COMMISSION DECISION

of 17 January 1990

authorizing Member States temporarily to take additional measures against the dissemination of *Corynebacterium sepedonicum* as regards the Federal Republic of Germany and repealing Decision 88/127/EEC

(90/53/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 15 (2) thereof,

Having regard to Council Directive 80/665/EEC of 24 June 1980 on the control of potato ring rot [3], and in particular Article 9 (2) thereof,

Whereas, where a Member State considers that there is an imminent danger of the introduction into its territory of potato ring rot from another Member State, it may temporarily take any additional measures necessary to protect itself from that danger;

Whereas a Member State may also take such measures where another Member State informs it of confirmed contamination by potato ring rot;

Whereas the Federal Republic of Germany informed the other Member States and the Commission on 13 September 1985 that samples of potatoes originating in Niedersachsen were suspected to be contaminated by potato ring rot; whereas complementary reports supplied by Germany indicated that five samples of the 1986 potato production of that Land showed a confirmed contamination by potato ring rot;

Whereas Belgium, France, Ireland, Luxembourg, the Netherlands and the United Kingdom, on the basis of the abovementioned information from Germany, had adopted certain additional measures applicable to potatoes originating in Germany, with a view to strengthening protection against the introduction of potato ring rot from Germany;

Whereas the Commission, by Decision 88/127/EEC [4], authorized the aforementioned Member States to take temporarily certain additional measures described therein;

Whereas Germany informed the other Member States and the Commission that new samples of the 1988 potato production of Niedersachsen und Schleswig-Holstein showed a confirmed contamination by potato ring rot, including those of a consignment introduced into another Member State;

Whereas it has not yet been possible to identify the source of contamination nor to determine the extent thereof in the Länder concerned;

Whereas in that situation Decision 88/127/EEC should be repealed and the necessary measures should be adopted;

Whereas these measures have to take into account the production and distribution structures in Germany, as well as the reduced risk involved in potatoes for which it is ensured that they are not planted and that they do not come directly or indirectly into contact with potatoes to be planted; whereas hitherto no findings of potato ring rot have been confirmed in other Länder of Germany; whereas the measures would be without prejudice to the phytosanitary inspections which may be carried out by the introducing Member States under the Community plant health regime;

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. The Federal Republic of Germany shall ensure, until 30 June 1991, that the conditions laid down in paragraph 2 are met, in addition to those laid down in Directive 80/665/EEC and in particular Articles 2, 5 (4) and (5) thereof, if tubers of potatoes (*Solanum tuberosum* L.) originating in the Federal Republic of Germany are to be introduced into other Member States.

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

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 212, 22. 7. 1989, p. 106.
[3] OJ No L 180, 14. 7. 1980, p. 30.
[4] OJ No L 63, 9. 3. 1988, p. 13.

(a) The tubers :

(aa) in the case of seed potatoes originating in Niedersachsen and Schleswig-Holstein :

— shall have derived in direct line from officially approved disease-free tubers obtained under an appropriate programme, and

— shall not have been in contact with potatoes otherwise derived, or with fields, or, unless disinfected, with stores or machinery which have been in contact with such potatoes since 1986, and

— shall not have derived from material of any stage subsequent to the aforementioned disease-free tubers that has failed to meet the requirements specified in the previous indent inthe relevant year,

— shall have been produced on premises where no potatoes other than seed potatoes have been produced since 1989,

— shall have been subjected to official or officially supervised independent testing in accordance with the Community established method for the detection and diagnosis of *Corynebacterium sepedonicum*, on a sample of at least 200 tubers per 25 tonnes or less drawn officially per grower from each lot before any possible blending with tubers from other growers and removal from the premises of the grower or the packing station and preferably before cleaning and packing, and shall have been found free, in this testing, from potato ring rot, and

— shall have been officially marked with an official bag identification mark ;

(bb) in the case of seed potatoes originating in Länder other than those refered to in (aa) :

— shall not have derived from, nor been in contact with potatoes originating in the Länder referred to in (aa) or with fields, or, unless desinfected with stores or machinery which have been in contact with potatoes originating in those Länder since 1986, or

— shall have been subjected to official or officially supervised independent testing as described in (aa), and shall have been found free, in this testing, from potato ring rot ;

(cc) in the case of ware potatoes for consumption :

— shall be packed in closed packages that are ready for direct delivery to retailers or to final consumers, and that do not exceed a weight common in the Member State of destination for that purpose, up to a maximum of 25 kilograms, and

— shall be intended for such direct delivery, and

— if they originate in the Länder referred to in (aa) or if it cannot be established that they either have not derived from, or have not been in contact with potatoes originating in those Länder shall have derived directly from material which has been subjected to official or officially supervised independent testing in accordance with the Community established method for the detection and diagnosis of *Corynebacterium sepedonicum*, on a sample officially drawn of at least 200 tubers per lot of 25 tonnes or less, and which has been found free in this testing from potato ring rot and shall have been subjected themselves to such a testing and found free in this testing, from potato ring rot, and

— in all other cases, shall have been produced and stored in a zone in which samples officially drawn at random have been subjected to such testing and found free, in this testing, from potato ring rot ;

(dd) in the case of ware potatoes for industrial processing :

— belong to varieties suitable for that purpose, and

— shall be intended for direct and immediate delivery to a processing plant with officially approved facilities for waste disposal.

(b) The phytosanitary certificate required under Directive 77/93/EEC, shall indicate, under the headings :

— 'Additional Declaration' :

'Compliance with provisions according to Article 1 (2) of Commission Decision 90/53/EEC assured', completed by the precise reference to the appropriate cases, as well as the name of the variety and the Land of production ; in the case of testing of samples drawn from lots intended to be introduced into the other Member States concerned, the reference number of the sample and the station where the testing was carried out shall also be indicated,

— 'Distinguishing marks' ;

'Number of the consignment and the related official bag identification mark'.

(c) If the organization responsible in the Land of production for the issuing of the phytosanitary certificate is officially informed of any further circumstances constituting a serious reason to believe that the available guarantees have not been, or are no longer sufficient to prevent the risk referred to in this Decision, that organization shall withhold or withdraw the certificate or certificates until such time as the matter has been fully investigated, and Germany shall inform the Commission thereof.

3. The Member States of destination :

— shall subject consignments from Germany to official monitoring to ensure that the packages are not opened before the intended delivery and that the tubers until final delivery will not be in contact with fields, potato stores or any machinery for handling of locally grown potatoes, and, in the case of ware potatoes for industrial processing, to official monitoring to ensure direct and immediate delivery to the intended processing plant ;

— may subject such consignments to a testing as described in paragraph 2 (a) (aa), fifth indent ;

— shall notify the other Member States and the Commission of the type of facilities officially approved for the purposes of the second indent of paragraph 2 (a) (dd).

4. Further appropriate steps may be taken to carry out official monitoring to ensure that the conditions laid down in paragraph 2 are met.

Article 2

The Member States shall adjust the measures, which they adopted with a view to protecting themselves against the introduction or the spread of *Corynebacterium sepedonicum,* in such a manner that they comply with Article 1.

Article 3

This Decision shall be repealed or amended if and when a case of potato ring rot is detected on potatoes originating in Germany either in surveys carried out in Länder other than Niedersachsen and Schleswig-Holstein pursuant to Directive 80/665/EEC or on potatoes introduced into other Member States pursuant to this Decision.

Article 4

Decision 88/127/EEC is hereby repealed.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 17 January 1990.

For the Commission

Ray MAC SHARRY

Member of the Commission