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COMMISSION DECISION

of 13 February 2006

requiring Member States temporarily to take additional measures against the dissemination of *Bursaphelenchus xylophilus* (Steiner et Buhrer) Nickle *et al.* (the pine wood nematode) as regards areas in Portugal, other than those in which it is known not to occur

(notified under document number C(2006) 345)

(2006/133/EC)

(OJ L 52, 23.2.2006, p. 34)

Amended by:

		Official Journal		
		No	page	date
►M1	Commission Decision 2008/340/EC of 25 April 2008	L 115	41	29.4.2008
►M2	Commission Decision 2008/378/EC of 15 May 2008	L 130	22	20.5.2008
►M3	Commission Decision 2008/684/EC of 19 August 2008	L 224	8	22.8.2008
►M4	Commission Decision 2008/790/EC of 7 October 2008	L 271	47	11.10.2008
►M5	Commission Decision 2008/954/EC of 15 December 2008	L 338	64	17.12.2008
►M6	Commission Decision 2009/420/EC of 28 May 2009	L 135	29	30.5.2009
►M7	Commission Decision 2009/993/EU of 17 December 2009	L 339	40	22.12.2009

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(2006/133/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community [1], and in particular Article 16(3) thereof,

Whereas:

(1) Where a Member State considers that there is an imminent danger of the introduction into its territory of *Bursaphelenchus xylophilus* (Steiner et Buhrer) Nickle *et al.* (the pine wood nematode (PWN)), from another Member State, it should be authorised to temporarily take any additional measures necessary to protect itself from that danger.

(2) Portugal informed the other Member States and the Commission on 25 June 1999 that some samples of pine trees originating in its territory were identified as infested by PWN. The Commission has adopted Decisions 2000/58/EC [2] and 2001/218/EC [3] defining measures to be taken against PWN.

(3) On the basis of assessments by the Food and Veterinary Office, most recently in November 2004, additional information submitted by Portugal and official surveys carried out by the other Member States on wood, isolated bark and plants of *Abies* Mill., *Cedrus* Trew, *Larix* Mill., *Picea* A. Dietr., *Pinus* L., *Pseudotsuga* Carr. and *Tsuga* Carr., it appears that as a result of the application of an eradication programme in Portugal, the spread of PWN remains limited to the demarcated areas in Portugal. However, trees showing symptoms of infestation by PWN were still found during surveys of those areas.

(4) The implementation of the Portuguese mid-term eradication plan for PWN of February 2003, as amended in June 2003, was evaluated by the Standing Committee on Plant Health in its meetings of July 2004 and May 2005. During the latter meeting it was concluded that the aimed reduction of infection level in the demarcated zone had not been fully achieved so far.

(5) It is therefore necessary for Portugal to continue to take specific measures with respect to movements of wood, isolated bark and host plants within demarcated areas in Portugal and from such areas into other areas of Portugal and into the other Member States.

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[1] OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2005/77/EC (OJ L 296, 12.11.2005, p. 17).
[2] OJ L 21, 26.1.2000, p. 36.
[3] OJ L 81, 21.3.2001, p. 34. Decision as last amended by Decision 2003/127/EC (OJ L 50, 25.3.2003, p. 27).

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(6) It is also necessary that Portugal continues to take measures to control the spread of PWN with the aim of eradication. Therefore, an updated mid-term eradication plan to better control the spread of PWN with the aim of eradicating should be presented.

(7) The other Member States should continue to have the possibility to apply additional measures to protect their territories from PWN.

(8) The results of the specific measures and of the implementation of the mid-term plan should be assessed continuously, in particular on the basis of information to be provided by Portugal and the other Member States.

(9) 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

For the purposes of this Decision, the following definitions shall apply:

(a) 'the pine wood nematode (PWN)': *Bursaphelenchus xylophilus* (Steiner et Buhrer) Nickle *et al.*;

(b) 'susceptible wood and bark': wood and isolated bark of conifers (*Coniferales*), except that of *Thuja* L.;

(c) 'susceptible plants': plants (other than fruit and seeds) of *Abies* Mill., *Cedrus* Trew, *Larix* Mill., *Picea* A. Dietr., *Pinus* L., *Pseudotsuga* Carr. and *Tsuga* Carr.

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Article 2

▼M4

Until 31 March 2012, Portugal and, if appropriate, Spain, shall ensure that the conditions laid down in the Annex are met in relation to susceptible wood, bark and plants, which are to be moved within or from the demarcated areas defined in accordance with Article 5, to areas, other than demarcated areas in Member States or to third countries.

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When verifying compliance with the conditions set out in point 1 of the Annex, Portugal shall apply the maximum feasible level of official controls to movements of susceptible wood, bark and plants from demarcated areas situated in its territory to areas other than demarcated areas in Member States or in third countries. It shall pay particular attention to the movements which present the highest risk of transporting live PWN outside the demarcated areas. Those official controls shall be carried out at the points where the susceptible wood, bark and plants are leaving the demarcated areas. All results shall be communicated to the Commission and the other Member States on a weekly basis.

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Until 31 March 2012, Portugal shall implement an eradication plan to control the spread of PWN with the aim of eradicating it. That plan shall include details on the management, within the demarcated area, of plant species known to be highly susceptible to PWN under the conditions in Portugal. This plan shall be reviewed annually by 31 December.

▼M6

Article 3

1. Member States of destination other than Portugal shall carry out official controls on susceptible wood, bark and plants, coming from Portugal and moved into their territory. These controls shall include a documentary check comprising a check for the presence and the conformity of the marking in accordance with this Decision, an identity check and, as appropriate, a plant health check which may include testing for the presence of PWN.

2. Official controls in accordance with paragraph 1 shall be carried out at a frequency depending in particular on the risk associated with different types of susceptible wood, bark and plants and the history of compliance with the requirements of this Decision of the operator responsible for the movement of susceptible wood, bark and plants.

3. In case non-compliances are confirmed following official controls carried out in accordance with paragraph 1, appropriate measures, similar to the ones referred to in Article 11 of Directive 2000/29/EC shall be taken.

▼M2

Article 4

1. Member States shall conduct official annual surveys for PWN, on susceptible wood and bark and susceptible plants originating in their country, to determine whether there is any evidence of infestation by PWN.

Without prejudice to Article 16(1) of Directive 2000/29/EC, the results of such surveys shall be notified to the other Member States and the Commission annually by 15 December.

2. ►M4 In addition to the surveys provided for in paragraph 1, Portugal and, if appropriate, Spain shall prepare annually a survey plan for the demarcated areas and present it to the Commission for approval. The plan shall be risk-based and take into account the distribution of susceptible plants within their territory. ◄

The results of the survey carried out on the basis of that plan shall be notified to the Commission and the other Member States as soon as they are available.

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Article 5

Portugal shall establish areas in which PWN is known not to occur, and demarcate areas (hereinafter called demarcated areas) comprised of a part in which PWN is known to occur and a part designated as buffer zone of not less than 20 km width surrounding that part, taking into account the results of the surveys referred to in Article 4.

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In case the results of the survey referred to in Article 4(2) indicate the presence of PWN at less than 20 km from the border with Spain, Portugal shall immediately inform Spain thereof. If the presence is confirmed within 3 km from the border with Spain or if another presence is detected in the vicinity of the first presence within one year, Spain shall establish a demarcated area as an extension of the Portuguese demarcated area in its territory to include a buffer zone of 20 km width around the location where the presence was detected.

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The Commission shall compile a list of ‘areas’ in which PWN is known not to occur and convey such a list to the Standing Committee on Plant Health and to the Member States. Any areas in Portugal not comprised in the above compiled list, shall be deemed to be demarcated areas.

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That list shall be updated according to the results of the surveys referred to in Article 4 and to the findings notified under Article 16(1) of Directive 2000/29/EC.

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Article 6

Decision 2001/218/EC is hereby repealed.

Article 7

This Decision is addressed to the Member States.

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ANNEX

For the purpose of Article 2, the following conditions shall be complied with:

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1. Without prejudice to the provisions referred to in point 2, in the case of movements from demarcated areas into areas, other than demarcated areas in Member States or into third countries, as well as for movements from the part of the demarcated areas in which PWN is known to occur to the part of the demarcated areas designated as buffer zone, of:

   (a) susceptible plants, those plants shall be, for destinations within the Community, accompanied by a plant passport prepared and issued in accordance with the provisions of Commission Directive 92/105/EEC ([1]), after:

   — the plants have been officially inspected and found free from signs or symptoms of PWN, and

   — no symptoms of PWN have been observed at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation;

   (b) susceptible wood and isolated bark, other than wood in the form of:

   — chips, particles, wood waste or scrap obtained in whole or part from these conifers,

   — packing cases, boxes, crates, drums and similar packings,

   — pallets, pallet collars, box pallets or other load boards,

   — dunnage, spacers and bearers,

   but including that which has not kept its natural round surface, that wood and isolated bark shall not be allowed to leave the demarcated area; the responsible official body may grant an exception from this prohibition where the wood or isolated bark, for destinations within the Community, is accompanied by the plant passport referred to in point (a), after having undergone an appropriate heat treatment to achieve a minimum core temperature of 56 °C for 30 minutes in order to ensure freedom from live PWNs;

   (c) susceptible wood in the form of chips, particles, wood waste or scrap obtained in whole or part from these conifers, that wood shall not be allowed to leave the demarcated area; the responsible official body may grant an exception from this prohibition where that wood, for destinations within the Community, is accompanied by the plant passport referred to in point (a), after having undergone an appropriate fumigation treatment in order to ensure freedom from live PWNs;

▼M6

   (d) susceptible wood in the form of dunnage, spacers and bearers, including that which has not kept its natural round surface, as well as in the form of packing cases, boxes with exception of boxes entirely composed of wood of 6 mm of thickness or less, crates, drums and similar packings, pallets, box pallets and other load boards, pallet collars, whether or not actually in use in the transport of objects of all kinds, that wood shall not be allowed to leave the demarcated area; the responsible official body may grant an exception from this prohibition where that wood has been subject to one of the approved treatments as specified in Annex I to the FAO International Standard for Phytosanitary Measures No 15 on *Guidelines for regulating wood packaging material in international trade* and marked according to Annex II to the said Standard.

▼M5

   The responsible official body shall authorise the processing plants to carry out the treatments referred to under points (b), (c) and (d), and to issue the plant passports referred to in point (a) for susceptible wood under points (b) and (c) or to mark, in accordance with the FAO International Standard for Phytosanitary Measures No 15, the susceptible wood under point (d). Official inspections of the authorised processing plants shall be carried out on a continuous basis to verify the effectiveness of the treatment as well as the traceability of the wood.

([1]) OJ L 4, 8.1.1993, p. 22.

▼M7

The responsible official body may authorise producers to mark, in accordance with Annex II to the FAO International Standard for Phytosanitary Measures No 15, wine boxes they produce from wood treated by an authorised processing plant in accordance with that Standard and accompanied by the plant passport referred to in point (a). Official inspections of the authorised producers of wine boxes shall be carried out on a continuous basis to ensure that only such treated wood accompanied by the plant passport referred to in point (a) is used for the production of the wine boxes and that that wood can be traced back to an authorised processing plant.

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The Commission shall compile a list of the processing plants authorised by the responsible official body and convey that list to the Standing Committee on Plant Health and to the Member States. That list shall be updated according to the results of official inspections to verify the effectiveness of the treatment as well as the traceability of the wood and according to the findings notified under Article 16(1) of Directive 2000/29/EC.

Portugal shall ensure that only processing plants included in that list are authorised to issue plant passports referred to in point (a) for susceptible wood under points (b) and (c) or to mark, in accordance with the FAO International Standard for Phytosanitary Measures No 15, the susceptible wood under point (d).

The plant passport referred to in point (a) or the mark in accordance with the FAO International Standard for Phytosanitary Measures No 15 shall be attached by the authorised processing plant to each unit of susceptible wood, bark and plants that is moved.

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2. ►M4 In cases of movements within demarcated areas: ◄

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a) Susceptible plants shall be treated as follows:

i) susceptible plants grown in places of production where no symptoms of PWN have been observed, or in their immediate vicinity, since the beginning of the last complete cycle of vegetation and found free from signs or symptoms of PWN during official inspections, shall be accompanied by the said plant passport when moved from the place of production;

ii) susceptible plants grown in places of production where symptoms of PWN have been observed, or in their immediate vicinity, since the beginning of the last complete cycle of vegetation or identified as infested by PWN shall not be moved from the place of production and shall be destroyed by burning;

iii) susceptible plants grown in places, such as forests, public or private gardens, which are either identified as infested by PWN, or showing any symptoms of poor health or situated in salvage areas, shall:

— if identified in the period 1 November — 1 April, be felled within that period, or

— if identified in the period 2 April — 31 October, be felled immediately, and

— be tested for the presence of PWN in all cases where such susceptible plants are located in the part of demarcated areas designated as buffer zones in accordance with Article 5. If the presence is confirmed, the infested plants and all susceptible plants in a zone within a radius of at least 50 m around the infested plants and in any case within a radius covering at least 10 susceptible plants, shall be destroyed (focus zone). All susceptible plants in a zone within a radius of at least 50 m around the focus zone shall be officially inspected every two months for a period of at least one year after the infested plants have been removed (safety zone). If another presence of PWN in the vicinity is confirmed during that period, the demarcated area shall be modified in accordance with the first paragraph of Article 5;

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(b) during the period between 1 November and 1 April, susceptible wood in the form of roundwood or sawnwood, with or without bark, including that which has not kept its natural round surface:

(i) obtained from trees identified as infested by PWN, or situated in salvage areas, or showing any symptoms of poor health, shall before 2 April either be:

— destroyed by burning under official control at appropriate places, or

— moved under official control to either:

— a processing plant to be chipped and utilised within this plant, or

— an industrial plant for use as fuel wood within this plant, or

— a processing plant, where the wood shall either be:

— heat treated in such a way that a minimum wood core temperature of 56 °C for 30 minutes has been achieved, or

— chipped and fumigated in order to ensure freedom from live PWNs;

(ii) obtained from trees other than those referred to in subparagraph (i) shall be officially tested for the presence of PWN and of *Monochamus* spp.; if the presence of PWN or of *Monochamus* spp. is confirmed the wood shall be subjected to the provisions referred to in subparagraph (i); if the presence of PWN and of *Monochamus* spp. is refuted, the wood may be moved under official control to a processing plant for further use as construction timber, or by way of derogation moved into areas in Portugal, other than demarcated areas under official control to approved processing plants notified to the Commission, where the wood or chips made from such wood, within the period between 1 November and 1 April, shall either:

— in the case of chips, be used for industrial purposes within such an approved processing plant, or

— in the case of wood:

— be heat treated in such a way that a minimum wood-core temperature of 56 °C for 30 minutes has been achieved. Further movement of such heat-treated wood may be allowed when the wood is accompanied by a plant passport, or

— be chipped and fumigated in order to ensure freedom from live PWNs. Further movement of such fumigated wood may be allowed when it is accompanied by a plant passport, or

— be chipped and used for industrial purposes within this plant, or

— be moved under official control to a plant, where the wood shall either be:

— heat treated in such a way that a minimum wood core temperature of 56 °C for 30 minutes has been achieved, or

— chipped and fumigated in order to ensure freedom from live pine wood nematodes, or

— chipped and used for industrial purposes;

(c) during the period between 2 April and 31 October, susceptible wood in the form of roundwood or sawnwood, with or without bark, including that which has not kept its natural round surface:

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(i) obtained from trees identified as infested by PWN, or situated in salvage areas, or showing any symptoms of poor health, shall either be:

— immediately destroyed by burning under official control at appropriate places, or

— immediately stripped of bark at appropriate places outside the forest before being moved under official control to storage places where the wood is treated with an appropriate insecticide or which have appropriate and approved wet storage facilities, available at least during the above period, with a view to a further movement to an industrial plant:

— to be immediately chipped and used for industrial purposes, or

— for immediate use as fuel within this plant, or

— to be immediately heat treated in such a way that a minimum wood core temperature of 56 °C for 30 minutes has been achieved, or

— to be immediately chipped and fumigated in order to ensure freedom from live PWNs;

(ii) obtained from trees other than those referred to in subparagraph (i) shall be immediately stripped of bark at the place of felling or in the immediate vicinity and either be:

— officially tested for the presence of PWN and of *Monochamus* spp.; if the presence of PWN or of *Monochamus* spp. is confirmed the wood shall be subjected to the provisions referred to in (i); if the presence of PWN and of *Monochamus* spp. is refuted, the wood may be moved under official control to a processing plant for further use as construction timber, or

— moved under official control to a plant where the wood shall either be:

— chipped and used for industrial purposes, or

— heat treated in such a way that a minimum wood core temperature of 56 °C for 30 minutes has been achieved, or

— chipped and fumigated in order to ensure freedom from live PWNs;

(d) susceptible bark shall be

— destroyed by burning or used as fuel at an industrial processing plant, or

— heat treated in such a way that a minimum temperature of 56 °C for 30 minutes has been achieved throughout the bark, or

— fumigated in order to ensure freedom from live PWNs;

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(e) Susceptible wood in the form of waste produced at the time of felling, shall be, under official control, burned at appropriate places or chipped into pieces of less than 3 cm thickness and width and left on site:

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— in the period 1 November to 1 April, within that period, or

— in the period 2 April to 31 October, immediately;

(f) susceptible wood, in the form of waste produced during wood processing, shall either be immediately burned at appropriate places under official control, used as fuel wood at the processing plant or fumigated in order to ensure freedom live PWNs;

▼M6

(g) susceptible wood originating in the demarcated areas in the form of newly produced packing cases, boxes with exception of boxes entirely composed of wood of 6 mm of thickness or less, crates, drums and similar packings, pallets, box pallets and other load boards, pallet collars, dunnage, spacers and bearers, including that which has not kept its natural round surface, shall be subject to one of the

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approved treatments as specified in Annex I to the FAO International Standard for Phytosanitary Measures No 15 on *Guidelines for regulating wood packaging material in international trade* and marked according to Annex II to the said Standard.