

**EUROPEAN COMMUNITIES (INTRODUCTION OF ORGANISMS HARMFUL TO
PLANTS OR PLANT PRODUCTS) (PROHIBITION) (AMENDMENT) REGULATIONS
1989**

I, MICHAEL O'KENNEDY, Minister for Agriculture and Food, in exercise of the powers conferred on me by section 3 of the European Communities Act, 1972 (No. 27 of 1972), and for the purpose of giving further effect to Council Directive No. 77/93/EEC of 21 December, 1976¹, as amended in the manner specified in the definition of "the Directive" (inserted by Regulation 3 of the following Regulations) in Regulation 2 (1) of the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) Regulations, 1980 (S.I. No. 125 of 1980), hereby make the following Regulations:

1. (1) These Regulations may be cited as the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) (Amendment) Regulations, 1989.

(2) The European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) Regulations, 1980 to 1988, and these Regulations may be cited together as the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) Regulations, 1980 to 1989.

REG 2

2. In these Regulations "the Principal Regulations" means the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) Regulations, 1980 (S.I. No. 125 of 1980).

REG 3

3. Regulation 2 (1) of the Principal Regulations is hereby amended by the substitution for the definition of "the Directive" of the following definition:

"the Directive" means Council Directive No. 77/93/EEC of 21 December, 1976, as corrected by the Corrigenda published in the Official Journal No. L. 130/32 dated 29 May, 1979, and amended by Council Directive No. 80/392/EEC of 18 March, 1980², Council Directive No. 80/393/EEC of 18 March, 1980², Council Directive No. 81/7/EEC of 1 January, 1981³, Council Directive No. 84/378/EEC of 28 June, 1984⁴, Council Directive No. 85/173/EEC of 28 February, 1985⁵, Council Directive No. 85/574/EEC of 19 December, 1985⁶, First Commission Directive No. 86/545/EEC of 29 October, 1986⁷, Second Commission Directive No. 86/546/EEC of 29 October, 1986⁷, Third Commission Directive No. 86/547/EEC of 29 October, 1986⁷, Council Directive No. 86/651/EEC of 18 December, 1986⁸, Council Directive No.

87/298/EEC of 2 March, 1987, Fifth Commission Directive No. 88/271/EEC of 5 April, 1988, as amended by Commission Directive No. 89/83/EEC of 5 January, 1989, Sixth Commission Directive No. 88/272/EEC of 8 April, 1988, Seventh Commission Directive No. 88/430/EEC of 1 July, 1988, and Council Directive No. 88/572/EEC of 14 November, 1988.

1 O.J. No. L. 26, 31. 1. 77.

20.J. No. L. 100, 17.4.80.

30.J. No. L. 14, 16.1.81.

40.J. No. L. 207, 2.8.84.

50.J. No. L. 65, 6.3.85.

60.J. No. L. 372, 31.12.85.

70.J. No. L. 323, 18.11.86.

80.J. No. L. 382, 31.12.86.

90.J. No. L. 151, 11.6.87.

100.J. No. L. 116, 4.5.88.

110.J. No. L. 32, 3.2.89.

120.J. No. L. 208, 2.8.88.

130.J. No. L. 313, 19.11.88.

REG 4

4. The Principal Regulations are hereby amended by the substitution for paragraph (2) of Regulation 2 of the following paragraph:

"(2) (a) These Regulations apply to wood listed in the first column of Part A of Annex IV at reference number 2 or to wood which meets any of the descriptions listed in Annex V at reference number 4 (a) and which is obtained, in whole or in part, from either of the species listed at the first indent of reference number 4 (b) of Annex V, whether or not such wood retains all or part of its natural round surface, with or without bark.

(b) Subject to subparagraph (c) of this paragraph, these Regulations apply to wood other than wood referred to in subparagraph (a) of this paragraph, only insofar as—

(i) it retains all or part of its natural round surface with or without bark, or

(ii) it is in the form of chips, particles, sawdust, wood waste or scrap, or

(iii) save for the provisions of these Regulations relating to Annex V, it is wood, whether or not of a type described in subparagraph (i) or (ii) of this paragraph, which is in the form of dunnage, spacers, pallets or packing material being used for the transport of objects of any kind and which in the opinion of an authorised person presents a plant health risk.

(c) The provisions of these Regulations relating to plants, plant products or other objects listed in Annex V shall not apply to—

(i) wood referred to at subparagraph (a) of paragraph 4 of Annex V which falls to be classified in CN Codes 4401 10, ex 4404 10, ex 4407 10, ex 4415 10 or ex 4415 20 and which has been obtained in whole from coniferae, provided that any of the alternative requirements specified in respect of such wood in subparagraph (b)

of the said paragraph 4 has been complied with, or
(ii) pallets or box pallets proper to CN Code ex 4415 20 which satisfy the requirements specified in respect of such pallets or box pallets in subparagraph (b) of the said paragraph 4."

REG 5

5. Regulation 2B (inserted by Regulation 2 of the European Communities (Introduction of Organisms Harmful to Plants or Plant Products) (Prohibition) (Amendment) Regulations, 1982 (S.I. No. 351 of 1982)) of the Principal Regulations is hereby amended by the deletion of paragraphs (2) and (3).

REG 6

6. The Principal Regulations are hereby amended by the substitution for paragraph (a) of Regulation 7 of the following paragraph:
"(a) the first column of Part A of Annex III, other than at reference number 6 or 9 thereof, or".

REG 7

7. Regulation 10 (1) of the Principal Regulations is hereby amended—
(a) by the substitution of "3.5 (a)" for "3.6 (a)" in paragraph (b), and
(b) by the substitution of "3.6 (a)" for "3.6 (b)" in paragraph (c).

REG 8

8. Regulation 12 of the Principal Regulations is hereby amended—
(a) by the deletion of paragraphs (a), (e), and (f), and
(b) by the substitution in paragraph (b) of "Article 14 (1) (a) (iii)" for "Article 14 (1) (a)(iv)".

REG 9

9. The Principal Regulations are hereby amended by the insertion of the following Regulation after Regulation 16:
"16A (1) Without prejudice to the provisions of any other Regulation of these Regulations, whenever an authorised person or an officer of Customs and Excise has reason to suspect that a consignment which is imported or is about to be imported from a country other than a Member State contains or includes plants, plant products or other objects listed at Annex V, he may detain such consignment for examination if the presence of such plants, plant products or other objects is not declared in the relevant documentation prescribed for the purposes of the Customs Acts.
(2) Whenever, in a case referred to in paragraph (1) of this Regulation, doubt remains as to the nature or identity of the consignment, particularly with regard to /the genus or species of

plants, or to the origin of the consignment or any part thereof, the consignment shall be deemed for the purposes of these Regulations to contain plants, plant products or other objects listed in Annex V."

GIVEN under my Official Seal, this 28th day of April, 1989.

MICHAEL O'KENNEDY,
Minister for Agriculture and Food.

EXPLANATORY NOTE.

These Regulations implement a number of Directives amending Council Directive 77/93/EEC and the Annexes thereto, on measures to prevent the introduction or spread of plant diseases or pests, amend the definition of wood and make provision for inspection of import consignments from third countries which are not declared to contain plants, plant products or other objects which must be subjected to a plant health inspection.