COMMISSION DECISION

of 27 January 1995

amending Decision 93/680/EC authorizing Greece, Spain, Italy and Portugal to provide for derogations from Council Directive 77/93/EEC in respect of seed potatoes originating in Canada

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

(95/14/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European 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 Directive 94/13/EC [2], and in particular Article 14 (1) thereof,

Having regard to the requests made by Greece, Italy and Portugal,

Whereas, pursuant to the provisions of Directive 77/93/EEC, seed potato tubers originating in the American continent may not, in principle, be introduced into the Community;

Whereas, however, Directive 77/93/EEC, permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms;

Whereas in Greece, Italy and Portugal the planting and growing of seed potatoes of certain North American varieties for ware potato production 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 Decision 93/680/EC [3] the Commission approved a derogation 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 March 1994; whereas the Commission also provided that this derogation would provide for the opportunity to seek confirmation of the proper functioning of the concept of 'area freedom';

Whereas information supplied by Canada and collected in that country during a mission carried out in 1994, has shown that 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 *Clavibacter michiganensis* ssp. *sepedonicus* has become fully effective in certain areas of these provinces; whereas there have been no confirmed findings of the disease on samples drawn from seed potatoes introduced pursuant to Decision 93/680/EC; whereas it has not been established that there are sufficient elements which would militate against the proper functioning of the aforementoned concept of 'area freedom' and therefore against the recognition of the provisions implemented there as equivalent to the Community provisions on combating *Clavibacter michiganensis* ssp. *sepedonicus*;

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 *Clavibacter michiganensis* ssp. *sepedonicus* and that certain improved special technical conditions are complied with;

Whereas, therefore, derogations should be authorized for the next seed-potato marketing season, provided that they include the aforementioned conditions and without prejudice to Council Directive 66/403/EEC [4], as last amended by Commission Directive 93/108/EC [5], and to Council Directive 70/457/EEC [6], as last amended by Directive 90/654/EEC [7];

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 93/680/EC is hereby amended as follows:

1. Article 1 (2) (c) is replaced by the following:

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 92, 9. 4. 1994, p. 27.
[3] OJ No L 317, 18. 12. 1993, p. 75.
[4] OJ No 125, 11. 7. 1966, p. 2320/66.
[5] OJ No L 319, 21. 12. 1993, p. 39.
[6] OJ No L 225, 12. 10. 1970, p. 1.
[7] OJ No L 353, 17. 12. 1990, p. 48.

'(c) samples shall be taken officially in respect of each lot intended for export to the Community; a lot may consist only of tubers of one single variety and class which have been produced on one single farm and with the same reference number. The samples shall be examined by official laboratories in order to detect any presence of potato spindle tuber viroid or *Clavibacter michiganensis* ssp. *sepedonicus*; the samples for the detection of potato spindle tuber viroid shall be tubers, or leaves taken from the crop or crops which produced the lot; for the detection of *Clavibacter michiganensis* ssp. *sepedonicus* a sample of at least 200 tubers per 25 tonnes or less of the lot shall be taken; examinations shall be carried out on each entire sample, using the following methods:

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

and

— as regards *Clavibacter michiganensis* ssp. *sepedonicus:* at least that set out in the scheme for the detection and diagnosis of the ring rot bacterium in batches of potato tubers as laid down in Council Directive 93/85/EEC (*).

(*) OJ No L 259, 18. 10. 1993, p. 1.';

2. in Article 1 (2) (e), the following shall be added: 'Documents attached to the said plant health certificate as an integral part of the certificate shall relate precisely to that certificate in both description and quantity of commodity.';

3. in Article 1 (2) (f) 'Patras' is inserted in the list of ports of unloading after 'Oporto';

4. Article 1 (2) (h) is replaced by the following:

'(h) the responsible official bodies of the importing Member States shall take a representative sample from each of the non-bulk lots intended to be imported or imported pursuant to this Decision for official examination in respect of *Clavibacter michiganensis* ssp. *sepedonicus* in accordance with the Community established method for the detection and diagnosis of *Clavibacter michiganensis* ssp. *sepedonicus;* the lots shall remain seperate under official control and may not be marketed or used until it has been established that the presence of *Clavibacter michiganensis* ssp. *sepedonicus* was not suspected or detected in those examinations; sub-samples shall be kept available for subsequent examination by other Member States, and the responsible official bodies referred to in Directive 77/93/EEC of the importing Member State shall by 15 May 1995 inform the Commission, with a view to organizing that examination and the recording thereof, the total lots imported shall not exceed an amount which is adequate for the abovementioned examinations, taking into account the facilities available for that purpose.';

5. in Article 1 (2) (i), the fourth indent is altered as follows:

'— the premises of the importers of the potatoes, and those listed in accordance with the provisions of Commission Directive 93/50/EEC (**).

(**) OJ No L 205, 17. 8. 1993, p. 22.';

6. Article 1 (2) (j) is replaced by the following:

'(j) the potatoes shall be planted only at premises for which it is possible to trace the names and addresses.';

7. in Article 1 (2) (k), the following shall be added:

'this provision shall not apply in the case of final users planting the imported seed potatoes.';

8. Article 1 (2) (l) is replaced by the following:

'(l) in the growing period following introduction, a suitable proportion of the plants shall be inspected by the said responsible official bodies, at appropriate times, at the premises listed in accordance with the provisions of Directive 93/50/EEC or referred to in (j).';

9. Article 1 (2) (m) is replaced by the following:

'(m) potatoes grown from seed potatoes introduced pursuant to this Decision shall not be certified as seed potatoes, and shall be used only as potatoes for consumption and only by the Member States making use of the authorization referred to in paragraph 1.

The packaging shall be labelled accordingly and shall bear the number of the premises listed in accordance with the provisions of Directive 93/50/EEC, as well as the Canadian origin of the seed potatoes used.

Such potatoes may be moved within those Member States making use of the authorization referred to in paragraph 1, only after approval by the said responsible official bodies taking into account the results of the inspection referred to in (l).';

10. in Article 3, '1 December 1993 until 31 March 1994' is replaced by '15 January 1995 until 30 April 1995' and '31 March 1994' is replaced by '30 April 1995'.

Article 2

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

Done at Brussels, 27 January 1995.

For the Commission

Franz FISCHLER

Member of the Commission