COMMISSION REGULATION (EC) No 1480/2004

of 10 August 2004

laying down specific rules concerning goods arriving from the areas not under the effective control of the Government of Cyprus in the areas in which the Government exercises effective control

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 866/2004 of 29 April 2004 [1], and in particular Article 4(12) thereof,

After consultation of the Line Regulation Committee,

Whereas:

(1) Article 4 of Regulation (EC) No 866/2004 provides a special regime for the treatment of goods arriving from the areas not under effective control of the Government of the Republic of Cyprus (hereafter called the Areas) to the areas in which the Government exercises effective control.

(2) The implementation of the regime established by Regulation (EC) No 866/2004, as regards goods other than those that are both wholly obtained in the Areas and compliant with Annex II of that Regulation, is subject to the adoption of specific rules by the Commission pursuant to Article 4(12) of the Regulation. It is however clearly intended that these specific rules should apply to all goods within the remit of the Regulation.

(3) It is necessary to provide detailed rules concerning the form and content of the document to be issued by the Turkish Cypriot Chamber of Commerce or by another authorised body and concerning controls with regard to compliance with the applicable rules.

(4) It is also necessary to provide detailed rules concerning obligations of communication for the Turkish Cypriot Chamber of Commerce or another authorised body, the authorities of the Republic of Cyprus, and the authorities of the Eastern Sovereign Base Area in Cyprus with respect to the nature, the quantities, the destination and the value of the goods for which certificates are established and which cross the line, and also any sanctions applied or import duties levied.

(5) Plant health, food safety and other safety requirements need to be guaranteed. The protection against the introduction into the Community and against the spread within the Community of organisms harmful to plants or plant products needs to be ensured and detailed rules concerning the issuing of documents related to the checks as referred to in Article 4(4) of Regulation (EC) No 866/2004 have to be established. Pending the establishment of the phytosanitary status of the Areas as regards the relevant harmful organisms listed in Annex I or II to Council Directive 2000/29/EC [2], specific protective measures or additional checks should be imposed.

(6) For reasons of safety and in order to avoid from the outright any abuse certain categories of goods which are subject to restrictions or measures of commercial defence should be excluded from the scope of application of Regulation No 866/2004.

(7) It should be clarified that in the event of the transfer of goods originating in the Areas to other Member States, these goods must for VAT purposes then be regarded as having been imported into the Republic of Cyprus.

(8) It is also necessary to determine the meaning of emergencies in Article 11(4) of Regulation (EC) No 866/2004,

HAS ADOPTED THIS REGULATION:

Article 1

Rules of origin

The origin of any product to which this Regulation applies shall be determined in accordance with the provisions in force in the Community.

Article 2

Accompanying document

1. The accompanying document referred to in Article 4(5) of Council Regulation (EC) No 866/2004 shall fulfil the following conditions:

1. it shall contain all the particulars necessary for identifying the goods to which it relates, in particular:

   (a) a description of the goods;

   (b) the item number, marks and numbers of goods, if any;

   (c) the number and kind of packages;

[1] OJ L 161, 30.4.2004, p. 128.

[2] OJ L 169, 10.7.2000, p. 1.

(d) the volume and value of the goods;

(e) the name and the address of the producer of the goods;

(f) the name and the address of the consignor and the consignee;

2. it shall ensure the compliance with the rules of origin referred to in Article 1 and certify unambiguously that the goods to which it relates originate in the areas as defined in Article 1(1) of Protocol No 10 of the 2003 Act of Accession; for that purpose, before issuing such a document, the Turkish Cypriot Chamber of Commerce or any other authorised body shall carry out controls as necessary to ascertain that the specifications given by the producer and the consignor are accurate. Such controls shall include at least one verification at the producer's premises.

The accompanying document shall be made out on forms corresponding to the specimen given in Annex I.

2. Operators requesting an accompanying document shall submit a written application to the issuing bodies referred to above. This application shall contain the following information:

1. a statement by the producer by which he

(a) declares that the goods concerned originate in the areas as defined in Article 1(1) of Protocol No 10 of the Act of Accession 2003;

(b) undertakes to keep available for control purposes for a time period of at least three years from the date of application all accounts concerning the production (including the purchase of raw materials) and the sale of the goods and to accept that controls can be made at any reasonable time by the bodies mentioned in paragraph 1 or by the Commission services;

2. a statement by the consignor concerning the destination of the goods.

The application form shall be made out on forms corresponding to the specimen given in Annex II.

3. The bodies mentioned in paragraph 1(2) shall forward to the Commission, the Government of Cyprus, and the authorities of the Eastern Sovereign Base Area the names and titles of the persons entrusted to sign the documents as well as a specimen of their signature and the stamp used.

4. The authorities of the Republic of Cyprus shall inform the Commission services of cases of reasonable doubt as to the compliance of the goods with the origin criteria. In such cases, the authorities of the Republic of Cyprus shall allow the goods to cross the line under the conditions set out in Article 4(2) of Council Regulation (EC) No 866/2004, subject to any precautionary measures judged necessary while awaiting the results of subsequent verification.

If it is established that the documents have been issued without the conditions having been properly fulfilled, all duties and taxes due on the release for free circulation of the goods into the customs territory of the Community shall be due, at the rate applicable to third countries in the absence of any preferential treatment. The provisions concerning the incurrence of a customs debt and its recovery shall apply *mutatis mutandis*.

Article 3

Phytosanitary inspection and reporting

1. Where goods consist of plants, plant products and other objects covered by Part B of Annex V to Directive 2000/29/EC, independent phytosanitary experts appointed by the Commission and operating in coordination with the Turkish Cypriot Chamber of Commerce for the implementation of Regulation (EC) No 866/2004, shall inspect the goods at the stage of production and again at harvest and at stage of marketing.

In the case of potatoes, the above experts shall verify that the potatoes in the consignment were grown 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.

In the case of citrus fruits, the above experts shall verify that the fruits have been found to be free from leaves and peduncles and bear the appropriate origin mark.

2. If the above experts, to the best of their knowledge and as far as can be determined, establish that the relevant plants, plant products or other objects in the consignment comply with the relevant requirements and checks as set out in Annex II of Regulation (EC) No 866/2004 as well as with the provisions of the second and third subparagraph of paragraph

1, they shall report their findings, using the model form of 'Report of phytosanitary inspection' under Annex III to this Regulation. The 'Report of phytosanitary inspection' shall be added as a supplement to the accompanying document as referred to in Article 2.

The experts shall not issue 'Reports of phytosanitary inspection' in respect of plants intended for planting, including tubers of Solanum tuberosum (L.) intended for planting.

3. They shall consequently seal the lorries or other means of transport in such a way as to prevent any opening of the consignment until it crosses the line. No commodities covered by the provisions of this Article shall be moved across the line unless the said report form is filled in completely and duly signed by at least one of the above mentioned phytosanitary experts.

4. Upon arrival in the areas in which the Government of the Republic of Cyprus exercises effective control, the competent authorities shall examine the consignment. Where applicable, the 'Report of phytosanitary inspection' shall be replaced by a plant passport, issued in conformity with the provisions of Commission Directives 92/105/EEC [1] and 93/51/EEC [2].

5. If the consignment consists of or contains potato lots, an appropriate part of these lots shall be examined 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.

Article 4

Food and product safety, counterfeit and pirated goods

1. For food safety reasons the movement across the line of compound feedings stuffs, feed additives, pre-mixtures, or all feedings stuffs containing products of animal origin and any product falling under the Commission Decisions listed in Annex IV as well as similar decisions adopted in the future shall be prohibited. Articles 6, 7 and 18 of Regulation (EC) No 178/2002 of the European Parliament and of the Council [3] shall apply *mutatis mutandis*.

2. The authorities of the Republic of Cyprus and the authorities of the Eastern Sovereign Base Area shall ensure that goods crossing the line comply with the EC rules on health, safety, environmental and consumer protection and on the prohibition on the bringing in of counterfeit and pirated goods.

Article 5

Trade defence measures

No accompanying document shall be issued for goods which are subject to EU trade defence measures, including goods incorporating materials subject to such measures. This is without prejudice to the application of the Community's anti-dumping, anti-subsidy, safeguard or other trade defence instruments.

Article 6

VAT

In the event of goods originating in the Areas being transferred to other Member States, their previous entry into the areas under the effective control of the Government shall be treated as having been an importation of goods in accordance with Article 7 of Council Directive 77/388/EEC [4] for which the owner of the goods or any other person designated or accepted as being liable by the Government of the Republic of Cyprus shall be liable for the payment of import VAT in accordance with Article 21(4) of that Directive.

Article 7

Emergencies

Other emergencies in the meaning of Article 11(4) of Regulation (EC) No 866/2004 shall include any situation or circumstance which may give rise to or threatens to give rise to serious and enduring economic damage to a region of the Republic of Cyprus or any situation or circumstance which is posing or threatens to pose a risk to the functioning of the Internal Market, in particular where such threat arises by the non-application in the Areas of import duties equivalent to those established under the Common Customs Tariff on raw materials used in the processing of goods.

Article 8

Communication obligations

1. The Turkish Cypriot Chamber of Commerce or another body authorised pursuant to Article 4(5) of Regulation (EC) No 866/2004 shall communicate to the Commission on a monthly basis the type, volume, and value of goods for which it has issued the documents referred to in Article 2(1), and details of any irregularities discovered and any sanctions applied.

[1] OJ L 4, 8.1.1993, p. 22.
[2] OJ L 205, 17.8.1993, p. 24.
[3] OJ L 31, 1.2.2002, p. 1.
[4] OJ L 145, 13.6.1977, p. 1.

2. The authorities of the Republic of Cyprus, in accordance with Article 4(2) and (3) of Regulation (EC) No 866/2004, shall communicate to the Commission on a monthly basis the type, volume and the value of goods that have, according to the declarations contained in the documents referred to in Article 2(1), crossed the line, details of any irregularities discovered and any sanctions applied, and details of any tariffs or duties levied on goods subject to export refunds or intervention measures.

3. The authorities of the Republic of Cyprus shall communicate to the Commission every three months the type, the volume, and the value of goods the final destination of which had not been the Republic of Cyprus according to the declarations contained in the documents referred to in Article 2(1). Goods having a Member State other than Cyprus as their final destination shall be separately mentioned.

Article 9

Entry into force

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 10 August 2004.

For the Commission
Günter VERHEUGEN
Member of the Commission

ANNEX I

Specimen of the accompanying document referred to in Article 2(1)

<table>
<tr><td colspan="3">ORIGINAL

ACCOMPANYING DOCUMENT UNDER
COUNCIL REGULATION No 866/2004

No: 00001</td></tr>
<tr><td colspan="3">Producer (name, or name of firm, and full address):</td></tr>
<tr><td colspan="3">Consignor (name, or name of firm, and full address):</td></tr>
<tr><td colspan="3">Consignee (name, or name of firm, and full address):</td></tr>
<tr><td rowspan="2">Description of goods, item number, marks, numbers, number and kind of packages (for goods not packed indicate number or ‘in bulk’):</td><td>Volume/quantity</td><td>Transaction value</td></tr>
<tr><td>Net weight (kg)/other units of measure</td><td></td></tr>
<tr><td colspan="3">Declaration by the consignor

The goods mentioned in this document are:

☐ Destined for consumption in Cyprus

☐ Not destined for consumption in Cyprus. Please specify country of destination:

Date Signature</td></tr>
<tr><td colspan="3">Certification of the Turkish Cypriot Chamber of Commerce

It is hereby certified, on the basis of controls carried out, that the above-mentioned goods originate, within the meaning of Articles 23 and 24 of Council Regulation (EEC) No 2913/93, in the areas as defined in Article 1(1) of Protocol No 10 of the Act of Accession 2003 and that the specifications given by the producer are accurate.

Date

Authorised signature and stamp</td></tr>
</table>

ANNEX II

Specimen of the application form referred to in Article 2(2)

<table>
<tr><td colspan="3">APPLICATION</td></tr>
<tr><td colspan="3">APPLICATION FORM UNDER
COUNCIL REGULATION No 866/2004
No: 00001</td></tr>
<tr><td colspan="3">Producer (name, or name of firm, and full address):</td></tr>
<tr><td colspan="3">Consignor (name, or name of firm, and full address):</td></tr>
<tr><td colspan="3">Consignee (name, or name of firm, and full address):</td></tr>
<tr><td rowspan="2">Description of goods, item number, marks numbers, number and kind of packages (for goods not packed indicate number or 'in bulk'):</td><td>Volume/quantity</td><td>Transaction value</td></tr>
<tr><td>Net weight (kg)/ other units of measure</td><td></td></tr>
<tr><td colspan="3">Declaration by the producer

I, the undersigned,
— declare that the goods described above originate, within the meaning of Articles 23 and 24 of Council Regulation (EEC) No 2913/93, in the areas as defined in Article 1(1) of Protocol No 10 of the Act of Accession 2003,
— declare that the particulars given in this application are correct,
— declare that I keep available for control purposes for a time period of at least three years all accounts concerning the production (including the purchase of raw materials) and the sale of the goods,
— accept that controls can be made at any reasonable time by the Turkish Cypriot Chamber of Commerce, by the phytosanitary experts under Council Regulation (EC) No 866/2004 or by the Commission services.

Date *Signature*</td></tr>
<tr><td colspan="3">Declaration by the consignor

The goods mentioned in this application are:
☐ Destined for consumption in Cyprus
☐ Not destined for consumption in Cyprus. Please specify country of destination:
I, the undersigned, apply for the issue of an accompanying document under Council Regulation (EC) 866/2004.

Date *Signature*</td></tr>
</table>

ANNEX III

Model of the 'Report of phytosanitary inspection' referred to in Article 3(2)

<table>
<tr><td colspan="2">1. Report of phytosanitary inspection under Council Regulation No 866/2004
Number</td></tr>
<tr><td>2. Name, or name of firm, and full address of consignor</td><td>3. Name, or name of firm, and full address of consignee</td></tr>
<tr><td>4. Registration number of producer (with the phytosanitary experts) and place of production</td><td>5. Name and full address of packing station</td></tr>
<tr><td>6. Description of consignment (distinguishing marks; name of produce; botanical name)</td><td>7. Quantity declared</td></tr>
<tr><td>8. Mean of conveyance</td><td>9. Post-harvest treatment (treatment; active ingredient; concentration; temperature)</td></tr>
<tr><td colspan="2">10. The undersigning phytosanitary expert under Council Regulation (EC) 866/2004, having
— inspected the above mentioned produce according to appropriate procedures, at the stage of production and again at harvest and at the stage of preparation for marketing
— witnessed the loading of the mean of conveyance and sealed it when loading was finished,
hereby concludes that to the best of his knowledge and as far as can be determined the goods
— are considered to conform with the current phytosanitary regulations of the EU and in particular
— are considered to be free from the harmful organisms in Annex I and, where applicable, Annex II to Directive 2000/29/EC, as amended,
— in the case of potatoes, that the potatoes in the consignment were grown 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,
— in the case of citrus fruits, that the fruits have been found to be free from leaves and peduncles and bear the appropriate origin mark.

Name and signature of the phytosanitary expert(s) Place and date of issue
(1) .....
(2) (optional co-signing expert)</td></tr>
</table>

ANNEX IV

List of Commission Decisions referred to in Article 4(1)

— Commission Decision 2002/80/EC, as last amended by Decision 2004/429/EC, imposing special conditions on the import of figs, hazelnuts and pistachios and certain products derived thereof originating in or consigned from Turkey

— Commission Decision 2002/79/EC, as last amended by 2004/429/EC, imposing special conditions on the import of peanuts and certain products derived from peanuts originating in or consigned from China

— Commission Decision 2000/49/EC, as last amended by 2004/429/EC, imposing special conditions on the import of peanuts and certain products derived from peanuts originating in or consigned from Egypt

— Commission Decision 2003/493/EC, as last amended by 2004/428/EC, imposing special conditions on the import of Brazil nuts in shell originating in or consigned from Brazil

— Commission Decisions 1997/830/EC, as last amended by 2004/429/EC imposing special conditions on the import of pistachios and certain products derived from pistachios originating in or consigned from Iran

— Commission Decision 2004/92/EC of 21 January 2004 on emergency measures regarding chilli and chilli products