THIRD COMMISSION DECISION

of 10 February 1983

authorizing certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of oak wood originating in the United States of America

(Only the Danish, Dutch, French, German and Italian texts are authentic)

(83/78/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products [1], as last amended by Directive 81/7/EEC [2], and in particular Article 14 (3) thereof,

Having regard to the request made by the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands,

Whereas under the provisions of Directive 77/93/EEC, oak wood with bark attached, originating in North America, may in principle not be introduced into the Community because of the risk of introducing Ceratocystis fagacearum, the cause of oak wilt;

Whereas, however, Article 14 (3) of the abovementioned Directive permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms;

Whereas under Commission Decisions 80/809/EEC [3] and 80/1238/EEC [4], as amended by Decision 82/93/EEC [5], the Commission has already granted derogations in respect of oak wood originating in the United States of America for a period which expired on 31 October 1982;

Whereas information collected in 1981 and results obtained from jointly conducted experiments have now enabled the Community to lay down more adequate conditions in respect of the guarantees to be given by the United States of America; whereas, in particular, fumigation of the logs carried out in a specific manner can be accepted as an alternative treatment;

Whereas therefore the Commission has established, on the basis of the information available at present, that, in respect of the United States of America, the risk of spreading Ceratocystis fagacearum is obviated provided that the revised special technical conditions are satisfied;

Whereas the requesting Member States should therefore be authorized to provide for derogations in respect of oak wood originating in the United States of America under those special technical conditions, for a period appropriate to gain operational experience of the system; whereas the system will be improved or extended in the light of such experience;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DECISION:

Article 1

1. The Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands are hereby authorized, with effect from 1 November 1982, to provide under the conditions laid down in paragraph 2 for derogations from Article 5 (1) and the third indent of Article 12 (1) (a) of Directive 77/93/EEC, with regard to the requirements referred to in Part A (2) of Annex IV, for logs of Quercus with bark attached, originating in the United States of America and intended for veneer production.

2. For the purpose of paragraph 1, the following conditions shall be satisfied:

(a) the logs shall:

— either be fumigated and so identified in accordance with the provisions laid down in Annex I, or

— originate in 'white counties', that is counties certified free of oak wilt by the Federal plant protection organization of the USA in accor-

(1) OJ No L 26, 31. 1. 1977, p. 20.
(2) OJ No L 14, 16. 1. 1981, p. 23.
(3) OJ No L 236, 9. 9. 1980, p. 35.
(4) OJ No L 374, 31. 12. 1980, p. 17.
(5) OJ No L 42, 13. 2. 1982, p. 21.

dance with the provisions laid down in Annex II, and be so identified in accordance with the provisions laid down in Annex III;

(b) the logs may be introduced into the Community only via the following ports of unloading:

— Amsterdam,
— Antwerpen,
— Århus,
— Bremen,
— Bremerhaven,
— Hamburg,
— København
— Le Havre,
— Livorno,
— Nordenham,
— Ravenna,
— Rotterdam,
— Salerno.

The inspections required pursuant to Article 12 of Directive 77/93/EEC shall be made either in those ports or at the first place of storage. Changes to the above list may be approved by the Commission, after consultation of the Member States;

(c) prior to treatment or processing at least of the type as provided for in Part A (2) of Annex IV to Directive 77/93/EEC, the logs may be stored only at places which have been notified to the official plant protection organization of the Member State concerned and mentioned in paragraph 1, and which have appropriate wet storage facilities, available at least for the period specified in (d);

(d) prior to treatment or processing at least of the type provided for in Part A (2) of Annex IV to Directive 77/93/EEC, the logs shall be subject to continuous wet storage, starting at the time of flushing in the neighbouring oak stands at the latest;

(e) the neighbouring oak stands shall be regularly inspected at appropriate times by the official plant protection organization of the Member State concerned for symptoms of Ceratocystis fagacearum. Where symptoms of Ceratocystis fagacearum are found in those inspections, official testing shall be carried out in accordance with approprite methods to confirm whether or not this fungus is present;

(f) prior to treatment or processing at least of the type provided for in Part A (2) of Annex IV to Directive 77/93/EEC, logs with have been stored in one of the Member States mentioned in paragraph 1 may be introduced into another of such Member States only after information has been exchanged between the official plant protection organizations of the Member States concerned under conditions which have been agreed between them prior to such introduction;

(g) the waste from treatment or processing shall immediately be destroyed at the place of processing;

(h) the logs imported under the condition specified in the first indent in (a), may be exempted from the conditions laid down in (c), as far as the wet storage facilities are concerned, in (d) and in (g);

(i) prior to import, the importer or his agents shall notify each instance of importation sufficiently in advance to the competent authority in the Member State concerned and mentioned in paragraph 1, indicating:

— the quantity,

— the option for the logs to be imported under the conditions specified in the first indent 'fumigation option' in (a), or under those specified in the second indent 'white county origin option' in (a),

— the county or counties of origin, in the case of the 'white county origin option',

— the port or ports of unloading,

— the place or places of storage,

— the place or places of destination in view of processing for veneer production, in the case of the 'white county origin option'.

The importer or his agents shall be officially informed, prior to import, of the conditions laid down in this Decision.

Article 2

Logs of Quercus species belonging to the white oak group may be exempted from certain conditions specified in Article 1 (2), subject to prior approval by the Commission, after consultation of the Member States, of the details and of the date of their implementation. They cannot be approved unless there is scientific evidence that a reliable method for identifying white oak from other species has been developed for use by officials at the ports of unloading.

Article 3

The authorization granted in Article 1 shall expire on 31 October 1987. It shall be revoked in so far as it is established that the conditions laid down under Articles 1 (2) and 2 are not sufficient to prevent the introduction of Ceratocystis fagacearum or have not been complied with.

Article 4

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg and the Kingdom of the Netherlands.

Done at Brussels, 10 February 1983.

For the Commission

Poul DALSAGER

Member of the Commission

ANNEX I

Provisions in respect of fumigation and related identification

1. At the port of shipment, the logs shall be piled under a gas-proof cover in such a way and to such a height as to ensure effective gas dispersal through the logs.

2. The pile shall undergo fumigation with pure methyl bromide which is carried out at a minimum rate of 240 g/m³ of total volume under cover, for 72 hours and at an initial temperature of the logs of + 5 °C at least, and which meets any other requirement set up by the Federal plant protection organization of the USA. After 24 hours of treatment, an addition of gas shall be made to regain the aforementioned concentration ; the temperature of the logs shall be maintained at + 3° C at least throughout the procedure. It may be decided, based on scientific evidence and in accordance with the procedure laid down in Article 16 of Directive 77/93/EEC, whether the piles may alternatively undergo or shall undergo fumigation in accordance with other schedules.

3. A log identification mark (digits and/or letters) shall have been placed in a non-removable manner on the base end of each log of the pile undergoing such fumigation. The log identification mark shall be reserved to the shipper. It shall not have been used for other logs and shall be precluded from further use on other logs.

4. The fumigation procedure as described in (1) and (2) as well as the log identification marks mentioned in (3) shall systematically be monitored by officials of the Federal plant protection organization of the USA in such a way as to guarantee compliance with the aforementioned requirements in respect of the logs specified in the official plant health certificate.

5. The official plant health certificate required pursuant to Article 12 (1) (b) of Directive 77/93/EEC shall be issued by the Federal plant protection organization of the USA at the site of fumigation and after finalization of the fumigation, and be based on the monitoring mentioned in (4) and the examination carried out in accordance with Article 6 of the said Directive relating to the conditions laid down in Article 6 (1) (a) of that Directive and in this Annex.

6. This certificate shall indicate the botanical name of the genus or the species and specify whether the logs belong to the red or white oak group, without prejudice to the information required under the section related to disinfestation and/or disinfection treatment. It shall also indicate the log identification marks mentioned in (3).

ANNEX II

Provisions in respect of certifying counties free of oak wilt

1. Counties may be certified free of oak wilt, in which :

   — no oak wilt has been reported since 1 January 1977, and

   — a trained aerial survey and ground check crew using approved oak wilt survey techniques found no oak wilt within the county in at least two surveys carried out in the last two growing seasons before harvest ; samples from all oak wilt suspect trees shall be collected and cultured in accordance with appropriate methods ; aerial survey flight lines shall be systematically flown over all the county so that a minimum of 50 % coverage is obtained for counties of 100 000 acres or more ; percentage of coverage and frequency of survey shall be increased for counties of less than 100 000 acres ; the surveys shall be flown at the time when oak wilt symptoms are most visible from the air for the particular latitude : June, July and August ;

     in the case of counties designated as 'white counties' on the current oak wilt distribution map set up by the Federal plant protection organization of the USA, the surveys shall start in 1985 at the latest ; in the case of counties designated as 'black counties' on that map, the surveys shall have been carried out prior to the certification 'free of oak wilt' ; alternative procedures may or shall be followed, subject to prior approval by the Commission, on scientific evidence and after consultation of the Member States, and

   — additional conditions are satisfied which may be approved by the Commission, after consultation of the Member States, if it is established that the error rates of the procedures mentioned in the second indent are too high for a reliable monitoring.

2. Counties which have been certified free of oak wilt shall immediately be certified oak wilt infected, if there is oak wilt either found in the surveys or procedures mentioned in the second indent in (1) or reported otherwise.

ANNEX III

Provisions in respect of origin identification

1. Within the county of harvesting or at the first place of storage, an officially recognized county and State identification mark shall be painted on the base end of each log, with paint of a type used in forestry.

2. The identification mark mentioned in (1) shall appear on the original bill of sale which shall be notarized, and on all subsequent bills of sale.

3. With effect from 1 February 1984 or a later date which may be approved by the Commission, after consultation of the Member States, if this is justified, an official Federal brand specific for each county concerned shall be placed alongside, or instead of the identification mark mentioned in (1), by an official of the Federal plant protection organization of the USA, by an authorized State or county official or by any person designated and registered for that purpose by the Federal plant protection organization, within the county of harvesting or at the first place of storage.

   This brand shall consist of :

   — a mark exclusive to the Federal plant protection organization of the USA,

   — the identification mark mentioned in (1), and

   — a mark denoting the official or other person entitled to place the brand.

   The placing of the brand shall be based on the knowledge of origin or the examination of the marks mentioned in (1) as well as on the examination of the supporting documentation mentioned in (2). The designated person shall keep records in a manner as specified by the Federal plant protection organization of the USA. The records shall be made available to that organization on request.

4. The official plant health certificate required pursuant to Article 12 (1) (b) of Directive 77/93/EEC shall be issued by the Federal plant protection organization of the USA, and be based on the examination carried out in accordance with Article 6 of the said Directive relating to the conditions laid down in Article 6 (1) (a) of that Directive and to the marks mentioned in (1) and (3) as well as to the supporting documentation mentioned in (2).

5. This certificate shall indicate the botanical name of the genus or the species, specify whether the logs belong to the red or white oak group and declare the county or counties of origin of the logs and the corresponding identification marks.