II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 31 March 1989

authorizing certain Member States provisionally to provide for derogations from certain provisions of Council Directive 77/93/EEC, in respect of plants of *Juniperus* L. originating in Japan

(89/279/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 89/83/EEC [2], and in particular Article 14 (3) thereof,

Having regard to the requests made by the Member States concerned,

Whereas, under the provisions of Directive 77/93/EEC, plants of *Juniperus* L., other than fruit and seeds, originating in non-European countries, may in principle no longer be introduced into the Community;

Whereas, however, Article 14 (3) of the abovementioned Directive permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms;

Whereas certain Member States had requested to be authorized to permit the importation of *Juniperus* plants of the bonsai type, originating in Japan;

Whereas it was necessary to check the inspection and surveillance measures taken by the Japanese authorities in order to prevent the spread of harmful organisms;

Whereas this checking was recently achieved;

Whereas the Commission has established that on the basis of available information the results of the aforementioned checking there is no risk of spreading harmful organisms, provided that certain technical conditions are satisfied;

Whereas the Member States should therefore be authorized to provide for derogations in respect of certain *Juniperus* plants under those technical conditions; whereas this authorization should be granted for an appropriate period, subject to its revision in the light of further experience to be gained;

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. Belgium, Denmark, the Federal Republic of Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom are hereby authorized to provide under the conditions laid down in paragraph 2 for derogations from Article 4 (1) of Directive 77/93/EEC, with regard to Annex III (A) (4a), for plants of *Juniperus* L. of the bonsai type, other than fruit and seeds, originating in Japan.

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 32, 3. 2. 1989, p. 29.

2. For the purposes of paragraph 1, the following conditions shall be satisfied :

(a) the total number of plants shall not exceed quantities which have been determined by the importing Member State, having regard to available quarantine facilities ;

(b) the plants shall have been grown and trained for at least two subsequent years in nurseries, which obtain official registration by the end of the two-year period at the latest. The annual lists of the registered bonsai nurseries shall be made available to the Commission, at the latest by November of each year. These lists shall include the number of plants grown in each of these nurseries, as far as they are deemed suitable for dispatch to the Community in the following year, under the conditions laid down in this Decision ;

(c) the plants of the genera *Crataegus* L., *Cydonia* Mill., *Juniperus* L., *Malus* Mill., *Photinia* Ldl. and *Pyrus* L., which have been grown in the two last years prior to dispatch in the abovementioned bonsai nurseries or their immediate vicinity shall have been officially inspected at least six times per year of vegetation and at appropriate times, for presence of harmful organisms of concern.

The inspections shall be carried out at least by visual examination of each field row and by visual examination of all parts above growing medium of at least 10 % of the individual plants being selected at random.

The harmful organisms of concern are :

— *Aschistonyx eppoi* Inouye,

— *Gymnosporangium* spp.,

— *Popillia japonica* Newman,

— any other harmful organism which is not known to occur in the Community.

The plants shall have been found free, in these inspections, from the harmful organisms of concern. Infested plants shall be removed. The remaining plants shall be effectively treated, where appropriate ;

(d) any detection of harmful organisms of concern in the inspections carried out pursuant to (c) shall be officially recorded, and the records shall be kept available to the Commission, upon its request. Any detection of any of the harmful organisms of concern, which are specified in (c) by their scientific names, shall disqualify the nursery from its status under (b). In such case, the registration can be renewed only in the following year ;

(e) the plants intended for the Community shall :

— have been grown, at least during the two last years prior to dispatch, in either an artificial growing medium or in a natural growing medium which has been treated by fumigation or by appropriate heat treatment to ensure freedom from harmful organisms,

— be potted, at least during the same period, in pots which are placed on shelves at least 20 cm in height above ground,

— be made recognizable with a marking, exclusive for each individual plant and notified to the official plant protection organization of Japan, enabling the identification of the registered nursery and the year of potting,

— be found free, in the inspections referred to in (c), from harmful organisms of concern and not be affected by the measures referred to in (d),

— be free from other plant debris ;

(f) the official plant protection organization of Japan shall ensure the identity of the plants from the time of their removal from the nursery until the time of loading for export, through sealing of transport vehicles or appropriate alternatives ;

(g) the plants and the adhering or associated growing medium (hereinafter referred to as 'the material') shall be accompanied by a phytosanitary certificate issued in Japan in accordance with Article 7 of Directive 77/93/EEC, on the basis of the examination laid down in Article 6 of the said Directive relating to the conditions laid down therein, in particular freedom from the harmful organisms of concern, as well as to the requirements specified in (a) to (f).

The certificate shall indicate :

— the name or the names of the registered nursery or nurseries,

— the markings referred to in (e), as far as they enable identification of the registered nursery and the year of potting,

— the specification of the last treatment applied, prior to dispatch,

— under 'Additional Declaration', the statement 'This consignment meets the conditions laid down in Decision 89/279/EEC' ;

(h) the material shall be packed in closed containers which have been officially sealed and bear a distinguishing mark to be reproduced on the phytosanitary certificate, enabling the consignments to be identified ;

(i) the material shall be subjected, before it is released, to official post-entry quarantine for a period including the active growth season from 1 April until 30 June and must be found free, during this quarantine period, from any harmful organism of concern ;

(k) the post-entry quarantine mentioned under (i) shall :

— be supervised by the official plant protection organization of the Member State concerned and executed by officially approved and trained staff,

— be performed at an officially approved site provided with appropriate facilities sufficient to contain harmful organisms and treat the material in such a way as to eliminate any risk of spreading harmful organisms,

— be performed for each item of material:

(i) by visual examination upon arrival and at regular intervals thereafter, having regard to the type of material and its state of development during the quarantine period, for harmful organisms or symptoms caused by any harmful organism,

(iii) by appropriate testing on any symptom observed in the visual examination in order to identify the harmful organisms having caused such symptoms;

(l) any lot in which material which has not been found free, during the post-entry quarantine specified under (i) from harmful organisms of concern shall be immediately destroyed, unless special permission for official scientific research has been granted;

(m) Member States shall notify, to the Commission and to the other Member States, any contamination by harmful organisms of concern which has been confirmed during the post-entry quarantine specified under (i).

(n) prior to introduction from outside the Community into a Member State, the importer or his agents shall notify each introduction sufficiently in advance to the authority responsible in the Member States concerned, indicating:

— the type of material,

— the quantity,

— the declared date of import,

— the place or places of first storage after the material has been released.

They shall be officially informed, prior to the introduction, of the conditions laid down in (a) to (m);

(o) any material which has been subjected to the post-entry quarantine specified under (i) in one Member State and has been found free, during that quarantine period, from harmful organisms of concern and which has been maintained under appropriate conditions shall be exempted, for its introduction into one of the other Member States concerned, from the requirement laid down under (i). However, in such case it may be introduced only where the following conditions are satisfied:

— the required phytosanitary certificates shall indicate the site of the quarantine as well as the dates thereof,

— copies of the certificates shall be sent to the plant protection organization of the introducing Member State, prior to dispatch of the material,

— in the introducing Member State, the material shall be subject to conditions which that Member State may lay down to enable adequate phytosanitary monitoring, without affecting the movement of the consignment to the place of destination.

Article 2

The Member States listed in Article 1 (1) shall inform the other Member States and the Commission of any use made of the authorization. They shall provide the Commission and the other Member States, before 1 October of each year, with the information on amounts imported pursuant to this Decision and with a detailed technical report of the official examination referred to in Article 1 (2) (k).

Article 3

The authorization granted in Article 1 shall apply in the period between 1 November and 31 March each year and shall expire on 31 March 1991. It shall be revoked earlier, if it is established that the conditions laid down under Article 1 (2) are not sufficient to prevent the introduction of harmful organisms, or have not been complied with.

Article 4

This Decision is addressed to the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Portugal and the United Kingdom.

Done at Brussels, 31 March 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission