II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 14 December 1995

authorizing certain Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of seed potatoes originating in Canada

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

(96/6/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 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 Commission Decision 93/680/EC [3], as last amended by Decision 95/14/EC [4], 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 30 April 1995; 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 it is known that Canada is still not completely free from potato spindle tuber viroid or from *Clavibacter michiganensis* ssp. *sepedonicus*;

Whereas information supplied by Canada and collected in that country during missions carried out in 1994 and 1995, 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 largely 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 Decisions

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 182, 2. 8. 1995, p. 17.
[3] OJ No L 317, 18. 12. 1993, p. 75.
[4] OJ No L 21, 28. 1. 1995, p. 18.

93/680/EC and 95/14/EC; 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 *Clavibacter michiganensis* ssp. *sepedonicus*;

Whereas, however, as a result of inspections carried out in 1995 by the Community Veterinary and Plant Health Inspection Office in the importing Member States, it became apparent that certain technical conditions should be modified to improve the trace back system of the imported lots;

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 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, the risk of establishing and spreading *Clavibacter michiganensis* ssp. *sepedonicus* is high in wet and cold regions; consequently the derogation should not apply to Member States which are particularly exposed to such risks, i.e. Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Luxembourg, the Netherlands, Sweden and the United Kingdom; whereas, therefore, the authorization should not apply to the abovementioned Member States, taking into account the differences in agricultural and ecological conditions;

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 [1], as last amended by Directive 95/65/EC [2], and to Council Directive 70/457/EEC [3], as last amended by the Act of Accession of Austria, Finland and Sweden;

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. Greece, Spain, Italy and Portugal are hereby authorized to provide, under the conditions laid down in paragraph 2, for derogations from Article 4 (1) of Directive 77/93/EEC, with regard to Annex III (A) (10) and from Article 5 (1) and the third indent of Article 12 (1) (a) of that Directive as regards the requirements referred to in part A, Section I, points 25.2 and 25.3 of Annex IV thereto, for seed potatoes of the varieties 'Atlantic', 'Donna', 'Kennebec', 'Russet Burbank', 'Sebago' and 'Shepody' originating in Canada.

2. The following conditions shall be satisfied:

(a) the seed potatoes shall have been produced in fields located in areas of New Brunswick or Prince Edward Island which have been officially declared, by 'Agriculture Canada', free from both potato spindle tuber viroid and from *Clavibacter michiganensis* ssp. *sepedonicus* and which satisfy the following conditions, irrespective of whether the fields are operated by establishments inside or outside the area:

(i) the areas comprise:

— either fields owned by at least three distinct potato-growing establishments, whether or not these establishments operate rented land located outside,

— or, alternatively, a surface of at least four square kilometres, and are surrounded entirely by water, or by land other than that of fields where the organisms concerned have occurred within the previous three years; and

(ii) all potatoes produced in the area are the first direct progeny of seed potatoes of the category 'Pre-elite', 'Elite I', 'Elite II' or 'Elite III' which were produced in establishments qualified to produce seed potatoes of the 'Pre-elite' or 'Elite I' categories and which are either official establishments or officially designated and controlled for that purpose; and

(iii) the surface used for the production of potatoes which are not finally certified as seed potatoes does not exceed one fifth of that used for the production of potatoes certified as seed potatoes; and

(iv) systematic and representative annual surveys which have been carried out over at least the previous five years under appropriate conditions for the detection of the organisms concerned, on all potato fields located in the area and on potatoes harvested there, including appropriate laboratory testing, did not show any positive finding, or any other element which could militate against the recognition as disease-free; and

[1] OJ No 125, 11. 7. 1966, p. 2320/66.
[2] OJ No L 56, 14. 3. 1995, p. 18.
[3] OJ No L 225, 12. 10. 1970, p. 1.

(v) legislative, administrative or other arrangements have been made to ensure that:

— no potatoes originating in areas of Canada other than those declared disease-free, or in countries where the organisms concerned are known to occur, can be introduced into such areas, and

— neither potatoes originating in such areas nor any containers, packaging material, vehicles and handling, grading and preparation equipment used there can be brought into contact with potatoes originating, or material or equipment as specified used, in areas other than those declared disease-free.

This provision shall also apply to cases were fields located inside the areas declared disease-free are operated by establishments outside such areas or where establishments inside such areas operate fields located outside them;

(b) the seed potatoes shall be certified officially as seed potatoes meeting at least the conditions laid down for the 'Foundation' category;

(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 which produced the lot; for the detection of *Clavibacter michiganensis* ssp. *sepedonicus* a sample of at least 200 tubers per lot of 25 tonnes or less shall be taken; examinations shall be carried out on the 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 [1];

(d) the lots shall be kept separate in all operations including transport, at least until delivery to the premises of the importers referred to in (f);

(e) the plant health certificate required shall be made out separately for each consignment and only if it has been established by the scientists involved that the examinations referred to in (c) did not give rise to suspicions or to the detection of the presence of potato spindle tuber viroid or *Clavibacter michiganensis* ssp. *sepedonicus* in the consignment and that in particular the IF-testing was shown to be negative.

It shall state, under 'Additional declaration', that the conditions laid down in (a), (b) and (c) have been complied with, and shall give the name of the establishment or establishments which have produced the seed potato lots and the relevant seed potato certification lot numbers, as well as the name of the area referred to in (a) and of the establishment referred to in (a) (ii). It shall give under 'Distinguishing marks', the number of bags as well as the colour code corresponding to a specified importer in the importing Member State. 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;

(f) prior to introduction into the Community, the importer shall notify each introduction sufficiently in advance to the responsible official bodies in the Member State concerned, and that Member State shall then convey the details of the notification to the Commission, indicating:

— the variety,

— the quantity,

— the declared date of import,

— the names and addresses of the premises of the importers of the potatoes, and those listed in accordance with the provisions of Commission Directive 93/50/EEC [2].

At the moment of import the importer shall provide confirmation of the details of the aforementioned advance notification;

(g) the potatoes may be introduced into the Community only via the following ports of unloading:

— Aveiro

— Genova

— Livorno

— Pireaus

— Patras

— Porto

— Savona.

Upon notification by the Member States concerned, changes to the list of ports of unloading can be made by the Commission, after consultation with the other Member States;

[1] OJ No L 259, 18. 10. 1993, p. 1.

[2] OJ No L 205, 17. 8. 1993, p. 22.

(h) the inspections required pursuant to Article 12 of Directive 77/93/EEC shall be made by responsible official bodies referred to in the said Directive. Without prejudice to the monitoring referred to in Article 19a (3) seond indent, first possibility, the Commission shall determine to which the inspections referred to in Article 19a (3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19a (5) (c) of that Directive. The said official bodies and, as appropriate, the experts referred to in Article 19a (3) shall check the importers premises to confirm details of the quantities of potatoes imported from Canada, the labels with colour coding, and those destinations for plating at premises listed under Directive 93/50/EEC.

The plant passport issued in order to allow movement from the importers' premises to the premises referred to in (j) or those listed in accordance with the provisions of Directive 93/50/EEC shall contain the corresponding colour code as referred to in (e);

(i) 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 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 separate 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; 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; subsamples shall be kept available for subsequent examination by other Member States and the responsible official bodies referred to in the said Directive of the importing Member State shall by 15 April 1996 inform the Commission, with a view to organizing that examination and the recording thereof;

(j) the potatoes shall be planted only at premises in the Member State of import, for which it is possible to trace the names and addresses; this provision shall not apply in the case of final users planting the imported seed potatoes or for users who will sell only onto the local market;

(k) buildings, containers, packaging material, vehicles and handling, grading and preparation equipment which have been in contact with seed potatoes imported pursuant to this Decision shall be cleaned and disinfected before being brought into contact with other potatoes; this provision shall not apply in the case of final users planting the imported seed potatoes, or for users who will sell only onto the local market. The responsible official bodies shall inspect a suitable proportion of premises referred to under (f) and (j) for compliance with this provision;

(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);

(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.

For the premises referred to in under (j) the potatoes grown from such seed potatoes shall be packaged and 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 the Member States, only after approval by the said responsible official bodies taking into account the results of the inspection referred to in (l).

Article 2

The importing Member States shall provide the Commission and the other Member States, before 1 June 1996, with information on the amounts imported pursuant to this Decision and with a detailed technical report on the official examination referred to in Article 1 (2) (i); copies of each plant health certificate shall be transmitted to the Commission.

Article 3

The authorization granted in Article 1 shall apply from 15 December 1995 until 31 March 1996. It shall be revoked prior to 31 March 1996 if it is found that the conditions laid down in Article 1 (2) have been insufficient to prevent the introduction of the harmful organisms in question or have not been complied with. It may be revoked prior to that date if it is found that there are elements which would militate against the proper functioning of the 'area freedom' concept in Canada.

Article 4

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

Done at Brussels, 14 December 1995.

For the Commission

Franz FISCHLER

Member of the Commission