II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE

of 28 June 1984

amending the Annexes to Directive 77/93/EEC on protective measures against the introduction into the Member States of organisms harmful to plants or plant products

(84/378/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Directive 77/93/EEC (1), as last amended by Directive 81/7/EEC (2), and in particular Article 13 thereof,

Having regard to the proposal from the Commission,

Whereas the Community plant protection system should include provisions on protective measures against harmful organisms such as Amauromyza, Liriomyza and Radopholus;

Whereas the provisions on protective measures against harmful organisms such as Erwinia amylovora, Leptinotarsa decemlineata and Quadraspidiotus perniciosus should be improved, and in particular adapted to the present distribution of such organisms;

Whereas it is appropriate, furthermore, to clarify certain provisions of the Annexes and to take into account some growing, harvesting and processing practices and other data in respect of potatoes, lucerne seed, tomato seed, conifer wood and growing media, including soil,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex I to Directive 77/93/EEC is hereby amended as follows:

1. In part A (a), the following is inserted before (1):

   '01. Amauromyza maculosa (Malloch)';

2. In part A (a), the following are inserted:

   '7a. Liriomyza huidobrensis (Blanchard),

   7b. Liriomyza sativae (Blanchard),';

(1) OJ No L 26, 31. 1. 1977, p. 20.
(2) OJ No L 14, 16. 1. 1981, p. 23.

3. In part A (a), points 17, 18 and 19 become points 02, 8a and 8b respectively;

4. Part A (e) (2) (a) is deleted;

5. Part A (e) (4) is replaced by the following:

'4. Potato spindle tuber viroid';

6. In part B (a), the following is inserted:

'10a. Liriomyza trifolii (Burgess)	Denmark, Greece, Ireland, United Kingdom Other Member States recognized as being free from Liriomyza trifolii in accordance with the procedure laid down in Article 16'.

Article 2

Annex II to Directive 77/93/EEC is hereby amended as follows:

In part A (a), the following are inserted:

'6a. Liriomyza trifolii (Burgess)	Plants of Apium graveolens L., Capsicum annuum L., Chrysanthemum L., Dendranthema (DC) Des. Moul, Dianthus caryophyllus L., Gerbera Cass., Gypsophila L., Solanum lycopersicum L., intended for planting, other than seeds'
'7a. Radopholus citrophilus (Huettel, Dickson and Kaplan)	Plants of Araceae, Citrus L., Fortunella Swingle, Maranthaceae, Musaceae, Persea Americana P. Mill., Poncirus Raf., Strelitziaceae, rooted or with growing medium attached or accompanying
7b. Radopholus similis (Cobb) Thorne (sensu stricto)	Plants of Araceae, Maranthaceae, Musaceae, Strelitziaceae, rooted or with growing medium attached or associated'.

Article 3

Annex III to Directive 77/93/EEC is hereby amended as follows:

1. Part A (8) is deleted;

2. In part A, the following is inserted:

'9a. Potato tubers (Solanum tuberosum L.), other than those officially certified as seed potatoes, pursuant to Directive 66/403/EEC	Without prejudice to the special requirements applicable to potato tubers under Annex IV (A): Turkey, USSR Third countries not belonging to the continent of Europe, other than the following: — Algeria — Cyprus — Egypt — Israel — Libya — Malta — Morocco — Syria — Tunisia';

3. In part A, the following is added:

'11. Plants of Citrus L., Fortunella Swingle, Poncirus Raf., other than fruit, seeds and parts of plants used for decoration	USA (Florida, Louisiana, Hawaii)
12. Growing medium as specified in Annex V (5) (a)	Turkey, USSR Third countries not belonging to the continent of Europe, other than the following: — Algeria — Cyprus — Israel — Malta — Morocco — Tunisia';

4. In part B (1), '(Citrus L.)' is replaced by '(Citrus L., Fortunella Swingle, Poncirus Raf.)';

5. In part B, the following is added:

'8. From 16 April to 30 September, in the case of origin in the Northern Hemisphere, and from 16 October to 31 March, in the case of origin in the Southern Hemisphere, plants of Chaenomeles Lindl./Cornus L., Cotoneaster (B. Ehrh.) Med., Crataegus L., Cydonia Mill., Malus Mill., Mespilus L., Prunus L., Pyrus L., Ribes L., Sorbus L., Symphoricarpos Duham, other than fruit, seeds and parts of plants used for decoration, originating in or coming from countries or, in the case of certain Member States, regions other than those recognized as being free from Quadraspidiotus perniciosus, in accordance with the procedure laid down in Article 16	Belgium, Denmark, Ireland, Luxembourg, Netherlands, United Kingdom
9. Plants of Cotoneaster (B. Ehrh.) Med., Crataegus L., Sorbus aria L., Stranvaesia davidiana Deche, and other genera, species or varieties of species deemed to be very sensitive to Erwinia amylovora, in accordance with the procedure laid down in Article 16	Greece, Ireland, Italy, United Kingdom (Northern Ireland), other Member States having taken official steps to restrict the planting of such plants at national level
10. Without prejudice to the prohibition applicable to plants under point 9, from 16 April to 31 October, in the case of origin in the Northern Hemisphere, and from 1 November to 15 April, in the case of origin in the Southern Hemisphere, plants of Chaeno-	Greece, France, Ireland, Italy, Luxembourg, United Kingdom (Northern Ireland), to the extent that, and for as long as, bearing in mind the possible spread of Erwinia amylovora, mention of these countries has not been deleted from this column in accordance with the procedure laid down in Article 16'

meles Lindl., Cotoneaster (B. Ehrh.) Med., Crataegus L., Cydonia Mill., Malus Mill., Pyracantha M. J. Roem, Pyrus L., Sorbus L. other than Sorbus Intermedia L., Stranvaesia Lindl., other than fruit and seeds, originating in countries or regions other than those recognized as being free from Erwinia amylovora in accordance with the procedure laid down in Article 16	

Article 4

Annex IV to Directive 77/93/EEC is hereby amended as follows:

1. The right-hand column of part A (1) is replaced by the following:

'The wood shall be stripped of its bark or there shall be evidence by a mark "Kiln-dried", "K.D." or another internationally recognized mark, put on the wood or on its packaging in accordance with current commercial usage, that it has undergone kiln-drying to below 20 % moisture content, expressed as a percentage of dry matter, at time of manufacture, achieved through an appropriate time/temperature schedule';

2. In part A, the following is inserted:

'14a. Plants of Chaenomeles, Cornus, Cotoneaster, Crataegus, Cydonia, Malus, Mespilus, Prunus, Pyrus, Ribes, Sorbus, Symphoricarpus, other than fruit, seeds and parts of plants used for decoration, originating in or coming from countries where Quadraspidiotus perniciosus is known to occur	Without prejudice to the prohibitions applicable to the plants under Annex III (B) (8): (a) official statement: — that the provisions of Council Directive 69/466/EEC or – in the case of third countries – measures recognized to be equivalent, in accordance with the procedure laid down in Article 16, are applied, and — either that the plants originate in regions recognized as being free from Quadraspidiotus perniciosus, in accordance with the procedure laid down in Article 16, and no contamination by Quadraspidiotus perniciosus has been observed either at the place of production, or in its immediate vicinity, since the beginning of the last two complete cycles of vegetation, or — that no contamination by Quadraspidiotus perniciosus has been observed either at the place of production or in its immediate vicinity since the beginning of the last two complete cycles of vegetation, and the plants have been subjected at a suitable stage to fumigation or other appropriate

	treatment against that harmful organism, in accordance with a method approved in accordance with the procedure laid down in Article 16 or – in the absence of such approval – as required by the introducing Member State; (b) where fumigation or other treatment were not carried out as specified in the third indent of (a) the plants have undergone such fumigation or such treatment at a place approved by the official plant-protection organizations of the countries concerned
14b. Plants of Amelanchier, Cercidiphyllum, Euonymus, Fagus, Juglans, Ligustrum, Lonicera, Populus, Ptelea, Pyracantha, Rosa, Salix, Spiraea, Syringa, Tilia, Ulmus, other than fruit, seeds and parts of plants used for decoration, originating in or coming from countries where Quadraspidiotus perniciosus is known to occur	Official statement that the provisions of Directive 69/466/EEC or – in the case of third countries – measures recognized to be equivalent, in accordance with the procedure laid down in Article 16, are applied and official statement: — that no contamination by Quadraspidiotus perniciosus has been observed either at the place of production, or in its immediate vicinity, since the beginning of the last two complete cycles of vegetation, or — in the case of Rosa, that the plants have undergone fumigation or other appropriate treatment against that harmful organism, where agreed by the official plant-protection organizations of the countries concerned, in accordance with a method and at a place approved in such agreement';

3. Part A (15) is replaced by the following:

'15. Plants of Chaenomeles, Cotoneaster, Crataegus, Cydonia, Malus, Pyracantha, Pyrus, Sorbus other than Sorbus intermedia, Stranvaesia, intended for planting, other than seeds	Official statement that: — either the plants originate in countries or regions recognized as being free from Erwinia amylovora, in accordance with the procedure laid down in Article 16, or — no symptoms of Erwinia amylovora have been observed either at the place of production or in its immediate vicinity since the beginning of the last complete cycle of vegetation';

4. In part A, the following is inserted:

'15a. Plants of Araceae, Citrus, Fortunella, Maranthaceae, Musaceae, Persea, Poncirus, Strelitziaceae, rooted or with	Without prejudice to the prohibitions applicable to the plants listed in Annex III (A) (11) and (B) (1), official statement that:

growing medium attached or associated, originating in or coming from third countries	— the plants originate in and come from countries known to be free from Radopholus citrophilus and Radopholus similis, or — representative samples of soil and roots from the place of production have been subjected, since the beginning of the last complete cycle of vegetation, to official nematological testing for at least Radopholus citrophilus and Radopholus similis, and have been found free, in these tests, from those harmful organisms
15b. Plants of Araceae, Marantaceae, Musaceae, Sterlitziaceae, rooted or with growing medium attached or associated, originating in and coming from a Member State	Official statement, that: — no contamination by Radopholus similis has been observed at the place of production, since the beginning of the last complete cycle of vegetation, or — soil and roots from suspected plants have been subjected since the beginning of the last complete cycle of vegetation to official nematological testing for at least Radopholus similis, and have been found free, in these tests, from that harmful organism';

5. In part A, the following is inserted:

'33a. Plants of Apium graveolens, Capsicum annuum, Chrysanthemum, Dendranthema, Dianthus caryophyllus, Gerbera, Gypsophila, Solanum lycopersicum, intended for planting, other than seeds, originating in a Member State or in those third countries where it has been ascertained, in accordance with the procedure laid down in Article 16, that: — Amauromyza maculosa, — Liriomyza huidobrensis, — Liriomyza sativae, — Liriomyza trifolii are not known to occur, or, if Liriomyza trifolii occurs, measures equivalent to those taken by the Community are applied	Official statement, that: — either no contamination by Liriomyza trifolii has been observed at the place of production, on official inspections carried out at least monthly during the three months prior to harvesting, or — the plants or, in the case of cuttings, the mother plants have been subjected to an officially approved and supervised control regime including appropriate treatment aimed at eradicating Liriomyza trifolii from plants
33b. Plants of Apium graveolens, Capsicum annuum, Chrysanthemum, Dendranthema, Dianthus caryophyllus, Gerbera, Gypsophila, Solanum	Official statement that no contamination by Amauromyza maculosa, Liriomyza huidobrensis, Liriomyza sativae or Liriomyza trifolii has been observed at the place of production, on official inspections

lycopersicum, intended for planting, other than seeds, originating in American countries or in any other third country not covered by 33a.	carried out at least monthly during the three months prior to harvesting';

6. Part A (35) is replaced by the following:

'35. Growing medium as specified in Annex V (5) (b)	Official statement that: (a) the growing medium, at the time of planting was: — either free from soil and organic matter, or — found free from insects and harmful nematodes and subjected to appropriate examination or treatment to ensure that it was free from other harmful organisms, or — subjected to appropriate treatment to ensure freedom from harmful organisms, and (b) since planting: — either appropriate measures have been taken to ensure that the growing medium has been maintained free from harmful organisms, or — within two weeks prior to dispatch, the plants were shaken free from the medium leaving the minimum amount necessary to sustain vitality during transport, and, if replanted, the growing medium used for that purpose meets the requirements laid down in (a)';

7. Part A (36) is deleted;

8. In part A (39), the second indent of the right-hand column is replaced by the following:

'— either:

— the crop belongs to a variety recognized as being highly resistant to Corynebacterium insidiosum, or

— it had not yet started its fourth complete cycle of vegetation from sowing when the seed was harvested, and there was not more than one preceding seed harvest from the crop, or

— the content of inert matter which has been determined in accordance with the rules applicable for certification of seed marketed in the Community, does not exceed 0,1 % by weight';

9. In part A (41), the right-hand column shall be replaced by the following:

'Official statement that:

1. the seeds have been obtained by means of an appropriate acid extraction method or an equivalent method approved in accordance with the procedure laid down in Article 16, and

2. (a) either the seeds originate in regions where Corynebacterium michiganense, Xanthomonas vesicatoria or Potato spindle tuber viroid are not known to occur, or

(b) no symptoms of diseases caused by those harmful organisms have been observed at the place of production since the beginning of the last complete cycle of vegetation, or

(c) the seeds have been subjected to official testing for at least those harmful organisms, on a representative sample and using appropriate methods, and have been found to be free, in these tests, from those harmful organisms';

10. In part B, the following shall be inserted:

'7a.	Plants of Chaenomeles, Cotoneaster, Crataegus, Cydonia, Malus, Pyracantha, Pyrus, Sorbus other than Sorbus intermedia, Stranvaesia, other than fruit and seeds	Without prejudice to: — the prohibitions applicable to the plants under Annex III (B) (9) or (10), or — the exemptions from certain requirements listed below, which may be granted to Member States, in accordance with the procedure laid down in Article 16, when equivalent guarantees can be given: A. Official statement that: 1. the plants originate in Greece, Ireland, Italy or the United Kingdom (Northern Ireland), or in other countries or regions recognized as being free from Erwinia amylovora, in accordance with the procedure laid down in Article 16, if these countries or regions are effectively protected against the introduction of Erwinia amylovora, and that the plants were produced in nurseries using, exclusively, material bred in such countries or regions, or 2. the plants: (a) have been produced on a field: (i) which is located in an officially designated protected zone covering at least 50 km² i.e. an area where host plants are subjected at least to an officially approved and supervised control regime with the object of minimizing the risk of Erwinia amylovora being spread from the plants grown there; (ii) which has been officially approved, before the start of the last complete cycle of vegetation, for the cultivation of plants under the requirements laid down in A (2) (a) and (b) of this column, this approval being notified before July to the Commission, indicating the location of the field as well as the type and approximate number of plants grown there, and the date of the approval;	Greece, France, Ireland, Italy, Luxembourg, United Kingdom (Northern Ireland), to the extent that, and for as long as, bearing in mind the possible spread of Erwinia amylovora, mention of these countries has not been deleted from this column in accordance with the procedure laid down in Article 16.'

(iii) which, as well as the other parts of the "protected zone", has been found free from Erwinia amylovora since the beginning of the last complete cycle of vegetation:

— at official inspections carried out at least twice in the field, as well as in the surrounding zone of a radius of at least 250 m, i.e. once during July/August and once during September/October respectively for the Northern Hemisphere and once during January/February and March/April respectively for the Southern Hemisphere, and

— at official spot checks carried out in the surrounding zone of a radius of at least 1 km, at least once during July to October for the Northern Hemisphere and at least once during January to April for the Southern Hemisphere, in selected appropriate places, in particular where appropriate indicator plants are present, and

— at official tests carried out in accordance with an appropriate laboratory method on samples officially drawn, since the start of the last complete cycle of vegetation, from plants having shown symptoms of Erwinia amylovora on the field or in other parts of the "protected zone" and

(iv) from which, as well as from the other parts of the "protected zone", no host plants showing symptoms of Erwinia amylovora have been removed without prior official investigation or approval;

and

(b) have been subjected to appropriate administrative arrangements to ensure their identity, such as field labelling in the case of fruit trees, or other operations having comparable effects.

B. The plants are packaged and the packages are officially marked with distinctive marks to ensure the identity of the plants in the consignment, the same marks being reproduced on the certificate provided for in Article 7;

11. In part B (14), in the left-hand column, 'Apium' is inserted before 'Beta', and 'and Lactuca' is replaced by 'Lactuca, Petroselinum and Spinacea';

12. In part B (14), the following is added to the first indent of the central column:

'in particular in crops of potatoes or egg-plants in the immediate vicinity or, where there has been previous production of potatoes or egg-plants, at the place of production, unless no contamination by Leptinotarsa decemlineata has been observed in those crops in official inspections carried out at least twice since the beginning of their last complete cycle of vegetation'.

Article 5

Annex V to Directive 77/93/EEC is hereby amended as follows:

1. In point 2 (a), 'Dendranthema' is inserted after 'Chrysanthemum' and 'Gypsophila' is inserted after 'Gladiolus'.
2. Point 5 is replaced by the following:

'5. (a) Growing medium as such, which consists in whole or in part of soil or solid organic substances such as parts of plants, humus including peat or bark, other than that composed entirely of peat, or

(b) growing medium, attached to or associated with plants, consisting in whole or in part of material specified in (a) or consisting in whole or in part of peat or of any solid inorganic substance intended to sustain the vitality of the plants, originating in countries to which Annex III (A) (1) or (12) applies.'

Article 6

Annex VI is hereby deleted.

Article 7

Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 July 1985 at the latest.

Member States shall immediately inform the Commission of all laws, regulations and administrative provisions adopted in implementation of this Directive. The Commission shall inform the other Member States thereof.

Article 8

This Directive is addressed to the Member States.

Done at Luxembourg, 28 June 1984.

For the Council
The President
H. BOUCHARDEAU