COMMISSION DECISION

of 20 May 1997

authorizing Member States to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of plants of strawberry (*Fragaria* L.), intended for planting, other than seeds, originating in Argentina

(97/353/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 Commission Directive 97/14/EC [2], and in particular Article 14 (1) thereof,

Having regard to the request made by Italy,

Whereas, under the provisions of Directive 77/93/EEC, plants of strawberry (*Fragaria* L.), intended for planting, other than seeds, originating in non-European countries, other than Mediterranean countries, Australia, New Zealand, Canada and the continental States of the USA, may in principle not be introduced into the Community;

Whereas, the growing in Argentina of plants of *Fragaria* L., intended for planting, other than seeds, from plants supplied by some Member States, in order to prolongate the growing season of the plants, has become an established practice; whereas these plants are afterwards re-exported to the Community in order to have them planted for the production of fruits;

Whereas, by Decision 93/411/EEC [3], as last amended by Decision 96/403/EC [4], Member States were authorized to provide, under certain conditions, for derogations from certain general rules of Directive 77/93/EEC for plants of strawberry (*Fragaria* L.), intended for planting, other than seeds, originating in Argentina in the 1993-96 seasons;

Whereas in the 1993 and 1994 import seasons there had been no confirmed findings of harmful organisms during import inspections on the plants imported pursuant to Decision 93/411/EEC; whereas however, in relation to the 1995 and 1996 import seasons, the Netherlands reported to the Commission four findings, one in the 1995 season and three in the 1996 season, of the harmful organism *Xanthomonas fragariae* Kennedy & King, detected during the stipulated growing season inspections on the imported Argentinian strawberry plants; whereas it was not possible to confirm the source of the outbreaks; whereas it is considered that the circumstances justifying the previous authorizations still obtain; whereas it is appropriate to grant a further authorization with similar stringent requirements for the import of Argentinian strawberry plants for a limited period until 31 December 1998;

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. Member States are hereby authorized to provide, under the conditions laid down in paragraph 2, for a derogation from Article 4 (1) of Directive 77/93/EEC, with regard to the requirements referred to in Annex III (A) (18) for plants of strawberry (*Fragaria* L.), intended for planting, other than seeds, originating in Argentina.

2. In addition to the requirements laid down in part A of the Annexes I, II and IV to Directive 77/93/EEC, in relation to plants of strawberry, the following specific conditions shall be satisfied:

(a) the plants shall be intended for fruit production within the Community and shall have been:

(i) produced exclusively from mother plants, certified under an approved certification scheme of a Member State and those mother plants shall have been imported from a Member State;

(ii) grown on land which is:

— situated in an area isolated from commercial strawberry production,

— situated at least 1 km from the nearest crop of strawberry plants for fruit or runner production which do not satisfy the conditions of this Decision,

— situated at least 200 m from any other plants of the genus *Fragaria* which do not satisfy the conditions of this Decision, and

[1] OJ No L 26, 31. 1. 1977, p. 20.
[2] OJ No L 87, 2. 4. 1997, p. 17.
[3] OJ No L 182, 24. 7. 1993, p. 63.
[4] OJ No L 165, 4. 7. 1996, p. 37.

— prior to planting and in the period after the previous crop was removed from the land, tested by appropriate methods or treated to ensure freedom from soil infesting harmful organisms;

(iii) officially inspected by the Plant Protection Service of Argentina, at least three times during the growing season and prior to export for presence of harmful organisms listed in part A of Annexes I and II to Directive 77/93/EEC and any other harmful organism which is not known to occur in the Community;

(iv) found free, in the inspections referred to in point (iii), from the harmful organisms referred to in point (iii);

(v) prior to export:

— shaken free from soil or other growing medium,

— cleaned (i.e. free from plant debris) and free from flowers and fruits;

(b) the plants intended for the Community shall be accompanied by a phytosanitary certificate issued in Argentina in accordance with Articles 7 and 12 of Directive 77/93/EEC, on the basis of the examination laid down therein, in particular freedom from the harmful organisms mentioned in (a) (iii), as well as to the requirements specified in (a) (i), (ii), (iv) and (v).

The certificate shall state:

— unde the rubric 'Disinfestation and/or disinfection treatment', the specification of the last treatment(s) applied prior to export,

— under 'Additional Declaration', the indication 'This consignment meets the conditions laid down in Decision 97/353/EC', as well as the name of the variety and the Member State certification scheme under which the mother plants had been certified;

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

(d) prior to introduction into the Community, the importer shall notify each introduction 10 days 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 quantity,

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

— the names and addresses of the premises referred to in (f) were the plants will 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) and (f);

(e) the inspections including testing, as appropriate, 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 cooperation with the said bodies of the Member State in which the plants will be planted. Without prejudice to the monitoring referred to in Article 19a (3) second indent, first possibility, the Commission shall determine to which extent 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;

(f) the plants shall be planted only at premises the names and addresses of which have been notified by the person who intends to plant the plants 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 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 responsible official bodies of the Member State in which the plants will be planted giving the name and addresses of the premises where the plants will be planted;

(g) in the growing period following importation, a suitable proportion of the plants shall be inspected by the said responsible official bodies of the Member State in which the plants are planted, at appropriate times, at the premises referred to in (f).

Article 2

Member States shall inform the other Member States and the Commission of any use made of the authorization. They shall provide the Commission and the other Member States, before 1 November of each year, 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) (e). Furthermore all Member States in which the plants are planted shall also provide the Commission and the other Member

States, before 1 March after the year of importation, with a detailed technical report of the official examination referred to in Article 1 (2) (g).

Article 3

The authorization granted in Article 1 shall apply during the period between 1 June 1997 and 31 December 1998. 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 4

This Decision is addressed to the Member States.

Done at Brussels, 20 May 1997.

For the Commission

Franz FISCHLER

Member of the Commission