fulfilled,
- a permit for movement, under official control, to zones where they do not present an additional risk,
- a permit for movement, under official control, to places for industrial processing,
- destruction.

<sup>[F1]</sup>In accordance with the procedure referred to in Article 18(2)], implementing provisions may be adopted concerning:

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- the conditions under which one or more of the measures referred to in the first subparagraph must or must not be adopted,
- the particular features of and conditions for such measures.

4 To the extent that paragraph 1 applies, the activities of the producer shall be totally or partially suspended until it is established that the risk of spreading harmful organisms is eliminated. As long as this suspension lasts, Article 10 shall not apply.

5 Where it is considered, on the basis of the official examination carried out in accordance with Article 6(6), that products referred to therein are not free of the harmful organisms listed in Annexes I and II, paragraphs 2, 3 and 4 of this Article shall apply *mutatis mutandis*.

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).
- F2** Inserted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### *[<sup>F1</sup>Article 12*

1 Member States shall organise official checks to ensure compliance with the provisions of this Directive, in particular with Article 10(2), which shall be carried out at random and without any discrimination in respect of the origin of the plants, plant products or other objects, and in accordance with the following provisions:

- occasional checks, at any time and at any place where plants, plant products or other objects are moved,
- occasional checks on premises where plants, plant products or other objects are grown, produced, stored or offered for sale, as well as on the premises of purchasers,
- occasional checks at the same time as any other documentary check, which is carried out for reasons other than plant health.

The checks must be regular in premises listed in an official register in accordance with Article 10(3) and Article 13c(1b), and may be regular in premises listed in an official register in accordance with Article 6(6).

The checks must be targeted if facts have come to light to suggest that one or more provisions of this Directive have not been complied with.

2 Commercial purchasers of plants, plant products or other objects shall, as final users professionally engaged in plant production, retain the related plant passports for at least one year and enter the references in their records.

Inspectors shall have access to the plants, plant products or other objects at all stages in the production and marketing chain. They shall be entitled to make any investigation necessary for the official checks concerned, including those related to the plant passports and the records.

3 The Member States may be assisted in the official checks by the experts referred to in Article 21.

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4 Where it is established, through the official checks carried out in accordance with paragraphs 1 and 2, that plants, plant products or other objects present a risk of spreading harmful organisms, they shall be the subject of official measures in accordance with Article 11(3).

Without prejudice to the notifications and information required under Article 16, Member States shall ensure, where the plants, plant products or other objects concerned come from another Member State, that the single authority of the receiving Member State informs immediately the single authority of that Member State and the Commission of the findings and of the official measures which it intends to take or has taken. In accordance with the procedure referred to in Article 18(2), a standardised information system may be set up.]

#### Textual Amendments

**F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### *[<sup>F1</sup> Article 13*

- 1 Member States shall ensure, without prejudice to:
- the provisions of Article 3(3), 13b(1), (2), (3), (4) and (5),
  - the specific requirements and conditions laid down in derogations adopted pursuant to Article 15(1), in equivalency measures adopted pursuant to Article 15(2), or in emergency measures adopted pursuant to Article 16, and
  - specific agreements concluded on matters dealt with in this Article between the Community and one or more third countries,

that plants, plant products or other objects, listed in Annex V, Part B, which come from a third country and are brought into the customs territory of the Community, shall, from the time of their entry, be subject to customs supervision pursuant to Article 37(1) of the Community Customs Code and also to supervision by the responsible official bodies. They may only be placed under one of the customs procedures as specified in Article 4(16)(a), (d), (e), (f), (g) of the Community Customs Code, if the formalities as specified in Article 13a have been completed in accordance with the provisions of Article 13c(2), such as to conclude, as a result of these formalities and as far as can be determined:

- (i) — that the plants, plant products or other objects are not contaminated by harmful organisms listed in Annex I, Part A, and
- in the case of plants or plant products listed in Annex II, Part A, that they are not contaminated by the relevant harmful organisms listed in that Annex, and
  - in the case of plants, plant products or other objects listed in Annex IV, Part A, that they comply with the relevant special requirements indicated in that Annex, or, where applicable, with the option declared in the certificate pursuant to Article 13a(4)(b), and
- (ii) that the plants, plant products or other objects are accompanied by the respective original of the required official ‘phytosanitary certificate’ or ‘phytosanitary certificate for re-export’ issued in accordance with the provisions laid down in Article 13a(3) and (4), or, where relevant, that the original of alternative documents or marks as specified and permitted in implementing provisions accompany, or are attached to, or otherwise put on, the object concerned.



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Electronic certification may be recognised, provided that the respective conditions specified in implementing provisions are met.

Officially certified copies may also be recognised in exceptional cases which shall be specified in implementing provisions.

The implementing provisions referred to in (ii) above may be adopted in accordance with the procedure referred to in Article 18(2).

2 Paragraph 1 shall apply, in cases of plants, plant products or other objects intended for a protected zone, in respect of harmful organisms and of special requirements listed in Annex I, Part B, Annex II, Part B and Annex IV, Part B respectively, for that protected zone.

3 Member States shall provide that plants, plant products or objects other than those referred to in paragraph 1 or 2, which come from a third country and are brought into the customs territory of the Community, may, from the time of their entry, be subject to supervision by the responsible official bodies, in respect of the first, second or third indent of paragraph 1(i). These plants, plant products or objects include wood in the form of dunnage, spacers, pallets or packing material, which are actually in use in the transport of objects of all kinds.

Where the responsible official body makes use of that faculty, the plants, plant products or objects concerned shall remain under the supervision referred to in paragraph 1, until the relevant formalities have been completed such as to conclude, as a result for these formalities and as far as can be determined, that they comply with the relevant requirements laid down in or under this Directive.

Implementing provisions as regards type of information and the means of transmission thereof to be supplied by importers, or their customs representatives, to the responsible official bodies, as regards the plants, plant products or objects including the different types of wood, as referred to in the first subparagraph, shall be adopted in accordance with the procedure referred to in Article 18(2).

4 Without prejudice to Article 13c(2)(a) Member States shall, if there is a risk of spread of harmful organisms, also apply paragraphs 1, 2 and 3 to plants, plant products or other objects being placed under one of the customs-approved treatments or uses as specified in Article 4(15) (b), (c), (d), (e) of the Community Customs Code or under the Customs procedures as specified in Article 4(16)(b), (c) of that Code.

#### **Textual Amendments**

**F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### *Article 13a*

1

- a The formalities referred to in Article 13(1) shall consist of meticulous inspections by the responsible official bodies on at least:
  - (i) each consignment declared, under the customs formalities, to consist of or to contain plants, plant products or other objects, referred to in Article 13(1), (2) or (3) under the respective conditions, or



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- (ii) in the case of a consignment which is composed of different lots, each lot declared, under the customs formalities, to consist of, or to contain, such plants, plant products or other objects.
- b The inspections shall determine whether:
  - (i) the consignment or lot is accompanied by the required certificates, alternative documents or marks, as specified in Article 13(1)(ii) (documentary checks),
  - (ii) in its entirety or on one or more representative samples, the consignment or lot consists of, or contains the plants, plant products or other objects, as declared on the required documents (identity checks), and
  - (iii) in its entirety or on one or more representative samples, including the packaging and, where appropriate, the transport vehicles, the consignment or lot or their wood packing material comply with the requirements laid down in this Directive, as specified in Article 13(1)(i) (plant health checks), and whether Article 16(2) applies.

2 The identity checks and plant health checks shall be carried out at reduced frequency, if:

- activities of inspection on plants, plant products or other objects in the consignment or lot were already carried out in the consignor third country under technical arrangements referred to in Article 13b(6), or
- the plants, plant products or other objects in the consignment or lot are listed in the implementing provisions adopted for this purpose pursuant to paragraph 5(b), or
- the plants, plant products or other objects in the consignment or lot came from a third country for which in or under comprehensive international phytosanitary agreements based on the principle of reciprocal treatment between the Community and a third country, provision for a reduced frequency of identity and plant health checks is mentioned,

unless there is a serious reason to believe that the requirements laid down in this Directive are not complied with.

The plant health checks may also be carried out at reduced frequency, if there is evidence, collated by the Commission and based on experience gained from earlier introduction of such material of the same origin into the Community as confirmed by all Member States concerned, and after consultation within the Committee referred to in Article 18, to believe that the plants, plant products or other objects in the consignment or lot comply with the requirements laid down in this Directive, provided that the detailed conditions specified in implementing provisions pursuant to paragraph 5(c) are met.

3 The official ‘phytosanitary certificate’ or ‘phytosanitary certificate for re-export’ referred to in Article 13(1)(ii) shall have been issued in at least one of the official languages of the Community and in accordance with the laws or regulations of the third country of export or re-export which have been adopted, whether a contracting party or not, in compliance with the provisions of the IPPC. It shall be addressed to the ‘Plant Protection Organisations of the Member States of the European Community’ as referred to in Article 1(4), first subparagraph, last sentence.

The certificate shall not have been made out more than 14 days before the date on which the plants, plant products or other objects covered by it have left the third country in which it was issued.

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It shall contain information in accordance with the models specified in the Annex to the IPPC, irrespective of its format.

It shall be in one of the models determined by the Commission pursuant to paragraph 4. The certificate shall have been issued by authorities empowered to this effect on the basis of laws or regulations of the third country concerned, as submitted, in accordance with the provisions of the IPPC, to the Director General of FAO, or, in the case of third countries non-party to the IPPC, to the Commission. The Commission shall inform the Member States of the submissions received.

4

- a In accordance with the procedure referred to in Article 18(2), the acceptable models as specified in the different versions of the Annex to the IPPC shall be determined. In accordance with the same procedure, alternative specifications for the ‘phytosanitary certificates’ or ‘phytosanitary certificates for re-export’ may be laid down for third countries non-party to the IPPC.
- b Without prejudice to Article 15(4), the certificates, in the case of plants, plant products or other objects listed in Annex IV Part A section I or Part B, shall specify, under the heading ‘Additional Declaration’ and where relevant, which special requirement out of those listed as alternatives in the relevant position in the different parts of Annex IV have been complied with. This specification shall be given through reference to the relevant position in Annex IV.
- c In the case of plants, plant products or other objects, to which special requirements laid down in Annex IV, Part A, or Part B apply, the official ‘phytosanitary certificate’ referred to in Article 13(1)(ii) shall have been issued in the third country in which the plants, plant products or other objects originate (country of origin).
- d However, in the case where the relevant special requirements can be fulfilled also at places other than that of origin, or where no special requirement applies, the ‘phytosanitary certificate’ may have been issued in the third country where the plants, plant products or other objects come from (consignor country).

5 In accordance with the procedure referred to in Article 18(2), implementing provisions may be adopted to:

- a lay down procedures for the carrying out of plant health checks referred to in paragraph 1(b), point (iii), including minimum numbers and minimum sizes of samples,
- b establish lists of plants, plant products or other objects on which plant health checks shall be carried out at reduced frequency pursuant to paragraph 2, first subparagraph, second indent,
- c specify the detailed conditions for the evidence referred to in paragraph 2, second subparagraph, and the criteria for the type and level of reduction of the plant health checks.

The Commission may include guidelines in respect of paragraph 2 in the recommendations referred to in Article 21(6).

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#### **Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

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### *Article 13b*

1 Member States shall ensure that consignments or lots which come from a third country, but are not declared, under the customs formalities, to consist of, or to contain plants, plant products or other objects listed in Annex V, Part B are also inspected by the responsible official bodies, where there is serious reason to believe that such plants, plant products or other objects are present.

Member States shall ensure that whenever a customs inspection reveals that a consignment or lot coming from a third country consists of or contains non-declared plants, plant products or other objects listed in Annex V, Part B, the inspecting customs office shall immediately inform the official body of its Member State, under the cooperation referred to in Article 13c(4).

If, at the outcome of the inspection by the responsible official bodies, doubts remain in respect of the identity of the commodity, in particular concerning the genus or species of plants or plant products or their origin, the consignment shall be considered to contain plants, plant products or other objects as listed in Annex V, Part B.

- 2 Provided that there is no risk of harmful organisms spreading in the Community:
- a Article 13(1) shall not apply to the entry, into the Community, of plants, plant products or other objects which are moved from one point to another within the Community passing through the territory of a third country without any change in their customs status (internal transit),
  - b Article 13(1) and Article 4(1) shall not apply to the entry, into the Community, of plants, plant products or other objects which are moved from one point to another within one or two third countries passing through the territory of the Community under appropriate customs procedures without any change in their customs status.

3 Without prejudice to the provisions of Article 4 in respect of Annex III, and provided that there is no risk of harmful organisms spreading in the Community, Article 13(1) need not apply to the entry, into the Community, of small quantities of plants, plant products, foodstuffs or animal feedingstuffs as far as they relate to plants or plant products, where they are intended for use by the owner or recipient for non-industrial and non-commercial purposes, or for consumption during transport.

In accordance with the procedure referred to in Article 18(2) detailed rules may be adopted specifying the conditions for the implementation of this provision, including the determination of 'small quantities'.

4 Article 13(1) shall not apply, under specified conditions, to the entry, into the Community, of plants, plant products or other objects for use in trials, for scientific purposes or for work on varietal selections. The specified conditions shall be determined in accordance with the procedure referred to in Article 18(2).

5 Provided that there is no risk of harmful organisms spreading in the Community, a Member State may adopt a derogation that Article 13(1) shall not apply in specified individual cases to plants, plant products or other objects which are grown, produced or used in its immediate frontier zone with a third country and introduced into that Member State in order to be worked in nearby locations in the frontier zone of its territory.

When granting such a derogation, the Member State shall specify the location and the name of the person working it. Such details, which shall be updated regularly, shall be made available to the Commission

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Plants, plant products and other objects which form the subject of a derogation under the first subparagraph shall be accompanied by documentary evidence of the location in the relevant third country from which the said plants, plant products and other objects originate.

6 It may be agreed, in technical arrangements made between the Commission and the competent bodies in certain third countries and approved in accordance with the procedure referred to in Article 18(2), that activities referred to in Article 13(1)(i) may also be carried out under the authority of the Commission and in accordance with the relevant provisions of Article 21 in the consignor third country, in cooperation with the official plant protection organisation of that country.

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### Article 13c

1

- a The formalities as specified in Article 13a(1), the inspections as provided for in Article 13b(1) and the checks for compliance with the provisions of Article 4 in respect of Annex III shall be carried out in connection with, as specified in paragraph 2, the formalities required for the placing under a customs procedure as referred to in Article 13(1) or Article 13(4).

They shall be carried out in compliance with the provisions of the International Convention on the Harmonisation of Frontier Controls of Goods, in particular Annex 4 thereof, as approved by Council Regulation (EEC) No 1262/84<sup>(3)</sup>.

- b Member States shall provide that importers, whether or not producers, of plants, plant products or other objects, listed in Annex V, Part B, must be included in an official register of a Member State under an official registration number. The provisions of Article 6(5), third and fourth subparagraphs, shall apply accordingly to such importers.
- c Member States shall also provide that:
- (i) importers, or their customs representatives, of consignments consisting of, or containing, plants, plant products or other objects, listed in Annex V, Part B, shall make reference, on at least one of the documents required for the placing under a customs procedure as referred to in Article 13(1) or Article 13(4) to such composition of the consignment by means of the following information:
- reference to the type of plants, plant products or other objects, in using the code of the ‘Integrated tariff of the European Communities (Taric)’,
  - statement ‘This consignment contains produce of phytosanitary relevance’, or any equivalent alternative mark as agreed between the customs office of point of entry and the official body of point of entry,
  - reference number(s) of the required phytosanitary documentation,
  - official registration number of the importer, as referred to in (b) above;

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- (ii) airport authorities, harbour authorities or either importers or operators, as arranged between them, give, as soon as they are aware of the imminent arrival of such consignments, advance notice thereof to the customs office of point of entry and to the official body of point of entry.

Member States may apply this provision, *mutatis mutandis*, to cases of land transport, in particular where the arrival is expected outside normal working hours of the relevant official body or other office as specified in paragraph 2.

2

- a ‘Documentary checks’ and also the inspections as provided for in Article 13b(1) and the checks for compliance with the provisions of Article 4 in respect of Annex III must be made by the official body of point of entry or, in agreement between the responsible official body and the customs authorities of that Member State, by the customs office of point of entry.
- b ‘Identity checks’ and ‘plant health checks’ must be made, without prejudice to (c) and (d) below, by the official body of point of entry in connection with the customs formalities required for placing under a customs procedure as referred to in Article 13(1) or Article 13(4), and either at the same place as these formalities, on the premises of the official body of point of entry or at any other place close by and designated or approved by the customs authorities and by the responsible official body, other than the place of destination as specified under (d).
- c However, in case of transit of non-Community goods, the official body of point of entry may decide, in agreement with the official body or bodies of destination, that all or part of the ‘identity checks’ or ‘plant health checks’ shall be made by the official body of destination, either on its premises or at any other place close by and designated or approved by the customs authorities and by the responsible official body, other than the place of destination as specified under (d). If no such agreement is made, the entire ‘identity check’ or ‘plant health check’ shall be made by the official body of the point of entry at either of the places specified in (b).
- d In accordance with the procedure referred to in Article 18(2), certain cases or circumstances may be specified in which ‘identity checks’ and ‘plant health checks’ may be carried out at the place of destination, such as a place of production, approved by the official body and customs authorities responsible for the area where that place of destination is located, instead of the aforesaid other places, provided that specific guarantees and documents as regards the transport of plants, plant products and other objects are complied with.
- e In accordance with the procedure referred to in Article 18(2), implementing provisions shall be laid down concerning:
- the minimum conditions for the carrying out of the ‘plant health checks’ under (b), (c) and (d),
  - the specific guarantees and documents as regards the transport of the plants, plant products or other objects to the places specified in (c) and (d), to ensure that there is no risk of harmful organisms spreading during transport,
  - together with the specification of cases under (d), specific guarantees and minimum conditions concerning the qualification of the place of destination for storage and concerning the storage conditions.
- f In all cases, the plant ‘health checks’ shall be considered to be an integral part of the formalities referred to in Article 13(1).

3 Member States shall lay down that the respective original, or the electronic form of the certificates or of the alternative documents other than marks, as specified in Article 13(1)

(ii), which is produced to the responsible official body for ‘documentary checks’ in accordance with the provisions of Article 13a(1)(b)(i), upon inspection shall be marked with a ‘visa’ of that body, together with its denomination and the date of presentation of the document.

In accordance with the procedure referred to in Article 18(2), a standardised system may be set up to ensure that information included in the certificate, in case of specified plants intended for planting, shall be forwarded to the official body in charge of each Member State or area where plants from the consignment are to be destined or planted.

4 The Member States shall forward to the Commission and the other Member States in writing the list of places designated as points of entry. Any changes to this list shall also be forwarded in writing without delay.

The Member States shall establish a list of the places as specified under 2(b) and 2(c) and places of destinations as identified under 2(d) under their respective responsibility. These lists shall be accessible to the Commission.

Each official body of point of entry, and each official body of destination carrying out identity or plant health checks, must satisfy certain minimum conditions in respect of infrastructure, staffing and equipment.

In accordance with the procedure referred to in Article 18(2), the aforesaid minimum conditions shall be laid down in implementing provisions.

In accordance with the same procedure, detailed rules shall be laid down concerning:

- a the type of documents required for the placing under a customs procedure, on which the information specified in paragraph 1(c)(i) shall be made,
- b the cooperation between:
  - (i) the official body of point of entry and the official body of destination,
  - (ii) the official body of point of entry and the customs office of point of entry,
  - (iii) the official body of destination and the customs office of destination, and
  - (iv) the official body of point of entry and the customs office of destination.

Those rules shall include model forms of documents to be used in that cooperation, the means of transmission of these documents, the procedures for exchange of information between the official bodies and offices above, as well as the measures which must be taken to maintain the identity of the lots and consignments and to safeguard against the risk of spreading harmful organisms, in particular during transport, until the completion of the required customs formalities.

5 There shall be a Community financial contribution to Member States in order to strengthen inspection infrastructures in so far as they relate to plant health checks carried out in accordance with paragraph 2(b) or (c).

The purpose of this contribution shall be to improve the provision, at inspection posts other than those at the place of destination, of the equipment and the facilities required to carry out inspection and examination and, where necessary, to carry out the measures provided for in paragraph 7, beyond the level already achieved by complying with the minimum conditions stipulated in the implementing provisions pursuant to paragraph 2(e).

The Commission shall propose the entry of suitable appropriations for that purpose in the general budget of the European Union.

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Within the limits set by the appropriations available for these purposes, the Community contribution shall cover up to 50 % of expenditure relating directly to improving equipment and facilities.

Detailed rules concerning the Community financial contribution shall be laid down in an implementing Regulation adopted in accordance with the procedure referred to in Article 18(2).

The allocation and the amount of the Community financial contribution shall be decided in accordance with the procedure referred to in Article 18(2), in the light of the information and documents submitted by the Member State concerned and, where appropriate, of the results of investigations carried out under the Commission's authority by the experts referred to in Article 21, and depending on the appropriations available for the purposes concerned.

6 Article 10(1) and (3) shall apply *mutatis mutandis* to plants, plant products or other objects referred to in Article 13 insofar as they are listed in Annex V, Part A, and where it is considered, on the basis of the formalities referred to in Article 13(1), that the conditions laid down therein are fulfilled.

7 Where it is not considered on the basis of the formalities referred to in Article 13(1), that the conditions laid down therein are fulfilled, one or more of the following official measures shall be taken immediately:

- a refusal of entry into the Community of all or part of the consignment,
- b movement, under official supervision, in accordance with the appropriate customs procedure, during their movement within the Community, to a destination outside the Community,
- c removal of infected/infested produce from the consignment,
- d destruction,
- e imposition of a quarantine period until the results of the examinations or official tests are available,
- f exceptionally and only in specific circumstances, appropriate treatment where it is considered by the responsible official body of the Member State that, as a result of the treatment, the conditions will be fulfilled and the risk of spreading harmful organisms is obviated; the measure of appropriate treatment may also be taken in respect of harmful organisms not listed in Annex I or Annex II.

Article 11(3), second subparagraph, shall apply *mutatis mutandis*.

In the case of a refusal referred to in (a) or movement to a destination outside the Community referred to in (b) or of a removal referred to in (c), the Member States shall lay down that the phytosanitary certificates or the phytosanitary certificates for re-export, and any other document which have been produced when the plants, plant products or other objects were submitted for introduction into their territory, be cancelled by the responsible official body. Upon cancellation, the said certificates or documents shall bear on their face and in a prominent position a triangular stamp in red, marked 'certificate cancelled' or 'document cancelled' from the said official body, together with its denomination and the date of refusal, of the start of the movement to a destination outside the Community or of removal. It shall be in capital letters, and in at least one of the official languages, of the Community.

8 Without prejudice to the notifications and information required under Article 16, Member States shall ensure that the responsible official bodies inform the plant protection organisation of the third country of origin or consignor third country and the Commission of

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all cases where plants, plant products or other objects coming from the relevant third country have been intercepted as not complying with the plant health requirements, and the reasons of the interception, without prejudice to the action which the Member State may take or has taken in respect of the intercepted consignment. The information shall be given as soon as possible so that the plant protection organisations concerned and, where appropriate, also the Commission, may study the case with a view, in particular, to taking the steps necessary to prevent further occurrences similar to the intercepted one. In accordance with the procedure referred to in Article 18(2), a standardised information system may be set up.

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### Article 13d

1 Member States shall ensure the collection of fees (Phytosanitary fee) to cover the costs occasioned by the documentary checks, identity checks and plant health checks provided for in Article 13a(1), which are carried out pursuant to Article 13. The level of the fee shall reflect:

- a the salaries, including social security, of the inspectors involved in the above checks;
- b the office, other facilities, tools and equipment for these inspectors;
- c the sampling for visual inspection or for laboratory testing;
- d laboratory testing;
- e the administrative activities (including operational overheads) required for carrying out the checks concerned effectively, which may include the expenditure required for pre- and in-service training of inspectors.

2 Member States may either set the level of the Phytosanitary fee on the basis of a detailed cost calculation carried out in accordance with paragraph 1, or apply the standard fee as specified in Annex VIIIa.

When, pursuant to Article 13a(2), for a certain group of plants, plant products or other objects originating in certain third countries, identity checks and plant health checks are being carried out at reduced frequency, Member States shall collect a proportionally reduced Phytosanitary fee from all consignments and lots of that group, whether subjected to inspection or not.

In accordance with the procedure referred to in Article 18(2), implementing measures may be adopted to specify the level of this reduced Phytosanitary fee.

3 When the Phytosanitary fee is set by a Member State on the basis of the costs borne by the responsible official body of that Member State, the Member States concerned shall communicate to the Commission reports specifying the method for calculating the fees in relation to the elements listed in paragraph 1.

Any fee imposed in accordance with the first subparagraph shall be no higher than the actual cost borne by the responsible official body of the Member State.

4 No direct or indirect refund of the fees provided for in this Directive shall be permitted. However the possible application by a Member State of the standard fee as specified in Annex VIIIa shall not be considered an indirect refund.



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5 The standard fee as specified in Annex VIIIa is without prejudice to extra charges to cover additional costs incurred in special activities relating to the checks, such as exceptional travelling by inspectors or waiting periods of inspectors due to delays in the arrival of consignments out of schedule, checks carried out outside normal working hours, supplementary checks or laboratory testing required in addition to those provided for in Article 13 for confirmation of conclusions drawn from the checks, special phytosanitary measures as required under Community acts based on Articles 15 or 16, measures taken pursuant to Article 13c(7), or the translation of required documents.

6 Member States shall designate the authorities empowered to charge the Phytosanitary fee. The fee shall be payable by the importer, or his customs representatives.

7 The Phytosanitary fee shall replace all other charges or fees levied in the Member States at national, regional or local level for the checks referred to in paragraph 1, and the attestation thereof.

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### Article 13e

‘Phytosanitary certificates’ and ‘phytosanitary certificates for re-export’, which Member States issue under the IPPC shall be in the format of the standardised model given in Annex VII.]

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### Article 14

The Council acting on a proposal from the Commission, shall adopt any amendments to be made to the Annexes.

However, the following shall be adopted in accordance with the procedure laid down in [<sup>F1</sup>Article 18(2)]:

- (a) headings additional to Annex III in respect of certain plants, plant products or other objects originating in specified third countries, provided that:
- (i) these headings are introduced at the request of a Member State which already applies special prohibitions as regards the introduction of such products from third countries;
  - (ii) harmful organisms occurring in the country of origin constitute a plant-health risk for the whole or part of the Community; and
  - (iii) their possible presence on the products in question cannot be detected effectively at the time of their introduction;

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- (b) headings additional to the other Annexes in respect of certain plants, plant products or other objects originating in specified third countries, provided that:
- (i) these headings are introduced at the request of a Member State which already applies special prohibitions or restrictions as regards the introduction of such products from third countries; and
  - (ii) harmful organisms occurring in the country of origin constitute a plant-health risk for the whole or part of the Community in respect of crops, the scale of possible damage to which is unforeseeable;
- (c) any amendment to Part B of the Annexes, [<sup>F1</sup>in consultation with the Member State concerned];
- (d) [<sup>F1</sup>any amendment to the Annexes to be made in the light of developments in scientific or technical knowledge, or when technically justified, consistent with the pest risk involved;]
- (e) [<sup>F2</sup>‘amendments to Annex VIIIa’.]

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)
- F2** Inserted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### Article 15

[<sup>F1</sup> In accordance with the procedure referred to in Article 18(2), derogations may be provided for:

- from Article 4(1) and (2) with regard to Annex III, Part A and Part B, without prejudice to the provisions of Article 4(5), and from Article 5(1) and (2) and the third indent of Article 13(1)(i) with regard to requirements referred to in Annex IV, Part A, Section I and Annex IV, Part B,
- from Article 13(1)(ii) in the case of wood, if equivalent safeguards are ensured by means of alternative documentation or marking.]

provided that it is established that the risk of spreading harmful organisms is obviated by one or more of the following factors:

- the origin of the plants or plant products,
- appropriate treatment,
- special precautions for the use of the plants or plant products.

The risk shall be assessed on the basis of available scientific and technical information; where such information is insufficient, it shall be supplemented by additional enquiries or, where appropriate, by investigations carried out under the authority of the Commission and in accordance with the relevant provisions of Article 21 in the country of origin of the plants, plant products or other objects concerned.

Each authorisation shall apply individually to all or part of the territory of the Community under conditions which take into account the risk of spreading harmful

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organisms by the product in question in protected zones or in certain regions taking into account the differences in agricultural and ecological conditions. In such cases, the Member States concerned shall be expressly exempted from certain obligations derived from the above provisions in the decisions providing for the authorisations.

The risk shall be assessed on the basis of available scientific and technical information. Where such information is insufficient, it shall be supplemented by additional enquiries or, where appropriate, by investigations carried out by the Commission in the country of origin of the plants, plant products or other objects concerned.

[<sup>F12</sup> In accordance with the procedures referred to in the first subparagraph of paragraph 1, phytosanitary measures adopted by a third country for export into the Community shall be recognised as equivalent to the phytosanitary measures laid down in this Directive, in particular to those specified in Annex IV, if that third country objectively demonstrates to the Community that its measures achieve the Community's appropriate level of phytosanitary protection and if this is confirmed by the conclusions resulting from findings made on the occasion of reasonable access of the experts referred to in Article 21 for inspection, testing and other relevant procedures in the relevant third country.

Upon request by a third country, the Commission will enter into consultations with the aim of achieving bilateral or multilateral agreements on recognition of the equivalence of specified phytosanitary measures.

3 Decisions providing for derogations pursuant to the first subparagraph of paragraph 1 or recognition of equivalence pursuant to paragraph 2, shall require that compliance with the conditions laid down therein has been officially established in writing by the exporting country for each individual case of use, and shall set out the details of the official statement confirming compliance.

4 Decisions referred to in paragraph 3 shall specify whether or in what manner Member States shall inform the other Member States and the Commission of each individual case of use or groups of cases of use.]

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#### **Textual Amendments**

**F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### *Article 16*

1 Each Member State shall immediately notify [<sup>F2</sup>in writing] the Commission and the other Member States of the presence in its territory of any of the harmful organisms listed in Annex I, Part A, Section I or Annex II, Part A, Section I or of the appearance in part of its territory in which their presence was previously unknown of any of the harmful organisms listed in Annex I, Part A, Section II or in Part B or in Annex II, Part A, Section II or in Part B.

It shall take all necessary measures to eradicate, or if that is impossible, inhibit the spread of the harmful organisms concerned. It shall inform the Commission and the other Member States of the measures taken.

2 Each Member State shall immediately notify [<sup>F2</sup>in writing] the Commission and the other Member States of the actual or suspected appearance of any harmful organisms not listed in Annex I or in Annex II whose presence was previously unknown in its territory. It shall also inform the Commission and the other Member States of the protective measures which it has

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taken or intends to take. These measures must, *inter alia*, be such as to prevent risk of the spread of the harmful organism concerned in the territory of the other Member States.

In respect of consignments of plants, plant products or other objects from third countries considered to involve an imminent danger of the introduction or spread of the harmful organisms referred to in paragraph 1 and the first subparagraph of this paragraph, the Member State concerned shall immediately take the measures necessary to protect the territory of the Community from that danger and shall inform the Commission and the other Member States thereof.

Where a Member State considers that there is an imminent danger other than that referred to in the second subparagraph, it shall immediately notify<sup>[F2]</sup> in writing] the Commission and the other Member States of the measures which it would like to see taken. If it considers that these measures are not being taken in sufficient time to prevent the introduction or spread of a harmful organism in its territory, it may temporarily take any additional measures which it deems necessary, as long as the Commission has not adopted measures pursuant to paragraph 3.

The Commission will present a report to the Council on the operation of this provision, together with any proposals, by 31 December 1992.

3 In cases referred to in paragraphs 1 and 2, the Commission shall examine the situation as soon as possible within the Standing Committee on Plant Health. On-site investigations may be made under the authority of the Commission and in accordance with the relevant provisions of Article 21. The necessary measures<sup>[F2]</sup> based on a pest risk analysis or a preliminary pest risk analysis in cases referred to in paragraph 2] may be adopted, including those whereby it may be decided whether measures taken by the Member States should be rescinded or amended, under the procedure laid down in <sup>[F1]</sup>Article 18(2)]. The Commission shall follow the development of the situation and, under the same procedure, shall amend or repeal, as that development requires, the said measures. Until a measure has been adopted under the aforesaid procedure, the Member State may maintain the measures that it has employed.

4 The detailed rules for applying paragraphs 1 and 2 shall be adopted, as necessary, <sup>[F1]</sup>in accordance with the procedure referred to in Article 18(2)].

<sup>[F25]</sup> If the Commission has not been informed of measures taken under paragraphs 1 or 2, or if it considers the measures taken to be inadequate, it may, pending the meeting of the Standing Committee on Plant Health, take interim protective measures based on a preliminary pest risk analysis to eradicate, or if that is not possible, inhibit the spread of the harmful organism concerned. These measures shall be submitted to the Standing Committee on Plant Health as soon as possible to be confirmed, amended or cancelled in accordance with the procedure referred to in Article 18(2).]

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).
- F2** Inserted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

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**Textual Amendments**

- F4** Deleted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

*[<sup>F1</sup>Article 18*

1 The Commission shall be assisted by the Standing Committee on Plant Health instituted by Council Decision 76/894/EEC<sup>(4)</sup> hereafter referred to as ‘the Committee’.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3 The Committee shall adopt its rules of procedure.]

**Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

*<sup>F4</sup>Article 19*

**Textual Amendments**

- F4** Deleted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

*Article 20*

1 This Directive in no way affects Community provisions on plant-health requirements for plants and plant products, except where it provides for or expressly permits stricter requirements in this respect.

2 Amendments to this Directive which are necessary to establish coherence with the Community provisions referred to in paragraph 1 shall be adopted [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)].

3 For the introduction into their territory of any plants or plant products, in particular those listed in Annex VI and their packaging or the vehicles transporting them, Member States may take special plant-health measures against the harmful organisms which generally attack plants, or plant products in storage.

**Textual Amendments**

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

*Article 21*

1 For the purpose of ensuring the correct and uniform application of this Directive, and without prejudice to checks carried out under the authority of the Member States, the Commission may organise checks to be carried out by experts under its authority in respect of the tasks listed in paragraph 3, on- or off-site, in accordance with the provisions of this Article.

Where such checks are carried out in a Member State, this must be done in cooperation with the official plant protection organisation of that Member State as specified in paragraphs 4 and 5 and in accordance with the procedures set out in paragraph 7.

- 2 The experts referred to in paragraph 1 may be:
- employed by the Commission,
  - employed by Member States, and put at the disposal of the Commission on a temporary or *ad hoc* basis.

They shall have acquired, at least in one Member State, the qualifications required for persons in charge of carrying out and monitoring official plant health inspections.

[<sup>F13</sup> The checks referred to in paragraph 1 may be carried out in respect of the following tasks:

- monitoring examinations pursuant to Article 6,
- carrying out the official checks pursuant to Article 12(3),
- monitoring or, within the framework of the provisions laid down in the fifth subparagraph of paragraph 5, carrying out in cooperation with the Member States inspections pursuant to Article 13(1),
- carrying out or monitoring the activities specified in the technical arrangements referred to in Article 13b(6),
- making the investigations referred to in Article 15(1), 15(2) and Article 16(3),
- monitoring activities required under the provisions establishing the conditions under which certain harmful organisms, plants, plant products or other objects may be introduced into, or moved within, the Community or certain protected zones thereof, for trial or scientific purposes or for work on varietal selection referred to in Articles 3(9), 4(5), 5(5) and 13b(4),
- monitoring activities required under authorisations granted pursuant to Article 15, under measures taken by Member States pursuant to Article 16(1) or (2), or under measures adopted pursuant to Article 16(3) or (5),
- assisting the Commission in the matters referred to in paragraph 6,
- carrying out any other duty assigned to the experts in the detailed rules referred to in paragraph 7.]

4 For the purpose of the tasks listed in paragraph 3, the experts referred to in paragraph 1 may:

- visit nurseries, farms and other places where plants, plant products or other objects are or were grown, produced, processed or stored,

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- visit places where examinations pursuant to Article 6 or inspections pursuant to Article 13 are carried out,
- consult officials of the official plant protection organisations of the Member States,
- accompany the Member States' national inspectors when they carry out activities for the purposes of applying this Directive.

5 Under the cooperation mentioned in paragraph 1, second subparagraph, the official plant protection organisation of that Member State shall be given sufficient advance notice of the task to permit the necessary arrangements to be made.

Member States shall take all reasonable steps to ensure that the objectives and effectiveness of inspections are not jeopardised. They shall ensure that the experts may carry out their tasks without hindrance, and shall take all reasonable steps to provide them, on their request, with the available necessary facilities, including laboratory equipment and laboratory staff. The Commission shall ensure refunding of expenses resulting from such requests, within the limits of appropriations available for that purpose in the general budget of the European Union. [F<sup>2</sup>This provision shall not apply to expenses resulting from the following types of requests made on the occasion of the participation of the said experts in the Member States' import inspections: laboratory testing and sampling for visual inspection or for laboratory testing, and already covered by the fees referred to in Article 13d.]

The experts shall, wherever national legislation so requires, be duly mandated by the official plant protection organisation of the Member State concerned and observe the rules and practices imposed on that Member State's officials.

Where the task consists of monitoring the examinations referred to in Article 6, monitoring the inspections referred to in Article 13(1), or making the investigations referred to in Article 15(1) and Article 16(3), no decision may be taken on-site. The experts shall report to the Commission on their activities and their findings.

Where the task consists of carrying out the inspections pursuant to Article 13(1), those inspections shall be integrated in an established inspection programme and the rules of procedure established by the Member State concerned shall be complied with; however, in the case of a joint inspection, the Member State concerned will only allow the introduction of a consignment into the Community if its plant protection organisation and the Commission are in agreement. [F<sup>1</sup>In accordance with the procedure referred to in Article 18(2)], this condition may be extended to other irrevocable requirements applied to consignments before introduction into the Community if experience shows such extension to be necessary. Should the Community expert and the national inspector fail to agree, the Member State concerned shall take any necessary temporary measures, pending a definitive decision.

In all cases, national provisions in respect of criminal proceedings and administrative penalties shall apply according to the normal procedures. Where the experts identify a suspected infringement of the provisions of this Directive, this shall be notified to the competent authorities of the Member State concerned.

- 6 The Commission shall:
- establish a network for the notification of new occurrences of harmful organisms,
  - make recommendations for drawing up guidelines for the experts and for national inspectors in carrying out their activities.

To assist the Commission in this latter task, Member States shall notify the Commission of the current national inspection procedures in the plant health field.



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7 The Commission shall adopt, [F1 in accordance with the procedure referred to in Article 18(2)], detailed rules for the application of this Article, including those applicable to the cooperation mentioned in paragraph 1, second subparagraph.

8 The Commission shall report to the Council, no later than 31 December 1994, on the experience gained from the implementation of the provisions of this Article. The Council, acting by a qualified majority on a proposal from the Commission, shall take the necessary measures to amend these provisions, if appropriate, in the light of this experience.

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)
- F2** Inserted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### Article 22

In the event of the actual or suspected appearance of a harmful organism as a result of its introduction or spread within the Community, Member States may receive a 'plant-health control' financial contribution from the Community pursuant to Articles 23 and 24 to cover expenditure relating directly to the necessary measures which have been taken or are planned for the purpose of combating that harmful organism in order to eradicate or, if that is not possible, contain it. The Commission shall propose the entry of suitable appropriations for that purpose in the general budget of the European Union.

#### Article 23

1 The Member State concerned may receive, at its request, the Community financial contribution referred to in Article 22, where it is established that the harmful organism concerned, whether or not listed in Annexes I and II:

- has been notified under Article 16(1) or (2) first subparagraph, and
- constitutes an imminent danger for all or part of the Community due to its appearance in an area where the organism had either not been known to occur previously or had been or was being eradicated, and
- was introduced into that area through consignments of plants, plant products or other objects from a third country or another area of the Community.

2 The following shall be regarded as necessary measures within the meaning of Article 22:

- a destruction, disinfection, disinfestation, sterilisation, cleaning or any other treatment carried out officially or upon official request in respect of:
  - (i) plants, plant products or other objects constituting the consignment(s) through which the harmful organism was introduced into the area in question and which are recognised as being contaminated or liable to be contaminated;
  - (ii) plants, plant products and other objects, recognised as being contaminated or liable to be contaminated by the harmful organism introduced, which have been grown from plants in the consignment(s) concerned or have been in close proximity to the plants, plant products or other objects of those consignments or to plants grown from them;



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- (iii) growing substrates and land recognised as being contaminated or liable to be contaminated by the harmful organism concerned;
  - (iv) production material, packaging, wrapping and storage material, storage or packaging premises and means of transport which have been in contact with all or some of the plants, plant products and other objects referred to above;
  - b inspections or testing carried out officially or upon official request to monitor the presence or extent of contamination by the harmful organism which has been introduced;
  - c prohibitions or restrictions in respect of the use of growing substrates, cultivable areas or premises, as well as plants, plant products or other objects other than material from the consignment(s) in question or grown therefrom where they result from official decisions taken on the grounds of plant-health risks related to the harmful organism introduced.
- 3 Payments made from public funds in order to:
- cover all or part of the costs of the measures described in paragraph 2(a) and (b), except for those related to the regular running costs of the competent official body concerned, or
  - to compensate for all or part of the financial losses other than loss of earnings resulting directly from one or more of the measures described in paragraph 2(c),

shall be considered to be expenditure directly relating to the necessary measures referred to in paragraph 2.

By way of derogation from the second indent of the first subparagraph an implementing Regulation may specify, [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)], cases in which compensation for loss of earnings shall be considered to be expenditure directly relating to necessary measures subject to the conditions specified in this respect in paragraph 5 as well as the time limitations applicable to those cases, with a maximum of three years.

4 In order to qualify for the financial contribution from the Community and without prejudice to Article 16, the Member State concerned shall apply to the Commission, at the latest before the end of the calendar year following that in which the appearance of the harmful organism was detected, and shall forthwith inform the Commission and the other Member States of:

- the reference of the notification provided for in the first indent of paragraph 1,
- the nature and extent of the appearance of the harmful organism as referred to in Article 22 and when, where and how it was detected,
- the identity of the consignments referred to in the third indent of paragraph 1 through which the harmful organism was introduced,
- the necessary measures which have been taken or are planned for which it is seeking assistance, together with timetables for them, and
- the results obtained and the actual or estimated cost of the expenditure incurred or to be incurred, and the proportion of such expenditure covered or to be covered from public funds allocated by the Member State for implementation of those same necessary measures.

Where the appearance of the harmful organism was detected prior to 30 January 1997, that date shall be deemed to be the date of detection within the meaning of this paragraph and paragraph 5, provided that the actual date of detection is not earlier than 1 January 1995. However, this provision shall not apply in respect of compensation for loss of earnings referred to in paragraph 3, second subparagraph save in exceptional cases,

under the conditions laid down in the implementing Regulation referred to in paragraph 3, to loss of earnings occurring thereafter.

5 Without prejudice to Article 24, the allocation and the amount of the financial contribution from the Community shall be decided [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)], in the light of the information and documents submitted by the Member State concerned in accordance with paragraph 4 and, where appropriate, the results of investigations carried out on the Commission's authority by the experts referred to in Article 21 pursuant to the first subparagraph of Article 16(3), taking into account the extent of the danger referred to in the second indent of paragraph 1 above, and depending on the appropriations available for these purposes.

Within the limits set by the appropriations available for these purposes, the financial contribution from the Community shall cover up to 50 % and, in case of compensation for loss of earnings referred to in paragraph 3, second subparagraph, up to 25 %, of expenditure relating directly to the necessary measures referred to in paragraph 2, provided that these measures have been taken within a period not more than two years after the date of detection of the appearance of a harmful organism as referred to in Article 22, or are planned for that period.

The abovementioned period may be extended, in accordance with the same procedure, if examination of the situation concerned leads to the conclusion that the objective of the measures will be achieved within a reasonable additional period. The financial contribution from the Community shall be degressive over the years concerned.

Where a Member State is unable to supply the required information regarding the identity of the consignment in accordance with the third indent of paragraph 4, it shall indicate the presumed sources of the appearance and the reasons why the consignments could not be identified. The allocation of the financial contribution may be approved, in accordance with the same procedure, depending on the outcome of an assessment of that information.

Detailed rules for the implementation of this paragraph shall be established in an implementing Regulation [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)].

6 In the light of the development of the situation in the Community, it may be decided, [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)] or Article 19, that further action will be implemented or that measures taken or planned by the Member State concerned will be made subject to certain requirements or additional conditions, if these are necessary for the achievement of the objective in question.

The allocation of the financial contribution from the Community for such further action, requirements or conditions shall be decided by the same procedure. Within the limits set by the appropriations available for these purposes, the financial contribution from the Community shall cover up to 50 % of expenditure relating directly to the further action, requirements or conditions concerned.

Where such further action, requirements or conditions are essentially designed to protect Community territories other than that of the Member State concerned, it may be decided, in accordance with the same procedure, that the Community financial allocation shall cover more than 50 % of the expenditure.

The financial contribution from the Community shall be of a limited duration and shall be degressive over the years concerned.

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7 The allocation of a financial contribution from the Community shall be without prejudice to claims which the Member State concerned or individuals may have against others, including other Member States in the cases referred to in Article 24(3), for the refunding of expenditure, compensation for losses or other damages under national law, Community law or international law. Rights in these claims will be the object of a transfer, by operation of law, to the Community with effect from the payment of the financial contribution from the Community, to the extent that such expenditure, losses or other damages are covered by that contribution.

8 The financial contribution from the Community may be paid in several instalments.

If it appears that the financial contribution from the Community as allocated is no longer justified, the following shall apply:

The amount of the financial contribution from the Community allocated to the Member State concerned pursuant to paragraphs 5 and 6 may either be reduced or suspended, if it is established from the information supplied by that Member State, or from the results of investigations carried out on the Commission's authority by the experts referred to in Article 21, or from the results of the suitable examination which the Commission has conducted in accordance with the procedures analogous to those in Article 39 of Council Regulation (EC) No 1260/1999 of 21 June 1999 laying down general provisions on the Structural Funds<sup>(5)</sup> that:

- failure to implement the necessary measures decided on in accordance with paragraphs 5 and 6, whether in whole or in part, or failure to comply with the rules or time limits set in accordance with those provisions or required by the objectives pursued is not justified, or
- the measures are no longer necessary, or
- a situation as described in Article 39 of Regulation (EC) No 1260/1999 is revealed.

9 Articles 8 and 9 of Council Regulation (EC) No 1258/1999 of 17 May 1999 on the financing of the common agricultural policy<sup>(6)</sup>, shall apply *mutatis mutandis*.

10 The Member State concerned shall repay the Community all or part of any amounts paid it by way of a Community financial contribution allocated under paragraphs 5 and 6 above if it is established from the sources as specified in paragraph 8, that

- a the necessary measures taken into account pursuant to paragraphs 5 or 6
  - (i) have not been implemented; or
  - (ii) have not been implemented in a manner which complies with the rules or time limits set in accordance with those provisions or required by the objectives pursued;
- or
- b the amounts paid have been used for purposes other than those for which the financial contribution was allocated;
- or
- c a situation as described in Article 39 of Regulation (EC) No 1260/1999 is revealed.

The rights referred to the second sentence of paragraph 7 will be the object of a transfer by operation of law back to the Member State concerned with effect from the time of repayment, inasmuch as they are covered by that repayment.

Interest on account of late payment shall be charged on sums not repaid in compliance with the provisions of the Financial Regulation and in accordance with the arrangements

to be drawn up by the Commission [<sup>F1</sup>in accordance with the procedure referred to in Article 18(2)].

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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.](#)

#### Article 24

1 In respect of the causes for the appearance of the harmful organism referred to in Article 22, the following shall apply:

The Commission shall verify whether the appearance of the harmful organism in the area concerned was caused by the movement into that area of one or more consignments carrying the harmful organism and shall identify the Member State or the successive Member States from which the consignment(s) came.

The Member State from which the consignment(s) carrying the harmful organism came, whether or not the same Member State as that referred to above, shall forthwith inform the Commission, at the latter's request, of all details relating to the origin or origins of the consignment(s) and the administrative handling involved, including the examinations, inspections and controls provided for in this Directive, in order to determine why that Member State failed to detect that the consignment(s) did not comply with the provisions of this Directive. It shall also inform the Commission, at its request, of the destination of all the other consignments sent from the same origin or origins during a specified period.

For the purpose of supplementing the information, investigations may be carried out on the Commission's authority by the experts referred to in Article 21.

2 The information acquired pursuant to these provisions or those of Article 16(3) shall be examined in the Committee for the purposes of identifying any failings in the Community's plant health regulations or their implementation, and any measures that could be taken to remedy those failings.

The information referred to in paragraph 1 shall also be used to establish, in accordance with the Treaty, whether the Member State from which the consignment(s) came did not detect their non-compliance which resulted in the appearance of the harmful organism in the area concerned because that Member State failed to meet one of its obligations under the Treaty and under the provisions of this Directive relating in particular to the examinations laid down in Article 6 or the inspections laid down in Article 13(1).

3 Where the conclusions referred to in paragraph 2 is reached in respect of the Member State referred to in Article 23(1), the Community financial contribution shall not be allocated, or if already allocated shall not be paid or, if already paid, shall be refunded to the Community. In the latter case, the third subparagraph of Article 23(10) shall apply.

Where the conclusion referred to in paragraph 2 is reached in respect of another Member State, Community law shall apply, taking into account the second sentence of Article 23(7).

[<sup>F2</sup>The amounts to be refunded under paragraph 3 shall be fixed in accordance with the procedure referred to in Article 18(2).]

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#### Textual Amendments

- F2** Inserted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### Article 25

As regards the financial contribution referred to in [<sup>F1</sup>Article 13c(5)], the Council, acting by qualified majority on a proposal from the Commission, shall adopt provisions in respect of the exceptional cases of predominant Community interest justifying a Community contribution, up to 70 %, of the expenditure relating directly to improving equipment and facilities, within the limits set by appropriations available for those purposes and provided that this would not affect decisions pursuant to Article 23(5) or (6).

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### Article 26

By 20 January 2002 at the latest, the Commission shall examine the results of the application of [<sup>F1</sup>Article 13c(5)] and Articles 22, 23 and 24 and submit to the Council a report, accompanied by any necessary proposals for amendments.

#### Textual Amendments

- F1** Substituted by [Council Directive 2002/89/EC of 28 November 2002 amending 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](#).

#### Article 27

Directive 77/93/EEC as amended by the acts listed in Annex VIII, Part A is hereby repealed without prejudice to the obligations of the Member States concerning the time limits for transposition and application set out in Annex VIII, Part B.

References to the repealed Directive shall be construed as references to this Directive and should be read in accordance with the correlation table in Annex IX.

#### <sup>F5</sup><sup>F1</sup> Article 27a

For the purpose of this Directive and without prejudice to Article 21 thereof, Articles 41 to 46 of Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules<sup>(7)</sup> shall apply, as appropriate.]]

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**Editorial Information**

- X1** Substituted by Corrigendum to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (Official Journal of the European Union L 165 of 30 April 2004).

**Textual Amendments**

- F5** Inserted by Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.

*Article 28*

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

*Article 29*

This Directive is addressed to the Member States.

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- (1) [<sup>F2</sup>OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2787/2000 (OJ L 330, 27.12.2000, p. 1).
- (2) OJ L 302, 19.10.1992, p. 1. Regulation as last amended by Regulation (EC) No 2700/2000 of the European Parliament and of the Council (OJ L 311, 12.12.2000, p. 17).]
- (3) [<sup>F1</sup>OJ L 126, 12.5.1984, p. 1.]
- (4) [<sup>F1</sup>OJ L 340, 9.12.1976, p. 25.]
- (5) OJ L 161, 26.6.1999, p. 1.
- (6) OJ L 160, 26.6.1999, p. 103.
- (7) [<sup>F5</sup>[<sup>X1</sup>OJ L 165, 30.4.2004, p. 1.]]

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#### **Editorial Information**

- X1** Substituted by Corrigendum to Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules (Official Journal of the European Union L 165 of 30 April 2004).
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#### **Textual Amendments**

- F1** Substituted by Council Directive 2002/89/EC of 28 November 2002 amending 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.
- F2** Inserted by Council Directive 2002/89/EC of 28 November 2002 amending 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.
- F5** Inserted by Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules.