COMMISSION DECISION

of 16 June 1989

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

(89/380/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regar to Council Directive 77/93/EEC of 21 December 1976 on protective measures against the introduction into the Member States of organims harmful to plants or plant products [1], as last amended by Directive 89/359/EEC [2], and in particular Article 14 (3) thereof,

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

Whereas, under the provisions of Directive 77/93/EEC, plants of *Pinus* L., other than fruit and seeds, originating in non-European countries, may in principle not 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 requested to be authorized to permit the importation of *Pinus* plants of the bonzai-type, originating in Japan;

Wheras, by Decision 83/355/EEC [3], as last amended by Decision 88/165/EEC [4], the Commission authorized the Member States concerned to provide for such derogations, under certain technical conditions; whereas that authorization expired on 31 December 1988;

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 those checks were recently carried out;

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

Whereas the Member States concerned should therefore be authorized to provide for derogations in respect of certain *Pinus* plants under those improved 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, however, it has been confirmed that Japanese bonzais are exported from October to March; whereas it is not therefore possible to apply those improved technical conditions during the current export period; whereas therefore the Member States should be authorized to provide for derogations in respect of plants of *Pinus* L. originating in Japan for a further limited period under the provisions of Decision 83/355/EEC;

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, Germany, Greece, Spain, France, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom are hereby authorized from 1 April 1989 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) (1), for plants of *Pinus* L., other than fruit and seeds, originating in Japan.

2. The following conditions shall be satisfied:

(a) The plants shall be either entirely of the species *Pinus parviflora Sieb. & Zucc.* (*Pinus pentaphylla* Mayr.), or grafted on a rootstock of a *Pinus* species other than *Pinus parviflora.* In the latter case, the rootstock shall not bear any shoots.

The total number of plants shall not exceed quantities which have been determined by the importing State, having regard to available quarantine facilities.

(b) The plants shall have been grown and trained for at least two subsequent years in officially registered bonzai nurseries. The annual lists of the registered bonzai 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.

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 153, 6. 6. 1989, p. 28.
[3] OJ No L 199, 22. 7. 1983, p. 27.
[4] OJ No L 72, 18. 3. 1988, p. 59.

(c) The plants of the genus *Pinus* L. which have been grown in the registered bonzai nurseries or their immediate vicinity shall have been officially inspected at least six times per year 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, selected at random.

The harmful organisms of concern are

— *Bursaphelenchus xylophilus* (Steiner & Bührer) Nickle et al.,

— *Cercospora pini-densiflorae* Hori & Nambue,

— *Coleosporium paederiae,*

— *Coleosporium phellodendri* Komr.,

— *Cronartium quercuum* (Berk.) Miyabe ex Shirai,

— *Dendrolimus spectabilis* Butler,

— *Peridermium kurilense* Dietel,

— *Popillia japonica* Newman,

— *Thecodiplosis japonensis* Uchida & Inouye,

— 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 record shall be made 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,

— in the case of grafting on a rootstock of a *Pinus* species other than *Pinus parviflora,* the rootstock material shall have derived from sources officially approved as healthy material,

— be potted, at least during the same period, in pots which are placed on shelves at least 20 cm 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 any treatment applied,

— under 'Additional Declaration', the statement 'This consignment meets the conditions laid down in Decision 89/380/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 of not less than three months of active growth 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,

(ii) 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 containing 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 State 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, 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 instance of implementation of this Decision.

Article 3

In the first sentence of Article 3 of Decision 83/355/EEC '31 December 1988' is hereby replaced by '31 March 1989'.

Article 4

The authorization granted in Article 1 shall expire on 31 December 1992. 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 5

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, 16 June 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission