COMMISSION DECISION

of 19 February 1999

authorising the Member States temporarily 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

(notified under document number C(1999) 386)

(1999/166/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 98/2/EC [2], and in particular Article 14(1) thereof,

Having regard to the request made by France, in respect of plants of *Vitis* L., other than fruits, originating in Switzerland,

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 by Decision 97/159/EC [3] the Commission authorised Member States to provide for derogations in respect of plants of *Vitis* L., other than fruits, originating in Switzerland under specified conditions in the 1997 season;

Whereas due to technical reasons there were no imports made under Decision 97//159/EC;

Whereas the circumstances justifying the authorisation for Switzerland still obtain;

Whereas therefore a derogation should be authorised for a limited period, provided that it includes specific conditions and without prejudice to Council Directive 68/193/EEC [4], as last amended by the Act of Accession of Austria, Finland and Sweden, and any implementing measures made thereunder;

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 authorised 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. In addition to the requirements laid down in Annexes I and II of Directive 77/93/EEC in relation to plants of *Vitis* L., the following specific conditions shall be satisfied:

(a) the plants shall be propagating material in the form of dormant bud material of the following varieties:

— Chasselat blanc,

— Gamaret,

— Humagne,

— Diolinoir,

— Petite Arvine,

— Amigne,

— Cornalin,

— Granoir;

(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 in stock nurseries, which are officially registered. The lists of the registered nurseries shall be made available to the Member States making use of the derogation and to the Commission, at the latest by 15 February 1999. These lists shall include the name(s) of the varieties, the number of rows planted with these varieties, the number of plants per row for each of these nurseries, as far as they are deemed suitable for dispatch to the Community in 1999, under the conditions laid down in this Decision,

[1] OJ L 26, 31. 1. 1977, p. 20.
[2] OJ L 15, 21. 1. 1998, p. 34.
[3] OJ L 62, 4. 3. 1997, p. 36.
[4] OJ L 93, 17. 4. 1968, p. 15.

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

— accompanied by a phytosanitary certificate issued in Switzerland 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 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 1999/166/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 buds shall be introduced through points of entry situated within the territory of a Member State and designated for the purpose of this derogation by that Member State; these points of entry and the name and address of the responsible official body referred to in Directive 77/93/EEC in charge of each point shall be notified sufficiently in advance by the Member States to the Commission and shall be held available on request to other Member States. In those cases where the introduction into the Community takes place in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State introduction shall inform and cooperate with the said responsible official bodies of the Member States making use of this derogation to ensure that the provisions of this Decision are complied with;

(f) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in (a) to (k); the said importer shall notify details of each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction and that Member State, without delay, shall convey the details of the notification to the Commission, indicating:

— the type of material,

— the variety and the 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.

The importer shall provide details of any changes to the aforementioned advance notification, to the responsible official bodies of their own Member State, preferably as soon as they are known and in any case prior to the time of import, and that Member State, without delay, shall convey the details of the changes to the Commission;

(g) the inspections including testing, as appropriate, required pursuant to Article 12 of Directive 77/93/EEC and in accordance with provisions laid down in the present Decision shall be made by the responsible official bodies, referred to in the said Directive; of these inspections, the plant health checks shall be carried out by the Member State making use of this derogation and where appropriate, in cooperation with the said bodies of the Member State in which the buds will be grafted. Furthermore during the said plant health check that Member State(s) shall also inspect for all other harmful organisms. Without prejudice to the monitoring referred to in Article 19a(3), second indent, first possibility of the said Directive, 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;

(h) the buds shall be grafted on to rootstocks and the grafted plants 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, and

— officially registered and approved for the purposes of this derogation.

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 responsible official bodies of the Member State in which the buds will be grafted or planted giving the names, addresses and the locations of the premises where the plants will be grafted or planted;

(i) the said responsible official bodies shall ensure that any bud not used in accordance with (h) shall be destroyed under the control of the said responsible official bodies. Records shall be kept available to the Commission on the numbers of plants destroyed;

(j) at the premises referred to in (h):

— the material which has been found free from the harmful organisms referred to in (g) may then be used for grafting and the grafted plants shall be planted and grown in fields belonging to the premises referred to in (h) and shall remain on the premises, until they are moved to a destination outside the Community as referred to in (k),

— the grafted plants shall be, in the growing period following importation, visually inspected by the said responsible official bodies of the Member State in which the grafted plants are planted, at appropriate times, for the presence of any harmful organism or for signs or symptoms caused by any harmful organism including those of *Daktulosphaira vitifoliae* (Fitch); as a result of such visual inspection any harmful organism having caused such signs or symptoms shall be identified by an appropriate testing procedure,

— any plant which has not been found free during the said inspections or testing, referred to in the previous indents, from the harmful organisms listed under (c), third indent, or otherwise of quarantine concern, shall be immediately destroyed under control of the said responsible bodies;

(k) any grafted plant resulting from a successful grafting using the buds referred to in (a) shall be only released as grafted plants in 2000 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, by means of the notification referred to in Article 1(2)(f), of any use of the authorisation. They shall provide the Commission and the other Member States, before 1 November 1999, 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)(j). Furthermore, any other Member State in which the buds are grafted on to rootstocks and in which the grafted plants are planted, after the import, shall also provide the Commission and the other Member States, before 1 November 1999, with a detailed technical report, of the official examination referred to in Article 1(2)(j).

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

Article 1 shall apply during the period between 1 March 1999 and 30 March 1999. The present Decision 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, 19 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission