

Proposal for a Council Directive amending Council Directive 2000/29/EC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

(2001/C 240 E/14)

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(Submitted by the Commission on 5 April 2001)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas:

- (1) Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community⁽¹⁾ sets out the Community plant health regime, specifying the phytosanitary conditions, procedures and formalities to which plants and plant products are subjected when introduced into, or moved within, the Community.
- (2) Concerning the procedures and formalities, to which plants and plant products are subjected when introduced in the Community, certain clarifications should be provided and further detailed provisions are required in certain areas.
- (3) The phytosanitary procedures and formalities should be completed before customs clearance takes place. Since consignments of plants or plant products do not necessarily undergo phytosanitary procedures and formalities in the same Member States in which customs clearance takes place, a system of cooperation in communication and information between the responsible official bodies and the customs offices within a Member State and between the responsible official bodies of all Member States should be established.
- (4) In order to improve the protection against the introduction into the Community of organisms harmful to plants or plant products, Member States should intensify the checks required. Those checks should be effective and carried out in a harmonised manner throughout the Community.
- (5) The fees charged for such checks should be based on a reasonable cost calculation and aligned in all Member States as much as possible.
- (6) In the light of experience, several other provisions of the above Directive should be completed, clarified or amended in the light of developments.
- (7) Since the implementation of the conditions of the internal market, phytosanitary certificates as established in the International Plant Protection Convention (IPPC) of the FAO are no longer used for the marketing of plants or plant products within the Community. It is however important that these certificates are used by the Member States in the format standardised by the Convention for exports of plants or plant products into third countries.
- (8) Some of the functions of the 'single authority' of each Member State for coordination and contact in the practical operations of the Community plant health regime require specific scientific or technical knowledge. It must therefore be made possible, to delegate specific tasks to another service.
- (9) The current provisions on the procedure for the amendment of the annexes of Directive 2000/29/EC by the Commission and for the adoption of derogation decisions include some procedural conditions which are no longer necessary or justified. The procedure for the adoption of emergency measures does not provide the possibility for a rapid adoption of interim measures consistent with the level of emergency in specific cases. The provisions on these three procedures should therefore be amended accordingly.
- (10) The list of tasks in respect of which the Commission may organise plant health checks under its authority, should be extended, to take into account the widening of the field of plant health activities through new practices and experiences.
- (11) It has appeared that the manner in which the Community can exercise its rights in respect of Community 'plant health control' financial contributions paid to Member States is not clear; it should be specified that the Commission shall act through Commission Decisions.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

(12) Some provisions of Directive 2000/29/EC (Article 3(7) first, second and fourth subparagraphs as well as Articles 7, 8 and 9) have been superceded by alternative provisions since 1 June 1993, and have therefore become redundant since then; they should consequently be deleted.

(13) Under Article 4 of the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement ⁽¹⁾), the Community must recognise, under certain conditions, the equivalence of phytosanitary measures of other Parties to that Agreement. The procedures for such recognition in the field of plant health should be specified in Directive 2000/29/EC.

(14) The provisions of Directive 2000/29/EC should be adapted to take account of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽²⁾,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2000/29/EC is hereby amended as follows:

1. Article 1 shall be amended as follows:

(a) In the second subparagraph of paragraph 1, the following point (d) shall be added:

‘(d) the lay-out of “Phytosanitary Certificates” and “Phytosanitary Certificates for Re-export” issued by Member States for exports to third countries under the International Plant Protection Convention (IPPC).’

(b) Paragraph 4 shall be replaced by the following:

‘4. 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.

⁽¹⁾ OJ L 336, 23.12.1994, p. 1.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

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, in so far as they relate to distinct plant health matters covered by this Directive, to another service.’

2. Article 2(1) shall be amended as follows:

(a) Point (a) shall be amended as follows:

(i) The first subparagraph shall be replaced by the following:

‘plants shall be considered to mean: living plants and specified living parts thereof, including seeds;’

(ii) The second subparagraph shall be amended as follows:

— the following seventh indent shall be inserted after the sixth indent:

‘— leaves, foliage,’

— the following ninth indent shall be added:

‘— any other part of plants, which may be specified in accordance with the procedure referred to in Article 18(2).’

(b) In point (g), the fifth subparagraph shall be replaced by the following:

‘The 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;’

(c) In point (i), in the first subparagraph, first indent, the words ‘specified in Article 7(1) or Article 8(2)’ shall be replaced by the words ‘referred to in Article 1(1)(d)’.

(d) The following points (j) to (q) shall be added:

‘(j) “point of entry” shall be considered to mean: the place where plants, plant products or other objects are brought into the customs territory of the Community: the first airport in the case of air transport, the first port in the case of maritime or fluvial transport, the first 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 charge of the point of entry.
- (l) "official body of destination" shall be considered to mean: the responsible official body in charge of the area where the "customs office of destination" is situated.
- (m) "customs office of departure" shall be considered to mean: the office of departure within the meaning of Article 340b(1) of Commission Regulation (EEC) No 2454/93 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code ⁽¹⁾.
- (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.
- (o) "lot" shall be considered to mean: a number of units of a single commodity, identifiable by its homogeneity of composition, origin and immediate destination forming part of a consignment.
- (p) "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 establishing the Community Customs Code ⁽²⁾.
- (q) "transit" shall be considered to mean: the procedure referred to in Article 91 of Council Regulation (EEC) No 2913/92.

⁽¹⁾ OJ L 253, 11.10.1993, p. 1, 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, as last amended by Regulation (EC) No 2700/2000 of the European Parliament and the Council (OJ L 311, 12.12.2000, p. 17).

3. Article 3(7), shall be replaced by the following:

'Paragraphs 1 and 5(a) and paragraphs 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.'

4. Articles 7, 8 and 9 shall be deleted.

5. Article 10 shall be amended as follows:

(a) Paragraph 1 shall be amended as follows:

- (i) In the first subparagraph, the words 'instead of the phytosanitary certificates referred to in Articles 7 or 8' shall be deleted.

- (ii) The following subparagraph shall be added after the first subparagraph:

'However, in the case of seeds mentioned in Article 6(4), a plant passport need not be issued, where it is ensured that the documents issued in accordance with the 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).'

- (b) In paragraph 2, in the first subparagraph, before the words 'may not be moved' and in the second subparagraph, before the words 'may not be introduced' the words 'and seeds mentioned in Article 6(4)' shall be inserted.

6. In Article 11(3), the following third subparagraph shall be added after the second subparagraph:

'If paragraph (1) is applied only to part of the plants, plant products or growing medium concerned, a plant passport may be used for the other parts in accordance with Article 10 provided that they are not suspected of being contaminated and provided that there appears no possibility of harmful organisms spreading.'

7. Article 12 shall be replaced by the following:

'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 13a(7) second subparagraph, 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.

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 responsible official body 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 laid down in Article 18, a standardised information system may be set up.'

8. Article 13 shall be replaced by the following Articles 13, 13a, 13b and 13c:

'Article 13

1. Member States shall ensure, without prejudice to the provisions of Article 13a(1), (2), (3) and (4), and to specific agreements concluded in this respect 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 supervision by the responsible official bodies. Without prejudice to Article 13a(8), they may only be assigned a customs-approved treatment or use, if the formalities as specified in paragraph 2 have been completed 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 the harmful organisms listed in Annex I, Part A,

— 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 part of the Annex,

— 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,

(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 paragraph 3, or, where relevant, of alternative documents specified and permitted in implementing provisions adopted under this Directive.

Member States shall provide that plants, plant products or other objects, other than those listed in Annex V, Part B, 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 and second indents of (i). Where the responsible official body makes use of that faculty, the plants, plant products or other objects concerned shall remain under supervision, until the relevant formalities have been completed such as to conclude that they comply with the requirements laid down in this Directive.

Member States may apply the provisions of the first and second subparagraphs in their respective territories prior to the plants, plant products or other objects being placed under a permitted customs-approved treatment or use.

2. The formalities referred to in paragraph 1 shall consist of meticulous inspections by the responsible official bodies on at least

(i) each consignment consisting of, or containing, such plants, plant products or other objects, or

(ii) in the case of a consignment which is composed of different lots, each lot consisting of, or containing, such plants, plant products or other objects.

The inspections shall determine whether

- (i) the consignment or lot is accompanied by the respective original of the required certificates or of the alternative documents, as specified in paragraph 1(ii) (documentary checks),
- (ii) the plants, plant products or other objects, in its entirety or on one or more representative samples, are those declared on the required documents (identity checks), and
- (iii) the plants, plant products or other objects, in its entirety or on one or more representative samples, including the packaging and, where appropriate, the transport vehicles, comply with the requirements as specified in paragraph 1(i) (plant health checks).

However, the plant health checks are not required and may be carried out exceptionally only, if

- activities related to the inspections on the consignment or lot were already carried out in the third country concerned under technical arrangements referred to in Article 13a(5), 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 6, or
- there is evidence, supplied by the Commission and based on experience gained from earlier introductions of such material of the same origin into the Community and confirmed by all Member States concerned, 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 certain detailed conditions specified in implementing provisions adopted for this purpose pursuant to paragraph 6 are met.

3. The official "phytosanitary certificate" or "phytosanitary certificate for re-export" referred to in paragraph 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 country of export or re-export which have been adopted, whether contracting party or not, in compliance with the provisions of the IPPC. It shall be addressed to "Plant Protection Organisation(s) of/in the European Community".

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

The certificate shall contain information in accordance with the model specified in the Annex to the IPPC, irrespective of its lay-out. It shall be in one of the formats 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, as submitted, in accordance with the provisions of the IPPC, to the Director General of FAO, or, in the case of non-contracting parties, to the Commission.

4. In accordance with the procedure referred to in Article 18(2), the acceptable models specified in the different versions of the Annex to the IPPC shall be determined. In accordance with the same procedure, alternative requirements for the "phytosanitary certificates" or "phytosanitary certificates for re-export" may be laid down for specific cases.

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", which of the special requirements out of those listed as alternatives in the relevant parts of that Annex have been fulfilled.

In the case of plants, plant products or other objects, to which special requirements laid down in Annex IV part A, or, where relevant, part B thereof apply, the official "phytosanitary certificate" referred to in paragraph 1(ii) shall have been issued in the third country from which the plants, plant products or other objects originate.

However, this provision does not apply to cases where the relevant special requirements can be fulfilled also at places other than that of origin, or to cases, where no special requirement applies. In these circumstances, the required "phytosanitary certificate" may have been issued in the country where the plants, plant products or other objects come from.

5. Member States shall lay down that the respective original of the certificates or of the alternative documents, as specified in paragraph 1, point (ii), which is produced to the responsible official body for documentary checks in accordance with paragraph (2), second subparagraph, point (i), shall be marked with a "visa" stamp by that body showing at least its name and the date of presentation of the document.

6. 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 2, second subparagraph, 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 need not be carried out pursuant to paragraph 2, third subparagraph, second indent,
- (c) specify the detailed conditions for paragraph 2, third subparagraph, third indent.

The Commission may include guidelines in respect of points (a) or (b) in the recommendations referred to in Article 21(6).

Article 13a

1. Member States shall ensure that also consignments coming from third countries, which are not declared to contain plants, plant products or other objects listed in Annex V, Part B are be officially inspected, where there is serious reason to believe that there has been an infringement of the rules in this respect.

In accordance with the procedure referred to in Article 18(2), detailed rules may be adopted laying down:

- (a) the cases in which such inspections shall be carried out,
- (b) the methods for such inspections.

If, at the outcome of the inspection, doubts remain in respect of the identity of the consignment, in particular concerning genus, species or origin, the consignment shall be considered to contain plants, plant products or other objects listed in Annex V, part B.

2. Provided that there is no risk of harmful organisms spreading:

- (a) Article 13(1) shall not apply where plants, plant products or other objects are directly moved between two places within the Community via the territory of a third country,
- (b) Article 13(1) and Article 4(1) shall not apply in the case of transit through the territory of the Community,
- (c) Article 13(1) shall not apply in the case 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.

3. Article 13(1) shall not apply, in accordance with the conditions which shall be determined pursuant to the procedure referred to in Article 18(2), to introductions of plants, plant products or other objects for use in trials or, for scientific purposes and for work on varietal selections.

4. Provided that there is no risk of harmful organisms spreading, a Member State may provide that Article 13(1) shall not apply in specified individual 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 made 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.

5. 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 related to the inspections referred to in Article 13(1) may also be carried out under the authority of the Commission and in accordance with the relevant provisions of Article 21 in the third country concerned, in cooperation with the official plant protection organisation of that country.

6. Article 13(1) shall apply, in cases of consignments for a protected zone, to harmful organisms and to the special requirements listed in part B of Annexes I, II and IV respectively, in respect of that protected zone.

7. The formalities as specified in Article 13(2), the inspections as provided for in paragraph (1) and the checks for compliance with the provisions of Article 4 in respect of Annex III shall be carried out at the same time as the formalities required for the customs-approved treatment or use concerned. 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 of 10 April 1984 ⁽¹⁾.

⁽¹⁾ OJ L 126, 12.5.1984, p. 1.

Member States shall provide that importers, whether or not producers, of plants or plant products for which a phytosanitary or an alternative document would be required under Article 13, must be included in an official register. The provisions of Article 6(5) shall apply accordingly to such importers.

Member States shall also provide that

- (a) 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 under the formalities necessary for the customs-approved treatment or use in question to such composition of the consignment through the following statement: "This consignment contains produce for phytosanitary inspection, other than produce prohibited under phytosanitary legislation"; moreover, such plants, plant products or other objects must be indicated, on those documents, in using the code of the "Integrated tariff of the European Communities (Taric)";
- (b) airport authorities, harbour authorities or either importers or operators, as arranged between them and if aware of the imminent arrival of such consignments, give advanced notice thereof to the responsible official body in charge of the point of entry and to the relevant customs office; 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 8.

8. Documentary checks and also the inspections as provided for in paragraph 1 and the checks for compliance with the provisions of Article 4 in respect of Annex III must be made at the same place and at the same time as the other formalities required for the customs-approved treatment or use in question, which are carried out by the customs office of departure in case of transit or the respective other office in charge of the point of entry.

Identity checks and plant health checks must be made at the same place and at the same time as the aforesaid customs formalities.

In case of transit the identity checks and the plant health checks must be made by the official body of point of entry. However, the official body of point of entry may decide, in agreement with the official body or bodies of destination, that whole or part of the identity checks or plant health

checks shall be made by the official body of destination, provided that there is no risk of harmful organisms spreading during transport.

In accordance with the procedure referred to in Article 18(2), implementing provisions, which may stipulate minimum conditions for plant health checks, shall be laid down. In accordance with the same procedure, certain cases or circumstances may be specified in which plant health checks may be carried out at the place of destination, instead of the aforesaid other places, provided that specific guarantees as regards the transport of the plants, plant products or other objects as well as other specific minimum conditions to be established under the same procedure are complied with.

In all cases, the plant health checks shall be considered to be an integral part of the formalities as specified in Article 13(2).

9. The Member States shall forward to the Commission and the other Member States the list of places designated as points of entry under their respective responsibility.

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, rules shall be laid down concerning the cooperation between:

- (a) the official body of point of entry and the official body of destination,
- (b) the official body of point of entry and the customs office of departure, and
- (c) the official body of destination and the customs office of destination.

Those detailed rules shall include model forms of documents to be used in that cooperation and the means of transmission of these documents, 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.

10. There shall be a Community financial contribution for Member States in order to strengthen inspection infrastructures insofar as they relate to plant health checks carried out in accordance with paragraph 8.

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 12, beyond the level already achieved by complying with the minimum conditions stipulated in the implementing provisions pursuant to paragraph 8.

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

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, 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.

11. Article 10(1) and (3) shall apply in the same way 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 as specified in Article 13(2), that the conditions referred to in Article 13(1) are fulfilled.

12. Where it is not considered on the basis of the formalities as specified in Article 13(2), that the conditions referred to in Article 13(1) are fulfilled, one or more of the following official measures shall be taken immediately:

- appropriate treatment where it is considered that, as a result of the treatment, the conditions will be fulfilled,
- removal of infected/infested produce from the consignment,
- imposition of a quarantine period until the results of the examinations or official tests are available,
- refusal of entry into the Community, with or without the permission to send products to a destination outside the Community,
- destruction.

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

In the case of a removal referred to in the first subparagraph, second indent, or a refusal referred to in the first subparagraph, fourth indent, the Member States shall lay down that the phytosanitary certificates or the phytosanitary certificates for re-export produced when the plants, plant products or other objects are submitted for introduction into their territory, be cancelled by the relevant responsible official bodies. Upon cancellation, the said certificates shall bear on their face and in a prominent position a triangular stamp in red, marked "certificate cancelled", from the said responsible bodies showing at least their name and the date of refusal. It shall be in capital letters, and in at least one of the official languages of the Community.

13. 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 forwarding third country and the Commission of all cases where plants, plant products or other objects coming from the third country have been intercepted as not complying with the plant health requirements, and the related findings, 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.

Article 13b

1. Member States shall ensure the collection of fees established by the Community ("Community fee") to cover the costs occasioned by the identity checks and the plant health checks provided for in Article 13(2), which are carried out pursuant to Article 13(1), first or second subparagraph.

2. The Community fee shall (subject to paragraph (3) below) be set by each Member State at a level, which covers the costs borne by the responsible official body in respect of:

- (a) the salaries, including social security, of the inspectors involved in the checks referred to in paragraph 1,

- (b) the office, other facilities, tools and equipment for these inspectors,
- (c) the sampling for visual inspection or for laboratory testing,
- (d) an average level of overall expenditure for laboratory testing spread on the total number of inspected consignments,
- (e) the administrative activities (including operational overheads) required for effectively carrying out the checks concerned, which may include the expenditure required for pre- and in-service training of inspectors,
- (f) the overall involvement of the experts referred to in Article 21(1), in such checks, and
- (g) a contribution to a plant health fund as referred to in paragraph 8.

3. Member States may either set the level of the Community fee on the basis of a detailed cost calculation carried out in accordance with paragraph 2, or apply the standard average fee as specified in Annex VIIIa. No direct or indirect refund of the fees provided for in this Directive shall be permitted. However the application by a Member State of the standard average fee as specified in Annex VIIIa shall not be considered an indirect refund.

4. The standard average 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 investigations or laboratory testing required 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 13a(12), or the translation of required documents.

5. Moreover, in or under comprehensive phytosanitary agreements based on the principle of reciprocal treatment with one or more third countries, the Community fee may be fixed, in respect of plants, plant products or other objects which come from third countries, at alternative levels taking into account the following situations:

- (a) the frequency of checks,
- (b) the level of the plant health inspection charges or fees applied by the said third country or countries to imports originating in the European Community,

- (c) the imposition of other charges levied by the third country or countries on the ground of plant health protection, and their respective levels.

6. Member States shall designate the authorities empowered to charge the Community fee. The fee shall be payable by the importer, or his customs representatives, and collected at the customs office in charge of the area where the responsible official body has carried out the checks, or directly at that body.

7. The Community 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 certification thereof.

8. Member States shall establish a plant health fund to strengthen the plant health services to react effectively to any introduction of foreign harmful organisms, including the improvement of facilities and equipment, as well as laboratory staff, and allocate part of the yield of the fees to that fund.

Article 13c

“Phytosanitary certificates” and “phytosanitary certificates for re-export” as referred to in Article 1(1)(d), which Member States issue for export to third countries under the IPPC shall be in the format of the standardised lay-out given in Annex VII.’

9. In Article 14, the second subparagraph shall be amended as follows:

- (a) In point (c), the words ‘in agreement with the Member State concerned’ shall be deleted.

- (b) The following point (e) shall be added:

‘(e) amendments to Annex VIIIa.’

10. Article 15 shall be amended as follows:

- (a) In paragraph (1), the introduction of, and the first two indents in the first subparagraph shall be replaced by the following:

‘1. 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 other 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,'

(b) Paragraphs (2) and (3) shall be replaced by the following:

'2. In accordance with the procedures referred to in the first subparagraph of paragraph 1, phytosanitary measures adopted by another party to the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS-Agreement) 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 party 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 Community for inspection, testing and other relevant procedures in the other party.

Upon request by one or more other parties to the SPS-Agreement, 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 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 which manner Member States shall inform the other Member States and the Commission of each individual case of use or groups of cases of use.'

11. In Article 16, the following paragraph 5 shall be added:

'5. 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 with regard to plants or plant products from the third country. 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 laid down in Article 19.'

12. Article 17 shall be deleted.

13. Article 18 shall be replaced by the following:

'Article 18

1. The Commission shall be assisted by the Standing Committee on Plant Health instituted by Council Decision 76/894/EEC ⁽¹⁾.

2. Where reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) thereof.

3. The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at one month.

⁽¹⁾ OJ L 340, 9.12.1976, p. 25.'

14. Article 19 shall be replaced by the following:

'Article 19

Where reference is made to the procedure laid down in Article 19, the following shall apply:

(a) the Commission shall notify the Council and the Member States of any decision regarding safeguard measures.

(b) any Member State may refer the Commission's decision to the Council within a time-limit of one month following the notification referred to in (a);

(c) the Council, acting by a qualified majority, may take a different decision within one month.'

15. Article 21 shall be amended as follows:

(a) Paragraph 3 shall be amended as follows:

(i) The third indent shall be replaced by the following:

'carrying out or monitoring the activities specified in the technical arrangements referred to in Article 13a(5).'

(ii) The following fifth and sixth indents shall be inserted after the fourth indent:

— 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(7), 4(5), 5(5) and 13a(3),

— 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).'

(iii) The eighth indent shall be replaced by the following:

— carrying out any other duty assigned to the experts in the detailed rules referred to in paragraph 7.'

(b) In paragraph (5), in the second subparagraph, the third sentence shall be replaced by the following:

'Unless the necessary facilities have benefited from the plant health fund referred to in Article 13b(8), 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'.

16. In Article 24(3), in the second subparagraph the following sentence shall be added at the end of the second subparagraph:

'In this case, the Community shall exercise its right through a Commission Decision addressed to the Member State concerned.'

17. In Annex VII, Part B shall be amended as follows:

(a) The title shall be replaced by the following:

'B. Model Phytosanitary Certificate for Re-Export'.

(b) In box 2 of the model certificate, the words 'REFORWARDING PHYTOSANITARY CERTIFICATE' shall be replaced by 'PHYTOSANITARY CERTIFICATE FOR RE-EXPORT'.

18. The following Annex VIIIa shall be inserted in the Directive after Annex VIII:

'ANNEX VIIIa

The standard average fee referred to in Article 13b(3) shall be set at the following levels:

(a) for identity checks, whether or not in conjunction with documentary checks	per consignment	
	— up to a size of a truck load, a railway wagon load or the load of a container of comparable size	EUR 5
	— bigger than the above size	EUR 15
(b) for plant health checks, in accordance with the following specifications:		
— Cuttings, seedlings, young plants of strawberries or of vegetables	per consignment	
	— up to 10 000 in number	EUR 15
	— up to 50 000 in number	EUR 30
	— up to 100 000 in number	EUR 45
	— more than 100 000 in number	EUR 60
— Shrubs, trees (other than cut Christmas trees), other woody nursery plants including forest reproductive material (other than seed)	per consignment	
	— up to 1 000 in number	EUR 15
	— up to 4 000 in number	EUR 30
	— up to 16 000 in number	EUR 45
	— more than 16 000 in number	EUR 60
— Bulbs, corms, rhizomes, tubers (other than tubers of potatoes)	per consignment	
	— up to 200 kg of weight	EUR 15
	— up to 800 kg of weight	EUR 30
	— up to 3 200 kg of weight	EUR 45
	— more than 3 200 kg of weight	EUR 60

— Seeds, tissue cultures	per lot	
	— up to 100 kg of weight	EUR 15
	— more than 100 kg of weight	EUR 30
— Other plants intended for planting, not specified elsewhere in this chart	per consignment	
	— up to 5 000 in number	EUR 15
	— up to 20 000 in number	EUR 30
	— up to 40 000 in number	EUR 45
	— more than 40 000 in number	EUR 60
— Cut flowers, branches with foliage, parts of conifers (other than cut Christmas trees)	per consignment	
	— up to 20 000 in number	EUR 15
	— up to 120 000 in number	EUR 30
	— up to 500 000 in number	EUR 45
	— more than 500 000 in number	EUR 60
— Cut Christmas trees	per consignment	
	— up to 1 000 in number	EUR 15
	— up to 2 000 in number	EUR 30
	— more than 2 000 in number	EUR 45
— Leaves of plants, such as herbs, spices and leafy vegetables	per lot	
	— up to 100 kg	EUR 15
	— more than 100 kg	EUR 30
— Fruits, vegetables (other than leafy vegetables)	per consignment	
	— up to 25 000 kg of weight	EUR 15
	— up to 100 000 kg of weight	EUR 30
	— up to 400 000 kg of weight	EUR 45
	— more than 400 000 kg of weight	EUR 60
— Tubers of potatoes	per lot	EUR 25
— Wood (other than wooden packaging material and bark)	per consignment	
	— per m ³ of volume	EUR 0,2
— Wooden packaging material	per consignment	EUR 15
— Soil and growing medium, bark	per consignment	
	— up to 25 000 kg of weight	EUR 15
	— more than 25 000 kg of weight	EUR 30
— Grain	per lot	
	— up to 30 000 kg of weight	EUR 15
	— more than 30 000 kg of weight	EUR 50

- Other plants or plant products not specified elsewhere in this chart per lot EUR 10
- packaging (other than wooden packaging material), transport vehicle per piece EUR 5

Where a consignment does not consist exclusively of products coming under the description of the relevant indent, those parts thereof consisting of products coming under the description of the relevant indent (lot or lots) shall be treated as separate consignment.'

19. When in any provision other than those amended in (1) to (18) above reference is made to 'in accordance with the procedure laid down in Article 17' or to 'in accordance with the procedure laid down in Article 18', these words shall be replaced by the words 'in accordance with the procedure referred to in Article 18(2)'.

Article 2

Member States shall adopt and publish before 1 January 2003, the provisions necessary to comply with this Directive. They shall forthwith inform the Commission thereof.

They shall apply those provisions from 1 January 2003.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a

reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.
