COMMISSION DECISION

of 11 January 1983

authorizing Italy temporarily to take additional measures to protect itself against the introduction of Erwinia amylovora

(Only the Italian text is authentic)

(83/14/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organisms harmful to plants or plant products [1], as last amended by Directive 81/7/EEC [2], and in particular Article 15 (2) thereof,

Having regard to the communication from Italy of 26 April 1982,

Whereas, pursuant to Directive 77/93/EEC, plants or plant products may be introduced into a Member State only if they are free from Erwinia amylovora ; whereas for certain plants the consignor Member States must take certain measures to ensure that these are not contaminated by that bacterium ;

Whereas, nevertheless, when a Member State considers that there is an imminent danger of the introduction of spread in its territory of harmful organisms, it may temporarily take any additional measures necessary to protect itself against that danger ;

Whereas Italy gave notice, on 11 September 1981, that a Decreto del Ministero dell'Agricoltura e delle Foreste had been adopted on 3 September 1981 prohibiting the introduction into Italy of plants of the genera Cotoneaster, Crateagus, Cydonia, Malus, Pyracantha, Pyrus, Sorbus and Stranvaesia, originating in the Netherlands, with the exception of fruit and seeds, with effect from 1 October 1981 ;

Whereas Italy defended this measure on the ground that Erwinia amylovora was detected on a sample of 100 buds taken as an official sample on 13 November 1980 from a consignment of 'Jonagold M.IX' apple-tree seedlings imported from the Netherlands ;

Whereas, by Decision 81/973/EEC [3], the Commission authorized Italy to take, during the period to 15 April 1982, certain additional measures, laid down therein, to protect itself against the introduction of Erwinia amylovora, on condition that Italy repealed, with effect from the 20th day following notification of that Decision, the provisions adopted on 3 September 1981 ;

Whereas in its communication of 26 April 1982 Italy gave notice of a Decreto del Ministero dell'Agricoltura e delle Foreste, adopted on 22 March 1982 and published in the Gazzetta Ufficiale della Repubblica Italiana on 9 April 1982, which prohibited until further notice the introduction into Italy of plants of the genera Chaenomeles, Cotoneaster, Crataegus, Cydonia, Malus, Pyracantha, Pyrus, Sorbus and Stranvaesia originating in any European country, with the exception of fruit and seeds ;

Whereas Italy defended this measure on the grounds that :

— the organism was established in nearly all Member States,

— there were focuses of infection everywhere,

— the eradication campaigns by the plant health protection services in the countries concerned were not being successful,

— there was some trade, unsupervised in respect of plant health, in host plants between contaminated and non-contaminated countries which was not subject to plant health checks,

— Italy was exposed to the risk of introduction of Erwinia amylovora and the destruction of its own orchards, mainly because of the inadequacy of the Community rules, the nature of the organism and the cultivation structure and climate in Italy ;

Whereas Italy has not supplied sufficient details on which any assessment could be based concerning the supposed existence of unsupervised trade, the nature of such trade, the dangers possibly resulting therefrom or on the reasons for such trade, these being more likely to be inadequate application of the Community rules rather than inadequacy of the safeguards provided by them ;

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[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 14, 16. 1. 1981, p. 23.
[3] OJ No L 355 10. 12. 1981, p. 58.

Whereas, however, Erwinia amylovora has recently spread alarmingly in certain countries already contaminated ;

Whereas at the moment there are no adequate means of fighting the bacterium ;

Whereas it is therefore possible that the situation that led the Commission to adopt Decision 81/973/EEC will recur, given the provisions presently laid down in the Directive, on a scale that cannot be controlled ; whereas the harmful organism in question cannot be detected by visual examination ;

Whereas pending the results of the investigations mentioned in the preamble to Decision 81/973/EEC and in the light of information collected with a view to revising the Community provisions on Erwinia amylovora, temporary measures should therefore be taken which take into account both the legitimate interests of Italy to be protected against the introduction of the bacterium in question and also the principle of free marketing ;

Whereas the general situation is such that there is an imminent danger of this organism being introduced into Italy, which is at present free of it ; whereas Italy may in consequence temporarily require additional safeguards to those afforded by the Community provisions pending strengthening of the Community safeguards on Erwinia amylovora by means of an amendment to Directive 77/93/EEC recently proposed to the Council by the Commission ;

Whereas, however, an absolute ban on the introduction of specific material is excessive if consignor Member States are able to provide the necessary additional safeguards ;

Whereas Italy should therefore be authorized for a given period to require from other Member States, when the plants in question are imported into Italy, certain safeguards additional to those required under the Community provisions ; whereas due account should be taken of the absence of the organism in certain Member States or regions ; whereas certain additional controls and surveillance measures on imported plants should be authorized on its own territory that are indispensable for verification of the effectiveness of the new additional safeguards authorized ; whereas the granting of this authorization should carry with it a requirement that Italy withdraws the import ban notified to the Commission ;

Whereas 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. Italy shall be authorized, for a period expiring on 30 April 1983, to require that plants of the genera Chaenomeles, Cotoneaster, Crataegus, Cydonia, Malus, Pyracantha, Pyrus, Sorbus and Stranvaesia, originating in another Member State, with the exception of fruit and seeds, meet the following conditions in addition to those laid down in Articles 3 (1), 6 (1) (a) and 7 (1) and (2) of Directive 77/93/EEC, prior to their introduction into Italy :

(a) plants must originate in Greece, Ireland, Luxembourg or in the Länder Bayern or Saarland of the Federal Republic of Germany or in regions of France other than the Department of Bas Rhin in Alsace, the Departments of Aquitaine, the Departments of Nord-Pas de Calais and the Department of Somme in Picardy, or

(b) plants

(aa) must have been produced in a place

(i) situated in a commune officially declared a 'protected zone' or part of such a zone, i.e. a zone where at least the potential host plants are subject to official control measures designed to reduce to a minimum the risk of propagation of Erwinia amylovora from plants grown there ;

(ii) which has been officially approved for growing plants in the conditions described in this subparagraph, such approval having been notified confidentially to the Commission and to Italy with details of the location of the place of production and the type and number of plants grown there ;

(iii) which, together with the other parts of the 'protected zone' surrounding it, has been found to be free from Erwinia amylovora in the year preceding the harvest, this finding being based upon :

— official inspections conducted at the place of production and in a surrounding belt of land not less than 250 m wide on at least two separate occasions, one during July/August and one during September/October, and

— official randon checks carried out at appropriate selected spots, in particular where indicator plants are grown, in a surrounding belt of land not less than 1 km wide and in the rest of the 'protected zone' at least once in the period between July and October, and

— official tests conducted by appropriate laboratory methods on official samples taken during the year preceding the harvest from plants having shown signs of Erwinia amylovora at the place of production or in other parts of the 'protected zone' and from an appropriate number of other potential host plants selected at random at fairly regular intervals throughout the growing period, at the place of production and in a surrounding belt of land not less than 250 m wide ;

(iv) from which, as from the rest of the 'protected zone', no host plants showing signs of Erwinia amylovora have been removed without prior official investigation or approval, and

(bb) must have been subjected to appropriate administrative measures to ensure their identification, in particular to field labelling in the case of fruit trees, and

(c) the official examination provided for in Article 6 of Directive 77/93/EEC must also cover compliance with the requirements laid down in subparagraph (a) or (b) above, and

(d) the seedlings must be packed in closed containers which have been officially sealed and bear a stamp, which must also be reproduced on the phytosanitary certificate, enabling the consignment to be identified.

2. Plants introduced pursuant to paragraph 1 may be subjected to checks, conducted on samples from each consignment, and inspections for two years at the place of destination, by the official plant protection service in Italy, using appropriate methods ; the results of these checks and inspections shall be communicated to the Commission in September of each year.

3. Italy shall repeal the measures laid down in Article 1 of the Decreto del Ministero dell'Agricoltura e delle Foreste of 22 March 1982 on 31 January 1983 at the latest.

Article 2

Italy shall communicate to the other Member States and the Commission the measures taken to comply with this Decision.

Article 3

This Decision is addressed to the Italian Republic.

Done at Brussels, 11 January 1983.

For the Commission

Poul DALSAGER

Member of the Commission