



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.3.2006
COM(2006) 123 final

2006/0040 (CNS)

Proposal for a

COUNCIL DIRECTIVE

on control of San José Scale

(Codified version)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying Community law so as to make it clearer and more accessible to the ordinary citizen, thus giving him new opportunities and the chance to make use of the specific rights it gives him.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if Community law is to be clear and transparent.

2. On 1 April 1987 the Commission therefore decided¹ to instruct its staff that all legislative acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that the Community rules are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal Community legislative procedure.

Given that no changes of substance may be made to the instruments affected by codification, the European Parliament, the Council and the Commission have agreed, by an interinstitutional agreement dated 20 December 1994, that an accelerated procedure may be used for the fast-track adoption of codification instruments.

4. The purpose of this proposal is to undertake a codification of Council Directive 69/466/EEC of 8 December 1969 on control of San José Scale³. The new Directive will supersede the various acts incorporated in it⁴; this proposal fully preserves the content of the acts being codified and hence does no more than bringing them together with only such formal amendments as are required by the codification exercise itself.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Carried out pursuant to the Communication from the Commission to the European Parliament and the Council – Codification of the Acquis communautaire, COM(2001) 645 final.

⁴ See Annex I, Part A of this proposal.

5. The codification proposal was drawn up on the basis of a preliminary consolidation, in all official languages, of Directive 69/466/EEC and the instrument amending it, carried out by the Office for Official Publications of the European Communities, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table contained in Annex II to the codified Directive.

↓ 69/466/EEC (adapted)

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on control of San José Scale

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37 and 94 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament¹,

Having regard to the opinion of the European Economic and Social Committee²,

Whereas :

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- (1) Council Directive 69/466/EEC of 8 December 1969 on control of San José Scale³ has been substantially amended⁴. In the interests of clarity and rationality the said Directive should be codified.

↓ 69/466/EEC Recital 1

- (2) The production of woody dicotyledonous plants and their fruit occupies an important place in Community agriculture.

↓ 69/466/EEC Recital 2

- (3) The yield of that production is constantly threatened by harmful organisms.

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ L 323, 24.12.1969, p. 5. Directive as amended by Directive 77/93/EEC (OJ L 26, 31.1.1977, p. 20).

⁴ See Annex I, Part A.

↓ 69/466/EEC Recital 3

- (4) Through the protection of such plants against such harmful organisms, not only should productive capacity be maintained but also agricultural productivity increased.

↓ 69/466/EEC Recital 4

- (5) Protective measures to prevent the introduction of harmful organisms into individual Member States would have only a limited effect if such organisms were not controlled simultaneously and methodically throughout the Community and were not prevented from spreading.

↓ 69/466/EEC Recital 5

- (6) One of the organisms most harmful to woody dicotyledonous plants is San José Scale (*Quadraspidiotus perniciosus* Comst.).

↓ 69/466/EEC Recital 6

- (7) This pest has occurred in several Member States and there are contaminated areas within the Community.

↓ 69/466/EEC Recital 7

- (8) There is a permanent risk to the cultivation of woody dicotyledonous plants throughout the Community if effective measures are not taken to control this pest and prevent it from spreading.

↓ 69/466/EEC Recital 8 (adapted)

- (9) To eradicate this pest, minimum provisions should be adopted for the Community. Member States should be able to adopt additional or stricter provisions where necessary.

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- (10) This Directive should be without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B,

↓ 69/466/EEC

HAS ADOPTED THIS DIRECTIVE:

Article 1

This Directive concerns the minimum measures to be taken within the Member States to control San José Scale (*Quadraspidiotus perniciosus* Comst.) and to prevent it from spreading.

↓ 69/466/EEC (adapted)

Article 2

For the purposes of this Directive ☒, the following definitions shall apply ☒ :

- (a) 'plants' means live plants and live parts of plants with the exception of fruit and seeds;
 - (b) 'contaminated plants or fruit' means plants or fruit on which one or more San José Scale insects are found, unless it is confirmed that they are dead;
 - (c) 'San José Scale host plants' means plants of the genera *Acer* L., *Cotoneaster* Ehrh., *Crataegus* L., *Cydonia* Mill., *Euonymus* L., *Fagus* L., *Juglans* L., *Ligustrum* L., *Malus* Mill., *Populus* L., *Prunus* L., *Pyrus* L., *Ribes* L., *Rosa* L., *Salix* L., *Sorbus* L., *Syringa* L., *Tilia* L., *Ulmus* L., *Vitis* L.;
 - (d) 'nurseries' means plantations in which plants intended for transplanting, multiplying or distributing as individually rooted plants are grown.
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↓ 69/466/EEC

Article 3

When an occurrence of San José Scale is recorded, Member States shall demarcate the contaminated area and a safety zone large enough to ensure the protection of the surrounding areas.

↓ 69/466/EEC (adapted)

Article 4

The Member States shall provide that, in contaminated areas and safety zones, San José Scale host plants ☒ shall ☒ be appropriately treated to control this pest and prevent it from spreading.

Article 5

The Member States shall provide that:

- (a) all contaminated plants in nurseries ☒ shall ☒ be destroyed;
- (b) all other plants which are contaminated or suspected of being contaminated and which are growing in a contaminated area ☒ shall ☒ be treated in such a way that those plants and the fresh fruit therefrom are no longer contaminated when moved;
- (c) all rooted San José Scale host plants growing within a contaminated area, and parts of such plants which are intended for multiplication and are produced within that area, may be replanted within the contaminated area or transported away from it only if they have not been found to be contaminated and if they have been treated in such a way that any San José Scale insects which might still be present are destroyed.

↓ 69/466/EEC

Article 6

The Member States shall ensure that in the safety zones San José Scale host plants are subjected to official supervision and are inspected at least once a year in order to detect any occurrence of San José Scale.

↓ 69/466/EEC (adapted)
→₁ 77/93/EEC Art. 19(a)

Article 7

→₁ 1. ← The Member States shall provide that in any batch of plants (other than those that are rooted in the ground) and fresh fruit within which contamination has been found, the contaminated plants and fruit ☒ shall ☒ be destroyed and the other plants and fruit in the batch treated or processed in such a way that any San José Scale insects which might still be present are destroyed.

↓ 77/93/EEC Art. 19(a) (adapted)

2. Paragraph 1 shall not apply to slightly contaminated ☒ batches ☒ of fresh fruit.

↓ 69/466/EEC

Article 8

The Member States shall revoke the measures taken to control San José Scale or to prevent it from spreading only if San José Scale is no longer found to be present.

Article 9

The Member States shall prohibit the holding of San José Scale.

↓ 69/466/EEC (adapted)
→₁ 77/93/EEC Art. 19(b)

Article 10

1. Member States may authorise:

- (a) derogations from the measures referred to in Articles 4 ☒ and ☒ 5, →₁ ☒ Article ☒ 7(1) ← and ☒ Article ☒ 9 for scientific and phytosanitary purposes, tests and selection work;
- (b) by way of derogation from ☒ point (b) of ☒ Article 5 and →₁ ☒ Article ☒ 7(1) ←, the immediate processing of contaminated fresh fruit;
- (c) by way of derogation from ☒ point (b) of ☒ Article 5 and →₁ ☒ Article ☒ 7(1) ←, the movement of contaminated fresh fruit within the contaminated area.

2. The Member States shall ensure that the authorisations ☒ provided for ☒ in paragraph 1 are granted only where adequate controls guarantee that they do not prejudice the control of San José Scale and create no risk of the spread of this pest.

↓ 69/466/EEC

Article 11

Member States may adopt such additional or stricter provisions as may be required to control San José Scale or to prevent it from spreading.




Article 12

Directive 69/466/EEC, as amended by the Directive listed in Annex I, Part A, is repealed, without prejudice to the obligations of the Member States relating to the time-limits for transposition into national law of the Directives set out in Annex I, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex II.

Article 13

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

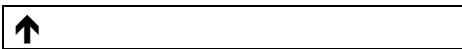
 69/466/EEC Art. 13

Article 14

This Directive is addressed to the Member States.

Done at Brussels,

*For the Council
The President*



ANNEX I

Part A

Repealed Directive with its amendment
(referred to in Article 12)

Council Directive 69/466/EEC
(OJ L 323, 24.12.1969, p. 5)

Council Directive 77/93/EEC
(OJ L 26, 31.1.1977, p. 20)

Article 19 only

Part B

List of time-limits for transposition into national law
(referred to in Article 12)

Directive	Time-limit for transposition
69/466/EEC (1)	9 December 1971
77/93/EEC (2) (3) (4)	1 May 1980

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- (1) For Ireland and the United Kingdom : 1 July 1973.
 - (2) In accordance with the procedure laid down in Article 16 of Directive 77/93/EEC, Member States may be authorised, on request, to comply with certain of the provisions of this Directive by a date later than 1 May 1980, but not later than 1 January 1981.
 - (3) For Greece : 1 January 1983.
 - (4) For Spain and Portugal : 1 March 1987.
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ANNEX II

CORRELATION TABLE

Directive 69/466/EEC	This Directive
Articles 1-11	Articles 1-11
Article 12	_____
_____	Article 12
_____	Article 13
Article 13	Article 14
_____	Annex I
_____	Annex II