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COMMISSION DECISION

of 28 January 2003

authorising Member States to provide for temporary derogations from Council Directive 2000/29/EC in respect of potatoes, other than potatoes intended for planting, originating in certain provinces of Cuba

(notified under document number C(2003) 338)

(2003/63/EC)

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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 Directive 2002/89/EC ⁽²⁾, and in particular Article 15(1) thereof,

Having regard to the request made by the United Kingdom,

Whereas:

- (1) Under Directive 2000/29/EC, potatoes, other than potatoes intended for planting, originating in Cuba, may in principle not be introduced into the Community. However, that Directive permits derogations from that rule, provided that there is no risk of spreading harmful organisms.
- (2) The early growing in Cuba of potatoes, other than potatoes intended for planting, from seed potatoes supplied by Member States has become an established practice. Part of the early supply of potatoes in the Community has been ensured by imports of such potatoes from Cuba.
- (3) Since 1987 by a succession of Decisions, the most recent being Commission Decision 2001/99/EC ⁽³⁾, derogations from certain provisions of Directive 2000/29/EC, in respect of potatoes, other than potatoes intended for planting, originating in certain provinces of Cuba, have been authorised for limited periods and subject to specific conditions.
- (4) The circumstances justifying those derogations are still valid. There is no new information giving cause for revision of the specific conditions.
- (5) The Member States should therefore be authorised to grant derogations, for certain limited periods and subject to specific conditions.
- (6) That authorisation to grant 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.
- (7) 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

By derogation from Article 4(1) of Directive 2000/29/EC with regard to the prohibitions referred to in Part A, point 12 of Annex III, Member States may permit the introduction into their territory of potatoes, other than potatoes intended for planting, originating in Cuba, under the conditions laid down in the Annex to this Decision.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 355, 30.12.2002, p. 45.

⁽³⁾ OJ L 36, 7.2.2001, p. 5.

▼B*Article 2*

The Member States of importation shall inform the other Member States and the Commission by means of the notification referred to in point 2 (b) of the Annex of any use made of the authorisation provided for in Article 1.

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The Member States of importation shall provide the Commission and the other Member States, before 1 September of each calendar year in which importation takes place, with the information on the quantities imported pursuant to this Decision and with a detailed technical report of the official examination referred to in point 2(f) of the Annex. Copies of each phytosanitary certificate shall be transmitted to the Commission.

Article 3

Article 1 shall apply to potatoes, other than potatoes intended for planting, that are introduced into Community, in the periods:

- (i) between 1 January and 31 May 2006;
- (ii) between 1 January and 31 May 2007;
- (iii) between 1 January and 31 May 2008.

▼B*Article 4*

This Decision is addressed to the Member States.



ANNEX

SPECIFIC CONDITIONS APPLYING TO POTATOES, ORIGINATING IN CUBA, BENEFITING FROM THE DEROGATION PROVIDED FOR IN ARTICLE 1 OF THIS DECISION

1. Potatoes, other than potatoes intended for planting, introduced pursuant to Article 1, shall satisfy the following conditions, in addition to the requirements laid down in Annexes I, II and IV to Directive 2000/29/EC:
 - (a) either be immature, i.e. 'unsuberised' potatoes with loose skin, or have been treated for the suppression of their faculty of germination;
 - (b) have been grown in the provinces Ciego de Ávila, La Habana, Matanzas or Pinar del Río in areas where *Ralstonia solanacearum* (Smith) Yabuuchi et al. is known not to occur;
 - (c) belong to varieties of the seed potatoes which were imported into Cuba only from Member States or from any other country for which the entry into the Community of potatoes intended for planting is not prohibited pursuant to Annex III to Directive 2000/29/EC;
 - (d) have been grown in one of the provinces referred to in (b) directly from seed potatoes certified in one of the Member States or, from seed potatoes certified in any other country for which the entry into the Community of potatoes intended for planting is not prohibited pursuant to Annex III to Directive 2000/29/EC; or from the first direct progeny of such seed potatoes, which have been grown in the provinces referred to in (b), officially certified and qualified as seed potatoes in accordance with the current rules applicable in Cuba;
 - (e) have been grown either on farms which have not grown potatoes of varieties other than those specified in (c) during the previous five years, or, in the case of State farms, on parcels of land which are kept separate from other land where potatoes of varieties other than those specified in (c) have been grown during the last five years;
 - (f) have been handled by machinery which is reserved for handling such potatoes or which has been disinfected in an appropriate manner after each use for other purposes;
 - (g) not have been in store-houses where potatoes of varieties other than those specified in (c) have been stored;
 - (h) be packed either in new bags or in containers which have been disinfected in an appropriate manner; and an official label shall be applied to each bag or container, bearing the information specified in point 3;
 - (i) prior to export, have been cleaned free from soil, leaves and other plant debris;
 - (j) be accompanied by a phytosanitary certificate issued in Cuba in accordance with Articles 7 and 13 of Directive 2000/29/EC, on the basis of the examination laid down therein, in particular certifying freedom from the harmful organism mentioned in (b).

The certificate shall state:

- under 'Additional declaration':
 - a statement 'In accordance with EC requirements laid down in Decision 2003/63/EC',
 - name of variety,
 - identification number or name of the farm where the potatoes have been grown and its location,
 - reference allowing the identification of seed lot used in accordance with (d),
 - under 'Disinfestation and/or disinfection treatment', all information related to the possible treatments referred to in (a) second option and/or (h).
2. (a) The potatoes shall be introduced through points of entry designated for the purpose of the authorisation referred to in Article 1 by the Member State in which they are situated; 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 of entry shall be notified sufficiently in advance by the Member State to the Commission and shall be made available on request to other Member States. If the introduction into the Community takes place in a Member State other than the Member State making use of the authorisation referred to in Article 1, the responsible official bodies of the Member State of introduction shall inform and coop-

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erate with the responsible official bodies of the Member States making use of such authorisation to ensure that the provisions of this Decision are complied with;

- (b) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in paragraphs 1(a) to (j), and 2(a) to (e); the said importer shall notify details of each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction indicating:
 - the type of potatoes,
 - the quantity of potatoes,
 - the declared date of introduction and point of entry into the Community,
 - the premises referred to in (d).

The importer shall inform the responsible official bodies concerned of any changes to the above advance notification as soon as they are known and in any case prior to the time of importation of the potatoes.

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

- (c) 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 the authorisation referred to in Article 1.

Furthermore during the said plant health check that(those) Member State(s) shall also inspect and where appropriate test for all other harmful organisms. Without prejudice to the monitoring referred to in the second indent of Article 21(3), first possibility of the said Directive, the Commission shall determine to which extent the inspections referred to in the second indent of Article 21(3), second possibility of the said Directive shall be integrated into the inspection programme in accordance with the third subparagraph of Article 21(5) of that Directive;

- (d) the potatoes shall be packed and repacked only at premises which have been authorised and registered by the said responsible official bodies;
- (e) the potatoes shall be packed or repacked in closed packages that are ready for direct delivery to retailers or to final consumers, and which do not exceed a weight common in the Member State of introduction for that purpose, up to a maximum of 25 kilograms; the packaging shall bear the number of the registered premises referred to in (d), and that of the Cuban origin;
- (f) Member States making use of the authorisation referred to in Article 1 shall, where appropriate, in cooperation with the Member State of introduction ensure that at least two samples of 200 tubers shall be drawn from each consignment of 50 tonnes or part thereof, of imported potatoes pursuant to this Decision, for official examination in respect of *Ralstonia solanacearum* (Smith) Yabuuchi et al. and *Clavibacter michiganensis* ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al., in accordance with the Community established methods for the detection and diagnosis of those harmful organisms. The tubers shall also be officially examined for potato spindle tuber viroid using the return-PAGE method, or c-DNA hybridisation procedure.

Moreover, the tubers shall be officially examined for the presence of *Meloidogyne chitwoodi* Golden et al. (all populations) or *Meloidogyne fallax* Karssen.

In the case of suspicion of the presence of any of the harmful organisms referred to in the first subparagraph, the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of those harmful organisms was not detected in those examinations.

3. As referred to in point 1(h), each bag or container shall bear the following information:
 - (a) name of the authority issuing the label;
 - (b) name of the exporter's organisation, if available;
 - (c) mark stating: 'potatoes other than potatoes intended for planting of Cuban origin';
 - (d) variety;
 - (e) province of production;

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- (f) size of the potatoes;
- (g) declared net weight of the potatoes;
- (h) statement: 'In accordance with EU requirements laid down in Decision 2003/63/EC'.
- (i) a mark printed or stamped on behalf of the Cuban plant protection authority.