

DECISIONS

COMMISSION DECISION

of 7 July 2010

amending Decision 2008/840/EC as regards emergency measures to prevent the introduction into the Union of *Anoplophora chinensis* (Forster)

(notified under document C(2010) 4546)

(2010/380/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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 the fourth sentence of Article 16(3) thereof,

Whereas:

- (1) Commission Decision 2008/840/EC of 7 November 2008 on emergency measures to prevent the introduction into and the spread within the Community of *Anoplophora chinensis* (Forster)⁽²⁾ requires Member States to adopt measures to prevent the introduction and spread within the Union of *Anoplophora chinensis* (Forster).
- (2) A mission carried out by the Commission in China from 9 to 20 February 2009 showed that the application of the emergency measures provided for by Decision 2008/840/EC was not fully satisfactory as regards the production and supervision of plants falling within the scope of that Decision, hereinafter 'specified plants'.
- (3) The Commission contacted China on 3 July 2009 explaining the conclusions drawn on the basis of that mission.
- (4) On 29 September 2009, China presented a series of measures which would improve the control of *Anoplophora chinensis* (Forster) as regards the production of specified plants destined for export to the Union. In

particular, China has conducted a procedure of registration of the places of production for exports to the Union. It has restricted the number of places of production from which specified plants may be exported to the Union to places of production that had been registered by its national plant protection organisation as in compliance with point (1)(b) of Section I(B) of Annex I to Decision 2008/840/EC, as amended. This register was notified to the Commission on the same day. China further announced the adoption of measures in case *Anoplophora chinensis* (Forster) would be found at one of the registered places of production, including the removal of the place of production concerned from the register under certain circumstances. The Commission communicated the information received from China to the Member States.

- (5) On 23 December 2009, the Commission informed China of its expectations that findings of *Anoplophora chinensis* (Forster) must lead to an automatic removal of the place of production concerned from the register.
- (6) No more findings concerning specified plants imported from China were reported until end of February 2010. However, the Netherlands reported on 1 and 3 March 2010 findings of *Anoplophora chinensis* (Forster) on specified plants originating from two places of production included in the register.
- (7) On 25 March 2010, China communicated to the Commission that it has undertaken to keep the register that it communicated to the Commission on 29 September 2009 up-to-date by, inter alia, promptly removing from the register the two mentioned places of production and to make the updated versions of the register available to the Commission.
- (8) It is necessary to adapt the measures provided for by Decision 2008/840/EC as regards imports of specified plants from China to take into account these developments.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 300, 11.11.2008, p. 36.

- (9) As most of the interceptions on specified plants imported from China have been reported on plants of the species *Acer* spp., it is appropriate to ban their import for two years taking into account the life cycle of the insect.
- (10) In addition to the requirements applicable to specified plants imported from third countries where *Anoplophora chinensis* (Forster) is present, specified plants originating in China should only be imported if they come from a place of production which is listed in the register of places of production in China established by the Chinese national plant protection organisation. Member States should be kept informed by the Commission of any update to this register by the Chinese authorities. Where a place of production is removed from the register by the Chinese authorities, specified plants grown at that place of production should not be imported into the Union for two years from the date when the Commission informs the Member States of that update.
- (11) Where the Commission has evidence that a place of production listed in the register no longer complies with point (1)(b) of Section I(B) of Annex I to Decision 2008/840/EC or that *Anoplophora chinensis* (Forster) has been found on specified plants imported from such a place of production, it should communicate that information to the Member States. Following that communication specified plants originating from that place of production should not be imported into the Union for two years from the date when the Commission informs the Member States of the non-compliance, irrespective of the action taken by China to update the register.
- (12) It is necessary that a place of production situated in a pest free area in a third country, as referred to in point (1)(a) of Section I of Annex I to Decision 2008/840/EC as it stands, be registered and supervised by the national plant protection organisation of that country.
- (13) Taking into account the results of recent inspections of specified plants, carried out at the point of entry or at the place of destination, in accordance with point (2) of Section I of Annex I to Decision 2008/840/EC as it stands, it is also necessary that destructive sampling be part of the inspection in third countries immediately prior to export and of the inspection in accordance with the provisions referred to.
- (14) Decision 2008/840/EC should therefore be amended accordingly.
- (15) 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. Article 2 of Decision 2008/840/EC is replaced by the following:

'Article 2

Import of the specified plants from third countries except China

As regards imports from third countries where *Anoplophora chinensis* (Forster) is known to be present, other than China, specified plants may only be introduced into the Union if they fulfil the following conditions:

- (a) they comply with the specific import requirements as set out in point (1) of Section I(A) of Annex I;
- (b) without prejudice to Article 13a(1) of Directive 2000/29/EC, on entry into the Union they are inspected by the responsible official body in accordance with point (2) of Section I(A) of Annex I to this Decision for the presence of *Anoplophora chinensis* (Forster), and no signs of that organism have been found.

Article 2a

Import of the specified plants from China

1. As regards imports from China, specified plants may only be introduced into the Union if they fulfil the following conditions:

- (a) they comply with the specific import requirements as set out in point (1) of Section I(B) of Annex I;
- (b) without prejudice to Article 13a(1) of Directive 2000/29/EC, on entry into the Union they are inspected by the responsible official body in accordance with point (2) of Section I(B) of Annex I to this Decision for the presence of *Anoplophora chinensis* (Forster), and no signs of that organism have been found;
- (c) the place of production of those plants:
 - (i) is designated by a unique registration number assigned by the national plant protection organisation of China;
 - (ii) is included in the most recent version of the register communicated by the Commission to the Member States in accordance with paragraph 3;
 - (iii) has not, within the previous two years, been the subject of a communication by the Commission to the Member States of the removal from the register in accordance with paragraph 3; and

(iv) has not, within the previous two years, been the subject of a communication by the Commission to the Member States as referred to in paragraph 4 or 5.

2. However, plants of *Acer* spp. shall not be introduced into the Union until 30 April 2012.

From 1 May 2012, paragraph 1 shall apply to plants of *Acer* spp.

3. The Commission shall communicate to the Member States the register of places of production in China which its national plant protection organisation has established as in compliance with point (1)(b) of Section I(B) of Annex I.

Where that organisation updates the register by removing a place of production either because that organisation has found that the place of production no longer complies with point (1)(b) of Section I(B) of Annex I or because the Commission has informed China of evidence of the presence of *Anoplophora chinensis* (Forster) at import of specified plants from one of those places of production, and China makes the updated version of the register available to the Commission, the Commission shall communicate the updated version of the register to the Member States through internet based information pages.

Where that organisation updates the register by including a place of production because that organisation has found that the place of production complies with point (1)(b) of Section I(B) of Annex I and China makes the updated version of the register available to the Commission as well as the necessary explanatory information, the Commission shall communicate that updated version and, where appropriate, that explanatory information to the Member States through internet based information pages.

Through internet based information pages, the Commission shall make the register and its updates available to the public.

4. Where during an inspection at a registered place of production, as set out in points (ii), (iii) and (iv) of point (1)(b) of Section I(B) of Annex I, the Chinese plant protection organisation finds evidence of the presence of *Anoplophora chinensis* (Forster) and the Commission is notified of that finding by China, the Commission shall immediately communicate that finding to the Member States through internet based information pages.

Through internet based information pages, the Commission shall also make this information available to the public.

5. Where the Commission has evidence from sources other than those referred to in paragraphs 3 and 4 that a place of production listed in the register does not comply with point (1)(b) of Section I(B) of Annex I or that *Anoplophora chinensis* (Forster) has been found on specified plants imported from such a place of production, it shall communicate the information concerning that place of production to the Member States through internet based information pages.

Through internet based information pages, the Commission shall also make this information available to the public.

2. Annex I to Decision 2008/840/EC is amended in accordance with the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 7 July 2010.

For the Commission

John DALLI

Member of the Commission

ANNEX

Section I of Annex I to Decision 2008/840/EC is replaced by the following:

I. Specific import requirements**A — Imports from third countries except China**

- (1) Without prejudice to the provisions listed in Annex III, Part A(9, 16, 18) and Annex IV, Part A(l)(14, 15, 17, 18, 19.2, 20, 22.1, 22.2, 23.1, 23.2, 32.1, 32.3, 33, 34, 36.1, 39, 40, 43, 44, 46) to Directive 2000/29/EC, specified plants originating in third countries, other than China, where *Anoplophora chinensis* (Forster) is known to be present shall be accompanied by a certificate as referred to in Article 13(1) of that Directive which states under the rubric "Additional Declaration":
- (a) that the plants have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation in the country of origin and situated in a pest-free area established by that organisation in accordance with relevant International Standards for Phytosanitary Measures. The name of the pest-free area shall be mentioned under the rubric "place of origin"; or
 - (b) that the plants have been grown, during a period of at least two years prior to export, in a place of production established as free from *Anoplophora chinensis* (Forster) in accordance with International Standards for Phytosanitary Measures:
 - (i) which is registered and supervised by the national plant protection organisation in the country of origin; and
 - (ii) which has been subjected annually to at least two official inspections for any signs of *Anoplophora chinensis* (Forster) carried out at appropriate times and no signs of the organism have been found; and
 - (iii) where the plants have been grown in a site:
 - with complete physical protection against the introduction of *Anoplophora chinensis* (Forster), or
 - with the application of appropriate preventive treatments and surrounded by a buffer zone with a radius of at least two km where official surveys for the presence or signs of *Anoplophora chinensis* (Forster) are carried out annually at appropriate times. In case signs of *Anoplophora chinensis* (Forster) are found, eradication measures are immediately taken to restore the pest freedom of the buffer zone; and
 - (iv) where immediately prior to export consignments of the plants have been subjected to an official meticulous inspection, for the presence of *Anoplophora chinensis* (Forster), in particular in roots and stems of the plants. This inspection should include targeted destructive sampling. The size of the sample for inspection shall be as such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %.
- (2) Specified plants imported in accordance with point (1) shall be meticulously inspected at the point of entry or the place of destination established in accordance with Commission Directive 2004/103/EC (*). Inspection methods applied shall ensure the detection of any signs of *Anoplophora chinensis* (Forster), in particular in roots and stems of the plants. This inspection should include targeted destructive sampling. The size of the sample for inspection shall be as such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %.

B — Imports from China

- (1) Without prejudice to the provisions listed in Annex III, Part A(9, 16, 18) and Annex IV, Part A(l)(14, 15, 17, 18, 19.2, 20, 22.1, 22.2, 23.1, 23.2, 32.1, 32.3, 33, 34, 36.1, 39, 40, 43, 44, 46) to Directive 2000/29/EC, specified plants originating in China shall be accompanied by a certificate as referred to in Article 13(1) of that Directive which states under the rubric "Additional Declaration":
- (a) that the plants have been grown throughout their life in a place of production which is registered and supervised by the national plant protection organisation of China and situated in a pest-free area established by that organisation in accordance with relevant International Standards for Phytosanitary Measures. The name of the pest-free area shall be mentioned under the rubric "place of origin"; or
 - (b) that the plants have been grown, during a period of at least two years prior to export, in a place of production established as free from *Anoplophora chinensis* (Forster) in accordance with International Standards for Phytosanitary Measures:

- (i) which is registered and supervised by the national plant protection organisation; and
- (ii) which has been subjected annually to at least two official inspections for any signs of *Anoplophora chinensis* (Forster) carried out at appropriate times and no signs of the organism have been found; and
- (iii) where the plants have been grown in a site:
 - with complete physical protection against the introduction of *Anoplophora chinensis* (Forster); or
 - with the application of appropriate preventive treatments and surrounded by a buffer zone with a radius of at least two km where official surveys for the presence or signs of *Anoplophora chinensis* (Forster) are carried out annually at appropriate times. In case signs of *Anoplophora chinensis* (Forster) are found, eradication measures are immediately taken to restore the pest freedom of the buffer zone; and
- (iv) where immediately prior to export consignments of the plants have been subjected to an official meticulous inspection, including targeted destructive sampling on each lot, for the presence of *Anoplophora chinensis* (Forster), in particular in roots and stems of the plants;

The size of the sample for inspection shall be such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %.

- (c) the registration number of the place of production.
- (2) Specified plants imported in accordance with point (1) shall be meticulously inspected at the point of entry or the place of destination established in accordance with Directive 2004/103/EC. Inspection methods applied, including targeted destructive sampling on each lot, shall ensure the detection of any signs of *Anoplophora chinensis* (Forster), in particular in roots and stems of the plants. The size of the sample for inspection shall be such as to enable at least the detection of 1 % level of infestation with a level of confidence of 99 %.

The destructive sampling referred to in the first paragraph shall be carried out at the level set out in the following table:

Number of plants in the lot	Level of destructive sampling (number of plants to be cut)
1 – 4 500	10 % of lot size
> 4 500	450

(*) OJ L 313, 12.10.2004, p. 16.