COMMISSION DECISION

of 15 June 1988

requiring Italy to rescind the further measures taken to protect itself against the introduction of harmful organisms associated with fresh cultivated mushrooms

(Only the Italian text is authentic)

(88/395/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 Commission Directive 88/272/EEC (2), and in particular Artice 15 (2) thereof,

Whereas, when a Member State considers that there is an imminent danger of the introduction or spread in its territory of harmful organisms, it may temporarily take any additional measures necessary to protect itself against the danger, provided that it immediately informs the other Member States and the Commission of the measures taken and indicates the reasons for them (Article 15 (1) of Directive 77/93/EEC);

Whereas Italy adopted on 22 May 1987 measures prohibiting the introduction into Italy of fresh cultivated mushrooms from 1 June to 31 December 1987 ('Decreto 22 maggio 1987: divieto di importazione di funghi coltivati freschi') (3);

Whereas Italy informed the other Member States and the Commission of these measures and the reasons for them at the meeting of the Standing Committee on Plant Health on 22 June 1987;

Whereas Commission Decision 87/393/EEC (4) required Italy to rescind the measures taken to protect itself against the introduction of harmful organisms associated with fresh cultivated mushrooms as the elements identified in the reasoning presented by the Italian authorities at that time were not such as to constitute an imminent danger within the meaning of Article 15 (1) of Directive 77/93/EEC;

Whereas Italy rescinded these measures on 28 October 1987 but adopted on the same day further legislation concerning phytosanitary measures in respect of the import into Italy of fresh cultivated mushrooms ('Decreto ministeriale 28 ottobre 1987: misure fitosanitarie per l'importazione di funghi coltivati freschi);

Whereas the further measures adopted require that fresh cultivated mushrooms may only be introduced into Italy on condition that:

— a laboratory analysis of the mushrooms has been undertaken in the country of origin to determine the absence of the nematodes *Ditylenchus myceliophagus* and *Aphelenchoides composticola*,

— the mushrooms are accompanied by a phytosanitary certificate issued by the country of origin,

— an 'additional declaration' has been made on that phytosanitary certificate indicating the absence of the abovementioned nematodes and noting the name of the laboratory which carried out the analysis;

Whereas the further measures adopted by Italy require the following procedures at the point of import:

— sampling for laboratory analysis of one-third of lots of fresh cultivated mushrooms by the Italian plant health authority during the plant health controls required for the issue of fresh cultivated mushroom import certificates,

— prohibition on marketing of lots sampled pending communication of the results of analysis to the importer and the Ministry of Agriculture and Forests;

Whereas the Italian authorities informed the Commission of the further measures taken, by telex of 5 November 1987, but did not notify the other Member States;

Whereas, however, the reason given by Italy for the further measures is that the nematode, *Ditylenchus myceliophagus* has been positively identified in samples taken from fresh cultivated mushrooms imported from one Member State;

Whereas fresh cultivated mushrooms are generally produced under closely controlled conditions using growing media which has been treated to standards necessary for effective production; whereas, therefore, any nematodes discovered in traces of growing media adhering to harvested fresh cultivated mushrooms should normally no longer be pathogenic;

(1) OJ No L 26, 31. 1. 1977, p. 20.
(2) OJ No L 116, 4. 5. 1988, p. 19.
(3) *Gazzetta ufficiale della Repubblica italiana* No 124, 30. 5. 1987, p. 9.
(4) OJ No L 208, 30. 7. 1987, p. 40.

Whereas, should there be live nematodes present in association with fresh cultivated mushrooms, these mushrooms are intended for marketing for direct human consumption and the presence of such nematodes would therefore, although detrimental to the quality of those mushrooms, not in itself present a risk to the cultivation of mushrooms in Italy;

Whereas scientific knowledge indicates that the nematodes *Aphelenchoides composticola* and *Ditylenchus myceliophagus* have been reported to be present in most mushroom-growing countries in temperate areas; whereas the ubiquity and commonness of the abovementioned nematodes is a consequence of their wide host range among soil funghi; whereas no information is available to indicate that the abovementioned nematodes are not present in Italy too;

Whereas, although the capacity of *Aphelenchoides composticola* and *Ditylenchus myceliophagus* to be potentially damaging to the cultivation of mushrooms and their ubiquity and commonness have been well known for many years, it was not considered appropriate to make specific provisions in relation to them in the Community plant health regime at the time of the adoption of Directive 77/93/EEC; whereas the inclusion of the abovementioned nematodes within the scope of the protective measures against the introduction into the Member States of organisms harmful to plants or plant products has also subsequently not been considered necessary;

Whereas it can therefore be established that the potential presence of the nematodes concerned in consignments of fresh cultivated mushrooms imported into Italy does not constitute an imminent danger within the meaning of Article 15 (1) of Directive 77/93/EEC;

Whereas Italy should therefore rescind immediately the further measures impeding imports of fresh cultivated mushrooms;

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

Italy shall immediately rescind the 'Decreto ministeriale 28 ottobre 1987: misure fitosanitarie per l'importazione di funghi coltivati freschi'.

Article 2

This Decision is addressed to the Italian Republic.

Done at Brussels, 15 June 1988.

For the Commission

Frans ANDRIESSEN

Vice-President