II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 2 May 1991

authorizing Germany to provide for exceptions from certain provisions of Council Directive 77/93/EEC, in respect of growing medium originating in the Soviet Union

(Only the German text is authentic)

(91/278/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 Commission Directive 91/27/EEC [2], and in particular Article 14 (3) thereof,

Having regard to the request made by Germany,

Whereas, under the provisions of Directive 77/93/EEC, growing medium as such, as defined in Annex V, item 5 (a) thereof, may not in principle be introduced into the Community, because of the risk of introducing soil-borne harmful organisms, if it originates in the Soviet Union ;

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

Whereas in certain cases it may be desirable for certain growing medium to be introduced from the Soviet Union for the purpose of use in horticulture and agriculture ;

Whereas the introduction of such potentially dangerous material should only be permitted provided that certain conditions are complied with ;

Whereas Germany should be authorized to provide for exceptions in respect of the introduction of growing medium under specified conditions ;

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. Germany is hereby authorized to provide, under the conditions laid down in paragraph 2, for exceptions, for the purpose of use in horticulture and agriculture, from Article 4 (1) of Directive 77/93/EEC with regard to the prohibition on the introduction of growing medium referred to in Part A, item 12 to Annex III thereto.

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

(a) the growing medium shall originate in the area of Leningrad ;

(b) the growing medium shall be made or composted coniferous bark ;

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 16, 22. 1. 1991, p. 29.

(c) the growing medium shall be stored in heaps of appropriate size to ensure proper fumigation, on hard standing in the open and subsequently, within two weeks prior to dispatch and under a gas-proof cover, undergo fumigation with methylbromide which is carried out at a minimum rate of 32 g/m³ of total volume throughout a period of at least 72 hours at an initial temperature of + 10 °C. It may be decided, on the basis of scientific evidence and in accordance with the procedure laid down in Article 16a of Directive 77/93/EEC, that other schedules shall or may be used;

(d) the fumigation procedures as described in (c) shall be carried out by officially-licensed fumigation operatives using proper fumigation facilities and qualified staff to requisite standards. The operative shall be informed of the details of the procedure required for growing medium fumigation;

(e) the individual fumigation procedure shall systematically be supervised at the fumigation site directly by officials of the official plant protection organization of the Soviet Union in such a way as to guarantee compliance with the requirements laid down in (c) and (d);

(f) following an appropriate period of aeration after fumigation, the growing medium shall be consigned in bags or other containers which have been closed, sealed and labelled with the indication 'fumigated' under the supervision of the official plant protection organization of the Soviet Union;

(g) the growing medium shall be accompanied by an official phytosanitary certificate issued by the official plant protection organization of the Soviet Union after finalization of fumigation, closing and sealing;

(h) without prejudice to the information required under the section relating to disinfection and/or disinfection treatment, the certificate shall indicate under the section 'additional declaration':

— 'It is hereby certified that the growing medium shipped under this certificate has been fumigated by ..... (licensed fumigation operative) ..... at ..... (fumigation site) ..... in accordance with Commission Decision 91/278/EEC.'

— the name of the area referred to in (a);

(i) Germany shall draw representative samples from each consignment for official examination in respect of the presence of harmful organisms and the effectiveness of fumigation.

Article 2

Without prejudice to Article 14 (5) of Directive 77/93/EEC, Germany shall notify the Commission and the other Member States of all cases of consignments introduced pursuant to this Decision which do not comply with the conditions laid down under Article 1 (2) (g) and (h), as soon as a third such consignment has been intercepted.

Germany shall also provide the Commission and the other Member States, before 1 May 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) (i).

Article 3

The authorization granted in Article 1 shall expire on 1 July 1992. It shall be revoked in so far as 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 Federal Republic of Germany.

Done at Brussels, 2 May 1991.

For the Commission

Ray MAC SHARRY

Member of the Commission