II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 24 November 1995

authorizing Member States temporarily to take additional measures against the dissemination of *Pseudomonas solanacearum* (Smith) Smith as regards the Kingdom of the Netherlands

(95/506/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 95/41/EC [2], and in particular Article 15 (3) thereof,

Whereas, where a Member State considers that there is an imminent danger of the introduction into its territory of *Pseudomonas solanacearum* (Smith) Smith, the cause of potato brown rot, from another Member State, it may temporarily take any additional measures necessary to protect itself from that danger;

Whereas the Kingdom of the Netherlands informed the other Member States and the Commission on 3 October 1995 that some samples of potatoes originating in that country were identified as infected by *Pseudomonas solanacearum*; whereas complementary reports supplied by the Netherlands indicated that more samples of the 1995 potato production showed infection by *Pseudomonas solanacearum*;

Whereas Sweden, Italy and Denmark, on the basis of the abovementioned information from the Netherlands, had adopted on 27 October 1995, 6 November 1995 and 3 November 1995, respectively, certain additional measures applicable to potatoes originating in the Netherlands, with a view to strengthening protection against the introduction of *Pseudomonas solanacearum* from the Netherlands;

Whereas Greece, Portugal, Finland and France have confirmed the intention to adopt similar additional measures applicable to potatoes originating in the Netherlands;

Whereas these additional measures include special testing requirements;

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 182, 2. 8. 1995, p. 17.

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

Whereas it is therefore justified for the Member States to adopt additional measures to protect themselves against that danger;

Whereas additional measures have to take into account the production and distribution structures in the Netherlands, 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 the additional measures adopted or about to be adopted by the abovementioned Member States should be brought into line with Community safeguard measures at least in respect of the main types of potato commodities such as seed potatoes, ware potatoes for consumption and potatoes for industrial processing;

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 Kingdom of the Netherlands shall ensure for potatoes of the 1995 crop, until 30 June 1996 for seed potatoes and until 30 September 1996 for other potatoes, that the conditions laid down in paragraph 2 are met, in addition to those laid down in Directive 77/93/EEC and in particular Annex IV, part A, Section II, points 19.1 and 19.5 thereof, if tubers of potatoes (*Solanum tuberosum* L.) originating in the Netherlands are to be moved into other Member States and within the Netherlands.

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

(a) The tubers:

(aa) in the case of seed potatoes originating in areas where *Pseudomonas solanacearum* is known to occur,

(aaa) grown on places of production confirmed to be infested by *Pseudomonas solanacearum* using the testing and sampling procedure referred to in (bb), shall not be used as seed potatoes and shall, under the control of the responsible official body referred to in Directive 77/93/EEC, when belonging to:

— infected lots and all other lots from the same field: be destroyed in the Netherlands, by incineration, by appropriate deep burial or by industrial processing at a processing premises with officially approved facilities for waste disposal, such that the risk of spreading *Pseudomonas solanacearum* is obviated,

— all other lots: be destroyed or otherwise disposed of within the Netherlands in such a way that it is established that there is no identifiable risk of *Pseudomonas solanacearum* spreading;

(aab) grown on places of production included in the official investigation carried out in the Netherlands in order to determine the extent of the infection by *Pseudomonas solanacearum*, shall be placed under the control of the responsible official body such that the said body shall subject the tubers to the testing and sampling procedure referred to in (bb), and when belonging to:

— lots for which infection is confirmed, these lots as well as all other tubers, grown on the relevant place of production shall be treated as laid down in (aaa) first and second indents,

— lots grown in places of production covered by (aab), other than those referred to in the first indent and tested negative for *Pseudomonas solanacearum* and for which it can be officially established that there has been no clonal or contact relationship with any potatoes found to be infected by *Pseudomonas solanacearum* or for which there has been irrigation with water from any source used in common with places of production confirmed or suspected to be infested with *Pseudomonas solanacearum*, may be used as seed potatoes,

— lots other than those referred to in (aab) first and second indents shall be destroyed or otherwise disposed of as referred to in (aaa), second indent;

(bb) in the case of seed potatoes originating in areas other than those referred to in (aa) or grown in places of production not covered by (aaa) and (aab), shall have been subjected prior to the issuing of the required plant passport to official or unofficial supervised testing in accordance with quarantine procedure No 26 for *Pseudomonas solanacearum* as established by the European and Mediterranean Plant Protection Organization (EPPO) [1] or by some other procedure approved in accordance with the procedure laid down in Article 16a of Directive 77/93/EEC on a representative sample of at least 200 tubers per lot and per 25 tonnes or less drawn officially, and shall have been found free, in this testing, from *Pseudomonas solanacearum*;

(cc) in the case of ware potatoes for consumption and potatoes for fodder originating in areas where *Pseudomonas solanacearum* is known to occur,

(cca) grown on places of production confirmed to be infested by *Pseudomonas solanacearum* using the testing and sampling procedure referred to in (bb), shall be placed under the control of the responsible official body such that the said trody shall subject the tubers to the testing and sampling procedure referred to in (bb), and when belonging to:

— infected lots and all other lots from the same field, shall be destroyed, as referred to in (aaa), first indent;

— other lots, shall be destroyed or otherwise disposed of as referred to in (aaa), second indent;

(ccb) grown on places of production included in the investigation as referred to in (aab), shall be placed under the control of the responsible official body such that the said body shall subject the tubers to the testing and sampling procedure referred to in (bb) and when belonging to

— lots for which infection is confirmed, these lots as well as all other tubers grown on the relevant place of production shall be treated as laid down in (aaa) first and second indents,

— lots grown in places of production covered by (ccb), other than those referred to in the first indent and tested negative for *Pseudomonas solanacearum* and for which it can be officially established that there has been no clonal or contact relationship with any potatoes found to be infected by *Pseudomonas solanacearum* or for which there has been

[1] Bulletin EPPO/OEPP 20, 255-262 (1990).

irrigation with water from any source used in common with places of production confirmed or suspected to be infested by *Pseudomonas solanacearum* shall be accompanied, when moved from the places of production, by a document stating that the tubers belonging to the lot, have been tested and found free from *Pseudomonas solanacearum*,

— lots other than those referred to in (ccb) first and second indents shall be destroved or otherwise disposed of as referred to in (aaa), second indent;

(dd) in the case of ware potatoes for consumption and potatoes for fodder originating in areas other than those referred to in (cc), shall be monitored during grading at packing stations or before delivery to the final consumer in the case of potatoes for fodder, by means of cutting and inspecting of waste tubers, and testing of suspicious tubers for the presence of *Pseudomonas solanacearum* in accordance with the provisions referred to in (bb);

(ee) in the case of potatoes for industrial processing originating in areas where *Pseudomonas solanacearum* is known to occur, grown on places of production confirmed to be infested by *Pseudomonas solanacearum* using the testing and sampling procedure referred to in (bb) or on places of poduction included in the investigation as referred to in (aab), shall be subjected to the testing as referred to in (bb) and;

— if found free from *Pseudomonas solanacearum* in this test, shall be intended for direct and immediate delivery to a processing plant with officially approved facilities for waste disposal. When these facilities are situated in a Member State other than the Netherlands, prior to the delivery referred to above, there shall be appropriate communication between the responsible official bodies concerned to ensure a proper approval of the facilities concerned and proper monitoring as referred to in Article 1.3, first indent,

— if found infected, be destroyed, as referred to in (aaa), first indent;

(ff) in the case of potatoes for industrial processing originating in areas other than those referred to in (ee) shall be monitored, inspected and tested, where appropriate, before delivery to a processing plant;

(b) the selection of the places of production to be included in the investigation referred to in (a) shall be made according to the following criteria:

— growing or have grown, potatoes which are clonally related to potatoes found to be infected with *Pseudomonas solanacearum*,

— growing or have grown, potatoes which have been placed under official control because of the suspected occurrence of *Pseudomonas solanacearum*,

— growing or have grown, potatoes which are clonally related to potatoes that have been grown on places of production suspected to be infested with *Pseudomonas solanacearum*,

— location in the neighbourhood of infested places of production, including places of production sharing production equipment and facilities directly or through a common contractor,

— places of production using irrigation water from any souce used in common with places of production confirmed or suspected to be infested with *Pseudomonas solanacearum*;

(c) without prejudice to the reporting requirements under Article 15 of Directive 77/93/EEC, the Netherlands shall notify to the Commission and to the other Member States, full details of:

— the places of production confirmed to be infested as referred to under (a), as soon as infestation is confirmed,

— the delimitation of the area infested with *Pseudomonas solanacearum*, on completion of the investigation referred to in (b), and without prejudice to the results of the survey established under Article 3.

Article 2

The Member States of destination:

— shall subject consignments of potatoes for industrial processing from the Netherlands to official monitoring to ensure direct and immediate delivery to the intended processing plant;

— shall notify to the other Member States and the Commission the type of facilities officially approved for the purposes of the first indents of Article 1 (2) (a) (aaa), (aab) and (ee);

— may subject consignments of potatoes from the Netherlands to testing as described in Article 1 (2) (a) (bb);

— may take further appropriate steps to carry out official monitoring in respect of potatoes originating in the Netherlands and moved into their territory.

Article 3

1. Member States shall conduct official surveys for *Pseudomonas solanacearum* on tubers of potatoes, originating in their country, for the confirmation of absence of *Pseudomonas solanacearum*, using the testing and sampling method referred to in Article 1 (2) (a) (bb).

The survey conducted by the Netherlands in accordance with paragraph 1 first sentence shall be monitored by the experts referred to in Article 19 (a) of Directive 77/93/EEC under the procedure laid down therein. By 1 January 1996 a first report of the results of the survey conducted in the Netherlands and of the said monitoring shall be submitted to the other Member States and to the Commission.

The results of the surveys provided for in paragraph 1 first sentence shall be notified to the other Member States and to the Commission by 1 May 1996.

2. For the survey referred to in paragraph 1, Member States shall, where appropriate, take into account the relevant information which will be submitted to them by the Netherlands, in accordance with the provision laid down in paragraph 3.

3. For the purpose of paragraph 2, the Netherlands shall submit by 15 December 1995 to the other Member States and to the Commission information on seed potatoes grown in the Netherlands from the 1994 and 1995 crop and moved into the relevant Member State, indicating the plant passport number, the variety, the quantity as well as the name and address of the consignee. These provisions are without prejudice, in respect of personal data, to Community and national legislation on the protection of individuals with regard to the processing and free movement of personal data.

Article 4

The Member States shall adjust the measure which they have adopted with a view to protecting themselves against the introduction and the spread of *Pseudomonas solanacearum*, in such a manner that the measures comply with Articles 1 and 2.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 24 November 1995.

For the Commission

Franz FISCHLER

Member of the Commission