COMMISSION DECISION

of 16 December 1992

amending Commssion Decision 89/599/EEC 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)

(93/33/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 Community of organisms harmful to plants or plant products and against their spread within the Community [1], as last amended by Commission Directive 92/103/EEC [2], and in particular Article 14 (2) 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], 89/32/EEC [8] and 89/599/EEC [9], as last amended by Decision 92/468/EEC [10], the Commission approved derogations based on the concept of 'area freedom', subject to certain technical conditions to prevent the risk of harmful organisms spreading; whereas that approval expired on 31 December 1992; whereas the Commission also provided that those derogations would provide for the opportunity to seek confirmation of the proper functioning of the concept of 'area freedom';

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

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 these 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 91/592/EEC; whereas it has not been established that there are sufficient elements which would militate against the proper functioning of the aforementioned concept of 'area 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

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 363, 11. 12. 1992, p. 1.
[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.
[9] OJ No L 344, 25. 11. 1989, p. 31.
[10] OJ No L 264, 10. 9. 1992, p. 25.

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 'area freedom' ;

Whereas, therefore, the derogations provided for by Greece, Italy and Portugal should be approved for the next seed-potato marketing season, provided that they include the aforementioned conditions and without prejudice to Council Directive 66/403/EEC [1], as last amended by Directive 92/17/EEC [2], and to Directive 70/457/EEC [3], as last amended by Directive 90/654/EEC [4] ;

Whereas the conditions laid down in the said Annex IV, part A point 24 have been subjected to a review taking into account a pest risk assessment to adapt the relevant Annex entry to the single market concept ;

Whereas that pest risk assessment has been the basis for an amendment and revision of the relevant Annex IV to the said Directive ;

Whereas, however, according to the provisions of Council Directive 91/683/EEC [5] Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with Directive 91/683/EEC six months after the revisions of Annexes I to V to Directive 77/93/EEC ;

Whereas it appears that the revision has been delayed ;

Whereas the authorization is applicable without prejudice to the abolition of the intra-Community border controls from 1 January 1993 ;

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

Decision 89/599/EEC is hereby amended as follows :

1. in Article 1 (2) (f), '15 January 1993' is replaced by '15 April 1993' ;
2. in Article 2, '1 March 1993' is replaced by '1 June 1993' ;
3. in Article 3, '1 November 1992 until 31 December 1992' is replaced by '31 March 1993' ;
4. in Article 3, '31 December 1992' is replaced by '31 March 1993'.

Article 2

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

Done at Brussels, 16 December 1992.

For the Commission
Ray MAC SHARRY
Member of the Commission

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[1] OJ No 125, 11. 7. 1966, p. 2360/66.
[2] OJ No L 82, 27. 3. 1992, p. 69.
[3] OJ No L 225, 12. 10. 1970, p. 1.
[4] OJ No L 353, 17. 12. 1990, p. 48.
[5] OJ No L 376, 31. 12. 1991, p. 29.