COMMISSION DECISION

of 29 December 1988

authorizing the Federal Republic of Germany to restrict the marketing of seed of certain varieties of agricultural plant species

(Only the German text is authentic)

(89/77/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Directive 70/457/EEC of 29 September 1970 on the common catalogue of varieties of agricultural plan species [1], as last amended by Directive 88/380/EEC [2], and in particular Article 15 (2) (3) and (7) thereof,

Having regard to the application lodged by the Federal Republic of Germany,

Whereas, pursuant to Article 15 (1) of Directive 70/457/EEC, seed or propagating material of varieties of agricultural plant species which have been officially accepted during 1986 in at least one of the Member States and which also meet the conditions laid down in Directive 70/457/EEC is, with effect from 31 December 1988, no longer subject to any marketing restrictions relating to the variety in the Community;

Whereas the same applies to seed of certain agricultural plant species which belongs to varieties officially accepted in Portugal before 1 January 1987, by virtue of Commission Decision 89/78/EEC of 29 December 1988 liberalizing trade in seeds of certain agricultural plant species between Portugal and other Member States [3];

Whereas, however, Article 15 (2) of Directive 70/457/EEC provides that, in the cases set out in Article 15 (3), a Member State may be authorized upon application to prohibit the marketing of seed and propagating material of certain varieties;

Whereas the Federal Republic of Germany has applied for such authorization for a certain number of varieties of different species, including some of the varieties officially accepted in Portugal referred to above;

Whereas the varieties Ellire (Italian ryegrass) and Aurora (perennial ryegrass) have been the subject of official trials in Germany;

Whereas, in respect of the variety Ellire, the results of the trials show that in the Federal Republic of Germany, when compared with the national rules governing the acceptance of varieties there, which apply within the framework of current Community provisions, it is not distinct from another variety accepted there (Article 15 (3) (a), first case, of Directive 70/457/EEC);

Whereas the examination of this case has led to some doubts concerning the appraisal of its distinctness in the Member State of acceptance, in the terms of Article 12a (1) of Directive 70/457/EEC; whereas these doubts need to be clarified;

Whereas the application in respect of the variety Aurora is now being carefully examined by the Commission;

Whereas it is impossible to complete the clarification and examination before the time limit specified in Article 15 (1) of Directive 70/457/EEC;

Whereas the time limit in question should therefore, where the Federal Republic of Germany is concerned, be extended for an appropriate period in order to allow complete clarification and examination in respect of these two varieties (Article 15 (7) of Directive 70/457/EEC);

Whereas the variety of oats concerned is of the winter type; whereas the varieties of maize concerned have a Food and Agriculture Organization (FAO) maturity class index over 350; whereas it is well known that the varieties of winter oats and varieties of maize which have an FAO maturity class over 350 are at present unsuitable for cultivation in the Federal Republic of Germany (Article 15 (3) (c), second case, of Directive 70/457/EEC);

Whereas, therefore, the application of the Federal Republic of Germany in respect of these varieties should be granted in full;

Whereas the measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Seed and Propagating Material for Agriculture, Horticulture and Forestry,

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[1] OJ No L 225, 12. 10. 1970, p. 1.
[2] OJ No L 187, 16. 7. 1988, p. 31.
[3] See page 75 of this Official Journal.

HAS ADOPTED THIS DECISION:

Article 1

The Federal Republic of Germany is hereby authorized to prohibit the marketing in its territory of seed of the following varieties listed in the 1989 Common Catalogue of Varieties of Agricultural Plant Species:

Cereals

1. *Avena sativa* L.
   Kynon

2. *Zea mays* L.
   Adour 590
   Adour 650
   AE 664
   Agus
   Agus LG 26-61
   Airone
   Alba
   Alceo
   Alezan 4006
   Alispot
   Ambo
   Ambra
   Appio
   Ascot
   Attila
   Bionica
   CA-867
   CA-949
   Capital
   Cargisun
   Carla
   Chicago
   Claudio
   Country
   Cres
   Dayton
   Dekalb XL 351
   Derek
   Diana
   DK 250
   DK 524
   DK 528
   Dorothy
   Egeo (Wx)
   Ennio
   Estrela
   Ettore
   Explorer G-4621
   Freedom
   Frida (Wx)
   Fucedro G-4630
   Funk's G 4449
   G 4673
   G 4733
   G 4740 A
   Granja
   Help
   Indianapolis
   Jaguar
   Kathy
   Lambro
   Las Vegas
   LG 60
   LG 61
   LG 2771
   Liberty
   Lico
   Loges
   Manlio
   Menfi
   Michelangelo
   Mikado
   Model
   Monteverde
   Morfeo (Wx)
   NC 6190
   Neva
   New Orleans
   Nisida
   Nobel
   Noce
   Nova 2000
   PGI-949
   Primo
   Prisama G-4730
   PX 610
   Quetzal
   Remo
   Rocker G-4686
   Ronodur
   Ronolac
   RX 9581
   Sagittario
   SNH-731
   SNH-741
   Sparta
   Spazio
   Steve
   Tartaro
   Tchalco
   Tebe
   Tender
   Tirso
   Tohum
   Tony
   Urano
   Valbom
   Valeria
   Valeria PR-3540
   Velox G-4579
   Verax G-4754
   Volga PR-3475

Article 2

The authorization given in Article 1 shall be withdrawn as soon as it is established that the conditions thereof are no longer satisfied.

Article 3

The Federal Republic of Germany shall notify the Commission and the other Member States of the date from which it makes use of the authorization under Article 1 and the detailed methods to be followed.

Article 4

The time limit specified in Article 15 (1) of Directive 70/457/EEC is, where the Federal Republic of Germany is concerned, extended from 31 December 1988 to 31 March 1989 in respect of the following varieties :

Fodder plants
Lolium multiflorum Lam.
Ellire

Lolium perenne L.
Aurora

Article 5

This Decision is addressed to the Federal Republic of Germany.

Done at Brussels, 29 December 1988.

For the Commission
Frans ANDRIESSEN
Vice-President