COMMISSION DECISION

of 24 February 1999

authorising 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

(notified under document number C(1999) 406)

(1999/181/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 requests made by France and 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 United States of America, may in principle not be introduced into the Community;

Whereas, the multiplication 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 producing season, has become an established practice; whereas the plants produced are afterwards 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 authorised 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 1993-1996 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 Argentinean strawberry plants; whereas it was not possible to confirm the source of the outbreaks; whereas it was considered that the circumstances justifying the previous authorisations still obtained and by Decision 97/353/EC [5] a further authorisation with stringent requirements for the import of Argentinean strawberry plants was granted for a limited period until 31.12.1998; whereas there have been no confirmed findings of harmful organisms during import inspections on the plants imported pursuant to Decision 97/353/EC; whereas it is considered that the circumstances justifying the previous authorisations still obtain; whereas it is appropriate to grant a further authorisation with similar stringent requirements for the import of Argentinean strawberry plants for a limited period until 31.12.2000;

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 authorised 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:

[1] OJ L 26, 31. 1. 1977, p. 20.
[2] OJ L 15, 21. 1. 1998, p. 34.
[3] OJ L 182, 24. 7. 1993, p. 63.
[4] OJ L 165, 4. 7. 1996, p. 37.
[5] OJ L 151, 10. 6. 1997, p. 40.

(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

— 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:

— under 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 1999/181/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 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 of 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;

(d) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in (a), (b), (c), (d), (e) and (f); 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 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 (f) where the plants will 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;

(e) 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 plants will be planted. 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;

(f) the plants shall be planted only at premises officially registered and approved for the purposes of this derogation and of which the name of the owner and address of the site have been notified in advance 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) the said responsible official bodies shall ensure that any plant not planted in accordance with (f) 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;

(h) in the growing period following importation, a suitable proportion of the plants shall be visually 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), for the presence of any harmful organism or for signs or symptoms caused by any harmful organism; as a result of such visual inspection any harmful organism having caused 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, from the harmful organisms listed under (a)(iii) shall be immediately destroyed under the control of the said responsible bodies.

Article 2

Member States shall inform the other Member States and the Commission by means of the notification referred to in Article 1(2)(d) of any use made of the authorisation. 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)(h).

Article 3

Article 1 shall apply during the period between 1 June 1999 and 31 December 2000. 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 4

This Decision is addressed to the Member States.

Done at Brussels, 24 February 1999.

For the Commission

Franz FISCHLER

Member of the Commission