II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 9 November 1989

approving derogations provided for by Greece, Italy and Portugal from certain provisions of Council Directive 77/93/EEC in respect of seed potatoes originating in Canada

(Only the Greek, Italian and Portuguese texts are authentic)

(89/599/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 89/439/EEC [2], and in particular Article 14 (2) and Annex IV, part A (24), thereof,

Whereas, pursuant to Directive 77/93/EEC, potato tubers originating in the American continent may not, in principle, be brought into the Community unless their faculty of germination has been suppressed, in view of the risk of the introduction of potato spindle tuber viroid, and unless — if they originate in a country where *Corynebacterium sepedonicum* is known to occur — provisions recognized as equivalent to the Community provisions on combating this harmful organism have been complied with in the country of origin;

Whereas, nevertheless, Article 14 (1) (c) (iii) of the abovementioned Directive permits Member States to provide for derogations with regard to the rule relating to the suppression of the faculty of germination, provided that there is no risk of harmful organisms spreading; whereas these derogations are subject to approval, under certain conditions, in accordance with Article 14 (2) and must also comply with the conditions laid down in Annex IV, part A (24);

Whereas in Greece, Italy and Portugal the growing of potatoes of certain North American varieties has been an established practice; whereas part of the supply of seed potatoes of these varieties has been ensured by imports from Canada;

Whereas, by Decisions 86/120/EEC [3], 87/154/EEC [4] as amended by Decision 87/311/EEC [5], 88/176/EEC [6] as amended by Decision 88/496/EEC [7], and 89/32/EEC [8], the Commission approved derogations based on the concept of 'areal freedom', subject to certain technical conditions to prevent the risk of harmful organisms spreading; whereas that approval expired on 31 March 1989; whereas the Commission also provided that those derogations would provide for the opportunity to seek confirmation of the proper functioning of the concept of 'areal freedom';

Whereas Greece, Italy and Portugal have stated that they intend to provide for derogations for the next two seed-potato marketing seasons;

(1) OJ No L 26, 31. 1. 1977, p. 20.
(2) OJ No L 212, 22. 7. 1989, p. 106.
(3) OJ No L 99, 15. 4. 1986, p. 31.
(4) OJ No L 65, 10. 3. 1987, p. 12.
(5) OJ No L 159, 19. 6. 1987, p. 19.
(6) OJ No L 80, 25. 3. 1988, p. 48.
(7) OJ No L 266, 27. 9. 1988, p. 39.
(8) OJ No L 15, 19. 1. 1989, p. 21.

Whereas it is known that Canada is still not free from potato spindle tuber viroid or from *Corynebacterium sepedonicum*;

Whereas Canada has further developed its programme to eradicate these harmful organisms in the provinces of New Brunswick and Prince Edward Island; whereas there are good reasons to believe that the programme to eradicate potato spindle tuber viroid has become fully effective in those provinces, and that the programme to eradicate *Corynebacterium sepedonicum* has become fully effective in certain areas of these provinces; whereas there have been no findings of the disease on samples drawn from seed potatoes imported pursuant to Decision 89/32/EEC; whereas it has not been established that there are sufficient elements which would militate against the proper functioning of the aforementioned concept of 'areal freedom' and therefore against the recognition of the provisions implemented there as equivalent to the Community provisions on combating *Corynebacterium sepedonicum*;

Whereas it can therefore be established that there is no risk of the harmful organisms in question spreading, provided that the seed potatoes originate in areas declared, on scientific evidence, free from both potato spindle tuber viroid and from *Corynebacterium sepedonicum*, and that certain improved special technical conditions are complied with; whereas the Commission will ensure that Canada makes all technical information available which is necessary to monitor the functioning of the protective measures required under the aforementioned technical conditions and to assess the functioning of the aforementioned concept of 'areal freedom';

Whereas, therefore, the derogations provided for by Greece, Italy and Portugal should be approved for the next two seed-potato marketing seasons, provided that they include the aforementioned conditions and without prejudice to Council Directive 66/403/EEC [1], as last amended by Directive 89/366/EEC [2], and to Council Directive 70/457/EEC [3], as last amended by Directive 88/380/EEC [4];

Whereas provisions should be made for this approval to be revoked if it is established that the specified conditions have not been met satisfactorily;

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. Approval is hereby granted, under the conditions laid down in paragraph 2, and without prejudice to Directives 66/403/EEC and 70/457/EEC, to Greece, Italy and Portugal to provide, in accordance with Article 14 (1) (c) (iii) of Directive 77/93/EEC, and in connection with the third indent of part A (24) of Annex IV thereto, for derogations from Article 5 (1) and the third indent of Article 12 (1) (a) of that Directive as regards the requirements referred to in part A (25) of Annex IV thereto, in respect of seed potatoes of the varieties Donna, Kennebec, Russet Burbank, Sebago and Shepody originating in Canada.

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

(a) the seed potatoes shall have been produced in fields located in areas of New Brunswick or Prince Edward Island which have been officially declared, by 'Agriculture Canada', free from both potato spindle tuber viroid and from *Corynebacterium sepedonicum* and which satisfy the following conditions, irrespective of whether the fields are operated by establishments inside or outside the area:

(i) the areas comprise:

— either fields owned by at least three distinct potato-growing establishments, whether or not these establishments operate rented land located outside,

— or, alternatively, a surface of at least four square kilometres,

and are surrounded entirely by water, or by land other than that of fields where the organisms concerned have occured within the previous three years; and

(ii) all potatoes produced in the area are the first direct progeny of seed potatoes of the category 'Pre-elite', 'Elite I', 'Elite II' or 'Elite III' which were produced in establishments qualified to produce seed potatoes of the 'Pre-elite' or 'Elite I' categories and which are either official establishments or officially designated and controlled for that purpose; and

(iii) the surface used for the production of potatoes which are not finally certified as seed potatoes does not exceed one-fifth of that used for the production of potatoes certified as seed potatoes; and

[1] OJ No 125, 11. 7. 1966, p. 2320/66.
[2] OJ No L 159, 10. 6. 1989, p. 59.
[3] OJ No L 225, 12. 10. 1970, p. 1.
[4] OJ No L 187, 16. 7. 1988, p. 31.

(iv) systematic and representative annual surveys which have been carried out over at least the previous five years under appropriate conditions for the detection of the organisms concerned, on all potato fields located in the area and on potatoes harvested there, including appropriate laboratory testing, did not show any positive finding, or any other element which could militate against the recognition as disease-free;

and

(v) legislative, administrative or other arrangements have been made to ensure that:

— no potatoes originating in areas of Canada other than those declared disease-free, or in countries where the organisms concerned are known to occur, can be introduced into such areas, and

— neither potatoes originating in such areas nor any containers, packaging material, vehicles and handling, grading and preparation equipment used there can be brought into contact with potatoes originating, or material or equipment as specified used, in areas other than those declared disease-free.

This provision shall also apply to cases where fields located inside the areas declared disease-free are operated by establishments outside such areas or where establishments inside such areas operate fields located outside them;

(b) the seed potatoes shall be certified officially as seed potatoes meeting at least the conditions laid down for the 'Foundation' category. However, no seed potatoes originating in the areas where, in 1985, the lots which showed infection by *Corynebacterium sepedonicum* on samples drawn in the Community were produced and the areas where the seed potatoes which produced these lots were produced shall be officially certified for export to the Community;

(c) samples shall be taken officially in respect of each lot intended for Greece, Italy and Portugal; a lot may consist only of tubers of one single variety which have been produced on one single establishment; the samples shall be examined by official laboratories in order to detect any presence of potato spindle tuber viroid or *Corynebacterium sepedonicum;* the samples for the detection of potato spindle tuber viroid shall be tubers, or leaves taken from the crop which produced the lot; for the detection of *Corynebacterium sepedonicum* two samples of tubers shall be taken per lot, each of which shall be approximately 1 % of the tubers in the lot, up to 1 000 tubers; examinations shall be carried out on the entire samples, using the following methods:

— as regards potato spindle tuber viroid: the 'reverse-page' method, or c-DNA hybridization procedure, and

— as regards *Corynebacterium sepedonicum:* at least that set out in the *Scheme for the detection and diagnosis of the ring rot bacterium in batches of potato tubers* (EUR 11288 EN) (ISBN 92-825-7760-0) or an equivalent IF method;

(d) the lots shall be kept separate in all operations including transport;

(e) the plant health certificate required shall be made out separately for each consignment and only if it has been established by the scientists involved that the examinations referred to in (c) did not give rise to suspicions or to the detection of the presence of potato spindle tuber viroid or *Corynebacterium sepedonicum* in the consignment and that in particular the IF-testing was shown to be negative. It shall state, under 'Additional Declaration', that the conditions laid down in (a), (b) and (c) have been complied with, and shall give the name of the establishment or establishments which have produced the seed potato lots and the relevant seed potato certification lot numbers, as well as the name of the area referred to in (a) and of the establishment referred to in (a) (ii);

(f) in Greece, Italy and Portugal a representative sample shall be taken officially from each of the lots imported pursuant to this Decision for official examination in respect of *Corynebacterium sepedonicum* in accordance with the Community established method for the detection and diagnosis of *Corynebacterium sepedonicum;* the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of *Corynebacterium sepedonicum* was not suspected or detected in those examinations; sub-samples shall be kept available for subsequent examination by other Member States, and the Greek, Italian and Portuguese authorities respectively shall by 15 April 1990 and again by 15 April 1991 inform the Commission, with a view to organizing that examination and the recording thereof; the total of lots imported shall not exceed an amount which is adequate for the abovementioned examinations, taking into account the facilities available for that purpose;

(g) potatoes grown from seed potatoes imported pursuant to this Decision shall not be certified as seed potatoes and shall be used only in Greece, Italy and Portugal, and only as potatoes for consumption;

(h) buildings, containers, packaging material, vehicles and handling, grading and preparation equipment which have been in contact with seed potatoes imported pursuant to this Decision shall be cleaned and disinfected before being brought into contact with other potatoes.

Article 2

Greece, Italy and Portugal shall provide the Commission and the other Member States, before 1 June 1990 and again before 1 June 1991, with information on the amounts imported pursuant to this Decision and with a detailed technical report on the official examination referred to in Article 1 (2) (e); copies of each plant health certificate shall be transmitted to the Commission.

Article 3

The approval granted in Article 1 shall apply from 1 November 1989 until 31 March 1990 and from 1 November 1990 until 31 March 1991. It shall be revoked prior to 31 March 1991 if it is found that the conditions laid down in Article 1 (2) have been insufficient to prevent the introduction of the harmful organisms in question or have not been complied with. It may be revoked prior to that date if it is found that there are elements which would militate against the proper functioning of the 'areal freedom' concept in Canada.

Article 4

This Decision is addressed to the Hellenic Republic, to the Italian Republic and to the Portuguese Republic.

Done at Brussels, 9 November 1989.

For the Commission

Ray MAC SHARRY

Member of the Commission