II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 13 February 1997

authorizing the Member States exceptionally to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of plants of *Vitis* L., other than fruits, originating in Switzerland

(97/159/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 97/3/EC [2], and in particular Article 14 (1) thereof,

Having regard to the request made by France,

Whereas, under the provisions of Directive 77/93/EEC, plants of *Vitis* L., other than fruits, originating in third countries, may in principle not be introduced into the Community;

Whereas, on the basis of the information supplied by Switzerland and by the relevant Member State, it appears that in Switzerland, plants of *Vitis* L. can be grown under adquate health conditions and that there are no sources for the introduction of exotic diseases affecting plants of *Vitis* L.;

Whereas the imports would take place for a limited period of time to enable specialised nurseries to multiply these plants in the EU, whereby these plants will be re-exported afterwards to Switzerland;

Whereas therefore a derogation should be authorized for a limited period, provided that it includes specific conditions and without prejudice to Council Directive 68/193/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. The Member States are hereby authorized to provide, under the conditions laid down in paragraph 2, for exceptions from Article 4 (1) of Directive 77/93/EEC, with regard to the prohibitions referred to in Part A, point 15 of Annex III thereto for plants of *Vitis* L., other than fruits, originating in Switzerland.

2. The following specific conditions shall be satisfied:

(a) the plants shall be propagating material in the form of dormant bud material of the variety Chasselas;

(b) the buds shall be intended to be grafted in the Community at premises referred to in (h), on to rootstocks produced in the Community;

(c) the buds intended for the Community shall be:

— harvested from propagating material grown in vineyards, which are officially registered. The lists of the registered vineyards shall be made available to the Member States making use of the derogation, and to the Commission, at the latest by 1

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 27, 30. 1. 1997, p. 30.
[3] OJ No L 93, 17. 4. 1968, p. 15.

March 1997. The lists shall include the name of the variety, the number of rows planted with this variety, the number of plants per row for each of these vineyards, as far as they are deemed suitable for dispatch to the Community in 1997, under the conditions laid down in this Decision,

— properly packed and the packaging made recognizable with a marking, enabling the identification of the registered nursery and the variety,

— accompanied by a phytosanitary certificate issued in Switzerland in accordance with Article 7 of Directive 77/93/EEC, on the basis of the examination laid down in Article 6 thereof, in particular freedom from the following harmful organisms:

— *Daktulosphaira vitifoliae* (Fitch),

— *Xylophilus ampelinus* (Panagopoulos) Willems *et al.*,

— Grapevine flavescence dorée MLO,

The certificate shall state under 'Additional Declaration', the indication 'this consignment meets the conditions laid down in Decision 97/159/EC';

(d) the official plant protection organisation of Switzerland shall ensure the identity of the buds from the time of harvesting as referred to in (c), first indent, until the time of loading for export to the Community;

(e) the inspections required pursuant to Article 12 of Directive 77/93/EEC shall be made by the responsible official bodies, referred to in the said Directive, of the Member States making use of this derogation, and where appropriate, in co-operation with the said bodies of the Member State in which the buds will be grafted. Without prejudice to the monitoring referred to in Article 19 a (3) second indent, first possibility, the Commission shall determine to which extent the inspections referred to in Article 19 a (3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19 a (5) (c) of that Directive;

(f) the buds shall be introduced through points of entry situated within the territory of a Member State making use of this derogation and designated for the purposes of this derogation by that Member State;

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

— the type of material,

— the variety and quantity,

— the declared date of introduction and confirmation of the point of entry,

— the names, addresses and the locations of the premises referred to in (h) where the buds will be grafted and/or where the grafted plants will subsequently be planted.

At the time of import the importer shall provide confirmation of the details of the aforementioned advance notification.

The importer shall be officially informed, prior to the introduction, of the conditions laid down in (a), (b), (c) (d), (e), (f), (g), (h), (i), and (j).

(h) the buds shall be grafted onto rootstocks and the grafted material subsequently planted only at premises for which the names, addresses and the locations have been notified by the person who intends to use the buds imported pursuant to this Decision, to the said responsible official bodies of the Member State in which the premises are situated; in those cases where the place of grafting or planting is situated in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State making use of this derogation, at the moment of receipt of the aforementioned advance notification from the importer, shall inform the said responisble official bodies of the Member State in which the plants will be grafted or planted giving the names, addresses and the locations of the premises where the plants will be grafted or planted;

(i) at the premises referred to in (h), the

— buds shall be grafted and the grafted plants shall be planted and further grown in fields belonging to the premises referred to in (h) where they should remain until they are moved to a destination outside the Community as referred to in (j);

— grafted plants shall in the growing period following importation, be visually inspected by the said responsible official bodies of the Member State in which the grafted plants are planted, at appropriate times, for harmful organisms or symptoms caused by any harmful organism; in order to identify the harmful organisms having caused such symptoms an appropriate testing on any symptom observed in the visual inspection shall be carried out. Any plant which has not been found free during the said inspections or testing, from harmful organisms listed under (c), third indent, shall be immediately destroyed;

(j) any grafted plant resulting from a successful grafting using the buds referred to in (a) shall be moved in 1998 to a destination outside the Community. The said responsible official bodies shall ensure that any plant not so moved shall be officially destroyed. Records shall be kept available to the Commission on the amounts of successfully grafted plants, of officially destroyed plants and of plants sold as well as on the country of destination of the plants sold.

Article 2

Member States shall inform the other Member States and the Commission of any use of the authorization. They shall provide the Commission and the other Member States, before 1 November 1997, 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). Furthermore any other Member State in which the buds are grafted onto root-stocks and in which the grafted plants are planted, after the import, shall also provide the Commission and the other Member States, before 1 November 1997, with a detailed technical report of the official examination referred to in Article 1 (2) (i).

Article 3

Without prejudice to the provisions laid down in Article 14 (3) of Directive 77/93/EEC, the Member States concerned 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 herein.

Article 4

This Decision shall apply during the period between 1st March 1997 and 15 April 1997. It shall be revoked if it is established that the conditions laid down in Article 1 (2) are not sufficient to prevent the introduction of harmful organisms or have not been complied with.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 13 February 1997.

For the Commission

Franz FISCHLER

Member of the Commission