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COMMISSION DECISION

of 27 January 2003

authorising certain Member States to provide for temporary derogations from certain provisions of Council Directive 2000/29/EC in respect of seed potatoes originating in certain provinces of Canada

(notified under document number C(2003) 334)

(Only the Spanish, Greek, Italian and Portuguese texts are authentic)

(2003/61/EC)

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authorising certain Member States to provide for temporary derogations from certain provisions of Council Directive 2000/29/EC in respect of seed potatoes originating in certain provinces of Canada

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(2003/61/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 Directive 2002/89/EC ⁽²⁾, and in particular Article 15(1) thereof,

Having regard to the requests made by Italy and Portugal,

Whereas:

- (1) Under Directive 2000/29/EC, seed potato tubers originating in the American continent may not, in principle, be introduced into the Community. However, that Directive permits derogations from that rule, provided that it is established that there is no risk of spreading harmful organisms.
- (2) Since 1981, by a succession of decisions, the most recent being Commission Decision 1999/751/EC ⁽³⁾, derogations from certain provisions of Directive 2000/29/EC in respect of seed potatoes originating in Canada have been authorised, for limited periods and subject to specific conditions. The circumstances justifying those derogations are still valid.
- (3) Canada is now completely free from potato spindle tuber viroid but it is still not yet completely free from *Clavibacter michiganensis* (Smith) Davis et al. ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al. ('*Clavibacter michiganensis*').
- (4) Information supplied by Canada has shown that it has further developed its programme to eradicate *Clavibacter michiganensis* in the provinces of New Brunswick and Prince Edward Island and it can reasonably be assumed that the eradication programme is effective in certain areas of those provinces. It can therefore be established that there is no risk of *Clavibacter michiganensis* spreading, provided that certain technical conditions are complied with.
- (5) The risk of establishing and spreading *Clavibacter michiganensis* is higher in wet and cold regions than in dry and warm regions. Consequently the authorisation to provide for derogations from certain provisions of Directive 2000/29/EC should not apply to Member States which are particularly exposed to such risks. Therefore, the authorisation should only apply to Greece, Italy, Portugal and Spain.
- (6) Such authorisation to provide for derogations should apply for the next three seed-potato-marketing seasons, without prejudice to Council Directive 2002/56/EC ⁽⁴⁾ and to Council Directive 2002/53/EC ⁽⁵⁾.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plant health,

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.

⁽²⁾ OJ L 355, 30.12.2002, p. 45.

⁽³⁾ OJ L 299, 20.11.1999, p. 36.

⁽⁴⁾ OJ L 193, 20.7.2002, p. 60.

⁽⁵⁾ OJ L 193, 20.7.2002, p. 1.

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HAS ADOPTED THIS DECISION:

Article 1

1. ►**M1** Greece, Spain, Italy, Cyprus, Malta and Portugal ◀ are hereby authorised to provide for derogations from:
 - (a) Article 4(1) of Directive 2000/29/EC, with regard to the prohibition referred to in point 10 of Part A of Annex III to that Directive;
 - (b) Article 5(1) and the third indent of Article 13(1)(a), as regards the special requirements referred to in points 25.2 and 25.3 of part A, section I of Annex IV to Directive 2000/29/EC.
2. The authorisation to provide for derogations referred to in paragraph 1 shall only apply:
 - (a) to seed potatoes of the varieties ‘Atlantic’, ‘Donna’, ‘Kennebec’, ‘Russet Burbank’, ‘Sebago’ and ‘Shepody’, originating in the provinces of New Brunswick and Prince Edward Island in Canada (‘the seed potatoes’);
 - (b) to seed potatoes that satisfy the conditions provided for in Articles 2 to 13 in addition to the requirements laid down in Annexes I, II and IV to Directive 2000/29/EC;

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- (c) for the potato-marketing seasons from 1 February 2003 to 31 March 2003, from 1 December 2003 to 31 March 2004, from 1 December 2004 to 31 March 2005, from 1 December 2005 to 31 March 2006, from 1 December 2006 to 31 March 2007 and from 1 December 2007 to 31 March 2008.

▼B*Article 2*

1. In the provinces of Prince Edward Island or New Brunswick, the seed potatoes shall have been produced in fields located in an area that, irrespective of whether the fields are operated by potato producers inside or outside that area, meets the conditions set out in paragraphs 2 to 8.
2. The area shall have been officially declared by the Canadian Food Inspection Agency, to be free from both potato spindle tuber viroid and from *Clavibacter michiganensis* (Smith) Davis et al. ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al. (‘*Clavibacter michiganensis*’).
3. The area shall either,
 - (a) consist of fields owned or rented by at least three distinct potato producers; or
 - (b) cover a surface of at least four square kilometres, surrounded entirely by water or by fields where the harmful organisms referred to in paragraph 2 have not been found within the previous three years.
4. All potatoes produced in the area shall be the first direct progeny of seed potatoes of the category ‘Pre-elite’, ‘Elite I’, ‘Elite II’, ‘Elite III’ or ‘Elite IV’ which were produced in establishments qualified to produce seed potatoes of the ‘Pre-elite’ or ‘Elite I’ categories and which are either official establishments or establishments officially designated and controlled for that purpose;
5. The surface allocated for the production of seed potatoes that are not finally certified as seed potatoes shall not exceed one-fifth of the total area allocated for certification.
6. Systematic and representative annual surveys shall have been carried out by the relevant official Canadian authorities over at least the previous five years under appropriate conditions for the detection of the harmful organisms referred to at paragraph 2, on all potato fields located in the area and on potatoes harvested there, including appropriate laboratory testing, and have not shown any positive finding, or any other element which could militate against the declaration of the area as disease-free.
7. Legislative, administrative or other arrangements shall have been made to ensure that:

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- (a) no potatoes from areas of Canada other than those declared disease-free, or in countries where the harmful organisms referred to in paragraph 2 are known to occur, can be introduced into the area;
 - (b) neither potatoes originating in the area nor any containers, packaging material, vehicles and handling, grading and preparation equipment used in such areas can be brought into contact with potatoes originating, or material or equipment as specified used, in areas other than those areas declared disease-free.
8. Prior to the introduction of the seed potatoes within the Community, the Canadian Food Inspection Agency shall have provided the Commission with a complete list of the areas declared as disease-free, supported by a technical report, updated each year, on the phytosanitary status of seed potato production in the previous year.

Article 3

The seed potatoes shall be certified officially by the relevant Canadian authorities as seed potatoes meeting at least the conditions laid down for the 'Foundation' category.

Article 4

1. Samples of at least 200 seed potato tubers per lot of 25 tonnes or less shall be taken officially in respect of each lot intended for export to the Community.
2. A lot shall consist only of seed potato tubers of one single variety and class which have been produced on one single establishment and with the same reference number.
3. The samples shall be examined by official laboratories in order to detect any presence of *Clavibacter michiganensis*. The examinations shall be carried out on the entire sample, using the method for the detection and diagnosis of the ring rot bacterium in batches of seed potato tubers as laid down in Council Directive 93/85/EEC ⁽¹⁾.

Article 5

Seed potatoes intended to be exported to the Community shall have been subject to legislative, administrative or other arrangements to ensure:

- (a) direct supervision and control by the Canadian Food Inspection Agency of:
 - (i) the sampling process, i.e. the collection, tagging and sealing;
 - (ii) the labelling system through appropriate label accountability procedures, so that for each lot of seed potatoes within each consignment shipped to the Community a numbered label is used and stitched on the bags separately from the certification labels;
 - (iii) the relevant colour code corresponding to a specified importer in the importing Member State;
- (b) that at the time of loading the vessel, two sealed bags of seed potatoes of each lot shipped to the Community are kept aside and stored under the supervision and control of the Canadian Food Inspection Agency, at least until the results of the examinations referred to in Article 10 are completed;
- (c) that the lots are kept separate in all operations including transport, at least until delivery to the premises of the importers referred to in Article 7.

Article 6

1. The phytosanitary certificate required shall be made out separately for each consignment and only if it has been established by the scientists involved that the examinations referred to in Article 4 did not give rise

⁽¹⁾ OJ L 259, 18.10.1993, p. 1.

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to suspicions or to the detection of the presence of *Clavibacter michiganensis* in the consignment and that, in particular, the IF-testing was shown to be negative.

2. The phytosanitary certificate shall contain the following information under 'Additional declaration':

- (a) confirmation of compliance with the conditions laid down in Articles 2, 3 and 4;
- (b) the name of the establishment or establishments that have produced the lots of seed potato;
- (c) the relevant seed potato certification lot numbers;
- (d) the name of the area referred to in Article 2;
- (e) the name of the establishment referred to in Article 2(4); and
- (f) the number of bags.

3. The phytosanitary certificate shall mention, under 'Distinguishing marks', the colour code corresponding to a specified importer in the importing Member State, as well as the details of the numbered label used for each lot of seed potatoes within each consignment.

4. Documents attached to the phytosanitary certificate, as an integral part of the certificate, shall relate precisely to that certificate in both description and quantity of the seed potatoes.

Article 7

1. Prior to introduction into the Community, the importer shall provide advance notification of each introduction of a consignment sufficiently in advance to the responsible official bodies in the Member State concerned as referred to in Article 2(1)(g) of Directive 2000/29/EC, giving details of the following:

- (a) the variety of the seed potatoes;
- (b) the quantity;
- (c) the declared date of import;
- (d) the names and addresses of the premises of the importers of the seed potatoes, and those listed in accordance with the provisions of Article 1 of Commission Directive 93/50/EEC (1).

The Member State concerned shall, without delay, convey those details and any subsequent modifications thereto to the Commission.

2. At the time of introduction, the importer shall provide confirmation of the details contained in the advance notification referred to in paragraph 1 to the responsible official bodies in the Member State concerned.

Article 8

The seed potatoes may only be introduced into the Community via the following ports:

- (a) Aveiro;
- (b) Lisbon;
- (c) Porto;
- (d) Genoa;
- (e) La Spezia;
- (f) Livorno;
- (g) Naples;
- (h) Ravenna;
- (i) Salerno;
- (j) Savona;

(1) OJ L 205, 17.8.1993, p. 22.

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- (k) Lemesos;
- (l) Larnaca;
- (m) Marsaxlokk;
- (n) Valletta;
- (o) Sines.

▼ **B***Article 9*

The inspections required pursuant to the third paragraph of Article 13(8) of Directive 2000/29/EC shall be made by responsible official bodies.

Without prejudice to the monitoring referred to in the second indent of Article 21(3) of Directive 2000/29/EC, the Commission shall determine to which extent the inspections referred to in the second indent of Article 21(3), of that Directive shall be integrated into the inspection programme in accordance with the fifth subparagraph of Article 21(5) of that Directive.

The responsible official bodies and, as appropriate, the experts referred to in Article 21(3) of Directive 2000/29/EC shall check the importers premises to confirm details of the quantities of seed potatoes imported from Canada, the colour coding, the numbered labels and the destinations for planting at premises listed under Article 1 of Directive 93/50/EEC.

Article 10

1. The responsible official bodies of the importing Member States shall take a sample of at least 200 tubers per lot of 25 tonnes or less from each of the non-bulk lots of seed potatoes intended to be imported pursuant to this Decision for official examination in respect of *Clavibacter michiganensis* in accordance with the method for the detection and diagnosis of *Clavibacter michiganensis* as laid down in Council Directive 93/85/EEC.

2. The lots of seed potatoes shall remain separate under official control and may not be marketed or used until it has been established that the presence of *Clavibacter michiganensis* was not suspected or detected in the examinations referred to in paragraph 1. The total lots imported shall not exceed an amount which is adequate for the examinations, taking into account the facilities available for that purpose.

3. The samples referred to in paragraph 1 shall be kept available for subsequent examination by other Member States. ► **M1** The responsible official bodies of a Member State making use of this derogation shall, by 15 April of each calendar year in which importation takes place, inform the Commission, with a view to organising that examination and the recording thereof. ◀

Article 11

The seed potatoes shall be planted only at premises within the Member State of import, for which it is possible to trace the names and addresses thereof. However, this restriction shall not apply in the case of final users planting the imported seed potatoes or for users who sell only onto the local market.

For those premises, the potatoes grown from such seed potatoes shall be packaged and labelled accordingly and shall bear the number of the premises listed in accordance with Directive 93/50/EEC, as well as the Canadian origin of the seed potatoes used. Such potatoes may be moved within the Member States, only after approval by the responsible official bodies taking into account the results of the inspection referred to in Article 12.

▼B*Article 12*

In the growing period following introduction, a suitable proportion of the plants shall be inspected by the responsible official bodies, at appropriate times, at the premises listed in accordance with the provisions of Directive 93/50/EEC or the premises referred to in Article 11.

Article 13

Potatoes grown from seed potatoes introduced pursuant to this Decision:

- (a) shall not be certified as seed potatoes; and
- (b) shall only be used as potatoes for consumption.

Article 14

The Member States of importation shall inform the other Member States and the Commission by means of the advance notification as referred to in Article 7 of any use of the authorisation to provide derogations pursuant to this Decision.

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The Member State of importation shall provide the Commission and the other Member States, before 1 June of each calendar year in which importation takes place, with information on the amounts (lots of seed potatoes/consignments) imported pursuant to this Decision and with a detailed technical report on the official examination referred to in Article 10.

In those cases where Member States have made official examinations on the samples referred to in Article 10, the detailed technical reports of such examinations shall be submitted to the other Member States and the Commission before 1 June of each calendar year.

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Copies of each phytosanitary certificate shall be transmitted to the Commission.

Article 15

The authorisation to provide for derogations referred to Article 1 shall be revoked prior to ►**M1** 31 March 2008 ◀ if:

- (a) the provisions laid down in Articles 2 to 13:
 - (i) are shown to be insufficient to prevent the introduction into the Community of *Clavibacter michiganensis*, or
 - (ii) have not been complied with;
- (b) there are elements which would militate against the proper functioning of the 'disease-free' concept in Canada.

Article 16

This Decision is addressed to the Hellenic Republic, the Kingdom of Spain, the Italian Republic and the Portuguese Republic.