

COMMISSION DECISION

of 28 January 2004

authorising Member States temporarily to provide for derogations from certain provisions of Council Directive 2000/29/EC in respect of plants of *Vitis L.*, other than fruits, originating in Switzerland

(notified under document number C(2004) 122)

(2004/96/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 2000/29/EC of 8 May 2000 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 2003/116/EC ⁽²⁾, and in particular Article 15(1) thereof,

Having regard to the request made by France,

Whereas:

- (1) Pursuant to Directive 2000/29/EC, plants of *Vitis L.*, other than fruits, originating in third countries may not in principle be introduced into the Community.
- (2) By Commission Decisions 97/159/EC ⁽³⁾, 1999/166/EC ⁽⁴⁾, 2000/189/EC ⁽⁵⁾, 2001/5/EC ⁽⁶⁾, 2001/836/EC ⁽⁷⁾ and 2003/69/EC ⁽⁸⁾, derogations from certain provisions of Directive 2000/29/EC in respect of plants of *Vitis L.*, other than fruits, originating in Switzerland have been authorised for limited periods and subject to specific conditions.
- (3) The circumstances justifying those derogations are still valid, and there is no new information giving cause for revision of the specific conditions.
- (4) Member States should therefore be authorised to provide for derogations, for a limited period and subject to specific conditions, and without prejudice to Council Directive 68/193/EEC ⁽⁹⁾, as last amended by Regulation (EC) No 1829/2003 of the European Parliament and of the Council ⁽¹⁰⁾, and any implementing measures made thereunder.

(5) That authorisation to provide for derogations should be terminated if it is established that the specific conditions laid down in this Decision are not sufficient to prevent the introduction of harmful organisms into the Community or have not been complied with.

(6) 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

Member States are hereby authorised to provide for derogations from Article 4(1) of Directive 2000/29/EC, with regard to the prohibitions referred to in point 15 of Part A of Annex III to that Directive for plants of *Vitis L.*, other than fruits, originating in Switzerland (hereinafter referred to as 'the plants').

The authorisation to provide for derogations, as provided for in paragraph 1 (hereinafter referred to as 'the authorisation'), shall be subject, in addition to the requirements laid down in Annexes I and II to Directive 2000/29/EC, to the conditions provided for in the Annex, and shall only apply to plants that are introduced into the Community between 1 February and 30 March 2004.

Article 2

Member States shall provide the Commission and the other Member States, before 30 November of the year of importation, with:

- (a) the information on quantities of plants imported pursuant to this Decision; and
- (b) a detailed technical report of the official inspections referred to in point 6 of the Annex.

Any Member State in which buds from the plants 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 30 November of the year of importation, with a detailed technical report of the official inspections referred to in the second indent of point 9 of the Annex.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 321, 6.12.2003, p. 36.

⁽³⁾ OJ L 62, 4.3.1997, p. 36.

⁽⁴⁾ OJ L 55, 3.3.1999, p. 16.

⁽⁵⁾ OJ L 59, 4.3.2000, p. 18.

⁽⁶⁾ OJ L 2, 5.1.2001, p. 22.

⁽⁷⁾ OJ L 312, 29.11.2001, p. 27.

⁽⁸⁾ OJ L 26, 31.1.2003, p. 72.

⁽⁹⁾ OJ L 93, 17.4.1968, p. 15.

⁽¹⁰⁾ OJ L 268, 18.10.2003, p. 1.

Article 3

Member States shall immediately notify the Commission and the other Member States of all consignments introduced into their territory pursuant to this Decision which were subsequently found not to comply with this Decision.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 28 January 2004.

For the Commission
David BYRNE
Member of the Commission

ANNEX

Specific conditions applying to plants of *Vitis L.*, other than fruits, originating in Switzerland benefiting from the derogation provided for in Article 1 of this Decision

1. The plants shall be propagating material in the form of dormant buds that shall be:
 - (a) of the following varieties:
 - Amigne,
 - Carminoir,
 - Chasselas blanc,
 - Cornalin,
 - Diolinoir,
 - Gamaret,
 - Garanoir,
 - Humagne blanc,
 - Humagne rouge,
 - Paien jaune,
 - Petite Arvine,
 - Pinot noir Valais,
 - Sylvaner;
 - (b) 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 1 February 2004. 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 2004, under the conditions laid down in this Decision;
 - (c) properly packed and the packaging made recognisable with a marking, enabling the identification of the registered nursery and the variety;
 - (d) intended to be grafted in the Community, at premises referred to in point 7, on to rootstocks produced in the Community.
2. The plants shall be accompanied by a phytosanitary certificate issued in Switzerland in accordance with Article 13 of Directive 2000/29/EC, 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 Commission Decision 2004/96/EC'.
3. The official plant protection organisation of Switzerland shall ensure the identity of the buds from the time of harvesting as referred to in paragraph (b) of point 1 until the time of loading for export to the Community.
4. 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 2000/29/EC 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.
5. Prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in points 1 to 10; 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:
 - (a) the type of material;
 - (b) the variety and the quantity;

- (c) the declared date of introduction and confirmation of the point of entry;
- (d) the names, addresses and the locations of the premises referred to in point 7 where the buds will be grafted and/or where the grafted plants will subsequently be planted.

The importer shall inform the official bodies concerned of any changes to the above details as soon as they are known.

The Member State concerned shall inform the Commission of the above details, and details of any change to them without delay.

6. The inspections including testing, as appropriate, required pursuant to Article 13 of Directive 2000/29/EC 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. Sub-samples shall be kept available for subsequent examination by other Member States.

Without prejudice to the monitoring referred to in the third indent of the third paragraph of Article 21, first possibility of the said Directive, the Commission shall determine to which extent the inspections referred to in the third indent of the third paragraph of Article 21, second possibility, of the said Directive shall be integrated into the inspection programme in accordance with the third subparagraph of paragraph 5 of Article 21 of that Directive.

7. The buds shall be grafted on to rootstocks and the grafted plants subsequently planted only at premises:
- (a) 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
 - (b) 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.

8. The said responsible official bodies shall ensure that any bud not used in accordance with point 7 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.
9. At the premises referred to in point 7:
- (a) the buds which have been found free from the harmful organisms referred to in point 6 may then be used for grafting and the grafted plants shall be planted and grown in fields belonging to the premises referred to in point 7 and shall remain on the premises, until they are moved to a destination outside the Community as referred to in point 10;
 - (b) 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;
 - (c) any grafted 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 point 2, or otherwise of quarantine concern, shall be immediately destroyed under control of the said responsible bodies.
10. Any grafted plant resulting from a successful grafting using the buds referred to in paragraph (a) of point 1 shall be only released in 2004 or 2005 as grafted plants 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.
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