

## COMMISSION DIRECTIVE 2004/103/EC

of 7 October 2004

**on identity and plant health checks of plants, plant products or other objects, listed in Part B of Annex V to Council Directive 2000/29/EC, which may be carried out at a place other than the point of entry into the Community or at a place close by and specifying the conditions related to these checks**

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<sup>(1)</sup>, and in particular Articles 13c(2)(d) and 13c(2)(e) and the fourth and fifth subparagraphs of Article 13c(4) thereof,

Whereas:

- (1) Pursuant to Directive 2000/29/EC, plants, plant products or other objects listed in Part B of Annex V, thereto, coming from third countries, should in principle be subjected to identity and plant health checks at the point of entry into the Community, or at a place close by.
- (2) In case of transit of non-Community goods these identity and plant health checks may also be carried out on the premises of the official body of destination or at any other place close by; in certain other cases, these checks may be carried out at the place of destination, such as a place of production, as long as specific guarantees and documents as regards the transport of plants, plant products or other objects are provided.
- (3) It is necessary to specify the cases in which identity and plant health checks may be carried out at the place of destination.
- (4) To ensure that there is no risk of harmful organisms spreading during transport, provisions or specific guarantees and documents, as regards the transport, should be laid down.
- (5) Minimum conditions for the carrying out of the identity and plant health checks should be laid down as regards technical requirements applicable to the responsible official bodies in charge of the inspection at places of destination as well as regards facilities, tools and equipment enabling the said responsible official bodies to carry out identity and plant health checks.
- (6) It is necessary to lay down detailed rules concerning the cooperation between official responsible bodies and customs offices, including the model forms of documents to be used in that cooperation, the means

of transmission of these documents and the procedures for exchange of information.

- (7) The measures provided for in this Directive are in accordance with the opinion of the Standing Committee on Plant Health,

HAS ADOPTED THIS DIRECTIVE:

*Article 1*

1. This Directive shall apply to plants, plant products or other objects coming from third countries, listed in Part B of Annex V to Directive 2000/29/EC (hereinafter referred to as 'products concerned'). In the cases and circumstances defined by this Directive, Member States may lay down that those inspections referred to in Article 13a(1)(b)(ii) and (iii) of Directive 2000/29/EC on the products concerned may be carried out at another place. In the case of transit of non-Community goods referred to in Article 13c(2)(c) of Directive 2000/29/EC, the inspection may take place at the premises of the official body of destination, or at any place close by, when the conditions referred to in paragraph 2 are met. In cases referred to in Article 13c(2)(d) of Directive 2000/29/EC, the inspection may take place at the place of destination such as a place of production, when the conditions referred to in paragraph 2 are met.

2. The conditions referred to in paragraph 1 shall be:

- (a) when the official bodies of the point of entry and of destination, decide, where appropriate by agreement between the responsible official bodies of the Member States, that identity checks and plant health checks (hereinafter referred to as 'checks') could more meticulously be carried out at a place other than the point of entry into the Community or at a place close by

and

- (b) when any importer or other person responsible for the places or the premises where the checks are to be carried out (hereinafter referred to as 'the applicant') of a consignment composed of the products concerned has the approval, through an approval procedure defined in Article 2(2) for checks to be carried out at 'an approved place of inspection' which is either:

— in the case of transit of non-Community goods referred to in Article 13c(2)(c) of Directive 2000/29/EC, at

— the premises of the official body of destination, or

<sup>(1)</sup> OJ L 169, 10.7.2000, p. 1. Directive as last amended by Commission Directive 2004/70/EC (OJ L 127, 29.4.2004, p. 97).

- a place close by those premises and designated or approved by the customs authorities and by the responsible official body, or
- in the cases referred to in Article 13c(2)(d) of Directive 2000/29/EC, at
  - a place of destination approved by the official body and the customs authorities responsible for the area where that place of destination is located

and

- (c) when specific guarantees and documents as regards the transport of a consignment composed of the products concerned (hereinafter referred to as 'the consignment'), to the approved place of inspection are met, and, where appropriate, minimum conditions concerning the storage of these products on these places of inspection are fulfilled.

3. The specific guarantees, documents and minimum conditions referred to in paragraph 2(c) shall be:

- (a) the packaging of the consignment or the means of transport used for this consignment shall be closed or sealed in such a way that the products concerned cannot cause infestation or infection during their transport to the approved place of inspection and will be such that their identity will remain unchanged. In duly reasoned cases the relevant official bodies of the Member States may allow consignments which are not closed or sealed, provided that the products concerned cannot cause infestation or infection during their transport to the approved place of inspection;
- (b) the consignment shall be sent to the approved place of inspection. No change of the place of inspection is allowed, except following approval by the relevant official bodies of the point of entry and of the requested destination, and the customs authorities responsible for the area where the requested place of inspection is located;
- (c) the consignment shall be accompanied by a 'Plant health movement document', without prejudice to the certificates prescribed in Article 13(1) of Directive 2000/29/EC, and contain the required information in accordance with the model in the Annex to this Directive; the document shall be completed by typing or in handwritten legible capital letters or by electronic means in agreement with the relevant official bodies of point of entry and of destination and shall be in at least one of the official languages of the Community;
- (d) the relevant headings of the document referred to in paragraph 3(c) shall be filled in and signed by the importer of the consignment under the supervision of the relevant official body of point of entry;
- (e) in the cases referred to in paragraph 2(b), second indent, the storage of the consignment at the approved place of inspection shall be such that it is separated from both

Community goods and from consignments infested or suspected to be infested by harmful organisms.

#### Article 2

1. Member States shall ensure that an approval procedure be established as specified in paragraphs 2, 3 and 4 to evaluate, and where appropriate to approve, the suitability in phytosanitary terms, of carrying out checks at places proposed as approved places of inspection.

2. The procedure referred to in paragraph 1 shall indicate that, if the checks are to be carried out at approved places of inspection, any applicant shall apply to the responsible official bodies in charge of carrying out such checks, requesting that checks be carried out at places mentioned in the request.

3. The application shall include a technical dossier supplying the information necessary for evaluating the suitability of proposed places as an approved place of inspection, and covering, in particular:

- (a) information relating to the products concerned intended to be imported and the places in which the imported products concerned will be stored or kept awaiting the final results of the checks, and in particular how separation referred to in Article 1(3)(e) is to be secured, and
- (b) where appropriate, when the products concerned are intended for a person to whom the status of 'authorised consignee' was granted and fulfil the conditions laid down in Article 406 of Commission Regulation (EEC) No 2454/93<sup>(1)</sup> or when the places concerned are subject to an authorisation as referred to in Article 497 of the said Regulation, relevant evidence thereof.

4. Member States shall ensure that the application referred to in paragraph 2 shall be recorded and that the responsible official bodies shall:

- (a) examine the information supplied in the application;
- (b) evaluate the suitability for carrying out checks at the proposed places of inspection, which should fulfil minimum requirements which are at least those laid down in paragraph 3(b) and (c) of the Annex to Commission Directive 98/22/EC<sup>(2)</sup>, or any further requirements which the Member States may impose in a non-discriminatory manner and which are justified in order to allow efficient inspections;
- (c) respond to the applicant by either:
  - (i) indicating that the application is acceptable and that the places concerned are designated as approved place of inspection, or
  - (ii) indicating that the application is not acceptable and the reason therefore.

5. Member States shall keep and make available to the Commission and to the Member States on request, the updated list of the approved places of inspection.

<sup>(1)</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 2286/2003 (OJ L 343, 31.12.2003, p. 1).

<sup>(2)</sup> OJ L 126, 28.4.1998, p. 26.

6. Member States shall ensure that the responsible official bodies shall take the necessary measures if it is found that there are elements which would militate against the proper functioning of carrying out checks at the approved places of inspection situated in their territory.

Member States shall notify the Commission and the Member States concerned of all significant cases of non-compliance with the conditions which apply to an approved place of inspection.

#### Article 3

Member States shall ensure that the importer of the consignments for which it was decided that checks of these consignments may be carried out at an approved place of inspection, shall be subject to the following obligations, without prejudice to those already laid down in Commission Directive 92/90/EEC<sup>(1)</sup>:

- (a) the importer shall notify the introduction of the products concerned sufficiently in advance to the relevant official body of destination, which notification shall contain in particular:
  - (i) the name, address and the location of the approved place of inspection;
  - (ii) the scheduled date and time of arrival at the approved place of inspection of the products concerned;
  - (iii) if available, the individual serial number of the Plant health movement document referred to in Article 1(3)(c);
  - (iv) if available, the date and place at which the Plant health movement document referred to in Article 1(3)(c) was drawn up;
  - (v) the name, the address and the official registration number of the importer;
  - (vi) the reference number of the phytosanitary certificate and/or phytosanitary certificate for re-export, or any other required phytosanitary document;
- (b) the importer shall notify to the relevant official body of destination any changes as regards the information supplied pursuant to subparagraph (a).

#### Article 4

Member States shall ensure that the checks of the products concerned carried out at the approved place of inspection satisfy minimum conditions which are at least those laid down in paragraphs 1, 2 and 3(a) of the Annex to Directive 98/22/EC, or any further requirements which the Member States may impose in a non-discriminatory manner and which are justified in order to allow efficient inspections.

#### Article 5

Member States may lay down additional requirements deemed necessary to designate a proposed place as an approved place of inspection.

#### Article 6

1. Member States shall ensure cooperation, where applicable, between:

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

by means of exchange of relevant information on the plants, plant products or other objects intended to be imported, their packaging and means of transport in written or electronic form using the Plant health movement document referred to in Article 1(3)(c).

2. If the point of entry into the Community of the products concerned and the approved place of inspection are situated in different Member States, the consignment may be sent to and the checks may be carried out at an approved place of inspection on the basis of an agreement between the responsible official bodies of the Member States concerned. Evidence of the agreement between the responsible official bodies of the Member States concerned shall be recorded on the Plant health movement document.

3. After the products have been inspected at the approved place of inspection, the official body of destination shall certify on the Plant health movement document, using a service stamp and a date, that the relevant identity and plant health checks referred to in Article 13a(1)(b)(ii) and (iii) of Directive 2000/29/EC have been carried out. The final outcome of these checks shall be shown in the box headed 'Decision'. This provision applies, *mutatis mutandis*, if the documentary checks referred to in Article 13c(2)(a) of Directive 2000/29/EC have also been complied with.

4. If the outcome of the checks referred to in paragraph 3 is 'Release', the consignment and the accompanying Plant health movement document shall be presented to the customs authorities responsible for the area of the 'approved place of inspection' enabling the consignment to be placed under the relevant customs procedure referred to in Article 13(1) of Directive 2000/29/EC. The Plant health movement document shall no longer be required to accompany the consignment and this document or a copy thereof shall be kept for at least one year by the official body of point of destination.

<sup>(1)</sup> OJ L 344, 26.11.1992, p. 38.

5. If the outcome of the checks referred to in paragraph 3 leads to the obligation to move the products concerned within the Community to a destination outside the Community, they shall remain under Customs supervision until the re-export of the products has taken place.

*Article 7*

This Directive shall be reviewed by 1 January 2007 at the latest.

*Article 8*

1. Member States shall adopt and publish by 31 December 2004 at the latest the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

They shall apply those provisions from 1 January 2005.

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 a reference is to be made.

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

*Article 9*

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

*Article 10*

This Directive is addressed to the Member States.

Done at Brussels, 7 October 2004.

*For the Commission*

David BYRNE

*Member of the Commission*

## ANNEX

1. Plant health movement document as referred to in Article 1(3)(c) of Commission Directive 2004/103/EC	<b>2. PLANT HEALTH MOVEMENT DOCUMENT</b> No EC/.../... <sup>(1)</sup>	
<p>3. <u>Identification of consignment</u><sup>(2)</sup> — <i>This consignment contains produce of phytosanitary relevance</i> —</p> <p>Plant, plant product or other object (TARIC code): .....</p> <p>Reference number(s) of required phytosanitary documentation: .....</p> <p>Country of issue: .....</p> <p>Date of issue: .....</p> <p>Distinguishing mark(s), numbers, number of packages, amount (weights/units): .....</p> <p>.....</p> <p>Reference number(s) of required customs documentation: .....</p>		
<p>4. Official registration number of importer: .....</p> <p>I, the undersigned importer, hereby request the responsible official body to carry out the official identity checks and plant health checks of the abovementioned plants, plant products or other objects at the approved place of inspection listed below and I undertake to respect the rules and procedures set by the responsible official body.</p> <p>Date, name and signature of importer: .....</p>		
5.1. <u>Point of entry</u> :	5.2. Countersigning by official body of point of entry (date, name, service stamp and signature): ..... .....	
<p>6. <u>Approved place(s) of inspection</u><sup>(3)</sup></p> <p>A- ..... B- (replaces A) .....</p> <p>.....</p>		
<p>The plants, plant products or other objects are moved to the abovementioned place(s) of inspection in accordance with the agreement concluded between<sup>(4)</sup></p> <p>.....</p>		
<b>The consignment may not be moved to places other than those listed above unless this has been officially approved.</b>		
7. Documentary check <input type="checkbox"/>	8. Identity check <input type="checkbox"/>	9. Plant health check <input type="checkbox"/>
Place/date: ..... Name: ..... Service stamp/signature:	Place/date: ..... Name: ..... Service stamp/signature:	Place/date: ..... Name: ..... Service stamp/signature:
<p>10. <u>Decision</u>:</p> <p><input type="checkbox"/> Release Place/date: ..... Name: ..... Service stamp/signature:</p> <p>Indicate EC Plant Passport (serial or week or batch) number when appropriate: .....</p> <p><input type="checkbox"/> Official measure</p> <p><input type="checkbox"/> Refusal of entry <input type="checkbox"/> Destruction</p> <p><input type="checkbox"/> Movement outside the Community <input type="checkbox"/> Quarantine period</p> <p><input type="checkbox"/> Removal of infected/infested produce <input type="checkbox"/> Appropriate treatment</p> <p>Remark: .....</p> <p>.....</p>		

(1) Make reference to country code/number.

(2) Fill in box or make reference to information on Phytosanitary certificate which must be attached.

(3) Make reference to 'C' (Article 13c(2)(c) of Directive 2000/29/EC) or 'D' (Article 13c(2)(d) of Directive 2000/29/EC).

(4) When appropriate, give details on agreement between Member States' official services, either on a case-by-case agreement or on the basis of a longer-term agreement.