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R E P O R T

of the Committee on Agriculture, Fisheries and Rural Development

on two Commission proposals for Council directives:

- I. amending Directive 77/93/EEC on protective measures against the introduction into the Member States of organisms harmful to plants or plant products (COM(89) 0646 final - C3-0042/90)
- II. amending Directive 77/93/EEC on protective measures against the introduction into the Member States of organisms harmful to plants or plant products (COM(89) 0647 final - C3-0044/90)

Rapporteur: Mr José VAZQUEZ FOUZ

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A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations) PE-146-382/fin.

* = Consultation procedure requiring a single reading

**II = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

**I = Cooperation procedure (first reading)

*** = Parliamentary assent which requires the votes of a majority of the current Members of Parliament

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By letter of 5 February 1990 the Council consulted the European Parliament, pursuant to Article 43 of the EEC Treaty, on two Commission proposals for Council directives:

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

At the sitting of 14 February 1990 the President of Parliament announced that he had referred these proposals to the Committee on Agriculture, Fisheries and Rural Development as the committee responsible and to the Committee on Budgets and the Committee on the Environment, Public Health and Consumer Protection for their opinions.

At its meeting of 23 March 1990 the committee appointed Mr Vázquez Fouz rapporteur.

At its meetings of 18-19 April, 15-16 October, 19-20 December 1990 and 7-8 February 1991 the committee considered the Commission proposals and draft report.

At the latter meeting it adopted the first draft legislative resolution (I) unanimously and the second one (II) unopposed with one abstention.

The following took part in the vote : Colino Salamanca, chairman; Vázquez Fouz, rapporteur; Bocklet, Böge (for Dalsass), Carvalho Cardoso, da Cunha Oliveira (for Gomes), Domingo Segarra, Fantuzzi, Fernex (for Falqui), Funk, Guillaume, Happart, Howell, Keppelhoff-Wiechert, Kofoed, Lane, Langenhagen (for Borgo), Lataillade (for Killilea), McCartin, Maher (for Vohrer), Marck, Miranda da Silva (for Piquet), Morris (for McCubbin), Mottola, Newens, Nicholson (for Navarro), Partsch (for Graefe zu Baringdorf), Ferruccio Pisoni (for Ortiz Climent), Nino Pisoni, Plumb, Rothe, Santos López, Saridakis, Simmonds, Sonneveld, Stevenson, Thareau and Verbeek.

The opinions of the Committee on Budgets and the Committee on the Environment, Public Health and Consumer Protection are attached.

The report was tabled on 12 February 1991.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

Commission proposal for a Council Directive amending Directive 77/93/EEC
on protective measures against the introduction
into the Member States of organisms harmful
to plants or plant products
(C3-0042/90)

Commission text¹

Amendments

(Amendment No. 1)
Third recital

Whereas, in principle, all parts of the Community should benefit from the same degree of protection against harmful organisms; whereas, however, differences in ecological conditions and in the distribution of certain harmful organisms must be taken into account; whereas, in consequence, 'ecological regions', exposed to relatively uniform plant health risks, should be established, and there should also be provision for the recognition of defined 'isolated zones', in which harmful organisms established elsewhere in the Community are not known to occur; whereas such 'ecological regions' and 'isolated zones' should be accorded special protection under conditions compatible with the Single Market;

Whereas, in principle, all parts of the Community should benefit from the same degree of protection against harmful organisms; whereas, however, differences in ecological conditions and in the distribution of certain harmful organisms must be taken into account; whereas, in consequence, there may be provision for the recognition of 'regions exposed to plant health risks'² that are relatively uniform and defined 'isolated zones', and there should also be provision for the recognition of defined 'isolated zones', in which harmful organisms established elsewhere in the Community are not known to occur; whereas, such 'regions exposed to plant health risks'² and 'isolated zones' should be accorded special protection under conditions compatible with the Single Market;

¹ For full text see COM(89) 0646 final - OJ No. C 29, 8.2.1990, p. 10

² Any subsequent reference in this proposal to 'ecological regions' or 'ecological subregions' shall read 'regions exposed to plant health risks' or subregions exposed to plant health risks'

(Amendment No. 2)
Eleventh recital a (new)

Whereas, in order to provide the necessary guarantees for the new situation created by the completion of the single market, it is essential to reinforce the phytosanitary infrastructure at national and Community level at the Community's external frontiers, paying particular attention to those Member States which, by reason of their geographical situation, are points of entry to the Community; whereas the Commission will propose the inclusion in the Community budget of the necessary appropriations for that purpose;

(Amendment No. 3)
Eleventh recital b (new)

Whereas, with a view to improving the efficiency of the Community plant health regime in the context of the Single Market, the Member States should standardize the practices of the personnel responsible for plant health; whereas the Commission will submit, by 1 January 1993, a Community code of phytosanitary practice;

(Amendment No. 4)
ARTICLE 1(3)
Article 2(1)(f) of Directive 77/93/EEC

(f) Plant passport: shall be considered to mean any document, label, seal, stamp, mark or other indication, which gives evidence that the provisions of this Directive related to plant health standards and special requirements are satisfied, and which is

(f) Plant passport: shall be considered to mean any document, label, seal, stamp, mark or other indication, which gives evidence that the provisions of this Directive related to plant health standards and special requirements are satisfied, and which is

Commission text

- standardized at Community level for different types of plants or plant products, and
- officially issued or endorsed for that purpose

Amendments

- standardized at Community level for different types of plants or plant products, and
- officially issued or endorsed, either by the competent national authority or by other public or private agents acting by delegation from that authority and/or under its supervision for that purpose.

(Amendment No. 5)

ARTICLE 1(4)

Article 2(1)(h) of Directive 77/93/EEC

(h) Isolated zone: shall be considered to mean an area in the Community

- in which one or more harmful organisms referred to in this Directive, which are established in one or more parts of the rest of the Community, are not known to occur, despite favourable conditions....

(h) Isolated zone: shall be considered to mean an area in the Community

- in which one or more harmful organisms referred to in this Directive, which are established in one or more parts of the rest of the Community, are not known to occur or to represent an endemic disease, despite favourable conditions....

(Amendment No. 6)

ARTICLE 1(4)

Article 2(1)(i) of Directive 77/93/EEC

(i) A statement or measure shall be considered to be official, if made or taken, without prejudice to the provisions of Article 19a,

- by representatives of the official plant-protection organization of a Member State or, under their responsibility, by other public servants, in the case of statements or measures related to the issuing of the certificates specified in Article 7(1) or Article 8(2),

(i) A statement or measure shall be considered to be official, if made or taken, without prejudice to the provisions of Article 19a,

- by representatives of the official plant-protection organization of a Member State or, under their responsibility, by other public servants, in the case of statements or measures related to the issuing of the certificates specified in Article 7(1) or Article 8(2),

Commission text

- either by such representatives or public servants, or by 'qualified agents' employed by other public bodies of a Member State, in all other cases.

The minimum standards for the qualifications of the 'qualified agents' referred to in the second indent may be established in accordance with the procedure laid down in Article 16a.

The Commission shall coordinate at Community level the training of persons employed as 'qualified agents'. It may financially support the training of those agents, within the limits of appropriations available for that purpose in the Community budget.

(Amendment No. 7)
ARTICLE 1(8)

In Article 5, the second sentence of paragraph 1 and point (a) of paragraph 2 are deleted.

(Amendment No. 8)
ARTICLE 1(14)

Article 6(4)(a) of Directive 77/93/EEC (new)

They shall extend to all relevant plants or plant products grown, produced or used by the producer or otherwise present on his premises as well as to the growing medium used there.

Amendments

- either by such representatives or public servants, or by 'qualified agents' employed by delegation from and/or under the authority of the competent public bodies of a Member State.

The minimum standards for the qualifications of the 'qualified agents' referred to in the second indent may be established in accordance with the procedure laid down in Article 16a.

The Commission shall coordinate at Community level the training of persons employed as 'qualified agents' and shall contribute to the financing of the training of those agents. It shall propose the inclusion of the necessary appropriations for that purpose in the Community budget.

In Article 5, the second sentence of paragraph 1 is deleted.

They shall extend to relevant plants or plant products grown, produced or used by the producer or otherwise present on his premises as well as to the growing medium used there.

Commission text

Amendments

(Amendment No. 9)

ARTICLE 1(14)

Article 6(4)(d) of Directive 77/93/EEC

(d) They shall be made at least by visual observation; in case of doubt, as well as in cases specified in Annex IV ...

(d) They shall be made by visual observation where this is deemed sufficient; in case of doubt, as well as in cases specified in Annex IV ...

(Amendment No. 10)

ARTICLE 1(16)

Article 10(2) of Directive 77/93/EEC

2. With effect from 1 January 1993, plants, plant products and other objects listed in Annex V part A may not be moved within the Community, other than locally within the meaning of Article 6(5), unless a plant passport valid for the territory concerned and issued or registered in accordance with the provisions of paragraph 1 is attached to them, to their packaging or to the vehicles transporting them.

2. With effect from 1 January 1993, plants, plant products and other objects listed in Annex V part A may not be moved within the Community, unless a plant passport valid for the territory concerned and issued or registered in accordance with the provisions of paragraph 1 is attached to them, to their packaging or to the vehicles transporting them.

(Amendment No. 11)

ARTICLE 1(16)

Article 10a(2) (new) of Directive 77/93/EEC

2. Where it is established, taking into account the nature of the findings made in the examination concerned

2. In the special cases where it is established, taking into account the nature of the findings made in the examination concerned

Commission text

Amendments

(Amendment No. 12)

ARTICLE 1(16)

Article 10a(3) (new) of Directive 77/93/EEC

A plant passport may correspond to one or various plants, of one or various plant species included in the same consignment and may be divided, to any degree and in any part of the Community, into various passports, according to the substitution procedures provided for in paragraph 3.

(Amendment No. 13)

ARTICLE 1(24)

Annex V, Part A(2) and (3)

2. The parts of plants as shown below:
Fruit of:
Citrus L.

Deleted.

3. Potato tubers.

3. Seed potatoes.

(Amendment No. 14)

ARTICLE 1(25)

Annex V, Part B(2)(b)

(b) Fresh fruits of:

Citrus, other than lemons
(Citrus limon (L.) Burm. and
Citrus medica L.),

Cydonia,

Malus,

Prunus,

Pyrus.

(b) Fresh fruits of:

Citrus, including lemons (Citrus
limon (L.) Burm. and Citrus
medica L.),

Cydonia,

Malus,

Prunus,

Pyrus,

Cucurbitaceae and tropical and
subtropical fruits.

Commission text

Amendments

(Amendment No. 15)

ARTICLE 1(25)

Annex V, Article 2(1)

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 January 1991.

The provisions adopted pursuant to the first subparagraph shall make express reference to this Directive.

They shall forthwith inform the Commission thereof.

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 January 1993.

The provisions adopted pursuant to the first subparagraph shall make express reference to this Directive.

They shall forthwith inform the Commission thereof.

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament
on the Commission proposal for a Council directive amending
Directive 77/93/EEC on protective measures against the introduction
into the Member States of organisms harmful to plants or plant products

The European Parliament,

- having regard to the Commission proposal to the Council (COM(89) 0646 final¹,
 - having been consulted by the Council pursuant to Article 43 of the EEC Treaty (C3-0042/90),

considering the proposal legal basis to be appropriate,
 - having regard to the report of the Committee on Agriculture, Fisheries and Rural Development and the opinions of the Committee on Budgets and the Committee on the Environment, Public Health and Consumer Protection (A3-0032/91),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 4. Instructs its President to forward this opinion to the Council and Commission.

¹ OJ No. C 29, 8.2.1990, p. 10

A
Proposal from the Commission to the Council amending
Directive 77/93/EEC on protective measures
against the introduction into the Member States of organisms
harmful to plants or plant products
(C3-0044/90)

Commission text¹

Amendments

(Amendment No. 16)
Fourth recital

Whereas such system should provide for adequate contributions to certain expenses for specific measures which Member States have adopted to control infections by harmful organisms introduced from another Member State;

Whereas such system should provide for adequate contributions to certain expenses for specific measures which Member States have adopted to control and, where applicable, eradicate infections by harmful organisms introduced from another Member State, and, where possible, to repair the damage caused;

(Amendment No. 17)
Fourth recital a (new)

Whereas, notwithstanding, in the case of infections produced by harmful organisms introduced from third countries, there should also be a Community financial contribution aimed at reinforcing the phytosanitary inspection infrastructure at the Community's external frontiers;

(Amendment No. 18)
Seventh recital

Whereas, in particular, the Commission shall monitor correct application of the provisions of the Community plant health regime by the responsible public servants of the Member States;

Whereas, in particular, the Commission shall monitor correct application of the provisions of the Community plant health regime by the producers, suppliers, qualified personnel and the responsible public servants in the Member States;

¹ For full text see COM(89) 0647 final - OJ No. C 31, 9.9.1990, p. 8

Commission text

Amendments

(Amendment No. 19)

ARTICLE 1

Article 19b (new) of Directive 77/93/EEC

In the case of the spread of harmful organisms through plants, plant products and other objects moving in intra-Community trade, Member States may receive financial assistance from the Community pursuant to the provisions of Article 19c, for the purpose of controlling these harmful organisms and within the limits of appropriations available for that purpose in the Community budget.

In the case of the spread of harmful organisms through plants, plant products and other objects moving in intra-Community trade, Member States may receive financial assistance from the Community pursuant to the provisions of Article 19c, for the purpose of controlling these harmful organisms and, where applicable, eradicating infections caused by them and, where possible, repairing the damage caused. The Commission shall propose the inclusion of the necessary appropriations for this purpose in the Community budget.

(Amendment No. 20)

ARTICLE 1

Article 19c(1) (new) of Directive 77/93/EEC

1. Where it is established that one or more of the harmful organisms listed in Annex I or Annex II were introduced into a Member State where the organisms concerned have not been known to occur, through consignments of plants, plant products or other objects coming from another Member State ...

1. Where it is established that one or more of the harmful organisms listed in Annex I or Annex II were introduced into a Member State where the organisms concerned have not been known to occur (or are not endemic or have been or are being eradicated), through consignments of plants, plant products or other objects coming from another Member State ...

Commission text

Amendments

(Amendment No. 21)

ARTICLE 1

Article 19c(2) (new), first indent of Directive 77/93/EEC

- | | |
|--|--|
| <p>- destruction, disinfection, disinfestation, sterilization or any other treatment carried out officially or upon official request, in respect of the consignment through which the harmful organisms were introduced, as well as in respect of plants, plant products or other objects which have been in contact with the consignment concerned or with parts thereof, or which are otherwise suspected to be potentially contaminated by, or potential carriers of, the harmful organisms introduced;</p> | <p>- destruction, disinfection, disinfestation, sterilization or any other treatment carried out officially or upon official request, in respect of the consignment through which the harmful organisms were introduced, as well as in respect of plants, plant products, <u>soil, cultivation material, packaging and wrapping material</u> or other objects which have been in contact with the consignment concerned or with parts thereof, or which are otherwise suspected to be potentially contaminated by, or potential carriers of, the harmful organisms introduced;</p> |
|--|--|

(Amendment No. 22)

ARTICLE 1

Article 19c(5) (new) of Directive 77/93/EEC

- | | |
|---|---|
| <p>5. The grant of Community financial assistance shall be decided in accordance with the procedure laid down in Article 17a.</p> | <p>5. The grant of Community financial assistance shall be decided in accordance with the procedure laid down in Article 17a.</p> |
|---|---|

This assistance may cover up to 50% of the expenses; it may be divided into several instalments.

This assistance shall cover at least 50% of the expenses; it may be divided into several instalments.

The level shall be calculated on the basis of documentary evidence submitted by the Member State concerned. In case of doubt, investigations may be organized by the Commission, to be made under its authority, by the experts referred to in Article 19a.

The level shall be calculated on the basis of documentary evidence submitted by the Member State concerned, and, where relevant, of any investigations carried out by the experts referred to in Article 19a under the authority of the Commission.

(Amendment No. 23)

ARTICLE 1

Article 19d(2) (new) of Directive 77/93/EEC

2. Where it is established, on the basis of the information obtained pursuant to paragraph 1, that the non-compliance of the consignment with the provisions of this directive was not detected in the Member State referred to in that paragraph, because of wilfully or negligently inadequate examinations pursuant to Article 6, or inspections pursuant to Article 12(1), by responsible public servants of that Member State, that Member State shall refund the Community for the Community financial assistance granted pursuant to Article 19c. For the purpose of this provision, inadequate examinations or inspections shall, in the absence of proof to the contrary, be deemed to be at least negligently inadequate. In the case of refunding, the Community shall cede all possible rights acquired under Article 19c(7) to the refunding Member State. Moreover, the refunding is without prejudice to rights of the refunding Member State under national law against legal or natural persons, including the responsible public servants concerned, for reimbursement of that refunding.

2. Where it is established, on the basis of the information obtained pursuant to paragraph 1, that the non-compliance of the consignment with the provisions of this directive was not detected in the Member State referred to in that paragraph, because of wilfully or negligently inadequate examinations pursuant to Article 6, or inspections pursuant to Article 12(1), by responsible public servants of that Member State or by other agents acting under its authority, that Member State shall refund the Community for the Community financial assistance granted pursuant to Article 19c. For the purpose of this provision, inadequate examinations or inspections or failure to inspect where inspection is mandatory may be deemed to constitute grounds for invoking negligence, in the absence of proof to the contrary. In the case of refunding, the Community shall cede all possible rights acquired under Article 19c(7) to the refunding Member State. Moreover, the refunding is without prejudice to rights of the refunding Member State under national law against the legal or natural persons who are declared responsible for reimbursement of that refunding.

(Amendment No. 24)

ARTICLE 2(1)

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 January 1991.

1. Member States shall bring into force the laws, regulations or administrative provisions necessary to comply with this Directive by 1 January 1993.

DRAFT LEGISLATIVE RESOLUTION

embodying the opinion of the European Parliament
on the Commission proposal for a Council Directive amending
Directive 77/93/EEC on protective measures against the
introduction into the Member States of organisms harmful
to plants or plant products

The European Parliament,

- having regard to the Commission proposal to the Council (COM(89) 0647 final¹ ,
 - having been consulted by the Council pursuant to Article 43 of the EEC Treaty (C3-0044/90),
 - considering the proposed legal basis to be appropriate,
 - having regard to the report of the Committee on Agriculture, Fisheries and Rural Development and the opinions of the Committee on Budgets and the Committee on the Environment, Public Health and Consumer Protection (A3-0032/91),
1. Approves the Commission proposal subject to Parliament's amendments and in accordance with the vote thereon;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again should the Council intend to make substantial modifications to the Commission proposal;
 4. Instructs its President to forward this opinion to the Council and Commission.

¹ OJ No. 31, 9.2.1990, p. 8

B
EXPLANATORY STATEMENT

I. INTRODUCTION

The Commission's White Paper and its communication 'A New Strategy in the field of Plant Health'¹ list the measures to be adopted in the field of plant health with a view to the completion of the single market, in order to reconcile implementation of the principle of free movement with prevention of the introduction or spread of harmful organisms.

In response to these requirements, the Commission has submitted two proposals amending Directive 77/93. Since they entail a radical change compared to the present position and since it will be an extremely complex matter to apply and implement them, the rapporteur felt it would be useful to draw up a working document to serve as a basis for the discussion of the main problems raised by these proposals.

As the various aspects of the Commission proposals have already been the subject of animated discussion on the Committee on Agriculture, the rapporteur decided to table a number of amendments to the proposals in the hope of providing a response to some of the anxieties raised during the debate. Other aspects of a predominantly technical or practical nature are dealt with in this explanatory statement; the rapporteur believes his comments will produce an appropriate response in the relevant Commission departments.

II. THE PRESENT SITUATION

The present system is based on inspections at frontiers and the mutual recognition of phytosanitary certificates. Until now, the Member States have had separate rules for national and intra-Community trade and there are no standard controls for traffic within the Member States; there is thus a risk that harmful organisms may spread uncontrollably from any source of infection.

III. THE NEW STRATEGY IN THE FIELD OF PLANT HEALTH

The Commission proposes the following:

- aligning national and intra-Community standards in plant health;
- guaranteeing free marketing within the Community of plants or plant products which meet these standards; they will be issued with a 'plant passport', thus abolishing formalities and controls at frontiers and transferring the latter to the place of production;
- restricting inspections to the point of origin;
- defining the role of Community phytosanitary inspectors²;

¹ COM(87) 97 final

² Directive 89/439/EEC inserting an Article 19a in Directive 77/93/EEC (OJ No. L 212, 7.4.1989)

- increasing confidence between the various countries by establishing responsibility rules on plant health and financial solidarity in the interest of a fairer distribution of costs;
- in respect of production from third countries, reinforcing plant health rules to prevent harmful quarantine organisms from being introduced into the EEC and ensure that regular checks are carried out at external frontiers.

The two proposals before us (COM(89) 646 final and COM(89) 647 final) aim to incorporate some of these points.

IV. PROPOSAL COM(89) 646 FINAL AMENDING PLANT PROTECTION DIRECTIVE 77/93

This proposal introduces three key points:

- (1) the plant passport, which will replace phytosanitary certificates in intra-Community traffic;
- (2) the definition of ecological regions and subregions and isolated zones;
- (3) the new system of checks.

Rapporteur's comments and proposals

1. As to the PLANT PASSPORT:

- (a) because of its official character, this document must be officially issued or endorsed (the Member States must designate the competent authority). This official character identifies the passport as a document reflecting the Member State's responsibility for plant health.

However, the Commission envisages that the passport could be produced, printed and kept, either by official bodies or, under their supervision, by the producers or producer's organizations, without this affecting the official nature of the document. With this in view, the rapporteur has tabled an amendment specifying that the passport's official character will derive from its having been issued either by the competent national authority or by other public or private agents acting by delegation from that authority and/or under its supervision.

This point is related to a matter which is referred to but requires much greater clarification in this directive, namely the involvement of qualified agents other than public servants in the adoption of statements or measures related to plant health, without prejudice to the responsibility of the state in each case.

- (b) Sphere of application: this measure will affect products listed in Annex V (primarily those intended for planting or reproduction) but also including citrus fruits and potato tubers.

In this context, the rapporteur considers:

- Annex V, Section A (concerning products originating in the Community) should exclude potato tubers intended for consumption, and should be restricted to seed potatoes; similarly, Community citrus fruits should be exempted, since trade patterns and the nature of epiphytes which are common throughout the Community's Mediterranean region render this superfluous, provided that existing phytosanitary conditions are maintained. Moreover, to include citrus fruits and potatoes for consumption would lead to increased red tape without any realistic guarantee of control (imagine a register of all producers of citrus fruits or potatoes).
- Nevertheless, with respect to the same Annex V, Section B (concerning products originating in third countries), an amendment is proposed to encompass citrus fruits including lemons, Cucurbitaceae and fresh tropical and subtropical fruits. Imports of these products from third countries without the necessary checks could entail the risk of introducing fruit carrying non-European pests (e.g. trypetids of the Anastrepha, Dacus and other genera) or the citrus canker (Xanthomonas citri), which has devastated the citrus crops of entire regions in such countries as Brazil. The rapporteur therefore considers that for these products originating in third countries it is essential to require a phytosanitary certificate, which would later be converted into a plant passport.

(c) Products which do not meet the requirements for obtaining a plant passport may be authorized for local movement. This point is a dangerous one since, firstly, it could contribute to the creation of a two-tier quality control system and, secondly, as it is extremely difficult both to define and to monitor local movement, it could result in discrimination between producers and the spread of harmful organisms and have an adverse effect on eradication programmes. The Commission offers the possibility of local movement as a way of providing flexibility; nevertheless, in view of the monitoring problems it raises, it seems preferable not to adopt this suggestion.

(d) Some points, in connection with material and official procedures, should be further clarified in this directive in order to facilitate its implementation and prevent fraud, e.g. the way in which the passport should be affixed to the material being transported as well as responsibility for affixing it, the alterations which may be made to a passport if it is decided to change the use of the material, the registers to be kept by the producer and importers, etc. At all events, the practical implementation of the rules should be compatible with the specific forms of trading flexibility required in the sector; it is also essential to ensure that the system does not represent an excessive financial burden for producers and traders, and thus, ultimately, for the consumer.

2. As to the ECOLOGICAL REGIONS AND SUBREGIONS AND ISOLATED ZONES

(a) The proposal restricts itself to supplying the concepts of 'ecological region' and 'isolated zone' and leaves it to the Standing Committee on Plant Health to list these regions. The Commission seems to wish to establish three different categories of region:

Region 1: Belgium, Denmark, Germany, central and south-western France, Ireland, northern Italy, Luxembourg, the Netherlands and the United Kingdom;

Region 2: Greece, Spain, south-eastern France, southern Italy and Portugal;

Region 3: non-European territories of the Member States.

The limits between regions 1 and 2 would be defined in terms of plant geography, i.e. by the distribution of the olive tree (*Olea europea* or species such as *Quercus coccifera*, *Q. ilex* and *Q. suber*).

- (b) Should the Community in fact be divided into ecological regions, the need to give adequate phytosanitary guarantees for traffic between one ecological region and another would immediately arise as a major problem, since certain agricultural products may run the risk of carrying harmful organisms which are extremely dangerous or whose introduction into the other region is either prohibited or subject to adequate quarantine measures.

The Commission proposal makes no provision for practical means of providing such guarantees, and only a general reference is made to the need for random checks 'at boundaries of ecological regions or subregions or of isolated zones, provided that these boundaries are properly marked with appropriate traffic signs' (Article 1(17)).

Moreover, the creation of borders in ecological regions is a concept completely at odds with the planned abolition of all internal frontiers.

- (c) In view of the above, the rapporteur considers that it would be far more practical to consider the entire Community as forming one ecological region, without prejudice to the possibility of instituting isolated zones (which would be defined as those free from harmful organisms existing in the rest of the Community), for which there could be special protection arrangements under conditions compatible with the single market.

3. As to CHECKS:

- (a) For Community production: in theory, regular official checks should be carried out, principally in the place of production, of all plants and soils listed in Annex V, so that they may be granted a plant passport. In addition, official registers of producers will be kept.

The notion of a priori regular checks has been challenged in some quarters by those who would prefer a form of self-checking within undertakings and official a posteriori sample checking. However, the Commission proposal takes the view that phytosanitary checks, as distinct from quality control, should always be carried out in advance and under official auspices, so that a Member State can be held responsible.

Nevertheless, in practice the following questions must be answered: will checks be carried out on 100% of the material? or is the purpose of the checking system to make the official body which issued the plant passport, or under whose responsibility it was issued, 100% responsible for the results?

- (b) At present, checks are carried out differently in the various Member States and consequently there is a need to define and give details of minimum compulsory duties to be carried out by phytosanitary inspectors, without prejudice to the fact that the Commission will, by 1 January 1993, publish the manual or code of correct phytosanitary practice which is currently being prepared.
- (c) In addition to checks at the production stage, provision is made for 'occasional checks', and checks (which are not described as occasional, thus suggesting that they will be regular) in ecological regions or subregions or isolated zones, without any provision for the practical means of carrying them out (a problem which has already been mentioned).
- (d) The Commission proposal provides for the exclusion from checks of producers of one zone or local administrative district. The rapporteur considers that this provision should be removed for the reasons already stated in connection with the problems involved in operating a different regime for local movement.
- (e) For imports from third countries: the phytosanitary certificate is to be checked at the first point of entry at a Community frontier and, if the requirements are met, it is to be converted into a plant passport granting the product authorization for movement within the Community.

This type of operation would have a significant impact on certain countries through which large quantities of imports are channelled. Consequently, in order to provide the necessary guarantees for this new situation, it is essential to reinforce the phytosanitary inspection infrastructure at national and Community level at the Community's external frontiers. The necessary appropriations for this purpose should be included in the Community budget.

V. PROPOSAL (COM(89) 647 final: A SYSTEM OF RESPONSIBILITY

This proposal supplements the previous proposal (COM(89) 646 final). This establishes a Community system of financial solidarity to share among the Member States the extra burden of the risks of introduction into one Member State, as a result of trading in plants, of harmful organisms from another Member State, taking account of the fact that internal frontiers will no longer exist in the Community and that phytosanitary inspections will be carried out only at the place of origin. To this effect, a Community financial aid system is instituted which will cover up to 50% of the costs of eradicating the harmful organism, although it also provides for the country affected to be compensated by the state exporting the goods which have caused the infection in respect of all or part of the costs not covered by Community aid.

Rapporteur's comments and proposals:

1. The following problems may be identified:

- (a) It is difficult to identify the goods (and their place of origin) which have carried the harmful organism in question, since in most cases, when a new harmful organism is found to have appeared in a Member State, years may have passed since it was introduced. This also makes it difficult to ensure payment of the compensation which the state causing the infection is under an obligation to pay.
- (b) No provision is made for cases in which the harmful organism spreads, occasioning new losses and costs year after year which are not covered by any form of subsidy or financing.
- (c) Community subsidies only cover costs resulting from official measures adopted and then only payments chargeable to credits allocated in a public budget, without taking account of losses of private individuals.

2. In view of the problems mentioned under (a), (b) and (c) above, the rapporteur considers that there is a need to extend the category of measures which may be financed by Community aid. With this in view, he proposes taking into account not only the public expenditure incurred in controlling the harmful organism, but also the expenditure on measures aimed at eradication and, where possible, reparation of the damage caused.

3. Even when the points at issue are to be settled in the final instance by the national law of each country, recommendations could be made at Community level concerning uniform limits and criteria to govern the systems governing the responsibility of public officials and the administrative penalties to which all persons who infringe rules on plant health are liable.

4. Article 19(d) of the Commission proposal defines the responsibilities of the competent officials of the Member States in cases of wilfully or negligently inadequate examinations. The rapporteur proposes that such responsibility should apply not only to officials but also to other agents acting under their authority; in addition, the Commission text is toned down where the wording as it stands could arouse the hostility of the officials responsible for plant health matters in the Member States, and adversely affect their attitude when granting plant passports.

5. Finally, in view of the fact that the proposal would introduce a system of financial solidarity only in respect of damage caused by harmful organisms introduced from one Member State into another, it is essential to reaffirm the need to reinforce national and Community phytosanitary inspection at the Community's external frontiers and to include the necessary appropriations for this purpose in the Community budget.

OPINION OF THE COMMITTEE ON BUDGETS

Letter from the chairman of the committee to Mr COLINO SALAMANCA, chairman of the Committee on Agriculture, Fisheries and Rural Development

Luxembourg, 26 April 1990

Subject: Protective measures against the introduction into the Member States of organisms harmful to plants or plant products (COM(89) 646 final - C3-0042/90 and COM(89) 647 final - C3-0044/90)

Dear Mr Colino Salamanca,

The Committee on Budgets considered the above proposal at its meeting of 25 April 1990.

Having considered its nature and the financial implications, the committee decided to deliver a favourable opinion on this proposal¹.

Yours sincerely,

(sgd) Thomas von der VRING

¹ The following were present for the vote: von der Vring, chairman; Arias Canete, Böge, Cochet, Colom i Naval, Fitzgerald (for Pasty), Kellett-Bowman, Lamassoure, Langes, McCartin (for Lo Giudice), Napoletano (for Colajanni), Onur (for Lüttge), Papoutsis, Samland and Theato.

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH
AND CONSUMER PROTECTION

Letter from the chairman of the committee to Mr COLINO SALAMANCA, chairman of the Committee on Agriculture, Fisheries and Rural Development

Brussels, 29 June 1990

- Subject:
1. Commission proposal for a Council directive amending Directive 77/93/EEC on protective measures against the introduction into the Member States of organisms harmful to plants or plant products (COM(89) 646 final - Doc. C3-42/90)
 2. Commission proposal for a Council directive amending Directive 77/93/EEC on protective measures against the introduction into the Member States of organisms harmful to plants or plant products (COM(89) 647 final - Doc. C3-44/90)

Dear Mr Colino Salamanca,

The Committee on the Environment, Public Health and Consumer Protection considered the above proposals at its meeting of 28-29 June 1990. It broadly supports the approach which has been taken by the Commission in its new approach in COM(89) 646 to controlling the introduction of plant pests into the Member States of the European Community. The ideas of established plant health standards, 'plant passports', and the transfer of checks from internal frontiers to places of production, whilst maintaining checks on third country production at the Community's external frontiers, are sound ones. These, coupled with random checks, should enable border controls of these materials to be eliminated.

The second proposal, offering the possibility of financial aid to Member States engaged in pest eradication programmes, seeks to attain a reasonable goal, but such programmes must be closely monitored to ensure that the environmental costs of pest eradication measures do not exceed the final benefit which is sought.

There is, however, a much more general point about these two proposals which we feel is of particular importance. The basic directive, 77/93/EEC, has already been amended 17 times, and COM(89) 646 seeks a fairly major revision of the basic structural elements of this directive. It is literally impossible for Members of the European Parliament, let alone members of the general public, to compare the text of the 'current' directive with the new proposals, since the current directive does not exist in a 'composite' or codified form.

The Commission's attention should be drawn, once again, to the European Parliament's resolution of 26 May 1989 'on the simplification, clarification and codification of Community law'¹, which highlighted this problem, and offered possible solutions.

¹ OJ No. C 158, 26.6.1989, p. 386

It is interesting to ask whose interests are served by the prevailing obscurantism. It makes democratic control and accountability more difficult, alienates Community law from those to whom it applies, and does no good at all to the Community's public image. Perhaps it suits lawyers and bureaucrats.

It seems clear to the Committee on the Environment, Public Health and Consumer Protection that a more sensible approach from the Commission, in the absence of a Council regulation permitting the publication of codified versions of legal texts in the Official Journal, would be to propose the repeal of the existing directive, and its replacement by a new directive incorporating all of the changes currently envisaged which derive from the Commission's White Paper on completing the internal market.

The Committee on the Environment, Public Health and Consumer Protection expects the Committee on Agriculture, Fisheries and Rural Development to support its insistence on greater clarity and transparency, not least because it is the producers working in this area who have to try and understand the new legislation.

The Committee on Agriculture, Fisheries and Rural Development is also asked to monitor the extent to which the committee procedures envisaged in these proposals reflect the prevailing position of the European Parliament. To propose regulatory (type III) committees in an area normally served by management (type II) committees does seem possibly contentious.

Please consider this letter as the opinion of my committee.

Yours sincerely,

(sgd) Ken COLLINS

The following took part in the vote: Collins, chairman; Amendola, dela Camara Martinez, Canavarro, Caudron (for Bombard), Ceci (for Imbeni), Diez de Rivera, Florenz, Llorca Vilaplana, Muntingh, Schmid, Vernier and Vertemati.

