

This document is meant purely as a documentation tool and the institutions do not assume any liability for its contents

► **B**

COMMISSION IMPLEMENTING DECISION

of 28 November 2011

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 C(2011) 8633)

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

(2011/778/EU)

(OJ L 317, 30.11.2011, p. 37)

Amended by:

		Official Journal		
		No	page	date
► M1	Commission Implementing Decision 2014/368/EU of 16 June 2014	L 178	27	18.6.2014

**COMMISSION IMPLEMENTING DECISION****of 28 November 2011****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 C(2011) 8633)***(Only the Greek, Italian, Maltese, Portuguese and Spanish texts are authentic)****(2011/778/EU)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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⁾, and in particular Article 15(1) thereof,

Whereas:

- (1) Under Directive 2000/29/EC, seed potatoes originating on the American continent are not to be introduced into the Union. However, that Directive permits derogations from that rule, provided that there is no risk of spreading harmful organisms.
- (2) Commission Decision 2003/61/EC 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 ⁽²⁾ has been substantially amended several times. Since Portugal has asked for a further extension of those derogations and other amendments are to be made, that Decision should be replaced.
- (3) Canada is currently considered to be free from potato spindle tuber viroid but it is still not 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 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.

⁽¹⁾ OJ L 169, 10.7.2000, p. 1.⁽²⁾ OJ L 23, 28.1.2003, p. 31.

▼B

- (5) Recent notifications under Directive 2000/29/EC have shown the first findings of *Epitrix similaris* in the Union, namely in Portugal and in one region of Spain. A subsequent pest risk analysis for *Epitrix* spp. has demonstrated that some *Epitrix* species cause damage to potato tubers (*Epitrix cucumeris*, *Epitrix similaris*, *Epitrix subcrinita* and *Epitrix tuberis*). It also showed that some *Epitrix* species are known to occur in Canada.
- (6) Given the unchanged situation with regard to potato spindle tuber viroid and *Clavibacter michiganensis* and in spite of the presence of *Epitrix* spp. in Canada, the authorisation to provide for derogations remains justified. Provisions should, however, be included concerning *Epitrix* species which damage potato tubers.
- (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

1. Greece, Spain, Italy, Cyprus, Malta and Portugal are authorised to provide for derogations from:

- (a) Article 4(1) of Directive 2000/29/EC, as regards the prohibition referred to in point 10 of Part A of Annex III to that Directive;
- (b) Article 5(1) of Directive 2000/29/EC and the third indent of Article 13(1)(i) of that Directive, as regards the special requirements referred to in points 25.2 and 25.3 of Section I of Part A of Annex IV to that Directive.

2. The authorisation to provide for derogations referred to in paragraph 1 shall 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;

▼M1

- (c) for the potato-marketing seasons from 1 December to 31 March of each year until 31 March 2024.

▼B

Article 2

1. In the provinces of New Brunswick or Prince Edward Island, 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 9

▼B

2. The area shall have been officially declared by the Canadian Food Inspection Agency, to be free from potato spindle tuber viroid and from *Clavibacter michiganensis* (Smith) Davis et al. ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al. (*Clavibacter michiganensis*).

As regards *Epitrix cucumeris*, *Epitrix similaris*, *Epitrix subcrinita* and *Epitrix tuberis*, seed potatoes shall have been brushed to physically remove any of those harmful organisms, if present, and render the tubers free of soil.

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 potato spindle tuber viroid and *Clavibacter michiganensis*, 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 pest free.

7. Immediately prior to export, during appropriate official examination, seed potatoes shall have been found free from *Epitrix cucumeris*, *Epitrix similaris*, *Epitrix subcrinita* and *Epitrix tuberis* and from any of their symptoms and from soil.

8. Legislative, administrative or other arrangements shall have been made to ensure that:

- (a) no potatoes from areas of Canada other than those declared free from potato spindle tuber viroid and from *Clavibacter michiganensis*, or from countries where these harmful organisms 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 that area can be brought into contact with potatoes originating in areas other than those declared pest free,

▼B

or containers, packaging material, vehicles and handling, grading and preparation equipment used in areas other than those declared pest free.

9. Prior to the introduction of the seed potatoes into the Union, the Canadian Food Inspection Agency shall provide the Commission with a complete list of the areas declared as free from the harmful organisms referred to in paragraph 2, 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 Union.

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 *Clavibacter michiganensis* 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 Union 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 Union 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;

⁽¹⁾ OJ L 259, 18.10.1993, p. 1.

▼B

- (b) that at the time of loading the vessel, two sealed bags of seed potatoes of each lot shipped to the Union 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 isolated 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 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 including, where the second subparagraph of Article 2(2) applies, express confirmation that the seed potatoes have been brushed in accordance with that provision;
- (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 Union, 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

- (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 producers, or collective warehouses, or dispatching centres listed in accordance with 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 Union 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;
- (k) Lemesos;
- (l) Larnaca;
- (m) Marsaxlokk;
- (n) Valletta;
- (o) Sines;
- (p) Piraeus.

Article 9

The inspections required pursuant to the Article 13(1) of Directive 2000/29/EC shall be made by responsible official bodies.

The Commission shall determine to which extent the inspections referred to in the third indent of Article 21(3) of that Directive are to be integrated into the inspection programme in accordance with the fifth subparagraph of Article 21(5) of that Directive.

⁽¹⁾ OJ L 205, 17.8.1993, p. 22.

▼B

The responsible official bodies and, as appropriate, the experts referred to in the first subparagraph of Article 21(1) shall check the premises of the importers 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 in accordance with 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 Directive 93/85/EEC.

2. The lots of seed potatoes shall remain isolated and under official control and shall 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 quantities 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. 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.

4. For *Epitrix cucumeris*, *Epitrix similaris*, *Epitrix subcrinita* and *Epitrix tuberis*, each consignment shall be inspected to confirm that the seed potatoes are free from those harmful organisms, from any of their symptoms and from soil.

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 of the premises concerned. 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 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 referred to in Article 7(1) of any use of the authorisation to provide derogations pursuant to this Decision.

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.

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

▼M1*Article 15*

The authorisation to provide for derogations referred to in Article 1 shall be revoked prior to 31 March 2024 if:

- (a) the provisions laid down in Articles 2 to 13:
 - (i) are shown to be insufficient to prevent the introduction into the Union of the harmful organisms referred to in Article 2; or
 - (ii) have not been complied with;
- (b) there are elements which would militate against the proper functioning of the 'pest free area' concept in Canada.

▼B

Article 16

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