COMMISSION DIRECTIVE 98/1/EC

of 8 January 1998

amending certain Annexes to Council Directive 77/93/EEC on protective measures against the introduction into the Community of organisms harmful to plants or plant products and against their spread within the Community

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 13, second paragraph, third and fourth indents, thereof,

Whereas measures should be taken to protect the Community against *Diabrotica barberi* Smith & Lawrence, *Diabrotica undecimpunctata howardi* Barber, *Diabrotica undecimpunctata undecimpuctata* Mannerheim and *Diabrotica virgifera* Le Conte, harmful organisms which have not hitherto been known to occur in the Community;

Whereas measures should be taken against the introduction into and spread within the Community of *Meloidogyne chitwoodi* Golden et al. (all populations) and *M. fallax* Karssen and Tomato yellow leaf curl virus;

Whereas the provisions on protective measures against *Enarmonia prunivora* Walsh and *Ditylenchus dipsaci* (Kühn) Filipjev, organisms listed in the Annexes to the said Directive, should be improved, and in particular the list of host plants should be extended;

Whereas it is no longer appropriate to maintain the current provisions on protective measures againt Tomato spotted wilt virus;

Whereas certain measures against *Gymnosporangium asiaticum* Miyabe ex Yamada, in particular in respect of plants of *Photinia* Ldl., should be modified because it has been determined that the said organism is only present in some third countries;

Whereas improved measures should be taken to protect the Community against the introduction of harmful organisms affecting hybrids of *Solanum* L., other than those intended for planting, and aquarium plants;

Whereas certain provisions concerning organisms affecting naturally or artificially dwarfed plants for planting, other than seeds, originating in non-European countries should be improved;

Whereas certain provisions concerning organisms affecting isolated bark of *Castanea* Mill. should be amended and, in particular, adapted to the present distribution of organisms such as non-European *Pissodes* spp. and *Scolytidae* spp.;

Whereas certain provisions concerning *Monilinia fructicola* (Winter) Honey, should be amended because it has been determined that only *Prunus* fruits from non-European countries should be subjected to phystosanitary control in the high-risk period from 15 February to 30 September;

Whereas since it has been determined that the risk of spreading *Xanthomonas campestris* pv. *pruni* by intra-Community trade in *P. laurocerasus* L. and *P. lusitanica* L., is minimal, the relevant measures should be modified;

Whereas since it has become apparent that there is no risk of transmitting *Bemisia tabaci* Genn with seeds, tubers and corms of *Begonia* L., the relevant measures should be modified;

Whereas certain measures against *Clavibacter michiganensis* spp. *insidiosus* Davis et al. should be modified in order to take account of the area of origin of the seeds and the presence of the disease in that area;

Whereas in order to take into account the phytosanitary risk involved with the import of parts of certain plants, other than fruits and seeds, certain measures should be modified;

Whereas these amendments are in accordance with the requests of the Member States concerned;

Whereas, therefore, the relevant Annexes to Directive 77/93/EEC should be amended accordingly;

[1] OJ L 26, 31. 1. 1977, p. 20.
[2] OJ L 87, 2. 4. 1997, p. 17.

Whereas the measures provided for in this Directive are in accordance with the opinion of the Standing Comittee on Plant Health,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annexes I to V to Directive 77/93/EEC are hereby amended as indicated in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive with effect from 1 May 1998. They shall forthwith inform the Commission thereof.

When Member States adopt these provisions, these shall contain a reference to this Directive or shall be accompanied by such reference at the time of their official publication. The procedure for such reference shall be adopted by Member States.

2. Member States shall immediately communicate to the Commission the main provisions of domestic law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

Article 3

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 8 January 1998.

For the Commission

Franz FISCHLER

Member of the Commission

ANNEX

1. In Annex I, Part A, Section I(a), the following points are inserted after point 10:

'10.1. *Diabrotica barberi* Smith bLawrence

10.2. *Diabrotica undecimpunctata howardi* Barber

10.3. *Diabrotica undecimpunctata undecimpunctata* Mannerheim

10.4. *Diabrotica virgifera* Le Conte'.

2. In Annex I, Part A, Section I(a), the following point is inserted after point 11:

'11.1. *Hirschmanniella* spp., other than *Hirschmanniella gracilis* (de Man) Luc bGoodey'.

3. In Annex I, Part A, Section II(a), the following points are inserted after point 6:

'6.1. *Meloidogyne chitwoodi* Golden et al. (all populations)

6.2. *Meloidogyne fallax* Karssen'.

4. In Annex I, Part A, Section II(a), the following point is inserted after point 8:

'8.1. *Rhizoecus hibisci* Kawai bTakagi'.

5. In Annex II, Part A, Section I(a), point 12, the text in the right-hand column is replaced by the following:

'Plants of *Crataegus* L., *Malus* Mill., *Photinia* Ldl., *Prunus* L. and *Rosa* L., intended for planting, other than seeds, and fruit of *Malus* Mill. and *Prunus* L., originating in non-European countries'.

6. In Annex II, Part A, Section II(d), point 15, the right-hand column, the following words are added:

'other than seeds'.

7. In Annex II, Part A, Section II(d), the following point is added:

'16. Tomato yellow leaf curl virus	Plants of *Lycopersicon lycopersicum* (L.) Karsten ex Farw., intended for planting, other than seeds'.

8. In Annex III, Part A, point 9 is replaced by the following:

'9. Plants of *Chaenomeles* Lindl., *Cydonia* Mill., *Crateagus* L., *Malus* Mill., *Prunus* L., *Pyrus* L. and *Rosa* L., intended for planting, other than dormant plants free from leaves, flowers and fruit	Non-European countries
9.1 Plants of *Photinia* Ldl., intended for planting, other than dormant plants free from leaves, flowers and fruit	USA, China, Japan, the Republic of Korea and Korea Democratic People's Republic'

9. In Annex III, Part A, point 12, the text in the left-hand column is replaced by the following:

'Tubers of species of *Solanum* L. and their hybrids, other than those specified in points 10 and 11'.

10. In Annex IV, Part A, Section I, point 16, the text in the left-hand column is replaced by the following:

'From 15 February to 30 September, fruits of *Prunus* L., originating in non-European countries'.

11. In Annex IV, Part A, Section I, point 25.4, right-hand column, the following is added:

'and

(cc) either, the tubers originate in areas in which *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen are known not to occur; or

(dd) in areas where *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen are known to occur,

— either the tubers originate from a place of production which has been found free from *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen based on an annual survey of host crops by visual inspection of host plants at appropriate times and by visual inspection both externally and by cutting of tubers after harvest from potato crops grown at the place of production, or

— the tubers after harvest have been randomly sampled and, either checked for the presence of symptoms after an appropriate method to induce symptoms, or laboratory tested, as well as inspected visually both externally and by cutting the tubers, at appropriate times and in all cases at the time of closing of the packages or containers before marketing according to the provisions on closing in Council Directive 66/403/EEC (*), and no symptoms of *Meloidogyne chitwoodi* Golden et al. (all populations) and *Meloidogyne fallax* Karssen have been found.

(*) OJ 125, 11. 7. 1966, p. 2320/66.'

12. In Annex IV, Part A, Section I, point 43 is replaced by the following:

'43. Naturally or artificially dwarfed plants intended for planting other than seeds, originating in non-European countries	Without prejudice to the provisions applicable to the plants listed in Annex III (A) (1), (2), (3), (9), (13), (15), (16), (17), (18), Annex III (B) (1), and Annex IV (A) (I) (8.1), (8.2), (9.1), (9.2), (10), (11.1), (11.2), (12), (13.1), (13.2), (14), (15), (17), (18), (19.1), (19.2), (20), (22.1), (22.2), (23.1), (23.2), (24), (25.5), (25.6), (26), (27.1), (27.2), (28), (32.1), (32.2), (33), (34), (36), (37), (38.1), (38.2), (39), (40), (42), where appropriate, official statement that: (a) the plants, including those collected directly from natural habitats, shall have been grown, held and trained for at least two consecutive years prior to dispatch in officially registered nurseries, which are subject to an officially supervised control regime, (b) the plants on the nurseries referred to in (a) shall: (aa) at least during the period referred to in (a): — be potted, in pots which are placed on shelves at least 50 cm above ground, — have been subjected to appropriate treatments to ensure freedom from non-European rusts; the active ingredient, concentration and date of application of these treatments shall be mentioned on the phytosanitary certificate provided for in Article 7 of this Directive under the rubric "disinfestation and/or disinfection treatment",