COMMISSION DECISION

of 10 March 1999

authorising Member States temporarily to provide for derogations from certain provisions of Council Directive 77/93/EEC in respect of potatoes, other than potatoes intended for planting, originating in Cuba

(notified under document number C(1999) 558)

(1999/222/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Council Directive 77/93/EEC of 21 December 1976 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 98/2/EC [2], and in particular Article 14(1) thereof,

Having regard to the requests made by the Netherlands and Germany,

(1) Whereas, under the provisions of Directive 77/93/EEC, potato tubers other than those officially certified as seed potatoes pursuant to other Community provisions, originating in Cuba may in principle not be introduced into the Community because of the risk of introducing exotic potato harmful organism which would present a plant health risk to the Community;

(2) Whereas 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; whereas part of the early supply of potatoes in the Community has been ensured by imports of such material from Cuba;

(3) Whereas by Decisions 87/306/EEC [3], 88/223/EEC [4], 89/152/EEC [5], 91/593/EEC [6], 93/36/EEC [7], 95/96/EC [8] and 96/157/EC [9], the Commission authorised derogations under special technical conditions in respect of potatoes for human consumption originating in Cuba, in the 1987-96 seasons, and by Decision 97/186/EC [10] in respect of potatoes other than potatoes intended for planting originating in Cuba in the 1997 season;

(4) Whereas there have never been confirmed findings of harmful organisms on samples drawn from imports pursuant to the said Decisions;

(5) Whereas it is expected that Cuba makes available all technical information necessary to assess in the future, the phytosanitary status of the production of potatoes in Cuba, in particular details on the regular monitoring of seed and ware potatoes imported into, and marketed within Cuba by means of examination and testing of representative samples by scientifically recognised methods for *Clavibacter michiganensis* (Smith) Davis et al. ssp. *sepedonicus* (Spieckermann et Kotthoff) Davis et al., *Pseudomonas solanacearum* (Smith) Smith and potato spindle tuber viroid, as well as the results of the said examination and testing;

(6) Whereas the circumstances justifying the authorisation still obtain;

(7) Whereas 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. The Member States are hereby authorised to provide, under the conditions laid down in paragraph 2, for exceptions to Article 4(1) with regard to the prohibitions referred to in Part A, point 12 of Annex III to Directive 77/93/EEC, for potatoes other than potatoes intended for planting, originating in Cuba.

[1] OJ L 26, 31. 1. 1977, p. 20.
[2] OJ L 15, 21. 1. 1998, p. 34.
[3] OJ L 153, 13. 6. 1987, p. 41.
[4] OJ L 100, 19. 4. 1988, p. 44.
[5] OJ L 59, 2. 3. 1989, p. 29.
[6] OJ L 316, 16. 11. 1991, p. 47.
[7] OJ L 16, 25. 1. 1993, p. 40.
[8] OJ L 75, 4. 4. 1995, p. 22.
[9] OJ L 36, 14. 2. 1996, p. 38.
[10] OJ L 77, 19. 3. 1997, p. 32.

2. In addition to the requirements laid down in Annexes I, II and IV to Directive 77/93/EEC in relation to potatoes, the following specific conditions shall be satisfied:

(a) the potatoes shall be other than potatoes intended for planting;

(b) they shall either be immature potatoes, i.e. 'unsuberised' potatoes with loose skin, or they shall have been treated for the suppression of their faculty of germination;

(c) they shall have been grown in the province 'Pinar del Rio' in areas where *Pseudomonas solanacearum* (Smith) Smith is known not to occur;

(d) they shall belong to varieties the seed potatoes of 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 of Directive 77/93/EEC;

(e) they shall have been grown in Cuba 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 of Directive 77/93/EEC; or from the progeny of such seed potatoes, officially certified in the year before the previous one, if this progeny was produced in the province 'Pinar del Rio' and qualified as seed potatoes in accordance with the current rules applicable in Cuba;

(f) they shall have been grown either on farms which have not grown potatoes of varieties other than those specified in (d) over the previous five years, or, in the case of State farms, on land sections which are kept separate from other land where potatoes of varieties other than those specified in (d) have been grown over the last five years;

(g) they shall have been handled by machinery which is reserved for them or which has been disinfected in an appropriate manner after each use for other purposes;

(h) they shall not have been in store-houses where potatoes of varieties other than those specified in (d) have been stored;

(i) they shall 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 the Annex;

(j) prior to export, the potatoes shall have been cleaned free from soil, leaves and other plant debris;

(k) the potatoes intended for the Community shall be accompanied by a phytosanitary certificate issued in Cuba in accordance with Articles 7 and 12 of Directive 77/93/EEC, on the basis of the examination laid down therein, in particular certifying freedom from the harmful organism mentioned in (c).

The certificate shall state:

— under 'Additional declaration':

  — the indication 'this consignment meets the conditions laid down in Decision 1999/222/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 (e),

— under 'Disinfestation and/or disinfection treatment', all information related to the possible treatments referred to in (b) second option and/or (i);

(l) the potatoes shall be introduced through points of entry situated within the territory of a Member State and designated for the purpose of this derogation by that Member State; these points of entry and the name and address of the responsible official body referred to in Directive 77/93/EEC in charge of each point shall be notified sufficiently in advance by the Member States to the Commission and shall be held available on request to other Member States. In those cases where the introduction into the Community takes place in a Member State other than the Member State making use of this derogation, the said responsible official bodies of the Member State of introduction shall inform and cooperate with the said responsible official bodies of the Member States making use of this derogation to ensure that the provisions of this Decision are complied with;

(m) prior to introduction into the Community, the importer shall be officially informed of the conditions laid down in (a) to (p); the said importer shall notify details of each introduction sufficiently in advance to the responsible official bodies in the Member State of introduction and that Member State, without delay, shall convey the details of the notification to the Commission, indicating:

— the type of material,

— the quantity,

— the declared date of introduction and confirmation of the point of entry,

— the premises referred to in (o).

The importer shall provide details of any changes to the aforementioned advance notification to the responsible official bodies of their own Member State, preferably as soon as they are known and in any case prior to the time of import, and that Member State, without delay, shall convey the details of the changes to the Commission;

(n) the inspections including testing, as appropriate, required pursuant to Article 12 of Directive 77/93/EEC 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 this derogation. Furthermore during the said plant health check that Member State(s) shall also inspect for all other harmful organisms. Without prejudice to the monitoring referred to in Article 19a(3) second indent, first possibility of the said Directive, the Commission shall determine to which extent the inspections referred to in Article 19a(3) second indent, second possibility of the said Directive shall be integrated into the inspection programme in accordance with Article 19a(5)(c) of that Directive;

(o) the potatoes shall be packed and repacked only at premises which have been authorised and registered by the said responsible official bodies;

(p) the potatoes shall be packed or repacked in closed packages that are ready for direct delivery to retailers or to final consumers, and that 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 (o), as well as the Cuban origin;

(q) Member States making use of this derogation 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 *Pseudomonas solanacearum* in accordance with the Community interim test scheme for the diagnosis, detection and identification of *Pseudomonas solanacearum* (Smith) Smith in potatoes [1], in the case of *Clavibacter michiganensis* ssp. *sepedonicus,* in accordance with the Community established method for the detection and diagnosis of *Clavibacter michiganensis* ssp. *sepedonicus,* and in the case of potato spindle tuber viroid: the reverse-page method, or c-DNA hybridisation procedure; in the case of suspicion the lots shall remain separate under official control and may not be marketed or used until it has been established that the presence of *Clavibacter michiganensis* ssp. *sepedonicus, Pseudomonas solanacearum* or potato spindle tuber viroid was not suspected or detected in those examinations.

Article 2

Member States shall inform the other Member States and the Commission by means of the notification referred to in Article 1(2)(m) first sentence of any use made of the authorisation. They shall provide the Commission and the other Member States, before 1 September 1999, with the information on amounts imported pursuant to this Decision and with a detailed technical report of the official examination referred to in Article 1(2)(q); copies of each phytosanitary certificate shall be transmitted to the Commission.

Article 3

1. Article 1 shall apply in the period between 15 March 1999 and 30 April 1999.

2. The present Decision shall be revoked if it is established that the conditions laid down in Article 1(2) have been insufficient to prevent the introduction of harmful organisms or have not been complied with.

Article 4

This Decision is addressed to the Member States.

Done at Brussels, 10 March 1999.

For the Commission

Franz FISCHLER

Member of the Commission

[1] OJ L 273, 6. 10. 1997, p. 1.

ANNEX

Information required on the label

(referred to in Article 1(2)(i))

1. Name of the authority issuing the label.
2. Name of the exporters' organisation, if available.
3. Indication 'potatoes other than potatoes intended for planting of Cuban origin'.
4. Variety.
5. Province of production.
6. Size.
7. Declared net weight.
8. Indication 'In accordance with EC requirements laid down in Decision 1999/222/EC'.
9. A mark printed or stamped on behalf of the Cuban plant protection administration.