COUNCIL DIRECTIVE 94/13/EC

of 29 March 1994

amending 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 COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas Council Regulation (EEC) No 1911/91 of 26 June 1991 on the application of the provisions of Community law to the Canary Islands (4) integrates the Canary Islands into the Community's customs territory and into the common policies; whereas, under Articles 2 and 10 of that Regulation, application of the common agricultural policy is subject to the entry into force of specific supply arrangements; whereas such application must also be accompanied by specific measures concerning agricultural production;

Whereas Council Decision 91/314/EEC of 26 June 1991 setting up a programme of options specific to the remote and insular nature of the Canary Islands (Poseican) (5) outlines the options to be implemented to take account of the specific problems and constraints faced by the Islands;

Whereas these measures involve the adaptation of Directive 77/93/EEC (6) to accommodate the specific plant health situation in the Canary Islands and to extend the application of certain measures of that Directive for a period expiring six months after the date by which Member States must have implemented forthcoming provisions dealing with the Annexes to the Directive for the protection of the French overseas departments and of the Canary Islands;

Whereas it has become necessary to adapt the provisions relating to the derogations from the general rules provided for in Article 14 of Directive 77/93/EEC to the objectives of the internal market; whereas it is accordingly necessary to amend Articles 3, 4, 5, 6, 10 and 12 of the said Directive;

Whereas the provisions concerning additional requirements, referred to in Article 11 of Directive 77/93/EEC, are no longer compatible with the rules of the internal market, and should therefore be repealed,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 77/93/EEC is hereby amended as follows:

1. Article 1 shall be amended as follows:

(a) In paragraph 2 the words 'the Canary Islands' shall be deleted.

(b) The following paragraph shall be added after paragraph 3:

'3a This Directive shall also concern protective measures against the introduction of harmful organisms into the Canary Islands from other parts of Spain and, conversely, into other parts of Spain from the Canary Islands.'

(c) In paragraph 4 the words 'and in the Canary Islands' shall be inserted after the words 'French overseas departments'.

(d) The following paragraphs shall be added after paragraph 6:

'7. In respect of the protective measures against the introduction of harmful organisms from the French overseas departments into other parts of France and into the other Member States and against their spread within the French overseas departments, the dates referred to in Articles 1 (5), 3 (4), 4 (2) (a) and (4), 5 (2) and (4), 6 (4), (5) and (9), 10 (1), (2) (b) and (5) and 12 (6), (7) and (8) of this Directive shall be replaced by a date which corresponds to the end of a six-month period following the date by which Member States must implement forthcoming provisions dealing with Annexes I to V to Directive 77/93/EEC for the protection of the French overseas departments. With effect from the same date paragraphs (3) and (4) shall be repealed.

(1) OJ No C 97, 6. 4. 1993, p. 13.
(2) OJ No C 255, 20. 9. 1993, p. 242.
(3) OJ No C 201, 26. 7. 1993, p. 31.
(4) OJ No L 171, 29. 6. 1991, p. 1. Regulation as last amended by Regulation (EEC) No 284/92 (OJ No L 31, 7. 2. 1992, p. 6).
(5) OJ No L 171, 29. 6. 1991, p. 5.
(6) OJ No L 26, 31. 1. 1977, p. 20. Directive as last amended by Directive 92/103/EEC (OJ No L 363, 11. 12. 1992, p. 1).

8. In respect of the protective measures against the introduction of harmful organisms from the Canary Islands into other parts of Spain and into the other Member States and against their spread within the Canary Islands, the dates referred to in Articles 1 (5), 3 (4), 4 (2) (a) and (4), 5 (2) and (4), 6 (4), (5) and (9), 10 (1), (2) (b) and (5) and 12 (6), (7) and (8) of this Directive shall be replaced by a date which corresponds to the end of a six-month period following the date by which Member States must implement forthcoming provisions dealing with Annexes I to V to Directive 77/93/EEC for the protection of the Canary Islands. With effect from the same date paragraph 3a shall be repealed.'

2. Article 3 (7) shall be replaced by the following:

'7. (a) In accordance with the procedure laid down in Article 16a, it may be decided that Member States shall lay down that the introduction into their territories, and the spread within their territories, of specified organisms, whether singly or not, which are considered to be harmful to plants or plant products but are not listed in Annexes I and II, shall be prohibited or require special authorization under conditions specified under the same procedure.

(b) In accordance with the procedure laid down in Article 16a, it may be decided that Member States shall lay down that the introduction into their territories, and the spread within their territories, of specified organisms, which are listed in Annex II, but which occur on plants other that those listed in that Annex, and which are considered to be harmful to plants or plant products, shall be prohibited or require special authorization under conditions specified under the same procedure.

(c) In accordance with the procedure laid down in Article 16a, it may be decided that Member States shall lay down that the introduction into their territories, and the spread within their territories, of specified organisms, which are listed in Annexes I and II, which are in an isolated state and which are considered to be harmful to plants or plant products, shall be prohibited or require special authorization under conditions specified under the same procedure.

(d) Subparagraphs (a), (b) and (c) shall also apply to such organisms where they are not affected by Council Directive 90/220/EEC of 23 April 1990 on the deliberate release into the environment of genetically modified organisms (*) or other more specific Community provisions regarding genetically modified organisms.

(e) Paragraphs 1 and 5 (a) and paragraphs 2 and 5 (b) shall not apply, in accordance with the conditions which shall be determined pursuant to the procedure laid down in Article 16a, for trial or scientific purposes and for work on varietal selections.

(f) After the measures provided for in subparagraphs (a), (b) and (c) have been adopted, those subparagraphs shall not apply, in accordance with conditions which shall be determined pursuant to the procedure laid down in Article 16a, for trial or scientific purposes and for work on varietal selections.

(*) OJ No L 117, 8. 5. 1990, p. 15.'

3. In Article 4 the following paragraphs shall be added after paragraph 4:

'5. Paragraphs 1 and 2 (a) shall not apply, in accordance with conditions which shall be determined pursuant to the procedure laid down in Article 16a, for trials or scientific purposes and for work on varietal selections.

6. (a) Provided that there is no risk of harmful organisms spreading, a Member State may provide that paragraphs 1 and 2 (a) shall not apply in individual specified cases to plants, plant products and other objects which are grown, produced or used in its immediate frontier zone with a third country and introduced into that Member State in order to be worked in nearby locations in the frontier zone of its territory.

(b) When granting such a derogation, the Member State shall specify the location and the name of the person working it. Such details, which shall be updated regularly, shall be available to the Commission.

(c) Plants, plant products and other objects which form the subject of a derogation under subparagraph (a) shall be accompanied by documentary evidence of the location in the relevant third country from which the said plants, plant products and other objects originate.'

4. Article 5 shall be amended as follows:

(a) In paragraph 4, the following sentence shall be added:

'This paragraph and paragraphs 1 and 2 shall not apply to the movement of small quantities of plants, plant products, foodstuffs or animal feedingstuffs where they are intended for use by the owner or recipient for non-industrial and non-commercial purposes or for consumption during transport, provided that there is no risk of harmful organisms spreading.'